

# NON-CONFIDENTIAL



## **Borough of Tamworth**

10 December 2013

Dear Councillor

You are hereby summoned to attend a **meeting of the Council of this Borough** to be held on **TUESDAY, 17TH DECEMBER, 2013** at 6.00 pm in the **TOWN HALL, MARKET STREET, TAMWORTH**, for the transaction of the following business:-

### **AGENDA**

#### **NON CONFIDENTIAL**

**1 Apologies for Absence**

**2 To receive the Minutes of the previous meeting (Pages 1 - 2)**

**3 Declarations of Interest**

*To receive any declarations of Members' interests (pecuniary and non-pecuniary) in any matters which are to be considered at this meeting.*

*When Members are declaring a pecuniary or non-pecuniary interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a pecuniary or non-pecuniary interest in respect of which they do not have a dispensation.*

**4 To receive any announcements from the Mayor, Leader, Members of the Cabinet or the Chief Executive**

**5 Question Time:**

- (i) To answer questions from members of the public pursuant to Procedure Rule No. 10.
- (ii) To answer questions from members of the Council pursuant to Procedure Rule No. 11

- 6 Tamworth Parliamentary Constituency - Review of Polling Places (Pages 3 - 56)**  
(Report of the Chief Executive)
- 7 Treasury Management Strategy Statement and Annual Investment Strategy Mid-year Review Report 2013/14 (Pages 57 - 76)**  
(Report of the Portfolio Holder for Operations and Assets)
- 8 Local Council Tax Reduction Scheme 2014/15 (Pages 77 - 242)**  
(Report of the Portfolio Holder for Operations and Assets)
- 9 Fraud and Corruption Update Report (Pages 243 - 298)**  
(Report of the Portfolio Holder for Operations and Assets)
- 10 Local Enterprise Partnership Governance Arrangements (Pages 299 - 314)**  
(Report of the Portfolio Holder for Economy and Education)
- 11 Revised Gambling Act 2005 Statement of Principles 2013-2016 (Pages 315 - 352)**  
(Report of the Portfolio Holder for Environment and Waste Management)
- 12 Scrap Metal Dealers Act 2013 Fees (Pages 353 - 382)**  
(Report of the Portfolio Holder for Environment and Waste Management)
- 13 Review of Anti-Money Laundering Policy (Pages 383 - 394)**  
(Report of the Solicitor to the Council and Monitoring Officer)

Yours faithfully



## **CHIEF EXECUTIVE**

*People who have a disability and who would like to attend the meeting should contact Democratic Services on 01827 709264 or e-mail [committees@tamworth.gov.uk](mailto:committees@tamworth.gov.uk) preferably 24 hours prior to the meeting. We can then endeavour to ensure that any particular requirements you may have are catered for.*

Marmion House  
Lichfield Street  
Tamworth





## **MINUTES OF A MEETING OF THE COUNCIL HELD ON 19th NOVEMBER 2013**

**PRESENT:** Councillor J Garner (Chair), Councillors R Kingstone, M Clarke, S Claymore, T Clements, D Cook, C Cooke, M Couchman, S Doyle, J Faulkner, M Greatorex, G Hirons, A James, J Jenkins, A Lunn, M McDermid, R McDermid, K Norchi, J Oates, R Pritchard, E Rowe, P Seekings, P Standen and M Thurgood

The following officers were present: Anthony E Goodwin (Chief Executive), John Wheatley (Executive Director Corporate Services), John Day (Corporate Performance Officer) and Lara Allman (Democratic & Election Services Officer)

### **37 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors L Bates, K Gant, M Gant and S People.

### **38 TO RECEIVE THE MINUTES OF THE PREVIOUS MEETINGS HELD ON 10 SEPTEMBER 2013**

The minutes of the meetings held on 10 September 2013 were approved and signed as a correct record.

*(Moved by Councillor D Cook and seconded by Councillor A Lunn)*

### **39 STATE OF TAMWORTH DEBATE**

Councillor D Cook introduced the Tamworth Listens report and moved a motion in terms of Rule 4.13(n) to suspend Rule 4.14.5 to allow Members to speak more than once and amend Rule 4.14.4 to reduce the length of each speech to 5 minutes, this was seconded by Councillor R Pritchard and was carried.

The debate was focused on the four key issues that came out of the consultation and Tamworth Listens events. Councillor S Claymore introduced the Town Centre (Place), Councillor M Greatorex introduced Housing (Place), Councillor J Oates introduced Tackling Crime (People) and Councillor S Claymore introduced Education and Skills (People) and a full debate followed each introduction.

Following the debate the following motions were approved

**RESOLVED:**

That:

- 1 Aspire and Prosper Scrutiny focus even more effort on the Town's Education opportunities and Challenge in a positive way;
- 2 The cross party Local Plan working group increase its work looking at and looking to resolve challenges of the 21<sup>st</sup> Century;
- 3 The Council receive an update from Councillor Claymore on the skills agenda undertaken by the LEP, and;
- 4 The Council publically thank the 100 plus people that attended this years Tamworth Listens event.

*(Moved by Councillor D Cook and seconded Councillor J Faulkner)*

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The Mayor

## COUNCIL

17 DECEMBER 2013

### REPORT OF THE CHIEF EXECUTIVE

#### TAMWORTH PARLIAMENTARY CONSTITUENCY – REVIEW OF POLLING PLACES

#### EXEMPT INFORMATION

None

#### PURPOSE

To inform Members of the comments received from the recent consultation in respect of the review of polling districts and polling places undertaken in accordance with the Electoral Administration Act 2006 and the Electoral Registration and Administration Act 2013 and to make recommendations relating to polling places within the Parliamentary Constituency that fall within the Borough of Tamworth.

#### RECOMMENDATIONS

That the Council

1. Consider the results from the review process and endorse the officer recommendations together with reasons for said proposals for the polling districts as detailed in **Appendix C** including changes to the following polling districts as detailed below:
  - a) GL1 & GL3 Glascote Ward – move from Glascote Heath Primary School to the Sacred Heart Roman Catholic Church and;
  - b) TR4 & TR5 Trinity Ward – move from Dosthill Primary School to The Boys Club (Cadogan Rd).
2. Publish such information as prescribed in compliance with the legislation and;
3. Where required make appropriate recommendations for consideration by Cabinet in the Budget Setting Process 2014/15.

#### EXECUTIVE SUMMARY

The Electoral Administration Act 2006 (EAA 2006) introduced a duty upon all local authorities to review their parliamentary polling districts and polling places at least once in every four year period. The last such review was completed at the end of 2011. The Electoral Administration and Registration Act 2013 (ERA 2013) introduced a change to the timing of compulsory reviews of UK Parliamentary polling districts and polling places. It stipulates that the next compulsory review must be completed between 1<sup>st</sup> October 2013 and 31<sup>st</sup> January 2015 (inclusive).

Local Authorities are required to divide every constituency into polling districts for the purpose of Parliamentary elections and to designate a polling place for each polling district. Polling places should be within the polling district unless special circumstances make it necessary to designate an area outside this.

The consultation period began on Tuesday 1<sup>st</sup> October 2013 and ran for a period of 6 weeks. Notices were placed on the council's website, council offices and library along with press releases in the Tamworth Herald inviting electors to submit comments. Potentially interested organisations were written to along with local political parties. **Appendix A** outlines the organisations contacted.

**Appendix B** details all of the polling places within the parliamentary constituency that have been consulted upon. A total of 20 submissions were received. These are detailed in **Appendix C**. Submissions have been received regarding the polling places in the following polling districts:

- **CA2** (Castle Ward) – 2 responses
- **CA3** (Castle Ward) – 1 response
- **BO3** (Bolehall Ward) – 1 response
- **AM4** (Amington Ward) – 1 response
- **BE1** (Belgrave Ward) – 1 response
- **TR4 & TR5** (Trinity Ward) – 13 responses
- **ST2** (Stonydelph Ward) - 1 response

Of the responses identified in **Appendix C** the majority (13) of these related to the polling place for TR4 and TR5 (Dosthill Primary School). On the whole the responses for the remaining polling districts indicate that they are generally happy with the current polling arrangements. The Acting Returning Officer (ARO), where appropriate, has commented on the responses received and proposed recommendations / actions - these are included in **Appendix C**.

In addition we have also received notification from the Glascote Ward – re Glascote Heath Primary School (GL1 & GL3) that they no longer wish their school to be used for polling purposes (this is detailed in **Appendix D**). The Sacred Heart Catholic Church (adjacent to the school) has expressed an interest in providing a location for future polling purposes. It is therefore proposed to relocate the polling place to the Sacred Heart Roman Catholic Church for all future elections.

As part of the Electoral Commission best practice guidance, the Authority also undertakes surveys on polling day at each of the polling stations to obtain customer feedback on potential improvements re location / site – feedback from the 2013 election process did not identify any issues.

## **RESOURCE IMPLICATIONS**

In a perfect world all polling districts would have an ideally situated building. In reality this is not the case. Therefore, it is best to use the buildings that we have available. These may be slightly away from the centre of the polling district but will offer better facilities for electors and staff alike. They are also more cost effective. Where no suitable building can be located then the use of a temporary polling is required. Currently, we have four temporary polling stations:

- CA2 – land adjacent to Durham Close, County Drive
- ME5 – Buckingham Road

- TR3 – Dorado
- WI3 – Palmerston Avenue

The average cost for each of these stations is £1,500 each.

**Appendices D** (Sacred Heart Roman Catholic Church), **E** (Dosthill Boys Club) and **F** (The Norman Chapel, St Paul's Church) contain the visit reports for the potential relocated polling stations for GL1, GL3, TR4 and TR5. The cost implications for relocating these polling stations would be negligible. The advantages include improved accessibility for disabled people ensuring that we meet our equalities requirements.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

Perhaps the most fundamental point to make here is that there is no such thing within the Borough or possibly the country as a purpose built polling station. Secondly, none are owned/under the control of the Returning Officer but are instead hired for the day of poll. The premises that are used within the Borough range from church halls, schools, to community centres and finally temporary stations. It is important to remember the elector when selecting suitable premises for the poll. This can at times cause conflict between what premises are available and providing a fully accessible polling station that is convenient to use.

The Representation of the People Act 1983 places an obligation on local authorities, so far as reasonable and practicable, to designate polling places that are accessible to disabled people and keep them under review. When selecting a polling place it is essential that regard should be given to ensure it offers accessibility for disabled people as stated by the Equalities and Human Rights Commission. If the Authority was to move away from a perfectly accessible building in favour of a temporary station so that the location is slightly more convenient it could open the door for a claim regarding disability discrimination. Also, the generators that the temporary stations use tend to be loud and can cause difficulties for those that are hard of hearing as well as being unpleasant for polling staff. Conversely, if the Authority was to turn down the use of an accessible building in favour of one that is not as suitable for use by disabled people this could also increase the risk of a claim for disability discrimination. It is important to remember that despite the growth in absent voting the majority of electors (86%) still choose to attend their local polling station.

## **SUSTAINABILITY IMPLICATIONS**

These have been considered as part of the officer determinations. The review has also considered disability and equality legislation on arriving at our conclusion and recommendations.

## **CONCLUSION**

The current scheme has been in place since the last review and took effect for the 2012 elections. The majority of electors are happy with the location and suitability of their polling place and station. It is important to remember that at the last elections held in May 2013 no complaints were received regarding the locations and accessibility to the polling places used. It is not tenable financially or from an accessibility point of view to move to temporary stations when a perfectly suitable building is currently being used within the polling district. In fact, it is the Electoral Commission's view that the use of temporary stations should be avoided if at all possible.

## BACKGROUND INFORMATION

In accordance with the requirements of the Electoral Administration Act 2006 and Electoral Administration and Registration Act 2013 a review of polling stations with the Borough falling within the Tamworth Constituency has been undertaken.

## REPORT AUTHOR

Bernadette Flanagan Elections Officer

## LIST OF BACKGROUND PAPERS

The Representation of People Act 1983  
(<http://www.legislation.gov.uk/ukpga/1983/2/contents>)

The Electoral Administration Act 2006  
(<http://www.legislation.gov.uk/ukpga/2006/22/section/16>)

The Electoral Registration and Administration Act 2013  
(<http://www.legislation.gov.uk/ukpga/2013/6/contents>)

Electoral Commission – Review of polling districts, polling places and polling stations  
([http://www.electoralcommission.org.uk/\\_data/assets/word\\_doc/0020/161633/Polling-district-review-guidance.doc](http://www.electoralcommission.org.uk/_data/assets/word_doc/0020/161633/Polling-district-review-guidance.doc))

## APPENDICES

<b>Appendix A</b>	List of Consultees including letter and draft scheme.
<b>Appendix B</b>	List of Parliamentary Polling Stations with the Borough of Tamworth.
<b>Appendix C</b>	Detail of Submissions received from Electors, Consultees and other Stakeholders.
<b>Appendix D</b>	Potential Polling Place Visit Report for Sacred Heart Catholic Church
<b>Appendix E</b>	Potential Polling Place Visit Report for Dosthill Boys Club
<b>Appendix F</b>	Potential Polling Place Visit Report for the Norman Chapel, St Paul's Church

All responses have been received in conjunction with legislation; a map detailing the polling places will be available in the Members room up until 16 December 2013 for perusal.

Appendix A - List of Stakeholders and Consultees

Stakeholder	Contact Name
Mr Ken Forest	
(R.A.F.A) Royal Air Forces Association, Tamworth Branch	
ADSIS	
Age UK South Staffordshire	
Birds Bush Primary School	
CASS Carers Association for South Staffordshire (Tamworth)	
Central Methodist Church (Tamworth)	
Citizens Advice Bureau	
Coal Industry Social Welfare Organisation	
Cornerstone Childcare Centre	
Coton & Hopwas Petanque Club	
Coton Green Pre-School Nursery	
Coton Green Village Hall	
Crossroads (Staffordshire)	
Cruse Bereavement Care	
Daybreak	
Donna Louise Children's Hospice Trust	
Dorcas Centre	
Dorcas Centre	
Dosthill Boys Club	
East Staffs Racial Equality Council	
Fibromyalgia Group Staffordshire & West Midlands Support	
Friends Of Warwickshire Moor	
GAP & The Next Generation	
Glascote Heath Primary School	

Stakeholder	Contact Name
Glascote Methodist Church	
Hodge Lane Conservation Group	
Home-Start (Tamworth)	
Lichfield Friendship Centre	
Manna House Day Nursery	
MENCAP	
Mercian Ward Community Association	
Mercian Ward Community Centre	
Mile Oak Parent & Toddler Group (Tiny Tots)	
Monday Club For The Blind Tamworth	
Multiple Sclerosis Tamworth & Lichfield Branch	
NACRO - The Crime Reduction Charity	
Neighbourhood Watch Tamworth	
Oakhill Primary School	
Orchard Close Resident's Association	
Parents Forum (Staffordshire)	
Park Farm Community Youth Club	
Pathway Project	
Pennymoor Association Trust	
RELATE (South Staffs)	
Rotary Club Of Tamworth Anker	
Royal British Legion	
Samaritans (Tamworth)	
SCOPE Charity Shop	
South Staffordshire Network for Mental Health	
South Staffs Family Mediation Service (Tamworth)	



Stakeholder	Contact Name
SOVA Mentoring Service	
SPIN	
St Andrew's Methodist Church Hall	
St Editha's Church	
St Editha's Parish Church	
St Elizabeth Pre-School	
St Elizabeth's RC Pre-School	
St Elizabeth's RC Primary School	
St Gabriel's Pre-School	
St Gabriel's RC Primary School	
St George's Church	
St. Giles Hospice	
St. John Ambulance Service	
St. Martin In The Delph Church And Centre	
St. Paul's Church	
Staffordshire Buddies	
Staffordshire Wildlife Trust	
Stonydelph Action	
Stonydelph Primary School	
Survivors Of Bereavement By Suicide	
Tamworth & Lichfield Gateway Club	
Tamworth African Caribbean Association	
Tamworth Community Transport Services	
Tamworth Cornerstone Housing Association	
Tamworth Council For Voluntary Service	
Tamworth Covenanting Churches	
Tamworth Credit Union Limited	
Tamworth Darby & Joan Club	

Stakeholder	Contact Name
Tamworth District Scout Council	
Tamworth Mainstream & Modern Jazz Club	
Tamworth Special Needs Nursery	
Tamworth Talking Newspaper	
Tamworth Traditional Jazz Club	
Tamworth Vineyard Youth	
The Family Fun Club	
The Fazeley & District Initiative	
The Friends of William MacGregor School	
The New Tamworth Stroke Club	
The Rowan Organisation	
The Unicorns - Swimming Club for Disabled Persons (Tamworth)	
Volunteer Centre (Tamworth)	
William McGregor Primary School	
Wilnecote Community Leisure Centre	
Wilnecote Parish Hall	
WRVS (Tamworth)	
Councillor	John Garner
Councillor	Evelyn Rowe
Councillor	Michelle Thurgood
Councillor	Marion Couchman
Councillor	David Foster
Councillor	Richard McDermid
Councillor	John Faulkner
Councillor	Ken Norchi
Councillor	Peter Seekings
Councillor	Steven Claymore
Councillor	Allan Lunn
Councillor	Matthew McDermid
Councillor	Chris Cooke
Councillor	Garry Hiron
Councillor	Simon Peaple
Councillor	Michael Greatorex
Councillor	Andrew James
Councillor	Richard Kingstone

Stakeholder	Contact Name
Councillor	Ken Gant
Councillor	Maureen Gant
Councillor	Robert Pritchard
Councillor	Margaret Clarke
Councillor	Stephen Doyle
Councillor	Steven Pritchard
Councillor	Lee Bates
Councillor	Daniel Cook
Councillor	Jeremy Oates
Councillor	Tina Clements
Councillor	Joan Jenkins
Councillor	Patrick Standen
County Councillor	Sheree People
County Councillor	Carol Dean
County Councillor	Ben Adams
County Councillor	Brian Jenkins
	Christopher Pincher MP
Tamworth Labour Party	
Tamworth Conservative Association	
Tamworth and Lichfield Liberal Democrats	
Tamworth and Lichfield Green Party	
Amington Band Miners Welfare Institute	
Amington Community Enterprise	
Amington Heath Primary School	
Anker Moor Primary School	
Ashcroft Infants School	
Bancroft Community Association	
Barnardos SMART	
Dosthill Primary School	
Flaxhill Junior School	
Florendine Primary School	
Greenacres Primary School	
Heathfields Infants School	
Lakeside Primary School	
Landau Forte Academy	
Larkhall Primary School	
League of Friends of Tamworth Hospitals	
Manna House (Tamworth) - Tamworth Elim Church	
Moorgate Junior School	
Park Farm Community Centre	
Philip Dix Centre	
Sea Cadet Centre	
St Martin's Centre	

Stakeholder	Contact Name
Sunset Close Community Centre	
Tamworth Amateur Boxing Club	
Tamworth Baptist Church	
Tamworth Baptist Church	
Tamworth Carers (For Mental Health)	
Two Gates Primary School	
Wilnecote Junior School	
Woodlands Primary School	
Acting Returning Officer for the Tamworth Constituency	
Asian Community Group	
Girl Guiding UK	
Huntington's Disease Association (South Staffs)	
ME Staffordshire Support	
Soroptimist International Of Tamworth	
Tamworth Arts Club	
The Starfish Project	
The Tamworth Lions	

Appendix B - Current Parliamentary Polling Districts and Polling Places

Ward	County Division	Polling District	Station No	Polling Station Name	Address 1	Address 2	Address 3	Town	County	Postcode
Spital	Percrofts	SP1	1	Landau Forte Academy	Tamworth Sixth Form	Ashby Road		Tamworth	Staffordshire	B79 8AA
Spital	Percrofts	SP2	2	Ashcroft Infants School	Mildenhall			Tamworth	Staffordshire	B79 8RU
Spital	Percrofts	SP3	3	Flaxhill Junior School	Chestnut Avenue			Tamworth	Staffordshire	B79 8QZ
Spital	Percrofts	SP3	4	Flaxhill Junior School	Chestnut Avenue			Tamworth	Staffordshire	B79 8QZ
Spital	Percrofts	SP4	5	St Andrew's Methodist Church Hall	Thackery Drive			Tamworth	Staffordshire	B79 8HY
Spital	Percrofts	SP5	6	Moorgate Primary School	Hospital Street			Tamworth	Staffordshire	B79 7EE
Mercian	Percrofts	ME1	7	Mercian Ward Community Centre	Masefield Drive	Leyfields		Tamworth	Staffordshire	B79 8JB
Mercian	Percrofts	ME1	8	Mercian Ward Community Centre	Masefield Drive	Leyfields		Tamworth	Staffordshire	B79 8JB
Mercian	Percrofts	ME2	9	Larkhall Primary School	Clifton Avenue			Tamworth	Staffordshire	B79 8EF
Mercian	Percrofts	ME3	10	Coton Green Village Hall	Kipling Rise	Coton Green		Tamworth	Staffordshire	
Mercian	Bolebridge	ME4	11	Moorgate Primary School	Hospital Street			Tamworth	Staffordshire	B79 7EE
Mercian	Bolebridge	ME5	12	Buckingham Road - Temporary Polling Station	Recreation Ground	Buckingham Road	Off Lichfield Road	Tamworth	Staffordshire	
Castle	Bolebridge	CA1	13	Sunset Close Community Centre	Off Lichfield Street			Tamworth	Staffordshire	B79 7QJ
Castle	Bolebridge	CA1	14	Sunset Close Community Centre	Off Lichfield Street			Tamworth	Staffordshire	B79 7QJ
Castle	Watling North	CA2	15	The Green - Temporary Polling Station	Land adjacent to Durham Close	County Drive	Fazeley	Tamworth	Staffordshire	
Castle	Watling North	CA2	16	The Green - Temporary Polling Station	Land adjacent to Durham Close	County Drive	Fazeley	Tamworth	Staffordshire	
Castle	Bolebridge	CA3	17	Phil Dix Centre	Corporation Street			Tamworth	Staffordshire	
Castle	Bolebridge	CA4	18	Sea Cadet Centre, West Street	West Street	Kettlebrook		Tamworth	Staffordshire	B77 2AU
Bolehall	Amington	BO1	19	Ankermoor Primary School	Rene Road	Bolehall		Tamworth	Staffordshire	B77 3NW
Bolehall	Bolebridge	BO2	20	William McGregor Primary School	Glascote Road			Tamworth	Staffordshire	B77 2AF
Bolehall	Bolebridge	BO2	21	William McGregor Primary School	Glascote Road			Tamworth	Staffordshire	B77 2AF
Bolehall	Bolebridge	BO3	22	Glascote Methodist Church	Neville Street	Glascote		Tamworth	Staffordshire	B77 2BA

Ward	County Division	Polling District	Station No	Polling Station Name	Address 1	Address 2	Address 3	Town	County	Postcode
Bolehall	Amington	BO4	23	Woodlands Primary School	Canning Road	Glascoate		Tamworth	Staffordshire	B77 3JX
Amington	Amington	AM1	24	Florendine Primary School	Florendine Street	Amington		Tamworth	Staffordshire	B77 3DD
Amington	Amington	AM2	24/1	Florendine Primary School	Florendine Street	Amington		Tamworth	Staffordshire	B77 3DD
Amington	Amington	AM2	25	Florendine Primary School	Florendine Street	Amington		Tamworth	Staffordshire	B77 3DD
Amington	Amington	AM3	26	Amington Heath Primary School	Quince	Amington		Tamworth	Staffordshire	B77 4EN
Amington	Amington	AM4	27	Greenacres Primary School	Leveitt Road	Amington		Tamworth	Staffordshire	B77 4AB
Amington	Amington	AM4	28	Greenacres Primary School	Leveitt Road	Amington		Tamworth	Staffordshire	B77 4AB
Glascote	Amington	GL1	29	Glascote Heath Primary School	Silver Link Road	Glascote Heath		Tamworth	Staffordshire	B77 2EA
Glascote	Amington	GL1	30	Glascote Heath Primary School	Silver Link Road	Glascote Heath		Tamworth	Staffordshire	B77 2EA
Glascote	Stonydelph	GL2	31	Oakhill Primary School	Hawksworth	Glascote Heath		Tamworth	Staffordshire	B77 2HH
Glascote	Stonydelph	GL2	32	Oakhill Primary School	Hawksworth	Glascote Heath		Tamworth	Staffordshire	B77 2HH
Glascote	Stonydelph	GL3	33	Glascote Heath Primary School	Silver Link Road	Glascote Heath		Tamworth	Staffordshire	B77 2EA
Glascote	Stonydelph	GL4	34	Stonydelph Primary School	Crowden Road	Stonydelph		Tamworth	Staffordshire	B77 4LS
Belgrave	Watling North	BE1	35	Birds Bush Primary School	Birds Bush Road	Belgrave		Tamworth	Staffordshire	B77 2NE
Belgrave	Watling North	BE1	36	Birds Bush Primary School	Birds Bush Road	Belgrave		Tamworth	Staffordshire	B77 2NE
Belgrave	Watling North	BE2	37	Tamworth Baptist Church	Derwent	Belgrave		Tamworth	Staffordshire	B77 2LA
Belgrave	Watling North	BE2	38	Tamworth Baptist Church	Derwent	Belgrave		Tamworth	Staffordshire	B77 2LA
Belgrave	Bolebridge	BE3	39	Lakeside Primary School	Leyland Road	Glascote		Tamworth	Staffordshire	B77 2SA
Belgrave	Watling North	BE4	40	Park Farm Community Centre	Greatmead	Kellebrook		Tamworth	Staffordshire	B77 1DL
Trinity	Watling North	TR1	41	Two Gates Primary School	Tamworth Road	Two Gates		Tamworth	Staffordshire	B77 1EN

Ward	County Division	Polling District	Station No	Polling Station Name	Address 1	Address 2	Address 3	Town	County	Postcode
Trinity	Watling South	TR2	42	Dorcas Centre	Off Blackwood Road	Dosthill		Tamworth	Staffordshire	B77 1JE
Trinity	Watling South	TR3	43	Dorado - Portable Polling Station		Dosthill		Tamworth	Staffordshire	
Trinity	Watling South	TR4	44	Dosthill Primary School	High Street	Dosthill		Tamworth	Staffordshire	B77 1LQ
Trinity	Watling South	TR5	45	Dosthill Primary School	High Street	Dosthill		Tamworth	Staffordshire	B77 1LQ
Wilnecote	Watling North	WI1	46	Wilnecote Junior School	Smithy Lane	Wilnecote		Tamworth	Staffordshire	B77 5LA
Wilnecote	Watling South	WI2	47	Wilnecote Junior School	Smithy Lane	Wilnecote		Tamworth	Staffordshire	B77 5LA
Wilnecote	Watling South	WI3	48	Palmerston Avenue - Temporary Station	Palmerston Avenue	Wilnecote		Tamworth	Staffordshire	B77 XXX
Wilnecote	Watling South	WI4	49	Heathfields Infants School	Saxon Close	Wilnecote		Tamworth	Staffordshire	B77 5LU
Wilnecote	Watling South	WI5	50	Heathfields Infants School	Saxon Close	Wilnecote		Tamworth	Staffordshire	B77 5LU
Wilnecote	Watling South	WI6	51	Heathfields Infants School	Saxon Close	Wilnecote		Tamworth	Staffordshire	B77 5LU
Wilnecote	Watling North	WI7	46/1	Wilnecote Junior School	Smithy Lane	Wilnecote		Tamworth	Staffordshire	B77 5LA
Stonydelph	Stonydelph	ST1	52	Pennymoor Community Hall	Pennymoor Road	Stonydelph		Tamworth	Staffordshire	B77 4LG
Stonydelph	Stonydelph	ST2	53	St Martin's Centre	Ellerbeck	Stonydelph		Tamworth	Staffordshire	B77 4JA
Stonydelph	Stonydelph	ST2	54	St Martin's Centre	Ellerbeck	Stonydelph		Tamworth	Staffordshire	B77 4JA
Stonydelph	Stonydelph	ST3	55	Pennymoor Community Hall	Pennymoor Road	Stonydelph		Tamworth	Staffordshire	B77 4LG
Stonydelph	Stonydelph	ST4	56	Stonydelph Primary School	Crowden Road	Stonydelph		Tamworth	Staffordshire	B77 4LS

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## Appendix C – Detailed Summary of Comments and Proposed Actions

Ward	Ref	PD Ref	No of Electors (as at 01/10/13)	No. of Responses Received	Summary of Issues	Officer Comments	Recommendations
Spital	1	SP1	1,029	0		No change	No change
	2	SP2	1,100	0		No change	No change
	3	SP3	1,457	0		No change	No change
	4	SP4	819	0		No change	No change
	5	SP5	955	0		No change	No change
Mercian	6	ME1	1,403	0		No change	No change
	7	ME2	1,088	0		No change	No change
	8	ME3	1,301	0		No change	No change
	9	ME4	161	0		No change	No change
	10	ME5	1,355	0		No change	No change
Castle	11	CA1	1,786	0		No change	No change
	12	CA2	2,127	2	Suitable for the required needs Would like the temporary station to be relocated to its former position located on Millo Crescent and Sutton Avenue	No change	No change
	13	CA3	855	1	No comments made	No change	No change
	14	CA4	936	0		No change	No change
	15	BO1	1,284	0		No change	No change
Bolehall	16	BO2	2,261	0		No change	No change
	17	BO3	1,520	1	Whilst I find the current polling place easy to find and it suits me I am aware that parking can be difficult. If you were looking for an alternative venue St George's Church would be happy to help.	No change	No change
	18	BO4	794	0		No change	No change

<b>Ward</b>	<b>Ref</b>	<b>PD Ref</b>	<b>No of Electors (as at 01/10/13)</b>	<b>No. of Responses Received</b>	<b>Summary of Issues</b>	<b>Officer Comments</b>	<b>Recommendations</b>
<b>Amington</b>	19	AM1	631	0		No change	No change
	20	AM2	2,259	0		No change	No change
	21	AM3	1,223	0		No change	No change
	22	AM4	1,862	1	The proposals seem to be adequate for the ward as a whole.	No change	No change
<b>Glascote</b>	23	GL1	1,582	0		Following communications with the Headteacher at Glascote Heath Primary School and issues with parking for electors' alternative location were investigated. The Sacred Heart Church was identified as an ideal place for relocation as it is adjacent to the school. The church is happy to accommodate the polling stations.	Relocate from Glascote Primary School to the Sacred Heart Roman Catholic Church
	24	GL2	2,486	0		No change	No change
	25	GL3	970	0		Following communications with the Headteacher at Glascote Heath Primary School and issues with parking for electors' alternative location were investigated. The Sacred Heart Church was identified as an ideal place for relocation as it is adjacent to the school. The church is happy to accommodate the polling stations.	Relocate from Glascote Primary School to the Sacred Heart Roman Catholic Church
	26	GL4	651	0		No change	No change

<b>Ward</b>	<b>Ref</b>	<b>PD Ref</b>	<b>No of Electors (as at 01/10/13)</b>	<b>No. of Responses Received</b>	<b>Summary of Issues</b>	<b>Officer Comments</b>	<b>Recommendations</b>
<b>Belgrave</b>	27	BE1	1,540	1	No school should be closed for polling when there are alternatives. Education is too important. A parent is fined if they keep a child from school.	No change	No change
	28	BE2	2,058	0		No change	No change
	29	BE3	1,029	0		No change	No change
	30	BE4	1,255	0		No change	No change
<b>Trinity</b>	31	TR1	1,334	0	No change	No change	
	32	TR2	1,261	0	No change	No change	
	33	TR3	1,485	0	No change	No change	

The submissions for Trinity continue on pages 4 to 13

Ward	Ref	PD Ref	No of Electors (as at 01/10/13)	No. of Responses Received	Summary of Issues	Officer Comments	Recommendations
	34 & 35	TR4 & TR5	TR4 = 1,033 TR5 = 880	13	<p>Schools are for education and closing them disrupts education. It also disrupts education and causes logistical and childcare problems for working parents and those involved with leading the school. Alternative venues that could be used are The Norman Chapel at St Paul's Church and/or the Boys Club.</p>	<p>The Headteacher, Chair of Governors, The Boys Club, The Vicar of St Paul's Church (Dosthill) and parents from the school have put in a number of submissions asking that we look at other locations to house this polling station within the local area. Putting aside the issue of the school closing and the inconvenience this causes for parent the fact is that Dosthill Primary School is poorly laid out and causes access issues for voters with disabilities. The school can offer no solution to this. There is also no parking available at the school for disabled or able bodied electors. This has caused issues in the past particularly with disabled electors as they have been unable to park their vehicles and access the polling station. Even if disabled parking was available on site this would still require any disabled elector to walk the perimeter of the school into the polling station. It is worth noting that the authority may be open to a challenge by disabled electors should they not be able to access the polling station and financial</p>	<p>Relocate the polling stations for TR4 &amp; TR5 to Dosthill Boys Club, Cadogan Road. This facility has no issues in regard to parking and/or access for disabled electors.</p>

						<p>implications may arise from this. The Boys Club is an excellent alternative and is an option that should be given the fullest consideration by Full Council. Fees would not be dissimilar to the fees currently paid to Dosthill Primary School.</p> <p>The Norman Chapel has been offered for use by Rev'd Louise Shaw. The Chapel is well known in the locality and is used for PACT meetings regularly. Rev'd Shaw is keen to support the local community and has offered the use of this facility for a nominal fee to cover heating and light.</p>	
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				<p>I wish to share my thoughts after reading your draft review paper. I continue to be amazed that the Council wishes to disrupt so many schools to set up polling stations, causing additional disruption to the children and their families, when there are so many public/alternative buildings nearby. In Dosthill we have The Boys Club and The Cosmopolitan Club within walking distance of the school, yet it is deemed more appropriate to close the school to 600 children. I read with interest your comments from the review in 2011 which stated these alternative options were not appropriate. I challenge how appropriate it is for 600 children, in Dosthill alone, losing a days education. A challenge also supported by government through the introduction of fining parents should they wish to take their children out of school during term time.</p>		
				<p>As a resident in Dosthill, as a parent of children that attend Dosthill Primary School, and as a member of that school's Board of Governors, I see regular disruption caused to the operation of the school by its use as a polling station. I would like to register my opposition to the use of schools as polling stations where other suitable premises exist, and in particular Dosthill Primary School.</p>		
				<p>I am responding to the invitation to submit views on polling districts, places and stations. Firstly, I would like to thank you for providing us with the opportunity to</p>		

take part in this consultation. You may be aware that we have previous represented our views on the school being used as a polling station to Mr John Wheatley. The Governing Body of the school object to the school being used as a polling station for the following reasons:

**1)** The school has more than 650 pupils. Counts at previous elections have shown that as few as 250 people have voted at this polling station. Disrupting the education of such a large number of pupils for so few people to vote does not seem logical.

**2)** Election days disrupt the education of our pupils. Teacher training days are used to minimise the impact but as elections are on a Thursday, closures interrupt the flow of learning over the week and can have a negative impact on attendance on the Friday following an election. The school has to close on an election day due to the nature of the site and the impossibility of moving pupils to alternative accommodation.

**3)** The school hall which is used for polling purposes is not accessible by vehicles from the High Street; the only vehicular access is along Pit Lane and here this is restricted. Voters have to park in the High Street and walk along it to the school gates and then through the playground to the polling station. For voters with a disability, it presents difficulties as the entrance to the polling station in the school hall is at the rear.

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	<p>This means that voters with mobility problems have a considerable distance to walk as there is no parking for people with disabilities available in close proximity.</p> <p>4) Parents frequently express dismay at the school being used as a polling station because of the disruption caused.</p> <p>5) We are aware that other councils such as North Warwickshire have moved almost all of their polling stations out of schools because they recognise how disruptive housing these in school is.</p> <p>We suggest that the Boys Club premises in Cadogan Road would be an ideal alternative as it has a large car park and spacious facilities that would accommodate a polling station that would benefit the whole community. If the school needs to continue to be used, they a compromise would be to have a mobile polling station sited on the front of the school. This is what was in place previously and allowed the school to remain open with mitigated measures put in place to secure pupils and to meet Health and Safety requirements. We are aware that mobile polling stations are used elsewhere locally. We look forward to receiving details of the outcome of the consultation once all views have been considered.</p>		
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<i>Trinity</i>									<p>I fully concur with the views of the Headteacher. They formed the basis of our correspondence with Mr J Wheatley after full consideration by the Full Governing Body. Alternative venues to be used: Boys Club.</p>	<p>It seems unreasonable for the large primary school to be closed to pupils for a day just for the use of the school hall as a polling station. This causes disruption to learning and local families. Alternative venues: Dosthill Boys Club or Mobile Station</p>				
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<b>Ward</b>	<b>Ref</b>	<b>PD Ref</b>	<b>No of Electors (as at 01/10/13)</b>	<b>No. of Responses Received</b>	<b>Summary of Issues</b>	<b>Officer Comments</b>	<b>Recommendations</b>
<i>Trinity</i>					I would like to register my annoyance at Dosthill school having to be used as a polling station as the school has to be closed and that results in extra costs to parents. With Dorcas centre being used and the temporary station in Cottage Farm there is no need for the school to be used and therefore inconveniencing parents, teachers and pupils.		
					I object to Dosthill school being closed for voting. Our children's education is more important. Please consider alternative premises.		
					I had been told that we can put an email to you with regards Dosthill Primary School being used a polling station. My preference would be that the school remain open and NOT be used as a polling station every year.		

<b>Ward</b>	<b>Ref</b>	<b>PD Ref</b>	<b>No of Electors (as at 01/10/13)</b>	<b>No. of Responses Received</b>	<b>Summary of Issues</b>	<b>Officer Comments</b>	<b>Recommendations</b>
<i>Trinity</i>					<p>I am responding to the invitation to submit views on Polling Districts, Places and Stations. I object to Dosthill Primary School being used as a Polling Station for the following reasons. The school has to close during polling days disrupting the learning of the students. There is poor access to the site by vehicle making it difficult for those voters who have mobility issues. It also makes those that work less likely to vote. I vote at the Dorcas centre polling station which I can drive to on my way to work. The boys' club would appear to be a much better site for a polling station. I understand that this is on the edge of the present polling area, but if instead of splitting TR4 and TR5 along the main road and split the district east/west then you could have a polling station at the Boys Club and another one at the Norman Chapel (next to St Paul's Church Dosthill).</p>		

Ward	Ref	PD Ref	No of Electors (as at 01/10/13)	No. of Responses Received	Summary of Issues	Officer Comments	Recommendations
Trinity					<p>I am writing to express my concerns of the continual use of Dosthill School as a polling station. Every time there is an election (Council/General or even the daftness that was PCC's), the school is closed leading to disruption to both children, teachers and families. With the number of required inset days a year - closing the school for elections results in loss of valuable learning time for the children. Not to mention increased childcare costs or days lost of work due to childcare issues. I believe it is not necessary to use the school as a polling station. Here are my suggestions for alternative sites and venues:</p> <p>The Norman Chapel at St Pauls Church  Dosthill Cosmopolitan Club (I recognise there will be a cost - however you pay for the Dorcas Centre so why not the Dosthill Cos)  The Boys Club (again cost attached)  A portable cabin on the car park of the Dosthill Cos  A Portable Cabin on the Broom Field  Turn the mobile library into a polling station  As a last resort I understand the Head Teacher of Dosthill has offered to host a portable cabin on the main playground -</p>		

					<p>assuming all safeguarding issues are taken into account - there is no reason why the school has to close.</p> <p>Whilst I recognise the need for accessibility to all members of the community - I think the Council should recognise the changing way in which people vote. As more and more people chose to vote by post - or not vote at all - I think you need to consider the number of polling stations required. Do you really need one on Cottage farm when the Dorcas centre is a stones throw away.</p> <p>My view is if people want to vote they will - most people have access to cars and quite often vote on their way to and from work. If not, encourage them to vote my post or alternatively work with local charities to help people get to polling stations. I am sure Age UK would work with you on supporting the elderly to vote. My understand that the turn out rate for the elections was relatively low - with some polling stations in the Dosthill area getting less than 20 votes.</p>		
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<b>Ward</b>	<b>Ref</b>	<b>PD Ref</b>	<b>No of Electors (as at 01/10/13)</b>	<b>No. of Responses Received</b>	<b>Summary of Issues</b>	<b>Officer Comments</b>	<b>Recommendations</b>
<i>Trinity</i>					The Trustees feel that it is a shame to close the school for a day which does not have parking facilities for voters when we have a perfectly good, accessible facility to hire at the Boys Club approx 150ish yards away.		
					I wish to share my thoughts after reading your draft review paper. I continue to be amazed that the Council wishes to disrupt so many schools to set up polling stations, causing additional disruption to the children and their families, when there are so many public/alternative buildings nearby. In Dosthill we have The Boys Club and The Cosmopolitan Club within walking distance of the school, yet it is deemed more appropriate to close the school to c600 children. I read with interest your comments from the review in 2011 which stated these alternative options were not appropriate. I challenge how appropriate it is for 600 children, in Dosthill alone, losing a days education. A challenge also supported by government through the introduction of fining parents should they wish to take their children out of school during term time.		

Ward	Ref	PD Ref	No of Electors (as at 01/10/13)	No. of Responses Received	Summary of Issues	Officer Comments	Recommendations
<i>Wilnecote</i>	36	WI1	1,323	0		No change	No change
	37	WI2	1,188	0		No change	No change
	38	WI3	979	0		No change	No change
	39	WI4	654	0		No change	No change
	40	WI5	1,148	0		No change	No change
	41	WI6	1,381	0		No change	No change
	42	WI7	286	0		No change	No change
<i>Stonydelph</i>	43	ST1	1,317	0		No change	No change
	44	ST2	1,828	1	No comments made	No change	No change
	45	ST3	1,520	0		No change	No change
	46	ST4	1,158	0		No change	No change
			58,552	20			

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## Potential polling place / polling station – evaluation checklist

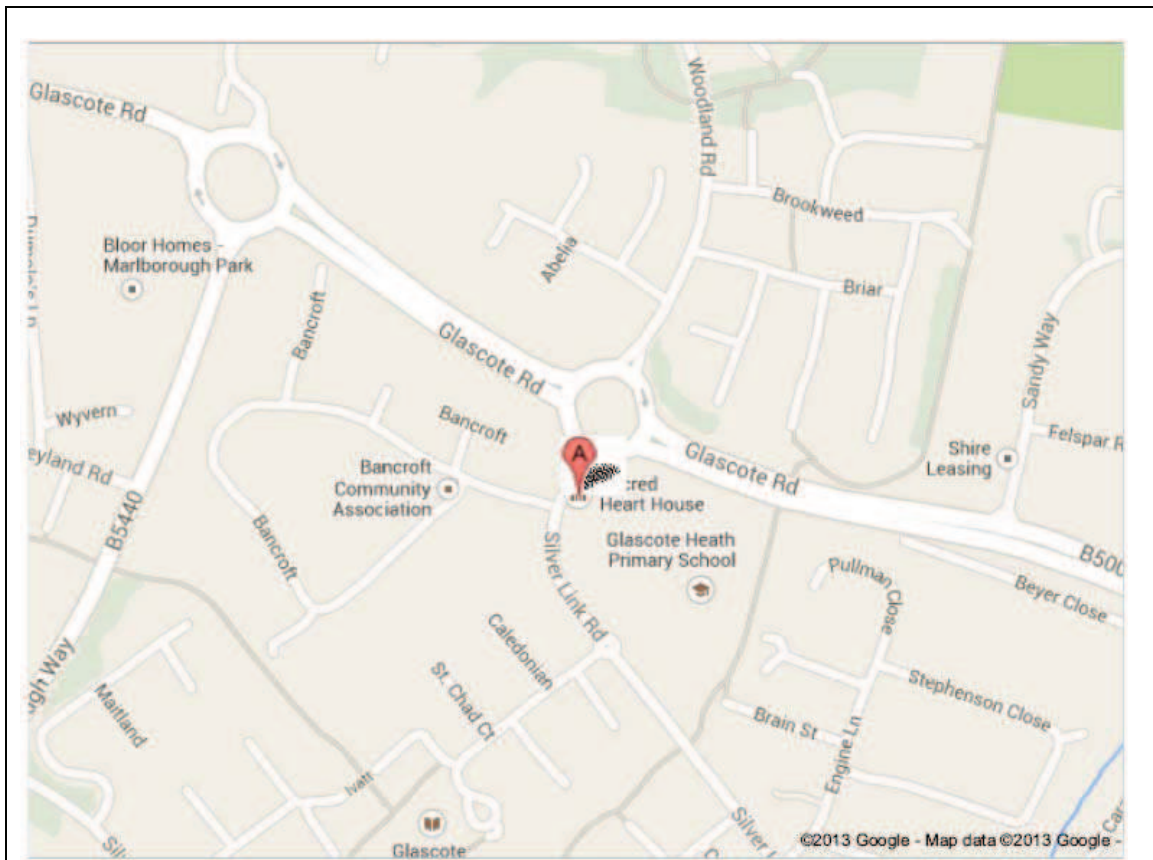
Part A – Potential polling place details		
Polling place identifier	Sacred Heart Roman Catholic Church	
Polling place name	Sacred Heart Roman Catholic Church	
Polling place address	Silver Link Road Glascote Heath Tamworth B77 2EA	
Number of electors (If more than one polling station within the polling place, identify split of electors)	GL1 – 1,582 electors split station  GL3 = 970 electors  Total = 1,679  3 Stations in total	
Number of postal voters	GL1 = 257 GL3 = 105	
Building availability for future elections/referendums	Yes but must ensure that it is booked in advance.	
Polling place review		
Check	√	Comment
• Are there suitable transport links?	Yes	Bus stopped is located opposite the church.
• Are there any access issues regarding main/busy roads, railways, rivers, etc.?	No	
• Is the polling place capable of accommodating more than one polling station together with the necessary staff and equipment? If so, could it accommodate all allocated voters going in and out of the polling stations, even where there is a high turnout?	Yes	Two rooms within the church would need to be utilised. The larger of these rooms would be used for the split station.
• Is the building readily available in the event of any unscheduled elections?	Yes	But as much notice as possible would need to be given.
• Is there any possibility that the building may be demolished as part of a new development?	No	

### ***Identify any complaints/comments received from stakeholders at previous electoral events***

The Headteacher of Glascote Heath Primary contacted the Elections Office and asked if we could have a look into relocating the polling station. The school suggested the Church and as it is adjacent to the school this should caused no inconvenience should this polling station be relocated. This location also offers ample car parking and suits the needs of the disabled voter far better. The management team at the Church are more than happy to accommodate us for polling day and are very active within the local community. A move to the church would also incur a small cost saving compared to the fees charged by the school. The church has offered their facilities for a fee of £200 compared to £268 charged by the school.

Part B – External areas access and facilities		
Check	(√)	Comments
• Are there good public transport links to the polling place?	Yes	Bus stop across the road
• Is the approach to the building safe and free from obstructions and does it have a dropped kerb?	Yes	The premises are accessed via a large car park to the front.
• Is the building clearly identifiable?	Yes	
• Is additional signage required between street and entrance?		If additional signage is needed this could be placed upon the fence boarding the road
• Is there the facility to put up the required signage for polling day?	Yes	
• Are there parking facilities for disabled people?	Yes	There are several dedicated disabled parking spaces that are located directly in front of the main entrance.
• Are there parking facilities for polling staff?	Yes	
• Does the approach to the building have external lighting?	Yes	
• Does the building have level access? Yes/No. If no –	Yes	
• Has a purpose built ramp been installed?		
• If so, does it have a handrail?		
• Does the ramp have a gentle slope?		
• Does the building require a temporary ramp or is there an alternative disabled access?		
• Is the entrance door wide enough for a disabled person using a motorised wheelchair?	Yes	
• Are the doors light enough for frail/elderly voters to open?	Yes	
• Can the 'Guidance for voters' notice be clearly displayed outside the premises, as required by the election rules?	Yes	
• Are there any external security concerns?	No	
• Can tellers be accommodated outside the building?	Yes	

# External plan – B1



Part C – Internal areas access and facilities		
Check	(√)	Comments
• Are all doors easy to open (including by wheelchair users) or do they need to be permanently locked back?	Yes	
• Are there any internal steps or obstructions/hazards?	No	
• Are any doormats level with the floor?	Yes	
• Is the floor covering non-slip (including in wet weather)?	Yes	
• Are there any corridors that may cause access problems?	No	
• Is there adequate lighting in the corridors?	Yes	
• Are there toilet facilities?	Yes	Including disabled facilities.
• Is there a kitchen that staff can use?	Yes	
• Is the area adequately lit for day and night time?	Yes	
• Is there adequate space for signage?	Yes	
• How many polling stations can the building accommodate?	3/4	
• Does the building have a telephone available (land line) in the event of mobile network problems?	Yes	

Part D – The polling station(s)		
Check	(√)	Comments
<ul style="list-style-type: none"> <li>Is there sufficient space to accommodate and manage the flow of a high volume of electors in the case of a high turnout of electors?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>If multiple polling stations need to be provided, are there other rooms available, or can the space be clearly divided to provide adequate room for more than one polling station?</li> </ul>	Yes	There are two separate rooms that are large enough to accommodate busy polling stations.
<ul style="list-style-type: none"> <li>Is there sufficient space inside the polling station to comfortably accommodate staff, voters, polling agents and observers?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>Could ballot booths be positioned in a way that would preserve the secrecy of the ballot, even where there may be a high volume of electors?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>Is there adequate lighting for day and night time?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>Is there suitable furniture (tables and chairs) available for all types of election for polling staff and for those voters who may need to rest?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>Could motorised wheelchairs be accommodated?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>Can the official notices be clearly displayed, including the large-print version of the ballot paper(s)?</li> </ul>	Yes	



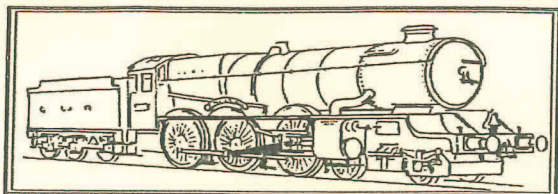
# Internal – The polling station(s) – D1

**Polling Station 1 – GL1 split station**  
**Dimensions: 7.5m x 10m**



**Station 2 - GL3**  
**Dimensions: 7.6m x 6m**





## GLASCOTE HEATH PRIMARY SCHOOL

Silver Link Road, Tamworth, Staffordshire B77 2EA

Telephone: 01827 475000

Fax: 01827 475001

e-mail: [office@glascoteheath.staffs.sch.uk](mailto:office@glascoteheath.staffs.sch.uk)

Head Teacher: ~~Ms N Poore~~ Mrs M. Hamblin

25<sup>th</sup> April 2013

Bernadette Flanagan,  
Elections Officer,  
Tamworth Borough Council,  
Marmion House,  
Lichfield Street,  
TAMWORTH,  
Staffordshire, B79 9BZ.

Dear Bernie,

### **Elections – 2014**

Further to your email of 3<sup>rd</sup> April 2013, with regard to Tamworth Borough and European Parliamentary Elections to be held in 2014, I have to advise that Glascote Heath Primary School will be unavailable for use as a Polling Station next year.

As I am sure you will appreciate, not only does it mean using our valuable allocation of "Inset Days" for this purpose, but pupils' have SATs examinations in May, and I am not prepared to disrupt their learning time more than absolutely necessary. Also, having spoken to parents who work, it is difficult for them to arrange childcare for these occasional days.

Yours sincerely,

A handwritten signature in cursive script that reads "Maria Hamblin".

