

You are hereby summoned to attend a meeting of the

MAIDSTONE BOROUGH COUNCIL

Date: Wednesday 6 December 2017

Time: 7.00 p.m. or at the conclusion of the extraordinary meeting of the Borough Council, whichever is the later

Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Adkinson, Barned, Mrs Blackmore, Boughton, Brice, D Burton, M Burton, Butler, Clark, Cox, Cuming, Daley, Ells, English, Fermor, Fissenden, Fort, Garland, Garten, Mrs Gooch, Greer (Mayor), Mrs Grigg, Harper, Harvey, Harwood, Hastie, Mrs Hinder, Joy, Lewins, McLoughlin, B Mortimer, D Mortimer, Munford, Naghi, Newton, Perry, Pickett, Powell, Prendergast, Mrs Ring, Mrs Robertson, Round, J Sams, T Sams, Spooner, Springett, Mrs Stockell, Vizzard, Webb, Webster, de Wiggondene-Sheppard, Wilby, Willis and Mrs Wilson

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1. Apologies for Absence	
2. Dispensations (if any)	
3. Disclosures by Members and Officers	
4. Disclosures of Lobbying	
5. To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
6. Minutes of the meeting of the Borough Council held on 25 October 2017	1 - 16
7. Mayor's Announcements	
8. Petitions	
9. Question and Answer Session for Members of the Public	
10. Questions from Members of the Council to the Chairmen of Committees	

Issued on 28 November 2017

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

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| 11. Current Issues - Report of the Leader of the Council, Response of the Group Leaders and Questions from Council Members | |
| 12. Report of the Policy and Resources Committee held on 30 October 2017 - Council Tax Reduction Scheme 2018/19 | 17 - 186 |
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| 15. Joint Report of the Head of Policy, Communications & Governance and the Head of Legal Partnership - Complaints Annual Report | 213 - 253 |
| 16. Oral Report of the Heritage, Culture and Leisure Committee to be held on 28 November 2017 (if any) | |
| 17. Oral Report of the Licensing Committee to be held on 4 December 2017 (if any) | |
| 18. Oral Report of the Strategic Planning, Sustainability and Transportation Committee to be held on 5 December 2017 (if any) | |
| 19. Report of the Head of Policy, Communications and Governance - Review of Allocation of Seats on Committees (if necessary) | 254 - 255 |
| 20. Appointment of the following Committees (if necessary)/Membership of Committees | |
| (a) Policy and Resources Committee | |
| (b) Strategic Planning, Sustainability and Transportation Committee | |
| (c) Communities, Housing and Environment Committee | |
| (d) Heritage, Culture and Leisure Committee | |
| (e) Planning Committee | |
| (f) Licensing Committee | |
| (g) Employment Committee | |
| (h) Joint Transportation Board | |
| (i) Democracy Committee | |
| (j) Audit, Governance and Standards Committee | |
| (k) Planning Referrals Committee | |
| (l) Urgency Committee | |
| 21. Report of the Head of Policy, Communications and Governance - Review of Allocation of Seats on the Cobtree Manor Estate Charity Committee (if necessary) | |

MAIDSTONE BOROUGH COUNCIL ACTING AS CORPORATE TRUSTEE OF THE CHARITY KNOWN AS THE COBTREE MANOR ESTATE

22. Appointment of the Cobtree Manor Estate Charity Committee (if necessary)/Membership of the Cobtree Manor Estate Charity Committee

23. Report of the Head of Policy, Communications and Governance - Review of Allocation of Seats on the Queen's Own Royal West Kent Regiment Museum Trust Committee (if necessary)

MAIDSTONE BOROUGH COUNCIL ACTING AS CORPORATE TRUSTEE OF THE QUEEN'S OWN ROYAL WEST KENT REGIMENT MUSEUM TRUST

24. Appointment of the Queen's Own Royal West Kent Regiment Museum Trust Committee (if necessary)/Membership of the Queen's Own Royal West Kent Regiment Museum Trust Committee

IN ACCORDANCE WITH SECTION 17 OF THE LOCAL GOVERNMENT AND HOUSING ACT 1989 ALTERNATIVE ARRANGEMENTS FOR APPOINTMENTS TO COMMITTEES OUTSIDE THE USUAL POLITICAL BALANCE REQUIREMENTS MAY BE CONSIDERED IN RELATION TO AGENDA ITEMS 19, 21, AND 23 .

25. Notice of the following Motion has been given by Councillor Harper:

Bridges Gyrotory System

The works on the Bridges Gyrotory System is now eventually finished, as far as Kent County Council is concerned. However for residents from the West of Maidstone, including Fant, Bridge, Heath, Allington and Barming Wards there has been a deterioration in traffic conditions. There are now longer delays for road traffic getting through the Broadway gyrotory to the Bridges Gyrotory. For Pedestrians with the closure of the Underpasses, except that to Medway Street access to the Town Centre has significantly deteriorated. For cyclists there is now only the Medway Street underpass which requires them to dismount on St Peters Bridge as there are no dropped curves.

Overall therefore whilst the works may have improved access to through traffic on the East Bank, for those from the West Bank it is worse than before.

This Council resolves to:

1. Review the Gyrotory system to see how remedial measures can be implemented to improve the access to the Town Centre from Pedestrians and Cyclists from the West of Town.
2. Review the timing of the traffic signals etc. to see if that can improve traffic circulation from the West of Maidstone to the Town Centre.
3. In particular at the main Pedestrian crossing from the Bazalgette Bridge to the bottom of the High Street look to see if a pedestrian phase can be introduced to allow pedestrians to cross both carriageways in one go.

PUBLIC SPEAKING

In order to book a slot to speak at this meeting of the Council, please contact 01622 602030 or email committeeservices@maidstone.gov.uk by 5.00 p.m. one clear working day before the meeting. If asking a question, you will need to provide the full text in writing. If making a statement, you will need to tell us which agenda item you wish to speak on. Please note that slots will be allocated on a first come, first served basis.

ALTERNATIVE FORMATS

The reports included in Part I of this agenda can be available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact 01622 602030 or committeeservices@maidstone.gov.uk. To find out more about the work of the Council, please visit www.maidstone.gov.uk

MAIDSTONE BOROUGH COUNCIL

MINUTES OF THE MEETING OF MAIDSTONE BOROUGH COUNCIL HELD AT THE TOWN HALL, HIGH STREET, MAIDSTONE ON 25 OCTOBER 2017

Present: Councillor Greer (The Mayor) and
Councillors Adkinson, Barned, Mrs Blackmore,
Boughton, Brice, D Burton, M Burton, Butler, Clark,
Cox, Cuming, Daley, Ells, English, Fermor, Fissenden,
Fort, Mrs Gooch, Mrs Grigg, Harper, Harvey, Hastie,
Mrs Hinder, Mrs Joy, Lewins, McLoughlin, B Mortimer,
D Mortimer, Munford, Naghi, Newton, Perry, Pickett,
Powell, Prendergast, Mrs Ring, Mrs Robertson,
Round, J Sams, T Sams, Spooner, Mrs Stockell,
Vizzard, Webb, Webster, de Wiggondene, Wilby,
Willis and Mrs Wilson

43. RECORDING OF PROCEEDINGS

It was noted that a journalist from the Kent Messenger newspaper would be recording the proceedings.

44. PRAYERS

Prayers were said by the Reverend Ian Parrish.

45. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Garland, Harwood and Springett.

46. DISPENSATIONS

There were no applications for dispensations.

47. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

48. DISCLOSURES OF LOBBYING

All Members present except Councillor B Mortimer stated that they had been lobbied regarding the adoption of the Maidstone Borough Local Plan (2017).

49. EXEMPT ITEMS

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

50. MINUTES OF THE MEETING OF THE BOROUGH COUNCIL HELD ON 19 JULY 2017

RESOLVED: That the Minutes of the meeting of the Borough Council held on 19 July 2017 be approved as a correct record and signed.

51. MAYOR'S ANNOUNCEMENTS

The Mayor updated Members on recent and forthcoming Mayoral engagements.

During his announcements, the Mayor made a presentation to Mr Mike Fitzgerald, a former Member of the Borough Council and Mayor of the Borough of Maidstone, and congratulated him on being awarded an MBE in the Queen's Birthday Honours List for services to the homeless and the community.

Note: Councillor Brice entered the meeting after the Mayor's announcements.

52. CHANGES TO ORDER OF BUSINESS

The Mayor announced that he intended to change the order of business to take the following items after agenda item 11 (Questions from Members of the Council to the Chairmen of Committees):

Item 17 - Report of the Strategic Planning, Sustainability and Transportation Committee held on 12 September 2017 - Maidstone Borough Local Plan (2017): Adoption; and

Item 16 - Report of the Strategic Planning, Sustainability and Transportation Committee held on 12 September 2017 - Maidstone Borough Community Infrastructure Levy (CIL) Charging Schedule: Approval

53. PETITIONS

There were no petitions.

54. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

Question to the Chairman of the Strategic Planning, Sustainability and Transportation Committee from Councillor Geraldine Brown (Chairman of Maidstone KALC and Chairman of Yalding Parish Council)

Do you accept that, if DCLG's current consultation proposals are subsequently adopted, our Borough will be expected to take about 7,000 more homes than the 17,660 in the Local Plan to be adopted this evening?

The Chairman of the Strategic Planning, Sustainability and Transportation Committee replied that:

In short, yes. If the Government's proposed methodology is confirmed, the annual housing requirement would increase from 883 to 1,236 dwellings per year, amounting to an additional 7,060 dwellings over a 20 year period compared with the Local Plan.

I think that it is very important to note that if we adopt the Local Plan, the annual requirement will be fixed at 883 dwellings per year until the Plan is reviewed.

The Mayor then asked if any Group Leader/representative present would also like to respond.

Councillor Harper, the Leader of the Labour Group, responded to the question.

Councillor Brown asked the following supplementary question of the Chairman of the Strategic Planning, Sustainability and Transportation Committee:

Will you do everything possible to minimise further impact on existing residents given the already high level of planned development in the Plan?

The Chairman of the Strategic Planning, Sustainability and Transportation Committee replied that:

I think that I can honestly answer this on behalf of all of us. Yes, of course, minimising impact will be first and foremost in every Councillor's mind when we enter the review period.

The Mayor then asked if any Group Leader/representative present would also like to respond.

Councillor Perry, the Leader of the Conservative Group, responded to the question.

Question to the Chairman of the Strategic Planning, Sustainability and Transportation Committee from Councillor Peter Coulling (Chairman of Teston Parish Council)

Do you commit to ensuring that the number of planned new homes is kept within the capacity of our Borough's infrastructure?

The Chairman of the Strategic Planning, Sustainability and Transportation Committee replied that:

Yes, but there needs to be a more detailed explanation behind that. The National Planning Policy Framework sets out that Local Plans should plan positively for the development and infrastructure required to meet identified needs. In developing a strategy to meet the identified needs for housing, local planning authorities should work with other authorities and infrastructure providers to assess the quality and capacity of infrastructure

in the area, and Local Plans should include strategic policies to ensure the delivery of necessary supporting infrastructure.

Through the development of the Integrated Transport Strategy and Infrastructure Delivery Plan the Council has evidenced the need to provide a series of measures to ensure that planned growth can be accommodated in infrastructure terms. This includes the provision of new schools and community infrastructure, highways and sustainable transport improvements, health infrastructure improvements and green infrastructure provision, including new open spaces. These measures are reflected in strategic policies in the Local Plan so as to provide a robust basis on which to secure developer provision, or financial contributions towards delivery of these things through Section 106 agreements or the new CIL regime.

In general terms, the purpose of the measures is to provide the additional infrastructure capacity required to support growth and their suitability, effectiveness and deliverability has been considered as part of the Local Plan's statutory, independent examination process. The Local Plan Inspector has found that the Plan, as modified, complies with national policy and is sound. The Council will therefore continue to work constructively with other authorities and infrastructure providers to ensure that the necessary infrastructure measures are delivered in a timely manner to support planned development.

The Mayor then asked if any Group Leader/representative present would also like to respond.

Councillor Mrs Wilson, the Leader of the Liberal Democrat Group, responded to the question.

Councillor Coulling asked the following supplementary question of the Chairman of the Strategic Planning, Sustainability and Transportation Committee:

Given your assurance and given the state of traffic congestion, the problem of rat running through our villages and air quality, what has gone wrong in the past and why will it be better in the future?

The Chairman of the Strategic Planning, Sustainability and Transportation Committee replied that:

I think that one of the big problems with this plan making process has been that at the very beginning we thought about the numbers, and the inevitability of the numbers, and so much time, energy and effort was spent on the negative parts of the process when we should have been coming together to actually plan the proper infrastructure at the earliest stage.

So, if there is a lesson that I would like to take forward into the future, it is that we take a very calm approach to the evidence at the beginning.

I'm sure that we will not like matters in front of us, but let's get on with the positive, productive, constructive planning from day one.

The Mayor then asked if any Group Leader/representative present would also like to respond.

There were no further responses to the question.

Question to the Chairman of the Strategic Planning, Sustainability and Transportation Committee from Mr Roger Vidler (Vice-Chairman of the Bearsted and Thurnham Society)

Mr Roger Vidler had given notice of his wish to ask a question of the Chairman of the Strategic Planning, Sustainability and Transportation Committee, but was unable to attend the meeting due to an injury. The Mayor indicated that a written response would be provided for Mr Vidler.

Question to the Chairman of the Planning Committee from Councillor John Horne of Thurnham Parish Council

How will you ensure that residents' concerns about Air Quality feed through to the workings and decisions of your Committee?

The Chairman of the Planning Committee replied that:

Planning Committee Members of all parties have been attempting to take the serious issue of air quality into account in determining planning applications already. However, it has to be noted that the policy template that we are using based upon the current Local Plan and the policies from it has become rather outdated so we have been limited in what we can achieve. We have been updating our policy palette both on our own initiative and because the Inspector in the examination of the new Local Plan made it very clear that we needed to do so; to bring in a whole raft of new policy approaches. The new Local Plan, assuming that it is adopted, contains a specific policy on air quality.

In recognition of the increasing national and local importance of this issue, the Council is also proposing to prepare a specific Air Quality Development Plan Document which will enable us to get to grips with the planning aspects of dealing with the air quality control agenda. In the meantime whilst the DPD is being prepared, the Kent and Medway Air Quality Technical Guidance provides additional guidance on the assessment and mitigation of air quality impacts. The Strategic Planning, Sustainability and Transportation Committee will consider approving this guidance for development management purposes at its meeting in November.

Elsewhere within the Council, we have been working cross-party within the Low Emissions Working Group to bring forward a number of planning and non-planning control policies which will have an impact in improving the air quality in the town and across the Borough as a whole. We will be seeing the published results of the consultation, which has seen a strong response from the public, in a few days' time.

So, to conclude, I hope that in the next year or so we will be getting a very firm grip on these issues. We have to as we owe it to the public of this Borough to actually do something about this hidden killer.

The Mayor then asked if any Group Leader/representative present would also like to respond.

Councillor Perry, the Leader of the Conservative Group, responded to the question.

Councillor Horne asked the following supplementary question of the Chairman of the Planning Committee:

The Kent and Medway Air Quality Planning Guidance will soon be reported to the Strategic Planning, Sustainability and Transportation Committee, and to reassure residents, once it is amended to Maidstone's specification, will your Committee immediately apply that guidance whether or not the development site is in the Local Plan?

The Chairman of the Planning Committee replied that:

Yes, of course. The very purpose of bringing this forward as everyone who has been associated with it knows, whether an Officer or a Member, is to enable us to apply some form of control as quickly as possible in the interim period when we are developing our own document. It is unfair to the Officers and Members cross-party who have been working very hard on this strategy and these approaches in general for the last year or so to say that there has been nothing happening. It is perhaps true to say that a lot of this activity has been below the surface or in Committee rooms, but there has in fact been a lot happening. Councillors D and M Burton, for example, have contributed very significantly as have I and Councillors D Mortimer and C Robertson – a real cross-party effort.

It is absolutely essential that we do what we can with the guidance that is available to adopt as soon as possible. Obviously there is still a Committee vote to be taken, but I would be very, very surprised if we do not go forward with that given the work that has been put in, and I really want to see it applied as widely and as deeply as possible.

The Mayor then asked if any Group Leader/representative present would also like to respond.

There were no further responses to the question.

Question to the Chairman of the Policy and Resources Committee from Mr Arthur Thomas

Are the Council allowed to charge for external services that they could provide in-house and already receive funding for from central government. How do you ensure that there is no conflict of interest?

The Chairman of the Policy and Resources Committee replied that:

I can assure you that Maidstone Borough Council only charges for services that we are permitted to make a charge for. Where the Council has a statutory duty to provide a service a charge is only levied where there is a specific power for the Council to do so, and I think that is where you are targeting your question. The majority of charges levied are usually for non-discretionary services provided by the Council. The position is the same whether the service is provided in-house or whether it has been outsourced to a contractor to provide the service for us.

There is a lot of legislation covering this. Perhaps the most interesting is the 2011 Localism Act which introduced the General Power of Competence which explicitly gives Councils the power to do anything that an individual can do which is not expressly prohibited by other legislation. This includes the power to charge for services unless expressly prohibited from doing so.

With regard to conflicts of interest, each Committee that has charges within its remit looks at them once a year, but both Councillors and Officers have to work to Codes of Conduct (the Code of Conduct for Councillors and the Code of Conduct for Officers) contained within the Council's Constitution, which make it very clear what is permitted and what is not.

The Mayor then asked if any Group Leader/representative present would also like to respond.

There were no further responses to the question.

Mr Thomas asked a supplementary question of the Chairman of the Policy and Resources Committee. The Mayor ruled that the supplementary question did not relate to the original question.

Question to the Chairman of the Heritage, Culture and Leisure Committee from Mr Gary Butler

Do the Council have a policy of following the UN Agenda 21 (aka local agenda 21) which basically destroys our indigenous culture in favour of a very different agenda? Such as funds being made available for the Mela festival but no longer for our River festival or Green fair etc.

The Chairman of the Heritage, Culture and Leisure Committee replied that:

Local Agenda 21 was a commitment to local sustainable development, which included making improvements to economic, social and environmental conditions at a local level. That being the case, I struggle to see what the connection is between Agenda 21 and the festivals and events in the Borough.

The Mayor then asked if any Group Leader/representative present would also like to respond.

Councillor Harper, the Leader of the Labour Group, responded to the question.

Mr Butler asked a supplementary question of the Chairman of the Heritage, Culture and Leisure Committee. The Mayor ruled that the supplementary question did not relate to the original question.

Question to the Chairman of the Policy and Resources Committee from Mr Ben Frankham

Who owes the Council Tax debt and which Officer is ultimately responsible for its collection and payment?

The Chairman of the Policy and Resources Committee replied that:

If a Council Tax debt is outstanding, it is the person or company named on the Council Tax bill that is liable.

Responsibility for the administration and recovery of Council Tax is delegated within the Council's Constitution to the Head of Revenues and Benefits Shared Service.

The Mayor then asked if any Group Leader/representative present would also like to respond.

There were no further responses to the question.

Mr Frankham asked a supplementary question of the Chairman of the Policy and Resources Committee. The Mayor ruled that the supplementary question did not relate to the original question.

Question to the Chairman of the Strategic Planning, Sustainability and Transportation Committee from Mr Robert Sinclair

Can you ensure that consideration of the new application for Woodcut Farm is deferred until the result of the Planning Inquiry is known?

The Chairman of the Strategic Planning, Sustainability and Transportation Committee replied that:

The answer to this question is no. We have a statutory duty to determine planning applications within statutory timeframes unless an extension of time is agreed with the applicant. The Council has no control over whether such an agreement can be made. If the Council does not determine a planning application within the statutory timescales without an agreement for an extension of time it would be at risk of the application being appealed on the grounds of non-determination.

The Mayor then asked if any Group Leader/representative present would also like to respond.

Councillor Harper, the Leader of the Labour Group, responded to the question.

Mr Sinclair asked the following supplementary question of the Chairman of the Strategic Planning, Sustainability and Transportation Committee:

Does this not conflict with the Borough's public stance to strongly defend the Members' decision against the current appeal or don't you intend to do so now? The Officers said that they would defend the appeal, the Council has said that it has the money to do it so they should be doing that, or is it part of a deal whereby get the applicant to get his application through and then they withdraw the appeal?

The Chairman of the Strategic Planning, Sustainability and Transportation Committee replied that:

It is the policy of this Council to defend the decisions made by the Planning Committee at appeals, and I believe that work is in hand, and we will be defending the decisions made. However, should there be another decision, it is not necessary that the same reasons for refusal may occur so it has to be treated as a separate and different application; but yes, this Council does defend the decisions made by the Planning Committee.

The Mayor then asked if any Group Leader/representative present would also like to respond.

There were no further responses to the question.

Note: Councillor Willis entered the meeting during the question and answer session for members of the public.

55. QUESTIONS FROM MEMBERS OF THE COUNCIL TO THE CHAIRMEN OF COMMITTEES

Question to the Chairman of the Strategic Planning, Sustainability and Transportation Committee from Councillor Paul Harper

As Maidstone Council has adopted the Integrated Transport Plan a considerable time ago, what measures is Maidstone Borough Council doing to get it adopted or endorsed by Kent County Council? The Kent Cabinet Member for Environment and Transport recently stated that he saw no obstacle to adopting the Walking and Cycling Strategy of the Integrated Transport Plan separately, will the Council do all it can to ensure that that is carried out?

The Chairman of the Strategic Planning, Sustainability and Transportation Committee replied that:

We are already working very collaboratively at this time with Kent County Council to deliver the schemes identified in the Integrated Transport Strategy and the Walking and Cycling Strategy.

It is my understanding that Kent County Council actually endorses and does not formally adopt these policies as it considers them to be local policies. The comments of the County Member with regard to his willingness to endorse it are very much welcomed and I believe that it currently sits with him to do so. We can certainly send him a letter and jog his memory.

Councillor Harper did not ask a supplementary question of the Chairman of the Strategic Planning, Sustainability and Transportation Committee.

Question to the Chairman of the Policy and Resources Committee from Councillor Paul Harper

Can the Chairman of Policy and Resources Committee please update the Council on measures to protect the Hart Street's approximately 650 Flats from suffering flooding in the future? In the last major floods in Maidstone there was serious flooding to the undercrofts and access stair cases to a considerable number of these flats. The Local Plan identifies this as an area where further development is likely to take place, only potentially making the situation worse.

The Chairman of the Policy and Resources Committee replied that:

We have a lot of flooding issues throughout the Borough and they are being dealt with as robustly as this Council can manage to do so in conjunction with the Environment Agency and Kent County Council.

The area you are talking about is slightly different to some of the other areas in that the land these properties have been built on was formerly industrial and the flooding issues in that area were very well known. In relation to an application for 307 flats at Wallis Place in May 2004, the Environment Agency commented that "the Agency considers the site is likely to be Flood Zone 3, category a, that is High Risk". The Environment Agency and the Council were well aware of the issues when the development was proposed which is why the development is as it is with the undercroft; it was built to withstand flooding. The flats were designed to ensure that the residents' living quarters would not be affected.

I am not trying to diminish the way that people feel about a serious flood. I think that the issue here is it is not a reason in itself because an area floods not to build there if mitigation measures can be found. Indeed in this area the developments did cover that. There is an issue I believe if an evacuation is required that we have robust plans in place to get people out, and that is where we work with the Kent Resilience Forum which includes the Coast Guard as it has particular expertise in that sort of evacuation.

It does not mean to say that we will not look to see if there are other measures that can be taken, but we are taking the most serious first which brings us back to the Marden/Yalding area. As you know, as a High Street Ward Member myself, neighbouring you but on the other side of the River, we did work very hard to say although we absolutely

understand what has happened in Marden and Yalding, there is a flooding issue downstream as well that needs to be tackled and tackled very seriously.

I take your question with the utmost seriousness, but it is slightly different in that the buildings were designed for flood conditions.

Councillor Harper asked the following supplementary question of the Chairman of the Policy and Resources Committee:

Whilst the buildings might originally have had some resilience built in so that the residential accommodation is elevated, the access to it is from ground level through a series of staircases and it was these staircases that got flooded as well as vehicles. Whilst I accept that the flats were not flooded and people's homes were not ruined, it did create massive problems for the residents there when the area was flooded at Christmas 2013. If the Environment Agency back in 2004 recognised that there was an issue, it is very unfortunate that given all the information that has been reported to the Policy and Resources Committee to date, it has not been referenced once and it affects a lot of people.

The Chairman of the Policy and Resources Committee replied that:

I did pick up on the access and egress from the buildings being a problem and we need to be sure that we can adequately cover that in the event of flooding. Where I agree with you is that I do believe that it is a pity that the whole issue of flooding throughout the Borough was not picked up immediately after those major floods, and it was local Ward Councillors everywhere who actually said, yes, but what about us? Indeed in the case of Marden and Yalding, they said you know about us, but what are you doing about it and how long are you taking?

The only robust answer that I can give you is that as Leader of the Council and as Chairman of the Policy and Resources Committee, I am doing all I can to try and expedite resolutions to all of this. Things are moving in Marden and Yalding, perhaps not as quickly as we would like, but at least the work is being done to look at the individual properties and test whether they can have individual protection or not. It is quite a small number overall so it needs to go onto the second stage which says can we have a collective approach round a number of properties.

We have looked at the town centre in relation to the High Street Ward side because when we get flooding it is that side which affects commercial properties first before it affects any residences in the town centre. So, things are moving forward.

I personally take it very, very seriously indeed. I have never forgotten when I was at one of my first meetings as a Councillor, and I sat next to Councillor Harwood who is an Emergency Planning Officer. We were considering a planning application for a house in the flood plain, and he said I am not going to vote for this because you can actually drown in six inches of water. I have never forgotten that. It means that you have to

take flooding, no matter how small or how great, with the utmost seriousness, and this Council does exactly that.

56. REPORT OF THE STRATEGIC PLANNING, SUSTAINABILITY AND TRANSPORTATION COMMITTEE HELD ON 12 SEPTEMBER 2017 - MAIDSTONE BOROUGH LOCAL PLAN (2017): ADOPTION

It was moved by Councillor D Burton, seconded by Councillor Boughton, that subject to the minor factual corrections set out in the note on this item circulated separately at the meeting, the Maidstone Borough Local Plan (2017) in Appendix VI to the report of the Strategic Planning, Sustainability and Transportation Committee, which incorporated the Inspector's Main Modifications, and the Policies Map at Appendix VII to the report be adopted.

The corrections were as follows:

Maidstone Borough Local Plan: Policies Map – Factual Changes

Map Page	Factual Change
Map 26	Correct the down arrow at the foot of the page to 34
Policies SP5 and SP11	Within the boundaries of the Rural Service Centres of Harrietsham, Headcorn, Lenham, Marden and Staplehurst, as defined on the Policies Map, to include an annotation for Policy SP5; and within the boundaries of the Larger Villages of Boughton Monchelsea, Coxheath, Eyhorne Street (Hollingbourne), Sutton Valence and Yalding, as defined on the Policies Map, to include an annotation for Policy SP11.

In accordance with Council Procedure Rule 21.4, five Members requested that a named vote be taken. The voting was as follows:

FOR (40)

Councillors Adkinson, Barned, Mrs Blackmore, Boughton, D Burton, M Burton, Butler, Clark, Cox, Daley, Ells, English, Fermor, Fissenden, Fort, Mrs Gooch, Greer, Mrs Grigg, Harper, Harvey, Hastie, Mrs Hinder, Mrs Joy, Lewins, McLoughlin, D Mortimer, Munford, Naghi, Pickett, Mrs Ring, Mrs Robertson, Round, J Sams, T Sams, Vizzard, Webb, Webster, Wilby, Willis and Mrs Wilson

AGAINST (9)

Councillors Brice, Cuming, Newton, Perry, Powell, Prendergast, Spooner, Mrs Stockell and de Wiggondene

ABSTAINED (1)

Councillor B Mortimer

RESOLVED: That subject to the minor factual corrections set out in the note on this item circulated separately at the meeting, the Maidstone Borough Local Plan (2017) in Appendix VI to the report of the Strategic Planning, Sustainability and Transportation Committee, which incorporated the Inspector's Main Modifications, and the Policies Map at Appendix VII to the report be adopted.

57. REPORT OF THE STRATEGIC PLANNING, SUSTAINABILITY AND TRANSPORTATION COMMITTEE HELD ON 12 SEPTEMBER 2017 - MAIDSTONE BOROUGH COMMUNITY INFRASTRUCTURE LEVY (CIL) CHARGING SCHEDULE: APPROVAL

It was moved by Councillor D Burton, seconded by Councillor Cox, that the recommendations of the Strategic Planning, Sustainability and Transportation Committee regarding approval of the Community Infrastructure Levy (CIL) Charging Schedule be agreed.

RESOLVED:

1. That the Maidstone Borough Community Infrastructure Levy (CIL) Charging Schedule, attached as Appendix A to the report of the Strategic Planning, Sustainability and Transportation Committee, be approved in accordance with Section 213 of the Planning Act 2008 with an effective implementation date of 1 October 2018.
2. That the CIL Regulation 123 List, attached as Appendix B to the report of the Strategic Planning, Sustainability and Transportation Committee, and CIL Instalments Policy, attached as Appendix C to the report, be approved.

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

There was no report from the Leader of the Council on this occasion.

59. REPORT OF THE MAIDSTONE JOINT TRANSPORTATION BOARD HELD ON 19 APRIL 2017 - AMENDMENTS TO THE MAIDSTONE JOINT TRANSPORTATION BOARD AGREEMENT

It was moved by Councillor D Burton, seconded by Councillor English, that the recommendation of the Maidstone Joint Transportation Board regarding amendments to the Maidstone Joint Transportation Board agreement be approved.

RESOLVED: That the amended Maidstone Joint Transportation Board agreement, attached as Appendix 2 to the report of the Maidstone Joint Transportation Board, be adopted.

60. REPORT OF THE POLICY AND RESOURCES COMMITTEE HELD ON 25 JULY 2017 - POLICY ON DISPOSAL OF PROPERTY - AMENDMENTS TO THE CONSTITUTION

It was moved by Councillor Mrs Wilson, seconded by Councillor Harper, that the recommendations of the Policy and Resources Committee regarding amendments to the Constitution arising from the adoption of a new policy on the disposal of property be approved.

RESOLVED:

1. That the following paragraph be added to the Terms of Reference of the Heritage, Culture and Leisure Committee:

'To declare Open Space surplus to requirements for the purposes of advertising and disposing of open space under Section 123 of the Local Government Act 1972 or any other similar enactment and to take the final decision on disposal.'

2. That the following paragraph be added to the Terms of Reference of the Policy and Resources Committee:

'To make decisions regarding land and property including acquisition (by agreement or compulsorily), disposal, appropriation and development, with the exception of the declaration of Open Space surplus to requirements for the purposes of advertising and disposing of open space under Section 123 of the Local Government Act 1972 or any other similar enactment and the final decision on the disposal of Open Space.'

61. REPORT OF THE POLICY AND RESOURCES COMMITTEE HELD ON 25 JULY 2017 - MEDIUM TERM FINANCIAL STRATEGY

It was moved by Councillor Mrs Wilson, seconded by Councillor Harper, that the recommendation of the Policy and Resources Committee regarding the Medium Term Financial Strategy be approved.

RESOLVED: That the Medium Term Financial Strategy, attached as Appendix 2 to the report of the Policy and Resources Committee, be agreed.

62. ORAL REPORT OF THE COMMUNITIES, HOUSING AND ENVIRONMENT COMMITTEE HELD ON 17 OCTOBER 2017

It was noted that there was no report arising from the meeting of the Communities, Housing and Environment Committee held on 17 October 2017.

63. REPORT OF THE HEAD OF LEGAL PARTNERSHIP - APPOINTMENT OF MONITORING OFFICER

It was moved by Councillor Mrs Wilson, seconded by Councillor Mrs Gooch, that the recommendations set out in the report of the Interim Deputy Head of Legal Partnership relating to the appointment of a Monitoring Officer for the Council be approved.

RESOLVED:

1. That Patricia Narebor be appointed as the Monitoring Officer for the Council with effect from 4 September 2017.
2. That it be noted that Patricia Narebor was appointed as the Head of Mid-Kent Legal Partnership on 1 September 2017.
- 3 That the Head of Legal Partnership be authorised to exercise the delegated functions and responsibilities relating to the Head of Legal Partnership as noted in the Council's Constitution.

Members welcomed Ms Narebor to her first meeting of the Council.

64. MEMBERSHIP OF COMMITTEES

It was moved by the Mayor, seconded by Councillor Daley, and

RESOLVED:

1. That the following changes be approved to reflect the wishes of the Leader of the Conservative Group:

Communities, Housing and Environment Committee

Delete Councillor Perry as a Member of the Committee and add Councillor Garten

Add Councillor Perry as a Substitute Member of the Committee

Licensing Committee

Delete Councillor Perry as a Member of the Committee and add Councillor Cuming

Add Councillor Perry as a Substitute Member of the Committee

Planning Committee

Add Councillor Perry as a Substitute Member of the Committee

2. That the following change be approved to reflect the wishes of the Leader of the UKIP Group:

Planning Committee

Delete Councillor Ells as a Substitute Member of the Committee

65. DURATION OF MEETING

6.30 p.m. to 8.00 p.m.

MAIDSTONE BOROUGH COUNCIL

COUNCIL

6 DECEMBER 2017

REPORT OF THE POLICY AND RESOURCES COMMITTEE 30 OCTOBER 2017

COUNCIL TAX REDUCTION SCHEME

Issue for Decision

On 30 October 2017 the Policy and Resources Committee resolved to amend the Council Tax Reduction scheme according to Option 1 outlined in the report (attached as Appendix 1 to this report).

Following the meeting, the Head of the Revenues and Benefits Shared Service has amended the Council Tax Support scheme, as requested by the Committee, and this amended scheme is attached as Appendix 2 to this report.

It is important to note that the Department for Work and Pensions has moved the live date for Maidstone Universal Credit to November 2018 rather than August 2018. Therefore the live date for the amended scheme, contained in Appendix 2 to this report, will be November 2018 rather than August 2018 as was referred to in the report to Policy and Resources Committee.

Recommendation Made

1. That the amended Council Tax Reduction Scheme, attached as Appendix 2 to this report, is agreed.
2. That the live date for the amended Council Tax Reduction Scheme of November 2018 is noted.

Reasons for Recommendation

The reasons for recommendation can be found in the report to Policy and Resources Committee on 30 October 2017.

Alternatives Considered and Why Not Recommended

A full explanation of the other available options can be found in Appendix 1 to this report, paragraphs 2.3-2.7.

