

**You are hereby summoned to attend a meeting of the  
MAIDSTONE BOROUGH COUNCIL**

Date: Wednesday 7 December 2022  
Time: 6.30 p.m.  
Venue: Town Hall, High Street, Maidstone

**Membership:**

Councillors Bartlett, Mrs Blackmore, Brice, Brindle, Bryant, Burton, Cannon, Clark, Cleator, Coates, Conyard, Cooke, Cooper, Cox, English, Eves, Forecast, Fort, Garten, Mrs Gooch, Mrs Grigg, Harper, Harwood, Hastie, Hinder, Holmes, Jeffery, Joy, Khadka, Kimmance, Knatchbull, McKenna, Mortimer (Mayor), Munford, Naghi, Newton, Parfitt-Reid, Perry, Mrs Ring, Mrs Robertson, Rose, Round, Russell, J Sams, T Sams, Spooner, Springett, Trzebinski, R Webb, S Webb, de Wiggondene-Sheppard, Wilby, D Wilkinson, T Wilkinson and Young

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**AGENDA**

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1. Prayers
2. Apologies for Absence
3. Dispensations (if any)
4. Disclosures by Members and Officers
5. Disclosures of Lobbying
6. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
7. Minutes of the meeting of the Borough Council held on 28 September 2022 1 - 10
8. Mayor's Announcements
9. Presentation to Full Council from the Maidstone Royal Naval Association
10. Petitions

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**Issued on Tuesday 29 November 2022**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

11. Question and Answer Session for Local Residents
12. Questions from Members of the Council to:
  - (a) The Leader of the Council
  - (b) Lead Members
  - (c) The Chairmen of Decision-Making Committees
13. Current Issues - Report of the Leader of the Council, Response of the Group Leaders and Questions from Council Members
14. Report of the Executive held on 23 November 2022 - Council Tax Reduction Scheme 2023/24 11 - 107
15. Report of the Democracy and General Purposes Committee held on 21 November 2022 - Appointment of Returning Officer and Electoral Registration Officer 108 - 110
16. Notice of Motion - Freedom of the Borough - Royal British Legion Branches

Notice has been given of the following motion to be moved by Councillor Mrs Gooch, seconded by Councillor Munford:

Under Section 249 of the Local Government Act 1972, Borough Councils may admit to be Honorary Freemen of the Borough 'persons of distinction and persons who have, in the opinion of the Council, rendered eminent services to the Borough'.

The Royal British Legion has been supporting ex-serving personnel all year round, every day of the week since 1921. It has seen many changes over the years and now focuses on two equally important areas:

- As the custodian of Remembrance, ensuring that the memories of those who have fought and sacrificed in the British Armed Forces live on through the generations
- Through its welfare work to help the British Armed Forces, veterans and their families to live on to a more hopeful future

At the heart of how the Royal British Legion operates are the volunteers who run the local branches. The number and spread of local branches have changed and continue to change over time, so it is appropriate to bestow the honour collectively to all the Royal British Legion branches throughout the Borough, their members, past and present.

The Award of the Freedom of the Borough would be in recognition of all the Royal British Legion's work to the residents of this Borough; it would also acknowledge branches reaching their Centenary in line with the National Royal British Legion which celebrated its 100th Anniversary throughout 2021.

I therefore move the following motion:

1. Maidstone Borough Council agrees in principle pursuant to Section 249 of the Local Government Act 1972 to award all Royal British Legion branches throughout the Borough the Freedom of the Borough in recognition of the eminent services rendered to the Borough by them and everything they have done and continue to do for our Armed Forces, veterans and families past and present; the award of the Freedom of the Borough also acknowledges branches reaching their Centenary in line with the National Royal British Legion which celebrated its 100th Anniversary throughout 2021.
2. An extraordinary meeting of the Council be convened to resolve the same accordingly.

#### 17. Notice of Motion - Rights of Nature

Notice has been given of the following motion to be moved by Councillor Jeffery, seconded by Councillor J Sams:

This Council recognises that nature has rights and that by having regard to such rights, decisions made by the Council can help create regenerative rather than extractivist economies while also making human and other living communities safer, stronger and more resilient.

This Council declares that:

1. Nature is a unique, indivisible, self-regulating community, system and habitat of interrelated and interdependent beings that sustains, contains and reproduces, and these beings, of which humans are but one species, have rights. The rights of each being are limited by the rights of other beings and any conflict between their rights must be resolved in a way that maintains the integrity, balance and health of nature.
2. Nature and all beings of which she is composed have the right to life and to exist, to be respected, to regenerate their bio-capacity, to maintain their identity and integrity as distinct, self-regulating and interrelated beings, to a place and to play their role in nature, to wellbeing and to live free from torture or cruel treatment.
3. Every human being is responsible for respecting and living in harmony with nature. Human beings and all public and private institutions must ensure that the pursuit of human wellbeing contributes to the wellbeing of nature, now and in the future and respect, protect, conserve and where necessary, restore the integrity, of the vital ecological cycles, processes and balances of Nature.

This Council asks the:

1. Democracy and General Purposes Committee to work with officers and others to bring forward changes to the Council's Constitution that enshrine these rights alongside human rights already mentioned in the document, and the

2. Executive to commission a report to come to Council on embedding 'Rights of Nature' as a keystone concept into Council's operational practices, planning processes and ensuring that nature is considered in decision making.

18. Report of the Leader of the Council - Urgent Decisions Taken by the Executive Between 20 September 2022 - 29 November 2022 111 - 112

### **INFORMATION FOR THE PUBLIC**

In order to ask a question at this meeting, please call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Monday 5 December 2022). You will need to provide the full text in writing.

In order to make a statement in relation to an item on the agenda, please call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Monday 5 December 2022). You will need to tell us which agenda item you wish to speak on.

If you require this information in an alternative format please contact us, call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk).

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## **MAIDSTONE BOROUGH COUNCIL**

### **MINUTES OF THE MEETING OF MAIDSTONE BOROUGH COUNCIL HELD AT THE TOWN HALL, HIGH STREET, MAIDSTONE ON 28 SEPTEMBER 2022**

**Present: Councillor Mortimer (Mayor) and Councillors Bartlett, Mrs Blackmore, Burton, Cannon, Clark, Cleator, Coates, Conyard, Cooke, Cooper, Cox, Forecast, Fort, Garten, Mrs Grigg, Harwood, Hastie, Hinder, Holmes, Jeffery, Joy, Khadka, Kimmance, Knatchbull, McKenna, Munford, Naghi, Newton, Parfitt-Reid, Perry, Mrs Robertson, Round, Russell, J Sams, T Sams, Spooner, Springett, Trzebinski, R Webb, de Wiggondene-Sheppard, Wilby, D Wilkinson, T Wilkinson and Young**

40. **PRAYERS**

Prayers were said by Councillor Mrs Joy in her capacity as Church Warden of the United Parish of All Saints with St Philip's Maidstone and St Stephen's Tovil, and as the personal representative of the Very Reverend John S Richardson, Vicar of Maidstone, who was unable to attend the meeting.

41. **MINUTE'S SILENCE**

The Council observed a minute's silence in memory of Her Majesty Queen Elizabeth II and Patrick Sellar, a former Member of the Borough Council, who had passed away recently.

42. **APOLOGIES FOR ABSENCE**

It was noted that apologies for absence had been received from Councillors Brice, Brindle, English, Mrs Gooch, Harper, Mrs Ring, Rose and S Webb, and that Councillor Cleator would be late in arriving at the meeting.

43. **DISPENSATIONS**

There were no applications for dispensations.

44. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members.

Robin Harris, Interim Team Leader, Contentious and Corporate Governance, disclosed an interest in agenda item 20 relating to his proposed appointment as the Council's Monitoring Officer. Mr Harris said that he would leave the room when the matter was discussed.

45. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying at this stage.

See Minute 55 below.

46. EXEMPT ITEMS

**RESOLVED:** That the items on the agenda be taken in public as proposed.

47. MINUTES OF THE MEETING OF THE BOROUGH COUNCIL HELD ON 20 JULY 2022

**RESOLVED:** That the Minutes of the meeting of the Borough Council held on 20 July 2022 be approved as a correct record and signed.

48. MAYOR'S ANNOUNCEMENTS

The Mayor announced that:

- The death of Her Majesty The Queen had been a huge shock and he would like to thank all Members of the Council and the public for their support at the Church Service, the two minute's silence, moments of reflection and the Kent proclamation of the new King.
- The River Festival had been a fantastic event which drew huge crowds. He hoped that the Council would support the event every year going forward as it directly helped local businesses, some of which had enjoyed their busiest days ever in the town and were appreciative.
- There had been two events at the Town Hall to welcome Ukrainian refugees to the Borough. These had been very successful with Group Leaders assisting and engaging with many new residents. He would like to thank them for their support.
- The Garden Party was very well attended and raised a significant sum of money for his Charities. He would like to thank the Officers who had assisted on the day.
- As a reminder, the next Charity event would be held on 26 October 2022 at the Thai Orchid.

49. PETITIONS

There were no petitions.

50. QUESTION AND ANSWER SESSION FOR LOCAL RESIDENTS

**Question from Mr Stephen Thompson to the Lead Member for Environmental Services**

*Regarding the Maidstone Borough Council contract with Biffa for our waste collection services, how many complaints did the Council receive so far this year, for what reasons, and how does that compare to the pre-pandemic averages?*

The Lead Member for Environmental Services responded to the question.

Mr Thompson asked the following supplementary question of the Lead Member for Environmental Services:

*With due consideration for business confidentiality in the interests of Biffa and Maidstone residents, can you tell us what penalties have been or may be applied in the future for the non-collection of bins?*

The Lead Member for Environmental Services responded to the question.

**Question from Ms Sue Harwood to the Lead Member for Planning and Infrastructure**

*Can Councillors please confirm the number of meetings MBC have held with National Highways in respect of the proposed development at Lidsing?*

The Lead Member for Planning and Infrastructure responded to the question.