Maria Hamblin (Mrs)  
Headteacher



## Potential Polling place / polling station – evaluation checklist

Part A – Potential polling place details		
Polling place identifier	Dosthill Boys Club	
Polling place name	Dosthill Boys Club	
Polling place address	Cadogan Road Dosthill Tamworth B77 1PD	
Number of electors (If more than one polling station within the polling place, identify split of electors)	TR4 – 1,033 TR5 - 880	
Number of postal voters	TR4 – 169 TR5 – 176	
Building availability for future elections/referendums	Yes but must ensure that it is booked in advance.	
Polling place review		
Check	√	Comment
• Are there suitable transport links?	Yes	Bus stopped is located opposite.
• Are there any access issues regarding main/busy roads, railways, rivers, etc.?	No	
• Is the polling place capable of accommodating more than one polling station together with the necessary staff and equipment? If so, could it accommodate all allocated voters going in and out of the polling stations, even where there is a high turnout?	Yes	There are several room options depending on whether we would wish to house both polling stations here. These are either the Sports Hall or the Multi-Activity Room.
• Is the building readily available in the event of any unscheduled elections?	Yes	But as much notice as possible would need to be given.
• Is there any possibility that the building may be demolished as part of a new development?	No	

### ***Identify any complaints/comments received from stakeholders at previous electoral events***

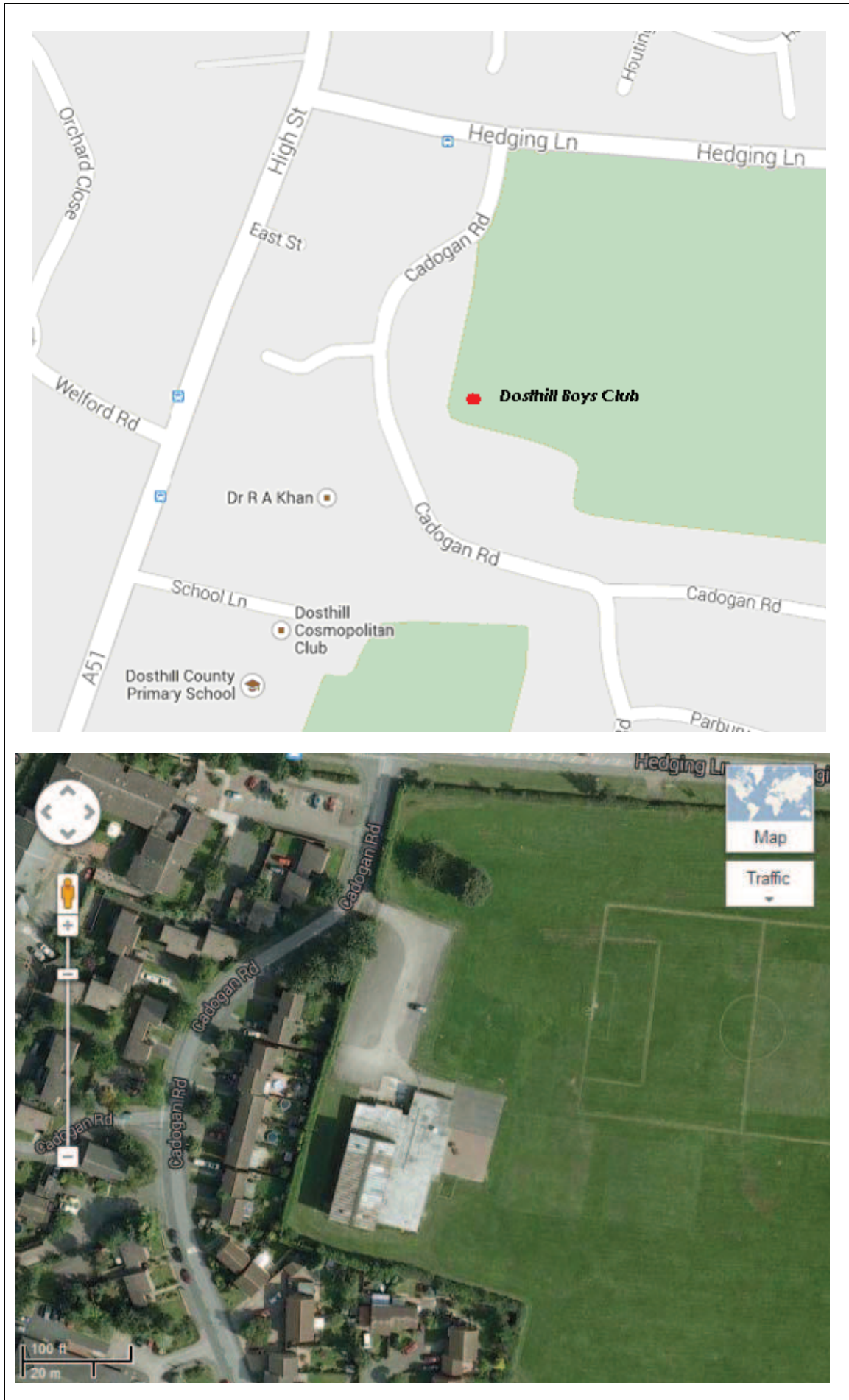
The Headteacher, Chair of Governors, The Boys Club, The Vicar of St Paul's Church (Dosthill) and parents from the school have put in a number of submissions asking that we look at other locations to house this polling station within the local area. Putting aside the issue of the school closing and the inconvenience this causes for parent the fact is that Dosthill Primary School is poorly laid out and causes access issues for voters with disabilities. The school can offer no solution to this. There is also no parking available at the school for disabled or able bodied electors. This has caused issues in the past particularly with disabled electors as they have been unable to park their vehicles and access the polling station. Even if disabled parking was available on site this would still require any disabled elector to walk the perimeter of the school into the polling station. It is worth noting that the authority may be open to a challenge by disabled electors should they not be able to access the polling station and financial implications may arise from this. The Boys Club is an excellent alternative and is an option that should be given the fullest consideration by Full Council. Fees would no be dissimilar to the fees currently paid to Dosthill Primary School. Costs for the rooms are as follows:

Multi-Activity Room = £256 (half this cost would be re-charged to NW Borough Council when they have elections)

Sports Hall = £336 (one third of which would be re-charged to NW Borough Council when they have elections.)

Part B – External areas access and facilities		
Check	(√)	Comments
• Are there good public transport links to the polling place?	Yes	Bus stop across the road
• Is the approach to the building safe and free from obstructions and does it have a dropped kerb?	Yes	The premises are accessed via a large car park to the front.
• Is the building clearly identifiable?	Yes	The building and location is extremely well known with this locale.
• Is additional signage required between street and entrance?		If additional signage is needed this could be placed upon the fence boarding the road
• Is there the facility to put up the required signage for polling day?	Yes	
• Are there parking facilities for disabled people?	Yes	There are several dedicated disabled parking spaces that are located to the front left of the main entrance.
• Are there parking facilities for polling staff?	Yes	
• Does the approach to the building have external lighting?	Yes	
• Does the building have level access? Yes/No. If no –	Yes	
• Has a purpose built ramp been installed?		
• If so, does it have a handrail?		
• Does the ramp have a gentle slope?		
• Does the building require a temporary ramp or is there an alternative disabled access?		
• Is the entrance door wide enough for a disabled person using a motorised wheelchair?	Yes	
• Are the doors light enough for frail/elderly voters to open?	Yes	
• Can the 'Guidance for voters' notice be clearly displayed outside the premises, as required by the election rules?	Yes	
• Are there any external security concerns?	No	
• Can tellers be accommodated outside the building?	Yes	There is a reception area with seating that could be used to by tellers.

# External plan – B1



Part C – Internal areas access and facilities		
Check	(√)	Comments
• Are all doors easy to open (including by wheelchair users) or do they need to be permanently locked back?	Yes	
• Are there any internal steps or obstructions/hazards?	No	
• Are any doormats level with the floor?	Yes	
• Is the floor covering non-slip (including in wet weather)?	Yes	
• Are there any corridors that may cause access problems?	No	
• Is there adequate lighting in the corridors?	Yes	
• Are there toilet facilities?	Yes	Including disabled facilities.
• Is there a kitchen that staff can use?	Yes	
• Is the area adequately lit for day and night time?	Yes	
• Is there adequate space for signage?	Yes	
• How many polling stations can the building accommodate?	3/4	
• Does the building have a telephone available (land line) in the event of mobile network problems?	Yes	

Part D – The polling station(s)		
Check	(√)	Comments
<ul style="list-style-type: none"> <li>Is there sufficient space to accommodate and manage the flow of a high volume of electors in the case of a high turnout of electors?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>If multiple polling stations need to be provided, are there other rooms available, or can the space be clearly divided to provide adequate room for more than one polling station?</li> </ul>	Yes	The Sports Hall and Multi-Activity Room are large enough to accommodate multiple busy polling stations.
<ul style="list-style-type: none"> <li>Is there sufficient space inside the polling station to comfortably accommodate staff, voters, polling agents and observers?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>Could ballot booths be positioned in a way that would preserve the secrecy of the ballot, even where there may be a high volume of electors?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>Is there adequate lighting for day and night time?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>Is there suitable furniture (tables and chairs) available for all types of election for polling staff and for those voters who may need to rest?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>Could motorised wheelchairs be accommodated?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>Can the official notices be clearly displayed, including the large-print version of the ballot paper(s)?</li> </ul>	Yes	



# Internal – The polling station(s) – D1

Entrance



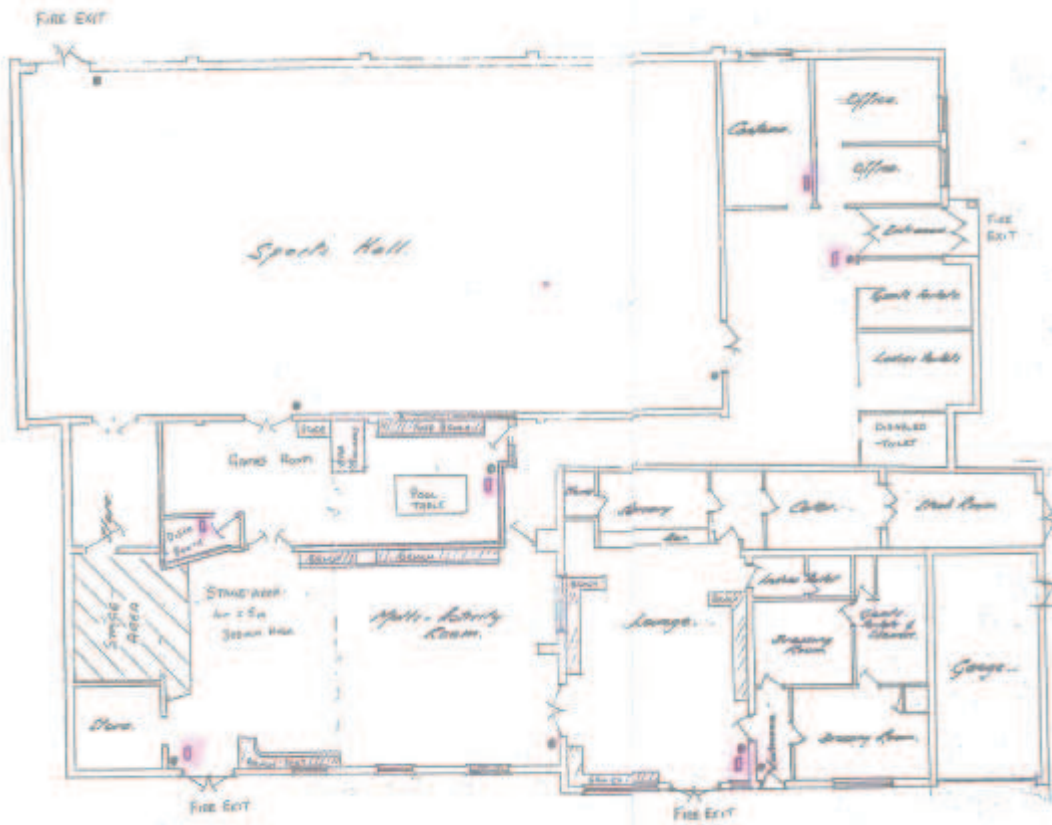
**Option 1 The Multi-Activity Room – TR4 only (plus station from N Warwickshire BC)**  
**Dimensions: 7.5m x 13.4m**



**Option 2 The Sports Hall – TR4 & TR5 (plus station from N Warwickshire BC)**  
**Dimensions: 24m x 12m**



**Plan of Dosthill Boys Club**



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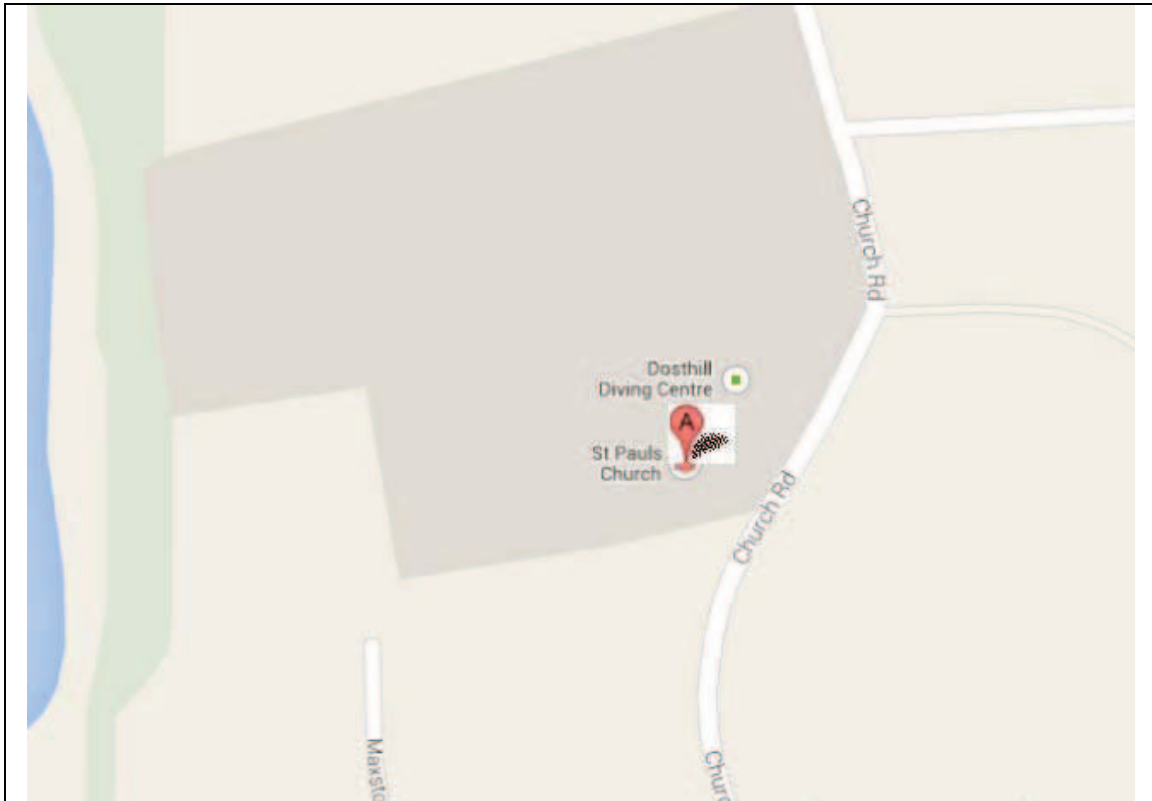


## Potential Polling place / polling station – evaluation checklist

Part A – Potential polling place details		
Polling place identifier	The Norman Chapel, St Paul's Chapel	
Polling place name	The Norman Chapel, St Paul's Chapel	
Polling place address	Church Road Dosthill Tamworth B77 1LU	
Number of electors (If more than one polling station within the polling place, identify split of electors)	TR5 - 880	
Number of postal voters	TR5 – 176	
Building availability for future elections/referendums	Yes but must ensure that it is booked in advance.	
Polling place review		
Check	✓	Comment
• Are there suitable transport links?	Yes	Bus stop is located on Church Road.
• Are there any access issues regarding main/busy roads, railways, rivers, etc.?	No	
• Is the polling place capable of accommodating more than one polling station together with the necessary staff and equipment? If so, could it accommodate all allocated voters going in and out of the polling stations, even where there is a high turnout?	No	
• Is the building readily available in the event of any unscheduled elections?	Yes	But as much notice as possible would need to be given.
• Is there any possibility that the building may be demolished as part of a new development?	No	
<p><b>Identify any complaints/comments received from stakeholders at previous electoral events</b></p> <p>The Headteacher, Chair of Governors, The Boys Club, The Vicar of St Paul's Church (Dosthill) and parents from the school have put in a number of submissions asking that we look at other locations to house this polling station within the local area. Putting aside the issue of the school closing and the inconvenience this causes for parent the fact is that Dosthill Primary School is poorly laid out and causes access issues for voters with disabilities. The school can offer no solution to this. There is also no parking available at the school for disabled or able bodied electors. This has caused issues in the past particularly with disabled electors as they have been unable to park their vehicles and access the polling station. Even if disabled parking was available on site this would still require any disabled elector to travel the perimeter of the school into the polling station. It is worth noting that the authority may be open to a challenge by disabled electors should they not be able to access the polling station and financial implications may arise from this. The Norman Chapel has been offered for use by Rev'd Louise Shaw. Rev'd Shaw is keen to support the local community and has offered the use of this facility for a nominal fee to cover heating and light. The Chapel is well known in the locality and is used for PACT meetings regularly. In reality this building is more suited to holding a meeting rather than a polling station. The fact is that it will not alleviate some of the issues that are currently experience at Dosthill Primary School, namely parking and easier access for disabled people.</p>		

Part B – External areas access and facilities		
Check	(√)	Comments
• Are there good public transport links to the polling place?	Yes	Bus stop across the road
• Is the approach to the building safe and free from obstructions and does it have a dropped kerb?	Yes	The polling station would be accessed via the church yard.
• Is the building clearly identifiable?	Yes	The building and location is extremely well known with this locale and is the current site for PACT meetings.
• Is additional signage required between street and entrance?		If additional signage is needed this could be placed upon the fence boarding the road and within the church yard.
• Is there the facility to put up the required signage for polling day?	Yes	
• Are there parking facilities for disabled people?	No	Parking is extremely limited 2/3 at best. This would mean that electors would need to park on Church Road.
• Are there parking facilities for polling staff?	Yes	
• Does the approach to the building have external lighting?	Yes	
• Does the building have level access? Yes/No. If no –	No	A temporary ramp would need to be constructed for the inside of the building.
• Has a purpose built ramp been installed?	No	
• If so, does it have a handrail?	n/a	
• Does the ramp have a gentle slope?		
• Does the building require a temporary ramp or is there an alternative disabled access?		
• Is the entrance door wide enough for a disabled person using a motorised wheelchair?	Yes	If both doors are opened
• Are the doors light enough for frail/elderly voters to open?	No	Heavy oak doors
• Can the 'Guidance for voters' notice be clearly displayed outside the premises, as required by the election rules?	Yes	
• Are there any external security concerns?	No	
• Can tellers be accommodated outside the building?	No	

# External plan – B1



Part C – Internal areas access and facilities		
Check	(√)	Comments
• Are all doors easy to open (including by wheelchair users) or do they need to be permanently locked back?	No	Door would need to be permanently locked back
• Are there any internal steps or obstructions/hazards?	No	
• Are any doormats level with the floor?	Yes	
• Is the floor covering non-slip (including in wet weather)?	Yes	
• Are there any corridors that may cause access problems?	No	
• Is there adequate lighting in the corridors?	n/a	
• Are there toilet facilities?	Yes	Toilet facilities Including disabled facilities are located in a separate building adjacent to the Norman Chapel.
• Is there a kitchen that staff can use?	Yes	The kitchen area is located in the same room as the polling station would be housed.
• Is the area adequately lit for day and night time?	Yes	
• Is there adequate space for signage?	Yes	
• How many polling stations can the building accommodate?	1	
• Does the building have a telephone available (land line) in the event of mobile network problems?	No	

Part D – The polling station(s)		
Check	(√)	Comments
<ul style="list-style-type: none"> <li>Is there sufficient space to accommodate and manage the flow of a high volume of electors in the case of a high turnout of electors?</li> </ul>	No	The Norman Chapel would struggle to located more than 10 electors at anyone time once space has been allotted for booth etc.
<ul style="list-style-type: none"> <li>If multiple polling stations need to be provided, are there other rooms available, or can the space be clearly divided to provide adequate room for more than one polling station?</li> </ul>	No	
<ul style="list-style-type: none"> <li>Is there sufficient space inside the polling station to comfortably accommodate staff, voters, polling agents and observers?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>Could ballot booths be positioned in a way that would preserve the secrecy of the ballot, even where there may be a high volume of electors?</li> </ul>	No	See note above
<ul style="list-style-type: none"> <li>Is there adequate lighting for day and night time?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>Is there suitable furniture (tables and chairs) available for all types of election for polling staff and for those voters who may need to rest?</li> </ul>	Yes	
<ul style="list-style-type: none"> <li>Could motorised wheelchairs be accommodated?</li> </ul>	Yes	As long as a temporary ramp is in situ.
<ul style="list-style-type: none"> <li>Can the official notices be clearly displayed, including the large-print version of the ballot paper(s)?</li> </ul>	Yes	



## Internal – The polling station(s) – D1

**The Norman Chapel – TR5**  
**Dimensions: 4.8m x 9m**



**Kitchen Area**



**Toilet Block**



**Entrance to Norman Chapel**





Entrance to Norman Chapel





17<sup>th</sup> DECEMBER 2013**Report of the Portfolio Holder Operations and Assets****Treasury Management Strategy Statement and Annual Investment Strategy Mid-year Review Report 2013/14****EXEMPT INFORMATION**

None

**PURPOSE**

To present to Members the Mid-year review of the Treasury Management Strategy Statement and Annual Investment Strategy.

**RECOMMENDATIONS****That Council:****Accept the Treasury Management Strategy Statement and Annual Investment Strategy Mid-year Review Report 2013/14.****EXECUTIVE SUMMARY**

This mid year report has been prepared in compliance with CIPFA's Code of Practice, and covers the following

- An economic update for the first six months of 2013/14;
- A review of the Treasury Management Strategy Statement and Annual Investment Strategy;
- The Council's Capital Position (Prudential Indicators);
- A review of the Council's investment portfolio for 2013/14;
- A review of the Council's borrowing strategy for 2013/14;
- A review of any debt rescheduling undertaken during 2013/14;
- Icelandic Banking Situation;
- A review of compliance with Treasury and Prudential Limits for 2013/14;

The main issues for Members to note are:

1. The Council has complied with the professional codes, statutes and guidance.
2. There are no issues to report regarding non-compliance with the approved prudential indicators.
3. The investment portfolio yield for the first six months of the year is 0.87% (1.12% for the same period in 2012/13) compared to the 3 Month LIBID benchmark rate of 0.38% (0.73% for the same period in 2012/13). This excludes all investments

currently classified as 'At Risk' in the former Icelandic Banking institutions.

The aim of this report is to inform Members of the treasury and investment management issues to enable all Members to have ownership and understanding when making decisions on Treasury Management matters. In order to facilitate this, training on Treasury Management issues has been delivered for Members in February and October 2010 and September of 2011. Further training is being arranged for early 2014.

## **RESOURCE IMPLICATIONS**

All financial resource implications are detailed in the body of this report which links to the Council's Medium Term Financial Strategy.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

Risk is inherent in Treasury Management and as such a risk based approach has been adopted throughout the report with regard to Treasury Management processes.

## **SUSTAINABILITY IMPLICATIONS**

None

## **BACKGROUND INFORMATION**

The Chartered Institute of Public Finance and Accountancy (CIPFA) issued its revised Code of Practice for Treasury Management in November 2009 (revised 2011) following consultation with Local Authorities during that summer. The revised Code suggests that members should be informed of Treasury Management activities at least twice a year, but preferably quarterly. This is the second monitoring report for 2013/14 presented to Members this year and therefore ensures this Council is embracing Best Practice in accordance with CIPFA's revised Code of Practice. Cabinet also receive regular monitoring reports as part of the quarterly healthcheck on Treasury Management activities and risks.

The Council operates a balanced budget, which broadly means cash raised during the year will meet its cash expenditure. Part of the Treasury Management operations ensure this cash flow is adequately planned, with surplus monies being invested in low risk counterparties, providing adequate liquidity initially before considering maximising investment return.

The second main function of the Treasury Management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer term cash flow planning to ensure the Council can meet its capital spending operations. This management of longer term cash may involve arranging long or short term loans, or using longer term cash flow surpluses, and on occasion any debt previously drawn may be restructured to meet Council risk or cost objectives.

Treasury Management is defined as:

"The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks. "

# 1 Introduction

The Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management (revised November 2011) was adopted by this Council on 13<sup>th</sup> December 2012.

The primary requirements of the Code are as follows:

1. Creation and maintenance of a Treasury Management Policy Statement which sets out the policies and objectives of the Council's Treasury Management activities.
2. Creation and maintenance of Treasury Management Practices which set out the manner in which the Council will seek to achieve those policies and objectives.
3. Receipt by the full Council of an annual Treasury Management Strategy Statement - including the Annual Investment Strategy and Minimum Revenue Provision Policy - for the year ahead, a **Mid-year Review Report** and an Annual Report (stewardship report) covering activities during the previous year.
4. Delegation by the Council of responsibilities for implementing and monitoring Treasury Management policies and practices and for the execution and administration of Treasury Management decisions.
5. Delegation by the Council of the role of scrutiny of Treasury Management strategy and policies to a specific named body. For this Council the delegated body is the Audit and Governance Committee.

This mid year report has been prepared in compliance with CIPFA's Code of Practice, and covers the following:

- An economic update for the first six months of 2013/14;
- A review of the Treasury Management Strategy Statement and Annual Investment Strategy;
- The Council's Capital Position (Prudential Indicators);
- A review of the Council's investment portfolio for 2013/14;
- A review of the Council's borrowing strategy for 2013/14;
- A review of any debt rescheduling undertaken during 2013/14;
- Icelandic Banking Situation;
- A review of compliance with Treasury and Prudential Limits for 2013/14.

## 2 Economic update

### 2.1 Economic performance to date

During 2013/14 economic indicators suggested that the economy is recovering, albeit from a low level. After avoiding recession in the first quarter of 2013, with a 0.3% quarterly expansion the economy grew 0.7% in Q2. There have been signs of renewed vigour in household spending in the summer, with a further pick-up in retail sales, mortgages, house prices and new car registrations.

The strengthening in economic growth appears to have supported the labour market, with employment rising at a modest pace and strong enough to reduce the level of unemployment further. Pay growth also rebounded strongly in April, though this was mostly driven by high earners delaying bonuses until after April's cut in the top rate of income tax. Excluding bonuses, earnings rose by just 1.0% year-on-year, well below the rate of inflation at 2.7% in August, causing continuing pressure on household's disposable income.

The Bank of England extended its Funding for Lending Scheme (FLS) into 2015 and sharpened the incentives for banks to extend more business funding, particularly to small and medium size enterprises. To date, the mortgage market still appears to have been the biggest beneficiary from the scheme, with mortgage interest rates falling further to new lows. Together with the Government's Help to Buy scheme, which provides equity loans to credit-constrained borrowers, this is helping to boost demand in the housing market. Mortgage approvals by high street banks have risen as have house prices, although they are still well down from the boom years pre 2008.

Turning to the fiscal situation, the public borrowing figures continued to be distorted by a number of one-off factors. On an underlying basis, borrowing in Q2 started to come down, but only slowly, as Government expenditure cuts took effect and economic growth started to show through in a small increase in tax receipts. The 2013 Spending Review, covering only 2015/16, made no changes to the headline Government spending plan, and monetary policy was unchanged in advance of the new Bank of England Governor, Mark Carney, arriving. Bank Rate remained at 0.5% and quantitative easing also stayed at £375bn. In August, the Monetary Policy Committee (MPC) provided forward guidance that Bank Rate is unlikely to change until unemployment first falls to 7%, which was not expected until mid 2016. However, 7% is only a point at which the MPC will review Bank Rate, not necessarily take action to change it. The three month to July average rate was 7.7%.

CPI inflation (MPC target of 2.0%), fell marginally from a peak of 2.9% in June 2013 to 2.7% in August 2013. The Bank of England expects inflation to fall back to 2.0% in 2015.

Financial markets sold off sharply following comments from Ben Bernanke (the Fed chairman) in June that suggested the Fed. may 'taper' its asset purchases earlier than anticipated. The resulting rise in US Treasury yields was replicated in the UK. Equity prices fell initially too, as Fed. purchasing of bonds has served to underpin investor moves into equities out of low yielding bonds. However, as the market moves to realign its expectations, bond yields and equities are likely to rise further in expectation of a continuing economic recovery. Increases in payroll figures have shown further improvement, helping to pull the unemployment rate down from a high of 8.1% to 7.3%, and continuing house price rises have helped more households to escape from negative equity. In September, the Fed. surprised financial markets by not starting tapering as it felt the run of economic data in recent months had been too weak to warrant taking early action. Bond yields fell sharply as a result, though it still only remains a matter of time until tapering does start.

Tensions in the Eurozone eased over the second quarter, but there remained a number of triggers for a renewed flare-up. Economic survey data improved consistently over the first half of the year, pointing to a return to growth in Q2, so ending six quarters of Eurozone recession.

## 2.2 Outlook for the next six months of 2013/14

Economic forecasting remains difficult with so many external influences weighing on the UK. Volatility in bond yields is likely during 2013/14 as investor fears and confidence ebb and flow between favouring more risky assets i.e. equities, and safer bonds. Downside risks to UK gilt yields and PWLB rates include:

- A return to weak economic growth in the US, UK and China causing major disappointment to investor and market expectations
- The potential for a significant increase in negative reactions of populaces in Eurozone countries against austerity programmes, especially in countries with very high unemployment rates e.g. Greece and Spain, which face huge challenges in engineering economic growth to correct their budget deficits on a sustainable basis.

- The Italian political situation is frail and unstable: the coalition government fell on 29 September.
- Problems in other Eurozone heavily indebted countries (e.g. Cyprus and Portugal) which could also generate safe haven flows into UK gilts.
- Monetary policy action failing to stimulate sustainable growth in western economies, especially the Eurozone and Japan.
- Weak growth or recession in the UK's main trading partners - the EU and US, depressing economic recovery in the UK.
- Geopolitical risks e.g. Syria, Iran, North Korea, which could trigger safe haven flows back into bonds

Upside risks to UK gilt yields and PWLB rates, especially for longer term PWLB rates include: -

- UK inflation being significantly higher than in the wider EU and US, causing an increase in the inflation premium inherent to gilt yields.
- Increased investor confidence that sustainable robust world economic growth is firmly expected, together with a reduction or end of QE operations in the US, causing a further flow of funds out of bonds into equities.
- A reversal of Sterling's safe-haven status on a sustainable improvement in financial stresses in the Eurozone.
- In the longer term - a reversal of QE in the UK; this could initially be implemented by allowing gilts held by the Bank to mature without reinvesting in new purchases, followed later by outright sale of gilts currently held.
- Further downgrading by credit rating agencies of the creditworthiness and credit rating of UK Government debt, consequent upon repeated failure to achieve fiscal correction targets and sustained recovery of economic growth, causing the ratio of total Government debt to GDP to rise to levels that provoke major concern.

The overall balance of risks to economic recovery in the UK is now weighted to the upside after five months of robust good news on the economy. However, only time will tell just how long this period of strong economic growth will last, and it remains exposed to vulnerabilities in a number of key areas. The longer run trend is for gilt yields and PWLB rates to rise, due to the high volume of gilt issuance in the UK, and of bond issuance in other major western countries. Near-term, there is some residual risk of further QE if there is a dip in strong growth or if the MPC were to decide to take action to combat the market's expectations of an early first increase in Bank Rate. If the MPC does takes action to do more QE in order to reverse the rapid increase in market rates, especially in gilt yields and interest rates up to 10 years, such action could cause gilt yields and PWLB rates over the next year or two to significantly undershoot the forecasts in the table below. The tension in the US over passing a Federal budget for the new financial year starting on 1 October and raising the debt ceiling in mid October saw the possibility of bond yields temporarily dipping until agreement was reached between the opposing Republican and Democrat sides. Conversely, the eventual start of tapering by the Fed. will cause bond yields to rise.

## 2.4 Capita's Interest Rate Forecast

	Sep-13	Dec-13	Mar-14	Jun-14	Sep-14	Dec-14	Mar-15	Jun-15	Sep-15	Dec-15	Mar-16	Jun-16	Sep-16	Dec-16	Mar-17
Bank rate	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.75%	1.00%	1.25%
5yr PWLB rate	2.50%	2.50%	2.50%	2.60%	2.70%	2.70%	2.80%	2.80%	2.90%	3.00%	3.20%	3.30%	3.50%	3.60%	3.70%
10yr PWLB rate	3.70%	3.70%	3.70%	3.70%	3.80%	3.80%	3.90%	4.00%	4.10%	4.20%	4.30%	4.40%	4.50%	4.60%	4.60%
25yr PWLB rate	4.40%	4.40%	4.40%	4.40%	4.50%	4.50%	4.60%	4.70%	4.80%	4.90%	5.00%	5.10%	5.10%	5.10%	5.20%
50yr PWLB rate	4.50%	4.40%	4.40%	4.40%	4.50%	4.60%	4.70%	4.80%	4.90%	5.00%	5.10%	5.20%	5.20%	5.20%	5.30%

*(The Capita Assets Services forecasts above are for PWLB certainty rates.)*

Expectations for the first change in Bank Rate in the UK are now dependent on how to forecast when unemployment is likely to fall to 7%. Financial markets have taken a very contrary view to the MPC and have aggressively raised short term interest rates and gilt yields due to their view that the strength of economic recovery is now so rapid that unemployment will fall much faster than the Bank of England forecasts. They therefore expect the first increase in Bank Rate to be in quarter 4 of 2014. There is much latitude to disagree with this view as the economic downturn since 2008 was remarkable for the way in which unemployment did not rise to anywhere near the extent likely, unlike in previous recessions. This meant that labour was retained, productivity fell and now, as the MPC expects, there is major potential for unemployment to fall only slowly as existing labour levels are worked more intensively and productivity rises back up again. The size of the work force is also expected to increase relatively rapidly and there are many currently self employed or part time employed workers who are seeking full time employment. Capita Asset Services take the view that the unemployment rate is not likely to come down as quickly as the financial markets are currently expecting and that the MPC view is more realistic. The prospects for any increase in Bank Rate before 2016 are therefore seen as being limited. However, some forecasters are forecasting that even the Bank of England forecast is too optimistic as to when the 7% level will be reached and so do not expect the first increase in Bank Rate until Spring 2017.

## 3 Treasury Management Strategy Statement and Annual Investment Strategy update

The Treasury Management Strategy Statement (TMSS) for 2013/14 was approved by Council on 26<sup>th</sup> February 2013.

There are no policy changes to the TMSS; the details in this report update the position in the light of the updated economic position and budgetary changes already approved.

## 4 The Council's Capital Position (Prudential Indicators)

This part of the report is structured to update:

- The Council's capital expenditure plans;
- How these plans are being financed;
- The impact of the changes in the capital expenditure plans on the prudential indicators and the underlying need to borrow; and
- Compliance with the limits in place for borrowing activity.

#### 4.1 Prudential Indicator for Capital Expenditure

This table shows the revised estimates for capital expenditure and the changes since the capital programme was agreed at the Budget.

Capital Expenditure by Service	2013/14 Original Programme £m	Budget B'fwd from 2012/13 £m	Virements to Programme in Year £m	Total 2013/14 Budget £m	Actual Spend @ Period 6 £m	2013/14 Revised Estimate £m
General Fund	0.505	1.933	0.348	2.786	0.442	1.873
HRA	6.993	2.845	-	9.838	2.981	8.787
<b>Total</b>	<b>7.498</b>	<b>4.778</b>	<b>0.348</b>	<b>12.624</b>	<b>3.423</b>	<b>10.660</b>

#### 4.2 Changes to the Financing of the Capital Programme

The table below draws together the main strategy elements of the capital expenditure plans (above), highlighting the original supported and unsupported elements of the capital programme, and the expected financing arrangements of this capital expenditure. Any borrowing element of the table increases the underlying indebtedness of the Council by way of the Capital Financing Requirement (CFR), although this will be reduced in part by revenue charges for the repayment of debt (the Minimum Revenue Provision). This direct borrowing need may also be supplemented by maturing debt and other treasury requirements.

Capital Expenditure	2013/14 Estimate £m	2013/14 Revised Estimate £m
Supported	-	-
Unsupported	12.624	10.660
<b>Total spend</b>	<b>12.624</b>	<b>10.660</b>
Financed by:		
Grant	0.456	0.426
General Fund Receipts	0.696	0.695
Section 106 Receipts	0.083	0.020
General Fund Reserve	0.197	0.197
General Fund Contingencies	0.340	-
HRA Contingency	0.100	-
Sale of Council House Receipts	0.836	0.356
Contribution from BRF	0.178	0.178
Regeneration Reserve	0.500	0.150
Major Repairs Reserve	5.594	5.594
Revenue Contribution to Capital	3.644	3.044
<b>Total financing</b>	<b>12.624</b>	<b>10.660</b>
<b>Borrowing need</b>	<b>-</b>	<b>-</b>

#### 4.3 Changes to the Prudential Indicators for the Capital Financing Requirement, External Debt and the Operational Boundary

The table at 4.3.2 shows the CFR, which is the underlying external need to incur borrowing for a capital purpose. It also shows the expected debt position over the period. This is termed the Operational Boundary.

##### 4.3.1 Prudential Indicator – Capital Financing Requirement

We are on target to achieve the original forecast Capital Financing Requirement.

##### 4.3.2 Prudential Indicator – External Debt / the Operational Boundary

	<b>2012/13 Outturn £m</b>	<b>2013/14 Original Estimate £m</b>	<b>2013/14 Revised Estimate £m</b>
CFR – Non Housing	1.525	1.50	1.227
CFR – Housing	68.054	68.063	68.044
Total CFR	69.579	69.563	69.271
<b>Net movement in CFR</b>	<b>(0.09)</b>	<b>(0.052)</b>	<b>(0.308)*</b>
Operational Boundary			
Expected Borrowing	72.268	72.268	72.268
Other long term liabilities	-	-	-
<b>Total debt 31 March</b>	<b>72.268</b>	<b>72.268</b>	<b>72.268</b>

\* Increase due to voluntary revenue provision in respect of finalisation of Heritable Bank recovery and reversal of capitalisation during 2013/14.

#### 4.4 Limits to Borrowing Activity

The first key control over the treasury activity is a prudential indicator to ensure that over the medium term, net borrowing (borrowings less investments) will only be for a capital purpose. Net external borrowing should not, except in the short term, exceed the total of CFR in the preceding year plus the estimates of any additional CFR for 2013/14 and next two financial years. This allows some flexibility for limited early borrowing for future years. The Council has approved a policy for borrowing in advance of need which will be adhered to if this proves prudent.

	<b>2012/13 Outturn £m</b>	<b>2013/14 Original Estimate £m</b>	<b>2013/14 Revised Estimate £m</b>
Gross borrowing	65.06	65.06	65.06
Plus other long term liabilities	-	-	-
Less investments	(21.815)	(15.655)	(21.343)
Net borrowing	43.245	49.405	43.717
CFR (year end position)	69.579	69.563	69.271

The Executive Director Corporate Services reports that no difficulties are envisaged for the current or future years in complying with this prudential indicator.



A further prudential indicator controls the overall level of borrowing. This is the Authorised Limit which represents the limit beyond which borrowing is prohibited, and needs to be set and revised by Members. It reflects the level of borrowing which, while not desired, could be afforded in the short term, but is not sustainable in the longer term. It is the expected maximum borrowing need with some headroom for unexpected movements. This is the statutory limit determined under section 3 (1) of the Local Government Act 2003.

<b>Authorised limit for external debt</b>	<b>2013/14 Original Indicator £m</b>	<b>Current Position £m</b>	<b>2013/14 Revised Indicator £m</b>
Borrowing	89.112	89.112	89.112
Other long term liabilities	3.000	3.000	3.000
<b>Total</b>	<b>92.112</b>	<b>92.112</b>	<b>92.112</b>

**5 Investment Portfolio 2013/14**

In accordance with the Code, it is the Council's priority to ensure security of capital and liquidity, and to obtain an appropriate level of return which is consistent with the Council's risk appetite. As set out in Section 2, it is a very difficult investment market in terms of earning the level of interest rates commonly seen in previous decades as rates are very low and in line with the 0.5% Bank Rate. The continuing Euro zone sovereign debt crisis, and its potential impact on banks, prompts a low risk and short term strategy. Given this risk averse environment, investment returns are likely to remain low.

The Council held £26.124m of investments as at 30th September 2013 (£20.982m at 31 March 2013) with the investment portfolio yield at 0.83% against a benchmark of the 3 months LIBID of 0.38%. A full list of investments held as at 30th September 2013 is detailed in **Appendix 2**.

The Executive Director Corporate Services confirms that the approved limits within the Annual Investment Strategy were not breached during the first six months of 2013/14.

The Council's budgeted investment return for 2013/14 is £200k, and performance for the year is projected to be £28k above budget.

**CIPFA Benchmarking Club**

The Council is a member of the CIPFA Treasury Management Benchmarking Club which is a means to assess our performance over the year against other members (35 Authorities).

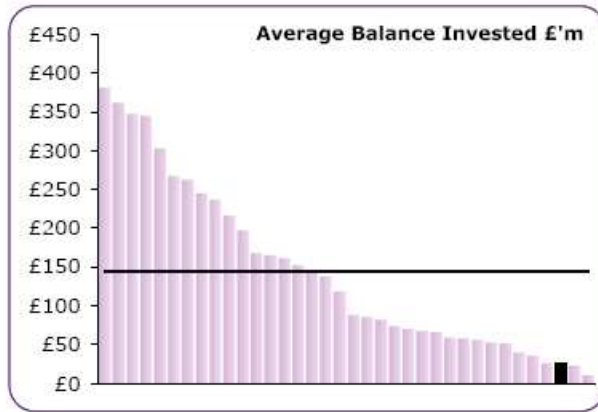
Our average return for In House Investments for the period October 2012 to September 2013 was 0.92% compared to the group average of 1.01% (information from CIPFA Benchmarking Draft Report Q2 - 2013/14) excluding the impaired investments in Icelandic banks. This is considered to be a good result in light of the current financial climate, our lower levels of deposits/funds and shorter investment time-lines due to Banking sector uncertainty, when compared to other Authorities.

This can be analysed further into the following categories:

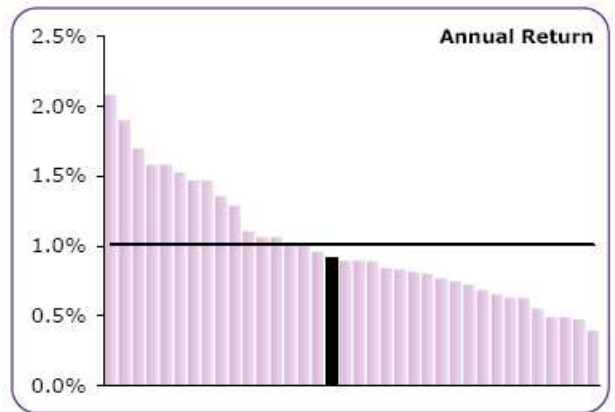
Excluding Impaired Investments	Average Balance Invested £ m		Average Rates Received %	
	Tamworth Borough Council	CIPFA Benchmarking Club	Tamworth Borough Council	CIPFA Benchmarking Club
Investments < 365 days Managed in-house	11.70	59.00	1.32	1.16
Investments > 365 days Managed in-house	-	31.00	-	2.15
Callable & Structured Deposits	-	26.5	-	2.00
Call Accounts	5.90	36.60	0.92	0.79
Money Market Funds	8.70	23.40	0.39	0.44
DAMDF (Govt Debt Management Office)	< min	7.00	0.25	0.25
CD's Gilts & Bonds	< min	17.20	0.18	0.92
<b>Average of All Investments Managed in-house</b>	<b>26.40</b>	<b>144.00</b>	<b>0.92</b>	<b>1.01</b>

The data above and graphs below display that despite the Council being a small investor in the markets, performance is marginally better in the <365 day investments, when compared with other members of the benchmarking club and affirms our 'low appetite for risk' in the continuing unsettled markets.

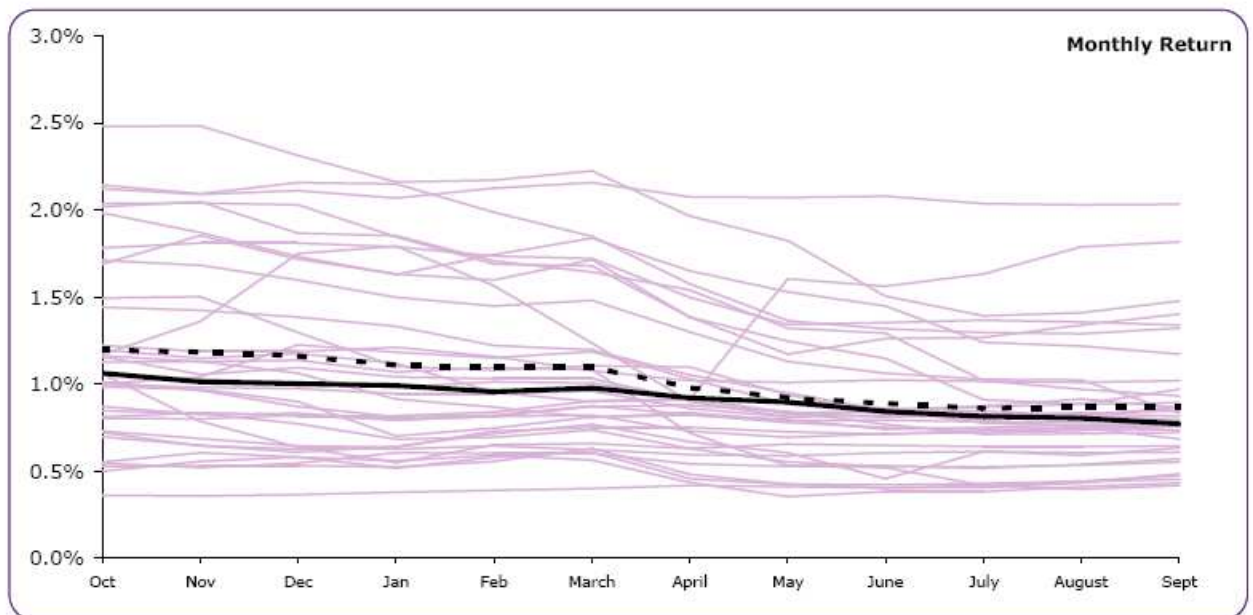
## COMBINED IN-HOUSE INVESTMENTS (excluding impaired investments)



Tamworth 26.4 Avg 144.0



Tamworth 0.92% Avg 1.01%



Monthly Return (Oct 12 - Sept 13)													
	Oct	Nov	Dec	Jan	Feb	March	April	May	June	July	Aug	Sept	Year
Av Bal £'m	25.52	27.15	27.55	28.81	26.43	22.36	24.59	24.64	25.42	27.19	27.73	29.49	26.40
Earned £'k	23.1	22.6	23.5	24.3	19.4	18.6	18.6	18.7	17.6	18.8	19.0	18.8	242.8
% Return	1.06%	1.01%	1.00%	0.99%	0.96%	0.98%	0.92%	0.90%	0.84%	0.82%	0.81%	0.77%	0.92%
Average	1.20%	1.18%	1.16%	1.11%	1.10%	1.10%	0.98%	0.92%	0.89%	0.86%	0.87%	0.87%	1.01%
Margin	-0.13%	-0.17%	-0.16%	-0.12%	-0.14%	-0.12%	-0.06%	-0.03%	-0.05%	-0.05%	-0.06%	-0.10%	

### Investment Counterparty criteria

The current investment counterparty criteria selection approved in the TMSS is meeting the requirement of the Treasury Management function.

## 6 Borrowing

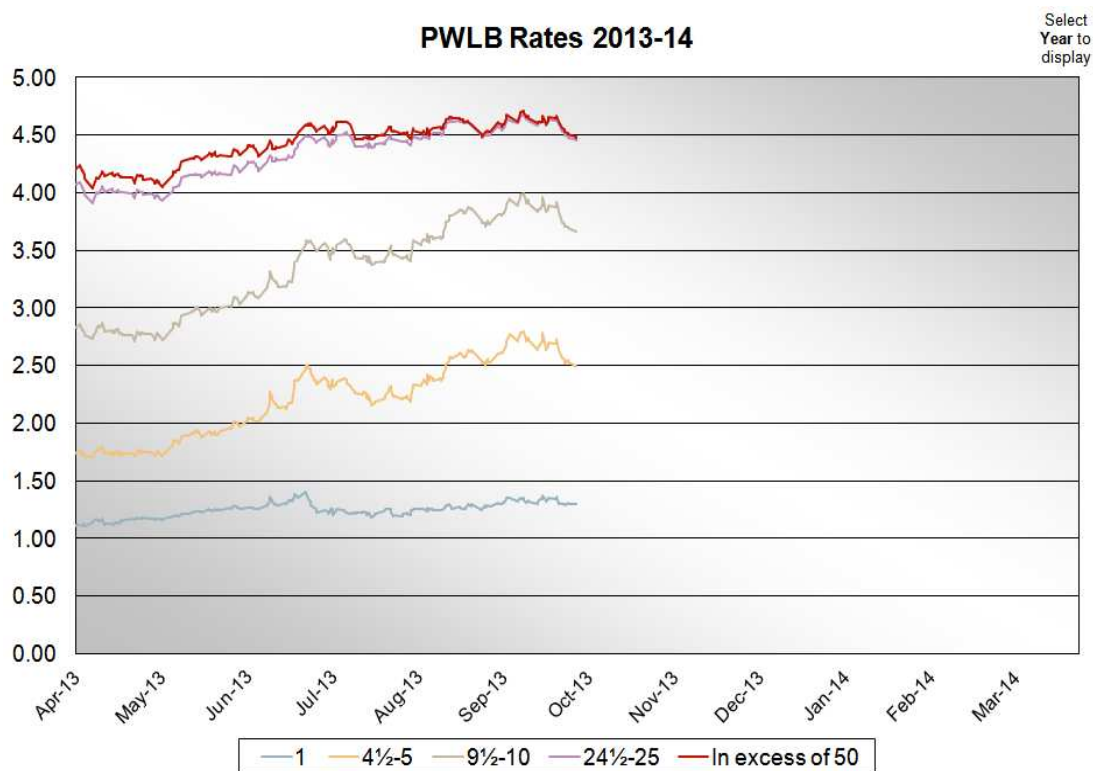
The Council's revised capital financing requirement (CFR) for 2013/14 is £69.271m. The CFR denotes the Council's underlying need to borrow for capital purposes. If the CFR is positive the Council may borrow from the PWLB or the market (external borrowing) or from internal balances on a temporary basis (internal borrowing). The balance of external and internal borrowing is generally driven by market conditions. Table 4.4, Limits to Borrowing Activity, shows the Council has borrowings of £65.06m and has utilised £4.211m of cash flow funds in lieu of borrowing. This is a prudent and cost effective approach in the current economic climate.

No new external borrowing was undertaken from the PWLB or the money markets in the first half of the year.

As outlined below, the general trend has been a reduction in interest rates during the six months, across all maturity bands.

It is anticipated that further borrowing will not be undertaken during this financial year.

The graph and table below show the movement in PWLB rates for the first six months of the year to 30<sup>th</sup> September 2013:



## 7 Debt Rescheduling

Debt rescheduling opportunities have been limited in the current economic climate and consequent structure of interest rates. No debt rescheduling was undertaken during the first six months of 2013/14.