Background Documents

Appendix 1: Council Tax Reduction Scheme Report to Policy and Resources Committee 30 October 2017

Appendix 2: Amended Council Tax Reduction Scheme

Policy and Resources Committee

30 October 2017

Is the final decision on the recommendations in this report to be made at this meeting?

No

Council Tax Reduction Scheme 2018-19

Final Decision-Maker	Council
Lead Director or Head of Service	Stephen McGinnes, Mid-Kent Services Director
Lead Officer and Report Author	Sheila Coburn, Interim Head of Revenues and Benefits
Classification	Public
Wards affected	All

Executive Summary

To report the outcome of the public consultation on proposed changes to the Council Tax Reduction Scheme and make recommendations on the 2018/19 scheme.

In amending the scheme for 2018/19 the intention is to mitigate the impact of Universal Credit (UC) on the administration of the Council Tax Reduction Scheme (CTRS), together with the billing and collection of Council Tax.

This report makes the following recommendations:

1. The Committee notes the outcome of the public consultation.
2. The Committee considers the potential impact of the proposed changes on Universal Credit claimants.
3. The Committee recommends to Council that the Council Tax Reduction Scheme be amended to incorporate the changes summarised in Section 3.

Timetable

Meeting	Date
Policy and Resources Committee	30 October 2017
Council	6 December 2017

Council Tax Reduction Scheme 2018-19

1 INTRODUCTION AND BACKGROUND

1.1 Council Tax Reduction (CTR) was introduced by the Department for Communities and Local Government (DCLG) in April 2013 as a replacement for the Council Tax Benefit (CTB) scheme administered on behalf of the Department for Work and Pensions (DWP).

1.2 As part of its introduction, Central Government set out a number of key elements:

The duty to create a local scheme for Working Age applicants was placed with Billing Authorities;

Funding was initially reduced by the equivalent of 10% from the levels paid through benefit subsidy to authorities under the previous CTB scheme; and

Persons of Pension Age, although allowed to apply for CTR, would be 'protected' from any reduction in support through regulations prescribed by Central Government.

1.3 Since its introduction in April 2013, our local scheme has been 'refreshed' annually and further changes introduced to ensure that the scheme remains affordable whilst providing support for those most in need.

1.4 Each year the scheme must be approved by Full Council before 31 January.

1.5 Across Kent, a common 'platform' approach was adopted for the design of local schemes, with the new schemes broadly replicating the former CTB scheme but with a basic reduction in entitlement for working age claimants. In Maidstone, working age claimants must pay at least 20% of the Council Tax liability.

1.6 Universal Credit has introduced fundamental changes to how the welfare system operates and replaces a number of existing benefits including income support, job seekers allowance, employment support allowance, working tax credits, child tax credits and housing benefit.

1.7 Council Tax Reduction is administered as a local discount, putting it outside of the welfare system and scope of UC.

1.8 The gradual roll out of UC has meant limited impact locally to date but that will change in August 2018 when the new system will be applied to all new claimants of the above benefits. The transfer of existing claimants onto the new system will be managed over a longer timeframe with full migration to Universal Credit not expected for all claimants until 2022 at the earliest.

1.9 A key difference in the way that UC operates is that it uses real time earnings information held by HMRC to calculate UC awards without the need for the customer to report changes. The principle being that UC

entitlement goes up and down each month in line with earnings so that claimants receive the right amount of help and are encouraged to do additional work when they can, without fear that their benefits will stop.

- 1.10 Whilst the frequent change in UC entitlement to mirror earnings provides a benefit to the recipient, it represents a challenge for the administration of the CTRS due to the increase in reported changes through UC and DWP.
- 1.11 CTRS is calculated as a means tested benefit taking into account the claimants' income and wider circumstances. Earnings are averaged at the start of the claim and reviewed periodically, with the claimant under a duty to report material changes such as an increase in the working hours, someone moving in or out of the property. On average, customers report between 2-4 changes per year.
- 1.12 Information from councils that are already operating a full UC Service suggest that changes reported through UC and DWP are significantly higher, reflecting the link between monthly earnings and benefit payments, with 11-32 changes reported per customer annually.
- 1.13 Given the link between the calculation of CTRS and collection of Council Tax, this could mean customers receiving a new Council Tax bill every month due to what could be minor variations in their earnings and UC award.
- 1.14 It is believed that such a situation would provide confusion for customers, limit the effectiveness of the council in recovering unpaid council tax and add further cost to the administration of the CTRS.
- 1.15 At Policy & Resources Committee on 25 July 2017, it was agreed that delegated authority would be given to the Head of Revenues and Benefits to commence consultation on the updated Council Tax Reduction Scheme, incorporating these changes, to be implemented for 2018/2019.

2. AVAILABLE OPTIONS

- 2.1 Following a consideration of a range of options (reported to P&R Committee 25 July 2017) the conclusion was that the best option would be to have a scheme that was easily understood by customers as well as providing stability around the Council Tax to be paid, supporting budgeting.
- 2.2 'Do nothing' – any changes reported to us would be actioned each time and a new Council Tax bill will be generated each time a change is made. This would potentially mean that a customer could receive 12 Council Tax bills each year with the Council Tax payments changing each time a revised bill is issued. This would be confusing for the customer as they would be constantly changing the amount they have to pay. The option of 'do nothing' will be administratively time consuming, with an inevitable increase in printing and postage.

2.3 The public consultation outlined the following options:

2.4 Option 1 - apply a fixed income period to avoid multiple changes

This option will enable the council to calculate or recalculate a person's entitlement through the Council Tax Reduction (CTR) every 6 months. There may be exceptions to this timeframe if there is a significant change in the household or income. Customers will still have a responsibility to report changes in their circumstances, such as a partner moving in or a change in employer. Currently, every change to a person's income or capital will potentially generate a change in their CTR leading to changes in their Council Tax instalments. By fixing the assessment period, this will avoid multiple changes, be less confusing, avoid the constant recalculation of Council Tax instalments and aid administration.

2.5 Option 2 – apply a tolerance to avoid multiple changes

This option will enable the council to recalculate a person's entitlement to CTR where the change would result in alterations of entitlement of greater than / less than a set amount. This could be set at around £3 per week difference in award (approx. £15 per week income). Currently, every change to a person's income or capital will potentially generate a change in their Council Tax reduction leading to a change in their Council Tax instalments. By applying a tolerance, this will reduce some changes where they are minimal, but will not prevent revised Council Tax bills being issued in many cases.

2.6 Option 3 – not applying any changes received from the DWP

This option would continue with the existing scheme operated by the council but changes in UC notified by the DWP would not be actioned automatically. Changes would only be actioned if reported by the claimant. The result of this approach would be to significantly reduce the number of changes undertaken but it would place the onus on the applicant to notify the council of changes (this is already a duty imposed under the existing scheme). The council would need to decide when to apply beneficial/non beneficial changes and whether non reported changes should be subject to a penalty.

2.7 An example of how the options would affect any changes is shown in Appendix 2.

3 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

3.1 The preferred option is option 1 as shown in paragraph 2.4 above.

3.2 By adopting this option, the changes will be:

- easily understood by those affected
- provide stability around the Council Tax to be paid
- support customers with budgeting
- enable work and resources to be effectively planned and managed

4 RISK

- 4.1 The risks associated with this proposal, including the risks if the council does not act as recommended, have been considered in line with the Council’s Risk Management Framework.
- 4.2 We are satisfied that the risks associated are within the council’s risk appetite and will be managed as per the Policy.

5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 Following the report to P&R Committee on the 25 July 2017 a public consultation was undertaken between 18 August and 1 October 2017.
- 5.2 The survey was carried out online, with a direct email to approximately 8,000 customers who had consented to being contacted by email plus a direct email to approximately 3,200 Council Tax Reduction claimants where the email address was held.
- 5.3 The survey was promoted on the council’s website, social media and in the local press. Paper copies were available on request.
- 5.4 The survey was open to all Maidstone Borough residents aged 18 years and over.
- 5.5 A total 773 people responded to the consultation. The consultation report explaining the results is provided as Appendix 1.
- 5.6 The survey was set so customers were able to vote for more than one option, rather than restricting to one option only.
- 5.7 The overall responses for each option are shown in the following table:

	Option 1	Option 2	Option 3
Yes	387	366	232
No	116	121	260
Not sure	270	212	160
Total	773	699	625

- 5.8 Whilst the responses were very close for Option 1 And Option 2, the number of people who opted for Option 1 was slightly more than Option 2, and the number of people who responded ‘no’ was less for Option 1 than Options 2 and 3.
- 5.9 Using this analysis, the results of the consultation would look to support the recommended preferred option which is Option 1

6 NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 A decision on the changes as a result of UC is required by a meeting of Full Council. That decision will be publicised through the local media with those residents directly affected by the changes notified in writing of planned changes.
- 6.2 The revised CTR scheme will take effect from 1 April 2018 and be reflected in Council Tax bills that are issued as changes to UC occur.

7 CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities.</p> <p>The council needs to balance the needs of low income households with the wider interest of local taxpayers to ensure vulnerable residents are protected, by providing a scheme that is understandable, provides stability for and supports customers as set out in Section 3 [preferred alternative].</p>	Sheila Coburn, Interim Head of Revenues and Benefits
Risk Management	Already covered in the risk section	Sheila Coburn, Interim Head of Revenues and Benefits
Financial	Council Tax Reduction reduces the amount of Council Tax that can be collected. The cost of the scheme is met by the Council and preceptors. The amendment to the scheme outlined in this report will not	Section 151 Officer & Finance Team

	have an impact on its direct costs but will mitigate the administration costs arising from the introduction of Universal Credit.	
Staffing	We will deliver the recommendations with our current staffing.	Sheila Coburn, Interim Head of Revenues and Benefits
Legal	<p>Section 13A of the Local Government Finance Act 1992 requires the Council to adopt a Council Tax Reduction Scheme. Schedule 1A of the Act provides a statutory duty to consult on a proposed scheme and for council to approve a scheme by 31 January 2018</p> <p>Consideration must be given to the finding of the consultation and equality impact assessment in reaching a decision</p>	Interim Deputy Head of Legal Partnership
Privacy and Data Protection	In accepting the recommendations there may be an increase in the volume of personal data held by the council as claimants will need to provide evidence to obtain the reduction. Any data collected will be processed with other data held from the DWP to ensure the Council complies with the Data Protection Act 1998.	Interim Deputy Head of Legal Partnership
Equalities	We recognise the recommendations may have varying impacts on different communities within Maidstone. Therefore we have completed a separate equalities impact	Policy & Information Manager

	assessment at Appendix 3	
Crime and Disorder	No impact	Sheila Coburn, Interim Head of Revenues and Benefits
Procurement	No impact	[Head of Service & Section 151 Officer]

8 REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Consultation results
- Appendix 2: Scenario/example
- Appendix 3: Equality Impact assessment

9 BACKGROUND PAPERS

None

INTRODUCTION

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 Work and Pensions (DWP).

As part of its introduction, Central Government set out a number of key elements:

- The duty to create and consult on a local scheme for Working Age applicants was placed with Billing Authorities.
- Funding was initially reduced by the equivalent of 10%, with funding subsequently withdrawn altogether in line with the Revenue Support Grant.
- Persons of Pension Age, although allowed to apply for CTR, would be protected' from any reduction in support through regulations prescribed by Central Government.

Each year the scheme must be approved by Full Council before 31 January.

In amending the scheme for 2018/19 the intention is to mitigate the impact of Universal Credit on the administration of Council Tax Reduction and billing and collection of Council Tax.

Universal Credit has introduced fundamental changes to how the welfare system operates and replaces a number of existing benefits including income support, job seekers allowance, employment support allowance, working tax credits, child tax credits and housing benefit.

Council Tax Reduction is administered as a local discount, putting it outside of the welfare system and scope of Universal Credit.

The gradual roll out of Universal Credit has meant limited impact locally to date but that will change in August 2018 when the new system will be applied to all new claimants of the above benefits. The transfer of existing claimants onto the new system will be managed over a longer timeframe with full migration to Universal Credit not expected for all claimants until 2022 at the earliest.

A key difference in the way that Universal Credit operates is that it uses real time earnings information held by HMRC to calculate Universal Credit without the need for the customer to report earned income changes. The principle being that Universal Credit entitlement goes up and down each month in line with earnings so that claimants receive the right amount of help and are encouraged to do additional work when they can, without fear that the benefit will stop.

METHODOLOGY

Maidstone Borough Council undertook a consultation between 18 August and 1 October 2017.

The survey was carried out online, with a direct email to approximately 8,000 customer who had consented to being contacted by email plus a direct email to Council Tax Reduction Scheme recipients where the email address was held (approximately 3,200) and was promoted on the Council's website, social media and in the local press and this was a one off mailing with no reminders. Paper copies were available on request, however no requests were received.

The survey was open to all Maidstone Borough residents aged 18 years and over.

It should also be noted that respondents from BME backgrounds are under-represented at 3.3% compared 5.9%¹ in the local area. Respondents in the 18 to 24 years and the 75 years and over groups are also under-represented at 1.3% and 6.2% respectively in the survey compared to 9.5% and 10.8%² in the local population. Therefore variances relating to these groups are not discussed in this report, they have been marked in the tables with an asterisk (*).

A total of 773 people responded to the questionnaire, this report discusses unweighted results. Please note not every respondent answered every question therefore the total number of respondents refers to the number of respondents for the question being discussed not to the survey overall.

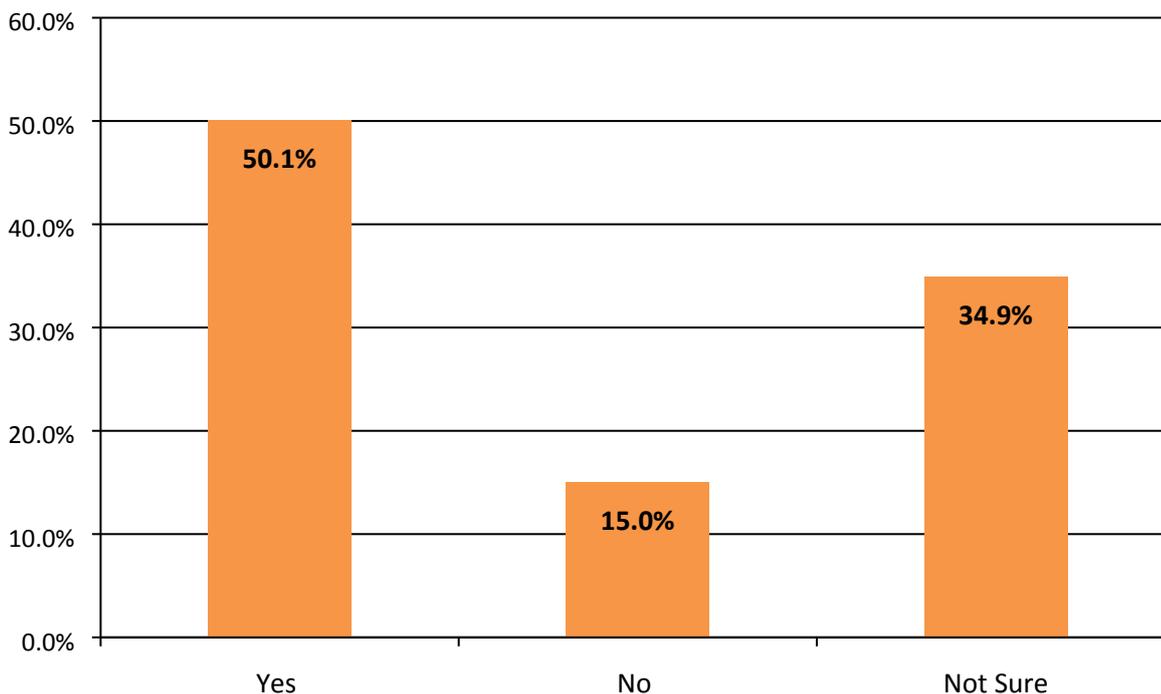
With a total of 773 responses to the survey, the overall results in this report are accurate to $\pm 3\%$ at the 90% confidence level. This means that we can be 90% certain that the results are between $\pm 3\%$ of the calculated response, so the 'true' response could be 3% above or below the figures reported (i.e. a 50% agreement rate could in reality lie within the range of 47% to 53%).

¹ 2011 Census

² 2016 ONS Mid-year Population Estimates 128,823

COUNCIL TAX REDUCTION SCHEME & UNIVERSAL CREDIT CONSULTATION

OPTION 1 – FIXED ASSESSMENT PERIODS



Overall, half (50.1%) of all respondents were in favour of introducing a fixed tolerance. This was the most common response across all groups (excluding the 18 to 24 years group due under representation).

There is a 10.1% difference in the proportion in agreement with this option between men and women. Men were less likely than women to respond not sure with just one in five (20.1%) selecting this answer compared to 34.2% of women.

The data suggests that agreement with this option increased with age with those over 65 years having the greatest levels of agreement.

There are no significant variances between the proportion agreeing with this proposed change between respondents from white groups and those from BME groups.

There is a 12.9% difference in the proportion of respondents agreeing with introduction of fixed assessment period between those currently in receipt of council tax reduction and those who are not. Within these groups the proportion answering no are comparable at 16.8% and 17.2% respectively however there is a 13.3% difference in the proportion within these groups that were not sure, with over a third (35.2%) of council tax reduction receipts responding this way.

Proportion agreeing with proposed change	
Age	
- 18 to 24 years*	37.5
- 25 to 34 years	53.7
- 35 to 44 years	51.7
- 45 to 54 years	48.3
- 55 to 64 years	55.1
- 65 to 74 years	63.2
- 75 years and over*	66.7
Gender	
- Male	60.7
- Female	51.6
Ethnicity	
- White groups	55.8
- BME groups*	61.1
Disability	
- Yes	46.7
- No	58.6
Household in receipt Council Tax Reduction	
- Yes	47.5
- No	60.4

COUNCIL TAX REDUCTION SCHEME & UNIVERSAL CREDIT CONSULTATION

OPTION 1 – IF NO, WHAT ALTERNATIVE WOULD YOU SUGGEST?

There were 74 comments submitted in relation to the question– if no, is there an alternative you would proposed that could be classified.

The current proposal is for assessment period to be fixed every six months. Of these 23 there were eight who said the period should be reduced to three months, six that said it should annual, three said it should be every four months and six who said reassessment should be real-time or monthly. There were an additional six comments where the responders said that the six month period was fine but there would need to be a process for extreme circumstances such as death of a spouse.

Thirteen people commented said that there should not be any changes to the current scheme.

There were nine comments where people were concerned about how this change could cause financial hardship. One person was concerned that the overlap period could cause higher administrative costs.

In terms of the other options there were eight comments in support of option 2 and five comments in support of option 3.

There were nine comments that have been classified as general suggestions, however not all of the things that have been suggested will be feasible. Suggestions that could be considered included looking at technology to assist with the volume of the changes, putting the responsibility and tools in claimant’s hands, using email only to communicate and using annual income. Other suggestions included giving everyone 100% council tax support, that everyone should pay the same dependent on their property size.

OPTION 1 OTHER COMMENTS

There were 81 comments that were received in relation to option 1 that could be categorised.

There were two comments that were disapproving of option 1 and 11 comments that were supportive, saying that six months is a logical period to reassess and that it seems a good balance. There were four comments that said that to reduce administration cost further an annual review should be considered, two who said the reassessment period should be three months and two who said the changes should be applied immediately or for the following month.

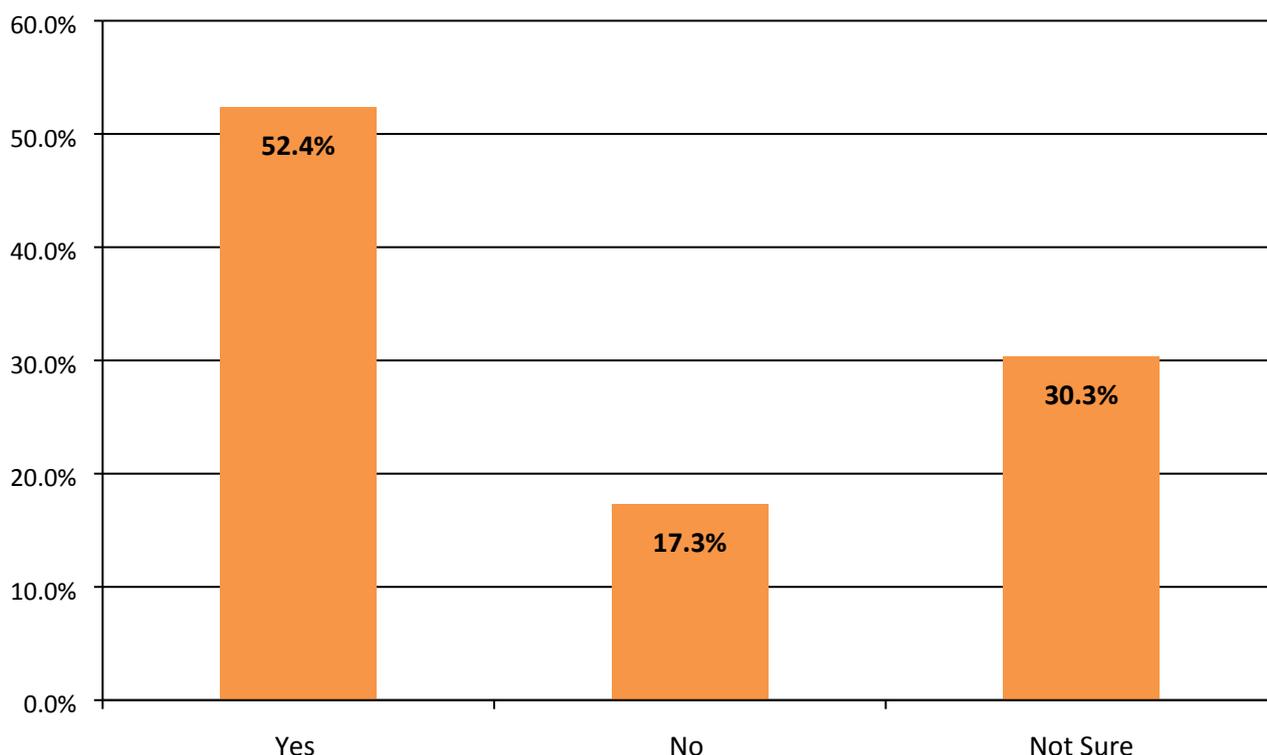
There were 17 comments where respondents raised concerns about people getting into financial difficulty; this was the most common theme of the comments. There were also nine comments where people were concerned about how changes would be implemented and how people would understand the change and three who said there should be a process for significant changes in circumstances. Seven comments stressed the need for the process to be simple.

There were 14 other comments that were too broad to be categorised. These included general comments about universal credit such as one commentator who said they had heard bad things about the people who receive it and another who said it should be a one stop shop with one payment and one notification process. There are also comments in this group from people regarding council tax reduction generally including ones around how much they pay and outlining personal circumstances.

There were also eight questions; these were about how the option would work in practice or what it would mean for that responder.

COUNCIL TAX REDUCTION SCHEME & UNIVERSAL CREDIT CONSULTATION

OPTION 2 – TOLERANCES



Overall, just over half (52.4%) of all respondents were in favour of introducing a fixed tolerance. This was the most common response across all groups (excluding the 18 to 24 years group due under representation).

There are no significant variances between the difference age groups or between men and women in the proportions agreeing with this change. However, two groups have greater proportions of respondents that said they were not sure when compared to the overall result. These groups were 24 to 34 years at 38.3% and 75 years and over at 36.1%.

There is a difference of 8.7% between the proportion agreeing with this change between those who are in receipt of council tax reduction and those who are not. The proportion responding no are comparable however one in three (33.2%) respondents receiving council tax reduction were not sure about this change compared to just over one in five (22.3%) for respondents that do not receive council tax reduction.

Proportion agreeing with proposed change	
Age	
- 18 to 24 years*	37.5
- 25 to 34 years	49.4
- 35 to 44 years	53.8
- 45 to 54 years	55.9
- 55 to 64 years	54.7
- 65 to 74 years	54.6
- 75 years and over*	50.0
Gender	
- Male	55.9
- Female	52.7
Ethnicity	
- White groups	53.8
- BME groups*	61.1
Disability	
- Yes	53.2
- No	55.2
Household in receipt Council Tax Reduction	
- Yes	48.8
- No	57.5

COUNCIL TAX REDUCTION SCHEME & UNIVERSAL CREDIT CONSULTATION

OPTION 2 – IF NO, IS THERE AN ALTERNATIVE YOU WOULD SUGGEST

There were 70 comments submitted in relation to the question – if no, is there an alternative you would proposed that could be classified.

Five commenters said that there should be no change to the current system, while there were 14 comments in support of option 1, two in support of option 2 and two in support of option 3.

There were three comments that were concerned that the costs for introducing and running option 2 would outweigh any benefits and three comments were the responder was concerned about people getting into financial difficulty.

There were eighteen responders that made suggestions, ten of these related to the proposed tolerance level, with just one saying the proposed £3 is too high, with the rest saying it is too low, some say at least £5 and some that it should be percentage. Other suggestions included making the most of technology, getting everyone to report their changes online and cutting council tax for everyone.

There were 19 general comments these included statements from people about their own circumstances as well as general comments in relation fairness and council tax reduction: three commenters said everyone should pay the same.

OPTION 2 OTHER COMMENTS

There were 72 comments that were received in relation to option 2 that could be categorised.

There were six comments in support of this option and one in support of option 1. There were ten responders that were sceptical about the efficiency savings that this approach would produce. Seven commenters had concerns about financial hardship and a further seven comments expressed confusion about how this option would work.

There were four comments specifically about the tolerance level: all four said that the proposed level of £3 is too low.

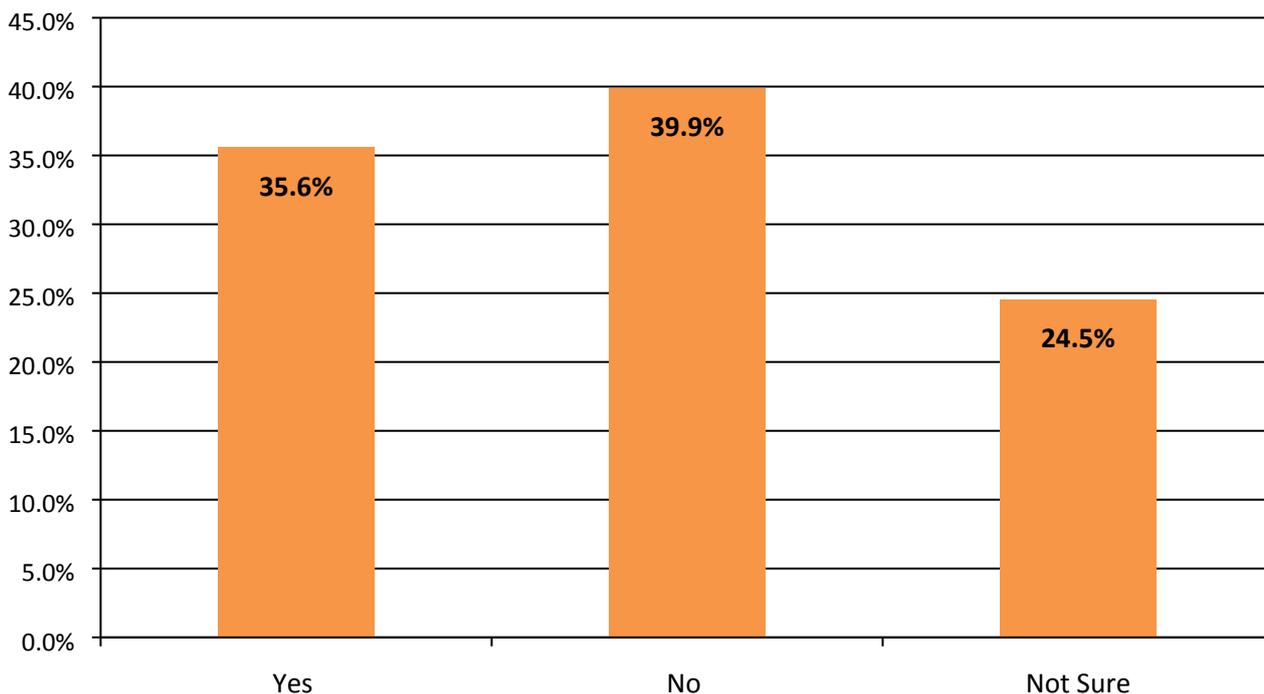
Five comments have been classified as suggestions, they include reviewing tolerance levels annually, only making adjustments in awards at the end of the year and having a cap for on the tolerances to avoid the need for large overpayments to be made or clawed back.

There were 27 general comments, of which four were negative in relation to option 2: saying all changes should be taken into account as they are received and concerns that some may get more than they are entitled to. A further four general comments were positive about option 2. There were 19 neutral general comments these included statements from people about their own circumstances as well as comments in relation fairness and council tax.

There were also five queries from people asking how the scheme would work in practice and eligibility for council tax reduction generally.

COUNCIL TAX REDUCTION SCHEME & UNIVERSAL CREDIT CONSULTATION

OPTION 3 – NOT ACTIONING DWP NOTIFIED CHANGES



Just over one in three respondents were in favour not actioning changes Department of Work & Pensions (DWP) changes. The most common response was no, this was the most common response across most groups apart from the 18 to 24 years and the 75 years and over groups (both of these groups are under-represented).

Out of the groups where the number of respondents is broadly representative the 65 to 74 years group had the greatest proportion agreeing with this change at 38.8%. The 55 to 64 years group had the greatest proportion who responded no at 47.8% and those in receipt of CTR and those with a disability had the greatest proportions that were not sure at 27.0%.

While there are no significant variances across the groups in the proportion that agreed with this change there were some variances in the proportion selecting the answers no across the groups. The 45 to 54 years and the 55 to 64 years had greater levels of people responding no than the overall response at 45.8% and 47.8% respectively. Respondents not in receipt of council tax reduction also had the greater proportion responding no than the overall result at 46.8%.

Proportion agreeing with proposed change	
Age	
- 18 to 24 years*	25.0
- 25 to 34 years	34.1
- 35 to 44 years	37.5
- 45 to 54 years	36.4
- 55 to 64 years	31.6
- 65 to 74 years	38.8
- 75 years and over*	45.7
Gender	
- Male	37.8
- Female	35.3
Ethnicity	
- White groups	35.2
- BME groups*	42.1
Disability	
- Yes	35.0
- No	36.0
Household in receipt Council Tax Reduction	
- Yes	37.7
- No	35.1

OPTION 3– IF NO, IS THERE AN ALTERNATIVE YOU WOULD SUGGEST

There were 126 comments submitted in relation to the question – if no, is there an alternative you would proposed that could be classified. Fifteen comments were supportive of option 1 and ten were supportive of option 2. Five commenters said they preferred either of the two other options. Thirteen people said that the current processes should not change.

There were 32 comments where people were concerned that this approach could be open to abuse or neglect with some saying people will delay informing the Council when there has been a change unless it is to their advantage and that people don't always remember to inform the council both of these could lead to financial consequences for the customer. There were three commenters who had concerns about people getting in to debt or suffering financial hardship as a result of this approach. There were seven commenters who said the Council should be using the DWP data to calculate entitlement and ten expressed concerns about how easy to understand this approach with vulnerable people being a particular concern.

There were nine comments that have been classified as suggestions, five of these related to combining together elements of the proposed options. There were four queries, one of which queried why there is no technical solution to automatically apply changes.

There were 16 general comments which included personal issues, comments on fairness and general dissatisfaction with council tax.

OPTION 3 OTHER COMMENTS

There were 98 comments that were received in relation to option 3 that could be categorised. There were two comments that expressed support for option 3, one for option 2, one who suggested a combination of options 2 and option 3 and one who said keep it as it currently is.

Seventeen comments were regarding the onus on the recipient to inform the council of changes to their circumstances, with people either being positive about recipients having responsibility for informing the council of changes or concerned that this option may not work due to people not being honest about changes that impact on their benefit award. Some of these comments as well as the general comments highlighted concerns that this approach could result in a greater administrative cost to the council due to increased overpayments and introduction of penalties for delays in notification of changes.

A further 18 comments were concerned about this system being open to abuse or neglect and ten commenters were concerned about the impact on vulnerable people. Seven people were confused about what this option would involve and seven said that the process for informing should be simple and easy, there were a couple of general comments where people mentioned difficulties in getting through the department currently to inform of changes. Two commenters were concerned about customers getting into debt.

There were three suggestions which included putting fines on hold while the change is being implemented, using any savings generated to combat fraud and ensuring that communications contain contact details for people who are not sure about the change and its impact on their household.

Of the 23 general comments several remarked on personal situations and experiences and some express dissatisfaction with council tax overall. Other comments in this section say that this scheme would need to be monitored and that this option has more disadvantages than the other options. Two say the assessment should only be once a year.

COUNCIL TAX REDUCTION SCHEME & UNIVERSAL CREDIT CONSULTATION

DEMOGRAPHICS

Council Tax Recipient		
Yes	41.2%	247
No	55.8%	334
Unsure	3.0%	18
Grand Total	100.0%	599

Gender		
Male	40.1%	240
Female	58.4%	350
In another way	1.5%	9
Grand Total	100.0%	599

Ethnicity		
White Groups	95.9%	564
BME Groups	3.2%	19
Other	0.9%	5
Grand Total	100.0%	588

Disability		
Yes	23.4%	139
No	72.0%	427
Prefer not to say	4.6%	27
Grand Total	100.0%	593

Age		
18 to 24 years	1.3%	8
25 to 34 years	13.6%	82
35 to 44 years	20.0%	120
45 to 54 years	19.8%	119
55 to 64 years	22.8%	137
65 to 74 years	16.3%	98
75 years and over	6.2%	37
Grand Total	100.00%	601

APPENDIX 2

Council Tax Reduction Scheme – Universal Credit

Scenario

Mr X receives Universal Credit and has a change in his circumstances each month due to fluctuations in his earnings changing by £5.00

This is a small change and each month this happens we have to recalculate his award of CTS.

'Do nothing' option

Mr X will receive a new Council Tax bill and a new Award Letter every time we make an adjustment if we do not introduce any options.

Option 1 – applying a fixed income period

By using fixed income periods, we intend to make changes every 6 months to Mr X's claim. This means Mr X will only get a revised Council Tax bill every 6 months and his Council Tax instalments will remain static. If there are significant changes in Mr X's household (such as new/change of employment, change in make up of household), we can intervene within the 6 month period and alter his Council Tax reduction to take into account these changes.