Ms Harwood asked the following supplementary question of the Lead Member for Planning and Infrastructure:

*The main comment from National Highways appears to be that the new M2 bridge needs to be significantly wider which raises further concerns regarding the viability of the development. What is the Council's response to this?*

The Lead Member for Planning and Infrastructure responded to the question.

**Question from Mrs Vanessa Jones to the Lead Member for Planning and Infrastructure**

*Could the Council please give a definitive date when Marden was discounted as a viable option for a garden community?*

The Lead Member for Planning and Infrastructure responded to the question.

Mrs Jones asked the following supplementary question of the Lead Member for Planning and Infrastructure:

*During the afternoon of day one of the hearing, Mr Pearson, your own consultant who was commenting on his own report, appeared to be very*

*confused and stated that he did not know why north of Marden got a significant negative score. Were you happy with his answers?*

The Lead Member for Planning and Infrastructure responded to the question.

To listen to the answers to these questions, please follow this link:

<https://www.youtube.com/watch?v=EPwcDd30cjl&t=6139s>

51. QUESTIONS FROM MEMBERS OF THE COUNCIL

**Question from Councillor Jeffery to the Leader of the Council in the Absence of the Lead Member for Housing and Health**

*What proportion of homes in the Borough are well insulated and energy efficient, e.g., have an EPC of C or above, how has this changed over the past five years and how many homes has this Council helped become better insulated since 2017?*

In the absence of the Lead Member for Housing and Health, the Leader of the Council responded to the question.

Councillor Jeffery asked the following supplementary question of the Leader of the Council in the absence of the Lead Member for Housing and Health:

*Given that the likelihood is that many homes across the Borough are energy inefficient and despite the promise by the Government of £130 billion additional profit to energy companies, borrowed from banks and added to the national debt, fuel bills will be twice as high as this time last year with the average household needing about £1,000 extra, can the Leader explain why he is not considering revising priorities, plans and budgets so that we can improve homes around the Borough; for example, using the Lewis Model to create a local stable workforce for insulation so that as many houses as possible can be insulated?*

The Leader of the Council responded to the question.

**Question from Councillor J Sams to the Lead Member for Planning and Infrastructure**

*With regard to the Local Plan there have been significant costs incurred by a number of Parish Councils to date namely Bredhurst and Lenham collectively spending nearly £70K between them. Those Parishes so badly affected by the proposals from this Council will undoubtedly have to re-instruct their legal representation at significant additional cost.*

*How do you feel residents from those areas will view the Council placing additional material in such a way to make it impossible for their representatives to respond at that point?*

The Lead Member for Planning and Infrastructure responded to the question.

Councillor J Sams asked the following supplementary question of the Lead Member for Planning and Infrastructure:

*How do you intend to work with those Parishes involved to make sure they have access to any additional new information that may not already be on the web and answers to their questions in a timely fashion in the run up until the hearing in November?*

The Lead Member for Planning and Infrastructure responded to the question.

**Question from Councillor T Sams to the Lead Member for Planning and Infrastructure**

*At the Local Plan inquiry on day 3, the Inspector clearly was unhappy that he and others could not read the material submitted during the inquiry. He stated about the late presentation of evidence "I'm beginning to now feel compromised about my preparedness, and readiness to discuss Heathlands in detail against a backdrop of yet more information, if it's going to be submitted, and I expect others may feel similarly."*

*How do you feel those attending this session felt, including the Inspector, and representatives from both Lidsing and Lenham to receive information in such a manner?*

The Lead Member for Planning and Infrastructure responded to the question.

Councillor T Sams asked the following supplementary question of the Lead Member for Planning and Infrastructure:

*At the same session, a Maidstone Borough Council Officer said to the Inspector about the unseen documents "Some of these documents are updates of positions." The Officer carried on "I took the view we could still look at the strategic matters without referring to them." She added "We know these documents exist without actually referring to the material in them" and continued "You could discuss without knowing the detail of these. You have got the basics; you know what the schemes are about."*

*How do you think representatives from Lidsing and Lenham would see this as being fair and transparent?*

The Lead Member for Planning and Infrastructure responded to the question.

To listen to the answers to these questions, please follow this link:

<https://www.youtube.com/watch?v=EPwCdD30cjw&t=6146s>

Note: Councillor Cleator entered the meeting during Questions from Members (6.50 p.m.).

52. CURRENT ISSUES - REPORT OF THE LEADER OF THE COUNCIL, RESPONSE OF THE GROUP LEADERS AND QUESTIONS FROM COUNCIL MEMBERS

Councillor Burton, the Leader of the Council, submitted his report on current issues. During his speech, Councillor Burton thanked the Mayor for the way he had led the Borough during the period of national mourning following the death of Her Majesty The Queen and in celebration of the proclamation of the new King. Councillor Burton also wished to record his thanks to the Officers who had been involved in the arrangements for these events.

After Councillor Burton had submitted his report, Councillor Naghi, on behalf of the Leader of the Liberal Democrat Group, Councillor Munford, the Leader of the Independent Group, and Councillor Cleator, the Leader of the Labour Group, responded to the issues raised.

Councillor Burton then responded to questions from Members on matters relevant to his role as the Leader.

53. REPORT OF THE EXECUTIVE MEETING HELD ON 27 JULY 2022 - LOCAL DEVELOPMENT SCHEME 2022-2024

It was moved by Councillor Cooper, seconded by Councillor Burton, that the recommendation of the Executive relating to the Local Development Scheme 2022-2024 be approved.

**RESOLVED:** That the Local Development Scheme 2022-24, attached at Appendix 1 to the report of the Executive, be approved.

54. REPORT OF THE DEMOCRACY AND GENERAL PURPOSES COMMITTEE HELD ON 21 SEPTEMBER 2022 - CONSTITUTION AMENDMENTS - DELEGATIONS, DECISIONS AND PROCEEDINGS OF THE EXECUTIVE (A2. 7.6.2) AND POLICY ADVISORY COMMITTEES (A2. 6.2.2 (B) (II))

It was moved by Councillor Cooper, seconded by Councillor Mrs Blackmore, that the recommendation of the Democracy and General Purposes Committee relating to amendments to the Constitution be approved.

**RESOLVED:** That the following amendments to Part A2 of the Constitution be approved:

1. 7.6.2 be amended to:

~~"No Key Decision or Other Material Decision in respect of a matter shall be placed before the Executive or any individual Member on the Executive, no report prepared for them by Officers nor any decision~~

shall be made by the Executive or any individual Member on the Executive ~~on such a matter~~ unless:

- (a) A report on the matter has previously been considered by a meeting of a Policy Advisory Committee;
- (b) ...
- (c) ...”

2. The following be added to 7.6.2:

“(h) The matter relates to the Executive acting as Corporate Trustee for the Cobtree Manor Estate, or the Queens Own Royal West Kent Regimental Trust.”

3. 6.2.2. (b) (ii) be amended to remove the ability of Officers to add items to agendas for Policy Advisory Committee meetings.

55. REPORT OF THE DEMOCRACY AND GENERAL PURPOSES COMMITTEE HELD ON 21 SEPTEMBER 2022 - LOCAL GOVERNMENT BOUNDARY REVIEW - SECOND STAGE CONSULTATION RESPONSE

It was moved by Councillor Cooper, seconded by Councillor Mrs Blackmore, that the consultation response, as finalised under delegated authority and circulated, be approved for submission to the Local Government Boundary Commission for England as a part of the Local Government Boundary Review.

Amendment moved by Councillor J Sams, seconded by Councillor T Sams, that point 1 Harrietsham, Lenham and North Downs be deleted from the Council’s response to the Local Government Boundary Review Second Stage Consultation.

When put to the vote, the amendment was lost.

It was pointed out and accepted that the maps needed to be amended to reflect the actual Coombe Farm Estate area.

The original motion was then put to the vote and carried.

**RESOLVED:** That the consultation response, as finalised under delegated authority and circulated, be approved for submission to the Local Government Boundary Commission for England as a part of the Local Government Boundary Review.

Note: During the discussion on this item, the Mayor stated that he had been lobbied.

56. REPORT OF THE DEMOCRACY AND GENERAL PURPOSES COMMITTEE HELD ON 21 SEPTEMBER 2022 - COMMUNITY GOVERNANCE REVIEW (PARISHES) - TERMS OF REFERENCE

It was moved by Councillor Cooper, seconded by Councillor Cooke, and

**RESOLVED:** That the Terms of Reference for the Community Governance Review (Parishes), as circulated, be approved and published in October 2022.

57. REPORT OF THE DEMOCRACY AND GENERAL PURPOSES COMMITTEE HELD ON 21 SEPTEMBER 2022 - RE-ALLOCATION OF OUTSIDE BODY POSITIONS

It was moved by Councillor Cooper, seconded by Councillor Mrs Blackmore, that the recommendations of the Democracy and General Purposes Committee relating to the re-allocation of outside body positions be approved.

Amendment moved by Councillor Jeffery, seconded by Councillor Cannon, that the table of proposed outside body positions be amended as follows:

Democracy and General Purposes Committee Remit

Outside Body	Position Associated with	No. of Positions
Allington Millennium Green Trust	Allington Bridge Ward Members in the first instance	1

Councillor Cooper, the mover of the original motion, said that he and his seconder were willing to accept the amendment to the motion.

**RESOLVED:**

1. That the re-allocation of outside body positions, as set out in the table circulated as amended at the meeting, be approved.
2. That the current list of outside bodies contained within the Constitution (Appendix C, Part C1) be replaced with the table circulated as amended at the meeting, and moved to Appendix 2, Part B4 of the Constitution.