## 8 Icelandic Banks Update

**Appendix 3** contains details of the situation with Icelandic investments as at 30<sup>th</sup> September 2013.

Expectations of future receipts and timeframes based on current information regarding each bank are given below;

- Glitnir

On 15<sup>th</sup> March 2012, the Council received £2.554m being the majority of our deposits with the bank. The balance of our approved claim, equating to £587k, is being held in an interest bearing ESCROW account. The release of these funds is dependent on a change in Icelandic Law which currently does not allow the distribution of ISK outside the country. Interest will accrue on these funds until the date of final settlement which is still unknown.

- Heritable

As at the end of September the Council had received £1.415m against our claim of £1.505m, a total recovery of 94.02%. It is anticipated that this will be the final figure received, though the Administrators are withholding a sum as a contingency against disputed claims.

- Kaupthing, Singer and Friedlander

As at the end of September the Council had received £2.604m against our claim of £3.175m. Current estimates given by the Administrator project a total recovery of 85.25% or approximately £2.707m with the majority of repayments being received by June 2015.

## 9 Exchequer Banking Arrangement

Members will be aware that the Authority's bank is Co-Operative Bank Limited. The current banking arrangements are due for re-tender from 31<sup>st</sup> March 2015.

It has been well publicised that the Co-Operative Bank has been suffering from financial difficulties which has resulted in a restructure and change in equity provider and consequential change in mutuality status. As part of this process a large amount of the Banks liabilities / losses have fallen on the bond holders – agreement is required from the bondholders to accept the restructure (due around 12<sup>th</sup> December 2013). Failure of the bondholders to accept the restructuring would result in the bank being placed in a Special Resolution Regime – which gives the Government a framework for dealing with failing banks..

Current banking arrangements and balances held with the bank have been significantly reduced over the past months with negligible amounts being held in over-night facilities and day – to – day banking operations.

The Authority was advised that (letter 18<sup>th</sup> November 2013) the Co-operative Bank would not re-tender for Local Authority banking contracts.

In light of the above and purely as a precautionary measure the Authority is arranging a contingency banking arrangement to enable payments to be processed in December (onwards) if the results of the bondholder vote are not in favour of the restructure.

In addition and subject to the favourable result of agreement by the bondholders to the restructure the Authority intends to bring forward its banking tendering arrangements to early Autumn 2014 or earlier if circumstances dictate.

The above actions are deemed to be prudent in light of the current banking uncertainty ( Risk : Medium) – the banking operation is reviewed on a daily basis.

#### **REPORT AUTHOR**

Please contact Phil Thomas Financial Accountant extension 239

#### **LIST OF BACKGROUND PAPERS**

<i>Background Papers:-</i>	<b><i>Local Government Act 2003</i></b>
	<b><i>CIPFA Code of Practice on Treasury Management in Public Services 2011</i></b>
	<b><i>Treasury Management Strategy &amp; Prudential Indicators Report 2013/14</i></b>
	<b><i>Budget &amp; Medium Term Financial Strategy 2013/14</i></b>
	<b><i>Financial Healthcheck Period 6, September 2013</i></b>
	<b><i>CIPFA Treasury Management Benchmarking Club Report Quarter 2 September 2013</i></b>

#### **APPENDICES**

**Appendix 1** : Prudential Indicators

**Appendix 2** : Current Investment List

**Appendix 3** : Icelandic Banking Situation

PRUDENTIAL INDICATORS	2012/13	2013/14	2013/14	2014/15	2015/16
<b>Extract from budget and rent setting report</b>	<b>Actual</b>	<b>Original Estimate</b>	<b>Revised Estimate</b>	<b>Estimate</b>	<b>Estimate</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
<b>Capital Expenditure</b>					
Non - HRA	1.622	0.505	1.873	2.723	0.425
HRA	3.365	6.993	8.787	12.801	17.20
<b>TOTAL</b>	<b>4.987</b>	<b>7.498</b>	<b>10.66</b>	<b>15.524</b>	<b>17.625</b>
<b>Ratio of financing costs to net revenue stream</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Non - HRA	(0.90)	(2.28)	1.67	(0.77)	6.50
HRA	14.37	15.67	15.10	14.96	14.11
<b>Net borrowing requirement</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
brought forward 1 April	47.850	45.610	43.245	43.717	46.593
carried forward 31 March	43.245	49.405	43.717	46.593	51.469
in year borrowing requirement	(4.605)	3.795	(0.472)	2.876	4.875
<b>Capital Financing Requirement as at 31 March</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
Non – HRA	1.525	1.500	1.227	1.163	0.503
HRA	68.054	68.063	68.044	71.631	77.448
<b>TOTAL</b>	<b>69.579</b>	<b>69.563</b>	<b>69.271</b>	<b>72.794</b>	<b>77.951</b>
<b>Annual change in Capital Financing Requirement</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
Non – HRA	(0.080)	(0.052)	(0.298)	(0.064)	(0.660)
HRA	(0.009)	-	(0.010)	3.587	5.817
<b>TOTAL</b>	<b>(0.089)</b>	<b>(0.052)</b>	<b>(0.308)</b>	<b>3.523</b>	<b>5.157</b>
<b>Incremental impact of capital investment decisions</b>	<b>£ : p</b>	<b>£ : p</b>	<b>£ : p</b>	<b>£ : p</b>	<b>£ : p</b>
Increase in Council tax (band D)	0.28	(0.05)	(0.05)	(0.03)	0.13
Increase in average housing rent per week	0.08	(0.01)	(0.01)	0.16	0.68

TREASURY MANAGEMENT INDICATORS	2012/13	2013/14	2013/14	2014/15	2015/16
	Actual	Original Estimate	Revised Estimate	Estimate	Estimate
	£m	£m	£m	£m	£m
<b>Authorised Limit for external debt -</b>					
borrowing	89.112	89.112	89.112	89.112	89.112
other long term liabilities	3.000	3.000	3.000	3.000	3.000
<b>TOTAL</b>	<b>92.112</b>	<b>92.112</b>	<b>92.112</b>	<b>92.112</b>	<b>92.112</b>
<b>Operational Boundary for external debt -</b>					
borrowing	72.268	72.268	72.268	75.855	81.672
other long term liabilities	-	-	-	-	-
<b>TOTAL</b>	<b>72.268</b>	<b>72.268</b>	<b>72.268</b>	<b>75.855</b>	<b>81.672</b>
<b>Actual external debt</b>	65.060	65.060	65.060	-	-
<b>Interest rate exposure</b>					
Limits on fixed interest rates based on net debt	58.000	49.409	49.409	52.828	63.271
Limits on variable interest rates based on net debt	7.000	6.506	6.506	6.685	7.156
Limits on fixed interest rates Debt only	65.060	65.060	65.060	66.849	71.555
Limits on fixed interest rates Investments only	23.574	26.085	26.085	23.369	13.808
Limits on variable interest rates Debt only	6.506	6.506	6.506	6.685	7.156
Limits on variable interest rates Investments only	9.429	10.434	10.434	9.347	5.523
<b>Upper limit for total principal sums invested for over 364 days</b>	3.000	2.500	2.500	2.000	2.000
(per maturity date)					

Maturity structure of fixed rate borrowing during 2013/14	upper limit	lower limit
under 12 months	20%	0%
12 months and within 24 months	20%	0%
24 months and within 5 years	25%	0%
5 years and within 10 years	75%	0%
10 years and above	100%	0%



Current Investment List 30<sup>th</sup> September 2013

## Tamworth Borough Council

## Current Investment List

Borrower	Principal (£)	Interest Rate	Start Date	Maturity Date	Lowest Long Term Rating	Historic Risk of Default
MMF Ignis	4,000,000	0.39%		MMF	AAA	0.000%
MMF CCLA	2,125,000	0.32%		MMF	AAA	0.000%
Lloyds Bank Plc	1,000,000	2.70%	03/10/2012	02/10/2013	A	0.000%
Barclays Bank Plc	2,000,000	0.45%	02/07/2013	02/10/2013	A	0.000%
Nationwide Building Society	2,000,000	0.44%	08/07/2013	08/10/2013	A	0.002%
Nationwide Building Society	1,000,000	0.44%	15/07/2013	15/10/2013	A	0.004%
National Westminster Bank Plc	2,000,001	0.75%		Call30	A-	0.007%
Lloyds Bank Plc	2,000,000	2.25%	02/11/2012	01/11/2013	A	0.008%
Nationwide Building Society	1,000,000	0.44%	07/08/2013	07/11/2013	A	0.009%
Lloyds Bank Plc	1,000,000	1.90%	12/11/2012	11/11/2013	A	0.010%
Barclays Bank Plc	1,000,000	0.45%	15/08/2013	15/11/2013	A	0.011%
Barclays Bank Plc	1,000,000	0.46%	17/09/2013	17/12/2013	A	0.019%
The Royal Bank of Scotland Plc	2,000,000	0.80%		Call95	A-	0.023%
National Westminster Bank Plc	1,999,000	0.80%		Call95	A-	0.023%
Bank of Scotland Plc	2,000,000	1.10%	13/02/2013	12/02/2014	A	0.033%
<b>Total Investments</b>	<b>£26,124,001</b>	<b>0.83%</b>				<b>0.009%</b>

Snapshot at 30<sup>th</sup> September 2013

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**ICELANDIC BANKING SITUATION (30/09/2013)**

	Deposit with;	Ref Number	Date Invested	Amount	%
1	GLITNIR	1696	10/10/2007	1,000,000	
	GLITNIR	1715	31/08/2007	1,000,000	
	GLITNIR	1754	14/12/2007	1,000,000	
	Total Principal			3,000,000	
	Estimated of Contractual or Interest due to point of administration (subject to currency exchange rate fluctuations)			140,911	
	Total of Claim			3,140,911	
	Repayments Received to date			(2,554,432) *	81.33
	<b>Outstanding at 30/09/2013</b>			<b>586,479</b> **	

\*Partial repayment received on the 15th March 2012 in GBP/EUR/USD/NOK. The balance is currently being held in Icelandic Krone (ISK). Release of these funds is dependent on a change in Icelandic Law which currently does not allow the distribution of ISK outside the country. \*\*Interest is accruing on these funds (+ £74k interest at 01/04/2013) but the final value may change due to exchange rate fluctuations.  
- Best case recovery 100%

2	Heritable Bank	1802	12/09/2008	500,000	
	Heritable Bank	1803	15/09/2008	1,000,000	
	Total Principal			1,500,000	
	Interest due at point of administration 07/10/2008			5,127	
	Total of Claim			1,505,127	
	Repayments Received to date			(1,415,080)	94.02
	<b>Outstanding at 30/09/2013</b>			<b>90,047</b>	

- Potential final recovery received of 94.02% (declared 23/08/13, though Administrators are retaining a contingency for disputed claims that could be distributed at a later date).

3	Singer & Friedlander	1716	31/08/2007	1,000,000	
	Singer & Friedlander	1740	31/10/2007	1,000,000	
	Singer & Friedlander	1746	14/01/2008	1,000,000	
	Total Principal			3,000,000	
	Interest due at point of administration 08/10/2008			175,256	
	Total of Claim			3,175,256	
	Repayments Received to date			(2,603,710)	82.00
	<b>Outstanding at 30/09/2013</b>			<b>571,546</b>	

- Current indications project an 85.25% recovery of our investments

<b>Summary</b>					
	Total Principal			7,500,000	
	Interest			321,294	
	Total of Claim			7,821,294	
	Repayments Received to date			(6,573,222)	84.04
	<b>Outstanding at 30/09/2013</b>			<b>1,248,072</b>	

- 1 Registered Bank in Iceland - In Administration under Icelandic Law
- 2 Registered Bank in UK - In Administration in UK by Ernst & Young Under English Law
- 3 Registered Bank in UK - In Administration in UK by Ernst & Young Under English Law

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## Council

17<sup>th</sup> December 2013

### REPORT OF THE PORTFOLIO HOLDER FOR OPERATIONS AND ASSETS

#### LOCAL COUNCIL TAX REDUCTION SCHEME

##### EXEMPT INFORMATION

This proposal is not exempt information for the purposes of Part 1 of Schedule 12 (A) to the Local Government Act 1972.

##### PURPOSE

For Council to consider;

Ongoing agreement of the Authority's current Council Tax Reduction Scheme for Working Age customers, originally agreed at Council on 13<sup>th</sup> December 2012, including 1% up ratings to Applicable Amounts applied for 2014/15.

##### RECOMMENDATIONS

That Council endorse

The continuation of the Authority's Local Council Tax Reduction scheme for a further year, without change, for 2014/15.

To then review the scheme following completion of the first year, identification of delivery of the scheme's financial target and full implications of potential changes that may arise re consultation/equalities/potential challenge.

##### EXECUTIVE SUMMARY

This report details the key issues arising from the Local Council Tax Reduction Scheme.

The Welfare Reform Act 2012 abolished Council Tax Benefit from 1 April 2013. It was replaced by a new Local Council Tax Reduction scheme. Grant funding was reduced by 10% and is distributed via the Department for Communities and Local Government rather than by the Department for Work and Pensions.

The Government specified that Pensioners must be protected from any grant cuts. Accordingly, regulations that mirror the obsolete *Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) 2006* were laid for Pensioners, which must be adhered to. For Working Age customers, Councils continue to be free to decide their schemes, which are subject to an overall 10% reduction in grant funding previously received.

The Authority worked closely with all other Staffordshire District Councils, Staffordshire County Council and the Fire Authority, to design an over arching scheme. Local considerations were then also separately made by each Authority to achieve the savings requirements, based on each area's demographic make up and budgetary restrictions.

Options were presented to Cabinet on 25<sup>th</sup> July 2012, as Tamworth Borough Council had a target saving of £700,000 from Council Tax Benefit expenditure for Working Age customers. Full Equality Impact Assessments were given for each option. On 15<sup>th</sup> August 2012, Cabinet's preferred option for a Local Council Tax Reduction Scheme was decided.

## Consultation

An eight week consultation period then commenced with the public, focus groups and all other stakeholders to gauge views about the proposals. A total of 10 drop in events were held, both with the public and various groups. The drop in sessions attracted almost 800 visitors. Every benefit customer (over 7000) was also sent a consultation questionnaire along with a consultation leaflet which explained that Council Tax Benefit was being abolished and encouraging them to give their views on its proposed replacement in Tamworth.

- ❖ 828 responses were received, which is a statistically robust number. This represented 1.075% of Tamworth's population, which compared favourably to the response rate of all other Staffordshire Local Authorities of between 0.3% and 0.6% of their residents/groups.
- ❖ The degree of endorsement for the proposals was varied, with most support being received for the proposal which provides continued protection for those entitled to a Severe Disability Premium. Least support was received to regarding the removal of Second Adult Rebate (this applied to less than 30 Working Age customers). There was a high level of support for five out of the ten proposals as outlined below:

### 1.3 High level of support

- Level of support for pensioners, severely disabled and in receipt of a Severe Disability Premium, claimants with disabled children and claimants receiving a War Pension
- Continuing to disregard childcare costs
- Claimants and the level of savings allowed
- Continuing to exclude Child Benefit payments
- Continuing to protect those claiming a Severe Disability Premium.

1.4 There was a moderate level of support for the remaining five of the ten proposals as outlined below;

#### Moderate level of support

- calculation of support based on 75% of Council Tax liability rather than 100%, meaning everyone who is not proposed to be protected from any reductions has to pay at least 25% of their Council Tax liability
- limit the calculation of support to no more than 75% of Band D liability
- removal of Second Adult Rebate for all working age customers
- inclusion of maintenance payments as income
- increased non dependant charges of £5 per week (previously £3.30 pw) and £10 per week (previously £6.55 - £9.90 pw, depending on gross pay received).

The results of the consultation were detailed in the Localisation of Council Tax Consultation Final Report, presented to Council on 17<sup>th</sup> December 2012. There were no material implications raised following the consultation and the scheme was agreed without further amendment.

## **RESOURCE IMPLICATIONS**

The current scheme was modelled on delivering an estimated benefit reduction in the region of £700k., necessitated by grant cuts.

The scheme has been running for 9 months. Current estimates indicate, based on monitoring data @ 31<sup>st</sup> October 2013, a projected surplus for the year. However due to potential volatility in final year end results, it is far too early to make an informed decision on potential changes to the scheme.

The Authority has received one request to review its policy, the result of a national campaign made by Gingerbread Single Parent Charity, regarding the inclusion of maintenance as income. Any future changes to the scheme would need to be consulted. Therefore it is proposed at this point in time that the Authority awaits the full year cost of the scheme before considering any changes prior to consultation and equalities reviews.

## **CONCLUSIONS**

### **Current Local Council Tax Reduction Scheme**

The scheme delivers the required savings based on the 10% grant reduction and provides some contingency in case the claim base increases.

The Department for Communities and Local Government have confirmed that if a scheme is not amended, there is no cause to re consult with the public. This has been confirmed separately from a legal perspective. However, Section 13 A(2) and Schedule 1A of the Local Government Finance Act 1992 as well as Schedule 1A, paragraph 16 of the Local Government Finance Act 2012 legislate that the scheme must be agreed by Council, annually.

## **LEGAL/RISK IMPLICATIONS**

Full Equality Impact Assessments were considered and taken into account when the scheme was finalised and agreed.

If the Authority's Local Council Tax Reduction Scheme was not endorsed or in place by the 31<sup>st</sup> January 2013 then the default scheme would have had to be applied. The implementation of a default scheme would have resulted in the Authority having to implement the previous scheme, financing the 10% reduction and suffering additional benefit cost from 2013 /14 (onwards) as the then existing benefit limits were up rated.

## **SUSTAINABILITY IMPLICATIONS**

Funding for the replacement of the previous Council Tax Benefit scheme was changed from AMEY (unrestricted reimbursement of Council Tax Benefit subsidy) to DEL (restricted, pre allocated grant figure). The Council must be aware that there must continue to be a contingency if, for instance, a major local employer goes into administration.

## **REPORT AUTHOR**

Karen Taylor x 529

## **LIST OF BACKGROUND PAPERS**

- Draft 2014/15 Local Council Tax Reduction Policy (subject to 1% uprating of Applicable Amounts, when known)
- The Welfare Reform Act 2012 - [http://www.legislation.gov.uk/ukpga/2012/5/pdfs/ukpga\\_20120005\\_en.pdf](http://www.legislation.gov.uk/ukpga/2012/5/pdfs/ukpga_20120005_en.pdf)
- Cabinet Report - 'Preferred option for a Local Council Tax Reduction Scheme dated 15th August 2012 & subsequent Council ratification
- Localisation of Council Tax Consultation Final Report, presented on 17th December 2012



## Appendices

Council Tax Reduction caseload summary **Appendix 1**

Council Tax Reduction Expenditure summary **Appendix 2**

## BACKGROUND INFORMATION

### Council Tax Local Reduction Scheme 2013 onwards

The Government is committed to retaining Council Tax support for the most vulnerable in society and took forward plans for Councils to develop local Council Tax Reduction Schemes. The Welfare Reform Act 2012 abolished Council Tax Benefit, paving the way for new localised schemes.

Consideration of the Department for Communities and Local Government policy intention document - *Localising Support for Council Tax Vulnerable people – key Local Authority Duties* was also made when devising Tamworth's Local Council Tax Reduction scheme.

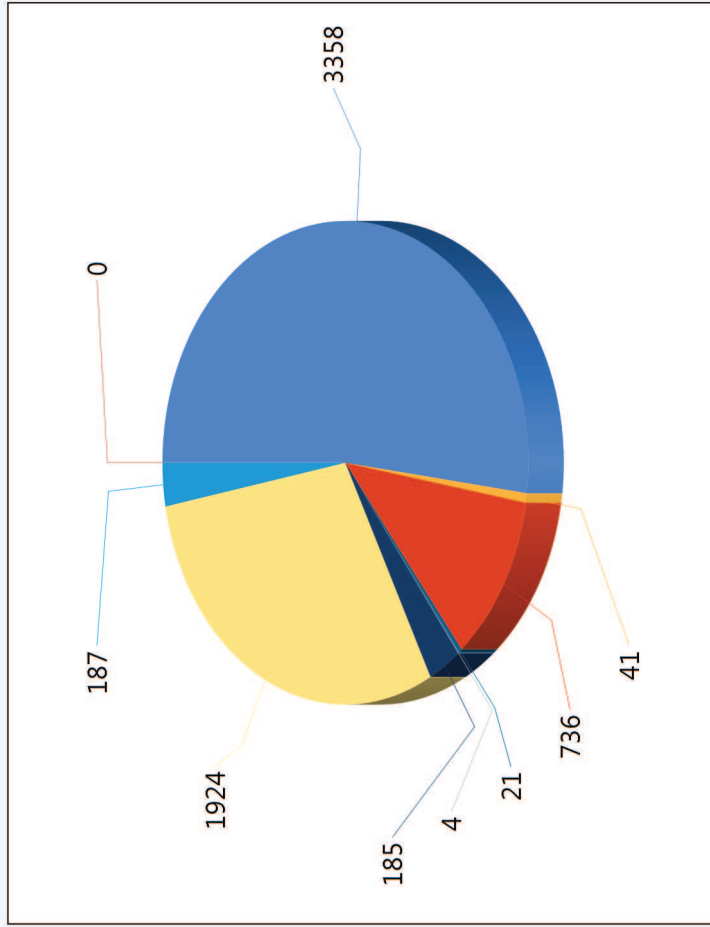
*Localising Support for Council Tax – Funding Arrangements Consultation* gave details of how funding for a Council Tax Reduction Schemes has been reduced from 2013 onwards. Accordingly, regard for these budgetary cuts also influenced the design of a Local Council Tax Reduction scheme.

*Localising Support for Council Tax - Taking Work Incentives into Account* was also considered when drafting the policy.

If Councils did not have a local scheme in place by 31<sup>st</sup> January 2013, the Government would have imposed a 'default scheme' which is the obsolete Council Tax Benefit scheme. This option was not sustainable as that scheme was fully subsidised by the Department for Work and Pensions, regardless of caseload and new schemes have a fixed annual grant *only* which is at least 10% less than before.

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CTS Caseload as of 29.10.2013

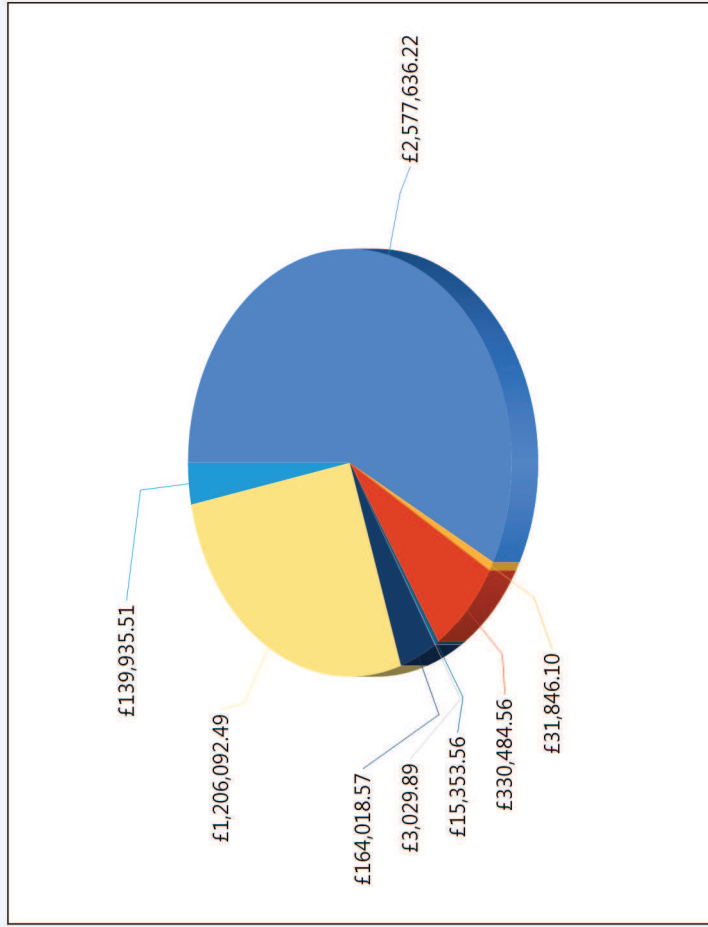


**Group Legend**

- Elderly
- Working Age-Non-Passported-Disabled Child Premium
- Working Age-Non-Passported-Other
- Working Age-Non-Passported-Severe Disability
- Working Age-Non-Passported-War Pensioners
- Working Age-Passported-Disabled Child Premium
- Working Age-Passported-Other
- Working Age-Passported-Severe Disability
- Working Age-Passported-War Pensioners

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CTS Expenditure as of 2013-2014



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**Tamworth Borough Council**  
**Council Tax Reduction Scheme**  
S13A and Schedule 1a of the Local Government Finance Act 1992

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## 1.0 Introduction to the Council Tax Reduction Scheme

- 1.1 The following has been adopted by the Council and details the Council Tax Reduction scheme for the period 1<sup>st</sup> April 2014 until 31<sup>st</sup> March 2015.
- 1.2 This document details how the scheme will operate for both pension credit age and working age applicants and in accordance with Section 13A of the Local Government Finance Act 1992 specifies the classes of person who are to be entitled to a reduction under the scheme and is effective from 1<sup>st</sup> April 2014 for a period of one financial year.
- 1.3 The scheme in respect of pension age applicants is defined by Central Government within the following:
- Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012;
  - Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (England) (Amendment) Regulations 2012;
  - Council Tax Reduction Schemes (Transitional Provision) (England) Regulations 2013;
  - Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013; and
  - Local Government Finance Act 1992 (as amended by the Local Government Finance Act 2012).

The Council has **no** discretion in relation to the calculation of Council Tax Reduction in respect of the pension age scheme.

### **The scheme for pension age applicants – Central Government’s scheme as defined by the Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012**

- 1.4 There are three main classes under the prescribed pension credit age scheme, for each of which there are a number of qualifying criteria. In all cases individuals must not be of a prescribed class exempted from reduction, such as a person subject to immigration control with limited leave to remain. The definition of a pension credit age person is a person who;
- a. has attained the qualifying age for state pension credit; and
  - b. is not, or, if he has a partner, his partner is not;
    - i. a person on income support, on an income-based jobseeker’s allowance or on an income-related employment and support allowance; or
    - ii. a person with an award of universal credit

The three prescribed classes are as follows;

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

On any day Class A consists of any person who is a pensioner:

- a. who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- b. who, subject to paragraph 5 of Schedule 1 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, is not absent from the dwelling throughout the day; in respect of whom a maximum Council Tax Reduction amount can be calculated;
- c. who does not fall within a class of persons prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority’s scheme;
- d. whose income (if any) for the relevant week does not exceed his applicable amount calculated in accordance with paragraph 9 and Schedule 2 of the Local Government Finance Act 1992;
- e. not have capital savings above £16,000; and
- f. who has made an application for a reduction under the authority’s scheme.



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

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

- a. who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- b. who, subject to paragraph 5 of Schedule 1 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, is not absent from the dwelling throughout the day; in respect of whom a maximum Council Tax Reduction amount can be calculated;
- c. who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- d. whose income for the relevant week is greater than his applicable amount calculated in accordance with paragraph 9 and Schedule 2 to the Local Government Finance Act 1992;
- e. in respect of whom amount A exceeds amount B where:
  - (i) amount A is the maximum Council Tax Reduction in respect of the day in the applicant's case; and
  - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount;
- g. not have capital savings above £16,000; and
- h. who has made an application for a reduction under the authority's scheme.

**Class C: alternative maximum Council Tax Reduction**

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 5 of Schedule 1 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, is not absent from the dwelling throughout the day;
- c. in respect of whom a maximum Council Tax Reduction amount can be calculated;
- d. who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act and excluded from the authority's scheme;
- e. who has made an application for a reduction under the authority's scheme; and
- f. in relation to whom the condition below is met.

The condition referred to in sub-paragraph f. is that no other resident of the dwelling is liable to pay rent to the applicant in respect of the dwelling and there is an alternative maximum Council Tax Reduction in respect of the day in the case of that person which is derived from the income, or aggregate income, of one or more residents to whom this sub-paragraph applies.

The above 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, 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.

#### **Disregard of certain incomes**

1.5 For those who have reached the qualifying age for state pension credit, the Council has resolved to enhance the government scheme (as defined by the Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012 to disregard in full the following:

- a. a war disablement pension;
- b. a war widow's pension or war widower's pension;
- c. a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- d. a guaranteed income payment;
- e. a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- f. a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
- g. pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

**The provisions outlined above, enhance the Central Government's scheme.**

#### **THE SCHEME FOR WORKING AGE APPLICANTS – THE COUNCIL'S LOCAL SCHEME**

1.6 The adopted scheme for working age applicants is a means test, which compares income against an assessment of *applicable amounts* (unless otherwise stated). Full details of the working age scheme of the authority are contained within this document from section 2 onwards. The authority is required to specify a scheme for working age and therefore this scheme only applies to a person who;

- a. has not attained the qualifying age for state pension credit; or
- b. has attained the qualifying age for state pension credit if he, and his partner, is a person on income support, on an income-based jobseeker's allowance, on an income-related employment and support allowance or on universal credit.

1.7 The Council has resolved that there will be *two* classes of persons who will receive a reduction in line with adopted scheme. There will be *two* main classes prescribed for, for each of which there will be a number of qualifying criteria. In all cases individuals must not be of a prescribed class exempted from reduction as specified within section 7 of this scheme.

#### **Class D**

To obtain reduction the individual (or partner) must:

- a. have not attained the qualifying age for state pension credit<sup>1</sup>; or
- b. he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is a person on income support, on income-based jobseeker's allowance or an income-related employment and support allowance; or a person with an award of universal credit.
- c. be liable to pay council tax in respect of a dwelling in which he is solely or mainly resident;
- d. is not deemed to be absent from the dwelling;

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<sup>1</sup> Section 5 of this scheme

- e. not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- f. be somebody in respect of whom a maximum Council Tax Reduction<sup>2</sup> amount can be calculated;
- g. not have capital savings above £16,000<sup>3</sup>;
- h. be a person in respect of whom a day in which s/he is liable to pay council tax falls within a week in respect of which the person's *income*<sup>4</sup> is **less** than their *applicable amount*<sup>5</sup> or the applicant or partner is in receipt of income support, jobseekers allowance (income based) or employment and support allowance (income related); and
- i. has made a valid application for reduction<sup>6</sup>.

Maximum Council Tax Reduction stated above is defined within section 57 of this scheme

#### Class E

To obtain reduction the individual (or partner) must:

- a. have not attained the qualifying age for state pension credit<sup>7</sup>; or
- b. he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is a person on income support, on income-based jobseeker's allowance or an income-related employment and support allowance; or a person with an award of universal credit.
- c. has attained the qualifying age for state pension credit if he, and his partner, is a person on income support, on an income-based jobseeker's allowance or on an income-related employment and support allowance or in receipt of an award Universal Credit;
- d. be liable to pay council tax in respect of a dwelling in which they are solely or mainly resident;
- e. is not deemed to be absent from the dwelling;
- f. not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- g. be somebody in respect of whom a maximum Council Tax Reduction<sup>8</sup> amount can be calculated;
- h. not have capital savings above £16,000<sup>9</sup>;
- i. be a person in respect of whom a day in which s/he is liable to pay council tax falls within a week in respect of which the person's *income*<sup>10</sup> is **more** than their *applicable amount*<sup>11</sup>;
- j. have made a valid application for reduction<sup>12</sup>;
- k. be a person in respect of whom amount A exceeds amount B where
  - (i) amount A is the maximum Council Tax Reduction in respect of the day in the applicant's case; and
  - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount.

Maximum Council Tax Reduction stated above is defined within section 57 of this scheme

<sup>2</sup> Sections 57 to 63 of this scheme

<sup>3</sup> Sections 33 to 42 and Schedule 5 of this scheme

<sup>4</sup> Sections 15 to 32 and Schedules 3 and 4 of this scheme

<sup>5</sup> Sections 12 to 14 and Schedule 1 of this scheme

<sup>6</sup> Sections 68 to 74a of this scheme

<sup>7</sup> Section 5 of this scheme

<sup>8</sup> Sections 57 to 63 of this scheme

<sup>9</sup> Sections 33 to 42 and Schedule 5 of this scheme

<sup>10</sup> Sections 15 to 32 and Schedules 3 and 4 of this scheme

<sup>11</sup> Sections 12 to 14 and Schedule 1 of this scheme

<sup>12</sup> Sections 68 to 74a of this scheme



## Council Tax Reduction Scheme

Details of support to be given for **working age applicants** for the financial year 2014/15

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**Sections 2- 8**

**Definitions and interpretation**

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## 2.0 Interpretation – an explanation of the terms used within this policy

### 2.1 In this policy–

**‘the Act’** means the Social Security Contributions and Benefits Act 1992;

**‘the Administration Act’** means the Social Security Administration Act 1992;

**‘the 1973 Act’** means of Employment and Training Act 1973;

**‘the 1992 Act’** means the Local Government Finance Act 1992;

**‘the 2000 Act’** means the Electronic Communications Act 2000;

**‘Abbeyfield Home’** means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;

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

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

**‘applicant’** means a person who the authority designates as able to claim Council Tax Support – for the purposes of this policy all references are in the masculine gender but apply equally to male and female;

**‘application’** means an application for a reduction under this scheme:

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

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

**‘attendance allowance’** means–

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

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

(c) a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Part 2 of Schedule 8 to the Act;

(d) an increase of an allowance which is payable in respect of constant attendance under paragraph 4 of Part 1 of Schedule 8 to the Act;

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

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

**‘the authority’** means a billing authority in relation to whose area this scheme has effect by virtue of paragraph 4(6) of Schedule 1A to the 1992 Act;

**‘Back to Work scheme(s)’** means any scheme defined within the Jobseekers (Back to Work Schemes) Act 2013 or Jobseeker’s Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013;

**‘basic rate’**, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act).

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

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

**‘care home’** in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000 and in Scotland means a care home service within the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001;

**‘the Caxton Foundation’** means the charitable trust of that name established on 28th March

2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;

**'child'** means a person under the age of 16;

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

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

**'the Children Order'** means the Children (Northern Ireland) Order 1995;

**'claim'** means a claim for council tax support; **'applicant'** means a person claiming council tax support;

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

**'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 are charged;

**'the Consequential Provisions Regulations'** means the Housing Benefit and Council tax support (Consequential Provisions) Regulations 2006;

**'contributory employment and support allowance'** means a contributory allowance under Part 1 of the Welfare Reform Act 2007;

**'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;

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

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

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

**'couple'** means;

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

and for the purposes of sub-paragraph (d) two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex. The above includes the Marriage (Same Sex Couples) Act 2013;

**'date of claim'** means the date on which the claim is made, or treated as made, for the purposes of this policy

**'designated authority'** means any of the following;

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

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

- (a) by notice upon or with a form approved by it for the purpose of claiming council tax support; or
- (b) by reference upon or with such a form to some other document available from it and sent by electronic means or otherwise on application; or
- (c) by any combination of the provisions set out in sub-paragraphs (a) and (b) above;

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

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

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

**'the Eileen Trust'** means the charitable trust of that name established on 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 2000 Act;

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

**'Employment and Support Allowance Regulations'** means the Employment and Support Allowance Regulations 2008 and the Employment and Support Regulations 2013 as appropriate;

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

**'the Employment, Skills and Enterprise Scheme'** means a scheme under section 17A (schemes for assisting persons to obtain employment; 'work for your benefit' schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist applicants to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search). This also includes schemes covered by The Jobseekers Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011 as amended by the Jobseekers (Back to Work Schemes) Act 2013 – see **'Back to Work Schemes'**;

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

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

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

**'extended payment (or reduction)'** means a payment of council tax support payable pursuant to section 60;

**'extended payment (or reduction) period'** means the period for which an extended reduction is payable in accordance with section 60A or 61A of this policy;

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

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

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

**'a guaranteed income payment'** means a payment made under article 14(1)(b) or article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(b);

**'he, him, his'** also refers to the feminine within this policy

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

**'Immigration and Asylum Act'** means the Immigration and Asylum Act 1999;

**'an income-based jobseeker's allowance'** and **'a joint-claim jobseeker's allowance'** have the same meaning as they have in the Jobseekers Act by virtue of section 1(4) of that Act;

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

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

**'independent hospital'**–

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

(b) in Wales, has the meaning assigned to it by section 2 of the Care Standards Act 2000; and

(c) in Scotland, means an independent health care service as defined in section 2(5)(a) and

(b) of the Regulation of Care (Scotland) Act 2001;

**'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;

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

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

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

**'the London Bombing Relief Charitable Fund'** means the company limited by guarantee (number 5505072), and registered charity of that name established on 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 except in Part 1 of Schedule 1;

**'the Mandatory Work Activity Scheme'** means a scheme within section 17A (schemes for assisting persons to obtain employment; 'work for your benefit' schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to provide work or work related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting applicants to improve their prospect of obtaining employment;

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

**'member of a couple'** means a member of a married or unmarried couple;

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

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

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

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

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

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

**'new dwelling'** means, for the purposes of the definition of 'second authority' and sections

60C, and 61C the dwelling to which an applicant has moved, or is about to move, in which the applicant is or will be resident;

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

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

**'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 as amended by the Public Service Pension Act 2013;

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

**'partner'** means—

- (a) where an applicant is a member of a couple, the other member of that couple; or
- (b) where an applicant is polygamously married to two or more members of his household, any such member to whom he is married;

**'paternity leave'** means a period of absence from work on leave by virtue of section 80A or 80B of the Employment Rights Act 1996;

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

**'pensionable age'** has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 as amended by the Public Services Pension Act 2013;

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

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

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

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

**'personal independence payment'** has the meaning given by Part 4 of the Welfare Reform Act 2012 and the Social Security (Personal Independence Payments) 2013;

**'personal pension scheme'** means—

- a. a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993 as amended by the Public Service Pension Act 2013;
- b. an annuity contractor trust scheme approved under section 20 or 21 of the Income and Corporation Taxes Act 1988 or a substituted contract within the meaning of section 622(3) of that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 of the Finance Act 2004;
- c. a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;
- d. a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013;
- e. Back to Work scheme.

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

**'polygamous marriage'** means a marriage to which section 133(1) of the Act refers;

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

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

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

**'qualifying contributory benefit'** means;

- (a) severe disablement allowance;
- (b) incapacity benefit;



(c) contributory employment and support allowance;

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

**'qualifying income-related benefit'** means

(a) income support;

(b) income-based jobseeker's allowance;

(c) income-related employment and support allowance;

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

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

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

**'relevant authority'** means an authority administering council tax support;

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

**'remunerative work'** has the meaning prescribed in section 6;

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

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

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

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

**'self-employment route'** means assistance in pursuing self-employed earner's employment whilst participating in—

(a) an employment zone programme;

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

(c) the Employment, Skills and Enterprise Scheme;□

**'service user 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,

(b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985,

(c) a public authority in Northern Ireland in consequence of a function under section 49A of the Disability Discrimination Act 1995,

(d) a public authority in consequence of a function relating to disability under section 149 of the Equality Act 2010;

(e) a best value authority in consequence of a function under section 3 of the Local Government Act 1999,

(f) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001,

(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,

(h) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006,

(i) the Care Quality Commission in consequence of a function under section 4 or 5 of the Health and Social Care Act 2008,

(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, 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.
- 'special account'** means an account as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker's Allowance Regulations or Chapter 5 of Part 10 of the Employment and Support Allowance Regulations;
- 'sports award'** means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc Act 1993 out of sums allocated to it for distribution under that section;
- 'the SSCBA'** means the Social Security Contributions and Benefits Act 1992
- 'State Pension Credit Act'** means the State Pension Credit Act 2002;
- 'student'** has the meaning prescribed in section 43;
- 'subsistence allowance'** means an allowance which an employment zone contractor has agreed to pay to a person who is participating in an employment zone programme;
- 'support or reduction week'** means a period of 7 consecutive days commencing upon a Monday and ending on a Sunday;
- 'the Tax Credits Act'** means the Tax Credits Act 2002;
- 'tax year'** means a period beginning with 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—
- out of public funds by a Government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Young People's Learning Agency for England, the Chief Executive of Skills Funding or Welsh Ministers;
  - to a person for his maintenance or in respect of a member of his family; and
  - for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, the department or approved by the department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers.
- It does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the 1973 Act or is training as a teacher;
- 'the Trusts'** means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No. 2) Trust;
- 'Universal Credit'** means any payment of Universal Credit payable under the Welfare Reform Act 2012, the Universal Credit Regulations 2013, The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 and the Universal Credit (Miscellaneous Amendments) Regulations 2013;
- 'Up-rating Act'** means the Welfare Benefit Up-rating Act 2013;
- 'voluntary organisation'** means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;
- 'war disablement pension'** means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003;
- 'war pension'** means a war disablement pension, a war widow's pension or a war widower's pension;
- 'war widow's pension'** means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;
- 'war widower's pension'** means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;
- 'water charges'** means;
- as respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5

- of the Water Industry Act 1991,
- (b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002, in so far as such charges are in respect of the dwelling which a person occupies as his home;
- 'week'** means a period of seven days beginning with a Monday;
- 'Welfare Reform Act'** means the Welfare Reform Act 2007;
- 'Working Tax Credit Regulations'** means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 as amended<sup>13</sup>; and **'young person'** has the meaning prescribed in section 9(1).
- 2.2 In this policy, references to an applicant occupying a dwelling or premises as his home shall be construed in accordance with regulation 7 of the Housing Benefit Regulations 2006.
- 2.3 In this policy, where an amount is to be rounded to the nearest penny, a fraction of a penny shall be disregarded if it is less than half a penny and shall otherwise be treated as a whole penny.
- 2.4 For the purpose of this policy, a person is on an income-based jobseeker's allowance on any day in respect of which an income-based jobseeker's allowance is payable to him and on any day;
- (a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker's allowance but where the allowance is not paid in accordance with regulation 27A of the Jobseeker's Allowance Regulations or section 19 or 20A or regulations made under section 17A of the Jobseekers Act (circumstances in which a jobseeker's allowance is not payable); or
- (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker's allowance is payable to him or would be payable to him but for regulation 27A of the Jobseeker's Allowance Regulations or section 19 or 20A or regulations made under section 17A of that Act;
- (c) in respect of which he is a member of a joint-claim couple for the purposes of the Jobseekers Act and no joint-claim jobseeker's allowance is payable in respect of that couple as a consequence of either member of that couple being subject to sanctions for the purposes of section 20A of that Act;
- (d) in respect of which an income-based jobseeker's allowance or a joint-claim jobseeker's allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions).
- 2.4A For the purposes of this policy, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day;
- (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act disqualification; or
- (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act.
- 2.5 For the purposes of this policy, two persons shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.
- 2.6 In this policy, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002 (small amounts of state pension credit).

<sup>13</sup> The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2013

### 3.0 Definition of non-dependant

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

3.2 This paragraph applies to;

- a. any member of the applicant's family;
- b. if the applicant is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
- c. a child or young person who is living with the applicant but who is not a member of his household by virtue of section 11(membership of the same household);
- d. subject to paragraph 3.3, any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under sections 6, 7 or 75 of the 1992 Act (persons liable to pay council tax);
- e. subject to paragraph 3.3, any person who is liable to make payments on a commercial basis to the applicant or the applicant's partner in respect of the occupation of the dwelling;
- f. a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.

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

- a. a person who resides with the person to whom he is liable to make payments in respect of the dwelling and either;
  - i. that person is a close relative of his or her partner; or
  - ii. the tenancy or other agreement between them is other than on a commercial basis;
- b. a person whose liability to make payments in respect of the dwelling appears to the authority to have been created to take advantage of the council tax reduction scheme except someone who was, for any period within the eight weeks prior to the creation of the agreement giving rise to the liability to make such payments, otherwise liable to make payments of rent in respect of the same dwelling;
- c. a person who becomes jointly and severally liable with the applicant for council tax in respect of a dwelling and who was, at any time during the period of eight weeks prior to his becoming so liable, a non-dependant of one or more of the other residents in that dwelling who are so liable for the tax, unless the authority is satisfied that the change giving rise to the new liability was not made to take advantage of the support scheme.

### 4.0 Requirement to provide a National Insurance Number<sup>14</sup>

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

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

- a. the claim for reduction is accompanied by;
  - i. a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or
  - ii. information or evidence enabling the national insurance number that has been allocated to the person to be ascertained; or

<sup>14</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012



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

4.3 Paragraph 4.2 shall not apply–

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

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

5.1 This policy for working age applicants does not apply in relation to any person if he, or if he has a partner, his partner, has attained the qualifying age for state pension credit, except where either partner receives income support, income based jobseekers allowance, income related employment and support allowance or universal credit

5.2 This policy also applies to a person if;

- (i) he has not attained the qualifying age for state pension credit; or
- (ii) he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is;
  - (a) a person on income support, on income-based jobseeker's allowance or an income-related employment and support allowance; or
  - (b) a person with an award of universal credit.

**6.0 Remunerative work**

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

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

- a. if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
- b. in any other case, the period of 5 weeks immediately prior to that date of claim, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately,

6.3 Where, for the purposes of paragraph 6.2 a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work shall be disregarded in establishing the average hours for which he is engaged in work.

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

be had to the number of hours or, where those hours will fluctuate, the average of the hours, which he is expected to work in a week.

- 6.5 A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph 6.1 if the absence is either without good cause or by reason of a recognised customary or other holiday.
- 6.6 A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any reduction week shall be treated as not being in remunerative work in that week.
- 6.7 A person shall not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave, or is absent from work because he is ill.
- 6.8 A person shall not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which;
- a sports award has been made, or is to be made, to him; and
  - no other payment is made or is expected to be made to him.

**7.0 Persons from abroad – exempted from claiming under this scheme**

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

- 7.1 The class of person described in this paragraph consists of any person treated as not being in Great Britain.
- 7.2 For the purposes of determining whether a person meets the basic condition to be in Great Britain, except where a person falls within sub-paragraph (5), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.
- 7.3 A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.
- 7.4 For the purposes of sub-paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with—
- a) regulation 13 of the Immigration (European Economic Area) Regulations 2006; or
  - b) Article 6 of Council Directive No.2004/38/EC.
- 7.5 A person falls within this sub-paragraph if the person is
- a) a qualified person for the purposes of regulation 6 of the Immigration (European Economic Area) Regulations 2006(88) 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 of the Immigration (European Economic Area) Regulations 2006;
  - 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 Immigration (European Economic Area) Regulations 2006;
  - 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(89) 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(90) 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.
- 7.5 A person is not a person from abroad if he is–
- a. a worker for the purposes of Council Directive No. 2004/38/EC;
  - b. a self-employed person for the purposes of that Directive;
  - c. a person who retains a status referred to in sub-paragraph (a) or (b) pursuant to Article 7(3) of that Directive;
  - d. a person who is a family member of a person referred to in sub-paragraph (a), (b) or (c) within the meaning of Article 2 of that Directive;
  - e. a person who has a right to reside permanently in the United Kingdom by virtue of Article 17 of that Directive;
  - f. a person who is treated as a worker for the purpose of the definition of ‘qualified person’ in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 pursuant to regulation 6 of the Accession (Immigration and Worker Authorisation) Regulations 2006 (right of residence of a Bulgarian or Romanian who is an ‘accession State national subject to worker authorisation);
  - g. a refugee;
  - h. a person who has exceptional leave to enter or remain in the United Kingdom granted outside the rules made under section 3(2) of the Immigration Act 1971;
  - i. a person who has humanitarian protection granted under those rules;
  - j. a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom;
  - k. a person in Great Britain who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption;
  - l. a person who
    - i. arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
    - ii. immediately before arriving there had been resident in Zimbabwe, and
    - iii. before leaving Zimbabwe, had accepted an offer, made by Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom;
 or
  - k. in receipt of income support, an income-based jobseeker’s allowance or on an income-related employment and support allowance.
- 7.6 The above shall not apply to a person who has been temporarily without funds for any period, or the aggregate of any periods, exceeding 42 days during any one period of limited leave (including any such period as extended).
- 7.7 In this ‘refugee’ means 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.
- 8.0 Temporary Absence (period of absence)**
- 8.1 Where a person is absent from the dwelling throughout any day then no reduction shall be payable
- 8.2 A person shall not, in relation to any day, which falls within a period of temporary absence from that dwelling, be a prescribed person under paragraph 8.1.



- 8.3 In paragraph 8.2, a 'period of temporary absence' means–
- a. a period of absence not exceeding 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 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 paragraph 8.4 applies; and
    - iv. the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.
- 8.4 This paragraph applies to a person who is;
- a. 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 paragraph 8.1, or
    - ii. in premises approved under section 13 of the Offender Management Act 2007, or, detained in custody pending sentence upon conviction;
  - b. resident in a hospital or similar institution as a patient;
  - c. undergoing, or his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
  - d. following, in the United Kingdom or elsewhere, a training course;
  - e. undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
  - f. 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 of medical treatment;
  - g. in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
  - h. a student;
  - i. receiving care provided in residential accommodation other than a person to whom paragraph 8.3a) 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.
- 8.5 This paragraph applies to a person who is;
- a. detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995); and
  - b. on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989
- 8.6 Where paragraph 8.5 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 paragraph 8.3 b) or c), he shall be treated, for the purposes of paragraph 8.1, as if he continues to be absent from the dwelling, despite any return to the dwelling;
- b. for the purposes of paragraph 8.4 a), he shall be treated as if he remains in detention;
- c. If he does not fall within sub-paragraph a), he is not considered to be a person who is liable to pay Council Tax in respect of a dwelling of which he is resident

8.7 In this section;

- '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;
  - a. in a care home;
  - b. in an independent hospital;
  - c. in an Abbeyfield Home; or
  - d. in 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.



**Sections 9 - 11**

**The family for Council Tax Support purposes**

## 9.0 Membership of a family

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

For the purposes of the scheme a child is further defined as a 'child or young person'  
A 'child' means a person under the age of 16 and a 'Young Person' is someone aged 16 or over but under 20 and who satisfies other conditions. These conditions are:

- they are aged 16, have left 'relevant education' or training, and 31 August following the sixteenth birthday has not yet been passed;
- they are aged 16 or 17, have left education or training, are registered for work, education or training, are not in remunerative work and are still within their 'extension period';
- they are on a course of full-time non-advanced education, or are doing 'approved training', and they began that education or training before reaching the age of 19;
- they have finished a course of full-time non-advanced education, but are enrolled on another such course (other than one provided as a result of their employment);
- they have left 'relevant education' or 'approved training' but have not yet passed their 'terminal date'.

- 9.2 Paragraph 9.1 the definition of child or young person shall not apply to a person who is;
- a. on income support ;
  - b. an income-based jobseeker's allowance or an income- related employment and support allowance; or has an award of Universal Credit; or
  - c. a person to whom section 6 of the Children (Leaving Care) Act 2000 applies.