Option 2 – apply a tolerance to avoid multiple changes

If we applied a tolerance for changes of £15 per week income, this would mean that the Mr X's circumstances would only be taken into consideration if the change in his circumstances would mean a change of entitlement of greater than/less than the set amount. Some customers may gain out of this but the lower income customers whose change in their support would have increased their award and therefore reduced their monthly payments may lose.

Option 3 – not applying any changes received from DWP

No changes would be actioned through notifications from the DWP. We would solely rely on the customer notifying us of any change in their circumstances. This may reduce the number of changes we make to CTR cases, but if the customer believes we will be informed by the DWP or forgets to advise us of a change, the amount of CTR we are awarding could be/would be incorrect. This would be likely to increase overpayments, which would start recovery and cause the customer unnecessary hardship. It is not fair to the customer to put them into hardship when we have access to this information, but have chosen not to use it under this Option.

Equality Impact Assessment - Council Tax Reduction Scheme 2018/19

1. What are the main aims purpose and outcomes of the Policy and how do these fit with the wider aims of the organisation?

Council Tax Reduction (CTR) was introduced by the Department for Communities and Local Government (DCLG) in April 2013 as a replacement for the Council Tax Benefit (CTB) scheme administered on behalf of the Department for Work and Pensions (DWP).

As part of its introduction, Central Government set out a number of key elements:

- The duty to create a local scheme for Working Age applicants was placed with Billing Authorities;
- Funding was initially reduced by the equivalent of 10% from the levels paid through benefit subsidy to authorities under the previous CTB scheme; and
- Persons of Pension Age, although allowed to apply for CTR, would be 'protected' from any reduction in support through regulations prescribed by Central Government.

Since its introduction in April 2013, our local scheme has been 'refreshed' annually and further changes introduced to ensure that the scheme remains affordable whilst providing support for those most in need.

Council Tax Reduction is administered as a local discount, putting it outside of the welfare system and scope of Universal Credit.

Changes are being proposed to the Council Tax Reduction Scheme for 2018/19 in response to continued roll out of the Universal Credit (UC) programme. To date the gradual roll out of UC has had limited impact locally, but that will change in August 2018 when the Full Digital Service will be applied to all new claimants. The transfer of existing claimants onto the new system will be managed over a longer time frame with full migration to Universal Credit not expected for all claimants until 2022 at the earliest.

UC uses real time earnings information held by HMRC to calculate UC awards without the need for the customer to report changes. The principle being that UC entitlement goes up and down each month in line with earnings so that claimants receive the right amount of help and are encouraged to do additional work when they can, without fear that their benefits will stop.

The reduction in Council Tax (delivered through our local scheme) is calculated as a means tested benefit taking into account the claimants' income and wider circumstances. Earnings are averaged at the start of the claim and reviewed periodically, with the claimant under a duty to

report material changes such as an increase in the working hours, someone moving in or out of the property. On average, claimants report between 2-4 changes per year. Information from councils that are already operating a full UC Service suggests that claimant changes are significantly higher, 11-32 changes reported annually.

The Council Tax Reduction Scheme 2018/19 consultation set out 3 options for an amended scheme which can be delivered, supporting the changes with Universal credit but limiting the detrimental impact on CTRS claimants in terms of confusion and financial penalty and for the council in terms of administration and cost.

The following 3 options were proposed with Option 1 being the preferred option for decision:

- **Option 1** is a process change requiring a regular review of all claims across all working age groupings.
- **Option 2** would apply a set tolerance that would be applied across all claims from all working age groupings
- **Option 3** would be applied to all claimants across all working age groupings.

The consultation sought to engage with hard to reach groups across the borough to help ensure that the response was reflective of Maidstone's population.

2. How do these aims affect our duty to:

- **Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the act.**
- **Advance equality of opportunity between people who share a protected characteristic and those who do not.**
- **Foster good relations between people who share a protected characteristic and those who do not.**

The Council Tax Reduction Scheme is for working age applicants. As part of its introduction persons of a pension age were protected. The proposed amendments to the scheme for 2018/19 do not have a detrimental impact on a specific group. The 3 options proposed are to be applied across all Universal Credit claimants and will not affect any group differently to any other.

3. What aspects of the policy including how it is delivered or accessed could contribute to inequality?

There are currently under 200 claimants in receipt of Universal Credit. It is expected that the affected group will grow by approximately 200 per month from August 2018.

In terms of protected characteristics, claimant data is held on disability,

claimants with a carer, age and sex. The information collected is applicable as it is relevant to the calculation of Council Tax Reduction claim. This data has been used to help evaluate any possible impact, positive or negative, as a result of proposed amendments to the scheme to date. The move to Universal Credit is purely related to changes in individual circumstances and the DWP reaction to those changes. It is therefore impossible to predict how many claimants, in terms of age, sex or disability will be represented in the transition.

The proposed amendment to the 2018/19 scheme will affect all claimants in the same manner. All options considered seek to ensure that the administration changes to the schemes as a result of UC were as simple and clear to all claimants as possible.

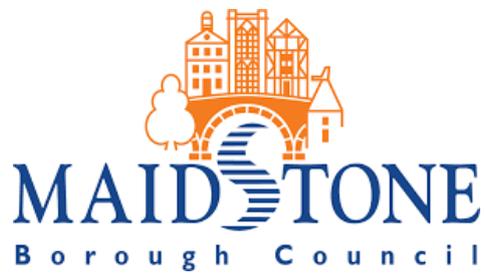
4. Will the policy have an impact (positive or negative) upon the lives of people, including particular communities and groups who have protected characteristics? What evidence do you have for this?

The impact of the changes proposed is neither positive nor negative. It affects all claimants but is designed to limit the impact on claimants by keeping the administration process as simple and clear as possible.

In terms of the consultation response more respondents were in favour of option 1 which is the preferred option for decision as detailed in the summary table below.

	Option 1	Option 2	Option 3
Yes	387	366	232
No	116	121	260
Not sure	270	212	160
Total	773	699	625

Option 1 will enable the council to calculate or recalculate a person’s entitlement through the Council Tax Reduction (CTR) every 6 months. There may be exceptions to this timeframe if there is a significant change in the household or income. Customers will still have a responsibility to report changes in their circumstances, such as a partner moving in or a change in employer. Currently, every change to a person’s income or capital will potentially generate a change in their CTR leading to changes in their Council Tax instalments. By fixing the assessment period, this will avoid multiple changes, be less confusing, avoid the constant recalculation of Council Tax instalments and aid administration.



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 1st April 2018 until 31st March 2019.
- 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 1st April 2018 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: 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 applicants is a means test, which compares income against an assessment of *applicable amounts* (unless otherwise stated). Full details of the working age scheme of the authority are contained within this document from section 2 onwards. The authority is required to specify a scheme for working age and therefore this scheme only applies to a person who;

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

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

Class D

To obtain reduction the individual (or partner) must:

- (a) have not attained the qualifying age for state pension credit¹; 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 Reduction² amount can be calculated;
- (g) not have capital savings above £16,000³;
- (h) be a person in respect of whom a day in which s/he is liable to pay council tax falls within a week in respect of which the person's *income*⁴ is **less** than their *applicable amount*⁵ or the applicant or partner is in receipt of income support, jobseekers allowance (income based) or employment and support allowance (income related); and
- (i) has made a valid application for reduction⁶.

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

Class E

To obtain reduction the individual (or partner) must:

- (a) have not attained the qualifying age for state pension credit⁷; or
- (b) he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is a person on income support, on income-based jobseeker's allowance or an income-related employment and support allowance; or a person with an award of universal credit.
- (c) has attained the qualifying age for state pension credit if he, and his partner, is a person on income support, on an income-based jobseeker's allowance or on an income-related employment and support allowance or in receipt of an award Universal Credit;
- (d) be liable to pay council tax in respect of a dwelling in which they are solely or mainly resident;
- (e) is not deemed to be absent from the dwelling;
- (f) not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- (g) be somebody in respect of whom a maximum Council Tax Reduction⁸ amount can be calculated;
- (h) not have capital savings above £16,000⁹;
- (i) be a person in respect of whom a day in which s/he is liable to pay council tax falls within a week in respect of which the person's *income*¹⁰ is **more** than their *applicable amount*¹¹;

¹ Section 5 of this scheme

² Sections 57 to 63 of this scheme

³ Sections 33 to 42 and Schedule 5 of this scheme

⁴ Sections 15 to 32 and Schedules 3 and 4 of this scheme

⁵ Sections 12 to 14 and Schedule 1 of this scheme

⁶ Sections 68 to 74a of this scheme

⁷ Section 5 of this scheme

⁸ Sections 57 to 63 of this scheme

⁹ Sections 33 to 42 and Schedule 5 of this scheme

¹⁰ Sections 15 to 32 and Schedules 3 and 4 of this scheme

¹¹ Sections 12 to 14 and Schedule 1 of this scheme

- (j) have made a valid application for reduction¹²;
- (k) be a person in respect of whom amount A exceeds amount B where
 - (i) amount A is the maximum Council Tax Reduction in respect of the day in the applicant's case; and
 - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount.

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

Class F

To obtain reduction the individual must:

- a. have not attained the qualifying age for state pension credit¹³; 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 or on an income-related employment and support allowance or in receipt of an award universal credit;
- c. be liable to pay council tax in respect of a dwelling in which they are solely or mainly resident;
- d. is not deemed to be absent from the dwelling;
- e. 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;
- f. be somebody in respect of whom a maximum Council Tax Reduction¹⁴ amount can be calculated;
- g. have made a valid application for reduction¹⁵;
- h. be somebody who has at least one second adult living with them who is not his partner, not somebody who pays rent, and who is on a *prescribed* low wage and/or *prescribed* benefit, as set out in within sections 62 and 63 and schedule 2 of this scheme.

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

¹² Sections 68 to 74a of this scheme

¹³ Section 5 of this scheme

¹⁴ Sections 57 to 63 of this scheme

¹⁵ Sections 68 to 74a of this scheme

Council Tax Reduction Scheme

Details of reduction to be given for **working age applicants** for the financial year 2018/19

Sections 2- 8
Definitions and interpretation

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

2.1 In this scheme–

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

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

'the 1973 Act' means 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;

'alternative maximum council tax reduction' (Second Adult Rebate) means the amount determined in accordance with section 62 and Schedule 2

'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

'applicable amount' means the amount determined in accordance with schedule 1 of this scheme

'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(a);

'independent hospital'-

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

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

(c) in Scotland means an independent health care service as defined 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 2004¹⁶;
- (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;

¹⁶ As amended by the Finance Act 2014

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

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

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

'Service User' 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;

'Up-rating 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 amended¹⁷; 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

¹⁷ The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2013; The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2015

would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions).

- 2.5 For the purposes of this scheme, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day;
- (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act disqualification; or
 - (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act.
- 2.6 For the purposes of this scheme, two persons shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.
- 2.7 In this scheme, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002 (small amounts of state pension credit).

3.0 Definition of non-dependant

- 3.1 In this 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 Number¹⁸

- 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 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.

¹⁸ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- 6.2 Subject to paragraph 6.3, in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard shall be had to the average of hours worked over;
- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
 - (b) in any other case, the period of 5 weeks immediately prior to that date of claim, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately,
- 6.3 Where, for the purposes of paragraph 6.2 a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work shall be disregarded in establishing the average hours for which he is engaged in work.
- 6.4 Where no recognisable cycle has been established in respect of a person's work, regard shall be had to the number of hours or, where those hours will fluctuate, the average of the hours, which he is expected to work in a week.
- 6.5 A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph 6.1 if the absence is either without good cause or by reason of a recognised customary or other holiday.
- 6.6 A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any reduction week shall be treated as not being in remunerative work in that week.
- 6.7 A person shall not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave, or is absent from work because he is ill.
- 6.8 A person shall not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which;
- (a) 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 or Article 6 of Council Directive 2004/38/EC;
- (aa) regulation 14 of the EEA Regulations, but only in a case where the right exists under that regulation because the person is–
 - (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;
- (ab) Article 45 of the Treaty on the functioning of the European Union (in a case where the person is seeking work in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland); or
- (b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen).

7.5 A person falls within this paragraph if the person is–

- (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
- (b) a family member of a person referred to in sub-paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
- (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
- (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
- (e) a person 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 1971¹⁹ where that leave is–
 - (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, or
 - (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005.
- (f) a person who has humanitarian protection granted under those rules;
- (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom;
- (h) in receipt of income support or on an income-related employment and support allowance;
- (ha) in receipt of an income-based jobseeker's allowance and has a right to reside other than a right to reside falling within paragraph (4) or
- (i) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the EEA Regulations pursuant to regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an “accession State national subject to worker authorisation”)

¹⁹ As amended by the Immigration Act 2014 and the Immigration Act 2014 (Commencement No. 2) Order 2014

- 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 and the The Immigration (European Economic Area) (Amendment) (No. 2) Regulations 2014; 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.

Transitional provision

- 7.12 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.
- 7.13 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.
- 7.14 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.

Sections 9 - 11

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 2002²⁰ 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

²⁰ The Adoption and Children Act 2002 (Commencement No. 12) Order 2014

(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.

Sections 12 - 14 & Schedule 1
Applicable Amounts for Council Tax Reduction purposes

12.0 Applicable amounts

- 12.1 Subject to sections 13 and 14, an applicant's weekly applicable amount shall be aggregate of such of the following amounts as may apply in his case:
- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 as the case may be, of Schedule 1 of this scheme;
 - (b) an amount determined in accordance with paragraph 2 of Schedule 1 of this scheme in respect of any child or young person who is a member of his family;
 - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of Schedule 1 (family premium). **No family premium will be awarded where an application for reduction is received on or after 1st April 2017 or where the applicant would have become entitled to the family premium on or after 1st April 2017**
 - i) Sub paragraph (c) shall not apply to a person who, on 31st March 2017, is entitled to Council Tax Reduction and is:
 - (a) a member of a family of which at least one member is a child or young person; or
 - (b) a partner in a polygamous marriage, where he or she, or another partner of the polygamous marriage, is responsible for a child or young person who is a member of the same household.
 - (ii) (i) above does not apply if–
 - (a) sub-paragraph 12.1 c (i) (a) or (b) of that paragraph ceases to apply; or
 - (b) the person makes a new claim for Council Tax Reduction.
 - (iii) For the purpose of this section "child", "polygamous marriage" and "young person" have the same meaning as in section 2 of this scheme;
 - (d) the amount of any premiums which may be applicable to him, determined in accordance with paragraphs 4 to 16 of Schedule 1 of this document (premiums).
 - (e) the amount of either the
 - i. work-related activity component; or
 - ii. support component which may be applicable to him in accordance with paragraph 17 and 18 of Schedule 1 of this document (the components)
 - (f) the amount of any transitional addition which may be applicable to him in accordance with paragraph 19 to 20 of Schedule 1 of this scheme (transitional addition).

13.0 Polygamous marriages

- 13.1 Subject to section 14, where an applicant is a member of a polygamous marriage, his weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case:
- (a) the amount applicable to him and one of his partners determined in accordance with paragraph 1 of Schedule 1 of this scheme as if he and that partner were a couple;
 - (b) an amount equal to the amount within paragraph 1 (3) (c) of Schedule 1 of this scheme in respect of each of his other partners;
 - (c) an amount determined in accordance with paragraph 2 of Schedule 1 of this scheme (applicable amounts) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;
 - (d) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of Schedule 1 (family premium). **No family premium will be awarded where an application for reduction is received on or after 1st April 2017 or where the applicant would have become entitled to the family premium on or after 1st**

April 2017.

i) Sub paragraph (d) shall not apply to a person who, on 31st March 2017, is entitled to Council Tax Reduction and is:

- (a) a member of a family of which at least one member is a child or young person; or
- (b) a partner in a polygamous marriage, where he or she, or another partner of the polygamous marriage, is responsible for a child or young person who is a member of the same household.

(i) above does not apply if–

- (a) sub-paragraph 13.1 d (i) (a) or (b) of that paragraph ceases to apply; or
- (b) the person makes a new claim for Council Tax Reduction.

(ii) For the purpose of this section “child”, “polygamous marriage” and “young person” have the same meaning as in section 2 of this scheme;

- (e) the amount of any premiums which may be applicable to him determined in accordance with paragraphs 4 to 16 of Schedule 1 of this scheme (premiums)
- (f) the amount of either the;
 - (i) work-related activity component; or
 - (ii) support component which may be applicable to him in accordance with paragraph 17 and 18 of Schedule 1 (the components).
- (g) the amount of any transitional addition which may be applicable to him in accordance with paragraphs 19 and 20 of Schedule 1 of this scheme (transitional addition)

14.0 Applicable amount: persons who have an award of universal credit

14.1 In determining the applicable amount for a week of an applicant–

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

an award of universal credit, the authority must use the calculation or estimate of the maximum amount of the applicant, or the applicant and his partner jointly (as the case may be), subject to the adjustment described in sub-paragraph (2).

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

14.3 In this paragraph “maximum amount” means the maximum amount calculated by the Secretary of State in accordance with section 8(2) of the Welfare Reform Act 2012

Sections 15 - 32 & Schedules 3 & 4

Definition and the treatment of income for Council Tax Reduction purposes

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

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

is to be calculated in accordance with the following provisions.

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

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

- 15A.1 In determining the income of an applicant
- (a) who has, or
 - (b) who (jointly with his partner) has,
- an award of universal credit the authority must, subject to the following provisions of this paragraph, use the calculation or estimate of the income of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.
- 15A.2 The authority must adjust the amount referred to in sub-paragraph (1) to take account of
- (a) income consisting of the award of universal credit, determined in accordance with subparagraph (3);
 - (b) any sum to be disregarded under paragraphs of Schedule 3 to this scheme (sums to be disregarded in the calculation of earnings: persons who are not pensioners);
 - (c) any sum to be disregarded under paragraphs of Schedule 4 to this scheme (sums to be disregarded in the calculation of income other than earnings: persons who are not pensioners);
 - (d) section 33 (circumstances in which income and capital of non-dependant is to be treated as applicant's), if the authority determines that the provision applies in the applicant's case;
 - (e) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable).
- 15A.3 The amount for the award of universal credit is to be determined by multiplying the amount of the award by 12 and dividing the product by 52.
- 15A.4 sections 33 (income and capital of non-dependant to be treated as applicant's) and 52 and 53 (disregards from income) apply (so far as relevant) for the purpose of determining any adjustments, which fall to be made to the figure for income under sub-paragraph (2)

15A.5 In determining the capital of an applicant;
(a) who has, or
(b) who (jointly with his partner) has,
an award of universal credit, the authority must use the calculation or estimate of the capital of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining that award

15B.0 The calculation of Council Tax Reduction where an applicant is in receipt of Universal Credit – changes in Universal Credit award.

15B.1 Where an applicant is in receipt of universal credit, council tax reduction shall be based on their award of universal credit (subject to paragraph 15B.4) for a period of up to six calendar months from the initial date of that award ('the fixed period'), so long as the applicant is in continually in receipt of universal credit. Any changes in the award of universal credit **only** during that period shall not change the amount of the reduction awarded. The authority has discretion to vary the length of fixed period.

15B.2 At the end of the fixed period, if the applicant is still in receipt of universal credit, council tax reduction for a further fixed period for a period of up to six months at the authority's discretion, shall be calculated on the basis of the average monthly award of universal credit over the previous fixed period.

15B.3 The average monthly award of universal credit in paragraph 15A shall be calculated as the sum of the individual monthly amounts of universal credit calculated in accordance with paragraph 15A divided by the number of calendar months in that period.

15B.4 Paragraphs 15B.1 to 15B.3 shall not apply where the authority considers that a major change in circumstances has occurred. A major change shall include, **but is not limited to**:

- a partner moving into or leaving the household; or
- the applicant enters new employment or self-employment; or
- the applicant's employment of self-employment ceases; or
- the applicant has an increase in employment of 5 hours or more per week; or
- the death of a spouse or any member of the applicant's household who normally resides with them.

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

16.1 Where it appears to the authority that a non-dependant and the applicant have entered into arrangements in order to take advantage of the council tax 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.

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

17.0 Calculation of income on a weekly basis

17.1 For the purposes of this scheme and in line with regulation 34 of the Housing Benefit Regulations 2006

(disregard to changes in tax, contributions etc.), the income of an applicant shall be calculated on a weekly basis;

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

17.2 The conditions of this paragraph are that;

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

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

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

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

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

18.0 Treatment of child care charges

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

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

18.2 For the purposes of paragraph 18.1 and subject to paragraph 18.4, a person to whom paragraph 18.3 applies shall be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he-

- (a) is paid statutory sick pay;
- (b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the Act;
- (c) is paid an employment and support allowance;
- (d) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support Regulations 1987; or
- (e) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.

- 18.3 This paragraph applies to a person who was engaged in remunerative work immediately before
- (a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
 - (b) the first day of the period in respect of which earnings are credited, as the case may be.
- 18.4 In a case to which paragraph 18.2 (d) or (e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.
- 18.5 Relevant child care charges are those charges for care to which paragraphs 18.6 and 18.7 apply, and shall be calculated on a weekly basis in accordance with paragraph 18.10.
- 18.6 The charges are paid by the applicant for care, which is provided
- (a) in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or
 - (b) in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.
- 18.7 The charges are paid for care, which is provided by one, or more of the care providers listed in paragraph 18.8 and are not paid-
- (a) in respect of the child's compulsory education;
 - (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with section 10 (circumstances in which a person is treated as responsible or not responsible for another); or
 - (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.
- 18.8 The care to which paragraph 18.7 refers may be provided;
- (a) out of school hours, by a school on school premises or by a local authority;
 - (i) for children who are not disabled in respect of the period beginning on their eight birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or
 - (ii) for children who are disabled in respect of the period beginning on their eight birthday and ending on the day preceding the first Monday in September following their sixteenth birthday; or
 - (b) by a child care provider approved in accordance with by the Tax Credit (New Category of Child Care Provider) Regulations 1999;
 - (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or
 - (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) order 2010; or
 - (e) by;
 - (i) persons registered under section 59(1) of the Public Services Reform Scotland Act 2010; or
 - (ii) local authorities registered under section 8(1) of that Act, where the care provided is child minding or 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.

18.9 In paragraphs 18.6 and 18.8 (a), 'the first Monday in September' means the Monday which first occurs in the month of September in any year.

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

18.11 For the purposes of paragraph 18.1 (c) the other member of a couple is incapacitated where

- (a) the applicant's applicable amount includes a disability premium on account of the other member's incapacity or the support component or the work-related activity component on account of his having limited capability for work
- (b) the applicant's applicable amount would include a disability premium on account of the other member's incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulation made under section 171E of the Act;
- (c) the applicant's applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008 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.

18.12 For the purposes of paragraph 18.11 once paragraph 18.11(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.

18.12A For the purposes of paragraph 18.11, once paragraph 18.11(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.

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

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

18.14 For the purposes of paragraph 18.1 a person on maternity leave, paternity leave or adoption leave shall be treated as if 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.

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

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

whichever shall occur first.

18.16 In paragraphs 18.14 and 18.15

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

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

- (a) who has, or
- (b) who (jointly with his partner) has,
an award of universal credit

19.0 Average weekly earnings of employed earners

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

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

19.2 Where the applicant has been in his employment for less than the period specified in paragraph 19.1(a)(i) or (ii)

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

19.3 Where the amount of an applicant's earnings changes during an award the authority shall estimate his

average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period shall not in any case exceed 52 weeks.

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

20.0 Average weekly earnings of self-employed earners

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

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

21.0 Average weekly income other than earnings

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

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

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

22.0 Calculation of average weekly income from tax credits

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

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

22.3 Where the instalment in respect of which payment of a tax credit is made is;

- (a) a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;
- (b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;
- (c) a two weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;
- (d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.

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

23.0 Calculation of weekly income

- 23.1 For the purposes of sections 19 (average weekly earnings of employed earners), 21 (average weekly income other than earnings) and 22 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made;
- (a) does not exceed a week, the weekly amount shall be the amount of that payment;
 - (b) exceeds a week, the weekly amount shall be determined-
 - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
 - (ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the quotient by 7.
- 23.2 For the purpose of section 20 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant shall be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the quotient by 7.

24.0 Disregard of changes in tax, contributions etc.

- 24.1 In calculating the applicant's income the appropriate authority may disregard any legislative change
- (a) in the basic or other rates of income tax;
 - (b) in the amount of any personal tax relief;
 - (c) in the rates of national insurance contributions payable under the Act or in the lower earnings limit or upper earnings limit for Class 1 contributions under the Act, the lower or upper limits applicable to Class 4 contributions under the Act or the amount specified in section 11(4) of the Act (small profits threshold in relation to Class 2 contributions);
 - (d) in the amount of tax payable as a result of an increase in the weekly rate of Category A, B, C or D retirement pension or any addition thereto or any graduated pension payable under the Act;
 - (e) in the maximum rate of child tax credit or working tax credit,

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

25.0 Earnings of employed earners

- 25.1 Subject to paragraph 25.2, 'earnings' means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes-
- (a) any bonus or commission;
 - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
 - (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
 - (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
 - (e) any payment by way of a retainer;
 - (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of-
 - (g) (i) travelling expenses incurred by the applicant between his home and his place of employment;
 - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
 - (h) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);

- (i) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
- (j) any such sum as is referred to in section 112 of the Act (certain sums to be earnings for social security purposes);
- (k) any statutory sick pay, statutory maternity pay, statutory paternity pay, 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 amended²¹.

25.2 Earnings shall not include-

- (a) subject to paragraph 25.3, any payment in kind;
- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of employment;
- (c) any occupational pension
- (d) any payment in respect of expenses arising out of an applicant participating as a service user

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

26.0 Calculation of net earnings of employed earners

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

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

26.3 For the purposes of paragraph 26.1 net earnings shall, except where paragraph 26.6 applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less;

- (a) any amount deducted from those earnings by way of
 - (i) income tax;
 - (ii) primary Class 1 contributions under the Act;
- (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
- (c) one-half of the amount calculated in accordance with paragraph 26.5 in respect of any qualifying contribution payable by the applicant; and
- (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, any amount deducted for those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which

²¹ Social Security (Contributions)(Amendment) Regulations 2013, Social Security (Contributions)(Amendment No.2) Regulations 2013 and Social Security (Contributions)(Amendment No.2) Regulations 2013

correspond to primary Class 1 contributions under the Act.

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

27.0 Earnings of self-employed earners

- 27.1 Subject to paragraph 27.2, 'earnings', in the case of employment as a self-employed earner, means the gross income of the employment any allowance paid under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 to the applicant for the purpose of assisting him in carrying on his business unless at the date of claim the allowance has been terminated.
- 27.2 'Earnings' shall not include any payment to which paragraph 27 or 28 of Schedule 4 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant's care) nor shall it include any sports award.
- 27.3 This paragraph applies to-
- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
 - (b) any payment in respect of any-
 - (i) book registered under the Public Lending Right Scheme 1982; or
 - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982, where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book of work concerned.
- 27.4 Where the applicant's earnings consist of any items to which paragraph 27.3 applies, those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any

fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of council tax 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 Schedule 3 (sums to be disregarded in the calculation of earnings) as appropriate in the applicant's case.

28.0 Calculation of net profit of self-employed earners

- 28.1 For the purposes of section 20 (average weekly earnings of self-employed earners) the earnings of an applicant to be taken into account shall be
- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
 - (b) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975, his share of the net profit derived from that employment, less-
 - (i) an amount in respect of income tax and of national insurance contributions payable under the Act calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
 - (ii) one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.
- 28.2 There shall be disregarded from an applicant's net profit, any sum, where applicable, specified in paragraph 1 to 14 of Schedule 3.
- 28.3 For the purposes of paragraph 28.1 (a) the net profit of the employment must, except where paragraph 28.9 applies, be calculated by taking into account the earnings for the employment over the assessment period less
- (a) subject to paragraphs 28.5 to 28.7, any expenses wholly and exclusively incurred in that period for the purposes of that employment;
 - (b) an amount in respect of;
 - (i) income tax, and
 - (ii) national insurance contributions payable under the Act, calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
 - (c) one-half of the amount calculated in accordance with paragraph (28.11) in respect of any qualifying premium.
- 28.4 For the purposes of paragraph 28.1(b) the net profit of the employment shall be calculated by taking into account the earnings of the employment over the assessment period less, subject to paragraphs 28.5 to 28.7, any expenses wholly and exclusively incurred in that period for the purposes of the employment.
- 28.5 Subject to paragraph 28.6 no deduction shall be made under paragraph 28.3 (a) or 28.4, in respect of-
- (a) any capital expenditure;
 - (b) the depreciation of any capital asset;
 - (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
 - (d) any loss incurred before the beginning of the assessment period;
 - (e) the repayment of capital on any loan taken out for the purposes of the employment;
 - (f) any expenses incurred in providing business entertainment, and
 - (g) any debts, except bad debts proved to be such, but this sub-paragraph shall not apply to any expenses incurred in the recovery of a debt.
- 28.6 A deduction shall be made under paragraph 28.3 (a) or 28.4 in respect of the repayment of capital on any loan used for-

- (a) the replacement in the course of business of equipment or machinery; and
 - (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.
- 28.7 The authority shall refuse to make deduction in respect of any expenses under paragraph 28.3 (a) or 28.4 where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.
- 28.8 For the avoidance of doubt-
- (a) deduction shall not be made under paragraph 28.3 (a) or 28.4 in respect of any sum unless it has been expended for the purposes of the business;
 - (b) a deduction shall be made thereunder in respect of-
 - (i) the excess of any value added tax paid over value added tax received in the assessment period;
 - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
 - (iii) any payment of interest on a loan taken out for the purposes of the employment
- 28.9 Where an applicant is engaged in employment, as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less an amount in respect of
- (a) income tax; and
 - (b) national insurance contributions payable under the Act, calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
 - (c) one-half of the amount calculated in accordance with paragraph 28.1 in respect of any qualifying contribution.
- 28.10 For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.
- 28.11 The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this section the daily amount of the qualifying premium shall be determined
- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and divided the product by 365;
 - (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.
- 28.12 In this section, 'qualifying premium' means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of claim.

29.0 Deduction of tax and contributions of self-employed earners

- 29.1 The amount to be deducted in respect of income tax under section 28.1(b) (i), 28.3 b) (i) or 28.9 a) (i) (calculation of net profit of self-employed earners) or 28A.0 (Minimum Income Floor) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988(personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph shall be calculated on a pro rata basis.

- 29.2 The amount to be deducted in respect of national insurance contributions under paragraphs 28.1 1 (b)(i); 28.3 (b)(ii) or 28.9 a shall be the total of-
- (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Act at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of the Act (small 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.
- 29.3 In this section 'chargeable income' means-
- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph (28.3) (a) or, as the case may be, (28.4) of section 28;
 - (b) in the case of employment as a child minder, one-third of the earnings of that employment.

30.0 Calculation of income other than earnings

- 30.1 For the purposes of section 21 (average weekly income other than earnings), the income of an applicant which does not consist of earnings to be taken into account shall, subject to paragraphs 27.2 to 27.4, be his gross income and any capital treated as income under section 31 (capital treated as income).
- 30.2 There shall be disregarded from the calculation of an applicant's gross income under paragraph 30.2, any sum, where applicable, specified in Schedule 4.
- 30.3 Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under paragraph 30.1 shall be the gross amount payable.
- 30.4 Where the applicant or, where he is a member of a couple, his partner is receiving a contributory employment and support allowance and that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations 2008 or 2013 as appropriate, the amount of that benefit to be taken into account is the amount as if it had not been reduced.
- 30.5 Where an award of any working tax credit or child tax credit under the Tax Credits Act is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under paragraph 27.1 shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.
- 30.6 In paragraph 30.5 'tax year' means a period beginning with 6th April in one year and ending with 5th April in the next.
- 30.7 Paragraph 30.8 and 30.9 apply where a relevant payment has been made to a person in an academic year; and that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.
- 30.8 Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph 30.1 in respect of a person to whom paragraph 30.7

applies, shall be calculated by applying the formula-

$A - (B \times C)$

D

Where

A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under paragraph 51.5

B = the number of reduction weeks from the reduction week immediately following that which includes the first day of that academic year to the reduction week which includes the day on which the person abandoned, or was dismissed from, his course;

C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under paragraph 51.2 had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to council tax reduction immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit;

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

30.9 Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph 30.1 in respect of a person to whom paragraph (30.8) applies, shall be calculated by applying the formula in paragraph 30.8 but as if-

A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under paragraph 51.5

30.10 In this section- 'academic year' and 'student loan' shall have the same meanings as for the purposes of sections 43 to 45, 'assessment period' means-

(a) in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;

(b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes-

(i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or

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

whichever of those date is earlier

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

(a) 1st January and ending on 31st March;

(b) 1st April and ending on 30th June;

(c) 1st July and ending on 31st August; or

(d) 1st September and ending on 31st December;

'relevant payment' means either a student loan or an amount intended for the maintenance of dependants referred to in paragraph 46.7 or both.

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

(a) any payment to which paragraph 25.2 (payments not earnings) applies; or

(b) in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his

dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.

31.0 Capital treated as income

- 31.1 Any capital payable by instalments which are outstanding at the date on which the claim is made or treated as made, or, at the date of any subsequent revision or supersession, shall, if the aggregate of the instalments outstanding and the amount of the applicant's capital otherwise calculated in accordance with sections 33 to 42 of this scheme exceeds £16,000 be treated as income.
- 31.2 Any payment received under an annuity shall be treated as income.
- 31.3 Any earnings to the extent that they are not a payment of income shall be treated as income.
- 31.4 Any Career Development Loan paid pursuant to section 2 of the 1973 Act shall be treated as income
- 31.5 Where an agreement or court order provides that payments shall be made to the applicant in consequence of any personal injury to the applicant and that such payments are to be made, wholly or partly, by way of periodic payments, any such periodic payments received by the applicant (but not a payment which is treated as capital), shall be treated as income.