58. REPORT OF THE AUDIT, GOVERNANCE AND STANDARDS COMMITTEE HELD ON 27 SEPTEMBER 2022 - AUDIT, GOVERNANCE AND STANDARDS COMMITTEE ANNUAL REPORT 2021/22

It was moved by Councillor Bartlett, seconded by Councillor Cox, and

**RESOLVED:** That subject to:

The inclusion within the Chairman's introduction to the report of a paragraph expressing the Committee's disappointment with the failure of Grant Thornton, the External Auditor, to complete the audit of the 2020/21 accounts, on which their opinion remained outstanding as at September 2022; and

The addition of the Parish Representatives to the final paragraph of the Chairman's introduction to the report to thank them for their support over the last year,

the Audit, Governance and Standards Committee Annual Report to Council 2021/22, which demonstrates how the Committee discharged its duties during 2021/22, be noted.

Note: A copy of the Audit, Governance and Standards Committee Annual Report to Council 2021/22 is attached at pages 34-43 of the Council agenda.

59. NOTICE OF MOTION - EXTENDED MUSEUM OPENING HOURS FOR SECONDARY SCHOOL PUPILS' ACCESS

The following motion was moved by Councillor D Wilkinson, seconded by Councillor Coates:

*The current restricted opening hours of Maidstone Museum are deterring its use by Secondary School pupils. Closing in the week at 4pm is too early for them to get there. When the Museum was previously opened later there was a considerable usage by pupils from the Borough's Secondary Schools. As this age group is important to the Museum's mission and long-term support by future generations, it is important that weekday access for them be made easier.*

*Maidstone Borough Council resolves to extend opening hours for the Museum one afternoon a week to 5pm. The cost to be incorporated into the 2023/24 revenue budget and also the Medium-Term Financial Strategy.*

At the conclusion of the debate on the motion, there being no proposal to refer the matter directly to the Executive, in accordance with Council Procedure Rule 12.9.3, the Mayor referred the matter to the Economic Regeneration and Leisure Policy Advisory Committee for consideration.

60. APPOINTMENT OF MONITORING OFFICER

Having disclosed an interest in this item, Robin Harris, Interim Team Leader, Contentious and Corporate Governance, left the meeting while it was discussed.

In introducing the report, the Director of Strategy, Insight and Governance took the opportunity to thank Jayne Bolas, the former Interim Deputy Head of Legal Partnership and Monitoring Officer, for her many years of service to the Council and to wish her well in her retirement.

It was moved by Councillor Burton, seconded by Councillor Mrs Joy, and

**RESOLVED:** That Robin Harris be appointed to undertake statutory duties and responsibilities as the Council's Monitoring Officer, as noted in

the Constitution at Part B5, paragraph 18, with effect from 28 September 2022.

**FURTHER RESOLVED:** That a letter be sent by the Mayor on behalf of the Council to Jayne Bolas thanking her for her many years of service to the Council and wishing her well in her retirement.

61. NON-ATTENDANCE AT COUNCIL MEETINGS

It was moved by Councillor Burton, seconded by Councillor Mrs Blackmore, and

**RESOLVED:**

1. That the reason of ill-health for non-attendance at Council meetings by Councillor Mrs Ring be approved.
2. That the approval of the reason for absence be reviewed at the ordinary meeting of the Council scheduled to be held in February 2023.

62. RE-APPOINTMENT OF COUNCILLOR PETER COULLING OF TESTON PARISH COUNCIL AS A NON-VOTING PARISH COUNCIL REPRESENTATIVE ON THE AUDIT, GOVERNANCE AND STANDARDS COMMITTEE (NO OTHER NOMINATIONS HAVING BEEN RECEIVED)

It was moved by Councillor Bartlett, seconded by Councillor Cox, and

**RESOLVED:** That Councillor Peter Coulling of Teston Parish Council be re-appointed to serve as a non-voting Parish Council representative on the Audit, Governance and Standards Committee and the Hearing Panel, as required, for a three-year term of office with immediate effect.

63. REPORT OF THE LEADER OF THE COUNCIL - URGENT DECISIONS TAKEN BY THE EXECUTIVE BETWEEN 21 JULY 2022 - 28 SEPTEMBER 2022

It was moved by Councillor Burton, seconded by Councillor Cooper, and

**RESOLVED:** That the report setting out details of urgent decisions taken by the Executive between 21 July 2022 - 28 September 2022 be noted.

64. ACCESSION OF KING CHARLES III TO THE THRONE

The Mayor led the Council in singing the first verse of the National Anthem in recognition of the accession of King Charles III to the throne.

65. DURATION OF MEETING

6.30 p.m. to 8.32 p.m.

## **MAIDSTONE BOROUGH COUNCIL**

### **REPORT OF THE EXECUTIVE HELD ON 23 NOVEMBER 2022**

#### **Council Tax Reduction Scheme 2023-24**

##### **Issue for Decision**

Each year Full Council has to approve the Council Tax Reduction Scheme for the following year. This reference makes a recommendation on the scheme to be implemented for 2023-24. This matter has been considered by the Communities, Housing and Environment Policy Advisory Committee before being passed to the Executive. The final decision on the scheme has to be made by Full Council.

##### **Recommendation Made**

That the Council be recommended to agree that no changes be made to the Council Tax Reduction Scheme for the year 2023/24.

##### **Reasons for Recommendation**

- 1.1 The Council Tax Reduction Scheme (CTRS) was introduced in April 2013 as a replacement for Council Tax Benefit (CTB), a national scheme administered on behalf of the Department for Works and Pensions (DWP).
- 1.2 Since its introduction in April 2013, our local scheme has been reconsidered on an annual basis. In 2020 a full review and consultation was carried out to take account of the increase in claimants moving onto Universal Credit. The consultation sought views on moving to a banded scheme from April 2021 for working age claimants.
- 1.3 Council Tax Reduction provides financial assistance in the form of a rebate on the Council Tax bill, the cost of the scheme generally reduced before the COVID pandemic. In 2020/21 there was an increase in claims due to the pandemic and the number of people claiming Universal Credit. The figures below give the cost of the scheme to the public, in the amount of CTR awarded annually rather than collected as Council Tax. 2016/17 - £8,786,555 2017/18 - £8,385,298 2018/19 - £8,616,425 2019/20 - £8,652,758 2020/21 - £10,694,613 2021/22 - £10,264,367 2022/23 - £10,046,498 (estimated).
- 1.4 From April 2021, a new income banded scheme was introduced which has an in-built, simplified claiming process with wide income ranges. The new banded scheme means that frequent liability changes have been avoided, and revised bills are only being issued where income crosses into another earnings band. This has made it less cumbersome for customers and has allowed us to convey a relatively simple eligibility message to residents.

- 1.5 Feedback from the Customer Services team and Citizens' Advice has been positive with fewer enquiries being made about eligibility and understanding of the income banded scheme for households with no children, 1-2 children and 3 plus children.
- 1.6 Table 1 shows the banded scheme which awards a maximum of 80% support for those on a passported benefit. Bands 2 to 5 give a maximum award of between 65% and 10% based on the person's earnings. All other income is disregarded. An extra 5% support is given to those in Bands 2 to 5 if a disability benefit is in payment.

Table 1

Band	Household size and earnings threshold			Maximum Award
	No Children	1 -2 Children	3+ Children	
Band 1	*Passported/Max UC	*Passported/Max UC	*Passported/Max UC	80%
Band 2	Less than £316	Less than £387	Less than £441	65%
Band 3	£316 - 631.99	£387 - £774.99	£441 - £882.99	50%
Band 4	£632 - £947.99	£775 - £1,162.99	£883 - £1,324.99	25%
Band 5	£948 - £1,263.99	£1,163 - £1,550.99	£1,325 - £1,766.99	10%

\*Passported in the table refers to legacy benefits (job seekers allowance, income support, employment support allowance) for customers who have not migrated to Universal Credit.

### **Alternatives considered and why rejected**

Option 1 - To make no changes to the Council Tax Reduction Scheme for 2023/24. The advantages of this are that claimants have got used to this simplified scheme, they are aware how much they need to pay. It also makes no change to the budget.

Option 2 – To revise the current scheme. This would require consultation with the other preceptors and with those affected by any changes. There could also be additional costs if the payment towards the administration of the scheme was withdrawn by the major preceptors.

This is the second year of the income banded scheme, and it is advisable for two years to be completed before considering any changes.

### **Appendices**

Council Tax Reduction Scheme 2023/24

### **Background Papers**

None.

## **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 2023 until 31<sup>st</sup> March 2024.
- 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 2023 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;
  - Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2013;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) (No. 2) Regulations 2014
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2015;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2016
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2017:
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2018;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2019:
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2020:
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2021;
  - The Council Tax (Demand Notices and Reduction Schemes) (England) (Amendment) Regulations 2022 ;  
he Council Tax (Demand Notices and Reduction Schemes) (England) (Amendment) Regulations 2023;  
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;
- (c) in respect of whom a maximum Council Tax Reduction amount can be calculated;
- (d) 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;
- (e) 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;
- (f) not have capital savings above £16,000; and
- (g) 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;
- (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 Local Government Finance Act 1992 and excluded from the authority's scheme;
- (e) 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;
- (f) 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 (Second Adult 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 as amended) 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;
- (h) an Armed Forces Compensation Payment.