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

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

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

- 10.2 Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person shall be treated for the purposes of paragraph 9.1 as normally living with;
- a. the person who is receiving child benefit in respect of him; or
  - b. if there is no such person;

- i. where only one claim for child benefit has been made in respect of him, the person who made that claim; or
  - ii. in any other case the person who has the primary responsibility for him.
- 10.3 For the purposes of this scheme a child or young person shall be the responsibility of only one person in any reduction week and any person other than the one treated as responsible for the child or young person under this section shall be treated as not so responsible.
- 11.0 Circumstances in which a child or young person is to be treated as being or not being a member of the household**
- 11.1 Subject to paragraphs 11.2 and 11.3, the applicant and any partner and, where the applicant or his partner is treated as responsible by virtue of section 10 (circumstances in which a person is to be treated as responsible or not responsible for a child or young person) for a child or young person, that child or young person and any child of that child or young person, shall be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.
- 11.2 A child or young person shall not be treated as a member of the applicant's household where he is;
  - a. placed with the applicant or his partner by a local authority under section 23(2)(a) of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of 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 or the Adoption Agencies (Scotland) Regulations 2009.
- 11.3 Subject to paragraph 11.4, paragraph 11.1 shall not apply to a child or young person who is not living with the applicant and he—
  - a. is being looked after by, or in Scotland is in the care of, a local authority under a relevant enactment; or
  - b. has been placed, or in Scotland boarded out, with a person other than the applicant prior to adoption; or
  - c. has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009; or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes).
- 11.4 The authority shall treat a child or young person to whom paragraph 11.3 a) applies as being a member of the applicant's household in any reduction week where;
  - a. that child or young person lives with the applicant for part or all of that reduction week; and
  - b. the authority considers that it is responsible to do so taking into account the nature and frequency of that child's or young person's visits.
- 11.5 In this paragraph 'relevant enactment' means the Army Act 1955, the Air Force Act 1955, the Naval Discipline Act 1957, the Matrimonial Proceedings (Children) Act 1958, the Social Work (Scotland) Act 1968, the Family Law Reform Act 1969, the Children and Young Persons Act 1969, the Matrimonial Causes Act 1973, the Children Act 1975, the Domestic Proceedings and Magistrates' Courts Act 1978, the Adoption and Children (Scotland) Act 1978, the Family Law Act 1986, the Children Act 1989, the Children (Scotland) Act 1995 and the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

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**Sections 12 – 14 & Schedule 1**

**Applicable Amounts for Council Tax Support purposes**

## **12.0 Applicable amounts (Living Allowances)**

12.1 Subject to sections 13 and 14, an applicant's weekly applicable amount shall be 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 as the case may be, of Schedule 1 of this scheme;
- b. an amount determined in accordance with paragraph 2 of Schedule 1 of this scheme in respect of any child or young person who is a member of his family;
- c. if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of Schedule 1 (family premium);
- d. the amount of any premiums which may be applicable to him, determined in accordance with paragraphs 4 to 16 of Schedule 1 of this document (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 paragraph 17 and 18 of Schedule 1 of this document (the components)
- f. the amount of any transitional addition which may be applicable to him in accordance with paragraph 19 to 20 of Schedule 1 of this scheme (transitional addition).

## **13.0 Polygamous marriages**

13.1 Subject to section 14, where an applicant is a member of a polygamous marriage, his weekly applicable amount shall be 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 of Schedule 1 of this scheme as if he and that partner were a couple;
- b. an amount equal to the lowest amount within paragraph 1 of Schedule 1 of this scheme in respect of each of his other partners;
- c. an amount determined in accordance with paragraph 2 of Schedule 1 of this scheme (applicable amounts or living allowances) 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 paragraph 3 of Schedule 1 of this scheme (family premium);
- e. the amount of any premiums which may be applicable to him determined in accordance with paragraphs 4 to 16 of Schedule 1 of this scheme (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 paragraph 17 and 18 of Schedule 1 (the components).
- g. the amount of any transitional addition which may be applicable to him in accordance with paragraphs 19 and 20 of Schedule 1 of this scheme (transitional addition)

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

14.1 In determining the applicable amount for a week 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 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 (2).

- 14.2 The adjustment referred to in sub-paragraph (1) is to multiply the maximum amount by 12 and divide the product by 52.
- 14.3 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

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**Sections 15 – 32 & Schedules 3 & 4**

**Definition and the treatment of income for Council Tax Support purposes**

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

- 15.1 The income and capital of:
- a. an applicant; and
  - b. any partner of that applicant,

is to be calculated in accordance with the following provisions.

- 15.2 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.

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

**15A.0 Calculation of income and capital: persons who are not pensioners who have an award of universal credit**

- 15A.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 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.

- 15A.2 The authority must adjust the amount referred to in sub-paragraph (1) to take account of
- (a) income consisting of the award of universal credit, determined in accordance with subparagraph (3);
  - (b) any sum to be disregarded under paragraphs of Schedule 3 to this scheme (sums to be disregarded in the calculation of earnings: persons who are not pensioners);
  - (c) any sum to be disregarded under paragraphs of Schedule 4 to this scheme (sums to be disregarded in the calculation of income other than earnings: persons who are not pensioners);
  - (d) section 33 (circumstances in which income and capital of non-dependant is to be treated as applicant's), if the authority determines that the provision applies in the applicant's case;
  - (e) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable).

- 15A.3 The amount for the award of universal credit is to be determined by multiplying the amount of the award by 12 and dividing the product by 52.

- 15A.4 sections 33 (income and capital of non-dependant to be treated as applicant's) and 52 and 53 (disregards from income) apply (so far as relevant) for the purpose of determining any adjustments, which fall to be made to the figure for income under sub-paragraph (2)

- 15A.5 In determining the capital of an applicant;
- (a) who has, or
  - (b) who (jointly with his partner) has,



an award of universal credit, the authority must use the calculation or estimate of the capital of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining that award

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

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

16.2 Where an applicant is treated as possessing capital and income belonging to a non-dependant under paragraph 16.1 the capital and income of that non-dependant shall be calculated in accordance with the following provisions in like manner as for the applicant and any reference to the 'applicant' shall, except where the context otherwise requires, be construed for the purposes of this scheme as if it were a reference to that non-dependant.

**17.0 Calculation of income on a weekly basis**

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

- a. by estimating the amount which is likely to be his average weekly income in accordance with this Section and in line with Sections 2, 3, 4 and 5 of Part 6 of the Housing Benefit Regulations 2006;
- b. by adding to that amount the weekly income calculated in line with regulation 52 of the Housing Benefit Regulations 2006 (calculation to tariff income from capital); and
- c. by then deducting any relevant child care charges to which section 18 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in paragraph 18.2 are met, from those earnings plus whichever credit specified in sub-paragraph (b) of that paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in paragraph (3) applies in his case.

17.2 The conditions of this paragraph are that;

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

17.3 The maximum deduction to which paragraph 17.1 c) above refers shall be;

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

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

17.4 For the purposes of paragraph 17.1 'income' includes capital treated as income under section 31 (capital treated as income) and income, which an applicant is treated as possessing under section 32 (notional income).

## 18.0 Treatment of child care charges

- 18.1 This section applies where an applicant is incurring relevant child-care charges and;
- a. is a lone parent and is engaged in remunerative work;
  - b. is a member of a couple both of whom are engaged in remunerative work; or
  - c. is a member of a couple where one member is engaged in remunerative work and the other;
    - i. is incapacitated;
    - ii. is an in-patient in hospital; or
    - iii. is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).
- 18.2 For the purposes of paragraph 18.1 and subject to paragraph 18.4, a person to whom paragraph 18.3 applies shall be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he—
- a. is paid statutory sick pay;
  - b. is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the Act;
  - c. is paid an employment and support allowance;
  - d. is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support Regulations 1987; or
  - e. is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.
- 18.3 This paragraph applies to a person who was engaged in remunerative work immediately before
- a. the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
  - b. the first day of the period in respect of which earnings are credited, as the case may be.
- 18.4 In a case to which paragraph 18.2 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.
- 18.5 Relevant child care charges are those charges for care to which paragraphs 18.6 and 18.7 apply, and shall be calculated on a weekly basis in accordance with paragraph 18.10.
- 18.6 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.
- 18.7 The charges are paid for care, which is provided by one, or more of the care providers listed in paragraph 18.8 and are not paid—
- a. in respect of the child's compulsory education;
  - b. by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with section 10 (circumstances in which a person is treated as responsible or not responsible for another); or
  - c. in respect of care provided by a relative of the child wholly or mainly in the child's home.

- 18.8 The care to which paragraph 18.7 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 eight 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 eight birthday and ending on the day preceding the first Monday in September following their sixteenth birthday; or
  - b. by a child care provider approved in accordance with by the Tax Credit (New Category of Child Care Provider) Regulations 1999;
  - c. by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or
  - d. by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) order 2010; or
  - e. by;
    - i. persons registered under section 59(1) of the Public Services Reform Scotland Act 2010; or
    - ii. local authorities registered under section 8(1) of that Act, where the care provided is child minding or daycare within the meaning of that Act; or
  - f. by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002 or
  - g. by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or
  - h. by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
  - i. by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
  - j. by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of 'childcare' for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
  - k. by a foster parent or kinship carer under the Fostering Services Regulations 2002, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or
  - l. by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002 or the Domiciliary Care Agencies (Wales) Regulations 2004; or
  - m. by a person who is not a relative of the child wholly or mainly in the child's home.
- 18.9 In paragraphs 18.6 and 18.8 a), 'the first Monday in September' means the Monday which first occurs in the month of September in any year.
- 18.10 Relevant child care charges shall be estimated over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to information as to the amount of that charge provided by the child minder or person providing the care.
- 18.11 For the purposes of paragraph 18.1 c) the other member of a couple is incapacitated where
- a. 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



- b. 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 regulation made under section 171E of the Act;
- c. 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;
- d. the applicant (within the meaning of this scheme) is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
- e. the applicant (within the meaning of this scheme) has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
- f. there is payable in respect of him one or more of the following pensions or allowances—
  - i. long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the Act;
  - ii. attendance allowance under section 64 of the Act;
  - iii. severe disablement allowance under section 68 of the Act;
  - iv. disability living allowance under section 71 of the Act;
  - v. personal independence payment under the Welfare Reform Act 2012;
  - vi. an AFIP;
  - vii. increase of disablement pension under section 104 of the Act;
  - viii. a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under head (ii), (iv) or (v) above;
  - ix. main phase employment and support allowance;
- g. a pension or allowance to which head (ii), (iv), (v) or (vi) of sub-paragraph (f) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this section shall mean a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of social security (Hospital In-Patients) Regulations 2005.
- h. an AFIP would be payable to that person but for any suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
- i. paragraphs (f) or (g) would apply to him if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
- j. he has an invalid carriage or other vehicle provided to him by the Secretary of State under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.

18.12 For the purposes of paragraph 18.11 once paragraph 18.11d) applies to the applicant, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of

work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.

18.12A For the purposes of paragraph 18.11, once paragraph 18.11e) applies to the applicant, 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 apply to him for so long as he has, or is treated as having, limited capability for work.

18.13 For the purposes of paragraphs 18.6 and 18.8 a), a person is disabled if he is a person—

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

18.14 For the purposes of paragraph 18.1 a person on maternity leave, paternity leave or adoption leave shall be treated as if she is engaged in remunerative work for the period specified in paragraph 18.15 ('the relevant period') provided that—

- a. in the week before the period of maternity leave, paternity leave or adoption leave began s/he was in remunerative work;
- b. the applicant is incurring relevant child care charges within the meaning of paragraph 18.5; and
- c. she is entitled to either statutory maternity pay under section 164 of the Act, statutory paternity pay by virtue of section 171ZA or 171ZB of the Act statutory adoption pay by of section 171ZL of the Act, maternity allowance under section 35 of the Act or qualifying support.

18.15 For the purposes of paragraph 18.14 the relevant period shall begin on the day on which the person's maternity, paternity leave or adoption leave commences and shall end on—

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

whichever shall occur first.

18.16 In paragraphs 18.14 and 18.15

- a. **'qualifying support'** means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support Regulations 1987; and
- b. **'child care element'** of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act (child care element) 2002.

18.17 In this section 'applicant' does not include an applicant;

- a. who has, or
- b. who (jointly with his partner) has,

an award of universal credit

#### **19.0 Average weekly earnings of employed earners**

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

- a. over a period immediately preceding the reduction week in which the claim is made or treated as made and being a period of
  - i. 5 weeks, if he is paid weekly; or
  - ii. 2 months, if he is paid monthly; or
- b. whether or not sub-paragraph 19.1a i) or ii) applies, where an applicant's earnings fluctuate, over such other period preceding the reduction week in which the claim is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.

19.2 Where the applicant has been in his employment for less than the period specified in paragraph 19.1 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 shall be estimated by reference to those earnings;
- b. in any other case, the authority shall require the applicant's employer to furnish an estimate of the applicant's likely weekly earnings over such period as the authority may require and the applicant's average weekly earnings shall be estimated by reference to that estimate.

19.3 Where the amount of an applicant's earnings changes during an award the authority shall estimate his average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period shall not in any case exceed 52 weeks.

19.4 For the purposes of this section the applicant's earnings shall be calculated in accordance with sections 25 and 26

#### **20.0 Average weekly earnings of self-employed earners**

20.1 Where an applicant's income consists of earnings from employment as a self-employed earner his average weekly earnings shall be estimated by reference to his earnings from that employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period shall not in any case exceed a year.

20.2 For the purposes of this section the applicant's earnings shall be calculated in accordance with section 27 to 29 of this scheme

#### **21.0 Average weekly income other than earnings**

21.1 An applicant's income which does not consist of earnings shall, except where paragraph 18.2 applies, be estimated over such period as is appropriate in order that his average weekly income may be estimated accurately but the length of the period shall not in any case exceed 52 weeks; and nothing in this paragraph shall authorise the authority to disregard any such income other than that specified in Schedule 4 of this scheme

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

21.3 For the purposes of this section income other than earnings shall be calculated in accordance with paragraphs 30 to 32 of this scheme



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

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

22.2 Where this section applies, the period over which a tax credit is to be taken into account shall be the period set out in paragraph 22.3

22.3 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.

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

## **23.0 Calculation of weekly income**

23.1 For the purposes of sections 19 (average weekly earnings of employed earners), 21 (average weekly income other than earnings) and 22 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made;

- a. does not exceed a week, the weekly amount shall be the amount of that payment;
- b. exceeds a week, the weekly amount shall be determined—
  - i. in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
  - ii. in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the quotient by 7.

23.2 For the purpose of section 20 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant shall be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the quotient by 7.

## **24.0 Disregard of changes in tax, contributions etc.**

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

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

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

## 25.0 Earnings of employed earners

25.1 Subject to paragraph 25.2, 'earnings' means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- a. any bonus or commission;
- b. any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
- c. any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- d. any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
- e. any payment by way of a retainer;
- f. any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
- g. (i) travelling expenses incurred by the applicant between his home and his place of employment;  
(ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
- h. any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
- i. any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
- j. any such sum as is referred to in section 112 of the Act (certain sums to be earnings for social security purposes);
- k. any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
- l. any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;
- m. the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001 as amended<sup>15</sup>.

25.2 Earnings shall not include—

- a. subject to paragraph 25.3, any payment in kind;
- b. any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of employment;
- c. any occupational pension
- d. any payment in respect of expenses arising out of the applicant's participation in a service user group.

25.3 Paragraph 25.2 a) shall not apply in respect of any non-cash voucher referred to in paragraph 25.1 m)

## 26.0 Calculation of net earnings of employed earners

26.1 For the purposes of section 19 (average weekly earnings of employed earners), the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account shall, subject to paragraph 26.2, be his net earnings.

26.2 There shall be disregarded from an applicant's net earnings, any sum, where applicable,

<sup>15</sup> Social Security (Contributions)(Amendment) Regulations 2013, Social Security (Contributions)(Amendment No.2) Regulations 2013 and Social Security (Contributions)(Amendment No.2) Regulations 2013



specified in paragraphs 1 to 14 of Schedule 3.

- 26.3 For the purposes of paragraph 26.1 net earnings shall, except where paragraph 26.6 applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less;
- a. any amount deducted from those earnings by way of
    - i) income tax;
    - ii) primary Class 1 contributions under the Act;
  - b. one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
  - c. one-half of the amount calculated in accordance with paragraph 26.5 in respect of any qualifying contribution payable by the applicant; and
  - d. where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, any amount deducted for those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the Act.
- 26.4 In this section 'qualifying contribution' means any sum which is payable periodically as a contribution towards a personal pension scheme.
- 26.5 The amount in respect of any qualifying contribution shall be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this section the daily amount of the qualifying contribution shall be determined—
- a. where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;
  - b. in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.
- 26.6 Where the earnings of an applicant are estimated under sub-paragraph (b) of paragraph 2) of the section 19 (average weekly earnings of employment earners), his net earnings shall be calculated by taking into account those earnings over the assessment period, less—
- a. an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis;
  - b. an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable; and
  - c. one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

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

- 27.1 Subject to paragraph 27.2, 'earnings', in the case of employment as a self-employed earner, means the gross income of the employment any allowance paid under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 to the applicant for the purpose of assisting him in carrying on his business unless at the date of claim the allowance has been terminated.

27.2 'Earnings' shall not include any payment to which paragraph 27 or 28 of Schedule 4 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant's care) nor shall it include any sports award.

27.3 This paragraph applies to—

- a. royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
- b. any payment in respect of any—
  - (i) book registered under the Public Lending Right Scheme 1982; or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982, where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book of work concerned.

27.4 Where the applicant's earnings consist of any items to which paragraph 27.3 applies, those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of council tax support which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 3 (sums to be disregarded in the calculation of earnings) as appropriate in the applicant's case.

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

28.1 For the purposes of section 20 (average weekly earnings of self-employed earners) the earnings of an applicant to be taken into account shall be

- a. in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- b. in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975, his share of the net profit derived from that employment, less—
  - i. an amount in respect of income tax and of social security contributions payable under the Act calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
  - ii. one-half of the amount calculated in accordance with paragraph (28.11) in respect of any qualifying premium.

28.2 There shall be disregarded from an applicant's net profit, any sum, where applicable, specified in paragraph 1 to 14 of Schedule 3.

28.3 For the purposes of paragraph 28.1 a) the net profit of the employment must, except where paragraph 28.9 applies, be calculated by taking into account the earnings for the employment over the assessment period less

- a. subject to paragraphs 28.5 to 28.7, any expenses wholly and exclusively incurred in that period for the purposes of that employment;
- b. an amount in respect of;
  - (i) income tax, and
  - (ii) social security contributions payable under the Act, calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
- c. one-half of the amount calculated in accordance with paragraph (28.11) in respect of any qualifying premium.

28.4 For the purposes of paragraph 28.1b) the net profit of the employment shall be calculated by

taking into account the earnings of the employment over the assessment period less, subject to paragraphs 28.5 to 28.7, any expenses wholly and exclusively incurred in that period for the purposes of the employment.

- 28.5 Subject to paragraph 28.6 no deduction shall be made under paragraph 28.3 a) or 28.4, in respect of–
- a. any capital expenditure;
  - b. the depreciation of any capital asset;
  - c. any sum employed or intended to be employed in the setting up or expansion of the employment;
  - d. any loss incurred before the beginning of the assessment period;
  - e. the repayment of capital on any loan taken out for the purposes of the employment;
  - f. any expenses incurred in providing business entertainment, and
  - g. any debts, except bad debts proved to be such, but this sub-paragraph shall not apply to any expenses incurred in the recovery of a debt.
- 28.6 A deduction shall be made under paragraph 28.3 a) or 28.4 in respect of the repayment of capital on any loan used for–
- a. the replacement in the course of business of equipment or machinery; and
  - b. the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.
- 28.7 The authority shall refuse to make deduction in respect of any expenses under paragraph 28.3 a) or 28.4 where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.
- 28.8 For the avoidance of doubt–
- a. deduction shall not be made under paragraph 28.3 a) or 28.4 in respect of any sum unless it has been expended for the purposes of the business;
  - b. a deduction shall be made thereunder in respect of–
    - i. the excess of any value added tax paid over value added tax received in the assessment period;
    - ii. any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
    - iii. any payment of interest on a loan taken out for the purposes of the employment
- 28.9 Where an applicant is engaged in employment, as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less an amount in respect of
- a. income tax; and
  - b. social security contributions payable under the Act, calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
  - c. one-half of the amount calculated in accordance with paragraph 28.1 in respect of any qualifying contribution
- 28.10 For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments. Also, any self employed losses shall not be offset against any other earned or unearned income received.
- 28.11 The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this section the daily amount of the qualifying premium shall be determined
- a. where the qualifying premium is payable monthly, by multiplying the amount of the



- qualifying premium by 12 and divided the product by 365;
- b. in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.

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

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

29.1 The amount to be deducted in respect of income tax under section 28.1b) i), 28.3 b) i) or 28.9 a) i) (calculation of net profit of self-employed earners) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph shall be calculated on a pro rata basis.

29.2 The amount to be deducted in respect of social security contributions under paragraphs 28.1 1 b)(i); 28.3 b) ii) or 28.9 a shall be the total of—

- a. the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Act at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of the Act (small earnings 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 shall be reduced pro rata; and
- b. the amount of Class 4 contributions (if any) which would be payable under section 15 of the Act (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits shall be reduced pro rata.

29.3 In this section 'chargeable income' means—

- a. except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph (28.3)(a) or, as the case may be, (28.4) of section 28;
- b. in the case of employment as a child minder, one-third of the earnings of that employment.

## **30.0 Calculation of income other than earnings**

30.1 For the purposes of section 21 (average weekly income other than earnings), the income of an applicant which does not consist of earnings to be taken into account shall, subject to paragraphs 27.2 to 27.4, be his gross income and any capital treated as income under section 31 (capital treated as income).

30.2 There shall be disregarded from the calculation of an applicant's gross income under paragraph 30.2, any sum, where applicable, specified in Schedule 4.

30.3 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 paragraph 30.1 shall be the gross amount payable.

30.4 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, the amount of that benefit to be taken into account is the amount as if it had not been reduced.

- 30.5 Where an award of any working tax credit or child tax credit under the Tax Credits Act 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 paragraph 27.1 shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.
- 30.6 In paragraph 30.5 'tax year' means a period beginning with 6th April in one year and ending with 5th April in the next.
- 30.7 Paragraph 30.8 and 30.9 apply where a relevant payment has been made to a person in an academic year; and that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.
- 30.8 Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph 30.1 in respect of a person to whom paragraph 30.7 applies, shall be calculated by applying the formula—  

$$\frac{A - (B \times C)}{D}$$
 Where  
 A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under paragraph 51.5  
 B = the number of reduction weeks from the reduction week immediately following that which includes the first day of that academic year to the reduction week which includes the day on which the person abandoned, or was dismissed from, his course;  
 C = 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 51.2 had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to council tax support immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit;  
 D = the number of reduction weeks in the assessment period.
- 30.9 Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph 30.1 in respect of a person to whom paragraph (30.8) applies, shall be calculated by applying the formula in paragraph 30.8 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 51.5
- 30.10 In this section— 'academic year' and 'student loan' shall have the same meanings as for the purposes of sections 43 to 45, 'assessment period' means—
- a. in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;
  - b. in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes—
    - i. the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or

- ii. the last day of the last quarter for which an instalment of the relevant payment was payable to that person.

whichever of those date is earlier

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

- a. 1st January and ending on 31st March;
- b. 1st April and ending on 30th June;
- c. 1st July and ending on 31st August; or
- d. 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 46.7 or both.

30.11 For the avoidance of doubt there shall be included as income to be taken into account under paragraph 30.1

- a. any payment to which paragraph 25.2 (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 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.

### 31.0 Capital treated as income

31.1 Any capital payable by instalments which are outstanding at the date on which the claim is made or treated as made, or, at the date of any subsequent revision or supersession, shall, if the aggregate of the instalments outstanding and the amount of the applicant’s capital otherwise calculated in accordance with sections 33 to 42 of this scheme exceeds £16,000, be treated as income.

31.2 Any payment received under an annuity shall be treated as income.

31.3 Any earnings to the extent that they are not a payment of income shall be treated as income.

31.4 Any Career Development Loan paid pursuant to section 2 of the 1973 Act shall be treated as income

31.5 Where an agreement or court order provides that payments shall be made to the applicant in consequence of any personal injury to the applicant and that such payments are to be made, wholly or partly, by way of periodic payments, any such periodic payments received by the applicant (but not a payment which is treated as capital), shall be treated as income.

### 32.0 Notional income

32.1 An applicant shall be treated as possessing income of which he has deprived himself for the purpose of securing entitlement of support or increasing the amount of that support.

32.2 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 47(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 47(1)(a);
- e. any sum to which paragraph 48(a) of Schedule 5 refers;
- f. rehabilitation allowance made under section 2 of the 1973 Act;
- g. child tax credit; or



- h. working tax credit,
- i. any sum to which paragraph 32.13 applies;

any income which would become available to the applicant upon application being made, but which has not been acquired by him, shall be treated as possessed by the applicant but only from the date on which it could be expected to be acquired were an application made.

32.3 – 32.5 Not used

- 32.6 Any payment of income, other than a payment of income specified in paragraph 32.7 made–
- a. to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension, a pension or other periodical payment made under or by a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
  - b. to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) shall, where it is not a payment referred to in sub-paragraph a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
  - c. to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.
- 32.7 Paragraph 32.6 shall not apply in respect of a payment of income made–
- a. under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);
  - b. pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal);
  - c. pursuant to section 2 of the 1973 Act in respect of a person's participation–
    - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
    - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
    - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
    - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations or;
    - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
  - d. in respect of a previous participation in the Mandatory Work Activity Scheme;
  - e. under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where–
    - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
    - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
    - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.
- 32.8 Where an applicant is in receipt of any benefit (other than council tax support) under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the authority shall treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in

that year, whichever date the authority shall select to apply in its area, to the date on which the altered rate is to take effect.

32.9 Subject to paragraph 32.10, where—

- a. applicant performs a service for another person; and
- b. that person makes no payment of earnings or pays less than that paid for a comparable employment in the area, the authority shall treat the applicant as possessing such earnings (if any) as is reasonable for that employment unless the applicant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.

32.10 Paragraph 32.9 shall not apply—

- a. to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge; or
- b. in a case where the service is performed in connection with—
  - (i) the applicant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations, other than where the service is performed in connection with the applicant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations or
  - (ii) the applicant's or the applicant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme ; or
- c. to an applicant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.

32.10A In paragraph 32.10 (c) 'work placement' means practical work experience which is not undertaken in expectation of payment.

32.11 Where an applicant is treated as possessing any income under any of paragraph 32.1 to (32.8), the foregoing provisions of this scheme shall apply for the purposes of calculating the amount of that income as if a payment has actually been made and as if it were actual income which he does possess.

32.12 Where an applicant is treated as possessing any earnings under paragraph 32.9 the foregoing provisions of this scheme shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph (3) of section 26 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account those earnings which he is treated as possessing, less;

- a. an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the starting rate or, as the case may be, the starting rate and the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the starting rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rate basis;
- b. an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable; and
- c. one-half of any sum payable by the applicant by way of a contribution towards an occupational or personal pension scheme.

32.13 Paragraphs (32.1), (32.2), (32.6) and (32.9) shall not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant's participation in a service user group.

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**Sections 33 – 42 & Schedule 5**

**Definition and the treatment of capital for Council Tax Support purposes**

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### **33.0 Capital limit**

33.1 For the purposes of this scheme, the prescribed amount is £16,000 and no support shall be granted when the applicant has an amount greater than this level

### **34.0 Calculation of capital**

34.1 For the purposes of this scheme, the capital of an applicant to be taken into account shall, subject to paragraph (34.2), be the whole of his capital calculated in accordance with this scheme and any income treated as capital under section 36 (income treated as capital).

34.2 There shall be disregarded from the calculation of an applicant's capital under paragraph (34.1), any capital, where applicable, specified in Schedule 5.

### **35.0 Disregard of capital of child and young person**

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

### **36.0 Income treated as capital**

36.1 Any bounty derived from employment to which paragraph 8 of Schedule 3 applies and paid at intervals of at least one year shall be treated as capital.

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

36.3 Any holiday pay which is not earnings under section 25(1)(d) (earnings of employed earners) shall be treated as capital.

36.4 Except any income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or 25 to 28, 47 or 48 of Schedule 5, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the applicant's account.

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

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

36.7 There shall be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account during the period in which that person was receiving such assistance.

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

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

### **37.0 Calculation of capital in the United Kingdom**

37.1 Capital which an applicant possesses in the United Kingdom shall be calculated at its current market or surrender value less—



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

### **38.0 Calculation of capital outside the United Kingdom**

38.1 Capital which an applicant possesses in a country outside the United Kingdom shall be calculated

- a. in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value.
- b. in a case where there is such 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.

### **39.0 Notional capital**

39.1 An applicant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to council tax support or increasing the amount of that support except to the extent that that capital is reduced in accordance with section 40 (diminishing notional capital rule).

39.2 Except in the case of

- (a) a discretionary trust; or
- (b) a trust derived from a payment made in consequence of a personal injury; or
- (c) any loan which would be obtained only if secured against capital disregarded under Schedule 5; or
- (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
- (e) any sum to which paragraph 47(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 47(1)(a); or
- (f) any sum to which paragraph 48(a) of Schedule 5 refers; or
- (g) child tax credit; or
- (h) working tax credit,

any capital which would become available to the applicant upon application being made, but which has not been acquired by him, shall be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.

39.3 Any payment of capital, other than a payment of capital specified in paragraph (39.4), made

- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
- (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) shall, where it is not a payment referred to in sub-paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

39.4 Paragraph 39.3 shall 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 1973 Act in respect of a person's participation:
  - i. in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
  - ii. in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
  - iii. in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
  - iv. in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
  - v. in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- c. in respect of a person's participation in the Mandatory Work Activity Scheme;
- d. Enterprise Scheme;
- e. in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme or Back to Work 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 (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

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

- a. the value of his holding in that company shall, notwithstanding section 34 (calculation of capital) be disregarded; and
- b. he shall, subject to paragraph 39.6, be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Section shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

39.6 For so long as the applicant undertakes activities in the course of the business of the company, the amount which, he is treated as possessing under paragraph 39.5 shall be disregarded.

39.7 Where an applicant is treated as possessing capital under any of paragraphs 39.1 to 39.2 the foregoing provisions of this Section shall apply for the purposes of calculating its amount as if it were actual capital, which he does possess.

#### **40.0 Diminishing notional capital rule**

40.1 Where an applicant is treated as possessing capital under section 39.1 (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 paragraph 40.2 are satisfied; or
  - (ii) a week which follows that relevant week and which satisfies those conditions, shall be reduced by an amount determined under paragraph 40.3;
- b. in the case of a week in respect of which paragraph 40.1(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 paragraph 40.4 is satisfied, shall be reduced by the amount determined under paragraph 40.4.

40.2 This paragraph applies to a reduction week or part-week where the applicant satisfies the

conditions that

- a. he is in receipt of council tax support; and
- b. but for paragraph 39.1, he would have received an additional amount of council tax support in that week.

40.3 In a case to which paragraph 40.2 applies, the amount of the reduction for the purposes of paragraph 40.1(a) shall be equal to the aggregate of

- a. the additional amount to which sub-paragraph 40.2 (b) refers;
- b. where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 40.2 refers but for the application of regulation 49(1) of the Housing Benefit Regulations (notional capital);
- c. where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 40.2 refers but for the application of regulation 51(1) of the Income Support Regulations (notional capital);
- d. where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 40.2 refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations (notional capital) and
- e. where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of reduction week to which paragraph 40.2 refers but for the application of regulation 115 of the Employment and Support Allowance Regulations (notional capital).

40.4 Subject to paragraph 40.5, for the purposes of paragraph 40.1(b) the condition is that the applicant would have been entitled to council tax support in the relevant week but for paragraph 39.1, and in such a case the amount of the reduction shall be equal to the aggregate of

- a. the amount of council tax support to which the applicant would have been entitled in the relevant week but for paragraph 39.1; and for the purposes of this sub-paragraph is the amount is in respect of a part-week, that amount shall be determined by dividing the amount of council tax support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;
- b. if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the reduction week which includes the last day of the relevant week, the amount which is equal to—
  - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
  - (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled,

and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of housing benefit to which he would have been so entitled by the number equal to that number of days in the part-week and multiplying the quotient so obtained by 7;

- c. if the applicant would, but for regulation 51(1) of the Income Support Regulations, have been entitled to income support in respect of the reduction week, within the meaning of regulation 2(1) of those Regulations, which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub- paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income support to which he would have been so entitled by the number equal to the number of days in the part- week and multiplying the quotient so obtained by 7

- d. if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations, have been entitled to an income-based jobseeker's allowance in respect of the reduction week, within the meaning of this scheme, which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income-based jobseeker's allowance to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7; and
  - e. if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations, have been entitled to an income-related employment and support allowance in respect of the reduction week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount must be determined by dividing the amount of the income-related employment and support allowance to which he would have been so entitled by the number equal to the number of days in that part-week and multiplying the quotient so obtained by 7.
- 40.5 The amount determined under paragraph 40.4 shall be re-determined under that paragraph if the applicant makes a further claim for council tax support and the conditions in paragraph 40.6 are satisfied, and in such a case—
- a. sub-paragraphs (a) to (d) of paragraph 40.4 shall apply as if for the words 'relevant week' there were substituted the words 'relevant subsequent week'; and
  - b. subject to paragraph 40.7, the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.
- 40.6 The conditions are that
- a. a further claim is made 26 or more weeks after
    - (i) the date on which the applicant made a claim for council tax support in respect of which he was first treated as possessing the capital in question under paragraph 39.1;
    - (ii) in a case where there has been at least one re-determination in accordance with paragraph 40.5, the date on which he last made a claim for council tax support which resulted in the weekly amount being re-determined, or
    - (iii) the date on which he last ceased to be entitled to council tax support, whichever last occurred; and
  - b. the applicant would have been entitled to council tax support but for paragraph 39.1.
- 40.7 The amount as re-determined pursuant to paragraph 40.5 shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.
- 40.8 For the purposes of this section
- a. 'part-week'
    - (i) in paragraph 40.4(a) means a period of less than a week for which council tax support is allowed;
    - (ii) in paragraph 40.4(b) means a period of less than a week for which housing benefit is payable;
    - (iii) in paragraph 40.4 (c),(d)and(e) means—
  - aa. a period of less than a week which is the whole period for which income support , an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and
  - bb. any other period of less than a week for which it is payable;
  - b. 'relevant week' means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of section 39.1
    - (i) was first taken into account for the purpose of determining his entitlement to council tax support; or



- (ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to council tax support on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, council tax support;  
and where more than one reduction week is identified by reference to heads (i) and (ii) of this sub-paragraph the later or latest such reduction week or, as the case may be, the later or latest such part-week;
- c. 'relevant subsequent week' means the reduction week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.

#### **41.0 Capital jointly held**

41.1 Except where an applicant possesses capital which is disregarded under paragraph 39(5) (notional capital) where an applicant and one or more persons are beneficially entitled in possession to any capital asset they shall be treated as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Section shall apply for the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital which the applicant does possess

#### **42.0 Calculation of tariff income from capital**

- 42.1 Where the applicant's capital calculated in accordance with this scheme exceeds £6,000 it shall be treated as equivalent to a weekly income of £1 for each complete £250 of in excess of £6,000 but not exceeding £16,000
- 42.2 Notwithstanding paragraph 42.1 where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly tariff income of £1.
- 42.3 For the purposes of paragraph 42.1, capital includes any income treated as capital under section 36 (income treated as capital).

**Sections 43 - 56**

**Definition and the treatment of students for Council Tax Support purposes<sup>16</sup>**

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<sup>16</sup> Amounts shown in sections 43 to 56 will be updated in line with the Housing Benefit Regulations 2006 (as amended)

#### 43.0 Student related definitions

43.1 In this scheme the following definitions apply;

**'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 shall be considered to begin in the autumn rather than the summer;

**'access funds'** means;

- a. grants made under section 68 of the Further and Higher Education Act 1992 for the purpose of providing funds on a discretionary basis to be paid to students;
- b. grants made under section 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980;
- c. grants made under Article 30 of the Education and Libraries (Northern Ireland) Order 1993 or grants, loans or other payments made under Article 5 of the Further Education (Northern Ireland) Order 1997 in each case being grants, or grants, loans or other payments as the case may be, for the purpose of assisting students in financial difficulties;
- d. discretionary payments, known as "learner support funds", which are made available to students in further education by institutions out of funds provided by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding under sections 100 and 101 of the Apprenticeships, Skills, Children and Learning Act 2009; or
- e. Financial Contingency Funds made available by the Welsh Ministers;

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

**'contribution'** means;

- a. any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student's grant or student loan; or
- b. any sums, which in determining the amount of a student's allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority consider that it is reasonable for the following person to contribute towards the holder's expenses;
  - (i) the holder of the allowance or bursary;
  - (ii) the holder's parents;
  - (iii) the 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 education authority as defined in section 12 of the Education Act 1996 (interpretation), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973 an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986, any body which is a research council for the purposes of the Science and Technology Act 1965 or any analogous government department, authority, board or body of the Channel Island, Isle of Man or any other country outside Great Britain;

**'full-time course of study'** means a full time course of study which;



- a. is not funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;
- b. is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
  - (i) in the case of a course funded by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either of those persons for the delivery of that course; or
  - (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or
- c. is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—
  - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
  - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;

**'full-time student'** means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;

**'grant'** (except in the definition of 'access funds') means any kind of educational grant or award and includes any scholarship, studentship, exhibition allowance or bursary but does not include a payment from access funds or any payment to which paragraph 12 of Schedule 4 or paragraph 53 of Schedule 5 applies;

**'grant income'** means

- (a) any income by way of a grant;
- (b) any contribution whether or not it is paid;

**'higher education'** means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992; 'last day of the course' means;

- a. in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is 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, the year's start and ending with either—
  - (i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to his studying throughout the year, or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or
  - (ii) in any other case, the day before the start of the normal summer vacation appropriate to his course;
- 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;

**'modular course'** means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

**'sandwich course'** has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans), (Scotland), Regulations 2007 or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007, as the case may be;

**'standard maintenance grant'** means—

- a. except where paragraph (b) or (c) applies, in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 ('the 2003 Regulations') for such a student;
- b. except where paragraph (c) applies, in the case of a student residing at his parent's home, the amount specified in paragraph 3 thereof;
- c. in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as 'standard maintenance allowance' for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;
- d. in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof;

**'student'** means a person, other than a person in receipt of a training allowance, who is attending or undertaking—

- a. a course of study at an educational establishment; or
- b. a qualifying course;

**'student loan'** means a loan towards a student's maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998, section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 and shall include, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the Student's Allowances (Scotland) Regulations 2007

43.2 For the purposes of the definition of 'full-time student', a person shall be regarded as attending or, as the case may be, undertaking a full-time course of study or as being on a sandwich course

- a. in the case of 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.

43.3 For the purposes of sub-paragraph (a) of paragraph 43.2, the period referred to in that sub-paragraph shall include;

- a. where a person has failed examinations or has failed to successfully complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
- b. any period of vacation within the period specified in that paragraph or immediately

following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

#### **44.0 Treatment of students**

44.1 The following sections relate to students who claim Council Tax Support

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

45.1 Students (except those specified in paragraph 45.3) are not able to claim Council Tax Support under Classes D and E of the Council's reduction scheme.

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

45.3 Paragraph 45.2 shall not apply to a student

(a) who is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance;

(b) who is a lone parent;

(c) whose applicable amount would, but for this section, include the disability premium or severe disability premium;

(d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the Act;

(e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;

(f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period.

(g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;

(h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989, or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;

(i) who is;

(i) aged under 21 and whose course of study is not a course of higher education, or

(ii) a qualifying young person or child within the meaning of section 142 of the Act (child and qualifying young person);

(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) or regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;

(iii) a payment has been made under section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education



Act 1998;

(iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or

(v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986,

on account of his disability by reason of deafness.

45.3A For the purposes of paragraph 45.3(h)(i) the student must have begun, or been enrolled or accepted onto the course before attaining the age of 19

45.4 For the purposes of paragraph 45.3, once paragraph 45.3(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.

45.5 In paragraph 45.3(h) the reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.

45.6 A full-time student to whom sub-paragraph (i) of paragraph 45.3 applies, shall be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.

45.7 Paragraph 45.2 shall not apply to a full-time student for the period specified in paragraph 45.8 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 paragraph 45.8.

45.8 The period specified for the purposes of paragraph 45.7 is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before;

- (a) the day on which he resumes attending or undertaking the course; or
  - (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course,
- which shall first occur.

#### **46.0 Calculation of grant income**

46.1 The amount of a student's grant income to be taken into account shall, subject to paragraphs 46.2 and 46.3, be the whole of his grant income.

46.2 There shall be excluded from a student's grant income any payment;

- (a) intended to meet tuition fees or examination fees;
- (b) in respect of the student's disability;
- (c) intended to meet additional expenditure connected with term time residential study

- away from the student's educational establishment;
- (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
  - (e) on account of any other person but only if that person is residing outside of the United Kingdom and there is no applicable amount in respect of him;
  - (f) intended to meet the cost of books and equipment;
  - (g) intended to meet travel expenses incurred as a result of his attendance on the course;
  - (h) intended for the child care costs of a child dependant.
  - (i) of higher education bursary for care leavers made under Part III of the Children Act 1989.
- 46.3 Where a student does not have a student loan and is not treated as possessing such a loan, there shall be excluded from the student's grant income;
- (a) the sum of £303 per academic year in respect of travel costs; and
  - (b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any such costs are incurred.
- The above figures will be increased annually in line with the Housing Benefit Regulations 2006 (as amended).
- 46.4 There shall also be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.
- 46.5 Subject to paragraphs 46.6 and 46.7, a student's grant income shall be apportioned;
- (a) subject to paragraph 46.8, in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study;
  - (b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.
- 46.6 Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2004 shall be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.
- 46.7 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 paragraph 46.6 nor section 50 (other amounts to be disregarded) apply, shall be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.
- 46.8 In the case if a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student's grant income shall be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which immediately follows the last day of the period of experience and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study.

#### **47.0 Calculation of covenant income where a contribution is assessed**

47.1 Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following shall be the whole amount of the covenant income less, subject to paragraph 47.3, the amount of the contribution.

47.2 The weekly amount of the student's covenant shall be determined—

- (a) by dividing the amount of income which falls to be taken into account under paragraph 47.1 by 52 or 53, whichever is reasonable in the circumstances; and
- (b) by disregarding from the resulting amount, £5.

47.3 For the purposes of paragraph 47.1, the contribution shall be treated as increased by the amount (if any) by which the amount excluded under paragraph 46.2(g) (calculation of grant income) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

#### **48.0 Covenant income where no grant income or no contribution is assessed**

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

- (a) any sums intended for any expenditure specified in paragraph 46.2 (a) to (e) (calculation of grant income) necessary as a result of his attendance on the course shall be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, shall be apportioned equally between the weeks of the period of study;
- (c) there shall be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 46.2(f) and 46.3 (calculation of grant income) had the student been in receipt of the standard maintenance grant; and
- (d) the balance, if any, shall be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 shall be disregarded.

48.2 Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income shall be calculated in accordance with subparagraphs (a) to (d) of paragraph 48.1, except that;

- (a) the value of the standard maintenance grant shall be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 46.2 (a) to (e); and
- (b) the amount to be disregarded under paragraph 48.1(c) shall be abated by an amount equal to the amount of any sums disregarded under paragraph 46.2(f) and (g) and 46.3.

#### **49.0 Student Covenant Income and Grant income – non disregard**

49.1 No part of a student's covenant income or grant income shall be disregarded under paragraph 15 of Schedule 4 to this scheme

#### **50.0 Other amounts to be disregarded**

50.1 For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with section 51, any amounts intended for any expenditure specified in paragraph 46.2 (calculation of grant income), necessary as a result of his attendance on the course shall be disregarded but only if, and to the extent that, the



necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under paragraphs 46.2 or 46.3, 47.3, 48.1(a) or (c) or 51.5 (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

#### **51.0 Treatment of student loans**

51.1 A student loan shall be treated as income.

51.2 In calculating the weekly amount of the loan to be taken into account as income

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

and, in all cases, from the weekly amount so apportioned there shall be disregarded £10.

51.3 A student shall be treated as possessing a student loan in respect of an academic year where;

- (a) a student loan has been made to him in respect of that year; or
- (b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.

- 51.4 Where a student is treated as possessing a student loan under paragraph 51.3, the amount of the student loan to be taken into account as income shall be, subject to paragraph 51.5
- (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.

- 51.5 There shall be deducted from the amount of income taken into account under paragraph 51.4
- (a) the sum of £303 per academic year in respect of travel costs; and
  - (b) the sum of £390 per academic year towards the cost of books and equipment, whether or not any such costs are incurred.
- The above figures will be increased annually in line with the Housing Benefit Regulations 2006 (as amended).

#### **51A.0 Treatment of fee loans**

- 51A. 1A 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.

#### **52.0 Treatment of payments from access funds**

- 52.1 This paragraph applies to payments from access funds that are not payments to which paragraph 55.2 or 55.3 (income treated as capital) applies.

- 52.2 A payment from access funds, other than a payment to which paragraph 52.3 applies, shall be disregarded as income.

- 52.3 Subject to paragraph 52.4 of this section and paragraph 35 of Schedule 4,
- a) any payments from access funds which are intended and used for an item of food, ordinary clothing or footwear, household fuel, or rent of a single applicant or, as the case may be, of the applicant or any other member of his family and
  - b) any payments from access funds which are used for any council tax or water charges for which that applicant or member is liable, shall be disregarded as income to the extent of £20 per week.

- 52.4 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 shall be disregarded as income.

#### **53.0 Disregard of contribution**

- 53.1 Where the applicant or his partner is a student and for the purposes of assessing a contribution to the student's grant or student loan, the other partner's income has been taken

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

#### **54.0 Further disregard of student's income**

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

#### **55.0 Income treated as capital**

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

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

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

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

56.1 In calculating a student's income the authority shall disregard any change in the standard maintenance grant, occurring in the recognised summer vacation appropriate to the student's course, if that vacation does not form part of his period of study from the date on which the change occurred to the end of that vacation.

**Sections 57 – 63**

**The calculation and amount of Council Tax Support**

DRAFT

## 57.0 Maximum council tax support

57.1 Subject to paragraphs 57.2 to 57.4, the amount of a person's maximum council tax support in respect of a day for which he is liable to pay council tax, shall be 75 per cent, of the amount A/B where;

- (a) A is the **lower** of either;
- i. amount set by the appropriate authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; or
  - ii. the amount set by the appropriate authority as the council tax for the relevant financial year in respect of a dwelling within Band D subject to any discount which may be appropriate to the person's circumstances; and
- (b) B is the number of days in that financial year,

less any deductions in respect of non-dependants which fall to be made under section 58 (non-dependant deductions).

57.1A Where a the claimant, partner or any dependant child or young person is in receipt of any of the following;

- Severe Disability Premium; or
- War Widows Pension; or
- War Disablement Pension; or
- Armed Forces Compensation Scheme; or
- Disabled Child Premium

the amount of a person's maximum council tax support in respect of a day for which he is liable to pay council tax, shall be 100 per cent, of the amount A/B where;

- (a) A is the amount set by the appropriate authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
- (b) B is the number of days in that financial year, less any deductions in respect of non-dependants which fall to be made under section 58 (non-dependant deductions).

57.2 In calculating a person's maximum council tax support any reduction in the amount that person is liable to pay in respect of council tax, which is made in consequence of any enactment in, or made under, the 1992 Act, shall be taken into account.

57.3 Subject to paragraph 57.4, where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons but excepting any person so residing with the applicant who is a student to whom paragraph 45.2 (students who are excluded from entitlement to council tax support) applies, in determining the maximum council tax support in his case in accordance with paragraph 57.1, the amount A shall be divided by the number of persons who are jointly and severally liable for that tax.

57.4 Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, paragraph 57.3 shall not apply in his case

## 58.0 Non-dependant deductions

**For those who are not classed as State Pension Credit age as per the definition of this scheme**



- 58.1 Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in section 57 (maximum council tax support) shall be:
- (a) in respect of a non-dependant aged 18 or over in remunerative work, £10.00 x 1/7;
  - (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £5.00 x 1/7, except where it is specified that no deduction shall be made as per paragraphs 58.6, 58.7 and 58.8

**For those classed as State Pension Credit age as per the definition of this scheme**

- 58.2 Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in section 57 (maximum council tax support) shall be;

In respect of a non-dependant aged 18 or over in remunerative work, £10.95 x 1/7;

In the case of a non-dependant aged 18 or over, 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 shall be £3.65 x 1/7
- (b) not less than £186.00 but less than £322.00, the deduction to be made under this paragraph shall be £7.25 x 1/7
- (c) not less than £322.00 but less than £401.00, the deduction to be made under this paragraph shall be £9.15 x 1/7

- 58.3 Only one deduction shall be made under this section in respect of a couple or, as the case may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.

- 58.4 In applying the provisions of paragraph 58 in the case of a couple or, as the case may be a polygamous marriage, regard shall be had, for the purpose of that paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.

- 58.5 Where in respect of a day—
- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
  - (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 or 77 or 77A of the 1992 Act (liability of spouses and civil partners); and
  - (c) the person to whom sub-paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant shall be apportioned equally between those liable persons.

- 58.6 No deduction shall be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is—
- (a) blind or treated as blind by virtue of paragraph 9 of Schedule 1 (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 Act; or
      - (bb) an abatement as a result of hospitalisation; or
    - (ii) the care component of the disability living allowance, or would be receiving that component but for
      - (aa) a suspension of benefit in accordance with regulations under section



113(2) of The Act; or

(bb) an abatement as a result of hospitalisation; or

- (a) 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);
- (b) 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.

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

- (a) although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or
- (b) he is in receipt of a training allowance paid in connection with a youth training established under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) he is a full time student within the meaning of section 44.0 (Students); or
- (d) he is not residing with the applicant because he has been a patient for a period of excess of 52 weeks, and for these purposes;
  - (i) 'patient' has the meaning given within this scheme, and
  - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.
- (e) he is not residing with the claimant because he is a member of the armed forces away on operations

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

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

58.9 In the application of paragraph 58.2 there shall be disregarded from his weekly gross income—

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

**59.0 Council tax support taper (applies to persons defined within Class E)**

59.1 The prescribed daily percentage for the purpose of calculating support as a percentage of excess of income over the applicable amount which is deducted from maximum council tax support, shall be  $2 \frac{6}{7}$  per cent. Where an applicant's income exceeds their applicable amount, their council tax support shall be calculated by deducting their excess income multiplied by the taper from their maximum council tax support as defined within section 57 of this scheme

## **60.0 Extended reductions**

60.1 An applicant who is entitled to council tax support (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction where;

- (a) the applicant or the applicant's partner was entitled to a qualifying income-related benefit;
- (b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner—
  - (i) commenced employment as an employed or self-employed earner;
  - (ii) increased their earnings from such employment; or
  - (iii) increased the number of hours worked in such employment, and that employment is or, as the case may be, 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.

60.2 For the purpose of paragraph 60.1(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.

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

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

- (a) the applicant ceased to be entitled to council tax support because the applicant vacated the dwelling in which the applicant was resident;
- (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in paragraph 60.1(b).

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

## **60A.0 Duration of extended reduction period**

60A.1 Where an applicant is entitled to an extended reduction, the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying income-related benefit.

60A.2 For the purpose of paragraph (60A.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.

60A.3 The extended reduction period ends;

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

#### **60B.0 Amount of extended reduction**

60B.1 For any week during the extended reduction period the amount of the extended reduction payable to an applicant shall be the higher of–

- (a) the amount of council tax support to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying income- related benefit;
- (b) the amount of council tax support to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended reduction period, if section 60 (extended reductions) did not apply to the applicant; or
- (c) the amount of council tax support to which the applicant's partner would be entitled under the general conditions of entitlement, if section 60 did not apply to the applicant.

60B.2 Paragraph 60B1 does not apply in the case of a mover.

60B.3 Where an applicant is in receipt of an extended reduction under this section and the applicant's partner makes a claim for council tax support, no amount of council tax support shall be payable by the appropriate authority during the extended reduction period.

#### **60C Extended reductions – movers**

60C.1 This section applies;

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

60C.2 The amount of the extended reduction payable from the Monday from which this section applies until the end of the extended reduction period shall be the amount of council tax support which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit.

60C.3 Where a mover's liability to pay council tax in respect of the new dwelling is to the second authority, the extended reduction may take the form of a payment from the appropriate authority to;

- (a) the second authority; or
- (b) the mover directly.