32.0 Notional income

- 32.1 An applicant shall be treated as possessing income of which he has deprived himself for the purpose of securing entitlement of reduction or increasing the amount of that reduction.
- 32.2 Except in the case of-
- (a) a discretionary trust;
 - (b) a trust derived from a payment made in consequence of a personal injury;
 - (c) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
 - (d) any sum to which paragraph 47(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 47(1)(a);
 - (e) any sum to which paragraph 48(a) of Schedule 5 refers;
 - (f) rehabilitation allowance made under section 2 of the 1973 Act;
 - (g) child tax credit; or
 - (h) working tax credit,
 - (i) any sum to which paragraph 32.13 applies;
- any income which would become available to the applicant upon application being made, but which has not been acquired by him, shall be treated as possessed by the applicant but only from the date on which it could be expected to be acquired were an application made.
- 32.3 – 32.5 Not used
- 32.6 Any payment of income, other than a payment of income specified in paragraph 32.7 made-
- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension, a pension or other periodical payment made under or by a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case

may be, by that member;

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

32.7 Paragraph 32.6 shall not apply in respect of a payment of income made-

- (a) under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);
- (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal);
- (c) pursuant to section 2 of the 1973 Act in respect of a person's participation-
 - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
 - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations or;
 - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (d) in respect of a previous participation in the Mandatory Work Activity Scheme;
- (e) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where-
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

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

32.9 Subject to paragraph 32.10, where-

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

32.10 Paragraph 32.9 shall not apply-

- (a) to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the

authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge; or

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

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

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

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

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

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

Sections 33 - 42 & Schedule 5

Definition and the treatment of capital for Council Tax Reduction purposes

33.0 Capital limit

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

34.0 Calculation of capital

- 34.1 For the purposes of this scheme, the capital of an applicant to be taken into account shall, subject to paragraph (34.2), be the whole of his capital calculated in accordance with this scheme and any income treated as capital under section 36 (income treated as capital).
- 34.2 There shall be disregarded from the calculation of an applicant's capital under paragraph (34.1), any capital, where applicable, specified in Schedule 5.

35.0 Disregard of capital of child and young person

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

36.0 Income treated as capital

- 36.1 Any bounty derived from employment to which paragraph 8 of Schedule 3 applies and paid at intervals of at least one year shall be treated as capital.
- 36.2 Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.
- 36.3 Any holiday pay which is not earnings under section 25(1)(d) (earnings of employed earners) shall be treated as capital.
- 36.4 Except any income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or 25 to 28, 47 or 48 of Schedule 5, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the applicant's account.
- 36.5 In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer shall be treated as capital.
- 36.6 Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Charitable Relief Fund, shall be treated as capital.
- 36.7 There shall be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account during the period in which that person was receiving such assistance.
- 36.8 Any arrears of subsistence allowance which are paid to an applicant as a lump sum shall be treated as capital.
- 36.9 Any arrears of working tax credit or child tax credit shall be treated as capital.

37.0 Calculation of capital in the United Kingdom

- 37.1 Capital which an applicant possesses in the United Kingdom shall be calculated at its current market or surrender value less-
- a. where there would be expenses attributable to the sale, 10 per cent.; and
 - b. the amount of any encumbrance secured on it;

38.0 Calculation of capital outside the United Kingdom

- 38.1 Capital which an applicant possesses in a country outside the United Kingdom shall be calculated
- a. in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value.
 - b. in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,
- less, where there would be expenses attributable to sale, 10 per cent. and the amount of any encumbrances secured on it.

39.0 Notional capital

- 39.1 An applicant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to council tax reduction or increasing the amount of that reduction except to the extent that that capital is reduced in accordance with section 40 (diminishing notional capital rule).
- 39.2 Except in the case of
- (a) a discretionary trust; or
 - (b) a trust derived from a payment made in consequence of a personal injury; or
 - (c) any loan which would be obtained only if secured against capital disregarded under Schedule 5; or
 - (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
 - (e) any sum to which paragraph 47(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 47(1)(a); or
 - (f) any sum to which paragraph 48(a) of Schedule 5 refers; or
 - (g) child tax credit; or
 - (h) working tax credit,
- any capital which would become available to the applicant upon application being made, but which has not been acquired by him, shall be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.
- 39.3 Any payment of capital, other than a payment of capital specified in paragraph (39.4), made
- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
 - (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) shall, where it is not a payment referred to in sub-paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member

- is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

39.4 Paragraph 39.3 shall not apply in respect of a payment of capital made

- (a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
- (b) pursuant to section 2 of the 1973 Act in respect of a person's participation
 - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
 - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations;
 - or
 - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (bb) in respect of a person's participation in the Mandatory Work Activity Scheme; Enterprise Scheme;
- (bc) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (c) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where-
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

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

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

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

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

40.0 Diminishing notional capital rule

40.1 Where an applicant is treated as possessing capital under section 39.1 (notional capital), the amount, which

- he is treated as possessing;
- (a) in the case of a week that is subsequent to
 - (i) the relevant week in respect of which the conditions set out in paragraph 40.2 are satisfied; or
 - (ii) a week which follows that relevant week and which satisfies those conditions, shall be reduced by an amount determined under paragraph 40.3;
 - (b) in the case of a week in respect of which paragraph 40.1(a) does not apply but where
 - (i) that week is a week subsequent to the relevant week; and
 - (ii) that relevant week is a week in which the condition in paragraph 40.4 is satisfied, shall be reduced by the amount determined under paragraph 40.4.

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

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

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

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

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

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

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

- (c) if the applicant would, but for regulation 51(1) of the Income Support Regulations, have been entitled to income support in respect of the reduction week, within the meaning of regulation 2(1) of those Regulations, which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7
- (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations, have been entitled to an income-based jobseeker's allowance in respect of the reduction week, within the meaning of this scheme, which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income-based jobseeker's allowance to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7; and
- (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations, have been entitled to an income-related employment and support allowance in respect of the reduction week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount must be determined by dividing the amount of the income-related employment and support allowance to which he would have been so entitled by the number equal to the number of days in that part-week and multiplying the quotient so obtained by 7.

40.5 The amount determined under paragraph 40.4 shall be re-determined under that paragraph if the applicant makes a further claim for council tax reduction and the conditions in paragraph 40.6 are satisfied, and in such a case-

- (a) sub-paragraphs (a) to (d) of paragraph 40.4 shall apply as if for the words 'relevant week' there were substituted the words 'relevant subsequent week'; and
- (b) subject to paragraph 40.7, the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.

40.6 The conditions are that

- (a) a further claim is made 26 or more weeks after
 - (i) the date on which the applicant made a claim for council tax reduction in respect of which he was first treated as possessing the capital in question under paragraph 39.1;
 - (ii) in a case where there has been at least one re-determination in accordance with paragraph 40.5, the date on which he last made a claim for council tax reduction which resulted in the weekly amount being re-determined, or
 - (iii) the date on which he last ceased to be entitled to council tax reduction, whichever last occurred; and
- (b) the applicant would have been entitled to council tax reduction but for paragraph 39.1.

40.7 The amount as re-determined pursuant to paragraph 40.5 shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

40.8 For the purposes of this section

- (a) 'part-week'
 - (i) in paragraph 40.4 (a) means a period of less than a week for which council tax reduction is allowed;
 - (ii) in paragraph 40.4(b) means a period of less than a week for which housing benefit is payable;

- (iii) in paragraph 40.4 (c),(d)and(e)means-
- (aa). a period of less than a week which is the whole period for which income support , an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and
 - (bb). any other period of less than a week for which it is payable;
 - (b). 'relevant week' means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of section 39.1
 - (i) was first taken into account for the purpose of determining his entitlement to council tax reduction; or
 - (ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to council tax reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, council tax reduction; and where more than one reduction week is identified by reference to heads (i) and (ii) of this subparagraph the later or latest such reduction week or, as the case may be, the later or latest such part-week;
 - (c). 'relevant subsequent week' means the reduction week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.

41.0 Capital jointly held

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

42.0 Calculation of tariff income from capital

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

Sections 43 - 56

Definition and the treatment of students for Council Tax Reduction purposes²²

²² Amounts shown in sections 43 to 56 will be updated in line with the Housing Benefit Regulations 2006 (as amended)

43.0 Student related definitions

43.1 In this scheme the following definitions apply;

'academic year' means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course shall be considered to begin in the autumn rather than the summer;

'access funds' means;

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

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

'contribution' means;

- (a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student's grant or student loan; or
- (b) any sums, which in determining the amount of a student's allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority consider that it is reasonable for the following person to contribute towards the holder's expenses;
 - (i) the holder of the allowance or bursary;
 - (ii) the holder's parents;
 - (iii) the holder's parent's spouse, civil partner or a person ordinarily living with the holder's parent as if he or she were the spouse or civil partner of that parent; or
 - (iv) the holder's spouse or civil partner;

'course of study' means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it;

'covenant income' means the gross income payable to a full-time student under a Deed of Covenant by his parent;

'education authority' means a government department, a local education authority as defined in section 12 of the Education Act 1996 (interpretation), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973 an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986, any body which is a research council for the purposes of the Science and Technology Act 1965 or any analogous government department, authority, board or body of the Channel Island, Isle of Man or any other country outside Great Britain;

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

- (a) is not funded in whole or in part by the Secretary of State under section 14 of the

- (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

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

- (a) in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending;
 - (i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or
 - (ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;
- (b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

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

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

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

44.0 Treatment of students

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

45.0 Students who are excluded from entitlement to council tax reduction

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

45.2 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 abroad).

45.3 Paragraph 45.2 shall not apply to a student

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

(b) who is a lone parent;

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

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

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

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

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

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

(i) who is;

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

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

(j) in respect of whom

(i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;

(ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) or regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;

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

of regulations made under the Teaching and Higher Education Act 1998;
(iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or
(v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986,

on account of his disability by reason of deafness.

- 45.4 For the purposes of paragraph 45.3(h)(i) the student must have begun, or been enrolled or accepted onto the course before attaining the age of 19. For the purposes of paragraph 45.3, once paragraph 45.3(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.
- 45.5 In paragraph 45.3(h) the reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.
- 45.6 A full-time student to whom sub-paragraph (i) of paragraph 45.3 applies, shall be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.
- 45.7 Paragraph 45.2 shall not apply to a full-time student for the period specified in paragraph 45.8 if;
- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is;
 - (i) engaged in caring for another person; or
 - (ii) ill;
 - (b) he has subsequently ceased to be engaged in engaging in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
 - (c) he is not eligible for a grant or a student loan in respect of the period specified in paragraph 45.8.
- 45.8 The period specified for the purposes of paragraph 45.7 is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before;
- (a) the day on which he resumes attending or undertaking the course; or
 - (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course,
- which shall first occur.

46.0 Calculation of grant income

- 46.1 The amount of a student's grant income to be taken into account shall, subject to paragraphs 46.2 and 46.3, be the whole of his grant income.
- 46.2 There shall be excluded from a student's grant income any payment;
- (a) intended to meet tuition fees or examination fees;

- (b) in respect of the student's disability;
- (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
- (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
- (e) on account of any other person but only if that person is residing outside of the United Kingdom and there is no applicable amount in respect of him;
- (f) intended to meet the cost of books and equipment;
- (g) intended to meet travel expenses incurred as a result of his attendance on the course;
- (h) intended for the child care costs of a child dependant.
- (i) of higher education bursary for care leavers made under Part III of the Children Act 1989.

46.3 Where a student does not have a student loan and is not treated as possessing such a loan, there shall be excluded from the student's grant income;

- (a) the sum of £303 per academic year in respect of travel costs; and
- (b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any such costs are incurred.

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

46.4 There shall also be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.

46.5 Subject to paragraphs 46.6 and 46.7, a student's grant income shall be apportioned;

- (a) subject to paragraph 46.8, in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study;
- (b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.

46.6 Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2004 shall be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.

46.7 In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither paragraph 46.6 nor section 50 (other amounts to be disregarded) apply, shall be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.

46.8 In the case if a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student's grant income shall be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which immediately follows the last day of the period of experience and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study.

47.0 Calculation of covenant income where a contribution is assessed

- 47.1 Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following shall be the whole amount of the covenant income less, subject to paragraph 47.3, the amount of the contribution.
- 47.2 The weekly amount of the student's covenant shall be determined-
- (a) by dividing the amount of income which falls to be taken into account under paragraph 47.1 by 52 or 53, whichever is reasonable in the circumstances; and
 - (b) by disregarding from the resulting amount, £5.
- 47.3 For the purposes of paragraph 47.1, the contribution shall be treated as increased by the amount (if any) by which the amount excluded under paragraph 46.2(g) (calculation of grant income) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

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

- 48.1 Where a student is not in receipt of income by way of a grant the amount of his covenant income shall be calculated as follows;
- (a) any sums intended for any expenditure specified in paragraph 46.2 (a) to (e) (calculation of grant income) necessary as a result of his attendance on the course shall be disregarded;
 - (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, shall be apportioned equally between the weeks of the period of study;
 - (c) there shall be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 46.2(f) and 46.3 (calculation of grant income) had the student been in receipt of the standard maintenance grant; and
 - (d) the balance, if any, shall be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 shall be disregarded.
- 48.2 Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income shall be calculated in accordance with sub-paragraphs (a) to (d) of paragraph 48.1, except that;
- (a) the value of the standard maintenance grant shall be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 46.2 (a) to (e); and
 - (b) the amount to be disregarded under paragraph 48.1(c) shall be abated by an amount equal to the amount of any sums disregarded under paragraph 46.2(f) and (g) and 46.3.

49.0 Student Covenant Income and Grant income - non disregard

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

50.0 Other amounts to be disregarded

50.1 For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with section 51, any amounts intended for any expenditure specified in paragraph 46.2 (calculation of grant income), necessary as a result of his attendance on the course shall be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under paragraphs 46.2 or 46.3, 47.3, 48.1(a) or (c) or 51.5 (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

51.0 Treatment of student loans

51.1 A student loan shall be treated as income.

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

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

and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;

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

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

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

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

- (a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to
 - (i) the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so; and
 - (ii) any contribution whether or not it has been paid to him;
- (b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if;
 - (i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and
 - (ii) no deduction in that loan was made by virtue of the application of a means test.

51.5 There shall be deducted from the amount of income taken into account under paragraph 51.4

- (a) the sum of £303 per academic year in respect of travel costs; and
- (b) the sum of £390 per academic year towards the cost of books and equipment, whether or not any such costs are incurred.

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

51A.0 Treatment of fee loans

51A. 1A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 73(f) of the Education (Scotland) Act 1980, shall be disregarded as income.

52.0 Treatment of payments from access funds

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

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

52.3 Subject to paragraph 52.4 of this section and paragraph 35 of Schedule 4,

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

52.4 Where a payment from access funds is made—

- (a) on or after 1st September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan; or

- (b) before the first day of the course to a person in anticipation of that person becoming a student,
- (c) that payment shall be disregarded as income.

53.0 Disregard of contribution

53.1 Where the applicant or his partner is a student and for the purposes of assessing a contribution to the student's grant or student loan, the other partner's income has been taken into account, an amount equal to that contribution shall be disregarded for the purposes of assessing that other partner's income.

54.0 Further disregard of student's income

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

55.0 Income treated as capital

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

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

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

56.0 Disregard of changes occurring during summer vacation

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

Sections 57 - 63

The calculation and amount of Council Tax Reduction

57.0 Maximum council tax reduction

- 57.1 Subject to paragraphs 57.2 to 57.4, 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

- 57.2 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.

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

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

58.0 Non-dependant deductions

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

- (a) in respect of a non-dependant aged 18 or over in remunerative work, $\text{£}11.55 \times 1/7$;
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, $\text{£}3.80 \times 1/7$.

- 58.2 In the case of a non-dependant aged 18 or over to whom paragraph 58.1(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is-

- (a) less than $\text{£}196.95$, the deduction to be made under this paragraph shall be that specified in paragraph 58.1(b);
- (b) not less than $\text{£}196.95$, but less than $\text{£}341.40$, the deduction to be made under this section shall be $\text{£}7.65 \times 1/7$
- (c) not less than $\text{£}341.40$, but less than $\text{£}424.20$, the deduction to be made under this section shall be $\text{£}9.65 \times 1/7$;

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

- 58.4 Where in respect of a day-
- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
 - (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 or 77 or 77A of the 1992 Act (liability of spouses and civil partners); and
 - (c) the person to whom sub-paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant shall be apportioned equally between those liable persons.
- 58.5 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;
- 58.6 No deduction shall be made in respect of a non-dependant if:
- (a) although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or
 - (b) he is in receipt of a training allowance paid in connection with a youth training established under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
 - (c) he is a full time student within the meaning of section 44.0 (Students); or
 - (d) he is not residing with the applicant because he has been a patient for a period of excess of 52 weeks, and for these purposes;
 - 'patient' has the meaning given within this scheme, and
 - where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods;
 - (e) he is not residing with the applicant because he is a member of the armed forces away on operations
- 58.7 No deduction shall be made in respect of a non-dependant;
- (a) who is on income support, state pension credit, an income-based jobseeker's allowance or an income-related employment and support allowance;
 - (b) to whom Schedule 1 of the 1992 Act applies (persons disregarded for purposes of discount) but this sub-paragraph shall not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers;

- (c) who is entitled to an award of universal credit where the award is calculated on the basis that the person does not have any earned income.”;
For the purposes of sub-paragraph (c), “earned income” has the meaning given in regulation 52 of the Universal Credit Regulations 2013

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

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

60.0 Extended reductions

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

- (a) the applicant or the applicant's partner was entitled to a qualifying income-related benefit;
- (b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner-
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or
 - (iii) increased the number of hours worked in such employment,and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last five weeks or more; and
- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.

60.2 For the purpose of paragraph 60.1(c), an applicant or an applicant's partner is to be treated as having been entitled to and in receipt of a qualifying income-related benefit or jobseeker's allowance during any period of less than five weeks in respect of which the applicant or the applicant's partner was not entitled to any of those benefits because the applicant or the applicant's partner was engaged in remunerative work as a consequence of their participation in an employment zone programme.

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

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

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

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

applicant.

60A.0 Duration of extended reduction period

- 60A.1 Where an applicant is entitled to an extended reduction, the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying income-related benefit.
- 60A.2 For the purpose of paragraph (60A.1), an applicant or an applicant's partner ceases to be entitled to a qualifying income-related benefit on the day immediately following the last day of entitlement to that benefit.
- 60A.3 The extended reduction period ends;
- (a) at the end of a period of four weeks; or
 - (b) on the date on which the applicant to whom the extended reduction is payable has no liability for council tax, if that occurs first.

60B.0 Amount of extended reduction

- 60B.1 For any week during the extended reduction period the amount of the extended reduction payable to an applicant shall be the higher of-
- (a) the amount of council tax reduction to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying income-related benefit;
 - (b) the amount of council tax reduction to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended reduction period, if section 60 (extended reductions) did not apply to the applicant; or
 - (c) the amount of council tax reduction to which the applicant's partner would be entitled under the general conditions of entitlement, if section 60 did not apply to the applicant.
- 60B.2 Paragraph 60B1 does not apply in the case of a mover.
- 60B.3 Where an applicant is in receipt of an extended reduction under this section and the applicant's partner makes a claim for council tax reduction, no amount of council tax reduction shall be payable by the appropriate authority during the extended reduction period.

60C.0 Extended reductions - movers

- 60C.1 This section applies;
- (a) to a mover; and
 - (b) from the Monday following the day of the move.
- 60C.2 The amount of the extended reduction payable from the Monday from which this section applies until the end of the extended reduction period shall be the amount of council tax reduction which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit.
- 60C.3 Where a mover's liability to pay council tax in respect of the new dwelling is to the second authority, the extended reduction may take the form of a payment from the appropriate authority to;
- (a) the second authority; or
 - (b) the mover directly.

60C.4 Where-

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

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

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

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

61.0 Extended reductions (qualifying contributory benefits)

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

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

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

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

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

61A.1 Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended

reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.

61A.2 For the purpose of paragraph 61A.1, an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

61A.3 The extended reduction period ends;

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

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

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

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

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

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

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

61C.1 This section applies;

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

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

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

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

61C.4 Where

- (a) a mover, or the mover's partner, makes a claim for council tax reduction to the second authority after the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit; and
- (b) the mover, or the mover's partner, is in receipt of an extended reduction (qualifying contributory

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

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

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

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

61E.0 Extended reductions: movers into the authority's area²³

61E.1 Where;

- a. an application is made to the authority for a reduction under its scheme, and
- b. the applicant or the partner of the applicant, is in receipt of an extended reduction from;
 - (i) another billing authority in England; or
 - (ii) a billing authority in Wales,

the current authority must reduce any reduction to which the applicant is entitled under its Council Tax Reduction scheme by the amount of that extended reduction.

62.0 Alternative Maximum Council Tax Reduction (Second Adult Reduction)

62.1 Subject to paragraphs 62.2 and 62.3, the alternative maximum council tax reduction where the conditions are satisfied shall be the amount determined in accordance with Schedule 2.

62.2 Subject to paragraph 62.3, where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the alternative maximum council tax reduction in his case, the amount determined in accordance with Schedule 2 shall be divided by the number of persons who are jointly and severally liable for that tax.

62.3 Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, solely by virtue of section 9, 77 or 77A of the 1992 Act (liability of spouses and civil partners), paragraph 62.2 shall not apply in his case.

63.0 Residents of a dwelling to whom Second Adult Reduction does not apply

63.1 Entitlement to an alternative maximum council tax reduction (Second Adult Rebate) shall not apply in respect of any person referred to in the following paragraphs namely;

- (a) a person who is liable for council tax solely in consequence of the provisions of sections 9, 77 and 77A of the 1992 Act (spouse's or civil partner's joint and several liability for tax);
- (b) a person who is residing with a couple or with the members of a polygamous marriage where the applicant for council tax reduction 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

²³ Inserted by Council Tax Reduction Schemes (Prescribed Requirements)(England) Regulations 2012

- (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;
- (c) a person who jointly with the applicant for reduction falls within the same paragraph of sections 6(2)(a) to (e) or 75(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant;
- (d) a person who is residing with two or more persons both or all of whom fall within the same paragraph of sections 6(2)(a) to (e) or 75(2)(a) to (e) of the 1992 Act and 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

Sections 64 - 67

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

64.0 Date on which entitlement is to begin

- 64.1 Subject to paragraph 64.2, any person to whom or in respect of whom a claim for council tax reduction is made and who is otherwise entitled to that reduction shall be so entitled from the reduction week following the date on which that claim is made or is treated as made.
- 64.2 Where a person is otherwise entitled to council tax reduction and becomes liable for the first time for the authority's council tax in respect of a dwelling of which he is a resident in the reduction week in which his claim is made or is treated as made, he shall be so entitled from that reduction week.

65.0 - 66.0 Not Used

67.0 Date on which change of circumstances is to take effect

- 67.1 Except in cases where section 24 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph, a change of circumstances which affects entitlement to, or the amount of, a reduction under the authority's scheme ("change of circumstances"), takes effect from the first day of the reduction week following the date on which the change actually occurs, and where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs shall be the day immediately following the last day of entitlement to that benefit.
- 67.2 Subject to paragraph (3), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.
- 67.3 Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under sections 11 or 12 of that Act, it shall take effect from the day on which the change in amount has effect.
- 67.4 Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.
- 67.5 Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.
- 67.6 If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with paragraphs (1) to (5) they take effect from the day to which the appropriate paragraph from (2) to (5) above refers, or, where more than one day is concerned, from the earlier day.
- 67.7 Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the Act, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances shall take effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.
- 67.8 Without prejudice to paragraph (7), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

Sections 68- 74A

Claiming and the treatment of claims for Council Tax Reduction purposes

68.0 Making an application²⁴

- 68.1 In the case of a couple or members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by one of them as the authority determines.
- 68.2 Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act, and;
- (a) a deputy has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
 - (b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on his behalf; or
 - (c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,
- that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.
- 68.3 Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to him, the authority may, upon written application made to them by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under the authority's scheme and to receive and deal on his behalf with any sums payable to him.
- 68.4 Where a person who is liable to pay council tax in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on his behalf under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act), the authority may if that person agrees, treat him as if he had been appointed by them under sub-paragraph (3).
- 68.5 Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4);
- (a) it may at any time revoke the appointment;
 - (b) the person appointed may resign his office after having given 4 weeks notice in writing to the authority of his intention to do so;
 - (c) any such appointment terminates when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).
- 68.6 Anything required by the authority's scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.
- 68.7 The authority must;
- (a) inform any person making an application of the duty imposed by paragraph 9(1)(a);
 - (b) explain the possible consequences (including prosecution) of failing to comply with that duty;
- and

²⁴ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

69.0 Procedure by which a person may apply for a reduction under the authority's scheme²⁵

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

69.2. An application may be made;

- (a) in writing,
- (b) by means of an electronic communication in accordance with S101- 106A of this scheme, or
- (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.

69.3 (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.

69.4 (1) Where an application made in writing is defective because–
(a) it was made on the form supplied for the purpose but that form is not accepted by the authority as being properly completed; or
(b) it was made in writing but not on the form approved for the purpose and the authority does not accept the application as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence, the authority may, in a case to which sub-paragraph (a) applies, request the applicant to complete the defective application or, in the case to which sub-paragraph (b) applies, supply the applicant with the approved form or request further information and evidence.

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

69.5. (1) If an application made by electronic communication is defective the authority must provide the person making the application with an opportunity to correct the defect.

(2) An application made by electronic communication is defective if the applicant does not provide all the information the authority requires.

69.6. In a particular case the authority may determine that an application made by telephone is only valid if the person making the application approves a written statement of his circumstances provided by the authority.

69.7 (1) If an application made by telephone is defective the authority must provide the person making the application with an opportunity to correct the defect.

(2) An application made by telephone is defective if the applicant does not provide all the information the authority requests during the telephone call.

69.8 Notwithstanding other paragraphs within 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

²⁵ Inserted by Council Tax Reduction Schemes (Prescribed Requirements)(England) Regulations 2012

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.

- 69.9 Where an applicant ('C')-
- (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 69.10

- 69.10 The date is the latest of-
- (a) the first day from which C had continuous good cause;
 - (b) the day 6 months before the date the claim was made;
 - (c) the day 6 months before the date when C requested that the claim should include a past period.

69A.0 Date on which an application is made

- 69A.1 Subject to sub-paragraph (7), the date on which an application is made is;
- (a) in a case where;
 - (i) an award of 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.
- 69A.2 For the purposes only of sub-paragraph (1)(c) a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for regulations made under;

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

- 69A.3 Where there is a defect in an 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.
- 69A.4 The authority is to treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.
- 69A.5 The conditions are that–
- (a) where the authority receives the properly completed application or the information requested to complete it or the evidence within one month of the request, or such longer period as the authority may consider reasonable; or
 - (b) where an application is not on approved form or further information requested by authority applies;
 - (i) the approved form sent to the applicant is received at the offices of the authority properly completed within one month of it having been sent to him; or, as the case may be;
 - (ii) the applicant supplies whatever information or evidence was requested within one month of the request; or,
 in either case, within such longer period as the authority may consider reasonable; or
 - (c) where the authority has requested further information, the authority receives at its offices the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.
- 69A.6 Except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for council tax to the authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under that authority's scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority must treat the application as having been made on the day on which the liability for the tax arises.
- 69A.7 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.

70.0 Submission of evidence electronically

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

71.0 Use of telephone provided evidence

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

72.0 Information and evidence²⁶

- 72.1 Subject to sub-paragraph (3), a person who makes an application for a reduction under an authority's scheme must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.
- 72.2 This sub-paragraph is satisfied in relation to a person if–
- (a) the application is accompanied by;
 - (i) a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or
 - (ii) information or evidence enabling the authority to ascertain the national insurance number that has been allocated to the person; or
 - (b) the person has made an application for a national insurance number to be allocated to him and the application for the reduction is accompanied by;
 - (i) evidence of the application for a national insurance number to be so allocated; and
 - (ii) the information or evidence enabling it to be so allocated.
- 72.3 Sub-paragraph (2) does not apply;
- (a) in the case of a child or young person in respect of whom an application for a reduction is made;
 - (b) to a person who;
 - (i) is a person treated as not being in Great Britain for the purposes of this scheme;
 - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and
 - (iii) has not previously been allocated a national insurance number.
- 72.4 Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under the authority's scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by that authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under its scheme and must do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.
- 72.5 Where the authority makes a request under sub-paragraph (4), it must;
- (a) inform the applicant or the person to whom a reduction under its scheme has been awarded of his duty under paragraph 9 (duty to notify change of circumstances) to notify the authority of any change of circumstances; and
 - (b) without prejudice to the extent of the duty owed under paragraph 9, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which must be notified.
- 72.6 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 or the London Bombings Relief Charitable Fund;
 - (b) a payment which is disregarded under paragraph 24 of Schedule 5, other than a payment under the Independent Living Fund (2006);
 - (c) a payment which is disregarded under paragraph 58.9.
- 72.7 Where an applicant or a person to whom a reduction under the authority's scheme has been awarded or any

²⁶ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, he must where the authority so requires furnish the following information;

- (a) the name and address of the pension fund holder;
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

73.0 Amendment and withdrawal of application²⁷

- 73.1 A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.
- 73.2 Where the application was made by telephone the amendment may also be made by telephone.
- 73.3 Any application amended is to be treated as if it had been amended in the first instance.
- 73.4 A person who has made an application may withdraw it by notice to the designated office at any time before a decision has been made on it.
- 73.5 Where the application was made by telephone, the withdrawal may also be made by telephone.
- 73.6 Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.
- 73.7 Where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

74.0 Duty to notify changes of circumstances²⁸

- 74.1 Subject to sub-paragraphs (3), (6) and (7), an applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time;
 - (a) between the making of an application and a decision being made on it, or
 - (b) after the decision is made (where the decision is that the applicant is entitled to a reduction under the authority's scheme) including at any time while the applicant is in receipt of such a reduction.
- 74.2 The applicant (or any person acting on his behalf) must notify any change of circumstances which the applicant (or that person) might reasonably be expected to know might affect his entitlement to, or the amount of, a reduction under the authority's scheme (a "relevant change of circumstances") by giving notice to the authority;
 - (a) in writing; or
 - (b) by telephone—
 - (i) where the authority has published a telephone number for that purpose unless the authority determines that in any particular case or class of case notification may not be given by telephone; or
 - (ii) in any case or class of case where the authority determines that notice may be given by telephone; or
 - (c) by any other means which the authority agrees to accept in any particular case, within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.

²⁷ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

²⁸ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- 74.3 The duty imposed on a person by sub-paragraph (1) does not extend to notifying
- (a) changes in the amount of council tax payable to the authority;
 - (b) changes in the age of the applicant or that of any member of his family;
 - (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under the authority's scheme to which he is entitled, other than the cessation of that entitlement to the benefit.
- 74.4 For the purposes of sub-paragraph (3)(c) "relevant benefit" means income support, an income-based jobseeker's allowance or an income-related employment and support allowance or universal credit.
- 74.5 Notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by sub-paragraph (1) to notify the authority of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he has ceased to be a child or young person.
- 74.6 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.
- 74.7 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

Sections 75- 90

Decisions, decision notices and awards of Council Tax Reduction

75.0 Decisions by the authority²⁹

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

76.0 Notification of decision³⁰

76.1 The authority must notify in writing any person affected by a decision made by it under its scheme;
(a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;
(b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.

76.2 Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement;
(a) informing the person affected of the duty imposed by paragraph 74.1 of 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.

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

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

76.5 A person affected to whom the authority sends or delivers a notification of decision may, within one month of the date of the notification of that decision request in writing the authority to provide a written statement setting out the reasons for its decision on any matter set out in the notice.

76.6 The written statement referred to in sub-paragraph (5) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.

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

76.8 This sub-paragraph applies to—
(a) the applicant;
(b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act;
(i) a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
(ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 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.

²⁹ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

³⁰ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

77.0 Time and manner of granting council tax reduction³¹

- 77.1 Where a person is entitled to a reduction under this authority's scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year ("the chargeable year"), the authority must discharge his entitlement;
- (a) by reducing, so far as possible, the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992 refers; or
 - (b) where;
 - (i) such a reduction is not possible; or
 - (ii) such a reduction would be insufficient to discharge the entitlement to a reduction under the authority's scheme; or
 - (iii) the person entitled to the reduction is jointly and severally liable for the council tax and the authority determines that such a reduction would be inappropriate, by making payment to him of the amount of reduction to which he is entitled, rounded where necessary to the nearest penny.
- 77.2 The authority must notify the person entitled to a reduction under this scheme of the amount of that reduction and how his entitlement is to be discharged in pursuance of paragraph (1).
- 77.3 In a case to which paragraph (1)(b) refers;
- (a) if the amount of the council tax for which he remains liable in respect of the chargeable year, after any reduction to which sub-paragraph (1)(a) refers has been made, is insufficient to enable his entitlement to a reduction under the authority's scheme in respect thereof to be discharged, upon the final instalment of that tax becoming due any outstanding reduction;
 - (i) must be paid to that person if he so requires; or
 - (ii) in any other case must (as the authority determines) either be repaid or credited against any subsequent liability of the person to make a payment in respect of the authority's council tax as it has effect for any subsequent year;
 - (b) if that person has ceased to be liable for the authority's council tax and has discharged the liability for that tax, the outstanding balance (if any) of the reduction under the authority's scheme in respect thereof must be paid within 14 days or, if that is not reasonably practicable, as soon as practicable thereafter
 - (c) in any other case, the reduction under the authority's scheme must be paid within 14 days of the receipt of the application at the offices of the authority or, if that is not reasonably practicable, as soon as practicable thereafter.
- 77.4 For the purposes of this paragraph "instalment" means any instalment of the authority's council tax to which regulation 19 of the Council Tax (Administration and Enforcement) Regulations 1992 refers (council tax payments).

78.0 Persons to whom reduction is to be paid³²

- 78.1 Subject to section 80 (payment on death) and paragraph (2), any payment of the amount of a reduction must be made to that person.
- 78.2 Where a person other than a person who is entitled to a reduction under this authority's scheme made the application for the reduction and that first person is a person acting pursuant to an appointment or is treated as having been so appointed, the amount of the reduction may be paid to that person.

³¹ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

³² Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

79.0 Shortfall in reduction³³

- 79.1 Where, on the revision of a decision allowing a reduction under the authority's scheme to a person, it is determined that the amount allowed was less than the amount to which that person was entitled, the authority must either;
- (a) make good any shortfall in reduction which is due to that person, by reducing so far as possible the next and any subsequent payments he is liable to make in respect of the council tax of the authority as it has effect for the chargeable financial year until that shortfall is made good; or
 - (b) where this is not possible or the person concerned so requests, pay the amount of any shortfall in reduction due to that person within 14 days of the revision of the decision being made or if that is not reasonable practicable, as soon as possible afterwards.

80.0 Payment on the death of the person entitled³⁴

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

81.0 Offsetting

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

82.0 Payment where there is joint and several liability³⁵

- 82.1 Where;
- (a) a person is entitled to a reduction under the authority's scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year;
 - (b) the person entitled to the reduction is jointly and severally liable for the council tax; and
 - (c) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992(7) refers would be inappropriate,
- it may make a payment to him of the amount of the reduction to which he is entitled, rounded where necessary to the nearest penny.
- 82.2 Subject to sub-paragraph (3) any payment made under sub-paragraph (1) must be made to the person who is entitled to the reduction.
- 82.3 Where a person other than a person who is entitled to a reduction under the authority's scheme made the application and that first person is a person acting pursuant to an appointment under paragraph 4(3) or is treated as having been so appointed by virtue of paragraph 4(4), the amount of the reduction may be paid to that person.