**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 claimants is an income test which compares earnings in an income banded scheme. 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 **one** class of persons who will receive a reduction in line with adopted scheme. 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; 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;
- 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 amount can be calculated;
- g. not have capital savings above £10,000;
- h. not have earnings above the levels specified within the scheme;
- 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 *earnings* is within a range specified within Schedule 1; and
- j. has made a valid application for reduction

Maximum Council Tax Reduction stated above is defined within this scheme

## **Council Tax Reduction Scheme**

Details of reduction to be given for **working age applicants** for the financial year 2023/24

## **Definitions and interpretation**

## 2.0 Interpretation - an explanation of the terms used within this scheme

2.1 In this scheme-

**'the Act'** means the Social Security Contributions and Benefits Act 1992;

**'the Administration Act'** means the Social Security Administration Act 1992;

**'the 1973 Act'** means the 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 reduction – for the purposes of this scheme all references are in the masculine gender but apply equally to male and female;

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

**'appropriate DWP office'** means an office of the Department for Work and Pensions dealing with state pension credit or office which is normally open to the public for the receipt of claims for income support, a 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'** has the meaning given by section 3 of the Care Standards Act 2000 and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001 and in Northern Ireland means a nursing home within the meaning of Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 or a residential care home within the meaning of Article 10 of that Order;

**'the Caxton Foundation'** means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other

persons eligible for payment in accordance with its provisions;

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

**'child benefit'** has the meaning given by section 141 of the SSCBA as amended by The Child Benefit (General), Child Tax Credit (Amendment) Regulations 2014 and The Child Benefit (General) (Amendment) Regulations 2015;

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

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

**'claim'** means a claim for council tax reduction;

**'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 reduction (Consequential Provisions) Regulations 2006;

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

**'converted employment and support allowance'** means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations 2008;

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

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

**'council tax 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,

Two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes. The above includes the Marriage (Same Sex Couples) Act 2013 and The Marriage (Same Sex Couples) Act 2013 (Commencement No. 3) Order 2014;

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

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

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

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

- (a) by notice upon or with a form approved by it for the purpose of claiming council tax reduction; 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 Electronic Communications Act 2000;

**'employed earner'** is to be construed in accordance with section 2(1)(a) of the Act and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or 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 2014 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 reduction'** means a payment of council tax reduction payable pursuant to section 60;

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

**'extended reduction (qualifying contributory benefits)'** means a payment of council tax reduction 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 15(1)(c) (injury benefits) or 29(1)(a) (death benefits) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;

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

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

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

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

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

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

**'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 by section 10F of the National Health Service (Scotland) Act 1978;

**'the Independent Living Fund (2006)'** means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part;

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

**'Jobseekers Act'** means the Jobseekers Act 1995; 'Jobseeker's Allowance Regulations' means the Jobseeker's Allowance Regulations 1996 and Jobseeker's Allowance Regulations 2013 as appropriate;

**'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 1996 and the training scheme specified in regulation 75(1)(b)(ii) of those Regulations;

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

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

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

**'occasional assistance'** means any payment or provision made by a local authority, the Welsh Ministers or the Scottish Ministers for the purposes of:

(a) meeting, or helping to meet an immediate short-term need;

(i) arising out of an exceptional event or exceptional circumstances, or

(ii) that needs to be met to avoid a risk to the well-being of an individual, and

(b) enabling qualifying individuals to establish or maintain a settled home, and–

(i) 'local authority' has the meaning given by section 270(1) of the Local Government Act 1972;

and

(ii) 'qualifying individuals' means individuals who have been, or without the assistance might otherwise be:

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

(bb) homeless or otherwise living an unsettled way of life; and 'local authority' means a local authority in England within the meaning of the Local Government Act 1972;

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

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

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

**'partner'** in relation to a person, means

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

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

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

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

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

**'pensionable age'** has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 as amended by the Public Services Pension Act 2013 and Pensions Act 2014;

**'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;

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

**'personal pension scheme'** means–

(a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993 as amended by the Public Service Pension Act 2013;

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

of Schedule 36 of the Finance Act 2004<sup>1</sup>;

- (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 namely;

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

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

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

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

**'qualifying contributory benefit'** means;

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

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

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

- (a) income support;
- (b) income-based 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 reduction;

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

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

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

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

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

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

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

- (a) an employment zone programme;
- (b) a programme provided or other arrangements made pursuant to section 2 of the 1973 Act (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990 (functions in

<sup>1</sup> As amended by the Finance Act 2014

relation to training for employment, etc.); or  
(c) the Employment, Skills and Enterprise Scheme;

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

- (a) a person who is being consulted by or on behalf of—  
(i) the Secretary of State in relation to any of the Secretary of State's functions in the field of social security or child support or under section 2 of the Employment and Training Act 1973; or  
(ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such functions in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person; or  
(b) b. the carer of a person consulted as described in sub-paragraph (a) where the carer is not being consulted as described in that sub-paragraph

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

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

**'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—

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Young People's Learning Agency for England, the Chief Executive of Skills Funding or Welsh Ministers;
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, the department or approved by the department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers.

It does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the 1973 Act or is training as a teacher;

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

**'Universal Credit'** means any payment of Universal Credit payable under the Welfare Reform Act 2012, the Universal Credit Regulations 2013, The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013, Universal Credit (Miscellaneous Amendments) Regulations 2013 and the Universal Credit (Transitional Provisions) Regulations 2014;

**'Uprating Act'** means the Welfare Benefit Up-rating Act 2013, the Welfare Benefits Up-rating Order 2014 and the Welfare Benefits Up-rating Order 2015;

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

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

**'war pension'** means a war disablement pension, a war widow's pension or a war widower's pension;

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

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

**'water charges'** means;

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

(b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002, in so far as such charges are in respect of the dwelling which a person occupies as his home;

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

**'Working Tax Credit Regulations'** means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 as amended<sup>2</sup>; and

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

- 2.2 In this scheme, references to an applicant occupying a dwelling or premises as his home shall be construed in accordance with regulation 7 of the Housing Benefit Regulations 2006.
- 2.3 In this scheme, where an amount is to be rounded to the nearest penny, a fraction of a penny shall be disregarded if it is less than half a penny and shall otherwise be treated as a whole penny.
- 2.4 For the purpose of this scheme, a person is on an income-based jobseeker's allowance on any day in respect of which an income-based jobseeker's allowance is payable to him and on any day;
- (a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker's allowance but where the allowance is not paid in accordance with regulation 27A of the Jobseeker's Allowance Regulations or section 19 or 20A or regulations made under section 17A of the Jobseekers Act (circumstances in which a jobseeker's allowance is not payable); or
  - (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker's allowance is payable to him or would be payable to him but for regulation 27A of the Jobseeker's Allowance Regulations or section 19 or 20A or regulations made under section 17A of that Act;
  - (c) in respect of which he is a member of a joint-claim couple for the purposes of the Jobseekers Act and no joint-claim jobseeker's allowance is payable in respect of that couple as a consequence of either member of that couple being subject to sanctions for the purposes of section 20A of that Act;
  - (d) in respect of which an income-based jobseeker's allowance or a joint-claim jobseeker's allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions).
- 2.5 For the purposes of this scheme, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day;
- (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare

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<sup>2</sup> The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2013; The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2015

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

- 2.6 For the purposes of this scheme, two persons shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.
- 2.7 In this scheme, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002 (small amounts of state pension credit).

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

- 3.1 In this 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 subparagraphs 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 reduction scheme.

#### **4.0 Requirement to provide a National Insurance Number<sup>3</sup>**

- 4.1 No person shall be entitled to reduction 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
  - (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 reduction is claimed;
  - (b) to a person who;
    - (i) is a person in respect of whom a claim for council tax reduction 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**

- 5.1 This scheme applies to a person if:
- (a) he has not attained the qualifying age for state pension credit; or
  - (b) he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is;
    - (i) a person on income support, on income-based jobseeker's allowance or an income-related employment and support allowance; or
    - (ii) 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 for the purposes of this scheme disregards, 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 not 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,

<sup>3</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- 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) a sports award has been made, or is to be made, to him; and
  - (b) no other payment is made or is expected to be made to him.

## **7.0 Persons treated as not being in Great Britain and Persons Subject to Immigration Control**

### **Persons treated as not being in Great Britain**

- 7.1 Persons treated as not being in Great Britain are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in an authority's scheme.
- 7.2 Except where a person falls within paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.
- 7.3 A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.
- 7.4 For the purposes of paragraph (3), a right to reside does not include a right, which exists by virtue of, or in accordance with—
- (a) regulation 13 of the EEA Regulations;
  - (aa) regulation 14 of the EEA Regulations, but only in a case where the right exists under that regulation because the person is—
    - (i) a jobseeker for the purpose of the definition of "qualified person" in regulation 6(1) of those Regulations, or
    - (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker;
  - (b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (5) of that regulation of the

Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen).

- 7.4A For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 by virtue of–
- (a) (Removed by the Council Tax Reductions Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2021
  - (b) Appendix EU to the immigration rules made under section 3(2) of that Act;
  - (c) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act; or
  - (d) having arrived in the United Kingdom with an entry clearance that was granted under Appendix EU (Family Permit) to the immigration rules made under section 3(2) of that Act.
- 7.4B Paragraph (4A)(b) does not apply to a person who–
- (a) has a right to reside granted by virtue of being a family member of a relevant person of Northern Ireland; and
  - (b) would have a right to reside under the EEA Regulations if the relevant person of Northern Ireland were an EEA national, provided that the right to reside does not fall within paragraph (4)(a) or (b)
- 7.5 A person falls within this paragraph if the person is–
- (za) a person granted leave in accordance with the immigration rules made under section 3(2) of the Immigration Act 1971, where such leave is granted by virtue of–
    - (i) the Afghan Relocations and Assistance Policy; or
    - (ii) the previous scheme for locally employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme);
  - (zb) a person in Great Britain not coming within sub-paragraph (za) or (e)(iv) who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021
  - (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
  - (b) a family member of a person referred to in sub-paragraph (a);
  - (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
  - (ca) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (4A)(b), provided that the relevant person of Northern Ireland falls within paragraph (5)(a), or would do so but for the fact that they are not an EEA national;
  - (cb) a frontier worker within the meaning of regulation 3 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020;
  - (cc) a family member of a person referred to in sub-paragraph (cb), who has been granted limited leave to enter, or remain in, the United Kingdom by virtue of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971
  - (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
  - (e) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971<sup>4</sup> where that leave is–

<sup>4</sup> As amended by the Immigration Act 2014 and the Immigration Act 2014 (Commencement No. 2) Order 2014

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

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

7.7 A person mentioned in sub-paragraph (6) is posted overseas if the person is performing overseas the duties of a Crown servant or member of Her Majesty's forces and was, immediately before the posting or the first of consecutive postings, habitually resident in the United Kingdom.