60C.4 Where–

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

#### **60D.0 Relationship between extended reduction and entitlement to council tax support under the general conditions of entitlement**

60D.1 Where an applicant's council tax support award would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in paragraph 60.1(b), that award will not cease until the end of the extended reduction period.



60D.2 Changes of circumstances and increases for exceptional circumstances shall not apply to any extended reduction payable in accordance with paragraph 60B.1(a) or 60C.2 (amount of extended reduction – movers).

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

61.1 An applicant who is entitled to council tax support (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction (qualifying contributory benefits) where;

- (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner;
  - (i) commenced employment as an employed or self-employed earner;
  - (ii) increased their earnings from such employment; or
  - (iii) increased the number of hours worked in such employment, and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last five weeks or more;
- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.

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

- (a) the applicant ceased to be entitled to council tax support because the applicant vacated the dwelling in which the applicant was resident;
- (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in paragraph 61.1(b).

**61A.0 Duration of extended reduction period (qualifying contributory benefits)**

61A.1 Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.

61A.2 For the purpose of paragraph 61A.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.

61A.3 The extended reduction period ends;

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

**61B.0 Amount of extended reduction (qualifying contributory benefits)**

61B.1 For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) payable to an applicant shall be the higher of;

- (a) the amount of council tax support to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the

- (b) applicant's partner ceased to be entitled to a qualifying contributory benefit; the amount of council tax support to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended reduction period, if section 61 (extended reductions (qualifying contributory benefits)) did not apply to the applicant; or
- (c) the amount of council tax support to which the applicant's partner would be entitled under the general conditions of entitlement, if section 61 did not apply to the applicant.

61B .2 Paragraph 61B.1 does not apply in the case of a mover.

61B.3 Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this section and the applicant's partner makes a claim for council tax support, no amount of council tax support shall be payable by the appropriate authority during the extended reduction period.

**61C.0 Extended reductions (qualifying contributory benefits) – movers**

61C.1 This section applies;

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

61C.2 The amount of the extended reduction (qualifying contributory benefit) payable from the Monday from which this section applies until the end of the extended reduction period shall be the amount of council tax support which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

61C.3 Where a mover's liability to pay council tax in respect of the new dwelling is to the second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from the appropriate authority to–

- (a) the second authority; or
- (b) the mover directly.

61C.4 Where

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

**61D.0 Relationship between extended reduction (qualifying contributory benefits) and entitlement to council tax support under the general conditions of entitlement**

61D.1 Where an applicant's council tax support award would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 61.1 (b), that award will not cease until the end of the extended reduction period.

61D.2 Changes of circumstances and increases for exceptional circumstances shall not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 61B.1(a) or 61C.2 (amount of extended reduction– movers).

**61E.0 Extended reductions: movers into the authority's area<sup>17</sup>**

**61E.1** Where;

- (a) an application is made to the authority for a reduction under its scheme, and
  - (b) the applicant or the partner of the applicant, is in receipt of an extended reduction from;
    - (i) another billing authority in England; or
    - (ii) a billing authority in Wales,
- the current authority must reduce any reduction to which the applicant is entitled under its scheme by the amount of that extended reduction.

**62.0 – 63.0 Not Used**

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<sup>17</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012



**Sections 64 – 67**

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

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

64.1 Subject to paragraph 64.2, any person to whom or in respect of whom a claim for council tax support is made and who is otherwise entitled to that support shall be so entitled from the reduction week following the date on which that claim is made or is treated as made.

64.2 Where a person is otherwise entitled to council tax support and becomes liable for the first time for the authority's council tax in respect of a dwelling of which he is a resident in the reduction week in which his claim is made or is treated as made, he shall be so entitled from that reduction week.

**65.0 - 66.0 Not Used**

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

67.1 Except in cases where section 24 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph, a change of circumstances which affects entitlement to, or the amount of, a reduction under the authority's scheme ("change of circumstances"), takes effect from the first day of the reduction week following the date on which the change actually occurs, and where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs shall be the day immediately following the last day of entitlement to that benefit.

67.2 Subject to paragraph (3), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.

67.3 Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under sections 11 or 12 of that Act, it shall take effect from the day on which the change in amount has effect.

67.4 Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.

67.5 Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.

67.6 If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with paragraphs (1) to (5) they take effect from the day to which the appropriate paragraph from (2) to (5) above refers, or, where more than one day is concerned, from the earlier day.

67.7 Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the Act, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances shall take effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

67.8 Without prejudice to paragraph (7), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

**Sections 68– 74A**

**Claiming and the treatment of claims for Council Tax Support purposes**

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- 68.0 **Making an application**<sup>18</sup>
- 68.1 In the case of a couple or members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines.
- 68.2 Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act, and;
- (a) a deputy has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
  - (b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on his behalf; or
  - (c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,
- that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.
- 68.3 Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to him, the authority may, upon written application made to them by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under the authority's scheme and to receive and deal on his behalf with any sums payable to him.
- 68.4 Where a person who is liable to pay council tax in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on his behalf under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act), the authority may if that person agrees, treat him as if he had been appointed by them under sub-paragraph (3).
- 68.5 Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4);
- (a) it may at any time revoke the appointment;
  - (b) the person appointed may resign his office after having given 4 weeks notice in writing to the authority of his intention to do so;
  - (c) any such appointment terminates when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).
- 68.6 Anything required by the authority's scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.
- 68.7 The authority must;
- (a) inform any person making an application of the duty imposed by paragraph 9(1)(a);
  - (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
  - (c) set out the circumstances a change in which might affect entitlement to the

<sup>18</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

reduction or its amount.

**69.0 Procedure by which a person may apply for a reduction under the authority's scheme<sup>19</sup>**

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

69.2. An application may be made;

- (a) in writing,
- (b) by means of an electronic communication in accordance with Part 4 of this Schedule, or
- (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.

69.3 (1) An application which is made in writing must be made to the designated office on a properly completed form.

(2) The form must be provided free of charge by the authority for the purpose.

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

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

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

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

69.5. (1) If an application made by electronic communication is defective the authority must provide the person making the application with an opportunity to correct the defect.

(2) An application made by electronic communication is defective if the applicant does not provide all the information the authority requires within the prescribed period

69.6. In a particular case the authority may determine that an application made by telephone is only valid if the person making the application approves a written statement of his circumstances provided by the authority.

69.7 (1) If an application made by telephone is defective the authority must provide the person making the application with an opportunity to correct the defect.

(2) An application made by telephone is defective if the applicant does not provide all the information the authority requests during the telephone call.

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

69.9 Where an applicant ('C')—

- (a) makes a claim which includes (or which C subsequently requests should include) a

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<sup>19</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012



- period before the claim is made; and
- (b) from a day, in that period, up to the date when C made the claim (or subsequently requested that the claim should include a past period), C had continuous good cause for failing to make a claim (or request that the claim should include that period), the claim is to be treated as made on the date determined in accordance with paragraph 69.10

69.10 The date is the latest of–

- (a) the first day from which C had continuous good cause;
- (b) the day 6 months before the date the claim was made;
- (c) the day 6 months before the date when C requested that the claim should include a past period.

**69A.0 Date on which an application is made**

69A.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 for a reduction 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 he occupies as his home, and
- (iii) the application is received at the designated office within one month of the date of the change,

the date on which the change takes place;

(c) in a case where;

- (i) an 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 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) an applicant is the former partner of a person who was, at the date of his death or their separation, entitled to a reduction under the authority's scheme, and
- (ii) the applicant makes an application for a reduction under that scheme within one month of the date of the death or the separation,
- the date of the death or 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 an 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 an application is received at the designated office.

- 69A.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.
- 69A.3 Where there is a defect in an applications by telephone;
- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance;
  - (b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide the application.
- 69A.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.
- 69A.5 The conditions are that –
- (a) where the authority receives the properly completed application or the information requested to complete it or the evidence within one month of the request, or such longer period as the authority may consider reasonable; or
  - (b) where an application is not on approved form or further information requested by authority applies;
    - (i) the approved form sent to the applicant is received at the offices of the authority properly completed within one month of it having been sent to him; or, as the case may be;
    - (ii) the applicant supplies whatever information or evidence was requested within one month of the request; or,
  - in either case, within such longer period as the authority may consider reasonable; or
  - (c) where the authority has requested further information, the authority receives at its offices the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.
- 69A.6 Except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for council tax to the authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under that authority's scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority must treat the application as having been made on the day on which the liability for the tax arises.
- 69A.7 Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under the authority's scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under its scheme for a period beginning not later than;
- (a) in the case of an application made by;

- (i) a pensioner, or
- (ii) a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit, the seventeenth reduction week following the date on which the application is made, or

(b) in the case of an application made by a person who is not a pensioner, the thirteenth reduction week following the date on which the application is made, the authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.

69A.8 In this paragraph “appropriate DWP office” means an office of the Department for Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of claims of income support, a job seekers allowance or an employment and support allowance.

#### **70.0 Submission of evidence electronically**

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

#### **71.0 Use of telephone provided evidence**

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

#### **72.0 Information and evidence<sup>20</sup>**

72.1 Subject to sub-paragraph (3), a person who makes an application for a reduction under an authority’s scheme must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.

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

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

72.3 Sub-paragraph (2) does not apply;

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

72.4 Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under the authority’s scheme has been awarded, must furnish such certificates,

<sup>20</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012



- documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by that authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under its scheme and must do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.
- 72.5 Nothing in this paragraph requires a person who is a pensioner to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.
- 72.6 Where the authority makes a request under sub-paragraph (4), it must;
- (a) inform the applicant or the person to whom a reduction under its scheme has been awarded of his duty under paragraph 9 (duty to notify change of circumstances) to notify the authority of any change of circumstances; and
  - (b) without prejudice to the extent of the duty owed under paragraph 9, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which must be notified.
- 72.7 This sub-paragraph applies to any of the following payments;
- (a) a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
  - (b) a payment which is disregarded under paragraph 24 of Schedule 5, other than a payment under the Independent Living Fund (2006);
  - (c) a payment which is disregarded under paragraph 58.9.
- 72.8 Where an applicant or a person to whom a reduction under the authority's scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, he must where the authority so requires furnish the following information;
- (a) the name and address of the pension fund holder;
  - (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.
- 73.0 Amendment and withdrawal of application<sup>21</sup>**
- 73.1 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.
- 73.2 Where the application was made by telephone the amendment may also be made by telephone.
- 73.3 Any application amended is to be treated as if it had been amended in the first instance.
- 73.4 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.
- 73.5 Where the application was made by telephone, the withdrawal may also be made by telephone.
- 73.6 Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.
- 73.7 Where a person, by telephone, amends or withdraws an application the person must (if

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<sup>21</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

**74.0 Duty to notify changes of circumstances<sup>22</sup>**

- 74.1 Subject to sub-paragraphs (3), (6) and (7), an applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time;
- (a) between the making of an application and a decision being made on it, or
  - (b) after the decision is made (where the decision is that the applicant is entitled to a reduction under the authority's scheme) including at any time while the applicant is in receipt of such a reduction.
- 74.2 The applicant (or any person acting on his behalf) must notify any change of circumstances which the applicant (or that person) might reasonably be expected to know might affect his entitlement to, or the amount of, a reduction under the authority's scheme (a "relevant change of circumstances") by giving notice to the authority;
- (a) in writing; or
  - (b) by telephone—
    - (i) where the authority has published a telephone number for that purpose unless the authority determines that in any particular case or class of case notification may not be given by telephone; or
    - (ii) in any case or class of case where the authority determines that notice may be given by telephone; or
  - (c) by any other means which the authority agrees to accept in any particular case, within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.
- 74.3 The duty imposed on a person by sub-paragraph (1) does not extend to notifying
- (a) changes in the amount of council tax payable to the authority;
  - (b) changes in the age of the applicant or that of any member of his family;
  - (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under the authority's scheme to which he is entitled, other than the cessation of that entitlement to the benefit.
- 74.4 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.
- 74.5 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.
- 74.6 A person who has been awarded a reduction under the authority's 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.
- 74.7 In addition to the changes required to be reported under sub-paragraph (7), a person whose state pension credit comprises only a savings credit must also report—
- (a) changes affecting a child living with him which may result in a change in the amount of

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<sup>22</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012



reduction under the authority's 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; or

(ii) a person to whom their partner is treated as member of the household, and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.

74.8 A person who is entitled to a reduction under the authority's scheme and on state pension credit need only report to the authority the changes specified in sub-paragraphs (7) and (8).

74.9 All changes in circumstances should be notified to the authority in writing (or by whatever format agreed by the authority) within one calendar month of the change occurring. This timescale may be extended at the discretion of the authority. Where such a change is not received within that timescale and where the change would increase the level of reduction payable, the authority may use a date later than the actual change of circumstances

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**Sections 75- 90**

**Decisions, decision notices and awards of Council Tax Support**

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**75.0 Decisions by the authority<sup>23</sup>**

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

**76.0 Notification of decision<sup>24</sup>**

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

(a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;

(b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.

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

(a) informing the person affected of the duty imposed by paragraph 9(1);

(b) explaining the possible consequences (including prosecution) of failing to comply with that duty; and

(c) setting out the circumstances a change in which might affect entitlement to the reduction or its amount.

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

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

76.5 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.

76.6 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.

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

76.8 This sub-paragraph applies to—

(a) the applicant;

(b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act;

(i) a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or

(ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000(3) who has power to apply or, as the case may be, receive benefit on the person's behalf; or

<sup>23</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>24</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

(iii) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,

(c) a person appointed by the authority to act for a person unable to act.

#### **77.0 Time and manner of granting council tax support<sup>25</sup>**

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

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

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

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

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

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

#### **78.0 Persons to whom support is to be paid<sup>26</sup>**

<sup>25</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>26</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

78.1 Subject to section 80 (payment on death) and paragraph (2), any payment of the amount of a reduction must be made to that person.

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

**79.0 Shortfall in support / reduction<sup>27</sup>**

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

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

**80.0 Payment on the death of the person entitled<sup>28</sup>**

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

**81.0 Offsetting**

81.1 Where a person has been allowed or paid a sum of council tax support under a decision which is subsequently revised or further revised, any sum allowed or paid in respect of a period covered by the subsequent decision shall be offset against arrears of entitlement under the subsequent decision except to the extent that the sum exceeds the arrears and shall be treated as properly awarded or paid on account of them.

**82.0 Payment where there is joint and several liability<sup>29</sup>**

82.1 Where;

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

<sup>27</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>28</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>29</sup> Inserted by Schedule 8 of the Council Tax Reductions Scheme (Prescribed Requirements) (England) Regulations 2012



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

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

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

**83.0 – 90.0 Not Used**

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**Sections 91 – 94**

**Collection, holding and forwarding of information for Council Tax Support purposes**

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

91.1 The authority will use information provided by the DWP and HMRC for the purposes of Council Tax Reduction, council tax liability, billing, administration and enforcement as outlined within Schedule 2 of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012 and the Social Security (Information-sharing in relation to Welfare Services etc.) (Amendment) Regulations 2013

91.2 Where required by the relevant department and where required by law, the authority will share information obtained for Council Tax Support with the DWP or HMRC as appropriate.

**92.0 Collection of information**

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

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

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

**93.0 Recording and holding information**

93.1 The authority may

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

**94.0 Forwarding of information**

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

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

**Sections 95 – 98**

**Revisions, Written Statements, Termination of Council Tax Support**

DRAFT

#### **95.0 Persons affected by Decisions**

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

- a. an applicant;
- b. in the case of a person who is liable to make payments in respect of a dwelling and is unable for the time being to act
  - (i) a Deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit or support on his behalf,
  - (ii) in Scotland, a tutor, curator, judicial factor or other guardian acting or appointed in terms of law administering that person's estate, or
  - (iii) an attorney with a general power or a power to receive benefit or support appointed by the person liable to make those payments under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise;
- c. a person appointed by the authority under this scheme;

#### **96.0 Revisions of Decisions**

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

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

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

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

#### **97.0 Written Statements**

97.1 Subject to the provisions in the scheme, the authority may upon a written request issue a written statement to a person affected to further explain the decision of the authority in relation to Council Tax Support. The request must be received within one month of the date of the notification being issued by the authority.

#### **98.0 Terminations**

98.1 The authority may terminate support in whole or in part the Council Tax Support where it appears to the authority that an issue arises whether;

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

98.2 The authority may terminate, in whole or in part the Council Tax Support where it appears to the authority that an issue arises whether;

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

Where the person fails to provide information to the authority as requested in relation to any matter relating to their liability for Council Tax



**Section 99**

**Appeals against the authority's decisions**

DRAFT

**99.0 Procedure by which a person may make an appeal against certain decisions of the authority<sup>30</sup>**

- 99.1 A person who is aggrieved by a decision of the authority, which affects;
- (a) the person's entitlement to a reduction under its scheme, or
  - (b) the amount of any reduction to which that person is entitled,
- may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.
- 99.2 The authority must
- (a) consider the matter to which the notice relates;
  - (b) notify the aggrieved person in writing;
    - (i) that the ground is not well founded, giving reasons for that belief; or
    - (ii) that steps have been taken to deal with the grievance, stating the steps taken.
- 99.3 Where, following notification under sub-paragraph (2)(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with sub-paragraph (2)(b) within two months of the service of his notice, he may appeal to the valuation tribunal under section 16 of the 1992 Act.

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<sup>30</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

**Section 100**

**Procedure for applying for a discretionary reduction**

DRAFT

**100.0 Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act<sup>31</sup>**

- 100.1 An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act may be made;
- (a) in writing,
  - (b) by means of an electronic communication in accordance with Part 4 of this Schedule, or
  - (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.
- 100.2 Where;
- (a) the authority has made a determination under section 13A(1)(c) in relation to a class of case in which liability is to be reduced; and
  - (b) a person in that class would otherwise be entitled to a reduction under its scheme, that person's application for a reduction under the authority's scheme may also be treated as an application for a reduction under section 13A(1)(c).

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<sup>31</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

**Section 100A**

**Procedure for applying for a Discretionary Award**

DRAFT



#### **100A.0 Discretionary Award**

- 100A.1 The authority will consider applications for Discretionary Awards from applicants who demonstrate exceptional circumstances. Officers will consider all applications on their individual merit and in line with the authority's procedure under S13A 1 a of the Local Government Finance Act 1992.

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**Section 101 – 106A<sup>32</sup>**

**Electronic Communication**

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<sup>32</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) (England) Regulations 2012

### **101.0 Interpretation**

- 101.1 In this Part;  
“**information**” includes an application, a certificate, notice or other evidence; and  
“**official computer system**” means a computer system maintained by or on behalf of an authority for sending, receiving, processing or storing of any information.

### **102.0 Conditions for the use of electronic communication**

- 102.1 The authority may use an electronic communication in connection with applications for, and awards of, reductions under its scheme.
- 102.2 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.
- 102.3 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.
- 102.4 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.
- 102.5 The third condition is that any information sent by means of an electronic communication is in a form approved for the purposes.
- 102.6 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.
- 102.7 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.
- 102.8 In this paragraph “approved” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this section.

### **103.0 Use of intermediaries**

- 103.1 The authority may use intermediaries in connection with;
- (a) the delivery of any information by means of an electronic communication; and
  - (b) the authentication or security of anything transmitted by such means,
- and may require other persons to use intermediaries in connection with those matters.

### **104.0 Effect of delivering information by means of electronic communication**

- 104.1 Any information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of an authority’s scheme on the day the conditions imposed;
- (a) by this section; and

(b) by or under an enactment,  
are satisfied.

104.2 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).

104.3 Information may not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

**105.0 Proof of identity of sender or recipient of information**

105.1 If it is necessary to prove, for the purpose of any legal proceedings, the identity of—  
(a) the sender of any information delivered by means of an electronic communication to an official computer system; or  
(b) the recipient of any such information delivered by means of an electronic communication from an official computer system,  
the sender or recipient, as the case may be, is to be presumed to be the person whose name is recorded as such on that official computer system.

**106.0 Proof of delivery of information**

106.1 If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this is presumed to have been the case where;  
(a) any such information has been delivered to the relevant authority, if the delivery of that information has been recorded on an official computer system; or  
(b) any such information has been delivered by the relevant authority, if the delivery of that information has been recorded on an official computer system.

106.2 If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such information, this is presumed not to be the case, if that information delivered to the relevant authority has not been recorded on an official computer system.

106.3 If it is necessary to prove, for the purpose of any legal proceedings, when any such information sent by means of an electronic communication has been received, the time and date of receipt is presumed to be that recorded on an official computer system.

**106A.0 Proof of content of information**

106A.1 If it is necessary to prove, for the purpose of any legal proceedings, the content of any information sent by means of an electronic communication, the content is presumed to be that recorded on an official computer system.

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**Section 107**  
**Counter Fraud and Compliance**

### 107.0 Counter Fraud and compliance

107.1 In order to protect the finances of the authority and also in the interests of all Council Taxpayers, the authority will undertake such actions as allowed by law to;

- a. Prevent and detect fraudulent claims and actions in respect of Council Tax Support;
- b. Carry out investigations fairly, professionally and in accordance with the law; and
- c. Ensure that sanctions are applied in appropriate cases

107.2 The authority believes that it is important to minimise the opportunity for fraud and;

- a. will implement rigorous procedures for the verification of claims for Council Tax support;
- b. will employ sufficient Officers to fulfil the authority's commitment to combat fraud;
- c. will actively tackle fraud where it occurs in accordance with this scheme;
- d. will co-operate with the Department for Work and Pensions (DWP), Her Majesty's Revenues and Customs and take part in joint working including prosecutions; and
- e. will in all cases seek to recover all outstanding Council Tax.

107.3 The authority shall put into place such administrative policies, procedures and processes as are necessary to ensure that the actions outlined within paragraph 107.1 and 107.2 can be carried out successfully



**Schedule 1**  
**Applicable Amounts<sup>33</sup>**

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<sup>33</sup> <sup>33</sup> The amounts shown within this schedule shall be uprated in line with the Housing Benefit Regulations 2006 as amended

### Personal Allowance

- 1 The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes the main scheme;

Column 1 Person or Couple	Column 2
1. A Single applicant who; a) is entitled to main phase employment and support allowance	£xx.xx
b) is aged not less than 25	
c) is aged not less than 18 but less than 25	£xx.xx
2. Lone Parent	£xx.xx
3. Couple; a) Where the applicant is entitled to the main phase of employment and support allowance	£xx.xx
b) Where one member is aged not less than 18	£xx.xx
c) Polygamous Addition	£xx.xx

For the purposes of paragraph 1 an applicant is entitled to main phase employment and support allowance if;

- a. Paragraph 17 or 18 is satisfied in relation to the applicant; or
- b. The applicant is entitled to a converted employment and support allowance

- 2 (1) The amount 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 the main scheme

Column 1 Child or Young Person	Column 2
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;	£xx.xx
(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.	£xx.xx

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

### Family Premiums

3. (1) The amount for the purposes of this scheme in respect of a family of which at least one member is a child or young person shall be
- a. where the applicant is a lone parent to whom sub-paragraph (3) of Schedule 3 of the Housing Benefit Regulations 2006 applies, £xx.xx;
  - b. in any other case, £xx.xx;

#### **Premiums**

4. Except as provided in paragraph 5, the premiums specified in this Schedule shall, for the purposes of this scheme, be applicable to an applicant who satisfies the condition specified in paragraphs 4 to 16 in respect of that premium.
5. Subject to paragraph 6, where an applicant satisfies the conditions in respect of more than one premium in this Schedule, only one premium shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.
6. (1) The following premiums, namely—
  - a. severe disability premium to which paragraph 10 applies;
  - b. an enhanced disability premium to which paragraph 11 applies;
  - c. a disabled child premium to which paragraph 12 applies; and a
  - d. carer premium to which paragraph 13 applies,may be applicable in addition to any other premium which may apply under this Schedule
7. (1) Subject to sub-paragraph (2), for the purposes of this Schedule, once a premium is applicable to an applicant under this Part, a person shall be treated as being in receipt of any benefit for
  - a. in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the 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 1973 Act or by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under or 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, a person shall 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 Act or the daily living component of the personal independence payment under the Welfare Reform Act 2012 or an AFIP.

#### **Disability Premium**

8. The condition (s) to be met is contained in Schedule 3 (12) Housing Benefit Regulations 2006

#### **Additional Condition for the Disability Premiums**

9. The condition (s) to be met is contained in Schedule 3 (13) Housing Benefit Regulations 2006

#### **Severe Disability Premiums**

10. The condition (s) to be met is contained in Schedule 3 (14) Housing Benefit Regulations 2006

#### **Enhanced Disability Premium**

11. The condition (s) to be met is contained in Schedule 3 (15) Housing Benefit Regulations 2006

#### **Disabled Child Premium**

12. The condition (s) to be met is contained in Schedule 3 (16) Housing Benefit Regulations 2006

#### **Carer Premium**

13. The condition (s) to be met is contained in Schedule 3 (17) Housing Benefit Regulations 2006

#### **Persons in receipt of concessionary payments**

14. For the purpose of determining whether a premium is applicable to a person under

paragraphs 8 to 13, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.

**Persons in receipt of benefit for another**

15. For the purposes of this Schedule, a person shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.

**Amounts of Premium**

16. For the purposes of this Schedule, the following amounts shall apply;

Premium	Amount
<b>Disability Premium</b>	£xx.xx
a. where the applicant satisfies the condition in paragraph 12(a) of Schedule 3 Housing Benefit Regulations 2006	
b. where the applicant satisfies the condition in paragraph 12(b) of Schedule 3 Housing Benefit Regulations 2006	£xx.xx
<b>Severe Disability Premium</b>	£xx.xx
a. where the applicant satisfies the condition in paragraph 14(2)(a) of Schedule 3 Housing Benefit Regulations 2006	
b. where the applicant satisfies the condition in paragraph 14(2)(b) of Schedule 3 Housing Benefit Regulations 2006	£xx.xx
i. in a case where there is someone in receipt of carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 14(5);	
ii. in a case where there is no one in receipt of such an allowance	£xx.xx
<b>Disabled Child Premium</b>	£xx.xx in respect of each child or young person in respect of whom the condition specified in paragraph 16 of Part 3 of Schedule 3 Housing Benefit Regulations 2006
<b>Carer Premium</b>	£xx.xx in respect of each person who satisfies the condition specified in paragraph 17 of Part 3 of Schedule 3 Housing Benefit Regulations 2006
<b>Enhanced Disability Premium</b>	(a) £xx.xx in respect of each child or young person in respect of whom the conditions specified in paragraph 15 of Part 3 of Schedule 3 Housing Benefit Regulations 2006 are satisfied; (b) £1£xx.xx 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

	<p>in paragraph 15 are satisfied; (c) £xx.xx where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 15 of Part 3 of Schedule 3 Housing Benefit Regulations 2006 are satisfied in respect of a member of that couple or polygamous marriage.</p>
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**The components**

- 17. The condition (s) to be met is contained in Schedule 3 (21 -24) Housing Benefit Regulations 2006 as amended by the Social Security (Miscellaneous Amendments) Regulations 2013
- 18. The amount of the work-related activity component is £xx.xx. The amount of the support component is £xx.xx.

**Transitional Addition**

- 19. The applicant is entitled to the transitional addition calculated in accordance with paragraph 30 of Schedule 3 of the Housing Benefit Regulations 2006 where the applicant or the applicant's partner meets the conditions contained within paragraphs 27 – 29 of Schedule 3 of the Housing Benefit Regulations 2006

**Amount of transitional addition**

- 20. The amount of any transitional addition is calculated in accordance with paragraphs 30 and 31 of Schedule 3 of the Housing Benefit Regulations 2006

Schedule 2

Not Used

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**Schedule 3**

**Sums to be disregarded in the calculation of earnings<sup>34</sup>**

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<sup>34</sup> All amounts within this schedule will be amended in line with the Housing Benefit Regulations 2006 (as amended)

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 council tax support 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 25.1(e), 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 25.1(g) or (h), 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 council tax support—
    - (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 1(b)(i) or (ii) (bb) or paragraph 25.1(i), or (j).
2. In the case of an applicant who, before first day of entitlement to council tax support;
  - (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 25.1(i), (i) or (j).
- 2A. 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 27.3 and paragraph 27.4 (earnings of self-employed earners) apply.

3. (1) In a case to which this paragraph applies and paragraph 4 does not apply, £20; but notwithstanding section 15 (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 shall 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.
- (3) This paragraph applies where
  - (a) he is a member of a couple and his applicable amount includes an amount by way of the disability premium; and
  - (b) he or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.
- (4)–(5) Not used
4. In a case where the applicant is a lone parent, £25.
5. (1) In a case to which neither paragraph 3 nor paragraph 4 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, £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 this scheme 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 shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £20 of the aggregated amount.
6. 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 8(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 5 exceed £20;
  - (b) other than one specified in paragraph 8(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.
7. In a case where paragraphs 3, 5, 6 and 8 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 section 15 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it shall 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.
8. (1) In a case where paragraphs 3, 4, 5 and 6 do not apply to the applicant, £20 of earnings derived from one or more employments as–
  - (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(a)) 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 section 15 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it shall 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.

9. Where the applicant is engaged in one or more employments specified in paragraph 8(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 8 exceed £20.

10. In a case to which none of the paragraphs 3 to 9 applies, £5.

10A. (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 12 does not apply,

the amount specified in sub-paragraph (7) ('the specified amount').

(2) Where this paragraph applies, paragraphs 3 to 10 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 4, then paragraph 4 applies instead of this paragraph.

(3) Notwithstanding section 15 (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 shall 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 shall 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; 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).
11. Any amount or the balance of any amount which would fall to be disregarded under paragraph 19 or 20 of Schedule 4 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.
12. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, his earnings.
13. 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.
14. 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.
15. Any earnings of a child or young person.
16. (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 3 to 10A of this Schedule shall 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 Regulations 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; 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, the work-related activity component or the support component ;  
(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 sub-head (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 Regulations (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 3 to 10A of this Schedule;
- (b) the amount of child care charges calculated as deductible under paragraph 17(1)(c); and
- (c) £17.10
- (4) The provisions of section 6 shall 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 paragraph (1) of that section were a reference to 30 hours.
17. In this Schedule 'part-time employment' means employment in which the person is engaged on average for less than 16 hours a week.

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**Schedule 4**

**Sums to be disregarded in the calculation of income other than earnings<sup>35</sup>**

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<sup>35</sup> Any amounts shown in this schedule will be uprated in line with the Housing Benefit Regulations 2006 as amended

1. Any amount paid by way of tax on income, which is to be taken into account under section 30 (calculation of income other than earnings).
- A2. Any payment made to the claim and in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.
- A3. 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 or Back to Work Scheme, but only for 52 weeks beginning with the date of receipt of the payment.
2. Any payment in respect of any expenses incurred or to be incurred by an applicant who is—
  - (a) engaged by a charitable or voluntary organisation, or
  - (b) volunteer,if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under section 32.0 (notional income).
- 2A. Any payment in respect of expenses arising out of the applicant's participation in a service user group.
3. 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.
4. 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.
5. 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.
6. 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.
7. Any disability living allowance or personal independence payment or AFIP
8. Any concessionary payment made to compensate for the non-payment of;
  - (a) any payment specified in paragraph 7 or 10;
  - (b) income support;
  - (c) an income-based jobseeker's allowance.
  - (d) an income-related employment and support allowance.
9. 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.
10. Any attendance allowance.
11. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.

- 12.** (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 National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
    - (ii) regulations made under section 181 of that Act; or
    - (iii) 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).
- 13.** 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.
- 14** (1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment;
- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit, severe disablement allowance or an employment and support allowance;
  - (b) of an allowance referred to in section 2(3) of the 1973 Act 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.
- 15** (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 sub-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 sub-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) shall 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.
16. 100% of any of the following, namely
- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 9 or 10);
  - (b) a war widow's pension or war widower's pension;
  - (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
  - (d) a guaranteed income payment;
  - (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
  - (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
  - (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
  - (h) any Armed Forces Compensation payments.
17. Subject to paragraph 35, £15 of any;
- (a) widowed mother's allowance paid pursuant to section 37 of the Act;
  - (b) widowed parent's allowance paid pursuant to section 39A of the Act.
18. (1) Any income derived from capital to which the applicant is or is treated under section 41 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or 25 to 28 of Schedule 5.
- (2) Income derived from capital disregarded under paragraphs 2, 4 or 25 to 28 of Schedule 5 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) shall apply 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'.
19. 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, sections 1 or 2 of the Education Act 1962 or section 22 of the Teaching and Higher Education Act 1998(c), 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.

20. (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 under section 2 of the Education Act 1962 (discretionary awards) or 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 19, 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 shall 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.
21. Any payment made to the applicant by a child or young person or a non- dependant.
22. Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 21 or 23 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.
23. (1) 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 £20.00, 100 per cent. of such payments;
  - (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50 per cent. of the excess over £20.00.
- (2) In this paragraph, '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.
24. (1) Any income in kind, except where regulation 30(11)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act 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.

25. 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.
26. (1) Any payment made to the applicant in respect of a person who is a member of his family—
- (a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978(b) (schemes for payments of allowances to adopters); or in accordance with an Adoption Allowance Scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (Adoption Allowances Schemes)
  - (b) not used
  - (ba) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);
  - (c) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);
  - (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989(c) (special guardianship support services);
- (2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
27. 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).
28. Any payment made to the applicant or his partner for a person ('the person concerned'), who is not normally a member of the applicant's household but is temporarily in his care, by—
- (a) a health authority;
  - (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
  - (c) a voluntary organisation;
  - (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
  - (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
  - (f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006
29. 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).

- 29A.** (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989(e) or section 29 of the Children (Scotland) Act 1995(local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ('A') which A passes on to the applicant.
- (2) Sub-paragraph (1) applies only where A;
- (a) was formerly in the applicant's care, and
  - (b) is aged 18 or over, and
  - (c) continues to live with the applicant.
- 30.** (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments;
- (a) on a loan which is secured on the dwelling which the applicant occupies as his home; or
  - (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.
- (2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—
- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (b); and
  - (b) meet any amount due by way of premiums on—
    - (i) that policy; or
    - (ii) in a case to which sub-paragraph(1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).
- 31.** Any payment of income which, by virtue of section 36 (income treated as capital) is to be treated as capital.
- 32.** Any social fund payment made pursuant to Part 8 of the Act (the Social Fund) or any local welfare provision as defined by the Social Security (Miscellaneous Amendments) Regulations 2013
- 33.** Any payment under Part 10 of the Act (Christmas bonus for pensioners).
- 34.** 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.
- 35.** 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 15.2 (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph 47.2(b) and paragraph 48.1(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 51(2) (treatment of student loans), paragraph 52(3) (treatment of payments from access funds) and paragraphs 16 and 17 shall in no case exceed £20 per week.
- 36.** (1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the

benefit of–

- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of;

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where;

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either;
  - (i) to that person's parent or step-parent, or
  - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where;

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either
  - (i) to that person's parent or step-parent, or
  - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose support payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.

37. Any housing benefit.
38. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
39. - 40. not used
41. 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.
42. Not used
43. Any payment in consequence of a reduction of council tax under section 13 or section 80 of the 1992 Act (reduction of liability for council tax).
44. Not used
45. (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).
46. 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).
47. 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.
48. 49. Not used
50. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.
51. Any guardian's allowance.
52. (1) If the applicant is in receipt of any benefit under Parts 2, 3 or 5 of the Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of the 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.



53. 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.
54. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983(a) (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
- 55 (1) Any payment which is  
(a) made under any of the Dispensing Instruments to a widow, widower or  
(b) 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 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).
- 55A. Any council tax support or council tax benefit to which the applicant is entitled.
56. Except in a case which falls under sub-paragraph (1) of paragraph 16 of Schedule 3, 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
- 56A.–56B. Not used
57. 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).
58. (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) shall apply only in respect of payments, which are paid to that person from the special account
59. (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.
60. Where the amount of subsistence allowance paid to a person in a reduction week exceeds the

amount of income-based jobseeker's allowance that person would have received in that reduction week had it been payable to him, less 50p, that excess amount.

61. 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.
62. Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001 as amended by the Welfare Reform Act 2012 (Consequential Amendments) Regulations 2013.
63. (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.
64. Not used
65. Not used
66. Any payment of child benefit.

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**Schedule 5**  
**Capital to be disregarded<sup>36</sup>**

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<sup>36</sup> Any amounts shown in this schedule will be updated in line with the Housing Benefit Regulations 2006 as amended



1. The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular 5, in Scotland, any croft land on which the dwelling is situated; but, notwithstanding section 15 (calculation of income and capital of members of applicant's family and of polygamous marriage), only one dwelling shall be disregarded under this paragraph.
- A2. 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.
- A3. 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 or Back to Work Scheme but only for 52 weeks beginning with the date of receipt of the payment but only for 52 weeks beginning with the date of receipt of payment.
2. 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.
3. 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.
4. Any premises occupied in whole or in part—
  - (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
  - (b) by the former partner of the applicant as his home; but this provision shall not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
5. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his capital.
6. 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.
7. 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.
8. (1) The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.  
(2) The assets of any business owned in whole or in part by the applicant where—
  - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
  - (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business;

for a period of 26 weeks from the date on which the claim for council tax support is

made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

(3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

(3) 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.

9. (1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of;
- (a) any payment specified in paragraphs 7, 9 or 10 of Schedule 4;
  - (b) an income-related benefit under Part 7 of the Act;
  - (c) an income-based jobseeker's allowance;
  - (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
  - (e) working tax credit and child tax credit
  - (f) an income-related employment and support allowance

but only for a period of 52 weeks from the date of the receipt of arrears or of the concessionary payment.

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as 'the relevant sum') and is

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations; and
- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of council tax support, for the remainder of that award if that is a longer period.

- (3) For the purposes of sub-paragraph(2), 'the award of council tax support' means—
- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
  - (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant;
    - (i) is the person who received the relevant sum; or
    - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death.

10. 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.

11. Any sum—
  - (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 or section 338(1) of the Housing (Scotland) Act 1987 as a condition of occupying the home;
  - (b) which was so deposited and which is to be used for the purchase of another home,for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the applicant to complete the purchase.
12. Any personal possessions except those which have been acquired by the applicant with the intention of reducing his capital in order to secure entitlement to council tax support or to increase the amount of that support.
13. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
14. 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.
- 14A. (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).
15. The value of the right to receive any income under a life interest or from a life rent.
16. The value of the right to receive any income, which is disregarded under paragraph 13 of Schedule 3 or paragraph 25 of Schedule 4.
17. The surrender value of any policy of life insurance.
18. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
19. 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).
- 19A. (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.

20. Any social fund payment made pursuant to Part 8 of the Act.
21. 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.
22. Any capital which, by virtue of sections 31 or 51 (capital treated as income, treatment of student loans) is to be treated as income.
23. 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.
24. (1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the Charitable Fund.
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) the person who is suffering from haemophilia or who is a qualifying person;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved,

nor any child or young person who is or had been a member of that person's family; and

(b) the payment is made either;

(i) to that person's parent or step-parent; or

(ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of 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 any of the Trusts to which sub-paragraph (1) refers, where

(a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and

(b) the payment is made either;

(i) to that person's parent or step-parent; or

(ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose support payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited the Skipton Fund, the Caxton Foundation, and the London Bombings Relief Charitable Fund.

25. (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.

26. 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.

27. 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.

28. 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.

29. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
30. Not used
31. The value of the right to receive an occupational or personal pension.
32. The value of any funds held under a personal pension scheme
33. 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.
34. 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).
35. Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.
36. Not used.
37. Any payment in consequence of a reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992 (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.
38. Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988 or section 66 of the Housing (Scotland) Act 1988 (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—
  - (a) to purchase premises intended for occupation as his home; or
  - (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of those premises as his home.
39. Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.
40. (1) Any payment or repayment made—
  - (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
  - (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
  - (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),but only for a period of 52 weeks from the date of receipt of the payment or repayment.  
(2) Any payment or repayment made by the Secretary of State for Health, the Scottish

Ministers or the Welsh Ministers, which is analogous to a payment, or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of the receipt of the payment or repayment.

41. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.
- 41A. Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).
42. 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.
43. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.
44. Not used
45. Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958 to homeworkers assisted under the Blind Homeworkers' Scheme.
46. (1) Subject to sub-paragraph (2), where an applicant satisfies the conditions in section 131(3) and (6) of the Act (entitlement to alternative maximum council tax support), the whole of his capital.  
(2) Where in addition to satisfying the conditions in section 131(3) and (6) of the Act the applicant also satisfies the conditions in section 131(4) and (5) of the Act (entitlement to the maximum council tax support), sub-paragraph (1) shall not have effect.
47. ((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 (as amended by the Civil Procedure (Amendment No. 7) Rule 2013) 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.
48. 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.
49. Any payment to the applicant as holder of the Victoria Cross or George Cross.
50. Not used
51. 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.

52. (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.

53. (1) Any payment;

- (a) by way of an education maintenance allowance made pursuant to—  
 (i) regulations made under section 518 of the Education Act 1996;  
 (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;  
 (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;  
 (b) corresponding to such an education maintenance allowance, made pursuant to;  
 (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or  
 (ii) regulations made under section 181 of that Act ;

or in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to;  
 (a) regulations made under section 518 of the Education Act 1996;  
 (b) regulations made under section 49 of the Education (Scotland) Act 1980; or  
 (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992, in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

53A.-53B. Not used

54. 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.

55. 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.

56. 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 interment of—

- (a) the applicant;  
 (b) the applicant's partner;  
 (c) the applicant's deceased spouse or deceased civil partner; or  
 (d) the applicant's partner's deceased spouse or deceased civil partner,

by the Japanese during the Second World War, £10,000.



57. (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is
- (a) a diagnosed person;
  - (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
  - (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
  - (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.
- (2) Where a trust payment is made to;
- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
  - (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending—
    - (i) two years after that date; or
    - (ii) on the day before the day on which that person—
      - (aa) ceases receiving full-time education; or
      - (bb) attains the age of 20,whichever is 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 shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date; or
  - (c) person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending—
    - (i) two years after that date; or
    - (ii) on the day before the day on which that person
      - (aa) ceases receiving full-time education; or
      - (bb) attains 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 shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

- (6) In this paragraph— 'diagnosed person' means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld- 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.

58. 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.
- 59 (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.
60. Any payment made under regulations made under section 57 of the Health and Social Care Act 2001 or under section 12B of the Social Work (Scotland) Act 1968, or under section 12A to 12D of the National Health Service Act 2006 (direct payments for health care).
61. Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
62. Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).



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## **CABINET**

**15<sup>th</sup> August 2012**

### **REPORT OF THE PORTFOLIO HOLDER FOR CORE SERVICES AND ASSETS**

#### **LOCALISING SUPPORT FOR COUNCIL TAX**

##### **EXEMPT INFORMATION**

This proposal is not exempt information for the purposes of Part 1 of Schedule 12 (A) to the Local Government Act 1972.

##### **PURPOSE**

To seek a decision from Cabinet, further to the presentation given on 25<sup>th</sup> July, of the preferred consultation option for a Local Council Tax Support scheme. The scheme will replace Council Tax Benefit, to help to those of working age on a low income pay their Council Tax from 1 April 2013.

##### **RECOMMENDATIONS**

That Cabinet decide on one of the three options and associated desired subset identified in the main report (attached Appendix / Slide extract) for which they want to form the base of Tamworth's Local Council Tax Support scheme. The approved option and subset will form the basis of public consultation on the proposed scheme which will commence following the decision.

##### **EXECUTIVE SUMMARY**

The Welfare Reform Act 2012 confirmed that Council Tax Benefit will be abolished from 1 April 2013, to be replaced by a new Localised Council Tax Support scheme. Grant funding will be reduced by 10% and distributed via the Department for Communities and Local Government rather than by the Department for Work and Pensions.

The Government have specified that Pensioners must be protected from any grant cuts. Accordingly, regulations that mirror the current Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) 2006 will be devised for Pensioners, which must be adhered to. For Working Age customers, Councils are free to decide their schemes, which will be subject to an overall 10% reduction in grant funding currently received.

Tamworth Borough Council is working closely with all other Staffordshire Local Authorities, Staffordshire County Council and the major preceptors, to devise an overarching County-wide scheme.

The 3 options presented to Cabinet on 25<sup>th</sup> July for consideration were;

- (1) Protect pensioners (this is a statutory requirement) only
- (2) Protect pensioners and all claimants who are disabled or who have a disabled child
- (3) Protect pensioners and only claimants who are severely disabled.

The attached slides give a reminder of the indicative financial savings for each option.

## **RESOURCE IMPLICATIONS**

None identified as a direct result of this report. However, there are financial implications associated with each scheme option for consultation, as set out in the presentation to Cabinet on 25<sup>th</sup> July. The costs of the consultation exercise itself will be managed within existing resources and met by a DCLG grant.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

Full Equality Impact Assessments must be considered for all possible scheme options, in order to avoid legal challenge.

An Equality Impact Assessment for each option is attached. Cabinet should note that Options 1 and 3 are concluded as being equitable, whilst Option 2 has been assessed as inequitable because of the overall effects on the remaining working age claim base.

## **SUSTAINABILITY IMPLICATIONS**

Funding for the replacement of the current Council Tax Benefit scheme will be changed from Annual Managed Expenditure (unrestricted reimbursement of Council Tax Benefit subsidy) to Departmental Expenditure Limit (restricted, pre allocated grant figure). The Council must be aware that there will be little room for contingency if, for instance, a major local employer goes into administration.

## **BACKGROUND INFORMATION**

The Government is committed to retaining Council Tax Support for the most vulnerable in society and taking forward plans for Councils to develop local Council Tax reduction schemes. The Welfare Reform Act 2012 contains provisions for the abolition of Council Tax Benefit, paving the way for new localised schemes. On 17<sup>th</sup> May 2012, *Localising Support for Council Tax – A Statement of Intent* was published.

The Statement of Intent set out policy statements of intent for the regulations to be provided under the Local Government Finance Bill for England and explains the policy intent of the regulations and how they will enable the delivery of local Council Tax support. The document is specific in the rules for pensioners but has given Local Authorities little direction regarding policy for Working Age customers.

On 16<sup>th</sup> July 2012, the *Localising support for council tax: Draft Council Tax Reduction Schemes (Prescribed Requirements) Regulations* were then released (**Appendix 1 hyperlink**).

Consideration of the Department for Communities and Local Government policy intention document - *Localising Support for Council Tax Vulnerable people – key Local Authority Duties* (**Appendix 2 hyperlink**) must also be made when introducing the new Localised Council Tax Support scheme.

The document – *Localising Support for Council Tax – Funding Arrangements Consultation* (**Appendix 3 hyperlink**) gives details of how funding for a Council Tax reduction scheme will be reduced from 2013 onwards. Accordingly, regard for these budgetary cuts must also influence the design of a Localised Council Tax Support scheme.

A further document - *Localising Support for Council Tax - Taking Work Incentives into Account* (**Appendix 4 hyperlink**) should also be considered when drafting the policy.

If Councils do not have a local scheme in place by 31<sup>st</sup> January 2013, the Government will impose a 'default scheme' which is the current Council Tax Benefit scheme. This option is not sustainable as the current scheme is fully subsidised by the Department for Work and Pensions, regardless of caseload and any new scheme will have a fixed annual grant *only* which will be at least 10% less than it is now.

Please refer to the slides presented on 25<sup>th</sup> July for details on the possible options for a working age Localised Council Tax Support Scheme. Once an option is chosen, a consultation period must then commence with all stakeholders. It is recommended that 8 weeks is allowed for consultation. Post consultation, the scheme must be approved by full Council before 31<sup>st</sup> January 2013.

## REPORT AUTHOR

Karen Taylor, Head of Benefits ext 529.

## LIST OF BACKGROUND PAPERS

Presentation slides from Cabinet meeting of 25<sup>th</sup> July 2012.  
Equality Impact Assessment for each of the 3 options

**APPENDICES**

<b>Document Name</b>	<b>Description</b>	<b>Location</b>
(1) Localising Support for Council Tax; Draft Council Tax Reduction Schemes (Prescribed Requirements) Regulations	sets out the draft key regulations under the Local Government Finance Bill	<a href="http://www.communities.gov.uk/publications/localgovernment/draftprescribedreqsregs">http://www.communities.gov.uk/publications/localgovernment/draftprescribedreqsregs</a>
(2) Localising Support for Council Tax Vulnerable people  – key local authority duties	Sets out consideration to be made of the requirements of the Equality Act 2010	<a href="http://www.communities.gov.uk/documents/localgovernment/pdf/2148567.pdf">http://www.communities.gov.uk/documents/localgovernment/pdf/2148567.pdf</a>
(3) Localising Support for Council Tax Funding arrangements - consultation	Outlines how the Government intends to distribute funding to support local schemes	<a href="http://www.communities.gov.uk/documents/localgovernment/pdf/2146648.pdf">http://www.communities.gov.uk/documents/localgovernment/pdf/2146648.pdf</a>
(4) Localising Support for Council Tax – Taking Work Incentives into account	Guidance on how to design local Council Tax reduction schemes for working-age applicants that will also support the wider objectives of welfare reform	<a href="http://www.communities.gov.uk/publications/localgovernment/lscworkincentives">http://www.communities.gov.uk/publications/localgovernment/lscworkincentives</a>





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## COUNCIL

13<sup>th</sup> December 2012

### REPORT OF THE PORTFOLIO HOLDER FOR CORE SERVICES AND ASSETS PROPOSED LOCALISING SUPPORT FOR COUNCIL TAX SCHEME FOLLOWING CONSULTATION RESPONSES

#### EXEMPT INFORMATION

This proposal is not exempt information for the purposes of Part 1 of Schedule 12 (A) to the Local Government Act 1972

#### PURPOSE

For Council to consider;

The proposed Local Council Tax Support Scheme for Tamworth from 1<sup>st</sup> April 2013. Options for the scheme were presented to Cabinet on 25<sup>th</sup> July, and on 15<sup>th</sup> August 2012 Cabinet chose the preferred option. Cabinet then endorsed this scheme on 28<sup>th</sup> November 2012. It must now be considered at full Council as the final scheme must have Council approval.

#### RECOMMENDATIONS

That Council endorse the proposed Local Council Tax Support scheme, having given consideration to the Localisation of Council Tax Consultation Final Report – **Appendix 1**, the estimated grant reduction figures – **Appendix 2** and the Equality Impact Assessment for this option – **Appendix 3**.

#### EXECUTIVE SUMMARY

This report details the key issues arising from the Local Support for Council Tax Scheme.

The Welfare Reform Act 2012 confirmed that Council Tax Benefit will be abolished from 1 April 2013, to be replaced by a new Localised Council Tax Support scheme. Grant funding will be reduced by 10% and distributed via the Department for Communities and Local Government rather than by the Department for Work and Pensions. The proposed scheme aims to deliver the required reduction in Council Tax benefit costs without being a cost to the General Fund or Preceptors – estimated at c. £700k.

The Government have specified that Pensioners must be protected from any grant cuts. Accordingly, regulations that mirror the current *Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) 2006* will be devised for Pensioners, which must be adhered to. For Working Age customers, Councils are free to decide their schemes, which will be subject to an overall 10% reduction in grant funding currently received.

The Authority has worked closely with all other Staffordshire District Councils, Staffordshire County Council and the Fire Authority, to design an over arching scheme. Local considerations were then also separately made by each Authority to achieve the savings requirements, based on each area's demographic make up and budgetary restrictions.

Options were presented to Cabinet on 25<sup>th</sup> July 2012 on how to deliver the reduced benefit cost from current Council Tax Benefit expenditure for working age customers in line with legislative requirements. Full Equality Impact Assessments were given for each option. On 15<sup>th</sup> August 2012, Cabinet's preferred option for a Local Council Tax Support scheme was decided, taking into account the grant cuts being imposed from 1<sup>st</sup> April 2013.