83.0 - 90.0 Not used

³³ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

³⁴ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

³⁵ Inserted by Schedule 8 of the Council Tax Reductions Scheme (Prescribed Requirements) (England) Regulations 2012

Sections 91 - 94

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

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

- 91.1 The authority will use information provided by the DWP and HMRC for the purposes of Council Tax Reduction, council tax liability, billing, administration and enforcement as outlined within Schedule 2 of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012 and the Social Security (Information-sharing in relation to Welfare Services etc.) (Amendment) Regulations 2013
- 91.2 Where required by the relevant department and where required by law, the authority will share information obtained for Council Tax Reduction with the DWP or HMRC as appropriate and in accordance with Data Protections requirements³⁶.

92.0 Collection of information

- 92.1 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
- 92.2 The authority may verify relevant information supplied to, or obtained.

93.0 Recording and holding information

- 93.1 The authority may
- (a) may make a record of such information; and
 - (b) may hold that information, whether as supplied or obtained or recorded, for the purpose of forwarding it to the person or authority for the time being administering council tax reduction.

94.0 Forwarding of information

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

³⁶ Data Retention and Investigatory Powers Act 2014 and Data Retention Regulations 2014

Sections 95 - 98

Revisions, Written Statements, Termination of Council Tax Reduction

95.0 Persons affected by Decisions

- 95.1 A person is to be treated as a person affected by a relevant decision of the authority where that person is;
- (a) an applicant;
 - (b) in the case of a person who is liable to make payments in respect of a dwelling and is unable for the time being to act
 - (i) a Deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit or 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;

96.0 Revisions of Decisions

- 96.1 Subject to the provisions in this scheme, a relevant decision ('the original decision') may be revised or further revised by the authority, which made the decision where the person affected makes an application for a revision within;
- (i) one month of the date of notification of the original decision; or
 - (ii) such extended time as the authority may allow.
- 96.2 The authority may revise or further revise that original decision at any time. Where further information is required from the person affected, the authority shall request such information and evidence as it feels is reasonable. Such information must be supplied within;
- i) one month of the date of notification of the additional information; or
 - (ii) such extended time as the authority may allow

97.0 Written Statements

- 97.1 Subject to the provisions in the scheme, the authority may upon a written request issue a written statement to a person affected to further explain the decision of the authority in relation to Council Tax Reduction. The request must be received within one month of the date of the notification being issued by the authority.

98.0 Terminations

- 98.1 The authority may terminate, 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.
- 98.2 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

Section 99

Appeals against the authority's decisions

99.0 Procedure by which a person may make an appeal against certain decisions of the authority³⁷

- 99.1 A person who is aggrieved by a decision of the authority, which affects;
- (a) the person's entitlement to a reduction under its scheme, or
 - (b) the amount of any reduction to which that person is entitled,
- may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.
- 99.2 The authority must
- (a) consider the matter to which the notice relates;
 - (b) notify the aggrieved person in writing;
 - (i) that the ground is not well founded, giving reasons for that belief; or
 - (ii) that steps have been taken to deal with the grievance, stating the steps taken.
- 99.3 Where, following notification under sub-paragraph (2)(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with sub-paragraph (2)(b) within two months of the service of his notice, he may appeal to the valuation tribunal under section 16 of the 1992 Act³⁸.

³⁷ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

³⁸ As amended by the Tribunal Procedure (Amendment No 3) Rules 2014

Section 100

Procedure for applying for a discretionary reduction

100.0 Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act³⁹

- 100.1 An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act may be made;
- (a) in writing,
 - (b) by means of an electronic communication in accordance with sections 101 – 106A of this scheme, or
 - (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.
- 100.2 Where;
- (a) the authority has made a determination under section 13A(1)(c) in relation to a class of case in which liability is to be reduced; and
 - (b) a person in that class would otherwise be entitled to a reduction under its scheme, that person's application for a reduction under the authority's scheme may also be treated as an application for a reduction under section 13A(1)(c).

³⁹ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

Section 100A
Applications for Exceptional Hardship

100A.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 sections 101 – 106A of this scheme, or
- (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone

Section 101 - 106A⁴⁰

Electronic Communication

⁴⁰ Inserted by Council Tax Reductions Schemes (Prescribed Requirements) (England) Regulations 2012

101.0 Interpretation

- 101.1 In this Part;
“**information**” includes an application, a certificate, notice or other evidence; and
“**official computer system**” means a computer system maintained by or on behalf of an authority for sending, receiving, processing or storing of any information.

102.0 Conditions for the use of electronic communication

- 102.1 The authority may use an electronic communication in connection with applications for, and awards of, reductions under its scheme.
- 102.2 A person other than the authority may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions specified in sub-paragraphs (3) to (6) are satisfied.
- 102.3 The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Chief Executive of the authority.
- 102.4 The second condition is that the person uses an approved method of;
- (a) authenticating the identity of the sender of the communication;
 - (b) electronic communication;
 - (c) authenticating any application or notice delivered by means of an electronic communication; and
 - (d) subject to sub-paragraph (7), submitting to the authority any information.
- 102.5 The third condition is that any information sent by means of an electronic communication is in a form approved for the purposes.
- 102.6 The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Chief Executive of the authority.
- 102.7 Where the person uses any method other than the method approved of submitting any information, that information is to be treated as not having been submitted.
- 102.8 In this paragraph “approved” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this section.

103.0 Use of intermediaries

- 103.1 The authority may use intermediaries in connection with;
- (a) the delivery of any information by means of an electronic communication; and
 - (b) the authentication or security of anything transmitted by such means,
- and may require other persons to use intermediaries in connection with those matters.

104.0 Effect of delivering information by means of electronic communication

- 104.1 Any information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of an authority's scheme on the day the conditions imposed;
- (a) by this section; and
 - (b) by or under an enactment,

are satisfied.

104.2 The authority may determine that any information is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).

104.3 Information may not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

105.0 Proof of identity of sender or recipient of information

105.1 If it is necessary to prove, for the purpose of any legal proceedings, the identity of—
(a) the sender of any information delivered by means of an electronic communication to an official computer system; or
(b) the recipient of any such information delivered by means of an electronic communication from an official computer system,
the sender or recipient, as the case may be, is to be presumed to be the person whose name is recorded as such on that official computer system.

106.0 Proof of delivery of information

106.1 If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this is presumed to have been the case where;
(a) any such information has been delivered to the relevant authority, if the delivery of that information has been recorded on an official computer system; or
(b) any such information has been delivered by the relevant authority, if the delivery of that information has been recorded on an official computer system.

106.2 If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such information, this is presumed not to be the case, if that information delivered to the relevant authority has not been recorded on an official computer system.

106.3 If it is necessary to prove, for the purpose of any legal proceedings, when any such information sent by means of an electronic communication has been received, the time and date of receipt is presumed to be that recorded on an official computer system.

106A.0 Proof of content of information

106A.1 If it is necessary to prove, for the purpose of any legal proceedings, the content of any information sent by means of an electronic communication, the content is presumed to be that recorded on an official computer system.

Section 107
Counter Fraud and Compliance

107.0 Counter Fraud and compliance

- 107.1 In order to protect the finances of the authority and also in the interests of all council taxpayers, the authority will undertake such actions as allowed by law to;
- a. Prevent and detect fraudulent claims and actions in respect of Council Tax Reduction;
 - b. Carry out investigations fairly, professionally and in accordance with the law; and
 - c. Ensure that sanctions are applied in appropriate cases
- 107.2 The authority believes that it is important to minimise the opportunity for fraud and;
- a. will implement rigorous procedures for the verification of claims for council tax 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.
- 107.3 The authority shall put into place such administrative policies, procedures and processes as are necessary to ensure that the actions outlined within paragraph 107.1 and 107.2 can be carried out successfully

Schedule 1
Applicable Amounts ⁴¹

⁴¹ ⁴¹ The amounts shown within this schedule shall be uprated in line with the Housing Benefit Regulations 2006 as amended

Personal Allowance

- 1 The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes the main scheme;

Column 1 Person or Couple	Column 2
1. A Single applicant who; a) is entitled to main phase employment and support allowance	£73.10
b) is aged not less than 25	£73.10
c) is aged not less than 18 but less than 25	£57.90
2. Lone Parent	£73.10
3. Couple; a) Where the applicant is entitled to the main phase of employment and support allowance	£114.85
b) Where one member is aged not less than 18	£114.85
c) Polygamous Addition	£41.75

For the purposes of paragraph 1 an applicant is entitled to main phase employment and support allowance if;

- Paragraph 17 or 18 is satisfied in relation to the applicant; or
- The applicant is entitled to a converted employment and support allowance

- 2 (1) The amount specified in column (2) below in respect of each person specified in column (1) shall, for the relevant period specified in column (1), be the amounts specified for the purposes of the main scheme

Column 1 Child or Young Person	Column 2
Person in respect of the period- (a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday;	£66.90
(b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	£66.90
(c) Third or subsequent dependent child or young person whose date of birth falls on or after 1 st April 2017. This shall be determined in accordance with the Housing Benefit Regulations 2006 (as amended).	NIL

(2) In column (1) of the table in paragraph (1), "the first Monday in September" means the Monday which first occurs in the month of September in any year.

Family Premiums

3. (1) The amount for the purposes of this scheme in respect of a family of which at least one member is a child or young person shall be
- where the applicant is a lone parent to whom sub-paragraph (3) of Schedule 3 of the Housing Benefit Regulations 2006 applies, £22.20;
 - in any other case, £17.45;

(c) **No family premium will be awarded where an application for reduction is received on or after 1st April 2017 or where the applicant would have become entitled to the family premium on or after 1st April 2017.**

i) Sub paragraph (c) shall not apply to a person who, on 31st March 2017, is entitled to Council Tax Reduction and is:

- (a) a member of a family of which at least one member is a child or young person; or
 - (b) a partner in a polygamous marriage, where he or she, or another partner of the polygamous marriage, is responsible for a child or young person who is a member of the same household.
- (c) (i) above does not apply if–
- (a) sub-paragraph 3 c (i) (a) or (b) of that paragraph ceases to apply; or
 - (b) the person makes a new claim for Council Tax Reduction;

Premiums

- 4.** Except as provided in paragraph 5, the premiums specified this Schedule shall, for the purposes of this scheme, be applicable to an applicant who satisfies the condition specified in paragraphs 4 to 16 in respect of that premium.
- 5.** Subject to paragraph 6, where an applicant satisfies the conditions in respect of more than one premium in this this Schedule, only one premium shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.
- 6** (1) The following premiums, namely–
- a. severe disability premium to which paragraph 10 applies;
 - b. an enhanced disability premium to which paragraph 11 applies;
 - c. a disabled child premium to which paragraph 12 applies; and a
 - d. carer premium to which paragraph 13 applies,
- may be applicable in addition to any other premium which may apply under this Schedule
- 7.** (1) Subject to sub-paragraph (2), for the purposes of this Schedule, once a premium is applicable to an applicant under this Part, a person shall be treated as being in receipt of any benefit for
- a. in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
 - b. any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the 1973 Act or by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under or section 2 of the Enterprise and New Towns(Scotland) Act 1990 for any period during which he is in receipt of a training allowance.
- (2) For the purposes of the carer premium, a person shall be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act or the daily living component of the personal independence payment under the Welfare Reform Act 2012 or an AFIP.

Disability Premium

- 8.** The condition (s) to be met is contained in Schedule 3 (12) Housing Benefit Regulations 2006

Additional Condition for the Disability Premiums

- 9.** The condition (s) to be met is contained in Schedule 3 (13) Housing Benefit Regulations 2006

Severe Disability Premiums

10. The condition (s) to be met is contained in Schedule 3 (14) Housing Benefit Regulations 2006

Enhanced Disability Premium

11. The condition (s) to be met is contained in Schedule 3 (15) Housing Benefit Regulations 2006

Disabled Child Premium

12. The condition (s) to be met is contained in Schedule 3 (16) Housing Benefit Regulations 2006

Carer Premium

13. The condition (s) to be met is contained in Schedule 3 (17) Housing Benefit Regulations 2006

Persons in receipt of concessionary payments

14. For the purpose of determining whether a premium is applicable to a person under paragraphs 8 to 13, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.

Persons in receipt of benefit for another

15. For the purposes of this Schedule, a person shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.

Amounts of Premium

16. For the purposes of this Schedule, the following amounts shall apply;

Premium	Amount
Disability Premium	£32.55
a. where the applicant satisfies the condition in paragraph 12(a) of Schedule 3 Housing Benefit Regulations 2006	
b. where the applicant satisfies the condition in paragraph 12(b) of Schedule 3 Housing Benefit Regulations 2006	£46.40
Severe Disability Premium	£62.45
a. where the applicant satisfies the condition in paragraph 14(2)(a) of Schedule 3 Housing Benefit Regulations 2006	
b. where the applicant satisfies the condition in paragraph 14(2)(b) of Schedule 3 Housing Benefit Regulations 2006	£62.45
i. in a case where there is someone in receipt of carer's allowance or universal credit carers element or if he or any partner satisfies that condition only by virtue of paragraph 14(5);	
ii. in a case where there is no one in receipt of such an allowance	£124.90
Disabled Child Premium	£60.90 in respect of each child or young person in respect of whom the condition specified in paragraph 16 of Part 3 of Schedule 3 Housing Benefit Regulations 2006
Carer Premium	£34.95 in respect of each person who satisfies the condition specified in paragraph 17 of Part 3 of Schedule 3

	Housing Benefit Regulations 2006
Enhanced Disability Premium	<p>(a) £24.78 in respect of each child or young person in respect of whom the conditions specified in paragraph 15 of Part 3 of Schedule 3 Housing Benefit Regulations 2006 are satisfied;</p> <p>(b) £15.90 in respect of each person who is neither-</p> <p>(i) a child or young person; nor</p> <p>(ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 15 are satisfied;</p> <p>(c) £22.85 where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 15 of Part 3 of Schedule 3 Housing Benefit Regulations 2006 are satisfied in respect of a member of that couple or polygamous marriage.</p>

The components

- 17.** The condition (s) to be met is contained in Schedule 3 (21 -24) Housing Benefit Regulations 2006 as amended by the Social Security (Miscellaneous Amendments) Regulations 2013
- 18.** The amount of the work-related activity component is £29.05. The amount of the support component is £36.55. The component **will not** apply where the applicant has been awarded Employment and Support Allowance on or after 1st April 2017 **and** been placed in the Work Related Activity Group

Transitional Addition

- 19.** The applicant is entitled to the transitional addition calculated in accordance with paragraph 30 of Schedule 3 of the Housing Benefit Regulations 2006 where the applicant or the applicant's partner meets the conditions contained within paragraphs 27 - 29 of Schedule 3 of the Housing Benefit Regulations 2006

Amount of transitional addition

- 20.** The amount of any transitional addition is calculated in accordance with paragraphs 30 and 31 of Schedule 3 of the Housing Benefit Regulations 2006

Schedule 2

Second Adult Reduction

(Alternative Maximum Council Tax Reduction)

1. Subject to paragraphs 2 and 3, the alternative maximum Council Tax Reduction in respect of a day for the purpose of section 62 shall be determined in accordance with the following Table and in this Table
 - a) 'second adult' means any person or persons residing with the applicant; and
 - b) 'persons to whom paragraph 45.2 applies' includes any person to whom that section would apply were they, and their partner if they had one, below the qualifying age for state pension credit.
2. In this Schedule 'council tax due in respect of that day' means the council tax payable under section 10 or 78 of the 1992 Act less-
 - (a) any reductions made in consequence of any enactment in, or under, the 1992 Act; and
 - (b) in a case to which sub-paragraph (c) in column (1) of the table below applies, the amount of any discount which may be appropriate to the dwelling under the 1992 Act.

Second Adult	Alternative Maximum Council Tax Reduction
(a) Where the second adult or all second adults are in receipt of income support, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker's allowance;	25 per cent of the council tax due in respect of that day;
(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, an income-related employment and support allowance, state pension credit or an income-based jobseeker's allowance-	is less than £194.95 per week; - 15 per cent of the council tax due in respect of that day; is not less than £194.95 per week but less than £252.50 per week; - 7.5 per cent of the council tax due in respect of that day;
(c) where the dwelling would be wholly occupied by one or more persons to whom regulation 43.1 applies but for the presence of one or more second adults who are in receipt of income support, state pension credit, an income-related employment and support allowance or are persons on an income-based jobseeker's allowance	100 per cent. of the council tax due in respect of that day.

In determining a second adult's gross income for the purposes of this Schedule, there shall be disregarded from that income;

- a. any attendance allowance, or any disability living allowance under section 71 of the Act or any personal independence payment under the Welfare Reform Act 2012 or an AFIP;
- b. any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which had his income fallen to be calculated under section 30 (calculation of income other than earnings) would have been disregarded under paragraph 24 of Schedule 4 (income in kind); and
- c. any payment which had his income fallen to be calculated under section 30 would have been

disregarded under paragraph 36 of Schedule 4 (payments made under certain trusts and certain other payments).

3. Where there are two or more second adults residing with the applicant for reduction and any such second adult falls to be disregarded for the purposes of discount in accordance with Schedule 1 of the 1992 Act, his income shall be disregarded in determining the amount of any alternative maximum Council Tax Reduction, unless that second adult is a member of a couple and his partner does not fall to be disregarded for the purposes of discount.

Schedule 3

Sums to be disregarded in the calculation of earnings⁴²

⁴² All amounts within this schedule will be amended in line with the Housing Benefit Regulations 2006 (as amended) or as agreed

- 1.** In the case of an applicant who has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged-
- (a) where-
 - (i) the employment has been terminated because of retirement; and
 - (ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions, any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;
 - (b) where before the first day of entitlement to council tax support the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except-
 - (i) any payment of the nature described in
 - (aa) paragraph 25.1(e), or
 - (bb) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds); and
 - (ii) any award, sum or payment of the nature described in
 - (aa) paragraph 25.1(g) or (h), or
 - (bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals), including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;
 - (c) where before the first day of entitlement to council tax support-
 - (i) the employment has not been terminated, but
 - (ii) the applicant is not engaged in remunerative work,

any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii) (bb) or paragraph 25.1(i), or (j).
- 2.** In the case of an applicant who, before first day of entitlement to council tax support;
- (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and
 - (b) has ceased to be engaged in that employment, whether or not that employment has been terminated, any earnings paid or due to be paid in respect of that employment except;
 - (i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i) or (ii)(bb);
 - (ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) or paragraph 25.1(i), (i) or (j).
- 2A.** In the case of an applicant who has been engaged in remunerative work or part-time employment as a self-

employed earner or, had the employment been in Great Britain would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment any earnings derived from that employment except earnings to which paragraph 27.3 and paragraph 27.4 (earnings of self-employed earners) apply.

- 3.** (1) In a case to which this paragraph applies and paragraph 4 does not apply, £25; but notwithstanding section 15 (calculation of income and capital of members of an applicant's family and of a polygamous marriage) if this paragraph applies to an applicant it shall not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £25.
- (2) This paragraph applies where the applicant's applicable amount includes an amount by way of the disability premium, severe disability premium, work-related activity component or support component.
- (3) This paragraph applies where
- (a) the is a member of a couple and his applicable amount includes an amount by way of the disability premium; and
 - (b) the or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.
- 4.** In a case where the applicant is a lone parent, £25.
- 5.** (1) In a case to which neither paragraph 3 nor paragraph 4 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium, £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with this scheme as being in receipt of carer's allowance.
- (2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £25 of the aggregated amount.
- 6.** Where the carer premium is awarded in respect of an applicant who is a member of a couple and whose earnings are less than £25, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment;
- (a) specified in paragraph 8(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 5 exceed £25;
 - (b) other than one specified in paragraph 8(1), so much of the other member's earnings from such other employment up to £25 as would not when aggregated with the amount disregarded under paragraph 5 exceed £25.
- 7.** In a case where paragraphs 3, 5, 6 and 8 do not apply to the applicant and he is one of a couple and a member of that couple is in employment, £25; but, notwithstanding section 15 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it shall not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £25.
- 8.** (1) In a case where paragraphs 3, 4, 5 and 6 do not apply to the applicant, £20 of earnings derived from one or more employments as-

- (a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
- (b) a part-time fire-fighter employed by the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005;
- (c) an auxiliary coastguard in respect of coast rescue activities;
- (d) a person engaged part-time in the manning or launching of a life boat;
- (e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001;

but, notwithstanding section 15 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it shall not apply to his partner except to the extent specified in sub-paragraph (2).

- (2) If the applicant's partner is engaged in employment;
 - (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the applicant's earnings disregarded under this paragraph exceed £20;
 - (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £20 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £20.

9. Where the applicant is engaged in one or more employments specified in paragraph 8(1), but his earnings derived from such employments are less than £25 in any week and he is also engaged in any other employment so much of his earnings from that other employment, up to £25 if he is a single applicant, or up to £25 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 8 exceed £25.

10. In a case to which none of the paragraphs 3 to 9 applies, £25.

- 10A.** (1) Where;
- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
 - (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
 - (c) paragraph 12 does not apply,
- the amount specified in sub-paragraph (7) ('the specified amount').

(2) Where this paragraph applies, paragraphs 3 to 10 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 4, then paragraph 4 applies instead of this paragraph.

(3) Notwithstanding section 15 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ('A') it shall not apply to the other member of that couple ('B') except to the extent provided in sub-paragraph (4).

(4) Where A's earnings are less than the specified amount, there shall also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.

- (5) This sub-paragraph applies to a person who is;
- (a) in receipt of a contributory employment and support allowance;
 - (b) in receipt of incapacity benefit;

- (c) in receipt of severe disablement allowance; or
 - (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975
- (6) 'Exempt work' means work of the kind described in;
- (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations; or (as the case may be)
 - (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995, and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.
- (7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

11. Any amount or the balance of any amount which would fall to be disregarded under paragraph 19 or 20 of Schedule 4 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.

12. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, his earnings.

13. Any earnings derived from employment, which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.

14. Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting that payment into Sterling.

15. Any earnings of a child or young person.

16. (1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 3 to 10A of this Schedule shall be increased by £17.10.

(2) The conditions of this sub-paragraph are that-

(a) the applicant, or if he is a member of a couple, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or

(b) the applicant-

(i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) is a member of a couple and

(aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and

(bb) his family includes at least one child or young person; or

(iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or

(iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and;

(aa) the applicant's applicable amount includes a disability premium, the work-related

activity component or the support component ;

(bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the disability premium or either of the components referred to in sub-head (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or

(c) the applicant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit Regulations (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.

(3) The following are the amounts referred to in sub-paragraph (1);

(a) the amount calculated as disregardable from the applicant's earnings under paragraphs 3 to 10A of this Schedule;

(b) the amount of child care charges calculated as deductible under paragraph 17(1)(c); and

(c) £17.10

(4) The provisions of section 6 shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that section were a reference to 30 hours.

17. In this Schedule 'part-time employment' means employment in which the person is engaged on average for less than 16 hours a week.

Schedule 4⁴³

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

⁴³ All amounts within this schedule will be amended in line with the Housing Benefit Regulations 2006 (as amended) or as agreed

- 1.** Any amount paid by way of tax on income, which is to be taken into account under section 30 (calculation of income other than earnings).
- A2.** Any payment made to the claim and in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.
- A3.** Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme or Back to Work Scheme, but only for 52 weeks beginning with the date of receipt of the payment.
- 2.** Any payment in respect of any expenses incurred or to be incurred by an applicant who is-
 - (a) engaged by a charitable or voluntary organisation, or
 - (b) volunteer,
 if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under section 32.0 (notional income).
- 2A.** Any payment in respect of expenses arising out of the applicant's participation as a service user
- 3.** In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.
- 4.** Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance the whole of his income.
- 5.** Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.
- 6.** Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999 as in force at that date, the whole of his income.
- 7.** Any disability living allowance or personal independence payment or AFIP
- 8.** Any concessionary payment made to compensate for the non-payment of;
 - (a) any payment specified in paragraph 7 or 10;
 - (b) income support;
 - (c) an income-based jobseeker's allowance.
 - (d) an income-related employment and support allowance.
- 9.** Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
- 10.** Any attendance allowance.
- 11.** Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.

- 12.** (1) Any payment-
- (a) by way of an education maintenance allowance made pursuant to;
 - (i) regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc);
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);
 - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992
 - (b) corresponding to such an education maintenance allowance, made pursuant to;
 - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
 - (ii) regulations made under section 181 of that Act; or
 - (iii) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.
- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to;
- (a) regulations made under section 518 of the Education Act 1996;
 - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
 - (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,
- in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).
- 13.** Any payment made to the applicant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc.) Regulations 2002.
- 14** (1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment;
- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit, severe disablement allowance or an employment and support allowance;
 - (b) of an allowance referred to in section 2(3) of the 1973 Act or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or
 - (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst an applicant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.
- (2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.
- 15** (1) Subject to sub-paragraph (2), any of the following payments;
- (a) a charitable payment;
 - (b) a voluntary payment;
 - (c) a payment (not falling within sub-paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the applicant;
 - (d) a payment under an annuity purchased;
 - (i) pursuant to any agreement or court order to make payments to the applicant; or

- (ii) from funds derived from a payment made, in consequence of any personal injury to the applicant; or
- (e) a payment (not falling within sub-paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.

- (2) Sub-paragraph (1) shall not apply to a payment, which is made or due to be made by-
 - (a) a former partner of the applicant, or a former partner of any member of the applicant's family; or
 - (b) the parent of a child or young person where that child or young person is a member of the applicant's family.

- 16.** 100% of any of the following, namely
- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 9 or 10);
 - (b) a war widow's pension or war widower's pension;
 - (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
 - (d) a guaranteed income payment;
 - (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
 - (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
 - (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
 - (h) an Armed Forces Compensation Scheme payment.
- 17.** Subject to paragraph 35, £15 of any;
- (a) widowed mother's allowance paid pursuant to section 37 of the Act;
 - (b) widowed parent's allowance paid pursuant to section 39A of the Act.
- 18.** (1) Any income derived from capital to which the applicant is or is treated under section 41 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or 25 to 28 of Schedule 5.
- (2) Income derived from capital disregarded under paragraphs 2, 4 or 25 to 28 of Schedule 5 but only to the extent of-
- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
 - (b) any council tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.
- (3) The definition of 'water charges' in paragraph 2(1) shall apply to sub-paragraph (2) of this paragraph with the omission of the words 'in so far as such charges are in respect of the dwelling which a person occupies as his home'.
- 19.** Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating-
- (a) under, or pursuant to regulations made under powers conferred by, sections 1 or 2 of the Education Act 1962 or section 22 of the Teaching and Higher Education Act 1998(c), that student's award;

(b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or

(c) the student's student loan,
an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

- 20.** (1) Where the applicant is the parent of a student aged under 25 in advanced education who either;
- (a) is not in receipt of any award, grant or student loan in respect of that education; or
 - (b) is in receipt of an award under section 2 of the Education Act 1962 (discretionary awards) or an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,
- and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 19, an amount specified in sub-paragraph (2) in respect of each week during the student's term.
- (2) For the purposes of sub-paragraph (1), the amount shall be equal to-
- (a) the weekly amount of the payments; or
 - (b) the amount by way of a personal allowance for a single applicant under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),
- whichever is less.
- 21.** Any payment made to the applicant by a child or young person or a non- dependant.
- 22.** Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 21 or 23 refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family-
- (a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or
 - (b) where the aggregate of any such payments is £20 or more per week, £20.
- 23.** (1) Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for which such accommodation is provided for the whole or any part of a week, equal to-
- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20.00, 100 per cent. of such payments;
 - (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50 per cent. of the excess over £20.00.
- (2) In this paragraph, 'board and lodging accommodation' means accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises.
- 24.** (1) Any income in kind, except where regulation 30(11)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act in the calculation of income other than earnings) applies.
- (2) The reference in sub-paragraph (1) to 'income in kind' does not include a payment to a third party

made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

- 25.** Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.
- 26.** (1) Any payment made to the applicant in respect of a person who is a member of his family–
- (a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978**(b)** (schemes for payments of allowances to adopters); or in accordance with an Adoption Allowance Scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (Adoption Allowances Schemes)
 - (b) not used
 - (ba) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);
 - (c) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);
 - (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989**(c)** (special guardianship support services);
- (2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 27.** Any payment made to the applicant with whom a person is accommodated by virtue of arrangements made
- (a) by a local authority under–
 - (i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),
 - (ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or
 - (iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or
 - (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).
- 28.** Any payment made to the applicant or his partner for a person ('the person concerned'), who is not normally a member of the applicant's household but is temporarily in his care, by–
- (a) a health authority;
 - (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
 - (c) a voluntary organisation;
 - (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
 - (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
 - (f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006
- 29.** Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or section 22, 29 or 30 of the

Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

- 29A.** (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989(e) or section 29 of the Children (Scotland) Act 1995(local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ('A') which A passes on to the applicant.
- (2) Sub-paragraph (1) applies only where A;
- (a) was formerly in the applicant's care, and
 - (b) is aged 18 or over, and
 - (c) continues to live with the applicant.
- 30.** (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments;
- (a) on a loan which is secured on the dwelling which the applicant occupies as his home; or
 - (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.
- (2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to-
- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (b); and
 - (b) meet any amount due by way of premiums on-
- (i) that policy; or
 - (ii) in a case to which sub-paragraph(1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).
- 31.** Any payment of income which, by virtue of section 36 (income treated as capital) is to be treated as capital.
- 32.** Any social fund payment made pursuant to Part 8 of the Act (the Social Fund) or any local welfare provision as defined by the Social Security (Miscellaneous Amendments) Regulations 2013
- 33.** Any payment under Part 10 of the Act (Christmas bonus for pensioners).
- 34.** Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
- 35.** The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under paragraph 15.2 (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph 47.2(b) and paragraph 48.1(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 51(2) (treatment of student loans), paragraph 52(3) (treatment of payments from access funds) and paragraphs 16 and 17 shall in no case exceed £20 per week.
- 36.** (1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of-
- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been

dissolved or, where that person has died, had not been dissolved at the time of that person's death;

- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of;

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where;

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either;
 - (i) to that person's parent or step-parent, or
 - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian, but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where;

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either
 - (i) to that person's parent or step-parent, or
 - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian, but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose support payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.

37. Any housing benefit or council tax benefit.

- 38.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 39. - 40.** Not used
- 41.** Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.
- 42.** Not used
- 43.** Any payment in consequence of a reduction of council tax under section 13 or section 80 of the 1992 Act (reduction of liability for council tax).
- 44.** Not used
- 45.** (1) Any payment or repayment made-
 (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
 (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
 (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies).
 (2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers, which is analogous to a payment or repayment, mentioned in sub-paragraph (1).
- 46.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).
- 47.** Any payment made by either the Secretary of State for Justice or by the Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody.
- 48.** (1) Where an applicant's family includes a dependant child or young person, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.
 (2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments such be aggregated and treated as if they were a single payment.
 (3) A payment made by the Secretary of State in lieu of maintenance shall, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1)).
- 48A** (1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.
 (2) In paragraph (1)
 'child maintenance' means any payment towards the maintenance of a child or young person, including any

payment made voluntarily and payments made under;

- (a) the Child Support Act 1991;
- (b) the Child Support (Northern Ireland) Order 1991;
- (c) a court order;
- (d) a consent order;
- (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

'liable relative' means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.

- 50.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.
- 51.** Any guardian's allowance.
- 52.** (1) If the applicant is in receipt of any benefit under Parts 2, 3 or 5 of the Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of the Act, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.

(2) If the applicant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.
- 53.** Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.
- 54.** In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983(a) (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
- 55.** (1) Any payment which is
 - (a) made under any of the Dispensing Instruments to a widow, widower or
 - (b) surviving civil partner of a person;
 - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
 - (ii) whose service in such capacity terminated before 31st March 1973; and equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(2) In this paragraph 'the Dispensing Instruments' means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).
- 55A.** Any council tax reduction or council tax benefit to which the applicant is entitled.
- 56.** Except in a case which falls under sub-paragraph (1) of paragraph 16 of Schedule 3, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10

56A.-56B. Not used

- 57.** Any payment made under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care) or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments).
- 58.** (1) Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person—
(a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;
(b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,
in respect of which such assistance is or was received.
(2) Sub-paragraph (1) shall apply only in respect of payments, which are paid to that person from the special account
- 59.** (1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).
(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.
(3) For the purposes of sub-paragraph (2) 'food' does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.
- 60.** Where the amount of subsistence allowance paid to a person in a reduction week exceeds the amount of income-based jobseeker's allowance that person would have received in that reduction week had it been payable to him, less 50p, that excess amount.
- 61.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.
- 62.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001 as amended by the Welfare Reform Act 2012 (Consequential Amendments) Regulations 2013.
- 63.** (1) Any payment made by a local authority or by the Welsh Ministers to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.
(2) For the purposes of sub-paragraph (1) 'local authority' includes, in England, a county council.
- 64.** Not used
- 65.** Any payments to an applicant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)
- 66.** Any payment of child benefit.

Schedule 5
Capital to be disregarded⁴⁴

⁴⁴ Any amounts shown in this schedule will be updated in line with the Housing Benefit Regulations 2006 as amended

- 1.** The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular 5, in Scotland, any croft land on which the dwelling is situated; but, notwithstanding section 15 (calculation of income and capital of members of applicant's family and of polygamous marriage), only one dwelling shall be disregarded under this paragraph.
- A2.** Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.
- A3.** Any payment made to the applicant in respect of any travel or other expenses incurred or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme or Back to Work Scheme but only for 52 weeks beginning with the date of receipt of the payment but only for 52 weeks beginning with the date of receipt of payment.
- 2.** Any premises acquired for occupation by the applicant, which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
- 3.** Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the applicant to complete the purchase.
- 4.** Any premises occupied in whole or in part-
 - (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
 - (b) by the former partner of the applicant as his home; but this provision shall not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
- 5.** Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his capital.
- 6.** Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and his partner is on income-based jobseeker's allowance, the whole of the applicant's capital.
- 7.** Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub- leases or sub-tenancies.
- 8.**
 - (1) The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.
 - (2) The assets of any business owned in whole or in part by the applicant where-
 - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
 - (b) he intends to become engaged or, as the case may be, re-engaged as a self- employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business;

for a period of 26 weeks from the date on which the claim for council tax 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.