7.8 In this regulation–  
 "claim for asylum" has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999;  
 "Crown servant" means a person holding an office or employment under the Crown;  
 "EEA Regulations" means the Immigration (European Economic Area) Regulations 2006; and the Immigration (European Economic Area) (Amendment) (No. 2) Regulations 2014 and references to the EEA Regulations are to be read with Schedule 4 to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) Regulations 2020  
 "EEA national" has the meaning given in regulation 2(1) of the EEA Regulations;  
 "family member" has the meaning given in regulation 7(1)(a), (b) or (c) of the EEA Regulations, except that regulation 7(4) of the EEA Regulations does not apply for the purposes of paragraphs (4B) and (5)(ca);  
 "relevant person of Northern Ireland" has the meaning given in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971; and  
 "Her Majesty's forces" has the same meaning as in the Armed Forces Act 2006.

**Persons subject to immigration control**

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

7.10 A person who is a national of a state which has ratified the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953) or a state which has ratified the Council of Europe Social Charter (signed in Turin on 18th October 1961) and who is lawfully present in the United Kingdom is not a person subject to immigration control for the purpose of paragraph 7.9

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

## **7A.0 Transitional provision**

7A.1 The above does not apply to a person who, on 31st March 2015–

- (a) is liable to pay council tax at a reduced rate by virtue of a council tax reduction under an authority's scheme established under section 13A(2) of the Act; and
- (b) is entitled to an income-based jobseeker's allowance, until the first of the events in paragraph 7A.2 occurs.

7A.2 The events are–

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

7A.3 In this section "the Act" means the Local Government Finance Act 1992.

## **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 within Great Britain not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation in Great Britain 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 within Great Britain 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 A person who is temporarily absent from a dwelling he occupies as his home and is absent outside Great Britain shall be treated as occupying that dwelling as his home whilst he is temporarily absent, for a period not exceeding 4 weeks beginning with the first day of that absence from Great Britain, provided that–

- (a) the person intends to return to occupy the dwelling as his home;
- (b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and

(c) the period of absence is unlikely to exceed 4 weeks.

8.5 A person who is temporarily absent from a dwelling he occupies as his home and is absent outside of Great Britain as a member of the armed forces away on operations, a mariner or a continental shelf worker shall be treated as occupying that dwelling as his home whilst he is temporarily absent, for a period not exceeding 26 weeks beginning with the first day of that absence from Great Britain, provided that—

- (a) the person intends to return to occupy the dwelling as his home;
- (b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and
- (c) the period of absence is unlikely to exceed 26 weeks.

8.6 This paragraph applies where—

- (a) a person is temporarily absent from Great Britain;
- (b) the temporary absence from Great Britain is in connection with the death of the—
  - (i) person's partner or a child or young person for whom he or his partner is responsible;
  - (ii) person's close relative;
  - (iii) close relative of the person's partner; or
- (d) close relative of a child or young person for whom the person or their partner is responsible;
  - (i) the person intends to return to occupy the dwelling as his home; and
  - (ii) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let.

8.7 person to whom paragraph (8.6) applies shall be treated as occupying a dwelling he is absent from as his home whilst he is temporarily absent for a period not exceeding 4 weeks beginning with the first day of that absence from Great Britain.

8.8 The period of absence in paragraph (8.7) may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return to Great Britain within the first 4 weeks

8.9 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 Great Britain or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
- (d) following, in Great Britain or elsewhere, a training course;
- (e) undertaking medically approved care of a person residing in Great Britain 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 Great Britain, 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.

8.10 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 (as amended by the Mental Health (Discrimination) Act 2013), or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995) or, in Northern Ireland, under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986; and
- (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989

8.11 Where paragraph 8.10 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

8.12 In this section;

- 'medically approved' means certified by a medical practitioner;
- 'continental shelf worker' means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998
- 'designated area' means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964 as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

"mariner" means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where:

- (a) the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage
- '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;
- "prescribed area" means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998
- '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.

**The family for Council Tax Reduction purposes**

## **9.0 Membership of a family**

- 9.1 Within the reduction 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 be entitled to 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<sup>5</sup> 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 as amended.

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<sup>5</sup> The Adoption and Children Act 2002 (Commencement No. 12) Order 2014

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

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

- 12.1 The income and capital of:
- (a) an applicant; and
  - (b) any partner of that applicant,

is to be calculated in accordance with the following provisions.

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

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

- 13.1 Where it appears to the authority that a non-dependant and the applicant have entered into arrangements in order to take advantage of the council tax reduction scheme and the non-dependant has more capital and income than the applicant, that authority shall, except where the applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, treat the applicant as possessing capital and income belonging to that non-dependant, and, in such a case, shall disregard any capital and income which the applicant does possess.
- 13.2 Where an applicant is treated as possessing capital and income belonging to a non-dependant under paragraph 13.1 the capital and income of that non-dependant shall be calculated in accordance with the following provisions in like manner as for the applicant and any reference to 'the applicant' shall, except where the context otherwise requires, be construed for the purposes of this scheme as if it were a reference to that non-dependant.

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

- 14.1 For the purposes of this scheme, only earnings will be calculated as the income of an applicant and this shall be calculated on a weekly basis;
- (a) by estimating the amount which is likely to be his average weekly income; and
  - (b) by then deducting any relevant child care charges
- 14.2 The maximum deduction to which paragraph 14.1 b) 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.

## **15.0 Treatment of child care charges**

- 15.1 This section applies where an applicant is incurring relevant child-care charges and;
- (a) is a lone parent and is engaged in remunerative work;
  - (b) is a member of a couple both of whom are engaged in remunerative work; or
  - (c) is a member of a couple where one member is engaged in remunerative work and the other;

- (i) is incapacitated;
- (ii) is an in-patient in hospital; or
- (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).

- 15.2 For the purposes of paragraph 15.1 and subject to paragraph 15.4, a person to whom paragraph 15.3 applies shall be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he-
- (a) is paid statutory sick pay;
  - (b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the Act;
  - (c) is paid an employment and support allowance;
  - (d) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support Regulations 1987; or
  - (e) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.
- 15.3 This paragraph applies to a person who was engaged in remunerative work immediately before
- (a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
  - (b) the first day of the period in respect of which earnings are credited, as the case may be.
- 15.4 In a case to which paragraph 15.2 (d) or (e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.
- 15.5 Relevant child care charges are those charges for care to which paragraphs 15.6 and 15.7 apply, and shall be calculated on a weekly basis in accordance with paragraph 15.10.
- 15.6 The charges are paid by the applicant for care, which is provided
- (a) in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or
  - (b) in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.
- 15.7 The charges are paid for care, which is provided by one, or more of the care providers listed in 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.
- 15.8 The care to which paragraph 15.7 refers may be provided;
- (a) out of school hours, by a school, on school premises or by a local authority;
    - (i) for children who are not disabled in respect of the period beginning on their 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.

birthday; or

- (b) by a child care provider approved in accordance with by the Tax Credit (New Category of Child Care Provider) Regulations 1999;
- (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or
- (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) order 2010; or
- (e) by;
  - (i) persons registered under section 59(1) of the Public Services Reform Scotland Act 2010; or
  - (ii) local authorities registered under section 8(1) of that Act, where the care provided is child minding or day care within the meaning of that Act; or
- (f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002 or
- (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or
- (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
- (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
- (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of 'childcare' for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
- (k) by a foster parent or kinship carer under the Fostering Services Regulations 2002, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or
- (l) by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002 or the Domiciliary Care Agencies (Wales) Regulations 2004; or
- (m) by a person who is not a relative of the child wholly or mainly in the child's home.

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

15.10 Relevant child care charges shall be estimated over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to information as to the amount of that charge provided by the child minder or person providing the care.

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

- (a) **but for the implementation of this scheme**, 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) **but for the implementation of this scheme**, 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 or 2013 as appropriate;
- (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.

15.12 For the purposes of paragraph 15.11 once paragraph 15.11(d) applies to the applicant, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.

15.12A For the purposes of paragraph 15.11, once paragraph 15.11(e) 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.

15.13 For the purposes of paragraphs 15.6 and 15.8 (a), a person is disabled if he is a person—

- (a) in respect of whom disability living allowance or personal independence payment is payable, or has

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

15.14 For the purposes of paragraph 15.1 a person on maternity leave, paternity leave or adoption leave shall be treated as if they are 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, shared parental leave (effective from 5/4/2015) or adoption leave began, they were in remunerative work;
- (b) the applicant is incurring relevant child care charges within the meaning of paragraph 18.5; and
- (c) the person is entitled to either statutory maternity pay under section 164 of the Act, statutory paternity pay by virtue of section 171ZA or 171ZB of the Act statutory adoption pay by of section 171ZL of the Act, maternity allowance under section 35 of the Act or qualifying support.

15.15 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.

15.16 In paragraphs 15.14 and 15.15

- (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.

15.17 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

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

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

- (a) over a period immediately preceding the reduction week in which the claim is made or treated as made and being a period of
  - (i) 5 weeks, if he is paid weekly; or
  - (ii) 2 months, if he is paid monthly; or
- (b) whether or not sub-paragraph 16.1a (i) or (ii) applies, where an applicant's earnings fluctuate, over such

other period preceding the reduction week in which the claim is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.