## **Consultation Responses**

An eight week consultation period then commenced with the public, focus groups and all other stakeholders to gauge views about the proposals. A total of 10 drop in events were held, both with the public and various groups. The drop in sessions attracted almost 800 visitors. Every benefit customer (totalling in excess of 7300 claimants at the time) was also sent a consultation questionnaire along with a consultation leaflet which explained that Council Tax Benefit is being abolished and encouraging them to give their views on its proposed replacement in Tamworth.

- ❖ 828 responses were received, which is a statistically robust number. This represents 1.075% of Tamworth's population, which compares favourably to the response rate of all other Staffordshire Local Authorities of between 0.3% and 0.6% of their residents/groups.
- ❖ The degree of endorsement for the proposals was varied, with most support being received for Proposal 9, which provides continued protection for those entitled to a Severe Disability Premium. Least support was received to Proposal 4 under which the Second Adult Rebate would be removed and those of a working age would be responsible for paying 100% of their Council Tax bill. There was a high level of support for five out of the ten proposals as outlined below:

### **High level of support**

- Level of support for pensioners, severely disabled and in receipt of a Severe Disability Premium, claimants with disabled children and claimants receiving a War Pension (Proposal 1);
- Continuing to disregard childcare costs (Proposal 5);
- Claimants and the level of savings allowed (Proposal 6);
- Continuing to exclude Child Benefit payments (Proposal 7);
- Continuing to protect those claiming a Severe Disability Premium (Proposal 9).

There was a moderate level of support for the remaining five of the ten proposals as outlined below;

#### Moderate level of support

- calculation of support based on 75% of Council Tax liability rather than 100%, meaning everyone who is not proposed to be protected from any reductions has to pay at least 25% of their Council Tax liability (Proposal 2);
- limit the calculation of support to no more than 75% of Band D liability (Proposal 3);
- removal of Second Adult Rebate for all working age customers (Proposal 4);
- inclusion of maintenance payments as income (Proposal 8);
- increased non dependant charges of £5 per week (currently £3.30 pw) and £10 per week (currently £6.55 - £9.90 pw, depending on gross pay received).

Please refer to **Appendix 1** – Localisation of Council Tax Consultation Final Report for full details of the consultation responses

## RESOURCE IMPLICATIONS

The proposed scheme has been modelled on delivering an estimated benefit reduction in the region of £700k.

Based on recent caseload, the proposed scheme would deliver estimated benefit reductions of £718k (**Appendix 2**).

## CONCLUSIONS

### Proposed Local Council Tax Support Scheme

The scheme as endorsed for consultation (Cabinet 15<sup>th</sup> August 2012) delivers the estimated grant reduction- **Appendix 2**, required under the new Local Council Tax Support Scheme (10 % reduction on previous grant payments).

The results of the consultation are detailed in the Localisation of Council Tax Consultation Final Report – **Appendix 1**. There are no material implications raised following the consultation – as detailed above (Executive Summary), if the proposed scheme is endorsed without further amendment.



## LEGAL/RISK IMPLICATIONS

Full Equality Impact Assessments were considered and taken into account when the scheme proposals were drafted. **Appendix 3** gives details of the Equality Impact Assessment made prior to it being chosen as the preferred option, and prior to consultation.

If the Authority's Local Support to Council Tax Scheme is not endorsed or in place by the 31<sup>st</sup> January 2013 then the default scheme will have to be applied. The implementation of a default scheme would result in the Authority having to implement the existing scheme, financing the 10% reduction and suffering additional benefit cost in 2013 /14 (onwards) as the existing benefit limits may be up-lifted by inflation.

## SUSTAINABILITY IMPLICATIONS

Funding for the replacement of the current Council Tax Benefit scheme will be changed from Annual Managed Expenditure (unrestricted reimbursement of Council Tax Benefit subsidy) to Departmental Expenditure Limit (restricted, pre allocated grant figure). The Council must be aware that there will be little room for contingency if, for instance, a major local employer goes into administration.

## REPORT AUTHOR

Karen Taylor x 529

## LIST OF BACKGROUND PAPERS

Cabinet Report / Slides – Cabinet 15<sup>th</sup> August 2012  
Draft Vulnerability Policy  
Draft Summary Local Council Tax Support Policy

## Appendices

Localisation of Council Tax Consultation Final Report – **Appendix 1**  
Estimated grant reduction figures – **Appendix 2**  
Equality Impact Assessment for the chosen option – **Appendix 3**  
Table of estimated weekly £ extra to pay based on proposed scheme – **Appendix 4**

## BACKGROUND INFORMATION

Council Tax Local Support Scheme Proposals 2013/14 (onwards)

The Government is committed to retaining Council Tax Support for the most vulnerable in society and taking forward plans for Councils to develop local Council Tax reduction schemes. The Welfare Reform Act 2012 contains provisions for the abolition of Council Tax Benefit, paving the way for new localised schemes. On 17<sup>th</sup> May 2012, *Localising Support for Council Tax – A Statement of Intent* was published.

The Statement of Intent sets out policy statements of intent for the regulations to be provided under the Local Government Finance Bill for England and explains the policy intent of the regulations and how they will enable the delivery of local Council Tax support. The document is specific in the rules for pensioners but has given Local Authorities little direction regarding policy for Working Age customers.

Consideration of the Department for Communities and Local Government policy intention document - *Localising Support for Council Tax Vulnerable people – key Local Authority Duties* was also made when devising the proposed Local Council Tax Support scheme.

*Localising Support for Council Tax – Funding Arrangements Consultation* gave details of how funding for a Council Tax reduction scheme will be reduced from 2013 onwards. Accordingly, regard for these budgetary cuts must also influence the design of a Local Council Tax Support scheme.

*Localising Support for Council Tax - Taking Work Incentives into Account* was also considered when drafting the policy.

If Councils do not have a local scheme in place by 31<sup>st</sup> January 2013, the Government will impose a 'default scheme' which is the current Council Tax Benefit scheme. This option is not sustainable as the current scheme is fully subsidised by the Department for Work and Pensions, regardless of caseload and any new scheme will have a fixed annual grant *only* which will be at least 10% less than it is now.

The results of the consultation have not identified any requirement to make any changes to the scheme. Cabinet have recommended that the scheme as consulted should be endorsed as the Authorities response to achieving the required reduction in Council Tax Support (namely 10% reduction) as required by legislation without imposing a further burden on the General Fund Budget 2013 / 14.

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17TH DECEMBER 2013

## REPORT OF THE PORTFOLIO HOLDER FOR OPERATIONS AND ASSETS

## FRAUD &amp; CORRUPTION UPDATE REPORT

**EXEMPT INFORMATION**

None

**PURPOSE**

This report provides the Council with a review and update of the Counter Fraud & Corruption Policy Statement, Strategy & Guidance Notes and the Whistleblowing Policy .

**RECOMMENDATIONS**

It is recommended that the Council adopts:

1. the Counter Fraud & Corruption Policy Statement, Strategy & Guidance Notes (Appendix 1), and
2. the Whistleblowing Policy (Appendix 2)

**EXECUTIVE SUMMARY**

At its meeting of the 31st October 2013, the Audit & Governance Committee endorsed the revised Counter Fraud and Corruption Policy Statement, Strategy and Guidance Notes (**Appendix 1**) and the revised Whistleblowing Policy (**Appendix 2**). Both Policies plan to be endorsed by the Appointments and Staffing Committee at its meeting on the 11<sup>th</sup> December 2013 and have been endorsed by the Trade Unions.

The main changes to the policies take into account the changes required under the Enterprise & Regulatory Reform Act 2013 which states that any disclosure made using the Whistleblowing Policy, within reasonable belief of the worker making the disclosure, will only be protected if it is made in the public interest.

**RESOURCE IMPLICATIONS**

None

**LEGAL/RISK IMPLICATIONS BACKGROUND**

None

## **SUSTAINABILITY IMPLICATIONS**

None

## **BACKGROUND INFORMATION**

None

## **REPORT AUTHOR**

Angela Struthers ex 234

## **LIST OF BACKGROUND PAPERS**

None

## **APPENDICES**

Appendix 1 – Counter Fraud & Corruption Policy Statement, Strategy & Guidance Notes  
Appendix 2 – Whistleblowing Policy





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COUNTER FRAUD AND CORRUPTION POLICY STATEMENT,  
STRATEGY & GUIDANCE NOTES

Document Status: Draft

Originator: A Struthers

Updated: A Struthers

Owner: Executive Director – Corporate Services

Version: 01.01.02

Date: 30/07/13

**Approved by**

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This information can be produced on request in other formats and languages

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## Document Location

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## Revision History

Revision Date	Version Control	Summary of changes
1/3/12	1.01.01	Scheduled review
30/07/13	1.01.02	Scheduled review

## Approvals

Name	Title	Approved
Full Council	Committee Approval	
<a href="#">Appointments &amp; Staffing Committee</a>	<a href="#">Committee Approval</a>	
Audit & Governance Committee	Committee Approval	<a href="#">Yes</a>
CMT	Group Approval	<a href="#">Yes</a>
TULG	Trade Union Consultation	<a href="#">Yes</a>
John Wheatley	Executive Director – Corporate Services	<a href="#">Yes</a>
Angela Struthers	Head of Internal Audit Services	Yes

## Document Review Plans

This document is subject to a scheduled annual review. Updates shall be made in accordance with business requirements and changes and will be with agreement with the document owner.

## Distribution

The document will be available on the Intranet and the website.

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## TAMWORTH BOROUGH COUNCIL

### COUNTER FRAUD AND CORRUPTION POLICY STATEMENT

- 1.0 Tamworth Borough Council fully recognises its responsibility in relation to the spending of public money (Protecting the Public Purse) and is committed to the fullest support for Councillors and Employees in upholding the reputation of the Council and maintaining public confidence in its integrity. It also recognises its responsibilities under the Proceeds of Crime Act 2002-, Money Laundering Regulations 2007 and the Bribery Act 2010.
- 2.0 The Council is committed to maintaining an ethical culture which does not and will not tolerate any form of fraud and corruption. Any such issues will be thoroughly investigated and, if confirmed, dealt with rapidly in the strongest possible way. We will seek the strongest possible sanctions against those who seek to defraud the Council. This includes taking appropriate action against employees, Councillors, contractors, external individuals and organisations.
- 3.0 To deliver the Council's corporate priorities, aims and strategic objectives we need to maximise the financial resources available to us. In order to do this we must reduce the risk of fraud to an absolute minimum.
- 4.0 This Policy Statement, together with the Counter Fraud & Corruption Strategy and Guidance Notes, is intended to provide advice and information to Employees and Councillors but suppliers, contractors and the general public are also encouraged to use this advice and guidance.

# COUNTER FRAUD AND CORRUPTION STRATEGY

## 1.0 Introduction

1.1 This strategy is a key element of the Council's overall corporate governance arrangements which aim to ensure the Council is well managed and does the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable way. The Council has a range of other interrelated policies and procedures that provide a corporate framework to counter fraud activity. These have been formulated in line with appropriate legislative requirements and include:

- Standing Orders & Financial Regulations,
- National Code of Local Government Conduct,
- Whistleblowing Policy,
- Accounting procedures and records,
- Sound internal control systems,
- Effective Internal Audit,
- Effective recruitment & selection procedures,
- Disciplinary Procedures,
- Fraud ~~r~~Response ~~p~~Plan,
- Benefits Prosecution Policy,
- Data Protection Policy,
- IT Security Policy,
- Personnel Security Policy,
- Physical Security Policy,
- Constitution,
- Scheme of Delegation,
- Members ~~h~~Handbook,
- Code of Corporate Governance,
- Gifts & Hospitality Policy & Register,
- Anti-money Laundering Policy and Guidance,
- Conflict of Interests Policy,
- Other council procedures as appropriate,
- Any relevant professional Codes of Ethics or obligations.

1.2 All references to fraud within this document include any type of fraud-related offence. Fraud, theft, bribery and corruption are defined as follows:

**Fraud** – ~~“the intention to make gain or cause loss by false representation, failing to disclose information or abuse of position an intentional false representation, including failure to declare information~~



or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss.” - (The ~~Fraud Act 2006~~ Audit Commission)

**Theft** – “ a person shall be guilty of theft if he/she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it”. (The Theft Act 1968).

**Bribery** – “A person (“P”) is guilty of an offence if either of the following cases applies.

Case 1 is where—

(a) P offers, promises or gives a financial or other advantage to another person, and

(b) P intends the advantage—

(i) to induce a person to perform improperly a relevant function or activity, or

(ii) to reward a person for the improper performance of such a function or activity.

(3) Case 2 is where—

(a) P offers, promises or gives a financial or other advantage to another person, and

(b) P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity. (The Bribery Act 2010)

**Corruption** - “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.” (Fraud Audit Manual, the Audit Commission)

1.3 A dishonest act or fraudulent activity may be, but is not limited to, an act or activity that is unethical, improper, or illegal such as:

theft of an asset including, but not limited to, money, tangible property, intellectual property etc;

misappropriation, misapplication, destruction, removal, or concealment of property;

false claims and/or misrepresentation of facts;

alteration or falsification of paper or electronic documents, including the inappropriate destruction of paper or electronic documents;

inappropriate use of computer systems including hacking and software piracy;

embezzlement;

bribery, or corruption of any kind;

unlawful or undeclared conflict of interest;

unauthorised use or misuse of Council property, equipment, materials or records.

- 1.4 Although a dishonest or fraudulent act may have criminal and/or civil law consequences, the Council is not required to use a determination by a criminal or civil body as the basis for determining whether an act is dishonest or fraudulent, nor must the act rise to the level of a crime or violation of civil law in order to constitute a violation of the Council's Conduct and Capability Policy.
- 1.5 The Council also expects that individuals and organisations (e.g. partners, suppliers/contractors and service users) which it comes into contact with, will act towards the Council with integrity and without actions involving fraud or corruption. The Council in turn will endeavour to ensure that all of its dealings will be on the same basis.
- 1.6 In administering its aims and responsibilities the Council is totally committed to deterring fraud and corruption, whether it is attempted on or from within the Council, and is committed to an effective counter fraud and corruption strategy designed to:
- limit, as far as possible, the opportunities to commit fraudulent acts - **prevention**,
  - enable any such acts to be **detected** at an early stage, and
  - deal with any subsequent **investigations** in a prompt, thorough and professional manner.
- 1.7 Overall responsibility for dealing with fraud and corruption rests with the Executive Director Corporate Services, who is the nominated Section 151 Officer having a statutory duty under Section 151 of the Local Government Act 1972 to ensure that there are proper arrangements in place to administer the Council's financial affairs. He is therefore the principal contact for all Councillors and employees.
- 1.8 Internal scrutiny of the Council's various activities occurs as a result of:-

- the Executive Director Corporate Services Section 151 responsibilities and Section 114 Local Government Finance Act 1988 responsibilities,
- the establishment of sound Internal Audit arrangements in accordance with the Accounts and Audit Regulations 2011, and
- the responsibilities placed on the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.

1.9 External scrutiny of the Council's various activities occurs as a result of involvement by:-

- Local Government Ombudsman,
- External Auditor,
- Central Government Departments and Parliamentary Committees,
- HM Revenues and Customs,
- The Department for Work and Pensions
- The general public.

1.10 This Counter Fraud and Corruption Strategy is based on a series of comprehensive and inter-related procedures designed to deter any attempted fraudulent or corrupt act. These cover:-

- Culture,
- Prevention,
- Detection and Investigation,
- Recovery, Sanction and Redress,
- Training and Awareness,
- Sharing Information,
- Implementing the Strategy.

## 2.0 Objectives

2.1 The key objectives of this Counter Fraud and Corruption Strategy are to:

Increase awareness of the counter-fraud responsibilities at all levels within and outside the Council;

Further embed and support the effective management of fraud risk within the Council;

Support counter-fraud activities across the Council;

Minimise the likelihood and extent of loss through fraud and corruption.

- 2.2 All of the above will directly support the achievement of the Council priorities whilst ensuring that statutory responsibilities are met.

### 3.0 Roles and Responsibilities

- 3.1 Roles and responsibilities for identifying and mitigating against the risk of fraud must be clearly understood and embraced effectively.
- 3.2 The risk of fraud and corruption is considered in the Council's corporate risk management arrangements. Chief Officers must therefore ensure that:

Their risk register accurately reflects the risk of fraud and corruption including any emerging risks;

Controls, including those in a computerised environment and for new systems and procedures, are effective and are properly maintained and documented;

There is compliance with the Council's Financial Regulations and associated guidance, Standing Orders and any other relevant codes of practice;

Those engaged in countering fraud and corruption, have the appropriate authority, skills and knowledge to undertake this work effectively;

That the necessary framework agreements to counter fraud are in place where the Council is working with other organisations either by way of contract or partnership. The Council will not knowingly enter into any contractual agreement with an organisation that fails to comply with its Code of Practice and/or other related procedures.

Findings from fraud investigations lead to relevant system changes.

### 4.0 Culture

- 4.1 The Council has determined that the culture and ethics of the Authority ~~is~~ are one of honesty and openness in all its dealings, with opposition to fraud and corruption. This strategy forms part of the governance arrangements for the authority.
- 4.2 The Council's Councillors and employees play an important part in creating and maintaining this culture. They are encouraged to raise any matters that concern them relating to the Council's methods of operation in accordance with this Counter Fraud & Corruption Strategy ~~with~~ or the Council's Whistleblowing Policy.

- 4.3 The Council is committed to driving down Benefit Fraud. Both public perception and organisational culture play key roles in achieving this aim. All Councillors and Employees are therefore required to report any known material changes affecting Benefit claims to the Benefits Office. This specifically includes ~~their~~ your own entitlement and of any tenants or sub-tenants that ~~they~~ you may have. Failure to do so will result in the Councillor or Employee being subject to the Benefits Prosecution Policy and Conduct and Capability Procedures. In addition, it is also a requirement that the timely transfer of information ~~is -you~~ received in ~~your~~ normal business activities relating to any other customer who has alerted you to a fact that affects ~~the award of Benefit. awards is completed~~
- 4.4 The Council's Whistleblowing Policy ensures that those raising concerns know they will be treated seriously and ~~their concerns are~~ properly investigated in a confidential and impartial manner. In raising concerns employees can be assured that ~~there will be no victimisation, and anonymity will be respected wherever possible they will be~~ protected if the disclosure is made in the public's interest and will not affect their employment situation or future prospects with the Council.
- 4.5 Employees can raise their concerns in the first instance with their line manager but where employees feel unable to raise concerns with their immediate line manager/ supervisor, they can deal direct with any of the following:-
- the Section 151 Officer (Executive Director Corporate Services),
  - Internal Audit,
  - the Chief Executive,
  - the Monitoring Officer,
  - any member of Corporate Management Team,
  - the External Auditor, or
  - any Trade Union Representative.
- 4.6 Elected Councillors, suppliers, contractors, and the general public are also encouraged to report concerns through any of the above routes.
- 4.7 Unless there are good reasons to the contrary, any allegations received by way of confidential letters or telephone calls will be taken seriously and investigated in an appropriate manner. All concerns will be treated in confidence and every effort will be made not to reveal ~~the employee's~~ your identity if ~~they~~ you so wish. At the appropriate time, however, ~~the employee~~ you may need to come forward as a witness, but this will be discussed with ~~them~~ you, as to whether and how the matter can be proceeded with.

- 4.8 The Nolan Committee set out the seven guiding principles that apply to people who serve the public. The Council will develop our working behaviour around these principles, which are attached as Appendix 1.

## 5.0 Prevention

### 5.1 Employees

- 5.1.1 The Council recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential employees, in terms of their propriety and integrity. In this regard temporary, agency and contract employees should be treated in the same manner as permanent employees. Chief Officers are responsible for ensuring agencies engaged for the supply of temporary employees have rigorous vetting processes and that references are sought direct from previous clients with regard to the suitability and integrity of the candidate.
- 5.1.2 Employee recruitment is required to be in accordance with procedures laid down by the Council. Written references covering the known honesty and integrity of potential employees and, where required, evidence of a licence to practice must always be obtained. All qualifications will be verified. There will be an open and fair policy of recruitment with no 'canvassing' or 'favouritism'.
- 5.1.3 Employees of the Council are expected to follow any Code of Conduct relating to their personal Professional Body and also abide by the terms and conditions of employment as set out in the Contract of Employment and the National Scheme of Conditions. The Council will report any known impropriety to the relevant Institution for them to consider appropriate disciplinary action.
- 5.1.4 Employees are reminded that they must comply within Section 117 of the Local Government Act 1972 which requires any interests in contracts that have been or are proposed to be entered into by the Council ~~are to be~~ declared. The legislation also prohibits the acceptance of fees or rewards other than by means of proper remuneration. Details are described within the Code of Conduct.
- 5.1.5 Managers are required to observe the formal Conduct and Capability Procedures.



- 5.1.6 All employees are required to declare in a public register (held by the Monitoring Officer) any offers of gifts or hospitality which are in any way related to the performance of their duties in relation to the Authority. Employees should also declare private work (paid or unpaid) etc., which if permitted must be carried out during hours when not employed on Council work, and should not be conducted from Council premises or use any Council equipment/assets.
- 5.1.7 The above matters are brought to the attention of employees via induction training and subsequently by internal communications.
- 5.1.8 Management at all levels are responsible for ensuring that employees are aware of the Authority's Financial Regulations and Standing Orders, and that the requirements of each are being met. They are also responsible for ensuring that appropriate procedures are in place to safeguard the resources for which they are responsible, which include accounting control procedures, working manuals and operating procedures. Management must ensure that all employees have access to these rules and regulations and that employees receive suitable training.
- 5.1.9 Managers should strive to create an environment in which employees feel able to approach them with concerns they may have about suspected irregularities. If managers and employees are unsure of the appropriate action they should consult with the Internal Audit Section.

## 5.2 Councillors

5.2.1 Councillors are required to operate within: -

- Sections 49 - 52 of the Local Government Act 2000
- Local Authorities (Members' Interest) Regulations 1992 (S.I. 618)
- The National Code of Local Government Conduct
- Any local code or amendments agreed and
- The Council's Standing Orders and Financial Regulations.

5.2.2 These matters are specifically brought to the attention of elected Councillors at their induction and subsequent training. Councillors are required to provide the Monitoring Officer with specific information concerning their ~~personal and prejudicial~~ [disclosable pecuniary](#) interests and to keep that information up to date, as required ~~by the Local Government and Housing Act 1989~~ [by sections 29-34 of the Localism Act 2011](#). The Members' Interests Register is held by the Monitoring Officer.

## 5.3 Systems

- 5.3.1 The Council's Scheme of Delegation, Standing Orders and Financial Regulations place a duty on all Councillors and employees to act in accordance with best practice when dealing with the affairs of the Council.
- 5.3.2 The Executive Director Corporate Services has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure proper administration of financial affairs. Various Codes of Practice outlining systems, procedures and responsibilities are widely distributed to employees.
- 5.3.3 The Internal Audit Section assesses regularly the level of risk within the Council with a view to preventing fraud and corruption. Such assessments are discussed with Chief Officers and, where appropriate, incorporated into work plans.
- 5.3.4 Significant emphasis has been placed on thorough documentation of financial systems, and every effort is made to continually review and develop these systems in line with best practice to ensure efficient and effective internal controls and to include adequate separation of duties. The adequacy and appropriateness of the Council's financial systems are independently monitored by both the Internal Audit Section and External Audit. Any weaknesses identified in internal control will be reported to management whose duty it will be to ensure that corrective action is taken. The Section 151 Officer will use his statutory power to enforce the required changes if necessary.
- 5.3.5 Chief Officers will ensure that internal controls, including those in a computerised environment, are effectively maintained and documented and will investigate any potential weaknesses.
- 5.3.6 Chief Officers must ensure that proportionate counter fraud measures are applied to new systems/procedures.
- 5.3.7 It is evident across the country that an increasingly wide variety of frauds are being perpetrated. The larger frauds may involve the creation of multiple identities and false addresses, and involve different agencies. Employees are therefore encouraged to liaise with those other agencies, exchanging information, where possible and appropriate to help prevent and detect such fraud. It is important that arrangements exist, and are developed, to encourage the exchange of information with other agencies including:-
- other local and statutory authorities,
  - Chief Financial Officer Group,
  - local, regional and national Auditor networks,
  - government departments,
  - police forces,

- the Audit Commission,
- the National Anti-Fraud Network, and
- any other Fraud Networks/Forums.

5.3.8 The Council has established formal procedures to respond to complaints received about any aspect of service delivery. Issues relating to fraud and corruption will be passed directly to the Executive Director Corporate Services. Specific guidance has also been issued to all employees in relation to Proceeds of Crime and Money Laundering. The Monitoring Officer acts as the Council's Money Laundering Reporting Officer.

5.3.9 The Council will involve the police to prosecute offenders where fraudulent or corrupt acts are discovered. This will be a matter for the Executive Director Corporate Services, Monitoring Officer and the Chief Executive to decide, in consultation with the relevant Chief Officer.

## **6.0 Detection and Investigation**

6.1 The Council's preventative systems, particularly internal control systems, provide indicators of fraudulent activity and are designed to deter any fraudulent activity.

6.2 It is often the alertness of elected Councillors, council employees, and the general public to the possibility of fraud and corruption, that enables detection to occur and appropriate action to take place.

6.3 Many frauds are discovered by chance, -'tip-off' or general audit work and arrangements are in place to enable such information to be properly dealt with.

6.4 Chief Officers are required by Financial Regulations to report all suspected instances of fraud and corruption to the Executive Director Corporate Services. Early reporting is essential to the success of this strategy, and;

- ensures the consistent treatment of information regarding fraud and corruption,
- facilitates a thorough investigation of any allegation received by an independent unit (Internal Audit), and
- ensures maximum protection of the Council's interests.

Suspicious that any transaction or dealing may involve the proceeds of crime should be reported to the Monitoring Officer, who will ensure such suspicions are reported to the appropriate authorities as required by the relevant Act.

- 6.5 The investigating officer will be appointed by the Executive Director Corporate Services. The investigating officer will usually be an Internal Audit Officer, or in the case of Benefit Frauds, a Benefits Investigations Officer. The investigating officer will;-
- deal promptly and confidentially with the matter,
  - record all evidence received,
  - ensure that evidence is sound and adequately supported,
  - ensure security of all evidence collected,
  - liaise as necessary and appropriate with the relevant Chief Officer,
  - liaise as necessary with external agencies e.g. Police,
  - notify the Council's insurers if appropriate.
- 6.6 The Council can be expected to deal swiftly and thoroughly with any employee who attempts to defraud the Council or who is corrupt. The Council will deal positively with fraud and corruption or suspicions thereof. Where appropriate, the Council's disciplinary procedures will be implemented.
- 6.7 There is a need to ensure that any investigation process is not misused and, therefore, any abuse such as raising unfounded malicious allegations may be dealt with as a disciplinary matter.
- 6.8 When it is found that fraud or corruption has occurred due to a break down in the Council's systems or procedures, Chief Officers will ensure that appropriate improvements in systems of control are promptly implemented in order to prevent a reoccurrence.
- 6.9 Depending on the nature and anticipated extent of the allegations, the Internal Audit section will normally work closely with management and other agencies such as the police to ensure that all allegations and evidence is properly investigated and reported upon.
- 6.10 The Council's disciplinary process will be used where the outcome of the Audit ~~i~~nvestigation indicates improper behaviour.
- 6.11 The Council will normally wish the police to independently prosecute offenders where financial impropriety is discovered.
- 6.12 Any Councillor who is the subject of allegations of wrong doing can be referred to the ~~Standards Committee~~[Monitoring Officer](#) of the ~~Authority~~ (details on the website), who will determine what action should be taken.
- 6.13 All contractors, consultants and organisations receiving funding from the Council who are accused of wrong doing will be the subject of an investigation and where appropriate an independent decision may be taken to terminate the agreement/grant.

6.14 The Council's External Auditor has a responsibility to review the Council's arrangements for the prevention, detection and investigation of fraud and corruption and report accordingly.

## **7.0 Recovery, Sanctions & Redress**

7.1 Where the Council identifies fraud then it will:

Recover, prosecute or apply other sanctions to perpetrators, where appropriate.

7.2 Where fraud or corruption by employees is indicated, then action will be taken in accordance with the Council's Conduct and Capability Policy. This may be in addition to any civil recovery action or sanctions.

7.3 The Council aims to be effective in recovering any losses incurred to fraud using, as appropriate, criminal and/or civil law. Success rates will be monitored routinely as an indicator and part of the quality process.

7.4 Wherever possible, redress should be applied. This ensures that the Council is seen as recovering money lost to fraud.

## **8.0 Training & Awareness**

8.1 The Council recognises the importance of training in the delivery of high quality services. The Council supports the concept of fraud awareness training for managers and for employees involved in internal control systems to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced. Chief Officers are responsible for training employees and promoting awareness of fraud issues.

8.2 Investigation of fraud and corruption centres around the Council's Internal Audit and Benefits sections. Employees engaged in these sections, for the detection and prevention of fraud, are properly and regularly trained in all aspects of it. The training plans of the sections will reflect this requirement.

8.3 Employees who ignore such training and guidance may face the possibility of disciplinary action.

8.4 Regular training seminars will be provided for Councillors on a wide range of topics including declarations of interest and the Code of Conduct as detailed in the Constitution.

8.5 The Council will maintain an up to date awareness of the types of fraud that it may be exposed to, especially given the ongoing financial situation and the resourcefulness of potential fraudsters. It will review national developments and strengthen systems and procedures accordingly using the following key sources of information:

National Fraud Reports

National Anti-Fraud Network

Midlands Fraud Forum

Local Networking through Staffordshire and the Midlands

Any other sources of fraud awareness/updates etc.

## 9.0 Sharing Information

9.1 The Council is committed to working with other agencies in the detection and prevention of fraud.

9.2 Information will be shared internally and with other government departments and other agencies eg insurance companies for the purposes of fraud prevention and detection. This information will be shared in accordance with the principles of the Data Protection Act 1998 and other appropriate legislation.

9.3 The Council participates in national data sharing exercises, i.e. the National Fraud Initiative to enable the proactive detection of fraud.

## 10.0 Implementing the Strategy

10.1 Internal Audit will undertake an annual assessment of the effectiveness of existing counter-fraud and corruption arrangements against:

CIPFA's Red Book 2 Fraud Standards

Other best practice/statutory guidance as required

The roles and responsibilities as set out in Appendix 2 of this strategy.

~~10.110.2~~ Internal Audit will complete ~~the a~~ Counter Fraud Work Plan ~~as detailed in Appendix 5~~ on an annual basis.

~~10.210.3~~ Internal Audit will report its findings to the Audit and Governance Committee who will consider the effectiveness of the counter-fraud risk management arrangements.

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## **11.0 Conclusions**

- 11.1 The Council's systems, procedures, instructions and guidelines are designed to limit, as far as is practicable, acts of fraud and corruption. All such measures will be kept under constant review to ensure that they keep pace with developments in prevention and detection techniques regarding fraudulent or corrupt activity.
- 11.2 The Council will maintain a continuous review of all its systems and procedures through the Executive Director Corporate Services and Internal Audit, in consultation with the Monitoring Officer where required.

## COUNTER FRAUD AND CORRUPTION GUIDANCE NOTES

### 1.0 Why Do We Need a Counter Fraud And Corruption Strategy?

1.1 Even though the vast majority of people working for the Council are honest and diligent, the Council cannot be complacent. Fraudulent or corrupt acts may include:

System issues	ie where a process/system exists which can be abused by either employees or members of the public (eg Housing Allocations)
Financial issues	ie where individuals or companies have fraudulently obtained money from the Council (eg invalid invoices/work not done, Housing Benefit fraud)
Equipment issues	ie where Council equipment is used for personal use (eg personal use of council telephones)
Resource issues	ie where there is misuse of resources (eg theft of building materials/cash)
Other issues	ie activities undertaken by officers of the Council which may be: unlawful; fall below established standards or practices; or amount to improper conduct (eg receiving unapproved hospitality)

(This is not an exhaustive list.)

1.2 The prevention of fraud, and the protection of the public purse is **EVERYONE'S BUSINESS**. It is important that all employees know:

- how to recognise a fraud,
- how to prevent it, and
- what to do if they suspect that they have come upon a fraud.

1.3 This guidance has been drawn up to provide information to employees at all levels. The strategy and guidance attempt to assist employees and others with suspicions of any malpractice. The overriding concern is that it is in the public interest for the malpractice to be corrected and, if appropriate, sanctions and redress applied.

1.4 It is important that employees should be able to use any mechanism without fear of victimisation, and fully know that their concerns will be addressed seriously, quickly and discreetly.

1.5 It is important that the whole Council works together to reduce Benefit Fraud. All employees are therefore required to transfer relevant information gathered in their normal day to day activities about possible Benefit irregularities to the Benefits Office, at Marmion House. So, for

example, if during a routine visit/interview, the employee you becomes aware that a customer is working and “signing on” (which they may be entitled to do) ~~so but~~ the employee you must tell the Benefits office this information. The Benefits office will assess the matter and investigate where appropriate. The employee reporting the concern is You are not expected to and must not delve any further.

1.6 The Council has determined that it should have a culture of honesty and openness in all its dealings, with opposition to fraud and corruption. The Council’s Whistleblowing Policy -does this by :-

- making it clear that vigilance is part of the job. Knowingly not raising concerns may be a serious disciplinary offence,
- recognising that early action may well prevent more worry or more serious loss/damage,
- making it safe and simple to convey critical information ensuring that any concern in this area is seen as a concern and not a grievance,
- encouraging information exchange, remembering that there are two sides to every story,
- providing a way in which concerns can be raised in confidence and not necessarily via the nominated line manager or supervisor,
- recognising the need for discretion,
- ensuring the anonymity of the individual, where possible, should this be preferred by the employee, and by protecting employers from reprisals.

1.7 Under the Enterprise and Regulatory Reform Act 2013, any disclosure made using the Whistleblowing Policy, within reasonable belief of the worker making the disclosure will only be protected if it is made in the public interest. More detail is found in the Whistleblowing Policy. In line with the above, the Council encourages employees and others with serious concerns about any aspect of the Council’s work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. The Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking them. The Policy can found on the Council’s website (www.tamworth.gov.uk).

1.8 There is a need to ensure that any investigation process is not misused and, therefore, any abuse such as raising unfounded malicious allegations may be dealt with as a disciplinary matter.

## 2.0 Why Do We Need This Advice?

2.1 It is important that employees you follow the advice given and do not try to handle the problem themselves, without expert advice and assistance. A badly managed investigation may do more harm than

good. There are a number of internal and external processes which have to be followed to yield a satisfactory conclusion.

### 3.0 How To Recognise A Fraud

3.1 Each employee must be aware of fraud and the areas within their responsibility where fraud may occur.

3.2 Fraud can happen wherever employees or independent contractors complete official documentation and can take financial advantage of the Council. The risk of fraud is enhanced where employees or contractors are in positions of trust or responsibility and are not checked or subjected to effective monitoring or validation. Consequently the following areas are susceptible to fraud:-

- claims for work done by independent contractors,
- travel and expense claims,
- cash receipts/ petty cash,
- payroll,
- ordering, and
- stocks and assets.

3.3 Fraud involves the falsification of records, failing to disclose information or abuse of position. Managers need to be aware of the possibility of fraud when presented with claims/forms/documentation etc. Issues which may give rise to suspicions are:-

- documents that have been altered, "Tippex" used thereon, or different pens and different hand writing,
- claims that cannot be checked, particularly if prior authorisation was not given,
- strange trends (using comparisons and reasonableness),
- confused, illegible text and missing details,
- delays in documentation, completion or submission, and
- no vouchers or receipts to support claims.

3.4 There are a number of indications of an employee being in a situation whereby they could be acting fraudulently. Common indicators could be:-

- living beyond their means,
- under financial pressure,
- not taking annual leave, and

- solely responsible for a “risk” area and/or possibly refusing to allow another officer to be involved in their duties and/or have minimal supervision.

#### 4.0 How To Prevent It

4.1 By establishing an adverse culture to fraud and corruption the Council can help to prevent its occurrence.

4.2 Managers need to :-

- Minimise the opportunity for fraud – this can be achieved by putting in place robust systems of internal controls and checks.
- Reduce the “Pay – Off” – this is achieved by increasing the chances of detection and increasing the penalty for the perpetrator so risks outweigh the benefits of getting “away with it.”

4.3 There are 8 basic control types which management should concern themselves with: -

##### **Supervision**

Supervisory checks should be completed and recorded by the line manager on the work completed by his/her team.

##### **Organisation**

Within each system, there should be policies/procedures setting out how functions should be carried out. There should be clear structures/rules which employees should work within.

##### **Authorisation**

Within a system there should be authorisation controls e.g. controls to authorise a payment (electronic/physical signature), and the correct level of authority is used in decision making.

##### **Personnel**

There should be clear roles and responsibilities and appropriate level of delegation. The right person should be doing the right job.

##### **Segregation of Duties**

Seek<sub>s</sub> to avoid the sole ownership for the processing and control functions of any activity, by one employee.

##### **Physical**

This relates to physical controls e.g. access to monies, documents, security of premises etc. should be appropriate and restricted where necessary. Where restricted access is necessary, access to keys/door numbers, etc. should be retained by the person granted access rights. They should not be left on the premises. Inventory checks ensure that assets are controlled.

### **Arithmetical Accuracy**

Checks completed by another person to confirm the accuracy of data input/independent reconciliations of cash floats etc.

### **Management Functions**

Within the system there should be controls for monitoring and reporting upon activity e.g. the production of audit trail reports from systems etc. Monitoring to highlight irregularity/non-compliance with rules and procedures and reporting – being accountable for actions.

- 4.4. Employees need to be aware of the possibility of fraud when presented with claims/forms/ documentation, etc. They should also have an awareness of internal rules and procedures; i.e. financial regulations, standing orders, declarations of outside work, hospitality etc.
- 4.5 Deterrence and prevention is the primary aim and if managers implement and control areas as mentioned in 4.3, any deviation from the set procedure should be highlighted in a timely manner.

## **5.0 What To Do On Suspecting A Fraud**

### **5.1 Action By Employees**

- 5.1.1 The Council is committed to the highest possible standards of openness, probity and accountability. Any employee who believes such standards are being breached should report their suspicions. This can be done via the Council's Whistleblowing Policy or ~~by you can~~ contacting the Executive Director Corporate Services, Internal Audit or a Chief Officer.
- 5.1.2 ~~The employee~~**You** should report the matter immediately, make a note of ~~their~~**your** suspicions and provide as much factual information to support ~~their~~**your** concerns as possible. Concerns are better raised in writing.



5.1.3 The background and the history of the concern, giving names, dates and places where possible, should be set out and the reason why the individual is particularly concerned about the situation. Those who do not feel able to put their concern in writing can telephone or meet the appropriate officer. The earlier the concern is expressed, the easier it is to take action. Individuals may invite their trade union or professional association to raise a matter on their behalf.

5.1.4 **Employees should** ~~Do~~ not try to carry out an investigation ~~themselves~~. This may damage any investigation carried out by the Internal Audit section, the Benefits Investigations Officer or an appointed investigator. **The employee can help** the official investigators by providing information as and when requested and by giving a written statement when required.

## 5.2 Action By Managers

5.2.1 If managers become suspicious of any action by an employee or supplier or such suspicions are reported to them they should follow these simple rules.

- if possible establish if the irregularity (potential fraud, corruption or error) is a genuine error or possible fraud.
- contact their Chief Officer or any other officer as identified in the Counter Fraud and Corruption Strategy, who will contact the Executive Director Corporate Services or the Internal Audit section.
- contact the Director Transformation & Corporate Performance, where there may be implications under the disciplinary procedures for officers.
- do nothing else, except remain vigilant and await further instructions from the investigating team.

5.2.2 The Council is required to report any cases in which it is suspected that transactions involve the proceeds of crime. If employees or managers have any such suspicion, this should be reported immediately to the Monitoring Officer, who shall advise on the necessary action and ensure the matter is reported to the appropriate authorities.

5.2.3 Details of the relevant contacts can be found in Appendix 4.

## 6.0 What Happens To The Allegation

6.1 The Executive Director Corporate Services or his investigating officer, will normally carry out a full enquiry even where there is clear evidence of an offence following the Fraud Response Plan (Appendix 3). A full report will be copied and sent to:-

- the relevant Chief Officer, and

- the Chief Executive to consider if there needs to be any police involvement.
- 6.2 It is essential that the Executive Director Corporate Services investigation should be a complete one and the investigating officer to whom it is delegated is entitled to expect the fullest co-operation from all employees.
- 6.3 A full detailed report on any system control failures and recommended actions to address the failures will be issued to the relevant manager in the format of an internal audit report.

The Seven Principles of Public Life (Nolan Committee)

**Selflessness**

Holders of public office take decisions in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

**Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership**

Holders of public office should promote and support these principles by leadership and example.

### Statement of Expected Responsibilities

Stakeholder	Expected Responsibilities
Chief Executive	Ultimately accountable as Head of Paid Service for the effectiveness of the Council's arrangements for countering fraud and corruption as well as corporate governance.
Executive Director Corporate Services (Section 151 Officer)	The Executive Director Corporate Services has a statutory duty, under Section 151 of the Local Government Act 1972, Sections 114 and 116 of the Local Government Finance Act 1988 and Accounts and Audit Regulations 2011 to ensure the proper administration of the Council's financial affairs. This includes Internal Audit and Benefit Fraud.
Solicitor to the Council (Monitoring Officer)	To advise Councillors and officers on ethical issues, standards and powers to ensure that the Council operates within the Law and Statutory Codes of Practice. The operation of the Council's Money Laundering Policy And Regulation of Investigatory Powers Act (RIPA) 2000 Policies and Procedures. <a href="#">Maintain a Register of Disclosable Pecuniary Interests.</a>
Director Transformation & Corporate Performance	To put in place a corporate recruitment and selection policy and monitor compliance against it.
Chief Officers	To ensure that fraud and corruption risks are considered as part of the Council's corporate risk management arrangements. To ensure that actions to mitigate risks in this area are effective. To notify the Executive Director Corporate Services of any fraud arising in a timely manner.
Corporate Management Team	Challenge new policies and strategies to ensure that fraud and corruption risks have been taken into account. Review the corporate framework designed to promote an over-riding counter-fraud culture on a regular basis. This will include monitoring and evaluating arrangements to ensure effectiveness and

	compliance with best practice.
Audit and Governance Committee	To monitor the Council's policies and consider the effectiveness of the arrangements for Counter Fraud and Whistleblowing.
Standards Committee	The Committee monitors and advises upon the Code of Conduct for members.
Deputy <u>Leader</u> & Portfolio holder – <u>Cere Services Operations</u> and Assets	To champion the Council's Counter Fraud & Corruption arrangements and promote them at every opportunity.
Elected Councillors	To support and promote the development of a strong counter fraud culture.
<u>Audit Commission</u> <u>External Audit</u>	Statutory duty to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud, corruption and theft.
Internal Audit	Responsible for developing and implementing the Counter Fraud and Corruption Policy Statement, Strategy and Guidance Notes and investigating any issues reported under this policy. Reporting on the effectiveness of controls to the Audit and Governance Committee. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this Strategy and that action is identified to improve controls and reduce the risk of recurrence.
Senior Managers	To promote employee awareness and ensure that all suspected or reported irregularities are immediately referred to Executive Director Corporate Services. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption and theft and to reduce these risks by implementing robust internal controls.
Employees	To comply with Council policies and procedures, to be aware of the possibility of fraud, corruption and theft, and to report any genuine concerns to the appropriate

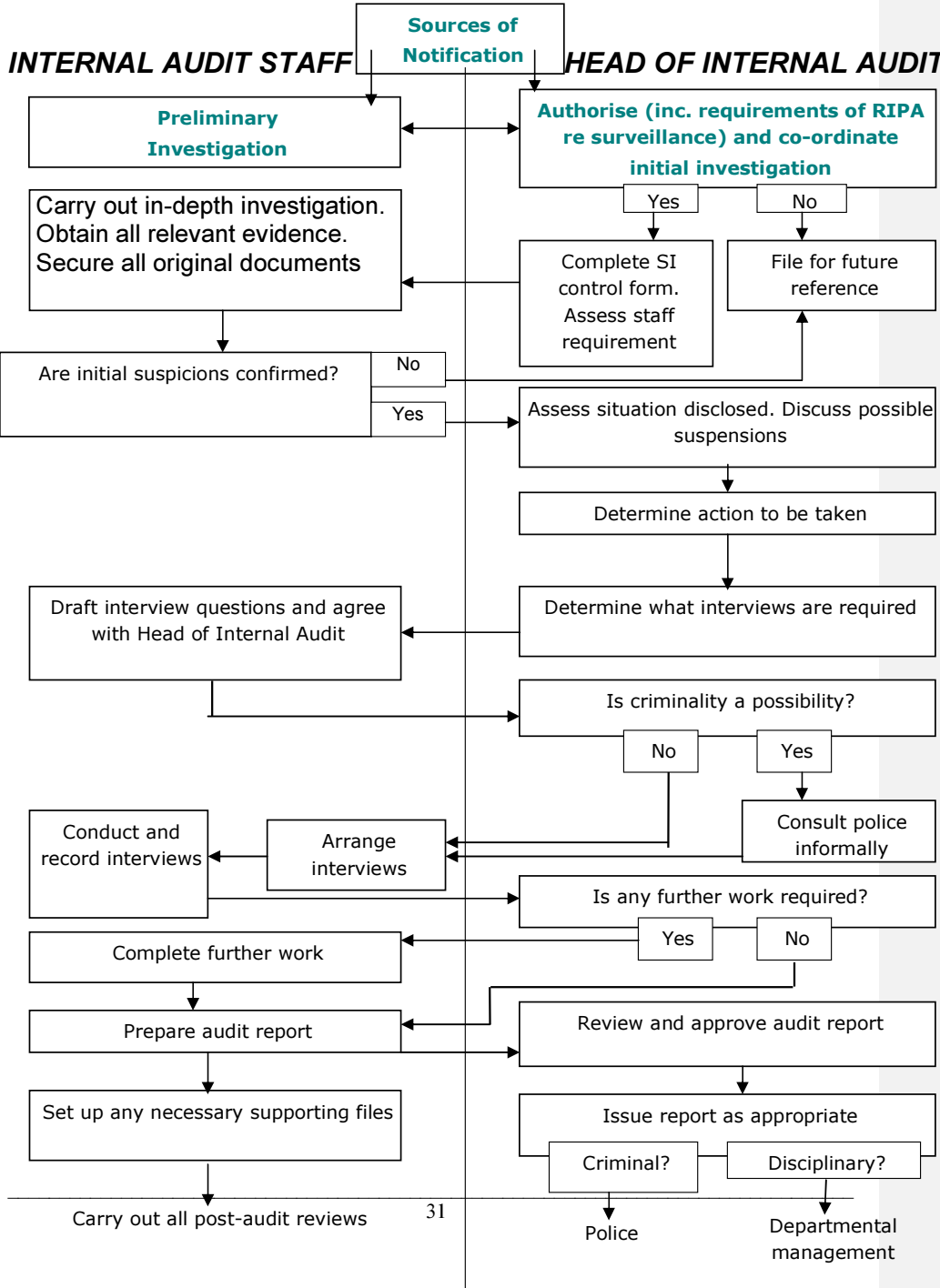
	management, the Chief Executive, the Executive Director Corporate Services or Internal Audit.
Public, Partners, Suppliers, Contractors and Consultants	To be aware of the possibility of fraud and corruption against the Council and report any genuine concerns or suspicions. To ensure that effective controls are in place to mitigate risks to the Council.



Tamworth Borough Council

Fraud Response Plan

OPERATIONAL CONTROL



**HOW TO REPORT ANY SUSPECTED FRAUDS, CORRUPTION, OTHER  
IRREGULARITIES OR CONCERNS**

**To contact Internal Audit Services**

Contact: Angela Struthers, Head of Internal Audit Services

Tel: 01827 709234 email: [angela-struthers@tamworth.gov.uk](mailto:angela-struthers@tamworth.gov.uk)

Write to Head of Internal Audit Services (Confidential)  
Tamworth Borough Council  
Marmion House,  
Lichfield Street  
Tamworth  
B79 7BZ

**Alternatively you can contact:**

John Wheatley, Executive Director Corporate Services

Tel: 01827 709252 email: [john-wheatley@tamworth.gov.uk](mailto:john-wheatley@tamworth.gov.uk)

Jane Hackett, Solicitor to the Council and Monitoring Officer

Tel: 01827 709258 email: [jane-hackett@tamworth.gov.uk](mailto:jane-hackett@tamworth.gov.uk)

Tony Goodwin, Chief Executive

Tel: 01827 709220 email: [tony-goodwin@tamworth.gov.uk](mailto:tony-goodwin@tamworth.gov.uk)

**To contact the Council's external auditor**

Write to:

~~The Audit Commission  
2nd Floor, No 1 Friarsgate  
1011 Stratford Road  
Solihull  
West Midlands  
B90 4BN Grant Thornton UK LLP  
Colmore Plaza  
20 Colmore Circus  
Birmingham  
West Midlands  
B4 6AT~~

Tel: ~~0844 798 7173~~ 0121 212 4000

**Audit Commission**

**Whistleblowing hotline: 0845 052 2646** 0303 444 8330

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**To report Housing and Council Tax Benefit Fraud contact;**  
Tamworth Borough Council Benefits Fraud Team : 01827 709525/541

National Benefit Fraud Hotline [08003286340](tel:08003286340)-[0800 854 440](tel:0800 854 440) or  
text phone number [08003286341](tel:08003286341)-[0800 328 0512](tel:0800 328 0512) or  
Write to PO Box No. 647, Preston, PR1 1WA

**Comment [j1]:** Should this say 2013/14?

## CREATING AN ANTI-FRAUD CULTURE

OBJECTIVE	RISK	PROGRESS
<p>To build an anti fraud culture through the adoption of various measures to promote counter fraud awareness by:</p> <ul style="list-style-type: none"> <li>a) Roll out of the e learning package on governance (includes counter fraud &amp; whistleblowing)</li> <li>b) Provide drop in sessions (if required) to staff and members</li> <li>c) Continue to make available counter fraud strategies/policies on the intranet/website</li> </ul>	<p>1. Failure to make staff, member and the public that their suspicions will be treated confidentially, objectively and professionally.</p>	
<b>RESOURCE (DAYS)</b>		<b>5</b>

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<b>DETECTING FRAUD</b>		
<b>OBJECTIVE</b>	<b>RISK</b>	<b>PROGRESS</b>
Review communications so that the most effective ways of communicating with staff are utilised.	A lack of robust strategic approach to deterring fraud can undermine actions to build an anti-fraud culture	
<b>Resources (Days)</b>		

## PREVENTING FRAUD

OBJECTIVE	RISK	PROGRESS
Review the existing counter fraud policy statement, strategy and guidance notes and update and amend as appropriate.	Out of date policies and procedures which do not cover relevant legislation	
Review financial guidance and update and amend as appropriate.	Out of date policies and procedures which do not cover relevant legislation	
Review and update the fraud risk register in line with potential system weaknesses identified during audits or investigations.	Potential risks not identified	
<b>Resources (Days)</b>		<b>12</b>



<b>DETECTING FRAUD</b>		
<b>OBJECTIVE</b>	<b>RISK</b>	<b>PROGRESS</b>
Undertake enquiries as a result of the outcome of the Audit Commission's National Fraud Initiative	If not undertaken, there is a risk that the opportunity to abuse a system weakness may be heightened as the risk of being caught maybe deemed negligible by the perpetrator.	
Undertake local proactive exercises at the Authority as agreed with the Executive Director Corporate Services	If not undertaken, there is a risk that the opportunity to abuse a system weakness may be heightened as the risk of being caught maybe deemed negligible by the perpetrator.	
<b>Resources (Days)</b>		<b>12</b>

<b>INVESTIGATIONS</b>		
<b>OBJECTIVE</b>	<b>RISK</b>	<b>PROGRESS</b>
All referrals will be investigated in accordance with the Counter Fraud and Corruption Policy Statement and Strategy.	<p>The risk of not investigating is that fraud goes unpunished and there is no resulting deterrent effect thus increasing the prevalence of fraud further.</p> <p>The staff (or others) making the allegation feel they are not taken seriously and referrals cease to be made.</p>	
<b>Resources (Days)</b>		<b>20</b>

## SANCTIONS

OBJECTIVE	RISK	PROGRESS
Ensure that the sanctions are applied correctly and consistently.	If sanctions are not imposed there is no deterrence of fraud.	
<del>Resources (Days)</del>		

<b>REDRESS</b>		
<b>OBJECTIVE</b>	<b>RISK</b>	<b>PROGRESS</b>
<p>Maintain comprehensive records of time spent on each investigation so that this can be included in any compensation claim.</p> <p>Identify and maintain a record of the actual proven amount of loss so that appropriate recovery procedures can be actioned.</p>	<p>Fraudsters may not realise that any and all measures will be taken to recover any money lost to fraud.</p>	
<b>Resources (Days)</b>		

## MANDATORY COUNTER FRAUD ARRANGEMENTS (STRATEGIC WORK)

OBJECTIVE	RISK	PROGRESS
<p>Attendance at relevant fraud forums/meetings to ensure that professional knowledge and skills are maintained.</p> <p>Completion and agreement of work plan.</p> <p>Regular meetings with the Executive Director Corporate Services.</p> <p>Quarterly report of counter fraud work.</p> <p>Attendance at relevant training as required.</p>	<p>Failure to ensure the completion of mandatory strategic work may mean that the professional knowledge and skills are not maintained to a high standard.</p>	
<b>Resources (Days)</b>		<b>5</b>
<b>TOTAL RESOURCES (Days)</b>		<b>54</b>

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**Appendix 2**

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## WHISTLEBLOWING POLICY

Document Status: ~~Final~~Draft

Originator: A Struthers

Updated: A Struthers

Owner: Solicitor to the Council & Monitoring Officer

Version: 01.01.~~04~~02

Date: ~~01/03/12~~29/07/13

Approved by **Council**

## Appendix 2

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### Document Location

This document is held by Tamworth Borough Council, and the document owner is Jane Hackett, Solicitor to the Council & Monitoring Officer.