- (3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.
 - (4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.
- 9.** (1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of;
- (a) any payment specified in paragraphs 7, 9 or 10 of Schedule 4;
 - (b) an income-related benefit under Part 7 of the Act;
 - (c) an income-based jobseeker's allowance;
 - (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
 - (e) working tax credit and child tax credit
 - (f) an income-related employment and support allowance
 - (g) 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 value of the right to receive any income, which is disregarded under paragraph 13 of Schedule 3 or paragraph 25 of Schedule 4.
- 17.** The surrender value of any policy of life insurance.
- 18.** Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
- 19.** Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act

1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

19A. (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ('A') which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A;

- (a) was formerly in the applicant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the applicant.

20. Any social fund payment made pursuant to Part 8 of the Act.

21. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

22. Any capital which, by virtue of sections 31 or 51 (capital treated as income, treatment of student loans) is to be treated as income.

23. Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

24. (1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the Charitable Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of-

- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of-

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where-

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either;
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian, but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or any of the Trusts to which sub-paragraph (1) refers, where

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either;
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian, but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose support payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited the Skipton Fund, the Caxton Foundation, and the London Bombings Relief Charitable Fund.

25. (1) Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph 'dwelling' includes any garage, garden and outbuildings, which were formerly occupied by the applicant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.

26. Any premises where the applicant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

27. Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

- 28.** Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.
- 29.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 30.** Not used
- 31.** The value of the right to receive an occupational or personal pension.
- 32.** The value of any funds held under a personal pension scheme
- 33.** The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.
- 34.** Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
- 35.** Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.
- 36.** Not used.
- 37.** Any payment in consequence of a reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992 (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.
- 38.** Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988 or section 66 of the Housing (Scotland) Act 1988 (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used-
- (a) to purchase premises intended for occupation as his home; or
 - (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,
- for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of those premises as his home.
- 39.** Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.
- 40.** (1) Any payment or repayment made-
- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
 - (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);

(c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers, which is analogous to a payment, or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of the receipt of the payment or repayment.

- 41.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.
- 41A.** Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).
- 42.** Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.
- 43.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.
- 44.** Not used
- 45.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958 to homeworkers assisted under the Blind Homeworkers' Scheme.
- 46.** (1) Subject to sub-paragraph (2), where an applicant satisfies the conditions in section 131(3) and (6) of the Act (entitlement to alternative maximum council tax 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
- 47.** (1) Any sum of capital to which sub-paragraph (2) applies and
(a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 (as amended by the Civil Procedure (Amendment No. 7) Rule 2013) or by the Court of Protection;
(b) which can only be disposed of by order or direction of any such court; or
(c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.
(2) This sub-paragraph applies to a sum of capital which is derived from;
(a) an award of damages for a personal injury to that person; or
(b) compensation for the death of one or both parents where the person concerned is under the age of 18.
- 48.** Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules, where such sum derives from
(a) award of damages for a personal injury to that person; or

(b) compensation for the death of one or both parents where the person concerned is under the age of 18.

49. Any payment to the applicant as holder of the Victoria Cross or George Cross.

50. Not used

51. In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.

52. (1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) 'food' does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

53. (1) Any payment;

(a) by way of an education maintenance allowance made pursuant to-

(i) regulations made under section 518 of the Education Act 1996;

(ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;

(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;

(b) corresponding to such an education maintenance allowance, made pursuant to;

(i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or

(ii) regulations made under section 181 of that Act ;

or in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to;

(a) regulations made under section 518 of the Education Act 1996;

(b) regulations made under section 49 of the Education (Scotland) Act 1980; or

(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

53A.-53B. Not used

54. In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

55. Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of

receipt of the payment.

- 56.** Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or interment of-
- (a) the applicant;
 - (b) the applicant's partner;
 - (c) the applicant's deceased spouse or deceased civil partner; or
 - (d) the applicant's partner's deceased spouse or deceased civil partner,
- by the Japanese during the Second World War, £10,000.
- 57.** (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is
- (a) a diagnosed person;
 - (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
 - (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
 - (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.
- (2) Where a trust payment is made to;
- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
 - (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
 - (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending-
 - (i) two years after that date; or
 - (ii) on the day before the day on which that person-
 - (aa) ceases receiving full-time education; or
 - (bb) attains the age of 20,whichever is the latest.
- (3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is-
- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
 - (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
 - (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,
- but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.
- (4) Where a payment as referred to in sub-paragraph (3) is made to-
- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;

(b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date; or

(c) person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending-

(i) two years after that date; or

(ii) on the day before the day on which that person

(aa) ceases receiving full-time education; or

(bb) attains the age of 20,

whichever is the latest.

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

(a) being the diagnosed person's partner;

(b) being a member of a diagnosed person's family;

(c) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph- 'diagnosed person' means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld- Jakob disease; 'relevant trust' means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions; 'trust payment' means a payment under a relevant trust.

58. The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant's partner, the applicant's deceased spouse or deceased civil partner or the applicant's partner's deceased spouse or deceased civil partner

(a) was a slave labourer or a forced labourer;

(b) had suffered property loss or had suffered personal injury; or

(c) was a parent of a child who had died,

during the Second World War.

58 (1) Any payment made by a local authority, or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service, which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.

(2) For the purposes of sub-paragraph (1) 'local authority' includes in England a county council.

60. Any payment made under regulations made under section 57 of the Health and Social Care Act 2001 or under section 12B of the Social Work (Scotland) Act 1968, or under section 12A to 12D of the National Health Service Act 2006 (direct payments for health care).

61. Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

62. Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).

63. Any payments to an applicant made under section 49 of the Children and Families Act 2014 (personal budgets

and direct payments)

MAIDSTONE BOROUGH COUNCIL

COUNCIL

6 DECEMBER 2017

REPORT OF THE DEMOCRACY COMMITTEE 15 NOVEMBER 2017

PLANNING REFERRAL PROCESS REVIEW

Issue for Decision

On 15 November 2017 the Democracy Committee considered the report of the Working Group that had been reviewing the Planning Referral Process. The working group had considered the options of replacing the Planning Referrals Committee with a variety of other bodies. The Working Group recommended that the Planning Referrals Committee be abolished, and that a Planning Referrals process be maintained with applications referred to the Policy and Resources Committee.

At the meeting itself, the Committee made an amendment to the recommendation and decided that applications should be referred to Council instead of Policy and Resources Committee.

Recommendation Made

1. That there is a need to provide a check and balance mechanism in relation to Planning Committee decisions, and there should continue to be provision for the referral of an application to a second body for determination in circumstances where the Planning Committee votes to continue with a decision that it has been advised cannot be sustained at appeal and which could have significant cost implications for the Council's budget, but that body should be the Full Council and the Planning Referrals Committee should be abolished.
2. That in the event of an application being referred to Full Council for determination, then a special meeting of Council should be arranged for this purpose, the provisions relating to public speaking at Planning Committee should apply.
3. That no Member will be able to serve on Full Council operating as the Planning Referral body without having agreed to undergo the mandatory training required to be undertaken by Members and Substitute Members of the Planning Committee, including training on pre-determination of planning applications. The training must be completed before Full Council first meets to discharge its function as the Planning Referral body, and must be refreshed as appropriate.
4. That, with regard to the sections of the Constitution/Local Code of Conduct for Councillors and Officers Dealing With Planning Matters relating to Planning Decisions Which Have Significant Cost Implications, the delegation to the Head of Planning and Development upon the advice of

the Legal Officer present to refer an application to a second body for determination should be amended to be in consultation with the Chairman of the meeting.

5. That the Monitoring Officer be requested to amend the Constitution and Local Code of Conduct for Councillors and Officers Dealing with Planning Matters accordingly.

Reasons for Recommendation

The reasons behind abolishing the Planning Referrals Committee and replacing it with another, pre-existing committee, are fully outlined in the report attached as Appendix 1.

The Committee debated the various options, and instead of agreeing with the working group's recommendation for the Policy and Resources Committee to be the Planning Referrals body, it recommended that Council should fulfil this function. The reasons given for this were that it was more democratic. Whilst it would be easier to manage the training requirements for Policy and Resources Committee, the Committee felt that a logistical consideration should not preclude a more democratic way of taking a decision. An extract from the minutes explaining the reason for making the decision can be found below:

'The Committee debated the recommendation of the working group and considered that although the working group had recommended that Policy and Resources Committee replace the Planning Referrals Committee, taking a controversial application to Full Council would be more democratic. It was noted that the main reason that the working group had recommended Policy and Resources Committee was logistical, due to the need for training all Councillors in planning matters before the Council meets to discharge this function. The Committee was of the view that a logistical consideration should not preclude a more democratic way of determining a controversial planning application.'

Alternatives Considered and Why Not Recommended

The Council could choose to retain the Planning Referrals Committee in its current form. However when it last met, members expressed their dissatisfaction with the process and the effect it had on the three councillors on the Committee.

Benefits and drawbacks of the other proposals suggested to replace the Planning Referrals Committee are contained in Appendix 1 to this report.

Background Documents

Appendix 1: Planning Referral Process Review Report to Democracy Committee
15 November 2017

DEMOCRACY COMMITTEE**15 November 2017****Planning Referral Process Review**

Final Decision-Maker	Council
Lead Head of Service	Angela Woodhouse – Head of Policy, Communications and Governance
Lead Officer and Report Author	Angela Woodhouse – Head of Policy, Communications and Governance (Lead Officer) Debbie Snook – Democratic Services Officer (Report Author)
Classification	Public
Wards affected	All

Executive Summary

This report sets out the recommendations of the Working Group appointed by the Democracy Committee to review the arrangements for managing risk in relation to Planning Committee decisions, including the Planning Referral process.

This report makes the following recommendations to this Committee:

That the Council be recommended to agree:

1. That there is a need to provide a check and balance mechanism in relation to Planning Committee decisions, and there should continue to be provision for the referral of an application to a second body for determination in circumstances where the Planning Committee votes to continue with a decision that it has been advised cannot be sustained at appeal and which could have significant cost implications for the Council's budget, but that body should be the Policy and Resources Committee and the Planning Referrals Committee should be abolished.
2. That in the event of an application being referred to the Policy and Resources Committee for determination, then a special meeting of the Committee should be arranged for this purpose, the provisions relating to public speaking at Planning Committee should apply and there should be no provision for referral of the Committee's decision to full Council.
3. That no Member will be able to serve on the Policy and Resources Committee without having agreed to undergo the mandatory training required to be undertaken by Members and Substitute Members of the Planning Committee, including training on pre-determination of planning applications. The training must be completed before the Policy and Resources Committee first meets to discharge its function as the Planning Referral body, and must be refreshed as appropriate.

Appendix A

4. That, with regard to the sections of the Constitution/Local Code of Conduct for Councillors and Officers Dealing With Planning Matters relating to Planning Decisions Which Have Significant Cost Implications, the delegation to the Head of Planning and Development upon the advice of the Legal Officer present to refer an application to a second body for determination should be amended to be in consultation with the Chairman of the meeting.
5. That the Monitoring Officer be requested to amend the Constitution and Local Code of Conduct for Councillors and Officers Dealing with Planning Matters accordingly.

Timetable	
<i>Meeting</i>	<i>Date</i>
Democracy Committee	15 November 2017
Council	6 December 2017

Planning Referral Process Review

1. INTRODUCTION AND BACKGROUND

1.1 Following the activation of the Planning Referral process earlier in the year when the Head of Planning and Development referred a decision of the Planning Committee to the Planning Referrals Committee, Group Leaders asked the Democracy Committee to review the arrangements for managing risk in relation to Planning Committee decisions, including the Planning Referral process. The Democracy Committee, at its meeting held on 3 July 2017, appointed a Working Group comprising all Members of the Committee to carry out the review.

1.2 The terms of reference of the Working Group were agreed as follows:

To consider how the Council can provide a check and balance for Planning Committee decisions and reduce the financial and legal risk for the Council giving consideration to:

(a) Other Councils' arrangements and models;

(b) Options for and/or improvements to the current arrangements; and

(c) Any other ways to manage and reduce risk in relation to Planning Committee decisions.

1.3 The Working Group was asked to report the findings and recommendations arising from the review to this meeting of the Democracy Committee.

1.4 The Working Group has met twice to carry out the review. At the first meeting the Group considered a briefing paper prepared by the Head of Policy, Communications and Governance covering current arrangements, examples of arrangements at other local authorities and possible options. A copy of the briefing note is attached as **Appendix A**. James Bailey (Development Manager) and Russell Fitzpatrick (Lawyer, Team Leader, Planning) attended the second meeting to provide further background information and to advise on issues such as pre-determination, Member training and possible options.

1.5 The procedure for referral of planning applications to a second body for determination was introduced in 2006 to provide a further safeguard against the possible risks associated with not being able to sustain Planning Committee decisions at appeal. The award of costs against the Council, following the granting of a planning permission on appeal, had a significant impact on the Council's financial resources at that time.

1.6 Although the first stage of the process (deferral of the decision of the Planning Committee to its next meeting) has been invoked on several occasions, the second stage (referral of the application by the Head of Planning and Development on the advice of the Legal Officer present to

the Planning Referrals Committee for determination) has been invoked twice (in relation to the Boughton Lane and Woodcut Farm appeals) given the anticipated very significant costs involved.

- 1.7 The Working Group was mindful that when the Planning Committee's decision to defend the Woodcut Farm appeal was referred to the Planning Referrals Committee by the Head of Planning and Development, there was a lot of public interest and extensive lobbying, and the three Members of the Committee felt under considerable pressure.
- 1.8 The Working Group agreed that there is a need to provide a check and balance mechanism in relation to Planning Committee decisions, and that there should continue to be provision for the referral of an application to a second body for determination in circumstances where the Committee votes to continue with a decision that it has been advised cannot be sustained at appeal and which could have significant cost implications for the Council's budget. However, that body should be the Policy and Resources Committee and the Planning Referrals Committee should be abolished.
- 1.9 In reaching this conclusion, the Working Group reviewed the Council's existing Committee framework and took into account manageability of the process (including using the existing framework), representation, Member training and pre-determination issues. The Group considered the advantages and disadvantages of an alternative referral body and of increasing the size of the Planning Referrals Committee, details of which are summarised in **Appendix B**.
- 1.10 During its discussions, the Working Group sought guidance on pre-determination and the implications for Members and Substitute Members of the Planning Committee who might also be Members or Substitute Members of the alternative referral body.
- 1.11 The Localism Act 2011 clarified the rules on pre-determination. The rules were developed to ensure that Councillors come to Council discussions on any matter with an open mind. Section 25 of the Act provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This reflects the common law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting. In terms of any Members and Substitute Members of the referral body having participated in a decision of the Planning Committee which has been referred to it, even in the event of a named vote being taken at the Planning Committee, it does not necessarily mean that they will be pre-determined. Each individual case would need to be looked at, but it is ultimately the responsibility of the individual Councillor to decide, and Substitutes could be used if required.
- 1.12 In formulating its recommendations, the Working Group took into account the need to provide appropriate training on the policies, procedures, legislation and guidance relevant to the work of the Planning Committee

for Members and Substitute Members of the referral body. It was accepted that it would be impossible to train all 55 Members of the Council, and that the Members and Substitute Members of a smaller referral body could participate in the mandatory training arranged for Members and Substitute Members of the Planning Committee, including training on pre-determination of planning applications. The Working Group also felt that as far as possible Planning Committee processes should apply to the referral body; for example, the existing provisions relating to public speaking at meetings of the Planning Committee should apply for consistency and fairness. Further, it was agreed that the decision of the referral body should be final.

- 1.13 The Group considered the wording of the sections of the Constitution/Local Code of Conduct for Councillors and Officers Dealing with Planning Matters relating to Planning Decisions Which Have Significant Cost Implications. It was suggested, and agreed, that the delegation to the Head of Planning and Development upon the advice of the Legal Officer present to refer an application to a second body for determination (currently the Planning Referrals Committee) should be amended to be in consultation with the Chairman of the meeting; however, the decision would remain with the Head of Planning and Development. Initially, the Working Group thought that the delegation should be exercised in consultation with the Chairman and Vice-Chairman of the Committee, but accepted that these Members might not be in attendance at the meeting.
- 1.14 Any decision to abolish the Planning Referrals Committee will necessitate a review of the allocation of seats on Committees.

2. AVAILABLE OPTIONS

- 2.1 The Committee is asked to consider and agree the recommendations made for submission to Council.
- 2.2 The Committee could decide that no action be taken on the recommendations of the Working Group, however this would not be appropriate having regard to the concerns which have been expressed about the current Planning Referral process.

3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 The recommendations reflect the views of the Working Group appointed by this Committee to undertake a review of the arrangements for managing risk in relation to Planning Committee decisions, including the Planning Referral process. It is considered appropriate that the Committee give consideration to the recommendations arising from the review.

4. RISK

- 4.1 The procedure for referral of planning applications to a second body for determination was introduced to provide a further safeguard against the

possible risks associated with not being able to sustain Planning Committee decisions at appeal. The recommendations of the Working Group are intended to address concerns which have been raised about the current arrangements.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 The Working Group has balanced the need to provide a check and balance mechanism in relation to Planning Committee decisions against concerns expressed about the existing arrangements and formulated recommendations which, if adopted, will improve the process, be fully representative and increase public and Member confidence.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 The recommendations of the Democracy Committee, arising from its consideration of the findings of the review, will be reported to the Council for final decision.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The Council has in place processes to manage risk. The recommendations contained within this report are intended to assist in managing risks associated with Planning Committee decisions.	Head of Policy, Communications and Governance
Risk Management	The recommendations of the Working Group are intended to address concerns which have been raised about the current arrangements in place to manage risk in relation to decisions of the Planning Committee.	Head of Policy, Communications and Governance
Financial	Some decisions of the Planning Committee could have significant implications for the Council’s budget. The recommendations of the Working Group are intended to safeguard the Council against the possible risks associated with not being able to sustain	Paul Holland, Senior Finance Manager (Client)

	Planning Committee decisions at appeal.	
Staffing	No specific issues arise.	Head of Policy, Communications and Governance
Legal	It is essential that effective procedures are in place to provide a check and balance system with the view to reducing the legal and financial risks to the Council. The legal implications with regards to pre-determination are set out within the body of the report.	Interim Deputy Head of Legal Partnership
Privacy and Data Protection	No specific issues arise.	Interim Deputy Head of Legal Partnership
Equalities	No detrimental impact identified with the recommendations set out in the report. However, the communication of changes to Council policy to residents should include hard to reach groups to ensure our services and process are transparent and accessible to all.	Equalities and Corporate Policy Officer
Crime and Disorder	No specific issues arise.	Head of Policy, Communications and Governance
Procurement	No specific issues arise.	Head of Service & Section 151 Officer

1. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Planning Referrals Committee – Short Briefing Paper on Current Arrangements, Examples of Arrangements at Other Local Authorities and Possible Options
- Appendix B: Planning Referrals Committee – Advantages/Disadvantages of Alternative Referral Bodies

2. BACKGROUND PAPERS

None

Planning Referrals Committee – Short Briefing Paper on Current Arrangements, Examples of Arrangements at Other Local Authorities and Possible Options

1. Introduction

This paper sets out possible options for the arrangements for managing risk in relation to planning decisions. It also sets out the Council's current arrangements, examples of arrangements at other local authorities in Kent and some beyond who have similar procedures. The research is by no means exhaustive and it is apparent that everywhere approaches planning delegations and procedures differently in relation to committee arrangements.

2. Maidstone's Current Arrangements

The current arrangements are set out in section 2.2.8 of Part 2 of the Constitution (Composition and Purpose/Functions of the Planning Referrals Committee), section 29.3 of Part 3.1 of the Constitution (Planning Decisions Which Have Significant Cost Implications) and section 17 of the Local Code of Conduct for Councillors and Officers Dealing With Planning Matters (Planning Decisions Which Have Significant Cost Implications) as follows:

2.2.8 of Part 2 of the Constitution (Composition and Purpose/Functions of the Planning Referrals Committee)

Membership: 3 Councillors

Purpose: To determine planning applications referred to it by the Head of Planning and Development if s/he is of the opinion that the decision of the Planning Committee is likely to have significant cost implications.

Section 29.3 of Part 3.1 of the Constitution - Planning Decisions Which Have Significant Cost Implications

- (a) If the Head of Planning and Development, on the advice of the Legal Officer present at the meeting, believes that the Planning Committee's reasons to justify refusal/the imposition of conditions are not sustainable, the decision of the Planning Committee will be deferred to its next meeting. The Committee itself may also agree to defer consideration of an application for the same reasons.
- (b) If, at that meeting, the Planning Committee votes to continue with a decision which it has been advised cannot be sustained at appeal and which could have significant cost implications for the Council's budget, the Head of Planning and Development, on the advice of the Legal Officer present, will request Councillors to refer the consideration of the application to Part II of the meeting, to offer Councillors further advice on the legal and financial implications, and the likelihood of success at appeal. If the Committee still decides to refuse the application/impose an unreasonable condition, the Head of Planning and Development will on the advice of the Legal Officer

present, immediately after the vote has been taken, refer the application to the Planning Referrals Committee for determination.

Section 17 of the Local Code of Conduct for Councillors and Officers Dealing With Planning Matters - Planning Decisions Which Have Significant Cost Implications

- (a) If the Head of Planning and Development, on the advice of the Legal Officer present at the meeting, believes that the Planning Committee's reasons justifying a resolution to refuse/impose conditions are not sustainable, that decision of the Planning Committee will be deferred to its next meeting. The Head of Planning and Development will give advice on this before any vote is taken. The Committee itself may also agree to defer consideration of an application for the same reasons.
- (b) If, at that next meeting, the Planning Committee votes to continue with a decision which it has been advised cannot be sustained at appeal and which could have significant cost implications for the Council's budget, the Head of Planning and Development, on the advice of the Legal Officer present, will request Councillors to refer the consideration of the application to Part II of the meeting (private session), to offer Members further advice on the legal and financial implications, and the likelihood of success at appeal. If the Committee still decides to refuse the application/impose an unreasonable condition, the Head of Planning and Development will on the advice of the Legal Officer present, immediately after the vote has been taken, refer the application to the Planning Referrals Committee for determination.

Note: The wording in Section 17 of the Local Code of Conduct for Councillors and Officers Dealing With Planning Matters is slightly different from that in Section 29.3 of Part 3.1 of the Constitution

3. Examples from other Councils in Kent

Swale

No Planning Referral Committee, the Head of Planning can defer the item to next meeting as set out below:

If the vote does not follow the Officer recommendation then:

- (a) The Chairman will invite the Head of Planning to consider if the application should be deferred in accordance with Part 3 of the Constitution. If the application is deferred to that next meeting, the Head of Planning will advise Members of the prospects of such a decision being challenged on appeal and on the implications of a cost application being made against the Council.
- (b) If the decision is not deferred to the next meeting, a further motion must be made to refuse the application. A detailed minute of the Planning Committee's reasons (which should be full, clear and convincing) should be made by the Democratic Services Officer and a copy placed on the

Appendix A

application file. The courts have expressed the view that such reasons should be clear and convincing. The Chairman should also give the Planning Officer the opportunity to explain the implications of any decision contrary to his/her recommendation.

Shepway

Take particularly controversial applications to full Council.

Tunbridge Wells

No referral process or option for an Officer to defer an item.

Ashford

No Planning Referral Committee, Officers can recommend deferral to a later meeting of the Planning Committee as set out below:

"In cases where Members propose to make a decision contrary to Officers' advice, Officers may **request** deferral (which would remain at the discretion of the Committee) but only in the following exceptional circumstances where the complexity of the case demands:

- In order to formulate proper summary reasons and/or appropriate conditions and/or planning obligations in relation to a grant of permission.
- In order to formulate effective full reasons in relation to a refusal of permission in the light of Members' views at the meeting.

Requests would be made only in exceptional circumstances where the issues arising are so complex that Officers consider the Council's interests are best served by a deferral to allow time to prepare such." In such cases the "first" Committee would make a resolution that it is minded to grant/refuse whilst the "second" Committee would make the formal decision and give reasons and agree conditions etc. This is necessary as a matter of law to avoid the situation of one Committee formulating reasons etc. for a decision taken by a different Committee which would be legally problematic. (Minute No. 72/6/08 refers).

Tonbridge and Malling

No obvious referral process.

Sevenoaks

Procedures are focussed on pre-meeting action with advice on how to raise concerns and the option for Officers to withdraw a report. At the meeting itself an Officer can recommend that a decision be deferred but only the Chairman can decide whether or not to accept that recommendation.

Gravesham

Regulatory Board has no referral or Officer deferral mechanism.

4. Sample of Councils with Planning Referral Committees

Chichester

In the event that the Committee is minded to determine an application in a manner which is contrary to the Officers' recommendation and the Officers have identified this as being a major departure from the Development Plan or inconsistent with the policies of the Council, the application will be referred to the Council's Planning Applications Referral Committee for determination with a recommendation from the relevant Area Development Control Committee.

Harrogate

Have a Planning Committee and Planning Referral Committee. The Planning Referral Committee has 16 Members on a politically proportional basis and membership is drawn from the widest practicable geographical spread of Ward Members.

The Borough Solicitor or their representative makes a decision to refer the application where a decision the Committee wish to make is contrary to policy or could lead to costs being awarded against the Council, the application will be deferred by the Solicitor present at the meeting and brought to another meeting of the Committee or the Referrals Committee. The Committee meet fairly regularly and consider referrals from the Planning Committee as well.

St Albans

Have a Planning Referral Committee to deal with amongst other items particularly contentious applications.

5. Possible Options

When reviewing possible options consideration needs to be given to how we will provide a check and balance for Planning Committee decisions and reduce financial and legal risk for the Council.

1. Increase the size of the Planning Referrals Committee.
2. Retain current arrangements.
3. Change the referral body. Head of Planning and Development to refer decisions to Policy and Resources Committee following the same procedure as for referral to the Planning Referrals Committee and abolish the Planning Referrals Committee. Consideration would need to be given to training for Policy and Resources Committee Members.

Adopt a model similar to one of the Kent Councils above focussed on pre-meeting identification and resolution of issues with a back stop of the Head

Appendix A

of Planning and Development being able to recommend or defer an application where there is a major risk to the Council and that item is deferred to a later meeting of the Committee (essentially the first part of our present process).

**PLANNING REFERRALS PROCESS - ADVANTAGES/DISADVANTAGES OF
ALTERNATIVE REFERRAL BODIES**

Advantages of Referral to Full Council – Extraordinary Meeting	Disadvantages of Referral to Full Council – Extraordinary Meeting
<p>Relieves pressure on a small group of Members (Planning Referrals Committee comprising three Members).</p> <p>Provisions relating to public speaking would apply – details to be determined.</p>	<p>Unwieldy.</p> <p>Could result in delays in decision making and additional costs, including loss of the planning fee, which could be substantial, if an extension of time has not been agreed with the applicant</p> <p>Issues relating to pre-determination to be resolved - would need to discuss with the individual Members involved.</p> <p>Logistics of training 55 Members on relevant planning issues.</p>
<p>Note: The Working Group was initially under the impression that at Shepway District Council particularly controversial applications are reported to full Council for determination. However, it was established that at Shepway planning applications are delegated within the Council's Constitution to the Planning and Licensing Committee. There is no provision for referral by an individual. The only applications that have been reported to full Council (Lydd Airport and the sea front) were due to resolutions of the full Council for these applications to be determined there as there were major issues relating to employment and site sensitivity. In the case of a critical application, this approach could be adopted, but the issues described above would apply.</p>	
Advantages of Referral to Other Body – Policy and Resources Committee – Special Meeting	Disadvantages of Referral to Other Body – Policy and Resources Committee – Special Meeting
<p>Relieves pressure on a small group of Members (Planning Referrals Committee comprising three Members).</p> <p>Provisions relating to public speaking would apply – details to be determined.</p> <p>Responsible for co-ordinating financial management and performance across the Council. Policy and Resources Committee Members and Substitute Members</p>	<p>Issues relating to pre-determination to be resolved – would need to discuss with the individual Members involved, but Substitutes could be used.</p> <p>Perception that the determination of planning applications is driven by financial considerations.</p>

<p>could be included in the mandatory training arranged for Members and Substitute Members of the Planning Committee.</p> <p>It would be necessary to make clear that applications were being referred to the Policy and Resources Committee for final determination (with no provision for referral of the Committee’s decision to full Council).</p> <p>All Groups represented and membership includes all Group Leaders.</p>	
<p>Advantages of Referral to Other Body – Strategic Planning, Sustainability and Transportation Committee – Special Meeting</p>	<p>Disadvantages of Referral to Other Body – Strategic Planning, Sustainability and Transportation Committee – Special Meeting</p>
<p>Relieves pressure on a small group of Members (Planning Referrals Committee comprising three Members).</p> <p>Provisions relating to public speaking would apply – details to be determined.</p> <p>Responsible for overseeing, inter alia, the development, review and implementation of the Council’s strategic planning policies, including the Council’s Development Plan.</p> <p>Strategic Planning, Sustainability and Transportation Committee Members and Substitute Members could be included in the mandatory training arranged for Members and Substitute Members of the Planning Committee.</p> <p>It would be necessary to make clear that applications were being referred to the Strategic Planning, Sustainability and Transportation Committee for final determination (with no provision for referral of the Committee’s decision to the Policy</p>	<p>Issues relating to pre-determination to be resolved – would need to discuss with the individual Members involved, but Substitutes could be used.</p> <p>Issues relating to the Committee being asked to arbitrate on the application of its own policies.</p>

and Resources Committee).	
Advantages of Increasing the Membership of the Planning Referrals Committee	Disadvantages of Increasing the Membership of the Planning Referrals Committee
<p>Relieves pressure on a small group of Members (Planning Referrals Committee currently comprises three Members).</p> <p>Membership excludes Members and Substitute Members of the Planning Committee so pre-determination should not be an issue.</p> <p>Provisions relating to public speaking would apply – details to be determined.</p> <p>Planning Referrals Committee Members and Substitute Members could be included in the training arranged for Members and Substitute Members of the Planning Committee.</p>	<p>Difficult to find additional Members to serve on the Committee and there may be unwillingness on the part of Political Groups to be allocated seats on a Committee that has only been required to meet twice in ten years to exercise its functions.</p>

The Working Group also considered the advantages and disadvantages of a third party independent review as follows:

Advantages of a Third Party Independent Review	Disadvantages of a Third Party Independent Review
<p>Relieves pressure on a small group of Members (Planning Referrals Committee currently comprises three Members).</p> <p>Objective approach by an independent party.</p>	<p>Cost implications and issues associated with ratification of the third party's conclusions.</p>

Agenda Item 14

MAIDSTONE BOROUGH COUNCIL

COUNCIL

6 DECEMBER 2017

REPORT OF THE DEMOCRACY COMMITTEE 15 NOVEMBER 2017

AMENDMENTS TO THE CONSTITUTION

Issue for Decision

On 6 December 2017 the Democracy Committee considered amendments to the Constitution. These included:

- A 'six month rule' in relation to motions, where if motions are put to council that either rescind previous motions or are similar to motions previously rejected over the last six months then a third of councillors are required to have signed the notice of motion; and
- A provision that all proposed amendments to the budget at Budget Council meetings be submitted in advance of the meeting, so that Officers can ensure that a balanced budget can be set if amendments are agreed.

Recommendations Made

1. An amendment to the Council Procedure Rules to insert the 'six month rule' with regards to motions as set out in paragraph 1.8 of the report (Appendix 1 to this report) is approved.
2. The number of members required to sign the notice of motion as set out in paragraph 1.8 of the report (Appendix 1 to this report) is a third of all councillors.
3. The proposed amendment to the Council Procedure Rules with regards to the submission of amendments to the budget decision meeting of Council as set out in paragraph 1.13 of the report (Appendix 1 to this report) are agreed.
4. The Monitoring Officer is instructed to make the agreed changes to the Constitution.

Reasons for Recommendation

The rationale behind making these changes to the constitution is contained within the report to Democracy Committee, attached as Appendix 1 to this report.

Alternatives Considered and Why Not Recommended

The Council could choose not to insert a 'six month rule' on motions to council. However if the Council does not insert this rule into the constitution, it could lead

to inconsistent decision making or the revocation of a decision that was in the process of being implemented.

The Council could choose not to introduce a procedure rule requiring amendments to the budget to be submitted in advance. However this would mean the Council risks not setting a balanced budget if amendments are introduced at the Council meeting and there is not time to understand the implications on the budget of the amendments.

Background Documents

Appendix 1: Amendments to the Constitution Report to Democracy Committee
15 November 2017

Democracy Committee**15 November 2017****Amendments to the Constitution**

Final Decision-Maker	Council
Lead Head of Service/Lead Director	Patricia Narebor, Head of Legal Services Partnership and Monitoring Officer
Lead Officer and Report Author	Donna Price, Interim Deputy Head of Legal Services Partnership
Classification	Public
Wards affected	All

Executive Summary

The report sets out the proposed amendments to the Council Procedure Rules within the Constitution in order to facilitate the Council and its Officers to effectively carry out their duties and remove any potential ambiguity in decisions made by the Council.

This report makes the following recommendations to this Committee:

1. To consider and recommend to Council for approval the proposed amendment to the Council Procedure Rules to insert the 'six month rule' with regards to motions as set out in paragraph 1.8 of the report and to agree the number of members required to sign the notice of motion.
2. To consider and recommend to Council for approval the proposed amendment to the Council Procedure Rules with regards to the submission of amendments to the budget decision meeting of Council as set out in paragraph 1.13 of the report.
3. To consider and agree whether or not the business conducted should be limited in any way at a budget decision meeting and to make recommendations to Council.
4. To recommend to Council that the Monitoring Officer be instructed to make the agreed changes to the Constitution.

Timetable

Meeting	Date
Democracy Committee	15 November 2017
Council	6 December 2017

Amendments to the Constitution

1. INTRODUCTION AND BACKGROUND

- 1.1 As the Constitution is a living document it is necessary to keep it under continuous review so that amendments can be made as and when necessary to ensure the document is kept up to date.
- 1.2 A full review of the effectiveness of the Constitution was carried out in January/February 2016 and the recommended amendments were agreed in April 2016. Following this review the Constitution has worked well and as such it has not been necessary to carry out a full review, however, as necessary amendments have been identified they have been brought forward for adoption by Council.
- 1.3 In March of this year it was necessary to bring forward a report to Democracy Committee as changes were required to officer delegations and the functions and responsibilities of the Heritage, Culture and Leisure Committee. Such changes were recommended to Council and subsequently approved.