- 16.2 Where the applicant has been in his employment for less than the period specified in paragraph 16.1(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.
- 16.3 Where the amount of an applicant's earnings changes during an award the authority shall estimate his average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period shall not in any case exceed 52 weeks.
- 16.4 For the purposes of this section the applicant's earnings shall be calculated in accordance with sections 25 and 26

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

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

#### **18.0 Earnings of employed earners**

- 18.1 Subject to paragraph 18.2, '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, shared parental 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, shared parental pay 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 ;
- (n) dividends from a registered limited company where the applicant or partner is a director or shareholder of that company; and
- (o) monies drawn from a company or monies owed in a director's loan account where the applicant or partner is a director or shareholder of that company.

18.2 Earnings shall not include-

- (a) subject to paragraph 18.3, 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 an applicant participating as a service user

18.3 Paragraph 18.2 (a) shall not apply in respect of any non-cash voucher 18.1(m)

## **19.0 Calculation of net earnings of employed earners**

19.1 For the purposes of section 17 (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 19.2, be his net earnings.

19.2 There shall be no further disregards other than specified in this scheme.

19.3 For the purposes of paragraph 19.1 net earnings shall, except where paragraph 19.6 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 19.5 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.

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

19.5 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.

19.6 Where the earnings of an applicant are estimated 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.

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

20.1 Subject to paragraph 20.2, '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.

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

20.3 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.

20.4 Where the applicant's earnings consist of any items to which paragraph 20.3 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 reduction 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 the sums to be disregarded in the calculation of earnings, as appropriate in the applicant's case.

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

- 21.1 For the purposes of the average weekly earnings of self-employed earners, the earnings of an applicant to be taken into account shall be the net profit derived from that employment;
- 21.2 There shall be no further disregards other than specified in this scheme.
- 21.3 For the purposes of paragraph 21.1 the net profit of the employment must, except where paragraph 21.9 applies, be calculated by taking into account the earnings for the employment over the assessment period less
- (a) subject to paragraphs 21.5 to 21.7, any expenses wholly and exclusively incurred in that period for the purposes of that employment;
  - (b) an amount in respect of;
    - (i) income tax, and
    - (ii) national insurance contributions payable under the Act, calculated in accordance with section 22 (deduction of tax and contributions for self-employed earners); and
  - (c) one-half of the amount calculated in accordance with paragraph (21.11) in respect of any qualifying premium.
- 21.4 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 21.5 to 21.7, any expenses wholly and exclusively incurred in that period for the purposes of the employment.
- 21.5 Subject to paragraph 21.6 no deduction shall be made under paragraph 21.3 (a) or 21.4, 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.
- 21.6 A deduction shall be made under paragraph 21.3 (a) or 21.4 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.
- 21.7 The authority shall refuse to make deduction in respect of any expenses under paragraph 21.3 (a) or 21.4 where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.
- 21.8 For the avoidance of doubt-
- (a) deduction shall not be made under paragraph 21.3 (a) or 21.4 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

- 21.9 Where an applicant is engaged in employment, as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less an amount in respect of
- (a) income tax; and
  - (b) national insurance contributions payable under the Act, calculated in accordance with section 22 (deduction of tax and contributions for self-employed earners); and
  - (c) one-half of the amount calculated of any qualifying contribution.
- 21.10 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.
- 21.11 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.
- 21.12 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.

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

- 22.1 The amount to be deducted in respect of income tax 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.
- 22.2 The amount to be deducted in respect of national insurance contributions 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 profits threshold) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year 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.
- 22.3 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 (21.3) (a) or, as the case may be, (21.4) of section 21;
  - (b) in the case of employment as a child minder, one-third of the earnings of that employment.

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

### **23.0 Capital limit**

23.1 For the purposes of this scheme, the prescribed amount is £10,000 and no reduction shall be granted when the applicant has an amount greater than this level.

### **24.0 Calculation of capital**

24.1 For the purposes of this scheme, the capital of an applicant to be taken into account shall, subject to paragraph (24.2), be the whole of his capital calculated in accordance with this scheme.

24.2 There shall be disregarded from the calculation of an applicant's capital under paragraph (24.1), any capital, where applicable, specified in Schedule 2.

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

25.1 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.

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

26.1 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;

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

27.1 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.

### **28.0 Capital jointly held**

28.1 Except where an applicant possesses capital which is disregarded, 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

**Definition and the treatment of students for Council Tax Reduction purposes**

## 29.0 Student related definitions

29.1 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
- (b) 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;

- (c) 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
- (d) 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

29.2 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.

29.3 For the purposes of sub-paragraph (a) of paragraph 29.2, 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.

### **30.0 Treatment of students**

30.1 The following sections relate to students who claim Council Tax Reduction

### **31.0 Students who are excluded from entitlement to council tax reduction**

31.1 Students (except those specified in paragraph 31.3) are not able to claim Council Tax Reduction under the Council's reduction scheme.

31.2 To be eligible for reduction, 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 person from abroad within the meaning of section 7 of this scheme (persons from aboard).

31.3 Paragraph 31.2 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) **but for the implementation of this scheme** 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.

- 31.4 For the purposes of paragraph 31.3(h) he student must have begun or been enrolled or accepted onto the course before attaining the age of 19. For the purposes of paragraph 31.3, once paragraph 31.3(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.
- 31.5 In paragraph 31.3(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.
- 31.6 A full-time student to whom sub-paragraph (i) of paragraph 31.3 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.
- 31.7 Paragraph 31.2 shall not apply to a full-time student for the period specified in paragraph 31.8 if;
- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is;
    - (i) engaged in caring for another person; or
    - (ii) ill;
  - (b) he has subsequently ceased to be engaged in engaging in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
  - (c) he is not eligible for a grant or a student loan.
- 31.8 The period specified for the purposes of paragraph 31.7 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.

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

### **32.0 Maximum council tax reduction**

- 32.1 Subject to paragraphs 32.2 to 32.4, the amount of a person's maximum council tax reduction in respect of a day for which he is liable to pay council tax, shall be 80 per cent, of the amount A divided by B where;
- (a) A is the amount set by the appropriate authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
  - (b) B is the number of days in that financial year,
- less any deductions in respect of non-dependants which fall to be made under section 58 (non-dependant deductions).
- In this paragraph "relevant financial year" means, in relation to any particular day, financial year within which the day in question falls
- 32.2 In calculating a person's maximum council tax reduction 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.
- 32.3 Subject to paragraph 32.4, 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, in determining the maximum council tax reduction in his case in accordance with paragraph 32.1, the amount A shall be divided by the number of persons who are jointly and severally liable for that tax.
- 32.4 Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, paragraph 32.3 shall not apply in his case

### **33.0 Non-dependant deductions**

- 33.1 Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in section 37 (maximum council tax reduction) 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 not in remunerative work, £5.00 x 1/7.
- 33.2 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.
- 33.3 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.

- 33.4 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:
    - attendance allowance, or would be receiving that allowance but for:
      - (i) a suspension of benefit in accordance with regulations under section 113(2) of The Act; or
      - (ii) an abatement as a result of hospitalisation; or
    - the care component of the disability living allowance, or would be receiving that component but for:
      - (i) a suspension of benefit in accordance with regulations under section 113(2) of The Act; or
      - (ii) an abatement as a result of hospitalisation; or
  - (c) the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
  - (d) an AFIP, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allows for a suspension because a person is undergoing medical treatment in a hospital or similar institution;

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

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

34.1 Any person to whom or in respect of whom a claim for council tax reduction is made and who is otherwise entitled to that reduction shall be so entitled from the date on which that claim is made or is treated as made.

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

35.1 The amount of, a reduction under the authority's scheme ("change of circumstances"), takes effect from the date on which the change actually occurs.

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

## **36.0 Making an application<sup>6</sup>**

- 36.1 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 one of them as the authority determines.
- 36.2 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.
- 36.3 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.
- 36.4 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).
- 36.5 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 week's 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).
- 36.6 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.
- 36.7 The authority must;
- (a) inform any person making an application of the duty imposed on them to notify any change;
  - (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
  - (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

<sup>6</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

### **37.0 Procedure by which a person may apply for a reduction under the authority's scheme<sup>7</sup>**

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

37.2. An application may be made;

- (a) in writing,
- (b) by means of an electronic communication in accordance with this scheme, or
- (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.

37.3 (a) An application which is made in writing must be made to the designated office on a properly completed form.  
(b) The form must be provided free of charge by the authority for the purpose.

37.4 (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.

37.5. (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.

37.6. 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.

37.7 (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.

37.8 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. For the purposes of this scheme a Local Authority Information Document (LAID) or Local Authority Customer Information document (LACI) issued by the Department for Work and Pensions shall be treated as a valid claim.

37.9 Where an applicant ('C')—

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<sup>7</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- (a) makes a claim which includes (or which C subsequently requests should include) a 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 37.10

37.10 The date is the latest of-

- (a) the first day from which C had continuous good cause;
- (b) the day 1 month before the date the claim was made;
- (c) the day 1 month before the date when C requested that the claim should include a past period.

### **38.0 Date on which an application is made**

38.1 Subject to sub-paragraph (7), the date on which an application is made is;

- (a) in a case where;
  - (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and
  - (ii) the application is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received,  
the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;
- (b) in a case where;
  - (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,
  - (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
  - (iii) the application is received at the designated office within one month of the date of the change, the date on which the change takes place;
- (c) in a case where;
  - (i) an applicant is the former partner of a person who was, at the date of his death or their separation, entitled to a reduction under the authority's scheme, and
  - (ii) the applicant makes an application for a reduction under that scheme within one month of the date of the death or the separation, the date of the death or separation;
- (d) except where paragraph c) is satisfied, in a case where a properly completed application is received within one month (or such longer period as the authority considers reasonable) of the date on which an application form was issued to an applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification;
- (e) in any other case, the date on which an application is received at the designated office.

38.2 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.

- 38.3 Where there is a defect in an application by telephone;
- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance;
  - (b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide the application.
- 38.4 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.
- 38.5 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.
- 38.6 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.
- 38.7 In this paragraph "appropriate DWP office" means an office of the Department for Work and Pensions or an office which is normally open to the public for the receipt of claims of income support, a job seekers allowance, employment and support allowance or Universal Credit.