Printed documents may be obsolete. An electronic copy will be available on Tamworth Borough Councils Intranet. Please check for current version before using.

### Revision History

Revision Date	Version Control	Summary of changes
01/03/12	1.01.01	Scheduled review
<u>29/07/13</u>	<u>1.01.02</u>	<u>Changes under the Enterprise and Regulatory Reform Act 2013</u>

### Approvals

Name	Title	Approved
Full Council	Committee Approval <u>11/9/12</u>	<u>Yes</u>
<u>Appointments &amp; Staffing Committee</u>	<u>Committee Approval</u>	
Audit & Governance Committee	Committee Approval	<u>Yes</u> <u>Yes</u>
CMT	Group Approval	<u>Yes</u> <u>Yes</u>
TULG	Trade Union Consultation	<u>Yes</u> <u>Yes</u>
Jane Hackett	Solicitor to the Council & Monitoring Officer	<u>Yes</u> <u>Yes</u>
Angela Struthers	Head of Internal Audit Services	Yes

### Document Review Plans

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This document is subject to a scheduled annual review. Updates shall be made in accordance with business requirements and changes and will be with agreement with the document owner.

**Distribution**

The document will be available on the Intranet and the website.

**Appendix 2**

TAMWORTH BOROUGH COUNCIL

**WHISTLEBLOWING POLICY**

**1. Introduction**

1.1 The Public Interest Disclosure Act 1998 became law in July, 1999. This Act introduced the protection of whistleblowers, and removes the limits of financial liability to which an organisation is exposed should a whistleblower receive unfair treatment. This policy document sets out the Council's response to the requirements of the Act.

1.2 Under the Enterprise and Regulatory Reform Act 2013, any disclosure made using the Whistleblowing Policy, within reasonable belief of the worker making the disclosure will only be protected if it is made in the public interest. It must also show one or more of the following:

(a) that a criminal offence has been committed, is being committed or is likely to be committed,

(b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,

(c) that a miscarriage of justice has occurred, is occurring or is likely to occur,

(d) that the health or safety of any individual has been, is being or is likely to be endangered,

(e) that the environment has been, is being or is likely to be damaged, or

(f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

1.2 This policy is designed for workers. Workers include:

- ~~-employees;~~
- ~~however, the Council's partners or members of the public can~~
- ~~also~~ agency workers;
- people that are training with an employer but not employed; and
- self-employed workers, if supervised or working off-site.

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## Appendix 2

~~raise concerns in the knowledge that they are protected under the safeguards of this policy.~~

- 1.3 Local Government employees have an individual and collective responsibility regarding their conduct and practices, which are always subject to scrutiny. As individuals, employees are required to work within the Code of Conduct for Tamworth Borough Council Employees and the relevant codes of conduct including the standards appropriate to their professional organisations or associations. The Council's regulatory framework also includes Financial Regulations and Contract Standing Orders that must be met.
- 1.4 All employees have a duty to bring to the attention of management any deficiency in the provision of service and any impropriety or breach of procedure, in accordance with Financial Regulations. ~~“t cases.”~~
- 1.5 ~~Employees, members of the council, or contractors~~ Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.6 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment it expects employees, and others that it deals with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.7 This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. *This Whistleblowing Policy is intended to encourage and enable anyone to raise ~~serious~~ concerns in the public interest, in good faith within the Council rather than overlooking a problem or 'blowing the whistle' outside.*

### ~~1.8~~ The policy applies to:

~~all employees of the Council, members of the Council, contractors working for the Council on Council Premises (eg agency staff), suppliers and those providing services under a contract with the council, people working in partnership with the council and its employees and members (eg volunteers,~~

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trustees etc)

**4.91.8** These procedures are in addition to the Council's complaints procedures including the Grievance Procedure and the Dignity and Respect at Work Policy, and other statutory reporting procedures applying to some Services. ~~You are responsible for making service users aware of the existence of these procedures.~~

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**4.101.9** This policy has been discussed with the relevant trade unions and professional organisations and has their support.

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## **2. Aims and Scope of this Policy**

2.1 This policy aims to:

- encourage you to feel confident in raising ~~serious~~ concerns that are in the public interest ~~and to question and act upon concerns about practice~~
- provide avenues for you to raise those concerns and receive feedback on any action taken
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

2.2 There are existing procedures in place to enable you to disclose ~~certain~~ particular concerns. These are:

- The Authority's Grievance Procedure which enables you to lodge a grievance relating to your own employment;
- The Authority's Counter Fraud and Corruption Policy Statement, Strategy & Guidance Notes, which outlines how you can disclose potential fraud, bribery, corruption and theft;
- The Authority's Dignity and Respect at Work Policy, which enables you to disclose cases of potential harassment and bullying;
- The Authority's Children & Vulnerable Adult Protection Policy (which has its own Whistleblowing Policy in place), for disclosures regarding suspected mistreatment of children and vulnerable adults.



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2.3 This policy is intended to cover major concerns that may fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law
- disclosures related to miscarriage of justice
- health and safety risks, (including risks to the public as well as other employees)
- damage to the environment
- the unauthorised use of public funds
- sexual or physical abuse of both employees and clients other than that covered under the Children & Vulnerable Adult Protection Policy, or
- other unethical conduct.

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2.4 Thus, any serious concerns that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council can be reported under the Whistleblowing Policy. This may be something that:

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- makes you feel uncomfortable in terms of known standards, your experience of the standards you believe the Council subscribes to; or
- is against the Council's Standing Orders and policies; or
- falls below established standards of practice; or
- amounts to improper conduct.

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2.5 This policy does **not** replace the corporate complaints procedure or other existing policies for raising issues regarding your employment.

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## 3 Safeguards

### 3.1 Harassment or Victimisation

3.23.1 The Council is committed to good practice and high standards and shall be supportive of employees.

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3.33.2 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is **true within reasonable belief**, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

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3.43.3 The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.

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~~3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.~~

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### **4. Confidentiality**

4.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness, but this will be discussed with you, as to whether and how the matter can be proceeded with.

### **5. Anonymous Allegations**

5.1 This policy encourages you to put your name to your allegation whenever possible.

5.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.

5.3 In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

### **6. Untrue Allegations**

6.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

### **7. How to Raise a Concern**

7.1 As a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the Chief Executive, Executive Director Corporate Services, Solicitor to the Council or Head of Internal Audit Services.

## Appendix 2

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Where you feel unable to raise the concerns internally due to the nature of the disclosure you should contact the Audit Commission on their Confidential Public Interest Disclosure phone line – [0845-052-26460303](tel:0845-052-26460303) [444 8330](tel:444-8330). The Commission will then ensure that the disclosure is properly investigated.

- 7.2 To raise a concern in respect of Benefits Fraud, you can contact the Benefits fraud section on 01827 709525/541. Alternatively you can call the National Benefit Fraud Hotline telephone number 0800 [328-6340854](tel:328-6340854) [440](tel:440) or text phone number 0800 328 [6344-0512](tel:6344-0512) or write to them at PO Box No. 647, Preston, PR1 1WA.

## 8 External contacts

- 8.1 While it is hoped that this policy gives you the reassurance you need to raise such matters internally, it is recognised that there may be circumstances where you can properly report matters to outside bodies, such as prescribed regulators, some of which are outlined below, or the police, or if applicable your own union, will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

- 8.2 Relevant Prescribed Regulators are as follows:

Health and Safety risks	<a href="#">Health and Safety Executive</a>
Environmental issues	<a href="#">The Environmental Agency</a>
Fraud and Fiscal Irregularities	<a href="#">Serious Fraud Office, HM Revenues &amp; Customs</a>
Public Sector Finance	<a href="#">National Audit Office</a> and <a href="#">Audit Commission</a>
Competition & Consumer Law	<a href="#">Office of Fair Trading</a>
Elected Member's conduct	<del>Standards Committee for the authority</del> Solicitor to the Council & Monitoring Officer (details available on the website)
Others	Certification Officer (Trade Unions), <a href="#">Charity Commission</a> , <a href="#">Information Commissioner</a>

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- 8.3 Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates);
- the reason why you are particularly concerned about the situation.

## **Appendix 2**

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~~8.4~~ The earlier you express the concern the easier it is to take action.

~~8.4~~

8.5 ~~Although you are not expected to prove beyond doubt the truth of an allegation and you,~~ you will need to be able to demonstrate to the person contacted that there are reasonable grounds for your concern.

8.6 Contact points for Advice/guidance on how to pursue matters of concern can be obtained from:

- Chief Executive – 709220
- Executive Director Corporate Services – 709252
- Solicitor to the Council & Monitoring Officer – 709258
- Head of Internal Audit Services – 709234

8.7 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

8.9 You may invite your trade union, ~~professional association representative~~ or professional association representative or a ~~friend~~member of staff to be present during any meetings or interviews in connection with the concerns you have raised.

## **9. How the Council Will Respond**

9.1 The Council will always respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

9.2 Where appropriate, the matters raised may:

- be investigated by management, internal audit, or through the disciplinary process
- be referred to the police
- be referred to the external auditor
- form the subject of an independent inquiry.

9.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

## **Appendix 2**

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9.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

9.5 Within ten working days of a concern being raised, the Solicitor to the Council will write to you:

- acknowledging that the concern has been received
- indicating how the Council propose to deal with the matter
- giving an estimate of how long it will take to provide a final response
- telling you whether any initial enquiries have been made
- supplying you with information on how the Council will support you if you think this is necessary, whilst the matter is under consideration, and
- telling you whether further investigations will take place and if not, why not.

9.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.

9.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a trade union officer or professional association representative or a ~~friend~~ member of staff.

~~9.8 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.~~

~~9.9.8~~ The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

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## **10. The Responsible Officer**

10.1 The Solicitor to the Council & Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does

**Appendix 2**

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not endanger your confidentiality) and will report as necessary to the Council.

**11. How the Matter can be Taken Further**

11.1 If you feel that the Council has not responded correctly at any stage, remember you can go to the other levels and bodies mentioned earlier. While it cannot be guaranteed that all matters will be addressed in the way that you might wish, it will always be the Council's intention to handle the matter fairly and properly. By using this policy, you will help achieve this

11.2 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.



## COUNCIL

17 DECEMBER 2013

### REPORT OF THE PORTFOLIO FOR ECONOMY AND EDUCATION

#### CREATION OF A JOINT SCRUTINY COMMITTEE FOR THE SUPERVISORY BOARD OF THE GREATER BIRMINGHAM AND SOLIHULL LOCAL ENTERPRISE PARTNERSHIP

##### 1. Purpose of the Report

To seek approval of a Joint Committee, draft Constitution and Terms of Reference and for the creation of a Joint Scrutiny Committee for the Supervisory Board of the Greater Birmingham and Solihull Local Enterprise Partnership (GBS LEP).

##### 2. RECOMMENDATION

###### That the Council approves

(1) The establishment of a Joint Committee, in accordance with Article 12 of the constitution, the Localism Act 2011, and the Local Government Acts 1972 and 2000 for the purposes of acting as a Supervisory Board for the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) for decisions on any funds devolved from government as part of a Single Local Growth Fund and

(2) The Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) draft Constitution, Terms of Reference and Joint Scrutiny Committee arrangements as detailed in the documents attached in the Appendices in accordance with the Constitution and Article 11 thereof ;

##### 3. Background

In September 2012, a delegation of Birmingham politicians and business leaders, including the GBS LEP Chair went to meet the Prime Minister. At that meeting, an offer was made to pilot outcomes from Lord Heseltine's review into how to drive economic growth. This sparked the Prime Minister's interest and the outcome a few months later was the initiation of the Greater Birmingham Project (GBP).

His intense eight week review saw the GBS LEP work with Lord Heseltine to assess the economic benefit of implementing the recommendations contained within his report 'No Stone Unturned'. The link below will take you to Lord Heseltine's report :-

<http://www.bis.gov.uk/assets/biscore/corporate/docs/n/12-1213-no-stone-untuned-in-pursuit-of-growth.pdf>

The 89 recommendations included the creation of a £49bn capital pot of devolved funds from Whitehall which local areas can bid into to fund economic development activity.

The findings of the review were published on Sunday 17 March 2013. The 'Greater Birmingham Project: the Path to Local Growth'.

The link below will take you to the findings of the review :-

[http://centreofenterprise.com/wp-content/uploads/2013/03/GBSLEP-Report-version\\_complete.pdf](http://centreofenterprise.com/wp-content/uploads/2013/03/GBSLEP-Report-version_complete.pdf)

The review outlined how outcomes would be improved if the Greater Birmingham area had control over a large capital fund that it could use to drive economic growth and improve the quality of life of local people.

The report also acknowledged that governance would need to be strengthened if the LEP was to start making spending decisions over significant sums of money. In the document, the GBS LEP committed to forming a Supervisory Board comprised of the nine elected local authority leaders, if a substantial Single Pot was created. The report stated that the Supervisory Board would:

- Provide clear political accountability for the management of the Single Pot.
- Operate a cabinet style of accountability and be a formal governance structure between a Joint Committee and a Combined Authority.
- Empower the LEP Board through formal decision making and a scheme of delegated authority.

The commitment by the Government (led by the current Conservative/Lib Dem administration), announced by the Chancellor of the Exchequer and confirmed in the recent Budget that

"Government spending should be aligned with the priorities of the local business community ... from April 2015, the Government will place more of the funding that currently goes to local transport, housing skills and getting people back to work into a Single Pot that LEPs can bid for."... is welcomed.

Moreover, it is acknowledged that the democratic accountability deficit currently exhibited by LEPs given that there is insufficient elected member oversight of decisions taken by LEPs requires to be addressed. In the Government's response to the Heseltine Review, among the principles for effective partnership, it is stated that local authorities will 'manage an account for the localised funds through binding and long lived decision making structures such as joint committees as a minimum, or combined authority (preferable), or other similar arrangement'.

This devolution of funding and responsibilities should be subject to meaningful local democratic accountability to ensure there is also alignment with community priorities.

Accordingly, Cabinet welcomed the statement in the Greater Birmingham Project: the Path to Local Growth, once the details of the single pot are announced, that the Greater Birmingham & Solihull LEP will 'immediately establish a Supervisory Board comprised of the nine local authority leaders. This will provide clear political accountability for the management of the single pot. It will operate a cabinet style of accountability and will be a formal government structure between a Joint Committee and a Combined Authority.'

In response to Lord Heseltine's 'No Stone Unturned', the Government has created a Local Growth Fund of c£2billion, of which about half will be available for LEPs to bid into competitively. To be successful, LEPs will be expected to demonstrate a number of things including arrangements for delivering their Strategic Economic Plan which "deliver collective decisions, from all local authority leaders, including district councils within the LEP, with evidence of underpinning robust partnership arrangements" such as Joint Leaders Committees (Growth Deals – Initial Guidance for Local Enterprise Partnerships': HM Government (July 2013)). The expectation from Government is therefore that LEPs will strengthen their governance arrangements if a formal structure is not already in place

#### **4. Creation of a Supervisory Board**

Cabinet agreed on 22 August 2013 to:

- (1) The establishment of a Joint Committee, subject to approval of Council, in accordance with Article 12 of the constitution, the Localism Act 2011, and the Local Government Acts 1972 and 2000 for the purposes of acting as a Supervisory Board for the GBSLEP for decisions on any funds devolved from government as part of a Single Local Growth Fund ;
- (2) The GBSLEP draft constitution, terms of reference and scrutiny arrangements as detailed in the documents attached in the Appendices be referred to Council for approval in accordance with the Constitution and Article 11 thereof ;
- (3) The Solicitor to the Council and Monitoring Officer be authorised to make any amendments to the relevant documents and finalise the detail for the GBSLEP Constitution, terms of reference and scrutiny arrangements as the proposals are developed between the LEP and local authority members of the Joint Committee and
- (4) Delegate to the Leader and in his absence the Portfolio Holder for Economy and Education the membership position on the GBSLEP as contained in the Terms of Reference with full voting rights on all Supervisory Board.

A copy of the report, the draft Constitution and Terms of Reference are attached at Appendices (1), (2) and (3).

The necessary approvals are being sought by each of the other local authorities in the LEP.

Membership of the Supervisory Board will comprise the nine Local Authority Leaders (or other appointed member) of the GBSLEP. The GBSLEP Chair will be invited to be a member (using the power to co-opt non-authority members on to a committee contained in Section 102(3) of the Local Government Act 1972) but will be a non-voting member of the Board.

Political proportionality rules will not apply to the Joint Committee as so constituted.

Objects of the Supervisory Board will be to:

- Provide effective decision-making and clear political accountability for the management of the Local Growth Fund and other significant funding streams that cover the full GBS LEP geography as agreed by the LEP Board
- To empower the LEP Board to deliver decisions taken;
- To oversee and review the activities of the GBS LEP Board;

- To co-ordinate and liaise with the GBS Local Transport Board;
- To consider any further measures necessary to strengthen the GBS LEP Board.  
Birmingham City Council will host the Supervisory Board.

#### **4 Creation of a Joint Scrutiny Committee**

As the Supervisory Board performs executive functions it is necessary to create a Joint Scrutiny Committee to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Supervisory Board.

It is proposed that the Joint Scrutiny Board will be formed of one member from each local authority, making a total of nine. Quorum will be four, one from each area of the LEP (i.e. Birmingham, Solihull, North Worcestershire and South Staffordshire). As each Local Authority will be nominating its member, the composition of the Scrutiny Committee will not accord with political balance rules.

The Joint Scrutiny Committee will be hosted under local government arrangements by Solihull Metropolitan Borough Council and the Chief Executive of Solihull Metropolitan Borough Council shall be Secretary to the Joint Scrutiny Committee.

Solihull Metropolitan Borough Standing Orders will apply to the Joint Scrutiny Committee. The Host Authority will also provide s151 and Monitoring Officer roles to the Joint Scrutiny Committee.

The draft Terms of Reference for the Joint Scrutiny Committee are attached at Appendix 4

#### **Appendices**

- (1) Report to Cabinet on 22 August 2013 – Creation of a Supervisory Board for the Greater Birmingham and Solihull Local Enterprise Partnership
- (2) Draft Constitution
- (3) Terms of Reference
- (4) Draft Terms of Reference for the Joint Scrutiny Committee

#### **Report Author**

Jane M Hackett, Solicitor to the Council & Monitoring Officer tel: 709258

REPORT OF THE PORTFOLIO HOLDER FOR ECONOMY AND EDUCATION

**The Creation of a Greater Birmingham and Solihull Local Enterprise Partnership  
Supervisory Board and Scrutiny Arrangements**

**EXEMPT INFORMATION**

None

**PURPOSE**

To inform the Cabinet of the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) proposed Governance arrangements in relation to the management of the Single Local Growth Fund.

**RECOMMENDATIONS**

That Cabinet agree:-

1) to the establishment of a Joint Committee in accordance with Article 12 of the Constitution, the Localism Act 2011, and the Local Government Acts 1972 and 2000 for the purposes of acting as a Supervisory Board for the GBSLEP for decisions on any funds devolved from government as part of a Single Local Growth Fund;

2) that the GBSLEP draft constitution, terms of reference and scrutiny arrangements as detailed in the documents attached in the Appendices be referred to Council for approval in accordance with the Constitution and Article 11 thereof ;

3) that the Solicitor to the Council and Monitoring Officer be authorised to make any amendments to the relevant documents and finalise the detail for the GBSLEP Constitution, terms of reference and scrutiny arrangements as the proposals are developed between the LEP and local authority members of the Joint Committee;

4) to delegate to the Leader and in his absence the Portfolio Holder for Economy and Education the membership position on the GBSLEP as contained in the Terms of Reference with full voting rights on all Supervisory Board matters.

## EXECUTIVE SUMMARY

In October 2012 Lord Heseltine published his Independent report with recommendations on how to increase UK growth. Lord Heseltine was concerned that the variety of funding streams impacted on the ability to deliver growth. He recommended:

**“Recommendation 1: Central government should identify the budgets administered by different departments which support growth. These should be brought together into a single funding pot for local areas, without internal ring fences.”**

In its report, ‘The Greater Birmingham Project: the Path to Local Growth’, the Greater Birmingham and Solihull Local Enterprise partnership (GBSLEP) committed to forming a Supervisory Board comprised of the nine elected local authority leaders, if a substantial Single Pot of funding was created. The report stated that the Supervisory Board would:

- Provide clear political accountability for the management of the Single Pot.
- Operate a cabinet style of accountability and will be a formal governance structure between a Joint Committee and a Combined Authority.
- Empower the LEP Board through formal decision making and a scheme of delegated authority.

In the Government’s response to Lord Heseltine’s ‘No Stone Unturned’ it states that the strength of governance arrangements in place, including decision-making structures for local authorities and for joint LEP and local authority decision-making on spend will be a key criteria in the negotiations around accessing the Single Local Growth Fund.

The report stipulates that: “Local authorities will manage and account for the localised funding through binding and long-lived decision-making structures such as joint leaders committee as a minimum, or combined authority (preferable), or other similar arrangement”.

There is therefore a clear expectation that robust governance arrangements will be in place for each LEP, regardless of the scale of the Single Pot.

Work has been undertaken by GBSLEP over the past few months to develop proposals for the Supervisory Board. Various options were discussed by GBSLEP Leaders on the 13<sup>th</sup> June. The draft Constitution attached at Appendix 1 reflects the outcome of this discussion.

The proposal is to establish the Supervisory Board as a Joint Committee with each Council delegating functions to it.

Terms of reference have been drafted and are in Appendix B. A paper detailing the Draft Scrutiny arrangements is in Appendix C.

Once each local authority has the appropriate approvals, the LEP Board’s Articles of Association should be reviewed and amended as necessary to reflect the new governance model. It is intended that the Supervisory Board should be in operation by end of September 2013.



**RESOURCE IMPLICATIONS**

None identified at this stage

**LEGAL/RISK IMPLICATIONS BACKGROUND**

The Legal implications are detailed in the report. There are no identified risk implications at this stage.

**SUSTAINABILITY IMPLICATIONS**

None identified

**BACKGROUND INFORMATION**

None

**REPORT AUTHOR**

Matthew Bowers, Head of Planning and Regeneration x276

**LIST OF BACKGROUND PAPERS****APPENDICES**

A – Draft constitution

B – Terms of reference

C – Scrutiny arrangements

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## Appendix 1

**Supervisory Board: Draft Constitution****1 Governance**

The Supervisory Board will act as a Joint Committee under ss 101, 102 Local Government Act 1972 and s 20 Local Government Act 2000 and pursuant to the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012

Political Proportionality rules will not apply to the Supervisory Board as so constituted.

**1.1 Access to Meetings**

Normal rules apply as to public access i.e. as a Joint Committee the public has access except for exempt business.

**1.2 Approvals Process**

Cabinet authority at each constituent authority will be required to authorise and delegate functions to the Joint Committee. Local Authorities may also need to take it through Full Council depending on their Constitution.

**1.3 Host Authority**

The Supervisory Board will be hosted under local government arrangements by Birmingham City Council and the Chief Executive or nominated Strategic Director of Birmingham City Council shall be Secretary to the Supervisory Board. Birmingham City Council Standing Orders will apply to the Supervisory Board. The Host Authority will also provide s151 and Monitoring Officer roles to the Joint Committee.

**2 Objects of Supervisory Board**

- 2.1 To provide effective decision making and clear political accountability for management of the Single Local Growth Fund and other significant funding streams that cover the full GBS LEP geography as agreed with the LEP Board;
- 2.2 To empower the GBSLEP Board;
- 2.3 To co-ordinate and liaise with GBS Local Transport Board; and
- 2.4 To consider any further measures necessary to strengthen the GBSLEP Board.

**3 Membership**

- 3.1 One member from each constituent authority. Such member to be the Leader (or other appointed member) from each constituent authority (voting).
- 3.2 The Chair of GBSLEP (non-voting).
- 3.3 Each Supervisory Board member should identify an alternate.

**4 Voting**

- 4.1 One member one vote for local authority members.

4.2 Normal rules as to declarations of interest to be applied in accordance with the law and regulations governing pecuniary interests and Birmingham City Council Code of Conduct. The Chair has the right to decide whether observers declaring an interest can observe the meeting or should be asked to leave.

4.3 No ability to vote for private sector members. Under current legislation private sector members are not allowed to vote on such a Joint Committee.

## **5 Quorum**

5.1 Four members present (one from Birmingham City Council, one from Solihull MBC, one District from Staffordshire and one District from Worcestershire).

## **6 Meetings**

6.1 The Chair of the Meeting will be [*elected at the first meeting*]. Terms of Reference and Standing Orders will provide for an appropriate substitute in the event of unavailability.

6.2 The Supervisory Board will normally meet on the same day and immediately following the GBSLEP Board meeting, but meetings can be called at other times as needed.

## **7 Scrutiny**

7.1 Local Authorities are required under s21 Local Government Act 2000 to ensure that their overview and scrutiny committees have power to “review or scrutinise decisions made by the executive”. As Districts are delegating their executive decision making a Joint Scrutiny Committee will be appointed to oversee the decisions of the Supervisory Board. Its membership will be drawn from the nine local authorities and its focus will be on Call-In of decisions.

## Supervisory Board: Draft Terms of Reference

### 1. Governance

- 1.1 The Supervisory Board acts as a Joint Committee under ss 101, 102 Local Government Act 1972 and s 20 Local Government Act 2000 and pursuant to the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012
- 1.2 Political Proportionality rules will not apply to the Supervisory Board as so constituted.

### 2. Host Authority

- 2.1 The Supervisory Board will be hosted under local government arrangements by Birmingham City Council and the Chief Executive or nominated Strategic Director of Birmingham City Council shall be Secretary to the Supervisory Board. The Host Authority will also provide s151 and Monitoring Officer roles to the Joint Committee.

### 3. Objects of Supervisory Board

- 3.1. To provide effective decision making and clear political accountability for management of the Single Local Growth Fund and other significant funding streams that cover the full GBS LEP geography as agreed with the LEP Board;
- 3.2. To empower the GBSLEP Board;
- 3.3 To oversee and review the activities of the GBSLEP Board;
- 3.4. To co-ordinate and liaise with GBS Local Transport Board; and
- 3.5 To consider any further measures necessary to strengthen the GBSLEP Board.

### 4. Membership

- 4.1. One member from each constituent authority. Such member to be the Leader (or other appointed member) from each constituent authority (voting).
- 4.2. The Chair of GBSLEP (non-voting).
- 4.3 Each Supervisory Board member to identify an alternate.

### 5. Voting

- 5.1. One member one vote for local authority members.
- 5.2. Normal rules as to declarations of interest to be applied in accordance with the law and regulations governing pecuniary interests and Birmingham City Council Code of Conduct. The Chair has the right to decide whether observers declaring an interest can observe the meeting or should be asked to leave.

- 5.3. No ability to vote for private sector members.
- 5.4. In the event of any voting member of the Committee ceasing to be a member of the Council which appointed him/her, the Council shall forthwith appoint another voting member in his/her place.
- 5.5. Except as otherwise provided by the Local Government Acts 1972 and 1985, all questions shall be decided by a majority of the votes of the voting members present, the Chair having the casting vote in addition to his/her vote as a Member of the Committee.

## **6 Quorum**

- 6.1. Four members present (one from Birmingham City Council, one from Solihull MBC, one District from Staffordshire and one District from Worcestershire).

## **7 Meetings**

- 7.1. The Chair of the Meeting will be elected at the first meeting and then each Annual Meeting of the Supervisory Board (usually on the same day as the LEP's AGM) and if the Chair is not present at any meeting within 10 minutes of the start of the meeting then those present will elect a Chair to act for that meeting.
- 7.2. Only a voting member is entitled to be elected as Chair or Vice-Chair of the Committee.
- 7.3. Each person entitled to attend will send an alternate as per para 4.3 in the event of his or her unavailability. The Secretary for the Supervisory Board shall be informed prior to the commencement of the meeting of any alternate members attending.
- 7.4. The Supervisory Board will normally meet on the same day and immediately following the GBSLEP Board meeting, but meetings can be called at other times as needed. A meeting of the Supervisory Board must be convened by the Chair within 28 days of the receipt of a requisition of any two voting members of the Supervisory Board addressed to the Secretary to the Supervisory Board. All requisitions shall be in writing and no business other than that specified in the requisition shall be transacted at such a meeting.

## **8 Standing Orders**

- 8.1. Standing Orders for the Supervisory Board shall be the Standing Orders from time to time of Birmingham City Council

## **9 Administration**

- 9.1 (i) The Secretary shall keep proper accounts of the money received and expended by the Supervisory Board.
- 9.1 (ii) The Secretary shall apportion the expenses of the Supervisory Board between the Councils in proportion to the population of each Council in the Greater Birmingham and Solihull Local Enterprise Partnership area.



- 9.2 This Terms of Reference and, subject as hereinafter mentioned, the functions of the Supervisory Board may be amended at any time by the unanimous agreement of the voting members of the Supervisory Board.

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## **GBSLEP Joint Scrutiny Committee – Draft Terms of Reference**

### **1. Governance**

The Joint Scrutiny Committee will act as a Joint Committee under sections 101 and 102 Local Government Act 1972 and s9F Local Government Act 2000 (as amended).

#### **1.2 Access to Meetings**

Normal rules apply as to public access i.e. as a Joint Committee the public has access except for exempt business.

#### **1.3 Host Authority**

1.3.1 The Joint Scrutiny Committee will be hosted under local government arrangements by Solihull Metropolitan Borough Council and the Chief Executive of Solihull Metropolitan Borough Council shall be Secretary to the Joint Scrutiny Committee.

1.3.2 Solihull Metropolitan Borough Standing Orders will apply to the Joint Scrutiny Committee (save for section 5 below).

1.3.3 The Host Authority will also provide s151 and Monitoring Officer roles to the Joint Scrutiny Committee.

### **2. Objects of Joint Scrutiny Committee**

2.1 To review and/or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Supervisory Board

2.2 To make reports or recommendations to the Supervisory Board with respect to the discharge of any functions which are the responsibility of the Supervisory Board.

### **3. Membership**

3.1 One member from each constituent authority.

3.2 Power for the committee to co-opt other members as it sees fit [this can include further councillors but also covers ability to co-opt members from the private sector etc.]

### **4. Voting**

4.1 One member one vote for local authority members i.e. nine in total.

4.2 No ability to vote for non-local authority members or Members co-opted under (3.2).

- 4.3 Conflicts of Interest will be dealt with in accordance with the Members Code of Conduct of the Host authority.

**5 Quorum**

- 5.1 Four members present (one from Birmingham City Council, one from Solihull MBC, one District from Staffordshire and one District from Worcestershire).

**6 Meetings**

- 6.1 The Chair of the Meeting will be elected at the first meeting of the Committee at the start of each municipal year. A Vice Chair shall also be elected at the same meeting.
- 6.2 Meetings are to take place when there is a valid call-in of a decision and also when the Committee considers it expedient to have an overview of the overall expressed purpose and intended outcomes of the GBSLEP provided that a minimum of one meeting of the Joint Scrutiny Committee shall be held in each municipal year.

REPORT OF THE PORTFOLIO HOLDER FOR  
ENVIRONMENT AND WASTE MANAGEMENT AND CABINET

GAMBLING ACT 2005 STATEMENT OF PRINCIPLES 2013-2016

**EXEMPT INFORMATION**

Nil

**PURPOSE**

To seek Council approval of Tamworth's Statement of Policy under the Gambling Act 2005.

**RECOMMENDATIONS**

1. That Council adopt the Statement of Policy.

**EXECUTIVE SUMMARY**

Prior to the implementation of the Gambling Act 2005, Tamworth published a statement of policy which, following widespread consultation, was subsequently adopted by the Council in January 2010. There is a requirement, however, under the Act for this policy to be reviewed every 3 years.

The review of the Policy was undertaken earlier this year using Gambling Commission guidance which is considered best practice for licensing authorities. The consultation included all relevant responsible authorities and interested parties including licence holders, residents and other interested bodies. No responses to the consultation were received.

Licensing Committee considered the Policy at its meeting on 8 August 2013 and Cabinet endorsed the proposed Statement of Policy on 24 October 2013.

The consultation has provided opportunity for all stakeholders and interested parties to assist in determining the Council's policy in respect of the Gambling Act. The final version of the Statement of Policy is attached as **Appendix 1 to this report**.

**RESOURCE IMPLICATIONS**

There are no financial implications arising directly from this report.

**LEGAL/RISK IMPLICATIONS BACKGROUND**

The publishing of a Statement of Principles is a legal obligation of the Council.

Reputation – The implementation and enforcement of the Gambling legislation will enhance the Council's reputation.

Community Safety - (Crime and Disorder Act 1998). The objectives of the Gambling Act seek to ensure that communities are protected from unfair trading, crime and disorder and that vulnerable people and children are not exploited in any way by gambling.

Equality & Diversity – None, this report has been prepared having regard to the Council's Diversity and Equality Policies and Consultation requirements are set out in the report.

#### **SUSTAINABILITY IMPLICATIONS**

The services for the regulation of Gambling contribute to the strategic priority of being healthier and safer in Tamworth.

#### **BACKGROUND INFORMATION**

1. Guidance to Licensing Authorities, Gambling Commission, April 2012.

#### **REPORT AUTHOR**

*"If Members would like further information or clarification prior to the meeting please contact Steve Lewis, Head of Environmental Health. Ext 437"*

#### **LIST OF BACKGROUND PAPERS**

Nil

#### **APPENDICES**

1. Proposed Statement of Principles 2013 - 2016.





**TAMWORTH BOROUGH COUNCIL**

**GAMBLING ACT 2005**

**DRAFT STATEMENT OF PRINCIPLES  
2013 - 2016**

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*This Statement of Licensing Principles was approved by [x] Council on [date]*

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 4th Edition, published June 2012.*

## **PART A -**

### **1.0 The Licensing Objectives**

- 1.1** The Gambling Act 2005 requires the Council as the licensing authority to carry out its various licensing functions with a view to promoting the following three licensing objectives:
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
  - ensuring that gambling is conducted in a fair and open way; and
  - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.2** It should be noted that the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.
- 1.3** This licensing authority in making decisions about premises licences and temporary use notices will aim to permit the use of premises for gambling in so far as the authority thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives and;
  - in accordance with the authority’s statement of licensing policy.

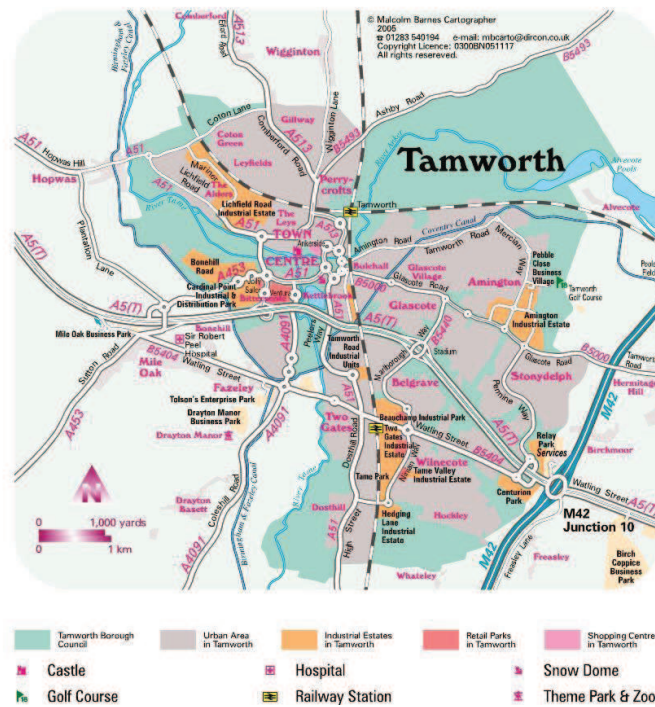
### **2.0 Introduction**

- 2.1** The Gambling Act 2005 introduced a new regime for the regulation of all forms of gambling in the United Kingdom and came into force in September 2007. It repealed the Betting Gaming and Lotteries Act 1963; the Gaming Act 1968 and the Lotteries and Amusements Act 1976 and gave to local authorities new and extended responsibilities for licensing premises for gambling. Some responsibilities which previously lay with local licensing justices passed to the local authority, such as betting, casino gaming and bingo.
- 2.2** This document sets out the approach that Tamworth Borough Council as the licensing authority takes, in respect of the responsibilities given to it under the Gambling Act 2005.
- 2.3** The Borough of Tamworth is located in the south-eastern corner of Staffordshire, 15 miles north-east of Birmingham and covers an area of 3,095 hectares. It is situated at the confluence of two rivers, the river Tame and Anker. Tamworth is essentially urban in character, which includes a vibrant town centre and smaller centres within local districts.

2.4 Tamworth's resident population of around **76,800** makes it one of the main urban centres in Southern Staffordshire. It has the highest population density (**24.9 people per hectare**) of all Southern Staffordshire districts and second only to Stoke on Trent (**26.6 people per hectare**) in the County as a whole. (**Source – Census 2011, ONS**).

2.5 The Council area is illustrated on the map below

**Map of Tamworth Borough**



2.6 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they proposed to apply when exercising their functions. This statement must be published at least every 3 years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.

2.7 Tamworth Borough Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided at **Appendix 1**.

2.8 The Gambling Act requires that the following parties are consulted by licensing authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

**2.9** Our consultation will take place between July 2013 and October 2013 and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at:

<http://www.berr.gov.uk/files/file47158.pdf>

**2.10** The full list of comments made and the consideration by the Council of those comments is available by request to:

Environment Health and Regulatory Services, Public Health Team,  
Tamworth Borough Council, Marmion House Lichfield Street,  
Tamworth, B79 7BZ  
or via the Council's website at: [www.tamworth.gov.uk](http://www.tamworth.gov.uk)

**2.11** This draft will be presented for approval at future Committee/Full Council and published via our website. Copies will be placed in the public libraries of the area as well as being available in the Council Offices at Marmion House, Lichfield Street, Tamworth B79 7BZ.

**2.12** Should you have any comments as regards this policy statement please send them via e-mail or letter to the following contact:

Head of Environmental Health  
Environment Health and Regulatory Services  
Tamworth Borough Council, Marmion House Lichfield Street,  
Tamworth, B79 7BZ  
or via email: [publicprotection@tamworth.gov.uk](mailto:publicprotection@tamworth.gov.uk)  
tel: 01827 709437; or 01827 709445

**2.13** This statement of principles will be applied during the 3 year period from 31 January 2013 until 31 January 2016 and during that time will be kept under review and revised when and if appropriate, during that 3 year period.

**2.14** This document should be read in conjunction with the Act, Regulations made under the Act and Guidance issued by the Gambling Commission. This statement is designed to be a strategic gambling policy, not an operational guide to the Act.

**2.15** It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

### **3.0 Declaration**

**3.1** In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

3.2 In carrying out its licensing functions the Authority will have regard to any guidance issued by the Gambling Commission from time to time.

3.3 The Authority will not seek to use the Act to resolve matters more readily dealt with under other legislation.

3.4 To ensure the licensing objectives are met, the Authority has a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.

#### **4.0 Responsible Authorities**

4.1 These are generally public bodies that must be notified of all applications and who are entitled to make representations to the licensing authority if they are relevant to the licensing objectives.

4.2 Section 157 of the Act defines those authorities as:

- the Gambling Commission;
- the Police;
- the Fire Service;
- the Local Planning Authority;
- Environmental Health;
- HM Revenue and Customs;
- a licensing authority in whose area the premises is situated (that is, the Council itself and also any adjoining Council where premises straddle the boundaries between the two).

4.3 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

4.4 In accordance with the suggestion in the Gambling Commission's Guidance to licensing authorities, this authority designates the Staffordshire Safeguarding Children's Board, and the Health and Consumer Services Trading Standards Department or any successor Board or Directorate of Staffordshire County Council for this purpose.

4.5 The contact details of all the responsible authorities under the Gambling Act 2005 are available via the Council's website at [www.tamworth.gov.uk](http://www.tamworth.gov.uk)



## **5.0 Interested Parties**

**5.1** Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

“For the purposes of this part, a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person -

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) has business interests that might be affected by the authorised activities; or
- c) represents persons who satisfy paragraph (a) or (b).”

**5.2** The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

**5.3** Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance for licensing authorities at 8.11 and 8.19.

**5.4** It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

**5.5** Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise Parish Councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate/relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

**5.6** If individuals wish to approach councillors to ask them to represent their views, then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Environment, Health and Regulatory Services Team on 01827 709445 or email [publicprotection@tamworth.gov.uk](mailto:publicprotection@tamworth.gov.uk)

**5.7** In determining whether someone lives sufficiently close to a particular premises as to likely to be affected by the authorised activities, or has

business interests likely to be affected, the licensing authority may take account of:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- the nature of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that “sufficiently close to be likely to be affected” could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults.

**5.8** In respect of representations made by a gambling business, the licensing authority will have regard to any guidance on this matter in current Gambling Commission Guidance to licensing authorities. The licensing authority should be satisfied that the relevant business is likely to be affected. In this respect the licensing authority should bear in mind that the “demand test” in the 1963 and 1968 Acts has not been preserved in the 2005 Act. Factors that are likely to be relevant include:

- the size of the premises;
- the ‘catchment’ area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in the catchment area, that might be affected.”

**5.9** The licensing authority will not consider representations that are frivolous or vexatious, or which relate to demand or need for gambling facilities. Decisions on whether representations are frivolous or vexatious will be made objectively and not on the basis of any political judgement. Where representations are rejected, the person making that representation will be given a written reason. A report will be made to the licensing committee determining the application (if appropriate), indicating the general grounds of the representation and the reason it was rejected.

**5.10** A vexatious representation is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous representation is generally taken to be one that is lacking in seriousness, or is unrelated to the licensing objectives, guidance issued by the Gambling Commission or this statement of principles.

## **6.0 Exchange of Information**

**6.1** Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section

350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

**6.2** The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

**6.3** Should any protocols be established as regards information exchange with other bodies then they will be made available

## **7.0 Enforcement**

**7.1** Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

**7.2** This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

**7.3** As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

**7.4** This licensing authority will also adopt a risk-based inspection programme based on

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of principles

- 7.5 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises.
- 7.6 The Gambling Commission is the enforcement body for the operating and personal licences. Concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but will be notified to the Gambling Commission.
- 7.7 This licensing authority also keeps itself informed of developments as regards the Regulators Compliance Code and the Principal of the Legislative and Regulatory Reform Act 2006.
- 7.8 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements will be available upon request to the Head of Environmental Health, Tamworth Borough Council.

## 8.0 The Licensing Process and Delegation of Functions

### 8.1 Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that licensing authorities are not be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

- 8.2 Applications are determined in accordance with the following delegation criteria:

## Table of Delegations of Licensing Functions

Matter to be Dealt With	Full Council	Licensing Committee	Officers
3 year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting when appropriate		<b>Executive / Cabinet</b>	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Review of a premises licence		X	
Application for club gaming / club machine permits		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Cancellation of club gaming / club machine permits		X	
Applications for other permits			Refer to * below
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a		X	

<b>Matter to be Dealt With</b>	<b>Full Council</b>	<b>Licensing Committee</b>	<b>Officers</b>
counter notice to a temporary use notice			
Determination as to whether a person is an Interested Party			X
Determination as to whether representations are relevant			X
Determination as to whether a representation is frivolous, vexatious or repetitive			X

X Indicates at the lowest level to which decisions can be delegated.

\* In respect of applications for amusement with prizes machines in alcohol licensed premises, the following procedure will be adopted:

- i) Officers will determine under delegated authority, applications for amusement with prize machines where the application is for not more than 5 machines.
- ii) Applications for more than 5 amusement with prize machines will be referred to Licensing Committee for determination.

## **9.0 Licensing Authority Functions**

**9.1** Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
- Issue Provisional Statements;
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
- Issue Club Machine Permits to commercial clubs;
- Grant Permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres;
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;
- Issue licensed premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits;
- Receive and endorse Temporary Use Notices;
- Receive Occasional Use Notices;

- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange');
- Maintain registers of the permits and licences that are issued under these functions.

**9.2** The licensing authority is not involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

## **PART B**

### **PREMISES LICENCES: CONSIDERATION OF APPLICATIONS**

#### **10.0 General Principles**

**10.1** Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

#### **10.2 Decision – making**

**10.3** This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission ;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

**10.4** Objections made on moral grounds to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section 13 on Casinos below). In addition unmet demand is not a criterion for determining whether to grant a premises licence.

**10.5** The licensing authority will therefore consider any application in accordance with the Act, on it's individual merits without regard to demand or moral objection to gambling in general.

**10.6** When applying these principles the licensing authority will consider, in the light of relevant representations, whether exceptions should be made in any particular case.

**10.7** *Definition of "premises"* – In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded



as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

**10.8** The Gambling Commission states in the **fourth** edition of its Guidance to Licensing Authorities that: “In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”

**10.9** This licensing authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

**10.10** The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?

- Can the premises only be accessed from any other gambling premises?

**10.11** This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

**10.12 The Gambling Commission's relevant access provisions for each premises type are reproduced below:**

**10.13 Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance, The Gambling Act 2005 (Mandatory and Default Conditions) Regulations define street as "including any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not". This is to allow access, for example to casinos from hotel foyers).
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

**10.14 Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises

**10.15 Betting Shops**

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

**10.16 Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

**10.17 Bingo Premises**

- No customer must be able to access the premise directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

**10.18 Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre

- a betting premises, other than a track

**10.19** Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

#### **10.20 Premises "ready for gambling"**

**10.21** The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

**10.22** If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

**10.23** In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

**10.24** Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

**10.25** More detailed examples of the circumstances in which such a licence may be granted can be found in the Gambling Commission's Guidance to Licensing Authorities under "Relationship between planning permission, building regulations and granting of a premises licence."

**10.26 Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

- 10.27 Planning** - The Gambling Commission Guidance to Licensing Authorities states:7.59 – In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.
- 10.28** This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance: 7.66 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.
- 10.29 Duplication with other regulatory regimes** - This licensing authority seeks to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 10.30** When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.
- 10.31 Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.
- 10.32 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully

whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

**10.33 Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section—16.

**10.34 Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

**10.35** This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

**10.36** As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.

**10.37 Conditions** - Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

**10.38** Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are

specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

**10.39** This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

**10.40** This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

**10.41** This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

**10.42** It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.



**10.43 Door Supervisors** - The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

**10.44** Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

## **11.0 Adult Gaming Centres**

**11.1** This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

**11.2** This licensing authority may consider measures to meet the licensing objectives, such as:

- Proof of age schemes;
- CCTV;
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices/signage;
- Specific opening hours;
- Self-exclusion schemes;
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

**11.3** This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

**11.4** The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.

## **12.0 (Licensed) Family Entertainment Centres**

**12.1** This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling



and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

**12.2** This licensing authority may consider measures to meet the licensing objectives, such as:

- CCTV;
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices/signage;
- Specific opening hours;
- Self-exclusion schemes;
- Provision of information leaflets/helpline numbers for organisations such as GamCare;
- Measures/training for staff on how to deal with suspected truant school children on the premises.

**12.3** This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

**12.4** This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

**12.5** The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.

### **13.0 Casinos**

**13.1 No casino resolution** - This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so.

**13.2** Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

- 13.4 Casinos and competitive bidding** - This licensing authority is aware that where a licensing authority area is enabled to grant a premises licence for a small /large casino there are likely to be a number of operators which will want to run the casino. In such situations the licensing authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This licensing authority will run such a competition in line with the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008, as well as following the procedure set out in Part 17 of the Guidance.
- 13.5 Licence considerations/conditions** – This licensing authority will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.
- 13.6 Betting machines** - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.
- 14.0 Bingo Premises**
- 14.1** This licensing authority notes that the Gambling Commission's Guidance states:
- 18.4 - Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.
- 14.2** This authority also notes the Guidance at paragraph –
- 18.8 - regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.
- 18.7 - Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.
- 14.3** The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will

expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.

## **15.0 Betting Premises**

**15.1 Betting machines** - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

**15.2** There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

**15.3** Betting premises are able to provide a limited number of gaming machines and some betting machines.

**15.4** The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.

**15.5** Each application will be considered on its own individual merits.

## **16.0 Tracks**

**16.1** This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.

**16.2** In accordance with the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

- 16.3** This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and / or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 16.4** This licensing authority may consider measures to meet the licensing objectives, such as:
- Proof of age schemes;
- CCTV;
  - Supervision of entrances / machine areas;
  - Physical separation of areas;
  - Location of entry;
  - Notices / signage;
  - Specific opening hours;
  - Self-exclusion schemes;
  - Provision of information leaflets / helpline numbers for organisations such as GamCare.
- 16.5** This list is not mandatory, nor exhaustive, and is merely indicative of example measures.
- 16.6** The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.
- 16.7** **Gaming machines** Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded
- 16.8** **Betting machines** - This licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.
- 16.9** **Applications and plans** - The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will

also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.28).

- 16.10** Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, para 20.29).
- 16.11** Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities, para 20.31).
- 16.12** In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.  
(See Guidance to Licensing Authorities, para 20.32).
- 16.13** This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, para 20.33).