'Six Month Rule'

- 1.4 As part of the report to Democracy Committee in March it was also recommended that the Council Procedure Rules be amended to insert the six month rule with regards to motions as it was believed to have been omitted as part of the redraft of the Constitution. Whilst members were generally in support of the provision concerns were raised over the number of members required to move the motion, therefore the item was deferred so that the provision accurately reflected what was previously in the Constitution.
- 1.5 Following the Democracy Committee meeting it came to light that the provision had actually been omitted from previous versions of the Constitution therefore it was not the case that it was a drafting error when the new Constitution was adopted in 2016.
- 1.6 The 'six month rule' provision prevents a motion or amendment to rescind a decision made at a meeting of Council, or to bring forward a motion of amendment in similar terms to one that has been rejected a meeting of the Council, within a period of six months unless the notice of motion is signed by a minimum number of members. The purpose of the provision is to ensure stability in decision making for a set period and avoid any unnecessary duplication or ambiguity.
- 1.7 Having reviewed the Constitution of other local authorities in Kent, including our partner authorities, they have all adopted the provision.

- 1.8 It is therefore recommended that the Council Procedure Rules be amended to insert the following provisions taken from the DCLG Model Constitution for Local Authorities:

“Previous Decisions and Motions

• **Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of Motion is signed by at least *[insert number]* of the whole number of the Council.

• **Motion similar to one previously rejected**

A Motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of Motion or amendment is signed by at least *[insert number]* of the whole number of the Council Members. Once the Motion or amendment is dealt with, no one can propose a similar Motion or amendment for six months.”

- 1.9 Should Democracy Committee be minded to recommend adoption of the provision to Council there is a decision to be made as to the number of members needed to move the notice of Motion. In order to assist members a comparison of numbers adopted by other Kent authorities is set out in the table below:

Authority	Total number of Councillors	Number of Councillors needed to move the notice of motion
Ashford Borough Council	43	16
Canterbury City Council	39	8
Dartford Borough Council	44	Third of all members
Dover District Council	45	Third of all members
Gravesham Borough Council	44	11
Shepway District Council	32	9
Swale Borough Council	47	Third of all members
Tunbridge Wells Borough Council	48	10

Budget Decision Meeting

- 1.10 The Council has a statutory duty under the Local Government and Finance Act 1992 to agree a balanced budget and in times of austerity this is becoming increasingly difficult for all local authorities.
- 1.11 The budget decision meeting usually takes place in March each year and at present members are able to move amendments to the budget proposals at the actual Council meeting which could result in an inability to balance the budget if the proposals are agreed or for the need to adjourn the meeting.

- 1.12 Any counter proposals submitted to the budget must achieve the statutory objective of a balanced budget, therefore sufficient time is needed to enable officers to consider the implications of any alternative amendment and to present sufficient detail at the Council meeting. All members will then be fully aware of the impact of such proposed amendments when making their decision at the meeting.
- 1.13 It is therefore recommended that the Council Procedure Rules be amended to include provision that all proposed amendments are provided in writing in advance of the meeting to give sufficient time for officers to ensure a balanced budget can be achieved if such amendments are agreed, and that no further amendment to the budget can be made at the budget decision meeting. Proposed amended wording is set out below:

“Amendments to the budget are to be made in writing and delivered to the Proper Officer by 5pm on the Monday before the meeting. In proposing any changes to the budget any amendment must ensure that the proposal achieves a balanced budget.”

- 1.14 Due to the importance of the budget decision meeting and to allow sufficient time for discussion to take place, members may be minded to amend the Council Procedure Rules to consider limiting what business can be undertaken at that meeting. The business of an Ordinary Meeting of Council is set out in Appendix I to this report and members of the Committee are asked to consider whether they wish to amend this for budget decision meetings.

2. AVAILABLE OPTIONS

- 2.1 The first option is to “do nothing”. The Committee could decide not to accept the proposed amendments at this time. The Constitution has worked quite well since it was adopted. However the proposed amendments will facilitate the Council and its Officers to effectively carry out their duties.
- 2.2 The second option – which this report recommends – is to consider and accept the proposed amendments and recommend that Council adopts them.

3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 It is recommended that the Committee adopts the second option in paragraph 2.2 above and accepts the recommendations and proposes the amendments to Council at its meeting on 6 December. The amendments to the Constitution can then be made by the Monitoring Officer.
- 3.2 The proposed amendments will facilitate the Council and its Officers to effectively carry out their duties and remove any potential ambiguity in decisions made by the Council. In addition, it is essential that the Constitution should be reviewed and amended regularly to reflect the changing demands of the Council and the public.
-

4. RISK

- 4.1 The insertion of the six month rule will mitigate any risks associated with the amendment of decisions that have been or are in the process of being implemented without a reasonable period of time elapsing.
- 4.2 The proposed procedure for the submission of amendments to the budget will provide a further safeguard against the possible risks associated with not being able to achieve a balanced budget.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 The Democracy Committee previously considered the implementation of the six month rule and this report addresses the concerns raised. Discussions have also taken place with the Chief Executive regarding the proposed amendments to budget decision meetings.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If approved, the amendments to the Constitution will be presented to Council on 6 December with the recommendation that it adopts the revisions to take immediate effect.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, a clear and effective Constitution supports all corporate priorities. Reviewing the Constitution regularly ensures that it most effectively meets the needs of the Council and the public.	Interim Deputy Head of Legal Partnership
Risk Management	The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council’s Risk Management Framework. The changes proposed are to ensure the	Interim Deputy Head of Legal Partnership

	effective running of the council, when deciding whether to approve the changes the committee will need to consider the risk of not making amendments.	
Financial	The recommendations do not have any direct financial implications, however, they assist with the Council's statutory duty under the Local Government and Finance Act 1992 to achieve a balanced budget	Interim Deputy Head of Legal Partnership
Staffing	None identified in this report.	Interim Deputy Head of Legal Partnership
Legal	The legal implications are set out in the body of the report.	Interim Deputy Head of Legal Partnership
Privacy and Data Protection	None identified in this report.	Interim Deputy Head of Legal Partnership
Equalities	None identified in this report.	Interim Deputy Head of Legal Partnership
Crime and Disorder	None identified in this report.	Interim Deputy Head of Legal Partnership
Procurement	None identified in this report.	Interim Deputy Head of Legal Partnership

8. REPORT APPENDICES

Appendix I – Extract from Council Procedure Rules

9. BACKGROUND PAPERS

None

Extract from Council Procedure Rules – Part 3.1 of Constitution**ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with an agreed calendar of meetings. Ordinary meetings will:

- (a) elect a person to preside if the Mayor or Deputy Mayor is not present;
- (b) receive any declarations of interest from Councillors and officers and deal with any applications for dispensations;
- (c) receive any disclosures of lobbying by Councillors;
- (d) consider whether any items should be taken in private because of the likely disclosure of confidential or exempt information;
- (e) approve and sign the minutes of the last meeting;
- (f) receive any announcements from the Mayor;
- (g) receive any petitions or deputations;
- (h) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the Council;
- (i) allow any member of the public to speak in accordance with the rule on Public Speaking;
- (j) the following will receive and respond to questions from Councillors in chronological order of receipt:
 - Chairmen of Committees; and
 - Other spokespersons nominated by the relevant Chairman.
- (k) receive the Leader's Report on Current Issues and the Group Leaders' responses;
- (l) deal with any business from the last Council meeting;
- (m) receive reports from the Council's Committees where there are recommendations for the Council to take a decision;
- (n) receive reports about the business of joint arrangements and external organisations which include matters for decision;
- (o) consider motions in the order in which notice has been received;
- (p) consider any other business specified in the summons to the meeting, including consideration of proposals from officers for debate; and
- (q) consider matters where confidential or exempt information may be revealed.

COUNCIL	6 December 2017
Is the final decision on the recommendations in this report to be made at this meeting?	Yes

Complaints Annual Report

Final Decision-Maker	Council
Lead Head of Service	Angela Woodhouse, Head of Policy, Communications and Governance and Patricia Narebor, Head of Legal Partnership
Lead Officer and Report Author	Angela Woodhouse and Anna Collier
Classification	Public
Wards affected	All

This report makes the following recommendations to Council:

1. The Council’s performance on complaint management in 2016/17 is noted.
2. The Local Government Ombudsman’s Annual Review Letter 2016/17 is noted.
3. The Local Government Ombudsman’s report on Complaint reference 16 004 603 is noted.
4. To make a decision on whether the Council should follow the recommendations made by the Local Government Ombudsman as follows:
 - a) Apologise to Mr and Mrs A for the fault identified
 - b) pay them £500 to reflect lost and broken belongings including a television
 - c) pay Mr and Mrs A £550 for the cost of Bed and Breakfast from 6 to 13 July 2015
 - d) pay Mr and Mrs A’s removal and storage costs of £370.
 - e) pay Mr and Mrs A £750 which reflects some of the cost of takeaway food for the two months the family was in the Bed and Breakfast after the eviction.
 - f) pay them £2,000 to reflect the high distress.

This report relates to the following corporate priorities: Good complaints management ensures that the Council learns from customer experience and develops services to deliver both priorities

- Keeping Maidstone Borough an attractive place for all
- Securing a successful economy for Maidstone Borough

Timetable	
Meeting	Date
Council	6 December 2017

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 To provide Council with an overview of how the Council has performed in responding to complaints in 2016/17.
 - 1.2 The Council is required under section 5(2) of the Local Government and Housing Act 1989 to prepare a formal report to the council where it appears that the authority, or any part of it, has acted or is likely to act in such a manner as to constitute maladministration or service failure, and where the LGO has conducted an investigation in relation to the matter. This requirement applies to all Ombudsman complaint decisions, not just those that result in a public report. Providing an annual report on complaints is sufficient to meet this requirement.
 - 1.3 Council is also required to make a decision on the findings and recommendation of a recent LGO decision against the Council.
-

2. INTRODUCTION AND BACKGROUND

- 2.1 Complaints, including Local Government and Social Care Ombudsman (LGO) complaints are managed and monitored by the Policy and Information team.
- 2.2 The Council's formal complaints procedure, has two stages with the following response timescales:
 - Stage 1 within 10 working days; and
 - Stage 2 within 20 working days.
- 2.3 Stage one complaints are dealt with by the manager of the service or their line manager if the complaint is about them. Stage two complaints are investigated by the Head of Policy, Communications and Governance.
- 2.4 Following stage two, unsatisfied complainants then have the opportunity to refer their complaint to the LGO.
- 2.5 The LGO undertake an independent and impartial investigation of complaints within their jurisdiction and where they consider there has been fault recommend redress which is they consider to be proportionate, appropriate and reasonable based on all the facts of the complaint.
- 2.6 The LGO does not have any legal power to enforce the Council to follow their recommendations but can publish their findings.

3. Complaints Management 2016/17

- 3.1 The Council received 578 Stage One Complaints in 2016/17. Of these complaints the highest volumes relate to four services;
 - Council Tax

- Development Management
- Environmental Services
and
- Parking

3.2 The Council received 71 Stage Two Complaints in 2016/17. This is an escalation rate of 12%. This low percentage indicates the quality of investigation, resolution and response at the first stage, ensuring that complainants do not need to seek further resolution.

3.3 Stage two complaints can vary across the authority but the highest numbers were from

- Council tax
- Development Management
and
- Parking

4. Local Government and Social Care Ombudsman Annual Review Letter 2016/17

4.1 The LGOs Annual Review Letter can be seen at Appendix I.

4.2 The LGO reviewed 35 complaints in 2016/17. The table below shows the LGO decision on each of these:

Decision Category	Number	Explanation
Closed No further action required	13	On the basis of the complainants referral the LGO have decided not to investigate
Referred back to Council	10	The complaint hasn't gone through the Council's official complaint process and it is referred back to the Council
Not Upheld	6	Following explanation the LGO agrees with the Council's decision
Upheld	5	The LGO doesn't agree with the Council's decision and finds in favour or partial favour with the complainant
Invalid/not enough information	1	The LGO was unable to progress the complaint

4.3 Whilst the Council would strive to have no complaints upheld by the LGO, the performance overall has been good both in relation to the number of complaints escalated to the LGO, the number investigated and the number upheld. For the five complaints upheld, the table below shows the LGO recommendations. In each case the recommendation was implemented.

Complaint	Service	Redress
1	Planning & Development	Apology, Financial Redress

2	Benefits & Tax	Financial Redress, Procedure Change, Training
3	Planning & Development	Apology, Financial Redress
4	Highways & Transport	Null
5	Planning & Development	Null

5. Local Government and Social Care Ombudsman – Maladministration and injustice Report

5.1 On the 17th of October 2016 the Council were notified that the LGO would be investigating a complaint that had been escalated to them; regarding the Council's handing of homelessness application and the temporary accommodation arrangements.

5.2 As required by legislation the Council placed an advert in the Local press to inform the public of the issuing of the report and copies were made available for public inspection in the Link.

5.3 The Council is required by law to consider the LGO's report within three months of issue and inform the LGO of the action(s) it intends to take in relation the suggested remedy proposed by them.

5.4 The LGO's final report can be seen at Appendix II, they have found 'fault causing injustice and recommendations made'. It should be noted though that this is only partial fault as the LGO have not found against the Council on all points.

5.5 The LGO makes a number of recommendations that Council will have to consider. The Council must let the LGO know within 3 months of the report being issued what it intends to do. The recommendations are listed below.

- a. apologise to Mr and Mrs A for the fault identified;
- b. pay them £500 to reflect lost and broken belongings including a television;
- c. pay them £550 for the cost of Bed and Breakfast from 6 to 13 July 2015 (the Council has already agreed to do this);
- d. pay their removal and storage costs of £370;
- e. pay them £750 which reflects some of the cost of takeaway food for the two months the family was in the Bed and Breakfast after the eviction; and
- f. pay them £2,000 to reflect their avoidable distress.

5.6 An apology was issued by the Council and an offer was made in response to the original complaint to pay the cost of the Bed and Breakfast accommodation and subsequently it has been acknowledged that the Council should refund the cost of removal and storage costs.

5.7 To date officers have not accepted the other recommendations and challenged the findings of the report; the Council's response to the draft letter can be seen at Appendix III.

5.8 There are three overarching reasons for the challenge as well as minor challenges on aspects of the complaint:

- i. That the LGO has stepped outside its jurisdiction. The LGO report outlines, it would not normally investigate a complaint that could have been dealt with through the courts as identified in the Local Government Act 1974, section 26, (6) "A Local Government Commissioner shall not conduct an investigation under this part of this Act in respect of any of the following matters – (c) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law". In this case it would have been reasonable to expect Mr and Mrs A to go to Court especially as they had a solicitor at the outset of the complaint and they could have requested damages via a County Court action in the small claims court and would not have needed legal representation.
- ii. The investigation, report and recommendations are formed on the basis that Mr and Mrs A did not breach the rules of the property which they occupied.
- iii. The Council has already admitted responsibility for the elements of fault that it considers it was responsible for. Additionally; as the LGO have been advised there have been a range of procedural changes to improve processes across the service.

5.9 The LGO do not agree with the Council's challenges but have acknowledged the points and these have been included in the letter.

5.10 The housing service has made numerous changes since this complaint; including updating policy, procedures and most significantly purchasing its own temporary accommodation; a full list can be seen at appendix IV.

5.11 Whilst these have been acknowledged by the LGO they also state that since this was not as a result of this complaint they do not satisfy their concerns; officers have argued, that the team learnt a lot from this complaint and this plus other factors led to the changes and the changes are wide ranging and significant.

6. AVAILABLE OPTIONS

6.1 Council could choose to accept all of the recommendations made by the LGO; and make full payment and issue an apology to the complainants. This option contains the least risk in terms of publicity but does potentially leave the Council open to future challenge, from others.

6.2 Council could choose to reject all recommendations made by the LGO. This would come with increased risk; as the complainants may choose to take the issue further, resulting in increased negative publicity and increased resource both financial and staffing.

6.3 Council could choose to agree to some of the recommendations made by the LGO, as officers consider these are fair and reasonable given the facts of the complaint. Whilst this does still come with an element of risk that the complainants will take the case further, it does afford the Council the

opportunity to put their case forward. However, the likelihood of success is not guaranteed should the matter be referred to Court.

7. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

7.1 That Council choose to agree to some of the recommendations. It is recommended that Council agree to the following recommendations made by the LGO.

- pay Mr and Mrs A £550 for the cost of Bed and Breakfast from 6 to 13 July 2015
- pay Mr and Mrs A's removal and storage costs of £370.

7.2 The Council has already offered to pay Mr and Mrs A the money for the cost of bed and breakfast and has acknowledged in hindsight it is appropriate that the cost of storage is also paid.

8. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

8.1 A press release was issued under s.30 of the Local Government Act 1974 following receipt of the public report. Any action agreed by Council will be reported to the LGO.

9. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

9.1 Once Council has made a decision, the LGO will need to be informed by the 1 February 2017.

10. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	Good complaints management ensures that the Council learns from customer experience and develops services to deliver both priorities	Head of Policy, Communications and Governance
Risk Management	There is substantial reputational risk	Head of Policy, Communications and Governance
Financial	The total cost of the the LGO's remedy is £4,170. Should Council decide to approve the officer recommendation the cost of	[Section 151 Officer & Finance Team]

	the remedy would be £920	
Staffing	N/A	Head of Policy, Communications and Governance
Legal	The legal implications are detailed within the report, in particular paragraph 1.2 and 5(8)(i).	Patricia Narebor Head of Mid Kent Legal Partnership
Equality Impact Needs Assessment	The complainants made an accusation of racism however the LGO could find no evidence that this was the case. The Council had previously looked into this and could find no evidence either	Head of Policy, Communications and Governance
Environmental/Sustainable Development	N/A	Head of Policy, Communications and Governance
Community Safety	N/A	Head of Policy, Communications and Governance
Human Rights Act	N/A	Head of Policy, Communications and Governance
Procurement	The LGO has recommended that the Council formalises its relationship with the accommodation providers cited in the complaint.	Head of Policy, Communications and Governance
Asset Management	N/A	Head of Policy, Communications and Governance

11. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix I: Local Government Ombudsman Annual Report 2016/17
- Appendix II: Local Government and Social Care Ombudsman Complaint Investigation Report
- Appendix III: Letter to the Local Government Ombudsman from Maidstone Borough Council
- Appendix IV: List of changes to Housing Service

20 July 2017

By email

Alison Broom
Chief Executive
Maidstone Borough Council

Dear Alison Broom,

Annual Review letter 2017

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGO) about your authority for the year ended 31 March 2017. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

The reporting year saw the retirement of Dr Jane Martin after completing her seven year tenure as Local Government Ombudsman. I was delighted to be appointed to the role of Ombudsman in January and look forward to working with you and colleagues across the local government sector in my new role.

You may notice the inclusion of the '*Social Care Ombudsman*' in our name and logo. You will be aware that since 2010 we have operated with jurisdiction over all registered adult social care providers, able to investigate complaints about care funded and arranged privately. The change is in response to frequent feedback from care providers who tell us that our current name is a real barrier to recognition within the social care sector. We hope this change will help to give this part of our jurisdiction the profile it deserves.

Complaint statistics

Last year, we provided for the first time statistics on how the complaints we upheld against your authority were remedied. This year's letter, again, includes a breakdown of upheld complaints to show how they were remedied. This includes the number of cases where our recommendations remedied the fault and the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. In these latter cases we provide reassurance that your authority had satisfactorily attempted to resolve the complaint before the person came to us.

We have chosen not to include a 'compliance rate' this year; this indicated a council's compliance with our recommendations to remedy a fault. From April 2016, we established a new mechanism for ensuring the recommendations we make to councils are implemented, where they are agreed to. This has meant the recommendations we make are more specific, and will often include a time-frame for completion. We will then follow up with a council and seek evidence that recommendations have been implemented. As a result of this new process, we plan to report a more sophisticated suite of information about compliance and service improvement in the future.

This is likely to be just one of several changes we will make to our annual letters and the way we present our data to you in the future. We surveyed councils earlier in the year to find out, amongst other things, how they use the data in annual letters and what data is the most useful; thank you to those officers who responded. The feedback will inform new work to

provide you, your officers and elected members, and members of the public, with more meaningful data that allows for more effective scrutiny and easier comparison with other councils. We will keep in touch with you as this work progresses.

I want to emphasise that the statistics in this letter comprise the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, but who may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

The statutory duty to report Ombudsman findings and recommendations

As you will no doubt be aware, there is duty under section 5(2) of the Local Government and Housing Act 1989 for your Monitoring Officer to prepare a formal report to the council where it appears that the authority, or any part of it, has acted or is likely to act in such a manner as to constitute maladministration or service failure, and where the LGO has conducted an investigation in relation to the matter.

This requirement applies to all Ombudsman complaint decisions, not just those that result in a public report. It is therefore a significant statutory duty that is triggered in most authorities every year following findings of fault by my office. I have received several enquiries from authorities to ask how I expect this duty to be discharged. I thought it would therefore be useful for me to take this opportunity to comment on this responsibility.

I am conscious that authorities have adopted different approaches to respond proportionately to the issues raised in different Ombudsman investigations in a way that best reflects their own local circumstances. I am comfortable with, and supportive of, a flexible approach to how this duty is discharged. I do not seek to impose a proscriptive approach, as long as the Parliamentary intent is fulfilled in some meaningful way and the authority's performance in relation to Ombudsman investigations is properly communicated to elected members.

As a general guide I would suggest:

- Where my office has made findings of maladministration/fault in regard to routine mistakes and service failures, and the authority has agreed to remedy the complaint by implementing the recommendations made following an investigation, I feel that the duty is satisfactorily discharged if the Monitoring Officer makes a periodic report to the council summarising the findings on all upheld complaints over a specific period. In a small authority this may be adequately addressed through an annual report on complaints to members, for example.
- Where an investigation has wider implications for council policy or exposes a more significant finding of maladministration, perhaps because of the scale of the fault or injustice, or the number of people affected, I would expect the Monitoring Officer to consider whether the implications of that investigation should be individually reported to members.
- In the unlikely event that an authority is minded not to comply with my recommendations following a finding of maladministration, I would always expect the Monitoring Officer to report this to members under section five of the Act. This is an exceptional and unusual course of action for any authority to take and should be considered at the highest tier of the authority.

The duties set out above in relation to the Local Government and Housing Act 1989 are in addition to, not instead of, the pre-existing duties placed on all authorities in relation to Ombudsman reports under The Local Government Act 1974. Under those provisions, whenever my office issues a formal, public report to your authority you are obliged to lay that report before the council for consideration and respond within three months setting out the action that you have taken, or propose to take, in response to the report.

I know that most local authorities are familiar with these arrangements, but I happy to discuss this further with you or your Monitoring Officer if there is any doubt about how to discharge these duties in future.

Manual for Councils

We greatly value our relationships with council Complaints Officers, our single contact points at each authority. To support them in their roles, we have published a Manual for Councils, setting out in detail what we do and how we investigate the complaints we receive. When we surveyed Complaints Officers, we were pleased to hear that 73% reported they have found the manual useful.

The manual is a practical resource and reference point for all council staff, not just those working directly with us, and I encourage you to share it widely within your organisation. The manual can be found on our website www.lgo.org.uk/link-officers

Complaint handling training

Our training programme is one of the ways we use the outcomes of complaints to promote wider service improvements and learning. We delivered an ambitious programme of 75 courses during the year, training over 800 council staff and more 400 care provider staff. Post-course surveys showed a 92% increase in delegates' confidence in dealing with complaints. To find out more visit www.lgo.org.uk/training

Yours sincerely



Michael King
Local Government and Social Care Ombudsman for England
Chair, Commission for Local Administration in England

Local Authority Report: Maidstone Borough Council
For the Period Ending: 31/03/2017

For further information on how to interpret our statistics, please visit our website:
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
0	6	2	0	6	1	7	13	0	35

Decisions made

				Detailed Investigations			
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	Total
1	0	10	13	6	5	45%	35

Notes

Our uphold rate is calculated in relation to the total number of detailed investigations.
 The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

Complaints Remedied

by LGO	Satisfactorily by Authority before LGO Involvement
3	0

**Report by the Local Government and
Social Care Ombudsman**

**Investigation into a complaint against
Maidstone Borough Council
(reference number: 16 004 603)**

1 November 2017

The Ombudsman's role

For 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Investigation into complaint number 16 004 603 against Maidstone Borough Council

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Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mr and Mrs A: the complainants

Mrs X: the owner of temporary accommodation

Mr X: Mrs X's son

Report summary

Homelessness

Mr and Mrs A complain about the way Maidstone Borough Council handled their homeless application. They are also unhappy with the arrangements for accommodating them before and after the Council accepted the main housing duty.

Finding

Fault causing injustice and recommendations made.

Recommendations

To remedy the injustice to the family, the Council should, within three months of the date of this report:

- apologise to Mr and Mrs A for the fault identified;
- pay them £500 to reflect lost and broken belongings including a television;
- pay them £550 for the cost of Bed and Breakfast from 6 to 13 July 2015 (the Council has already agreed to do this);
- pay their removal and storage costs of £370;
- pay them £750 which reflects some of the cost of takeaway food for the two months the family was in the Bed and Breakfast after the eviction; and
- pay them £2,000 to reflect their avoidable distress.

Within three months of the date of this report, the Council should review and formalise its working relationship with Mr and Mrs X in writing to avoid recurrence of the fault identified and report back to us with an action plan.

Introduction

1. Mr and Mrs A complain about the way Maidstone Borough Council (the Council) handled their homeless application. They are also unhappy with the accommodation the Council arranged for them before and after the Council accepted the main housing duty. Mr and Mrs A complain:
 - there was a failure to assist until they approached the Council in person. They had to use the out of hours' service and, despite attending the Council's offices in person at 2pm, and advising of their homelessness previously, the Council did not arrange accommodation until 7.30pm when they had two small children (including a baby of 13 months) and nowhere to go;
 - there was a failure to deal with complaints about the housing provider's son, Mr X including complaints of harassment;
 - the Council allowed an unlawful eviction;
 - there was a failure to make proper inquiries before finding Mr and Mrs A intentionally homeless;
 - there was an unacceptable delay in providing decisions in writing;
 - there was a failure to provide further accommodation after the eviction;
 - the Council provided unsuitable Bed and Breakfast accommodation; conditions were poor, there was damp, mould and insects. The room was cold and the heating did not work properly. There was dog excrement in the garden;
 - they were in Bed and Breakfast accommodation for 14 weeks;
 - there was racial discrimination; and
 - there was a failure to investigate their complaints.
2. Mr and Mrs A seek a financial remedy including repayment of £4,000 for their avoidable costs and expenses and for damage and loss of their belongings during the eviction. They feel the Council needs to change procedures so the same thing does not happen to others.

Legal and administrative background

3. We investigate complaints about 'maladministration' and 'service failure'. In this report, we have used the word fault to refer to these. If there has been fault, we consider whether it has caused an injustice and if it has, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
4. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council or Cabinet and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)
5. The law says we cannot normally investigate a complaint when someone could take the matter to court. However, we may decide to investigate if we consider it would be

unreasonable to expect the person to go to court. (*Local Government Act 1974, section 26(6)(c), as amended*)

6. Mr and Mrs A could have taken their complaints about the Council's failure to deal with complaints about the housing provider's son, Mr X including complaints of harassment and the Council allowing an unlawful eviction to court to claim damages. And, although they have instructed a solicitor, we do not consider it reasonable for them to pursue court proceedings because the court would not recommend procedural improvements, whereas we might make a recommendation to change procedures if our findings justified this.
7. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe it would be reasonable for the person to ask for a council review or appeal or if the person has already asked for a review. (*Local Government Act 1974, section 24A(6), as amended*)
8. We investigate complaints about councils and certain other bodies. Where an individual, organisation or private company is providing services on behalf of a council, we can investigate complaints about the action of these providers. (*Local Government Act 1974, section 25(7)*)

How we considered this complaint

9. We produced this report after examining relevant files and documents from the Council and Mr and Mrs A including video and audio recordings from Mrs A taken on the day of the eviction. We gave Mr and Mrs A, the Council and Mr and Mrs X a confidential draft of this report and invited them to comment. We took their comments into account before finalising the report.

Investigation

Relevant law, procedures and guidance

10. If a council has reason to believe someone may be homeless or threatened with homelessness, it must take a homelessness application and make inquiries. The threshold for taking an application is low. The person does not have to complete a specific form or approach a particular council department. (*Housing Act 1996, section 184 and Homelessness Code of Guidance paragraphs 6.2 and 6.6*)
11. A council must provide interim accommodation while it considers a homelessness application if it has reason to believe the applicant may be homeless, eligible for assistance and in priority need. (*Housing Act 1996, section 188 and Homelessness Code of Guidance for Local Authorities, paragraph 6.5*)
12. A council applies four tests to decide what, if any, duty it owes to a homeless applicant. Its enquiries are to decide whether the applicant is eligible for assistance, homeless or threatened with homelessness, in priority need (including families with children) and not intentionally homeless. If a council is satisfied someone is eligible, homeless, in priority need and unintentionally homeless it will owe them the main housing duty. This means

the council must make accommodation available to the applicant. Councils usually carry out the duty by arranging temporary accommodation until making a suitable offer of social housing or private rented accommodation. (*Housing Act 1996, section 193*)

13. After completing inquiries, the applicant must receive a decision in writing. If it is an adverse decision, the letter must fully explain the reasons. Letters must include information about the right to request a review and the timescale for doing so. (*Housing Act 1996, section 184*)
14. An applicant may request a review within 21 days of being notified of the decision on their homelessness application. If the applicant wishes to challenge the review decision, or if a council takes more than eight weeks to complete the review, they may appeal on a point of law to the County Court. (*Housing Act 1996, sections 202 and 204*)
15. A council must arrange storage of belongings where:
 - it has accepted certain duties to the household including the duties described in paragraphs 10 and 11;
 - the belongings are at risk of damage or loss;
 - no suitable provision has been made.

(*Housing Act 1996, section 211*)
16. The Homelessness (Suitability of Accommodation) Order (“the Suitability Order”) says privately run Bed and Breakfasts are not suitable accommodation for families and they should not be used unless there is no alternative and then for no longer than six weeks. There are no restrictions on a council using Bed and Breakfast accommodation where it is provided under a power, as opposed to a legal duty; for example the power to accommodate pending a review (see paragraph 13). (*SI 2003/3326*)
17. An applicant has the right to request a review of a decision about the suitability of accommodation provided under Section 193 of the Housing Act 1996. There is a right of appeal to the County Court on a point of law. (*Housing Act 1996, sections 202 and 204*)
18. The Council’s comments about its procedures for temporary accommodation are summarised below.
 - In 2015, there was no written temporary accommodation policy, although there is one now. The procedure was/is: for minor breaches of licence conditions, a person receives a written or verbal warning by the Council or accommodation provider, followed by a written warning if there are further breaches. For serious breaches, temporary accommodation can be ended immediately.
 - The Council gives assistance with removals and storage in line with Section 211 of the Housing Act 1996. The applicant would need to say there was a risk to their belongings and ask for assistance with storage.

- Complaints about the conduct of providers of temporary accommodation are rare but, when made, would be discussed with the provider. If upheld, the Council would cease working with a provider.
 - Complaints from a temporary accommodation provider that a person has breached their accommodation agreement would need to be evidenced by the provider; the applicant would be given the opportunity to respond to any allegations before a decision is reached on whether the housing duty would be discharged.
19. The question of whether a document is a tenancy or a licence is set out in case law. The Courts have stressed the need to look at the reality of the arrangement and to ignore labels used on documents. This is because the agreement is drafted by the owner of the property and represents only their view of the rights. Where an occupant has sole possession of premises for a period and pays a rent, then they usually have a tenancy unless there are exceptional circumstances. (*Street v Mountford [1985] UKHL 4*)
 20. The fact that accommodation is used as temporary accommodation is not an exceptional circumstance that would convert a tenancy into a licence.
 21. The Courts have confirmed that accommodation provided under Section 188 of the Housing Act 1996 (that is, interim accommodation pending a decision on a homeless application) does not have the benefit of the Protection from Eviction Act 1977. So 28 days' notice is not required. (*R (CN) v LB Lewisham and R (ZH) v LB Newham*)
 22. Housing provided under Section 193(2) Housing Act 1996 (that is, after a council has accepted the main housing duty) **is** covered by the Protection from Eviction Act 1977. This means that occupants are entitled to at least 28 days' notice and cannot be evicted without a court order.

Key facts

23. Mr and Mrs A and their young children were asylum seekers who lived in Maidstone in 2013 before moving out of the area into housing provided by the Home Office. They got indefinite leave to remain in the UK, and in February 2015 applied for housing with the Council. Mr and Mrs A put on the housing application form that they needed to leave the Home Office housing by 25 February. Mr A then emailed the Council on 24 February to say they would be homeless on 9 March and not on 25 February. He submitted a letter from the Home Office accommodation provider saying he had to leave his home on 9 March.
24. On 9 March, Mr and Mrs A attended the Council's offices saying they were homeless. The Council told us they attended the office late in the afternoon and had to wait for accommodation for just under three hours before the out of hours' service opened. Mr and Mrs A told us they had to wait in a car park with their children for the out of hours' service to confirm what was happening. The out of hours' service placed them in Bed and Breakfast accommodation.
25. On 10 March, a caseworker interviewed Mr and Mrs A. On 11 March, Mr and Mrs A applied for housing benefit and applied to the County Council for money for food.

26. On 13 March, the Council accepted the main housing duty (see paragraph 12).
27. On 30 March, the Council offered Mr and Mrs A self-contained accommodation (a flat) and Mr and Mrs A moved in. Mrs X owns the flat, with day-to-day management carried out by her son Mr X. The Council told us it had no formal written agreement with Mrs X and it purchased nights as and when required, as did some other local authorities.
28. The agreement Mr and Mrs A and a caseworker (for the Council) signed said accommodation might be cancelled at short notice or there may be a requirement to move immediately if a person:
 - was asked to leave as a result of unreasonable or antisocial behaviour; or
 - failed to abide by the rules of the accommodation.
29. The agreement was called '*a licence agreement for interim or temporary accommodation*'. It was on the Council's headed paper, and gave Mrs X's name as the landlady. It was not signed by Mrs X. The agreement said nothing about inspections.
30. The Council provided us with a document called 'Bed and Breakfast rules'. It said furniture in rooms should not be repositioned, damage would be charged and the landlady would check the room every day.
31. The day after they moved in, Mr A said the flat was not suitable. He said his daughter needed a cot. He was given advice about local charities for furniture.
32. On 31 March, Mr A spoke to a customer services adviser to say the flat was not suitable as his neighbours were complaining about noise from his children. The customer services adviser noted Mr A had moved furniture around '*which was not allowed in the licence agreement*'. Mr A asked if he could move back to the Bed and Breakfast accommodation. The customer services adviser noted in the computer records that she '*made him aware that he is very lucky to be in TA [temporary accommodation]*'.
33. On 19 June, Mr A spoke to a customer services adviser saying Mr X had asked him to leave because his daughter had drawn on the wall. He said Mr X was abusive.
34. A caseworker spoke to Mr X on 22 June who denied being rude or abusive and said the couple had treated the property badly – marking the walls by moving furniture and their child had drawn on the walls in pen. Mr and Mrs X repainted the walls. The caseworker spoke to Mr A and said '*this behaviour cannot continue as discharge [of the main housing duty] may be done*'.
35. Also on 22 June, the caseworker warned Mr and Mrs A orally that if, there were further issues, they would be evicted from temporary housing.
36. On 3 July, Mr X said to the Council that he had told Mr and Mrs A to clean the property by 6 July. He said he attended the property and found a broken lampshade, furniture moved and the flat in a 'bad state'. Mrs A called the police when he tried to speak to her about this as she felt Mr X was harassing her. The caseworker tried to call Mr and Mrs A but could not get hold of either of them.