### **39.0 Submission of evidence electronically**

- 39.1 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

### **40.0 Use of telephone provided evidence**

- 40.1 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

### **41.0 Information and evidence<sup>8</sup>**

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

<sup>8</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.

- 41.2 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.
- 41.3 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.
- 41.4 Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under the authority's scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by that authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under its scheme and must do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.
- 41.5 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.
- 41.6 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 the London Emergencies Trust, the We Love Manchester Emergency Fund, 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.
- 41.7 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.

#### **42.0 Amendment and withdrawal of application<sup>9</sup>**

- 42.1 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.
- 42.2 Where the application was made by telephone the amendment may also be made by telephone.
- 42.3 Any application amended is to be treated as if it had been amended in the first instance.
- 42.4 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.
- 42.5 Where the application was made by telephone, the withdrawal may also be made by telephone.
- 42.6 Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.
- 42.7 Where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

#### **43.0 Duty to notify changes of circumstances<sup>10</sup>**

- 43.1 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.
- 43.2 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.
- 43.3 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

<sup>9</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>10</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

to which he is entitled, other than the cessation of that entitlement to the benefit.

- 43.4 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.
- 43.5 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.
- 43.6 The duty imposed on a person by sub-paragraph (1) includes in the case of a person falling within alternative maximum council tax reduction, giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of state pension credit, the date when this occurs.
- 43.7 All changes in circumstances should be notified to the authority in writing (or by whatever format agreed by the authority) within 21 days of the happening of the event or change in circumstance. This timescale may be extended at the discretion of the authority. Where such a change is not received within that timescale and where the change would increase the level of reduction payable, the authority may use a date later than the actual change of circumstances

**Decisions, decision notices and awards of Council Tax Reduction**

**44.0 Decisions by the authority<sup>11</sup>**

44.1 The authority must make a decision on an application under its scheme within 14 days, or as soon as reasonably practicable thereafter.

**45.0 Notification of decision<sup>12</sup>**

- 45.1 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.
- 45.2 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 this scheme;  
(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.
- 45.3 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.
- 45.4 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.
- 45.5 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.
- 45.6 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.
- 45.7 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).
- 45.8 This sub-paragraph applies to–  
(a) the applicant;  
(b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act;  
(i) a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or  
(ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on the person's behalf; or  
(iii) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,  
(c) a person appointed by the authority to act for a person unable to act.

<sup>11</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>12</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

#### **46.0 Time and manner of granting council tax reduction<sup>13</sup>**

- 46.1 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.
- 46.2 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).
- 46.3 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.
- 46.4 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).

#### **47.0 Persons to whom reduction is to be paid<sup>14</sup>**

- 47.1 Any payment of the amount of a reduction must be made to the applicant where liable for council tax
- 47.2 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.

<sup>13</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

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

#### **48.0 Shortfall in reduction<sup>15</sup>**

- 48.1 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.

#### **49.0 Payment on the death of the person entitled<sup>16</sup>**

- 49.1 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.

#### **50.0 Offsetting**

- 50.1 Where a person has been allowed or paid a sum of council tax reduction 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.

#### **51.0 Payment where there is joint and several liability<sup>17</sup>**

- 51.1 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,
- 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.
- 51.2 Subject to sub-paragraph (3) any payment made under sub-paragraph (1) must be made to the person who is entitled to the reduction.
- 51.3 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.

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<sup>15</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>16</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>17</sup> Inserted by Schedule 8 of the Council Tax Reductions Scheme (Prescribed Requirements) (England) Regulations 2012

**Collection, holding and forwarding of information for Council Tax Reduction purposes**

## **52.0 Use of information from and to the Department of Work and Pensions (DWP) and Her Majesty's Revenues and Customs (HMRC)**

- 52.1 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
- 52.2 Where required by the relevant department and where required by law, the authority will share information obtained for Council Tax Reduction with the DWP or HMRC as appropriate and in accordance with Data Protections requirements<sup>18</sup>.

## **53.0 Collection of information**

- 53.1 The authority may receive and obtain information and evidence relating to claims for council tax reduction, the council may receive or obtain the information or evidence from-
- (a) persons making claims for council tax reduction;
  - (b) other persons in connection with such claims;
  - (c) other local authorities; or
  - (d) central government departments including the DWP and HMRC
- 53.2 The authority may verify relevant information supplied to, or obtained.

## **54.0 Recording and holding information**

- 54.1 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 reduction.

## **55.0 Forwarding of information**

- 55.1 The authority may forward it to the person or authority for the time being administering claims to or awards of council tax reduction 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 reduction.

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<sup>18</sup> Data Retention and Investigatory Powers Act 2014 and Data Retention Regulations 2014

**Revisions, Written Statements, Termination of Council Tax Reduction**

## **56.0 Persons affected by Decisions**

- 56.1 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 reduction 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 reduction 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;

## **57.0 Revisions of Decisions**

- 57.1 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.
- 57.2 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

## **58.0 Written Statements**

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

## **59.0 Terminations**

- 59.1 The authority may terminate, in whole or in part the Council Tax Reduction where it appears to the authority that an issue arises whether;
- (a) the conditions for entitlement to Council Tax Reduction are or were fulfilled; or
  - (b) a decision as to an award of such a reduction should be revised or superseded.
- 59.2 The authority may terminate, in whole or in part the Council Tax Reduction where it appears to the authority that an issue arises whether;
- (a) the conditions for entitlement to Council Tax Reduction are or were fulfilled; or
  - (b) a decision as to an award of such a reduction 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

**Appeals against the authority's decisions**

**60.0 Procedure by which a person may make an appeal against certain decisions of the authority<sup>19</sup>**

- 60.1 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.
- 60.2 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.
- 60.3 Where, following notification the person is still aggrieved, or if the authority fails to notify the person aggrieved 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>19</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

**Procedure for applying for a discretionary reduction**

**61.0 Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act<sup>20</sup>**

- 61.1 An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act may be made;
- (a) in writing,
  - (b) by means of an electronic communication in accordance with this scheme, or
  - (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.
- 61.2 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>20</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

**Applications for Exceptional Hardship**

## **62.0 Applications for Exceptional Hardship**

- 62.1 An application to the authority for an Exceptional Hardship payment under this scheme (Section13A(1)(a)) may be made;
- (a) in writing,
  - (b) by means of an electronic communication in accordance with this scheme, or
  - (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone

## **Electronic Communication**

### **63.0 Interpretation**

- 63.1 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.

### **64.0 Conditions for the use of electronic communication**

- 64.1 The authority may use an electronic communication in connection with applications for, and awards of, reductions under its scheme.
- 64.2 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.
- 64.3 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.
- 64.4 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.
- 64.5 The third condition is that any information sent by means of an electronic communication is in a form approved for the purposes.
- 64.6 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.
- 64.7 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.
- 64.8 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.

### **65.0 Use of intermediaries**

- 65.1 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.

### **66.0 Effect of delivering information by means of electronic communication**

- 66.1 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.

66.2 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).

66.3 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.

#### **67.0 Proof of identity of sender or recipient of information**

67.1 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.

#### **68.0 Proof of delivery of information**

68.1 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.

68.2 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.

68.3 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.

#### **69.0 Proof of content of information**

69.1 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.

**Counter Fraud and Compliance**

## **70.0 Counter Fraud and compliance**

- 70.1 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 Reduction;
  - b. Carry out investigations fairly, professionally and in accordance with the law; and
  - c. Ensure that sanctions are applied in appropriate cases
- 70.2 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 reduction;
  - 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.
- 70.3 The authority shall put into place such administrative policies, procedures and processes as are necessary to ensure that the actions outlined within paragraph (1) and (2) can be carried out successfully

**Schedule 1**

**Calculation of the amount of Council Tax Reduction in accordance with the Discount Scheme**

- 1 The authority's Council Tax Reduction scheme from 2023//24 shall be calculated on the basis of the following Banded Discount Scheme. It should be noted that **only** earnings calculated in line with this scheme are used in the calculation of the discount.
2. Where an applicant or partner (determined in accordance with this scheme) would, **but for the implementation of this scheme**, be entitled to a disability premium or a disabled child premium, an additional discount would be applied as indicated by the + sign.

Discount Level		No Dependants ( <i>weekly net earnings level</i> )	1 - 2 dependants ( <i>weekly net earnings level</i> )	3 or more dependants ( <i>weekly net earnings level</i> )
Band 1	80%	Passported Benefit or in receipt of Maximum Universal Credit	Passported Benefit or in receipt of Maximum Universal Credit	Passported Benefit or in receipt of Maximum Universal Credit
Band 2	65%	Less than £72.92	Less than £89.31	Less than £101.77
Band 2 +	70%			
Band 3	50%	£72.93 - £145.84	£89.32 - £178.84	£101.78 - £203.77
Band 3+	55%			
Band 4	25%	£145.85 - £218.77	£178.85 - £268.38	£203.78 - £305.77
Band 4+	30%			
Band 5	10%	£218.78 - £291.69	£268.39 - £357.92	£305.78 - £407.77
Band 5+	15%			

- 3 The amount of discount to be granted is to be based on the following factors:
  - a. The maximum Council Tax Reduction as defined within this scheme;
  - b. The Council Tax household as defined within this scheme;
  - c. The earnings of the applicant as defined within this scheme;
  - d. The capital of the applicant as defined within this scheme.
- 4 Discount bands vary depending on both earnings and the household (family as defined within this scheme).
- 5 Any applicant who capital is greater than £10,000 shall not be entitled to any Council Tax Reduction whatsoever.