## **17.0 Travelling Fairs**

- 17.1** This licensing authority is responsible for deciding whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 17.2** The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 17.3** It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **18.0 Provisional Statements**

- 18.1** Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 18.2** Section 204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
  - expects to be altered; or
  - expects to acquire a right to occupy.
- 18.3** The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 18.4** In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 18.5** The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- they concern matters which could not have been addressed at the provisional statement stage, or
  - they reflect a change in the applicant's circumstances.
- 18.6** In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by objectors at the provisional statement stage;
  - which in the authority's opinion reflect a change in the operator's circumstances; or
  - where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.



## **19.0 Reviews of Premises Licences**

- 19.1** Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;
- in accordance with any relevant Code of Practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority's statement of principles.
- 19.2** The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 19.3** The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 19.4** Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 19.5** The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 19.6** The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
- (a) add, remove or amend a licence condition imposed by the licensing authority;
  - (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - (c) suspend the premises licence for a period not exceeding three months; and
  - (d) revoke the premises licence.
- 19.7** In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 19.8** In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not

provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

- 19.9** Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
- the licence holder
  - the applicant for review (if any)
  - the Commission
  - any person who made representations
  - the chief officer of police or chief constable; and
  - Her Majesty's Commissioners for Revenue and Customs
- 19.10** Licensing authority officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution before a full review is conducted. Unlike the Licensing Act 2003, the licensing authority may review premises licences of its' own volition. A referral to the Licensing Committee of a premises licence for a review will be first approved by the Assistant Director (Environment and Regulatory Services).
- 19.11** The Gambling Commission is a responsible authority in premises licence reviews.

## **PART C - PERMITS/TEMPORARY AND OCCASIONAL USE NOTICE**

- 20.0 Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**
- 20.1** Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 20.2** The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits....., licensing authorities will want to give weight to child protection issues." (24.6)
- 20.3** Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the

application....Licensing authorities might wish to consider asking applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes. (24.7)

**20.4** It should be noted that a licensing authority cannot attach conditions to this type of permit.

**20.5** **Statement of Principles**. This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

**21.0 (Alcohol) Licensed Premises Gaming Machine Permits - (Schedule 13 paragraph 4(1))**

**21.1 Automatic entitlement: 2 machines** - There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

**21.2** The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

- 21.3 Permit: 3 or more machines** - If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”
- 21.4** This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- 21.5 The procedure for administering applications for gaming machine permits in alcohol licensed premises will be as follows:**
- i) Notifications and applications for up to 5 machines will generally be dealt with by licensing officers. Applications for more than 5 machines will be referred to Licensing Committee for consideration.
  - ii) It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence
- 21.6** It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 21.7** It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 21.8** It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.
- 22.0 Prize Gaming Permits**
- 22.1** The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters

that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

**22.2** This licensing authority has prepared a **Statement of Principles** which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law
- Clear policies that outline the steps to be taken to protect children from harm.

**22.3** In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

**22.4** It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

### **23.0 Club Gaming and Club Machines Permits**

**23.1** Members Clubs and Miners’ welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

**23.2** Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally.

Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

- 23.3** The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - (d) a permit held by the applicant has been cancelled in the previous ten years; or
  - (e) an objection has been lodged by the Commission or the police.
- 23.4** There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:
- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 23.4** There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

### **Temporary Use Notices**

- 24.1** Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 24.2** The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 24.3** The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing



this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

**24.4** There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

**24.5** This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

## **25.0 Occasional Use Notices**

**25.1** The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **25.2. Small Society Lotteries**

This licensing authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact this licensing authority at the details below to seek further advice.

## **PART D - FURTHER INFORMATION**

### **26.0 Further Information**

Further information about the Gambling Act 2005 and the licensing authority's statement of principles can be obtained from:

Environment Health and Regulatory Services  
Tamworth Borough Council  
Marmion House  
Lichfield Street  
Tamworth  
Staffordshire  
B79 7BZ

Telephone (01827) 709445

E-mail [publicprotection@tamworth.gov.uk](mailto:publicprotection@tamworth.gov.uk)

This draft statement of principles is available on the Council's web-site  
[www.tamworth.gov.uk](http://www.tamworth.gov.uk)

### **Annex:**

#### **1. Policy Statement consultees.**

## Annex 1

### SCHEDULE OF CONSULTEES TO THE DRAFT POLICY STATEMENT

Holders of existing licences, permits and registrations who will be affected by the provisions of the Act

Local Residents/Associations

Staffordshire Chief Officer of Police

Staffordshire Fire & Rescue

Staffordshire County Council – Department of Social Care & Health

TBC - Chief Executive

TBC – Director, Assets and Environment

TBC – Director, Communities, Planning & Partnerships

Solicitor to the Council c/o TBC - Legal & Democratic Services

TBC – Director, Housing & Health

TBC - Crime and Disorder Partnership

Local Strategic Partnership - Chairman

Violence Action Group - Chairman

Tamworth Town Safe Licensee Forum - Chairman

Southern Staffordshire Chamber of Commerce & Industry

**NHS South East Staffordshire and Seisdon Peninsula**

East Staffordshire Social Equality Council

British Amusement Catering Association

British Casino Association

Bingo Association

British Horse Racing Board

British Greyhound Racing Board

Casino Operators Association

Club & Institute Union

Gamcare

Responsibility in Gambling Trust

Gamblers Anonymous

Licensed Victuallers Association

Lotteries Commission

Luminar Leisure

Mitchells & Butlers

Poppleston Allen, Solicitors

Rutherfords Solicitors

Hammonds Solicitors

John Gaunt & Partners

Berwin Leighton Paisner

Yates Group

British Beer & Pubs Association

Campaign for Real Ale

Garner Canning & Co Solicitors

Dewes Sketchley, Solicitors

Enoch Evans, Solicitors

Edwards Geldard, Solicitors

Bond Pearce Solicitors

Inn Court, Licensing Consultants

Challinors, Solicitors

Martyn Amey & Co Solicitors

17 DECEMBER 2013

**REPORT OF THE PORTFOLIO HOLDER FOR ENVIRONMENT & WASTE  
MANAGEMENT****SCRAP METAL DEALERS ACT 2013 FEES****EXEMPT INFORMATION**

Nil

**PURPOSE**

To provide details of proposed Policy, Scheme of Delegation and fee structure applicable to the Scrap Metal Dealers Act 2013.

**RECOMMENDATIONS**

That Council:

- a) endorse the scheme of delegation, policy, and;
- b) endorse the proposed fee levels.

**EXECUTIVE SUMMARY**

The Scrap Metal Dealers Act 2013 received Royal Assent on 28<sup>th</sup> February 2013 and will be phased in between 1<sup>st</sup> September and 1<sup>st</sup> December 2013. The Act provides the legislative framework in relation to the licensing of Scrap Metal Dealers. It introduced a revised regulatory regime for the scrap metal dealing and vehicle dismantling industries.

On 22 August 2013, the Portfolio Holder for Environment and Waste Management reported on the interim arrangements for the new regulatory process and this was agreed by Cabinet.

**RESOURCE IMPLICATIONS**

The fees are a realistic indicator of the cost of administering the legislation and follow best practice in fee-setting in collaboration with the Neighbourhood Authority Working Group (NAWG). This group comprises Staffordshire, Warwickshire; West Midlands Metropolitan and Shropshire Authorities.

The fee levels have been calculated at £421.00 for site licences and £198.00 for collectors' licences and covers a licence period of three years. These figures are in the mid-range of fees submitted to the NAWG.

The Environmental Health and Regulatory Services team will accept and process applications in addition to their current duties. As more details on the overall process are still forthcoming from the Home Office and application numbers are only estimated at this stage, it is not entirely clear what the overall impact will be. Officers will need to monitor the situation over the first six months of implementation to assess whether there are sufficient resources to respond to the new requirements.

**LEGAL/RISK IMPLICATIONS BACKGROUND**

Under the 'Functions & Responsibilities Regulations', neither the Cabinet nor a

Cabinet Member can make a final decision in relation to the fee levels applied to scrap metal dealers or the delegation of powers under the Act – this is a 'Council function' under the regulations and therefore a final decision must be made by Full Council.

If the Scrap Metal Dealers fee levels are not in place within the required timeframes, Tamworth Borough Council will not be able to perform its function under the Act. The reporting process through Cabinet and Council have been planned to ensure that these are in place at the required time.

### **SUSTAINABILITY IMPLICATIONS**

None – It is considered that the reform of the Scrap Metal Dealers Act will improve the impact on metal theft affecting national transport infrastructure, electricity, telecommunication links and street furniture etc. An efficient and effective licensing regime ensures the Council has an opportunity to monitor and manage activity in this area of trade and provides a framework to set expectations on individuals regarding behaviour and how businesses should operate.

### **BACKGROUND INFORMATION**

The scheme of delegation proposed at **Appendix 1** involves decisions where there is no reason not to approve an application being taken at Officer level in the interest of efficiency and speed of processing. However, where an applicant/licensee has exercised their right to request an oral hearing before a final decision is taken, e.g. in relation to a proposed refusal of a licence, proposed refusal to vary a licence or proposed revocation of a licence, then a decision will be taken by Licensing Committee.

The fee levels have been calculated at £421.00 for site licences and £198.00 for collectors' licences and covers a licence period of three years. These figures are in the mid-range of fees submitted to the NAWG. Since Cabinet considered this issue on 22 August 2013, the Home Office has issued its statutory guidance on fee setting. Officers have followed this guidance. This Guidance was also used in calculating the proposed fee levels for renewals and variations to licences, these fees are shown at **Appendix 2**.

Tamworth Borough Council's Scrap Metal Policy is attached at **Appendix 3**.

### **REPORT AUTHOR**

*"If Members would like further information or clarification prior to the meeting please contact Steve Lewis, Head Of Environmental Health. Ext 437"*

### **LIST OF BACKGROUND PAPERS**

1. Scrap Metal Dealers Act 2013 - <http://www.legislation.gov.uk/ukpga/2013/10/enacted>
2. The Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013 (2013/1966)
3. Scrap Metal Dealer Act 2013: Home Office Guidance on Licence Fee Charges

### **APPENDICES**

1. Delegations.
2. Fee Levels.
3. Tamworth Borough Council Scrap Metal Policy.



**SCRAP METAL DEALERS ACT 2013  
DELEGATIONS**

Matters to be dealt with	Full Council	Licensing Committee	Officers Licensing Team
Fee Setting	X		
Processing Applications and supply of Information to External Agencies			X
Entry, Inspection and Enforcement			X
Inclusion of Conditions under Section 3(8)			X
Refusal of Licence		If the applicant requests a hearing	If no hearing is requested
Variation/Imposition of Conditions on a Licence under Section 4		If the applicant requests a hearing	If no hearing is requested
Revocation of Licence		If the applicant requests a hearing	If no hearing is requested

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## APPENDIX 2

### Tamworth Borough Council Scrap Metal Dealers Act 2013 - Fees

Grant Site Licence	£421.00
Additional Site(s)	£321.00
Renewal Site Licence	£421.00
Variation Site Licence	£148.50
Grant Collectors Licence	£198.00
Renewal Collectors Licence	£198.00
Variation Collectors Licence	£148.50
Replacement or copy licence	£10.00
Change of licence details (Trading Name, address etc)	£49.50
Change of Site Manager	£49.50
Change of Site	£148.50
Change Collectors to Site Licence	£321.00
Change Site to Collectors Licence	£49.50

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**TAMWORTH BOROUGH COUNCIL**  
**SCRAP METAL DEALERS ACT 2013**  
***POLICY DOCUMENT***

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## **1 INTRODUCTION**

### **1.1 The Policy**

1.1.1 This document states the Council's policy on the regulation of Scrap Metal Dealers in its capacity as the relevant local authority for the purposes of the Scrap Metal Dealers Act 2013 (and the expressions "Council" and "local authority" shall be construed accordingly).

### **1.2 The Law**

1.2.1 The Scrap Metal Dealers Act 2013 ("the Act") received Royal Assent on 28 February 2013. The Act repeals the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of Vehicles (Crime) Act 2001 creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries.

The Act maintains local authorities as the principal regulator, but replaces the old registration system with a full licensing regime. It grants power to refuse a licence to "unsuitable" applicants and a power to revoke licences if the dealer becomes "unsuitable".

The Act requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealer.

### **1.3 Definition of a Scrap Metal Dealer**

1.3.1 A person carries on business as a scrap metal dealer if:

- (a) they wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought); or
- (b) they carry on business as a motor salvage operator (see 1.3.3).

1.3.2 Ancillary sales - a person selling scrap metal merely as surplus materials or as a by-product of manufacturing articles is NOT regarded as a scrap metal dealer.

1.3.3 Motor salvage operation is defined in the Act as a business that consists wholly or mainly of:

- (a) recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap
- (b) buying written-off vehicles, repairing and reselling them
- (c) buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b)

- (d) wholly or mainly in activities falling within paragraphs (b) and (c)

1.3.4 Scrap metal includes:

- (a) Any old, waste or discarded metal or metallic material, and
- (b) Any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life.

1.3.5 Scrap metal does not include:

- (a) Gold
- (b) Silver
- (c) Any alloy of which 2% or more by weight is attributable to gold or silver

## **2 TYPES OF LICENCE**

2.1 Anyone wishing to operate a business as a scrap metal dealer will require:

- I. a site licence; or
- II. a collector's licence.

The licence is valid for three years and permits the licence holder to operate within the boundaries of the issuing authority.

A person may hold more than one licence issued by different local authorities but may not hold more than one licence issued by any one authority.

### **2.2 SITE LICENCE**

2.2.1 The site licence authorises the licensee to carry on business at the site(s) identified in the licence.

2.2.2 The site licence must include:

- (a) the name of the licensee
- (b) the name of the authority
- (c) identify all the sites in the authority's area at which the licensee is authorised to carry on business
- (d) the name of the site manager of each site
- (e) the date of expiry

2.2.3 The site licence also permits the licence holder to act as a collector.



## **2.3 COLLECTOR'S LICENCE**

2.3.1 The collector's licence authorises the licensee to carry on business as a mobile collector within the authority's area.

2.3.2 The collector's licence must include:

- (a) the name of the licensee
- (b) the name of the authority
- (c) the date of expiry

## **3 SUITABILITY OF APPLICANT**

3.1 A local authority must determine whether the applicant is a suitable person to carry on business as a scrap metal dealer and may not issue a licence unless satisfied that the applicant is suitable.

3.2 In determining this, the authority may have regard to any information which it considers to be relevant, in particular:

- (a) whether the applicant or site manager has been convicted of any relevant offence;
- (b) whether the applicant or site manager has been the subject of any relevant enforcement action;
- (c) any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal);
- (d) any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
- (e) any previous revocation of a scrap metal licence (and the reasons for the revocation);
- (f) whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.

3.3 In this section:

- (a) "site manager" means an individual proposed to be named in the licence as a site manager
- (b) "relevant offence" means an offence which is prescribed for the purposes of the Act in regulations made by the Secretary of State, and

- (c) “relevant enforcement action” means enforcement action which is so prescribed by regulations.
- 3.4 In determining whether a company is suitable to carry on business as a scrap metal dealer, a local authority is to have regard, in particular, to whether any of the following is a suitable person:
- (a) any director of the company
  - (b) any secretary of the company
  - (c) any shadow director of the company (that is to say, any person in accordance with those directions or instructions the directors of the company are accustomed to act)
- 3.5 In determining whether a partnership is suitable to carry on business as a scrap metal dealer, a local authority is to have regard, in particular, to whether each of the partners is a suitable person.
- 3.6 The authority must also have regard to any guidance on determining suitability which is issued from time to time by the Secretary of State
- 3.7 The authority may consult other persons regarding the suitability of an applicant, including in particular:
- (a) any other local authority;
  - (b) the Environment Agency;
  - (c) an officer of a police force;
- 3.8 If the applicant or any site manager has been convicted of a relevant offence, the authority may include in the licence one or both of the following conditions:
- (a) that the dealer must not receive scrap metal except between 9am and 5pm on any day;
  - (b) that all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.
- 3.9 Having regard to the objectives of the Act the authority has determined that it will presume that the applicant is unsuitable to be issued with a licence where an applicant or any other person required to be named or identified in the application has been convicted of any of the offences as listed within “The Scrap Metal Dealers Act 2013 (Prescribed Relevant Enforcement Action) Regulations 2013” within the period of three years prior to the application.

The authority is aware of its duty not to fetter its discretion and shall permit representations from the applicant as to any exceptional circumstances indicating that it may nevertheless be appropriate to receive a licence.

3.10 The authority may require further information from the applicant to assist in determining the suitability of the applicant.

3.11 Having regard to the objectives of the Act the authority has determined that it will presume that the applicant is unsuitable to be issued with a licence where an applicant or any other person required to be named or identified in the application has been the subject of any of the following forms of enforcement action within the period of three years prior to the application:

- *Closure notice pursuant to the Act*
- *Closure order pursuant to the Act*
- *Action for recovery of possession of out of date or discontinued licences*

The authority is aware of its duty not to fetter its discretion and shall permit representations from the applicant as to any exceptional circumstances indicating that it may nevertheless be appropriate to receive a licence. The authority may not treat any such enforcement action as a “relevant enforcement action” for the purposes of the Act but shall nevertheless consider such an action as a significant issue in relation to the suitability of the applicant to hold a licence.

3.12 Having regard to the objectives of the Act the authority has determined that it will consider the following offences or enforcement actions relating to any person relevant to the licence as being of particular relevance to the suitability of the licence holder:

- *Written warning relating to scrap metal licence compliance*
- *Waste regulations 2011 – enforcement, compliance and stop notices*
- *Permitting regulations notices*
- *Planning Breach of Condition / Enforcement Notices*
- *Statutory nuisance abatement notice*
- *Breach of statutory nuisance abatement notice*

3.13 In relation to all considerations of possible revocation or variation and all applications for grant or renewal of a licence the authority shall consider the suitability of the applicant or licence holder with regard to adherence or otherwise by the licence holder or any other person identified in the licence to the Code of Practice annexed to this policy at Appendix A or the applicant’s willingness to adhere to the Code of Practice or to any other relevant body or licensing authority’s Code of Practice in the case of a first application. Failure

to adhere to the Code of Practice shall be considered particularly relevant to the suitability of the applicant or licence holder to hold a licence.

Without prejudice to the above, where an officer of the Council has reason to believe that a licence is not being operated in accordance with the Code of Practice but it is in that officer's opinion reasonable to deal with the cause of complaint by way of a written warning or further written warning then the matter may be dealt with by written warning to the licence holder.

Where a licence holder has received a second written warning from an officer of the Council then the licence holder shall be asked to meet with the appropriate officer of the Council to discuss the reasons for the issue of the previous written warnings and the officer shall warn the licence holder that the licence shall be subject to revocation should there be any repetition of the matter of complaint, on the basis that the licence holder is no longer considered to be suitable to hold a licence.

Where an officer of the Council has reason to believe that there are grounds for issuing a third written warning then the relevant licence holder shall be presumed by the Council to be an unsuitable person to hold a licence, subject to any representation from the licence holder that there may be exceptional circumstances to justify the circumstances of the failure to remedy the cause of complaint.

#### **4 REVOCATION OF LICENCE/IMPOSITION OF CONDITIONS**

- 4.1 The authority may revoke a scrap metal licence if it is satisfied that the licensee does not carry on the business of scrap metal dealing at any of the sites identified in the licence.
- 4.2 The authority may revoke a licence if it is satisfied that a site manager named in the licence does not act as site manager at any of the sites identified in the licence.
- 4.3 The authority may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer and the authority shall have particular regard to any "relevant offences" and "relevant enforcement action" and to those matters contained in paragraphs 3.10, 3.11, 3.12 and 3.13 of this policy.
- 4.4 If the licensee or any site manager named in a licence is convicted of a relevant offence, the authority may vary the licence by adding one or both of the conditions set out in paragraph 3.8.

- 4.6 A revocation or variation comes into effect when no appeal under paragraph 16.9 is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.
- 4.7 If the authority considers that the licence should not continue in force without conditions, it may by notice provide:
- (a) that, until a revocation comes into effect, the licence is subject to one or both of the conditions set out in paragraph 3.8, or
  - (b) that a variation under this paragraph comes into effect immediately.
- 4.8 All licences issued by the Council pursuant to the Act remain the physical property of the Council and must be returned to the Council as required on expiry or revocation of the relevant licence or copy licence. Action may be taken for the recovery of any licence not returned as required by the Council and any such action may be taken into account in relation to any future application for a licence.
- 4.9 All reference in this policy to copy licences shall be construed as original copies officially endorsed and issued by the Council as the licensing authority.

## **5. SUPPLY OF INFORMATION BY AUTHORITY**

- 5.1 This section applies to information which has been supplied to a local authority under this Act and relates to a scrap metal licence or to an application for or relating to a licence.
- 5.2 The local authority must supply any such information to any of the following persons who request it for purposes relating to this Act:
- (a) any other local authority;
  - (b) the Environment Agency;
  - (c) an officer of a police force.
- 5.3 This section does not limit any other power the authority has to supply that information.

## **6. REGISTER OF LICENCES**

- 6.1 The Environment Agency maintains a register of scrap metal licences issued by authorities in England and each entry must record:
- (a) the name of the authority which issued the licence

- (b) the name of the licensee
- (c) any trading name of the licensee
- (d) the address of the site identified in the licence
- (e) the type of licence, and
- (f) the date on which the licence is due to expire

6.3 The registers are to open for inspection to the public

## **7. NOTIFICATION REQUIREMENTS**

7.1 An applicant for a scrap metal licence, or for the renewal or variation of a licence, must notify the authority to which the application was made of any changes which materially affect the accuracy of the information which the applicant has proved in connection with the application.

7.2 A licensee who is not carrying on business as a scrap metal dealer in the area of the authority which issued the licence must notify the authority within 28 days.

7.3 If a licence is issued to a business under a trading name the licensee must notify the authority which issued the licence of any change to that name within 28 days.

7.4 The authority must notify the Environment Agency, of –

- (a) any notification given to the authority under paragraph 7.2 or 7.3
- (b) any variation made by the authority under paragraph 16.3 (variation of type of licence or matters set out in licence), and
- (c) any revocation by the authority of a licence

7.5 Notification under paragraph 7.4 must be given within 28 days of the notification, variation or revocation in question.

## **8. DISPLAY OF LICENCE**

8.1 A copy of a site licence must be displayed at each site identified in the licence. The copy must be displayed in a prominent place in an area accessible to the public.

- 8.2 A copy of a collector's licence must be displayed on any vehicle that is being used in the course of the dealer's business. This must be displayed in a manner which enables it easily to be read by a person outside the vehicle.

## **9. VERIFICATION OF SUPPLIER'S IDENTITY**

- 9.1 Prior to receiving scrap metal the scrap metal dealer must verify the person's full name and address by reference to documents, data or other information obtained from a reliable and independent source.

Should verification not be gained then each of the following are guilty of an offence:

- (a) the scrap metal dealer
- (b) if metal is received at the site, the site manager
- (c) any person who, under arrangements made by a person within subparagraph (a) or (b), has responsibility for verifying the name and address.

## **10. PAYMENT FOR SCRAP METAL**

- 10.1 A scrap metal dealer must only pay for scrap metal by either:

- (a) a cheque (which is not transferrable under Section 81A Bills of Exchange Act 1882); or
- (b) electronic transfer of funds (authorised by a credit, debit card or otherwise)

Payment includes paying in kind – with goods or services.

## **11. RECORDS: RECEIPT OF METAL**

- 11.1 If any metal is received in the course of the dealer's business the dealer must record the following information:

- (a) description of the metal, including its type (types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features
- (b) date and time of receipt



- (c) the registration mark of the vehicle delivered by
  - (d) full name and address of person delivering it
  - (e) full name of the person making payment on behalf of the dealer
- 11.2 The dealer must keep a copy of any documents used to verify the name and address of the person delivering the metal.
- 11.3 If payment is made via cheque, the dealer must retain a copy of the cheque.
- 11.4 If payment is made via electronic transfer, the dealer must keep a receipt identifying the transfer, or (if no receipt identifying the transfer) record particulars identifying the transfer.

## **12. RECORDS: DISPOSAL OF METAL**

- 12.1 The Act regards the metal to be disposed of:
- (a) whether or not in the same form it was purchased,
  - (b) whether or not the disposal is to another person
  - (c) whether or not the metal is despatched from a site
- 12.2 Where the disposal is in the course of business under a site licence, the following must be recorded:
- (a) description of the metal, including its type (or types if mixed), form and weight
  - (b) date and time of disposal
  - (c) if to another person, their full name and address
  - (d) if payment is received for the metal (by sale or exchange) the price or other consideration received
- 12.3 If disposal is in the course of business under a collector's licence, the dealer must record the following information:
- (a) the date and time of the disposal
  - (b) if to another person, their full name and address

## **13. RECORDS: SUPPLEMENTARY**

- 13.1 The information in paragraphs 11 and 12 must be recorded in a manner which allows the information and the scrap metal to which it relates to be readily identified by reference to each other.
- 13.2 The records mentioned in paragraph 11 must be marked so as to identify the scrap metal to which they relate.
- 13.3 Records must be kept for a period of 3 years beginning with the day on which the metal is received or (as may be the case) disposed of.
- 13.4 If a scrap metal dealer fails to fulfil a requirement under paragraph 11 or 12 or this paragraph each of the following is guilty of an offence by way of section 15 of the Act:
- (a) the scrap metal dealer
  - (b) if the metal is received at or (as the case may be) despatched from a site, the site manager
  - (c) any person who, under arrangements made by a person within paragraph(a)or (b) has responsibility for fulfilling the requirement.
- 13.5 It is a defence for a person within who is charged with an offence under section 15 of the Act to prove that the person:
- (a) made arrangements to ensure that the requirement was fulfilled, and
  - (b) took all reasonable steps to ensure that those arrangements were complied with.

#### **14. RIGHT OF ENTRY & INSPECTION**

- 14.1 A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time on notice to the site manager.
- 14.2 A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time, otherwise than on notice to the site manager, if
- (a) reasonable attempts to give notice have been made and failed, or
  - (b) entry to the site is reasonably required for the purpose of ascertaining whether the provisions of this Act are being complied with or investigating offences under it and (in either case) the giving of the notice would defeat that purpose.
- 14.3 Paragraphs 14.1 and 14.2 do not apply to residential premises.

- 14.4 A constable or an officer of the Council is not entitled to use force to enter premises in the exercise of the powers identified in paragraphs 14.1 and 14.2.
- 14.5 A justice of the peace may issue a warrant authorising entry in accordance with section 16 of the Act to any premises within paragraph 14.6 if the justice is satisfied by information on oath that there are reasonable grounds for believing that entry to the premises is reasonably required for the purpose of:
- (a) securing compliance with the provisions of the Act, or
  - (b) ascertaining whether those provisions are being complied with
- 14.6 Premises are within this paragraph if
- (a) the premises are a licensed site, or
  - (b) the premises are not a licensed site but there are reasonable grounds for believing that the premises are being used by a scrap metal dealer in the course of business.
- 14.8 A constable or an officer of the Council may, if necessary, use reasonable force in the exercise of the powers under a warrant under section 16 of the Act.
- 14.9 A constable or an officer of the Council may:
- (a) require production of, and inspect, any scrap metal kept at any premises mentioned in paragraphs 14.1 or 14.2 or in a warrant under section 16.
  - (b) require production of, and inspect, any records kept in accordance with section 13 or 14 of the Act and any other records relating to payment for scrap metal
  - (c) take copies of or extracts from any such records.
- 14.10 Officers of the Council will undertake where reasonable and practicable to give a notice of their powers and your rights on entry to any site licensed pursuant to the Act and the licence holder, site managers and other operatives should note that officers may use recording to assist them in their duties whilst on site.

## **15. APPLICATION PROCEDURE**

### **15.1 Term of Licence**

A licence is valid for three years beginning from the day it is issued. A renewal application must be received prior to the licence expiry.

If withdrawn the licence expires at the end of the day of withdrawal.

If refused, the licence expires with no appeal is possible or any such appeal is finally determined or withdrawn.

If renewed, the licence expires at the end of the three year period from the date of the renewal.

## 15.2 Application

The application form, available from Tamworth Borough Council, Environment, Health and Regulatory Services, Licensing Team, should be accompanied by:

- a) full name of applicant (if an individual), date of birth and usual place of residence
- b) name and registered number of the applicant (if a company) and registered office
- c) if a partnership – full name of each partner, date of birth and usual place of residence
- d) proposed trading name
- e) telephone number and email address (if any) of applicant
- f) address of any site within any other local authority at which carry on business as a scrap metal dealer or propose to do so
- g) any relevant environmental permit or registration in relation to the applicant
- h) details of any other scrap metal licence issued to the applicant within a period of 3 years ending with the date of the application.
- i) details of the bank account which is proposed to be used in order to comply with section 11
- j) details of any relevant conviction or enforcement action taken against the applicant.

For site licence, the applicant must also provide:

- a) the address of each site proposed to be identified in the licence (or if renewal, each site identified for which renewal is sought)
- b) the full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager (other than the applicant).

c) site manager details to be included for (g) (h) and (j) above

Please note the collectors licence allows a business or individual to operate only within that authority's area, therefore individuals wishing to collect across borders will be required to obtain a collectors licence from the relevant local authority where they wish to collect and sell.

All applicants are required to provide a basic disclosure of criminal convictions with the application.

### 15.3 Variation of Licence

A licence may be varied from one type to the other. A variation application must be made to reflect changes to:

- Site licence – the name of licensee, the sites, site manager
- Collector's licence – name of licensee

The variation can amend the name of the licensee but cannot transfer the licence to another person.

Application is to be made to the issuing authority and contain particulars of the changes to be made to the licence.

### 15.4 Renewal

When a licence is renewed the three year validity period commences on the day of receipt. Should a renewal application be withdrawn, the licence expires at the end of the day on which the application is withdrawn.

Where a renewal application has been refused – the licence expires when no appeal has been made under paragraph 2 of Schedule 1 of the Act or any such appeal has resulted in confirmation of the refusal.

### 15.5 Further Information

The Council may request (at the time of application or later) that additional information is provided, as may be considered relevant for the purpose of considering the application.

Failure to provide such information may result in the application being declined.

### 15.6 Fee

The application must be accompanied by the fee set by the Council, under guidance from the Secretary of State with the approval of the Treasury.

### 15.7 Right to Make Representations

If the Council proposes to refuse an application or to revoke/vary a licence a notice shall be issued to the applicant/licensee setting out what the authority proposes to do and the reasons for this. The notice shall also state that within the period specified the applicant/licensee can either:

- a) make representations about the proposal, or
- b) inform the authority that the applicant/licensee wishes to do so.

The period specified in the notice shall be not less than 14 days beginning with the date on which the notice is given to the applicant/licensee. Within this time the applicant/licensee must notify the Council whether the applicant/licensee wishes to make representations. Should this period expire and the applicant/licensee has not made representations or informed the authority of their wish to do so the authority may refuse the application, or revoke or vary the licence.

If, within the period specified, the applicant/licensee informs the authority that they wish to make representations, the authority shall allow a reasonable period to make representations and may refuse the application or revoke or vary the licence if they fail to make representations within that period.

If the applicant/licensee notifies the authority that they wish to make oral representations, the authority shall give them the opportunity of appearing before, and being heard by, a person appointed by the authority.

#### 15.8 Notice of Decision

If the application is refused, or the licence is revoked or varied, notice shall be given to the applicant/licensee setting out the decision and the reasons for it. The notice shall also state that the applicant/licensee may appeal against the decision, the time within which the appeal may be brought (21 days beginning with the day on which notice of the decision was given) and, if revoked or varied, the date on which the revocation or variation is to take effect.

#### 15.9 Appeals

An applicant may appeal to a magistrates' court against the refusal of an application or a variation. The licensee may appeal to a magistrates' court against the inclusion in a licence of a condition under Section 3(8) of the Act or the revocation or variation of a licence.

An appeal must be made within 21 days beginning on the day the notice to refuse the application, to include the condition or to revoke or vary the licence under section 4 was given.

On appeal, the magistrates' court may confirm, vary or reverse the authority's decision, and give such directions as it considers appropriate having regard to the provisions of the Act.

The authority must comply with any directions given by the magistrates' court. Although the authority need not comply with such directions until the time for making an application under section 111 of the Magistrates' Courts Act 1980 has passed or if such an application is made, until the application is finally determined or withdrawn.

## **16. CLOSURE OF UNLICENSED SITES**

### **16.1 Interpretation**

A person with an interest in premises is the owner, leaseholder or occupier of the premises.

### **16.2 Closure Notice**

These are not applicable if the premises are residential premises.

A constable or the local authority must be satisfied that the premises are being used by a scrap metal dealer in the course of business and that the premises are not a licensed site.

In such circumstances a "closure notice" may be issued by a constable or local authority which states they are satisfied of the above, the reasons for that, that the constable or local authority may apply to the court for a closure order and the notice shall specify the steps which may be taken to ensure that the alleged use of the premises ceases.

The notice shall be given to the person who appears to be the site manager of the premises and any person who appears to be a director, manager or other officer of the business in question. The notice may also be given to any person who has an interest in the premises.

The notice shall be given to a person who occupies another part of any building or structure of which the premises form part and the constable or local authority believes at the time of giving the notice, that the person's access to that other part would be impeded if a closure order were made in respect of the premises.

### **16.3 Cancellation of Closure Notice**

A "cancellation notice" issued by a constable or local authority may cancel a closure notice. This takes effect when it is given to any one of the persons to



whom the closure notice was given. This must also be given to any other person to whom the closure notice was given.

#### 16.4 Application for Closure Order

When a closure notice has been given, a constable or the local authority shall make a complaint to a justice of the peace for a closure order. This may not be made less than 7 days after the date on which the closure notice was given or more than 6 months after that date.

A complaint under this paragraph may not be made if the constable or authority is satisfied that the premises are not (or are no longer) being used by a scrap metal dealer in the course of business and there is no reasonable likelihood that the premises will be so used in the future.

#### 16.5 Closure Order

A closure order requires that a premises be closed immediately to the public and remain closed until a constable or the local authority makes a termination of closure order by certificate, the use of the premises by a scrap metal dealer in the course of business be discontinued immediately and that any defendant pay into court such sum as the court determines and that the sum will not be released by the court to that person until the other requirements of the order are met.

The closure order may include a condition relating to the admission of persons into the premises, the access by persons to another part of any building or other structure of which the premises form part.

A closure order may include such provision as the court considers appropriate for dealing with the consequences if the order should cease to have effect.

As soon as practicable after the closure order is made, the complainant must fix a copy of it in a conspicuous position on the premises in respect of which it was made.

A sum ordered to be paid into court under a closure order is to be paid to the designated officer for the court.

#### 16.6 Termination of Closure Order by Certificate

Once a closure order has been made and a constable or the local authority is satisfied that the need for the order has ceased a certificate may be issued. This ceases the closure order and any sum paid into a court is to be released by the court to the defendant.

As soon as is practicable after making a certificate, a constable or local authority must give a copy to any person against whom the closure order was

made, give a copy to the designated officer for the court which made the order and fix a copy of it in a conspicuous position on the premises in respect of which the order was made.

A copy of the certificate must be given to any person who requests one.

#### 16.7 Discharge of Closure Order by Court

A closure order may be discharged by complaint to a justice of the peace. This can be done by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was not given.

The court will make a discharge order if it is satisfied that there is no longer a need for the closure order. The justice may issue a summons directed to a constable as the justice considers appropriate or the local authority, requiring that person appear before the magistrates' court to answer to the complaint.

If a summons is issued, notice of the date, time and place at which the complaint will be heard must be given to all persons to whom the closure notice was given (other than the complainant).

#### 16.8 Appeal in relation to Closure Orders

Appeal may be made to the Crown Court against:

- a) a closure order
- b) a decision not to make a closure order
- c) a discharge order
- d) a decision not to make a discharge order

The appeal must be made before the end of 21 days beginning with the day on which the order or decision in question was made.

An appeal under (a) or (b) may be made by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was not given.

An appeal under (b) or (c) may be made by a constable or the local authority.

#### 16.9 Enforcement of Closure Order

A person is guilty of an offence, if without reasonable excuse they permit premises to be open in contravention of a closure order, or fail to comply with, or do an act in contravention of a closure order.

If the closure order has been made, a constable or a person authorised by the local authority may (if necessary using reasonable force) enter the premises at any reasonable time, and having entered the premises, do anything reasonably necessary for the purpose of securing compliance with the order.

If the owner, occupier or other person in charge of the premises requires the officer to produce evidence of identity or evidence of authority to exercise powers, the officer must produce that evidence.

## **17. OFFENCES & PENALTIES**

The following are prescribed by the Act as criminal offences:

Section 1	Carrying on business as a scrap metal dealer without licence (level 5)
Section 8	Failure to notify authority of any changes to details given with application (level 3)
Section 10	Failure to display site licence or collectors licence (level 3)
Section 11(6)	Receiving scrap metal without verifying persons full name and address (level 3)
Section 11 (7)	Delivering scrap metal to dealer and giving false details (level 3)
Section 12 (6)	Buying scrap metal for cash (level 5)
Section 13	Failure to keep records regarding receipt of metal (level 5)
Section 14	Failure to keep records regarding disposal of metal (level 5)
Section 15 (1)	Failure to keep records which allow the information and the scrap metal to be identified by reference to one another (level 5)
Section 15 (2)	Failure to keep copy of document used to verify name and address of person bringing metal, or failure to keep a copy of a cheque issued (level 5)
Section 15 (3)	Failure to keep information and records for three years (level 5)
Section 16	Obstruction to right of entry and failure to produce records (level 3)
Section 17	Where an offence under this Act is committed by a body corporate and it is proved—

(a) to have been committed with the consent or connivance of a director, manager, secretary or other similar officer, or

(b) to be attributable to any neglect on the part of any such individual,

the individual as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and omissions of a member in connection with that management as if the member were a director of the body corporate.

## DEFINITIONS

“Licensed site” means a site identified in a scrap metal licence.

“Mobile collector” means a person who—

- a) carries on business as a scrap metal dealer otherwise than at a site, and
- b) regularly engages, in the course of that business, in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door.

“police officer” includes a constable of the British Transport Police Force.

“Premises” includes any land or other place (whether enclosed or not).

“Relevant environmental permit or registration ”means—

- a) any environmental permit under regulation 13 of the Environmental (Permitting) Regulations 2010 authorising any operation by the applicant in the local authority's area;
- b) any registration of the applicant under Schedule 2 to those Regulations in relation to an exempt waste operation (within the meaning of regulation 5 of those Regulations) carried on in that area;
- c) any registration of the applicant under Part 8 of the Waste (England and Wales) Regulations 2011 (carriers, brokers and dealers of controlled waste).

“Relevant offence” and “relevant enforcement action” have the meaning given by section 3(3) of the Scrap Metal Dealers Act 2013.

“Site” means any premises used in the course of carrying on business as a scrap metal dealer (whether or not metal is kept there).

“Site manager”, in relation to a site at which a scrap metal dealer carries on business, means the individual who exercises day-to-day control and management of activities at the site. (An individual may be named in a licence as site manager at more than one site; but no site may have more than one site manager named in relation to it).

“Trading name” means a name, other than that stated in the licence under which a licensee carries on business as a scrap metal dealer.

**Code of Practice Requirements:**

All scrap metal dealers and merchants signing up to this Code agree to abide by the following requirements:

- All reasonable steps will be taken to ensure stolen metals are not bought.
- Metals will only be accepted from those whose ID has been/can be verified as required by the Scrap Metal Dealers Act 2013
- No payment shall be made to any person other than the person as identified on the scrap metal collector's licence displayed on the vehicle where metals are produced by a licensed scrap metal collector.
- Staff must be trained in administrative processes and all paperwork should be relevant and kept up-to-date.
- Dealers will co-operate with police and local authorities by allowing access and inspection when requested.
- No blackened copper wire that has obviously had its insulation removed should be bought.
- Metals will not be accepted from customers on foot.
- Metal will not be accepted from customers arriving in taxis or private hire vehicles.
- Dealers will display prominent signage at their premises stating that "We report suspected metal thieves to the Police".
- In order to comply with the Act's requirements concerning record keeping and identification no metals shall be received without at a minimum taking and retaining a digital photograph(s) of the scrap metal load as presented, cross-referenced with the appropriate waste transfer note.
- Dealers shall have available and actively use UV torches for detecting forensically marked metals.
- Suspicious persons will be reported to the local police force for the area concerned.
- Suspicious transactions will be reported to the local police force for the area concerned.
- Dealers will work towards adopting into an electronic 'alert' notification scheme for early notification of stolen metals.
- All scrap metal dealers agree to work towards installing automatic number plate recognition cameras or police approved CCTV systems at site entrances and/or weighbridges. (Where such systems have been installed posters advertising the fact will clearly be displayed on the premises).

## **POSSIBLE LIST OF CONSULTEES**

Police

British Transport Police

Fire & Rescue Service

Environment Agency

Trading Standards

Environmental Health

Health & Safety

Planning and Development Control

Neighbourhood Services

Individuals & companies currently registered as scrap metal dealers

Individuals & companies currently registered as motor salvage operator.



17 DECEMBER 2013

**REPORT OF THE SOLICITOR TO THE COUNCIL AND MONITORING OFFICER****REVIEW OF ANTI-MONEY LAUNDERING POLICY****EXEMPT INFORMATION**

None

**PURPOSE**

This report provides the Council with the revised and updated Anti-Money Laundering Policy.

**RECOMMENDATIONS**

**To adopt the revised Anti-Money Laundering Policy in the Council's policy framework as approved by Audit & Governance Committee.**

**EXECUTIVE SUMMARY****Review of Anti-Money Laundering Policy**

The Council is committed to high standards of Ethical and Corporate Governance which give a high organisational commitment to zero tolerance to fraud, corruption and bribery.

The revised Anti-Fraud and Corruption Policy and Whistleblowing Policy are also under review as part of an internal audit on fraud awareness, and reports on updating these policies were along with the Anti-Money Laundering Policy, submitted to Audit and Governance Committee on 31 October 2013 for approval and are now being presented to full Council for adoption. The opportunity has been taken to update all three policies at this stage. As a result of the review the policies will be fit for purpose and ensure high standards of corporate governance of the Council's affairs. The Anti-Fraud and Corruption Policy and Whistleblowing Policy policies have been presented to the unions and reported to Appointments and Staffing Committee on 11 December 2013 to comply with employment regulations. The Anti-Money Laundering Policy will be passed to the unions for information purposes.

Training sessions will be carried out for all staff and members on Anti-Money Laundering requirements through the Council net-consent facility.

## **RESOURCE IMPLICATIONS**

There will be no resource implications. Any amendments to the Council's policies will be placed on the Council's website and included as required in the Constitution.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

There are no Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health and Safety and Risk Management Implications other than mentioned in the executive summary.

## **SUSTAINABILITY IMPLICATIONS**

None.

## **BACKGROUND INFORMATION**

### **Background**

Governance is about how the Council ensures that it is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. It comprises the systems and processes, and cultures and values, by which such bodies are directed and controlled and through which they account to, engage with and, where appropriate, lead their communities.

The Council strives to meet the highest standards of corporate governance to help ensure it meets its objectives. Members and Officers are responsible for putting in place proper arrangements for the governance of the Council's affairs and the stewardship of the resources at its disposal.

The Council's Ethical Governance arrangements are a key part of good Corporate Governance and important component parts of this are the Council's Anti-Money Laundering Policy as well as the Anti-Fraud and Corruption Policy and the Whistleblowing Policy. The policies are subject to regular review to ensure that they remain fit for purpose. The Audit & Governance Committee reviewed the Anti-Money Laundering Policy, the Anti-Fraud and Corruption Policy and the Whistleblowing Policy at its meeting on 31 October 2013. The Council is now asked to adopt its Anti-Money Laundering Policy.

Governance forms parts of the Council's commitment to customer excellence which underpins the Council's Strategic Plan and vision.

## **REPORT AUTHOR**

Jane M Hackett Solicitor to the Council and Monitoring Officer Tel: 709258 if you would like further information or clarification prior to the meeting.

## **LIST OF BACKGROUND PAPERS**

None

## **APPENDICES**

Draft Policy – Attached (Appendix 1)



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## TAMWORTH BOROUGH COUNCIL

### Anti-Money Laundering Policy

#### 1. Introduction

Although local authorities are not directly covered by the requirements of the Money Laundering Regulations 2007, guidance from CIPFA indicates that they should comply with the underlying spirit of the legislation and regulations.

Tamworth Borough Council is committed to the highest possible standards of conduct and governance, therefore, it has put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

All organisations, including the Council, must report any money laundering suspicions for cash transactions over 15,000 Euros. **However, where any member of staff has concerns at accepting a large cash payment they can contact the MLRO for guidance. To help prevent money laundering, the Council has set a cash payment limit of £5,000. No cash payments above £5,000 are to be accepted by any Council service unless such is approved by the Money Laundering Reporting Officer (MLRO) or in her absence the Section 151 Officer.**

**The MLRO will when appropriate meet the payee and go through a series of checks prior to making a decision on whether to accept the payment.**

This is not designed to prevent customers making payments for Council services but to minimise the risk to the Council of high value cash transactions.

#### 2. Scope of the Policy

This policy applies to all employees, whether permanent or temporary, and Members of the Council.

Its aim is to enable employees and Members to respond to a concern they have in the course of their dealings for the Council. Individuals who have a concern relating to a matter outside work should contact the Police.

### **3. Definition of Money Laundering**

Money laundering describes offences involving the integration of the proceeds of crime or terrorist funds into the mainstream economy. Such offences are defined under the Proceeds of Crime Act 2002 (“the Act”); the following are ‘prohibited acts’:

- Concealing, disguising, converting, transferring or removing criminal property from the UK
- Becoming involved in an arrangement which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- Acquiring, using or possessing criminal property
- Failure to disclose one of the offences listed above, where there are reasonable grounds for knowledge or suspicion
- Doing something that might prejudice an investigation e.g. falsifying a document
- Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation

Provided the Council does not undertake activities regulated under the Financial Services and Markets Act 2000, the offences of failure to disclose and tipping off do not apply. However, the Council and its employees and Members remain subject to the remainder of the offences and the full provisions of the Terrorism Act 2000.

The Terrorism Act 2000 made it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism, or resulting from acts of terrorism.

Although the term ‘money laundering’ is generally used to describe the activities of organised crime, for most people it will involve a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

Potentially very heavy penalties (unlimited fines and imprisonment up to fourteen years) can be handed down to those who are convicted of one of the offences above.

### **4. Requirements of the Money Laundering Legislation**

The main requirements of the legislation are:

- To appoint a Money Laundering Reporting Officer
- Maintain client identification procedures in certain circumstances

- Implement a procedure to enable the reporting of suspicions of money laundering
- Maintain record keeping procedures

## **5. The Money Laundering Reporting Officer (MLRO)**

The Council has designated the Monitoring Officer as the Money Laundering Reporting Officer (MLRO). She can be contacted on 01827 709258 or by email [jane-hackett@tamworth.gov.uk](mailto:jane-hackett@tamworth.gov.uk).

In the absence of the MLRO or in instances where it is suspected that the MLRO could be involved in suspicious transactions, concerns should be raised with the Section 151 Officer – Executive Director (Corporate Services). He can be contacted on 01827 709252 or by email [john-wheatley@tamworth.gov.uk](mailto:john-wheatley@tamworth.gov.uk).

## **6. Reporting Procedure for Suspicions of Money Laundering**

Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the Act, you must report your suspicions immediately to the MLRO.

The report must include as much detail as possible including:

- Full details of the people involved
- Full details of the nature of their/your involvement.
- The types of money laundering activity involved
- The date(s) of such activity/ies
- Whether the transactions have happened, are ongoing or are imminent;
- Where they took place (if applicable);
- How they were undertaken (if applicable);
- The (likely) amount of money/assets involved;
- Why, exactly, you are suspicious.

Along with any other available information to enable the MLRO to make a sound judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable her to prepare a report to the National Crime Agency (NCA), where appropriate. You should also enclose copies of any relevant supporting documentation.

If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 – 329 of the Act (see appendix 1), then your report must include all relevant details, as you will need consent from the NCA,



via the MLRO, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given. You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.

Once you have reported the matter to the MLRO you must follow any directions she may give you. You must NOT make any further enquiries into the matter yourself: any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the MLRO who will refer the matter on to the NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise you may commit the criminal offence of "tipping off".

Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

## **7. Consideration of the disclosure by the Money Laundering Reporting Officer**

Upon receipt of a report, the MLRO must note the date thereof and acknowledge receipt. She should also advise you of the timescale within which she expects to respond to you.

The MLRO will consider the report and any other available internal information she thinks relevant e.g.

- reviewing other transaction patterns and volumes;
- the length of any business relationship involved;
- the number of any one-off transactions and linked one-off transactions;
- any identification evidence held;

She will also undertake such other reasonable inquiries that are appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

Once the MLRO has evaluated the report and any other relevant information, she must make a timely determination as to whether:

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that is the case; and
- there is a requirement to seek consent from the NCA for a particular transaction to proceed.

Where the MLRO does so conclude, then she must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless she has a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then she must note this accordingly; she can then immediately give her consent for any ongoing or imminent transactions to proceed.

In cases where legal professional privilege may apply, the MLRO must liaise with the Section 151 Officer to decide whether there is a reasonable excuse for not reporting the matter to the NCA.

Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then she shall note this accordingly and give consent for any ongoing or imminent transaction(s) to proceed.

All reports referred to the MLRO and reports made by her to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

The MLRO commits a criminal offence if she knows or suspects, or has reasonable grounds to do so, through a disclosure being made to her, that another person is engaged in money laundering and she does not disclose this as soon as practicable to the NCA.

## **8. Training**

Officers considered likely to be exposed to suspicious situations, will be made aware of these by their senior officer and provided with appropriate training.

Additionally, all employees and Members will be familiarised with the legal and regulatory requirements relating to money laundering and how they affect both the Council and themselves.

Notwithstanding the paragraphs above, it is the duty of officers and Members to report all suspicious transactions whether they have received their training or not.

## **9. Conclusion**

Given a local authority's legal position with regard to the legislative requirements governing money laundering, the Council believes that this Policy represents a proportionate response to the level of risk it faces from money laundering offences.

## **10. Review**

This policy and associated procedures will be reviewed annually.

## Appendix 1

### **Sections 327-329 of the Proceeds of Crime Act 2002**

#### **S327 Concealing etc**

(1) A person commits an offence if he—

(a) conceals criminal property;

(b) disguises criminal property;

(c) converts criminal property;

(d) transfers criminal property;

(e) removes criminal property from England and Wales or from Scotland or from Northern Ireland.

(2) But a person does not commit such an offence if—

(a) he makes an authorised disclosure under section 338 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the appropriate consent;

(b) he intended to make such a disclosure but had a reasonable excuse for not doing so;

(c) the act he does is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

(3) Concealing or disguising criminal property includes concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.

#### **328 Arrangements**

(1) A person commits an offence if he enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person.

(2) But a person does not commit such an offence if—

(a) he makes an authorised disclosure under section 338 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the appropriate consent;

(b) he intended to make such a disclosure but had a reasonable excuse for not doing so;

(c) the act he does is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

### 329 Acquisition, use and possession

(1) A person commits an offence if he—

(a) acquires criminal property;

(b) uses criminal property;

(c) has possession of criminal property.

(2) But a person does not commit such an offence if—

(a) he makes an authorised disclosure under section 338 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the appropriate consent;

(b) he intended to make such a disclosure but had a reasonable excuse for not doing so;

(c) he acquired or used or had possession of the property for adequate consideration;

(d) the act he does is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

(3) For the purposes of this section—

(a) a person acquires property for inadequate consideration if the value of the consideration is significantly less than the value of the property;

(b) a person uses or has possession of property for inadequate consideration if the value of the consideration is significantly less than the value of the use or possession;

(c) the provision by a person of goods or services which he knows or suspects may help another to carry out criminal conduct is not consideration.