6. The authority may increase the level of earnings within the grid specified in paragraph 1 on an annual basis by the appropriate level of inflation measured by the Consumer Price Index (CPI) at 1<sup>st</sup> October preceding the effective financial year.
7. Where an applicant or partner is in receipt of a relevant benefit namely Income Support, Income Related Employment and Support Allowance or Income Based Jobseeker's Allowance, or maximum Universal Credit, discount will be award at 80%

**Schedule 2**  
**Capital to be disregarded**

1. The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular 5, in Scotland, any croft land on which the dwelling is situated; but, only one dwelling shall be disregarded under this paragraph.
2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.
3. Any payment made to the applicant in respect of any travel or other expenses incurred or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme 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.
4. Any premises acquired for occupation by the applicant, which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
5. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the applicant to complete the purchase.
6. Any premises occupied in whole or in part-
  - (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
  - (b) by the former partner of the applicant as his home; but this provision shall not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
7. Where 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.
8. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and his partner is on income-based jobseeker's allowance, the whole of the applicant's capital.
9. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub- leases or sub-tenancies.
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 reduction 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.

- (2) 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) an income-related benefit under Part 7 of the Act;
  - (b) an income-based jobseeker's allowance;
  - (c) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
  - (d) working tax credit and child tax credit
  - (e) an income-related employment and support allowance
  - (f) Universal Credit

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 reduction, 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 reduction' 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 reduction or to increase the amount of that reduction.
- 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 surrender value of any policy of life insurance.
- 17.** Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
- 18.** 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).
- 19.** (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 (or under any Government Infected Blood scheme), the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the Charitable Fund or under any Government inf
- (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.** The value of the right to receive an occupational or personal pension.
- 31.** The value of any funds held under a personal pension scheme
- 32.** 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.
- 33.** 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).
- 34.** 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.
- 35.** 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.
- 36.** 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.
- 37.** 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.
- 38.** (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.
- 39.** 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.

- 40.** Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).
- 41.** 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.
- 42.** 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.
- 43.** 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.
- 44.** (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 reduction), 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 reduction), sub-paragraph (1) shall not have effect
- 45.** (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.
- 46.** 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.
- 47.** Any payment to the applicant as holder of the Victoria Cross or George Cross.
- 48.** 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.
- 49.** (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.

- 50.** (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).
- 51.** 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.
- 52.** 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.
- 53.** 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.
- 54.** (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.

- 55.** 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.
- 56.** (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.
- 57.** 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).
- 58.** Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 59.** Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).
- 60.** Any payments to an applicant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments).
- 61.** Any payment made under the Energy Rebate Scheme 2022 is to be disregarded in determining:
- (a) an applicant's entitlement to a reduction under the scheme; or
  - (b) the amount of any reduction to which the applicant is entitled.
- "The Energy Rebate Scheme 2022" means the scheme to provide financial support in respect of energy bills which was announced in Parliament by the Chancellor of the Exchequer on 3rd February 2022

# Agenda Item 15

## **MAIDSTONE BOROUGH COUNCIL**

### **REPORT OF THE DEMOCRACY AND GENERAL PURPOSES COMMITTEE HELD ON 21 NOVEMBER 2022**

#### **Appointment of Returning Officer and Electoral Registration Officer**

##### **Issue for Decision**

The issue for decision is the appointment of a new Returning Officer and Electoral Registration Officer following a staff restructure.

##### **Recommendation Made**

That the Council:

1. Appoint Angela Woodhouse, with immediate effect as the Returning Officer and Electoral Registration Officer for Maidstone Borough Council;
2. Appoint Ryan O'Connell as Deputy Electoral Registration Officer; and
3. Gives permission for the Monitoring Officer to amend the Constitution to Reflect these changes.

##### **Reasons for Recommendation**

- 1.1 In February 2022, Policy and Resources Committee considered and approved a new senior management structure. Within that structure was the proposal that the Director of Strategy, Insight and Governance take on the role of Electoral Registration Officer and Returning officer in recognition of a future need for greater resilience in statutory roles.
- 1.2 The Returning Officer (RO) is the person who has the overall responsibility for the conduct of elections in Maidstone Borough. Section 35 of The Representation of the People Act 1983 requires the Council to appoint an officer of the Council to be the Returning Officer in local elections.
- 1.3 It is the Returning Officer's general duty at elections to do all such acts and things as may be necessary for effectively conducting the election for example:
  - the nomination process for candidates and political parties
  - provision, administration, security and notification of polling stations
  - appointment of staff such as presiding officers and count staff
  - preparation and issue of all ballot papers
  - issue, receipt and counting of postal ballot papers
  - organising and delivering the count and declaration of results
  - receipt of all candidates' election expenses returns
  - presentation of final account and claiming appropriate funding from

- central government as prescribed
  - retention of election documents.
- 1.4 The Returning Officer is an officer of the Council, however, the role of the Returning Officer is a personal responsibility independent and separate from their duties as an employee of the Council. This role is currently held by the Chief Executive. Members have raised the matter of succession planning. It is proposed that the Director of Strategy, Insight and Governance be appointed as the Returning Officer for Maidstone Borough Council. The Returning Officer may appoint one or more persons to discharge all or any of their functions. The Director of Strategy, Insight and Governance proposes to appoint the Democratic and Electoral Services Manager, Ryan O’Connell as Deputy Returning Officer. The Chief Executive can provide support and guidance to the Returning Officer and Deputy Returning Officer as part of their development.
- 1.5 The Electoral Registration Officer (ERO) is the person with the statutory responsibility for the creation and maintenance of the register of electors and the absent voters lists. This person takes responsibility for publishing a revised electoral register and issuing monthly alteration notices.
- 1.6 The ERO is an officer of the Council, however, the role of Electoral Registration Officer is a personal responsibility, independent and separate from their duties as an employee of the Council. The roles of Returning Officer and Electoral Registration Officer are typically combined and performed by a single person. These Officers and the Deputy Electoral Registration Officer are appointed by Full Council.
- 1.7 Following changes to the leadership structure and responsibilities implemented on 1 August 2022 it is proposed to make the appointment as set out in the recommendations. On 1 August 2022, Angela Woodhouse took on the role of Director of Strategy, Insight and Governance which includes responsibility for elections and the electoral registration service. For resilience it is recommended that the Democratic and Electoral Services Manager, Ryan O’Connell is appointed as Deputy Electoral Registration Officer.
- 1.8 The Director of Strategy, Insight and Governance, Angela Woodhouse has significant election experience having been appointed as a Deputy Returning Officer at elections since 2005 and acting as Count Manager since 2016, with responsibility for both Electoral Registration and Electoral Services within their remit.
- 1.9 Democracy and General Purposes Committee recommends the appointment of Angela Woodhouse as Returning Officer and Electoral Registration Officer and Ryan O’Connell as Deputy Electoral Registration Officer.
- 1.10 Angela Woodhouse has significant experience in elections and regularly deputises for the Chief Executive as Deputy Returning Officer as well as

holding service level responsibility for electoral services.

- 1.11 The restructure approved by the Policy and Resources Committee on 9 February 2022, sought to improve future resilience of a key statutory role by placing it with the new Director of Strategy, Insight and Governance. The appointment is aligned with the agreed restructure.

### **Alternatives considered and why rejected**

Option 1 - Retain and confirm the present arrangement with the Chief Executive as Returning Officer and Electoral Registration Officer. However, this would not be in line with the previously agreed restructure and would not meet the reasons set out above.

Option 2 (Recommended) - In line with the previously approved restructure appoint the Director of Strategy, Insight and Governance Angela Woodhouse as Returning Officer and Electoral Registration Officer and the Democratic and Electoral Services Manager Ryan O'Connell as Deputy Electoral Registration Officer.

### **Appendices**

None.

### **Background Papers**

None.

Urgent Decisions Taken by the Executive between 20 September 2022 and 29 November 2022.

Decision Details			Urgency Details			
Decision Made & Date of Decision	Decision type	Decision Maker	5-day agenda publication	Waiving of Call-In	Special Urgency*	Reason for Urgency
Statements of Common Ground for Local Plan Review: MBC and KCC regarding minerals; MBC and Kent Downs AONB; MBC and the Defence Infrastructure Organisation regarding Invicta Barracks.  (3 Nov 2022)	Other Material Decision.  Exempt Appendices 2, 6 and 9 included (para 3 Schedule 12A LGA 1972)	Lead Member for Planning and Infrastructure			✓	To submit the statements to the Planning Inspector to support the examination of the Local Plan Review.
Statements of Common Ground for Local Plan Review: MBC, Heathlands site promoters and Kent Downs AONB; MBC and Natural England.  (21 Nov 2022)	Other Material Decision.  Exempt Appendices included (para 3 Schedule 12A LGA 1972)	Lead Member for Planning and Infrastructure	✓	✓	✓	To submit the statements to the Planning Inspector to support the examination of the Local Plan Review.
Statement of Common Ground for Local Plan Review: MBC, Lidsing Developers and Kent Downs AONB.  (22 Nov 2022)	Other Material Decision.  Exempt Appendix included (para 3 Schedule 12A LGA 1972)	Lead Member for Planning and Infrastructure	✓	✓	✓	To submit the statements to the Planning Inspector to support the examination of the Local Plan Review.

\*Relates to where a Key Decision and/or exempt information relating to a decision was not publicly declared 28 days prior to the decision being taken. Special Urgency in these instances were agreed by the Chairman of the Overview and Scrutiny Committee.

Urgent Decisions Taken by the Executive between 20 September 2022 and 29 November 2022.

A total of nineteen Decisions have been made by the Executive during the period 20 September 2022 to 29 November 2022. Three of the nineteen decisions (16%) were subject to urgency procedures.

Further information relating to the decisions can be accessed here:

Statements of Common Ground for Local Plan Review (3 November 2022): [Decision details: Statements of Common Ground for Local Plan Review](#)

Statements of Common Ground for Local Plan Review (21 November 2022): [Decision details: Statement of Common Ground for Local Plan Review](#)

Statements of Common Ground for Local Plan Review (22 November 2022): [Decision details: Statements of Common Ground for the Local Plan Review](#)