37. The Council provided photographs of the interior of the flat showing drawing and marks on the walls, marks on the carpets, a broken lampshade, broken plinth and stained carpets. Mrs A also provided similar photographs of the lampshade and broken plinth which she says were both broken when they moved in.
38. Also on 3 July, the caseworker left two voicemail messages for Mr and Mrs A asking them to contact her. Mr X then phoned the caseworker and said Mr and Mrs A were refusing to leave the flat. The caseworker's notes say she spoke to Mrs A and '*advised she needed to leave the property today. Advised as to why this was. Mrs A advised they were going to clean, but I advised they had been given warnings. Mrs A admitted to moving furniture around and moving a computer desk into the property. I advised they need to leave and attend [the Council's offices]. Also advised we may not provide further TA [temporary accommodation] and they may be referred to SS [social services]*'.
39. On 6 July, the caseworker referred the children to the County Council's social services department. She noted '*duty is being discharged due to their behaviour. Duty discharge letter to be completed*'.
40. The Council placed Mr and Mrs A in a hotel over the weekend of 3 to 6 July. Mrs A was told orally on 6 July the Council had discharged its duty to house the family and they should contact social services. Mrs A said she had done so already and been told to contact the Council. Mrs A was told she would receive a discharge of duty letter. Between 7 and 13 July, Mr and Mrs A paid privately for a Bed and Breakfast.
41. On 7, 8 and 9 July 2015, Mrs A attended the Council offices for the discharge of duty and eviction letters. She put in a request for a review/appeal of the Council's decision to discharge the full housing duty (although she was yet to receive a written decision letter about this) and formal letters of complaint with evidence. Mrs A's letters were headed '*unlawful eviction from temporary accommodation*' and '*formal complaint against [the caseworker] in housing department*'. The key points of Mrs A's letters are summarised below.
- They phoned the Council twice before coming to Maidstone on 9 March from a different area. They arrived at the Council's offices at 2pm on the 9th. They had to call the out of hours' service to arrange accommodation. The Council's offices closed and they had to wait outside in the cold until 7.30pm before accommodation was arranged.
 - They put two beds together as it was unsafe for the baby to sleep alone on a single bed. The following day Mr X moved the beds back when they were not in. Later, Mr X came back and saw the baby and then said it was okay to move the beds together.
 - Mr X inspected the property every morning, including looking inside boxes. He put their possessions back the wrong way.
 - On 19 June, Mrs X said the carpet should be kept clean. There was milk spilt on it. Mrs X screamed at her. Mrs A said she would pay for any damage. Mrs X saw three or four lines on the wall. She became angry and said they would have to pay to repaint the room. Mrs A said she would clean the wall. Mrs X showed her other marks on the wall and continued shouting.

- Mrs A put a computer table in the property. Mr X said this was not allowed. Then he brought a 'rules and regulations' form in to show her. He could not find a relevant term. And the licence agreement did not say furniture was not allowed.
 - Mr X returned on 3 July and said again to get rid of the computer table. He shouted at Mrs A. Her children became upset. She called the police. Her caseworker left her a message saying she was being evicted. Mr X stayed in the property and started moving her belongings outside. Mrs A spoke to the caseworker who said she was being evicted and had to move from the flat that day and she may not get any more accommodation. Mr X refused to leave the property. He started cleaning and moved all their stuff outside. Mr X refused to let the children use the toilet or sleep on the bed. Mrs A had to put her baby on the floor to continue packing. Her husband's manager came to help them move and witnessed Mr X refusing them access to the toilet.
 - The caseworker decided to evict them before hearing their side of the story and without giving them any notice.
42. The Council wrote to Mrs A saying her complaints would be dealt with through the review/appeal.
43. On 8 July, Mrs A wrote to the caseworker (handing the letter in to the Council's offices in person) saying she (the caseworker) had evicted them by phone. Mrs A said she was still waiting for the eviction letter, which the caseworker had promised to provide. She asked the caseworker to provide evidence to justify the eviction.
44. On 10 July, Mrs A handed in a letter asking for housing. She explained she had asked for a review of the Council's decision to discharge its duty and made a complaint.
45. The housing charity Shelter spoke to a senior adviser at the Council on Mr and Mrs A's behalf on 13 July. Shelter said Mr and Mrs A had the benefit of the Protection from Eviction Act and were entitled to a court order before being evicted from the flat. Shelter said it was not appropriate for the Council to discharge its duty.
46. The senior adviser reviewed legal cases to see if the Council had followed the correct process, and decided that Mr and Mrs A should have four weeks' notice and if they did not leave, a court order would be necessary to evict them. The senior adviser noted the Council was intending to discharge the main housing duty, but would provide accommodation for four more weeks.
47. The caseworker emailed the discharge of duty letter to Mr and Mrs A. She also emailed a Notice to Quit. The Notice to Quit gave Mr and Mrs A until 11 August to leave "*any temporary accommodation provided....by Maidstone Borough Council*".
48. On 14 July, the caseworker texted Mr and Mrs A to say the Council had taken over payment of the Bed and Breakfast accommodation.
49. On 20 July, Mr and Mrs A asked for a review of the Council's decision to discharge the main housing duty on the grounds that they were intentionally homeless.

50. For reasons which are unclear, the Council moved Mr and Mrs A to a different Bed and Breakfast for two nights. Then they had to move back to the previous Bed and Breakfast. The Council extended Mr and Mrs A's Bed and Breakfast accommodation until it completed the review. Mrs A emailed councillors highlighting her experience and asking them to investigate. A few councillors replied, saying the matter would be dealt with as part of the review or it would have to wait until the review was completed.
51. On 15 September, the Council reversed the decision that Mr and Mrs A were intentionally homeless and reinstated the main housing duty. A few days later, the Council offered Mr and Mrs A permanent housing which they accepted.

The Council's response to the complaint

52. Mr and Mrs A approached a solicitor in June 2016. The solicitor made another formal complaint on their behalf (Mrs A had already complained in July 2015 but there had been no response to her complaint: see paragraph 41.). The Council responded under both stages of the complaints procedure saying:
- due to the high demand, an appointment had not been available on 9 March, so Mr and Mrs A got the next available appointment on 12 March. They were not left homeless on the day of their approach and accommodation was arranged through the out of hours' team. The Council did not keep emergency temporary accommodation vacant in preparation due to the severe demand for it;
 - the caseworker contacted Mr and Mrs X on 22 June who denied being rude and reported concerns about the condition of the property. On 3 July Mr X contacted the caseworker again about poor conditions in the flat. There were conflicting versions of events so it was not possible to take further action;
 - Mr and Mrs X gave evidence of a breach of licence conditions. The caseworker reached a reasonable conclusion that Mr and Mrs A's behaviour was a breach of licence conditions and so the Council was entitled to discharge the housing duty and cancel the accommodation at short notice;
 - the Council took prompt action to investigate Mr and Mrs A's complaints about Mr X's behaviour. Mr and Mrs A provided no evidence and contacted the police. It was not appropriate for the Council to become involved as it was a police matter. After speaking to Mr X, the Council decided his actions were reasonable as Mr and Mrs A confirmed damage and drawing on the wall, moving furniture around and moving furniture into the property;
 - the Council agreed that as the main housing duty had been accepted, Mr and Mrs A should have had a more reasonable period of notice to leave the accommodation. But this did not amount to the Council facilitating an unlawful eviction;
 - the review had dealt with the decision to discharge duty;
 - there was a delay in telling Mr and Mrs A of the discharge of the housing duty. Mr and Mrs A were told about the decision on 3 July but did not receive the letter until 13 July;
 - the Council provided three nights of temporary accommodation between 3 and 5 July. Then on 13 July, they were told the Council would house them for four more weeks and they were provided with temporary accommodation on 14 July;

- the temporary accommodation provided from 14 July onwards was under a discretionary power, so the Suitability Order (see paragraph 16) did not apply;
- the Council considered Mrs A's letters and decided to treat them as a request for a review of the decision to discharge the main housing duty. Mrs A was asked and refused to make a formal complaint. The appeal and complaint letters were almost identical;
- there was no evidence of discrimination;
- the Council was sorry for the failure to give reasonable notice and would pay for the eight nights of accommodation Mr and Mrs A funded (6 to 13 July) - £550;
- there was no evidence Mr and Mrs A raised concerns about the condition of the Bed and Breakfast accommodation at the time (mould, water and poor conditions). It was not possible to investigate unless people raise such issues at the time.

Comments from the Council, officers involved with the case and Mrs X

53. The Council told us:

- if a person presented as homeless on the day and there were no appointments, they received the out of hours' number to access accommodation for that night;
- if Mr and Mrs A had made contact closer to 9 March 2015, they would have received a pre-booked appointment. Due to the high number of no-shows, appointments are only booked for the next five working days. It was not possible to book interim/emergency accommodation in advance due to high demand and peoples' circumstances often changing. It was not an efficient use of public funds to pre-book accommodation which was then not needed;
- it accepted that an appointment with a housing adviser should have been offered when the housing application was received. However, it is not accepted that if the Council had contacted the family earlier this would have negated the need to access interim/emergency accommodation through the out of hours' service, as this would have been dependent on the demands on the service at that time. There is no legal requirement to provide interim/emergency accommodation within a specific time frame and due to high demand, it could not be sourced immediately;
- the owner entered into a contractual licence with the Council that enabled the Council to fulfil its homelessness duties. It was established case law that under these conditions the applicant was not a tenant and did not have exclusive possession;
- in the normal course of events the Council would have provided 28 days' notice to end the licence; here the Council was not in a position to do so, as Mrs X ended the contractual arrangement with the Council rather than the Council instigating it. The property was being used by the Council on a nightly basis and Mrs X could withdraw this arrangement at short notice. This type of arrangement was typical of the contractual arrangements that local housing authorities are required to enter into due to the lack of suitable affordable housing;

- the Council used a range of interim accommodation providers with their own particular rules. It would not be practical to include these within a standard agreement;
- Mr and Mrs A could not remain in the accommodation because Mrs X was not willing to let them;
- officers emailed the Notice to Quit and discharge of duty letter as they did not have an address for Mr and Mrs A;
- Mr X sent photos of damage to the property on 3 July and these were used as evidence in reaching the decision;
- the Council did not allow an unlawful eviction. The Council had no legal right to interfere. The provider ended the contractual arrangement with the Council. The property was being used by the Council on a nightly basis and the owner could withdraw the arrangement at short notice. The Council cannot be held accountable for the provider's actions. This is a common arrangement in many councils;
- the Council accepted it should have identified those parts of Mrs A's letters that were not suitable for the statutory review and dealt with them as formal complaints.

54. The senior housing adviser involved in Mr and Mrs A's case told us:

- the number of possessions and the movement and placement of furniture caused Mr X concern. Mr X was also unhappy with marks to the walls and he redecorated the flat while Mr and Mrs A lived there;
- Mr and Mrs X did cleaning. This was done as part of a daily check. Households had the right to say no and do their own cleaning and if they did their own cleaning, there would be a weekly check;
- Mrs X had no history of aggression. Mr X had taken over the business. He was more direct and there were reports of 'brashness'. This was raised with them both.

55. Mrs X was invited to comment on a draft of this report. She said:

- Mr and Mrs A received a laminated copy of the rules. This included a rule about not moving furniture around;
- she had received complaints about noise from Mr and Mrs A's flat;
- she gave them two verbal warnings about not disturbing other residents. She told them not to move furniture;
- Mr and Mrs A complained about the frequency of visits and denied seeing the rules so she gave them another copy and agreed with the case officer that she would cut down visits to them;
- during the week of their eviction, a large piece of pine furniture appeared in the flat. She told the housing department and it was agreed it would be removed.

56. Mrs X also described what happened on the day of the eviction. But she was not present so her comments are not included as she was not a witness. Mr X carried out the eviction and has been given an opportunity to give his perspective on events. But he has not commented.
57. The Council told us it made changes to the housing service at the end of 2016 (so since Mr and Mrs A complained) including:
- decreasing the use of Bed and Breakfast except in emergencies;
 - increasing nightly self-contained temporary accommodation procured through private providers;
 - buying 29 units of self-contained temporary accommodation;
 - buying/leasing 11 units of shared accommodation;
 - introducing a temporary accommodation strategy and policy;
 - changing the way it manages staff so more customers can have a same day appointment;
 - where customers approach late in the day they are offered temporary accommodation if eligible, rather than being referred to the out of hours' team;
 - introducing a housing advice triage service;
 - introducing new licence agreements;
 - increasing staff numbers in the housing advice service.

Comments from Mr and Mrs A

58. Mr and Mrs A believe if the Council had promptly investigated the complaints Mrs A made at the beginning of July 2015, they would have been able to stay in the flat and challenge the Council's decision to discharge the main housing duty. Instead, they had to live in one room in a Bed and Breakfast. Mr and Mrs A say they told a county council social worker about poor conditions in the Bed and Breakfast and the social worker said she would report this to the Council.
59. There is no evidence in the Council's records that it received any concerns from the County Council about the Bed and Breakfast.

Conclusions

Complaint: There was a failure to assist them until the family approached the Council in person. They had to use the out of hours' service and, despite attending the Council's offices in person at 2pm, and advising of their homelessness previously, the Council did not arrange accommodation until 7.30pm when they had two small children (including a baby of 13 months) and nowhere to go

60. Mr and Mrs A gave the Council information when they completed an on-line registration form in February to suggest they were threatened with homelessness. Mr A clarified the date they would be homeless and gave supporting written evidence from a government agency. We consider this was enough for the Council to start inquiries under section 184 of the Housing Act 1996. The Code of Guidance clarifies the threshold for starting inquiries is a low one. The Council should have started its inquiries on receipt of the on-line application form in February. Instead, the Council took no action. The failure to do so was not in line with the law or the Code of Guidance and is fault.
61. The Council told us had Mr and Mrs A contacted it closer to the date they intended to present as homeless, they would have been offered an appointment. The Council also told us appointments were only offered five working days in advance. We accept this is an appropriate use of resources given the high no-show rate. However, given Mr A's further emails clarifying his expected date of homelessness, we see no reason why an officer could not have telephoned Mr and Mrs A several days before 9 March to ask what their plans were and to book them an appointment for 9 March, or at least told them that they needed to phone and book an appointment closer to the time. The Council's lack of action on the case, despite Mr and Mrs A having warned well in advance of their homelessness, is fault.
62. It showed a lack of compassion for Mr and Mrs A and their small children to make them leave the Council offices when they closed and wait outside until accommodation was found for them two and a half hours after the close of business. We have reached this view because the Council had advance notice of the family's homelessness. The failure to offer emergency accommodation in office hours might not be fault if a single person with no young children attended late on the day of their homelessness with no prior warning. In this case, the Council had adequate notice and could easily have contacted Mr and Mrs A to check whether they needed emergency accommodation or had made other arrangements. We accept the Council's argument about not pre-booking emergency accommodation that would not be used and the Council is also correct in saying there is no legal requirement not to use out of hours' services. However, Mr and Mrs A presented with two small children early in the afternoon and the Council knew about them well before the day. There was no reason the process of sourcing emergency accommodation could not have been started earlier on 9 March rather than leaving the job to the out of hours' service. It was fault of the Council not to start looking for accommodation earlier on 9 March.

Complaint: There was a failure to deal with complaints about the housing provider's son, Mr X including complaints of harassment

63. We are satisfied the Council investigated alleged verbal abuse by Mr X in June 2015 by speaking to Mr and Mrs X and it was denied. It is not possible to conclude there was verbal abuse or harassment. It is one person's word against another's. There is no fault.
64. We deal with the daily visits and events on the day Mr and Mrs A were evicted and the reasons given for the eviction in the next section.

Complaint: The Council allowed an unlawful eviction

65. The Council has a duty under Section 193 of the Housing Act 1996 to secure accommodation for applicants where it has accepted the full housing duty. In this case it did so by an arrangement with Mrs X. Section 25(7) of the Local Government Act 1974 gives us power to investigate the actions of Mrs X as well as the Council's role in responding to Mr and Mrs A's concerns about Mr and Mrs X's behaviour because the housing service Mr and Mrs X provided was an arrangement on behalf of the Council.
66. The issue of whether the agreement was a licence or a tenancy and the identity of the landlord (Mrs X or the Council) do not need to be settled by this investigation and would most appropriately be decided by a court. Regardless of the identity of the landlord and the nature of the agreement, Mr and Mrs A were entitled to a minimum of 28 days' notice because the Council had accepted the main housing duty (see paragraph 12). So the caseworker was at fault on the eviction day because she incorrectly told Mr and Mrs A to leave the accommodation straight away. The caseworker should have told Mr X that there was an entitlement to 28 days' notice and that if he did not stop, the eviction would be unlawful. Regardless of which party had to give proper notice, the Council is at fault because it was responsible for an unlawful eviction committed by Mrs X through her son.
67. The agreement said the Council would end accommodation if there was unreasonable or antisocial behaviour or if there was a breach of the rules. The Council told us minor breaches would result in a warning. Damage to the property including marking the walls and uncleanliness may amount to unreasonable and antisocial behaviour depending on the severity. Mrs X claimed the property needed cleaning but has not evidenced a significant problem with poor hygiene in the photographs provided for this investigation. Mrs X also commented during the investigation that a large piece of pine furniture was put in the flat and the Council agreed this should be moved, but this is not documented or evidenced elsewhere. Based on the photos provided by both Mrs A and Mrs X, we consider the marks to the walls, small stains to the carpet and missing plinth fall within the meaning of minor breaches which would not on their own be an adequate reason to end accommodation.
68. People need to be aware of any rules before they sign up for a property so they can observe them. The Council failed to show it made Mr and Mrs A aware of the rules and so is at fault. Mrs X asserts she gave copies of the rules to Mr and Mrs A but we have seen no documentation on the Council's files to support this. So we are not satisfied the

Council or Mrs X made Mr and Mrs A aware of the rules before they moved in. The rules included:

- daily visits and inspections and the right to refuse these and have weekly visits instead;
- not moving furniture; and
- not bringing in furniture.

69. Video and audio evidence from Mrs A strongly suggests that even if Mr X did not move their belongings outside himself, as is alleged, Mrs A was in a position where she had to pack up all the family's belongings immediately. This was grossly unfair given the age of her children.
70. Audio evidence strongly suggests Mr X was packing and moving the family's belongings and preventing them from accessing parts of the flat. The children were present throughout and can be heard on the recording. The recording suggests harsh behaviour by Mr X which again was not investigated by the Council at the time it occurred.
71. The caseworker liaised with Mr X on the day of eviction and then told Mr and Mrs A to leave. This is not in line with the Council's procedures which say if complaints are raised about the conduct of a provider or occupant, the Council hears both sides and makes a decision based on evidence. The caseworker sided with Mr X on the phone without hearing any evidence from Mr and Mrs A. She did not investigate any of the allegations on the day of the eviction. The caseworker should have told Mr X about Mr and Mrs A's right to 28 days' notice and given Mr and Mrs A a chance to put forward their side of the story.

Complaint: There was an unacceptable delay in providing decisions in writing

72. The relevant decision for the purposes of this complaint is the decision communicated in the letter of 13 July to discharge the main housing duty on the grounds that Mr and Mrs A had made themselves intentionally homeless.
73. A homeless decision is not made until it is issued in writing. So it is not technically correct to say there was a delay in providing decisions in writing. The verbal communication to Mr and Mrs A on 3 July was not a decision. The decision was made 10 days later when it was issued. We do not conclude therefore that the 10 day period ('delay') between officers stating they intended to discharge the full housing duty and issuing the written decision is fault because legally, there was no decision until 13 July and no statutory timescale. However, we do not expect members of the public to understand technical issues around the issuing of decisions. So in practice, the delay between verbally informing Mr and Mrs A of the decision the Council was minded to make and the date they actually made the decision in writing created a period of avoidable uncertainty for Mr and Mrs A and is fault.

Complaint: There was a failure to provide accommodation after the eviction

74. Officers should have known the law (or checked with the Council's legal department if unsure). Mr and Mrs A had not been given correct notice. Thus the obligation to provide accommodation fell on the Council because it permitted a premature eviction. The Council has already recognised this fault through its response to the complaint and has agreed to repay Mr and Mrs A the cost of six nights Bed and Breakfast.

Complaint: The Council provided unsuitable Bed and Breakfast accommodation; conditions were poor, there was damp and mould and insects. The room was cold and the heating did not work properly. There was dog excrement in the garden

75. Mr and Mrs A provided photographs of the Bed and Breakfast, but these are not sufficient evidence to support the poor conditions they allege. There is also no evidence in the records they or a social worker from another council raised this with the Council at the time so we do not see how it could have been expected to investigate or take action. There is no fault.

Complaint: The family were in Bed and Breakfast accommodation for 14 weeks

76. The Suitability Order says Bed and Breakfast accommodation is not suitable for families, but may be used where there is no alternative for up to six weeks. Mr and Mrs A were in Bed and Breakfast between 9 and 30 March. There is no fault by the Council as this is not six weeks.
77. Bed and Breakfast accommodation provided after the eviction was provided under a power, not a duty and so the Suitability Order did not apply. There is no fault.

Complaint: There was racial discrimination

78. Mr and Mrs A's case was handled with fault as identified elsewhere in this report. But we find no evidence to suggest racial discrimination so we do not uphold this complaint.
79. However, one officer's comment, also recorded in writing, was inappropriate. Mr and Mrs A were told they were 'lucky' to be in temporary accommodation. Temporary accommodation was a legal entitlement and nothing to do with luck. The officer showed disrespect to Mr and Mrs A and it is fault to make this comment.

Complaint: There was a failure to respond to the complaint

80. Mrs A complained in writing to the caseworker in July 2015. She did not receive a response to the complaint. Instead, the Council decided the issues she raised would be dealt with in the homeless review/appeal. Mrs A also emailed councillors with her concerns and was told by some that the review would deal with these. We do not consider all the issues Mrs A put in writing fell within the scope of a homeless review/appeal, in particular, complaints about Mr and Mrs X's behaviour and the delay in providing interim accommodation. The Council should have correctly identified the issues in Mrs A's complaint which fell within the scope of the statutory review and those which did not. It should have then responded to issues outside the review's scope through the complaints procedure. The Council did not do this until Mrs A sought legal advice. The delay in responding to Mrs A's complaints is fault.

Injustice

81. Mr and Mrs A say if the Council had dealt with their case properly, the eviction would not have happened and they would have been able to stay in the flat instead of moving into Bed and Breakfast accommodation. Whereas the Council considers Mr and Mrs A could not stay in the flat because Mrs X would not allow it. This suggests the Council considers it has no control at all over the third parties it uses to secure accommodation for applicants owed the main housing duty. We consider the Council should only make arrangements with third parties to discharge its homeless duties if those parties agree to comply with the law and behave fairly. In this case, the housing provider, which we consider acted on behalf of the Council, did not comply with the law because correct notice was not given.
82. If the Council and Mrs X had acted without fault by giving Mr X the correct advice about notice, Mr and Mrs A would have been able to stay in the flat and would not have moved into Bed and Breakfast accommodation because:
- it took the Council two months to review and reverse the decision to discharge duty;
 - Mr and Mrs A were legally entitled to remain in the flat for the 28 day notice period, until the end of July. They were then entitled by law to remain in the flat after a notice had been served and until the Court granted an eviction order;
 - obtaining an eviction order is likely to have taken the Council or Mrs X longer than the six week period from 1 August till 15 September when the Council reversed its decision and offered Mr and Mrs A permanent housing.
83. We consider Mr and Mrs A and their children suffered avoidable distress and inconvenience because of the fault identified in the previous section because:
- being told to leave the Council's offices on 9 March and wait for housing for two and a half hours was humiliating and caused avoidable distress to Mr and Mrs A and their small children;
 - they lost self-contained accommodation and had to go into Bed and Breakfast for 11 weeks because of minor breaches of licence conditions that should have resulted in a written warning if the Council had acted in line with its policy;
 - being judged by rules that were unclear and/or not communicated in writing at the appropriate time caused confusion about what the Council and/or the provider considered acceptable behaviour;
 - being given no time to pack up their belongings and being forced to leave a property without lawful notice caused avoidable anxiety to Mrs A and her young children;
 - not having a fair opportunity to put their case before being evicted caused additional distress and outrage; and
 - being told they were lucky to have temporary accommodation was humiliating and disrespectful when it was a legal right.
84. Mr and Mrs A also claim financial losses.

- A loss of possessions including a television (which they say Mr X damaged by moving) and items that they were unable to take with them because of the sudden nature of the eviction.
- Removal and storage costs of £370.

Decision

85. There is fault in the way the Council dealt with Mr and Mrs A as homeless applicants and in its arrangements for accommodating them. This caused them avoidable distress, inconvenience, financial loss and avoidable expenses.

Recommendations

86. To remedy the injustice to the family, the Council should, within three months of the date of this report:

- apologise to Mr and Mrs A for the fault identified;
- pay them £500 to reflect lost and broken belongings including a television. We are satisfied on a balance of probabilities, relying on the audio and video evidence of Mr X's conduct on the day of the eviction that there was some damage to their property. And we consider it likely some belongings got left behind due to the pressure on Mrs A to leave immediately. As Mr and Mrs A cannot provide receipts or further evidence of exact costs, a symbolic payment is appropriate;
- pay Mr and Mrs A £550 for the cost of Bed and Breakfast from 6 to 13 July 2015 (the Council has already agreed to do this);
- pay Mr and Mrs A's removal and storage costs of £370. We recommend this not because of any legal requirements in section 211 of the Housing Act 1996, but because if the Council had acted without fault, Mr and Mrs A would have been able to remain in the flat and not incurred these costs;
- pay Mr and Mrs A £750 which reflects some of the cost of takeaway food for the two months the family was in the Bed and Breakfast after the eviction. Without fault by the Council, Mr and Mrs A would have remained in the flat which had its own kitchen and not incurred these additional costs; and
- pay them £2,000 to reflect the high distress described in paragraph 83. We have taken into account in particular, that Mr and Mrs A's children were present on the day of the eviction. This is in line with our published [guidance on remedies](#).

87. The Council accepts the recommendations to pay for the cost of the Bed and Breakfast accommodation and the removal and storage costs, but not the other recommendations. The Council has made changes to the homeless service postdating Mr and Mrs A's complaint. But those changes were not as a result of this complaint. The changes do not address our concerns about the Council's responsibilities when it contracts out statutory

duties to third parties. The Council does not accept the other recommendations because it does not consider it should hold any responsibility for the housing provider's actions. We do not share that view for the reasons set out in paragraph 65 of this report. The Council also says the payment we recommend is not in line with other cases. However, each case turns on its own facts and the payments recommended are in line with our published guidance.

88. Within three months of the date of this report, we recommend the Council reviews and formalises its working relationship with Mr and Mrs X in writing to avoid recurrence of the fault identified in this report and reports back to us with an action plan confirming how it plans to do this. The Council is reviewing its temporary accommodation strategy and it agrees to consider this recommendation as part of that review.

Parts of the complaint we did not investigate

89. We did not investigate the complaint about an alleged failure to make proper inquiries before finding Mr and Mrs A intentionally homeless because they successfully challenged the decision using the statutory review procedure. We do not generally investigate complaints where a person has already had a statutory review because the review provides a remedy for the injustice caused.

Appendix III: Letter to the Local Government Ombudsman from Maidstone Borough Council

Thank you for allowing us the additional time to review this report, previous correspondence with the ombudsman and to consult with relevant parties. As requested we have spoken with our members to make them aware of the case, contacted all employees involved including former employees and the Mr and Mrs X, the owners of the temporary accommodation.

We have also had an informal conversation with the Local Government Association outlining our concerns about this report and the possible impact on other authorities if they are to be held accountable in the same way this report seems to find us. The LGA are sufficiently concerned that we would now like permission to release to them the draft report in accordance with Section 32 of the Local Government Act 1974, so that they can assess the potential impact of this. I'd appreciate it if you could confirm whether we can do this as soon as possible.

There are three fundamental points, that form the basis of this report, we would like to address

1.

We strongly feel that the LGO has stepped outside its jurisdiction. As your report outlines, you would not normally investigate a complaint that could have been dealt with through the courts as identified in the Local Government Act 1974, section 26, (6) "A Local Government Commissioner shall not conduct an investigation under this part of this Act in respect of any of the following matters – (c) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law". In this case we believe it would have been reasonable to expect Mr and Mrs A to go to Court especially as they had a solicitor at the outset of the complaint and they could have requested damages via a County Court action in the small claims court and would not have needed legal representation.

Your reports states the reason for undertaking an investigation on this occasion is that the court would not recommend procedural improvements. Mr and Mrs A requested damages of around £30,000, not procedural improvements. Had the complainants case have been successful, the Council would have had to review our procedures in light of the outcome, as we would have still had to present it to our Members. However there are no significant procedural improvements recommended in this report, early on in the process the LGO were advised that changes had been made to procedures and were recommended to contact the Housing Manager. The LGO has not pursued or acknowledged any procedural changes with us.

2.

The Recommendations in this report are formed on the basis that Mr and Mrs A didn't breach the rules of the property which they occupied and ignores the fact

Appendix III: Letter to the Local Government Ombudsman from Maidstone Borough Council

that the accommodation provider had received numerous complaints about them due to their behaviour, and importantly this would have included complaints from other individuals that we would have had a responsibility too. The context we are working in is that despite Mr and Mrs A's distress and claims they made about the behaviour of Mr and Mrs X the owners of the accommodation, they asked to return there following the Council reinstating its duty. Attached are copies of the rules provided to Mr and Mrs A and the Council's former license agreement. The report states that there is no evidence that these were provided to Mr and Mrs A but we argue that there is no evidence that these were not provided.

3.

The Council has already admitted responsibility for the elements of fault that we were responsible for. Subsequently, as we have advised the LGO we have made a range of procedural changes to improve processes across the service. The LGO has not clearly acknowledged either of these points as stated in part 2.

With regard to individual points within the report, we have reviewed the document and outlined our key points of disagreement and agreement below using the paragraph or recommendation reference and text. Some of these points we have raised previously with other investigators, but hadn't had a response on and would appreciate some feedback on now.

Maidstone Council comment reference 16004603

Complaint (a) There was a failure to assist them until the family approached the Council in person. They had to use the out of hours' service and, despite attending the Council's offices in person at 2 pm, and advising of their homelessness previously, the Council did not arrange accommodation until 7.30 pm when they had two small children (including a baby of 13 months) And nowhere to go.

Whilst it is accepted that the Council could have instigated contact with the family when notified through the housing register application that they were threatened with homelessness, the Council cannot agree with Paragraph 61 that there was a failure to provide temporary accommodation. There is no requirement in law to pre-book temporary accommodation for homeless households. Whilst in an ideal world this would be the case, in reality booking Temporary Accommodation in advance would be irresponsible, as funding is extremely limited and people frequently make alternative arrangements or receive intervention from third parties or family for example. Had the Council booked that place and the family had not taken it, this would have been a serious waste of very limited funding, for which we are accountable.

Appendix III: Letter to the Local Government Ombudsman from Maidstone Borough Council

Whilst the Council makes every endeavour to arrange Temporary Accommodation within working hours, this depends on the number of cases seen that day. Whilst Mr and Mrs A advised that they believed they would be homeless they did not advise they were attending the Council that day and there was nothing to suppose that they would.

The amount of restitution suggested by the report is out of kilter with an ombudsman judgement in April where Barnet were fined only £300 for repeatedly not taking an application from someone and passing her to a homeless shelter. Whilst Mr and Mrs A's situation as a whole was understandably distressing, unlike in the Barnet case the family were not refused housing but had to wait for confirmation of the name of the provider.

Complaint (c) The Council allowed an unlawful eviction

This is factually incorrect - The Council did not allow an unlawful eviction – the Council has no legal right to interfere with the decisions of a commercial activity. The owner of the business ended the contractual arrangement with the Council rather than the Council instigating it. The property was being used by the Council on a nightly basis and the owner could withdraw this arrangement at short notice. This type of arrangement is typical within all Councils for Temporary Accommodation.

If the Council was terminating its agreement with Mr & Mrs A then the approach taken would have been different. The facts of the case are that the proprietor ended the booking (a contractual arrangement which is not required to be in writing) with the Council resulting in the family having to leave the accommodation.

Complaint (f) There was a failure to provide accommodation after the eviction

The Council has already recognised this fault as part of our standard complaints process and offered to repay Mr and Mrs A.

Complaint (i) There was a failure to respond to the complaint

We acknowledge that we should have identified those elements not appropriate to be dealt with through the statutory process and should have taken Mr and Mrs A through the Council's complaints process.

Injustice

Paragraphs 80-81- Mr and Mrs A say if the Council had dealt with their case properly, the eviction would not have happened and they would have been able to stay in the flat instead of moving into Bed and Breakfast accommodation. Whereas the Council considers Mr and Mrs A could not stay in the flat because Mrs X would not allow it. This suggests the Council considers it has no control at

Appendix III: Letter to the Local Government Ombudsman from Maidstone Borough Council

all over the third parties it uses to secure accommodation for applicants owed the main housing duty. We consider the Council should only make arrangements with third parties to discharge its homeless duties if those parties agree to comply with the law and behave fairly. In this case, the provider did not comply with the law because correct notice was not given.

The parties are complying with the law, and the report is making a judgement that the provider is not acting fairly, which is not within the LGOs jurisdiction. The proprietor is not bound by law to give 28 days notice; as they are not a housing provider. The consequences of what the LGO are suggesting would mean that we would lose a vast majority if not all of our external providers which would mean we couldn't comply with our duty to accommodate. The LGO has not stated any case law on which they have relied to support their position.

It cannot be said with certainty that Mr and Mrs A would have been in a position to say that they would have been able to stay in the flat; the nature of temporary accommodation is such that we do occasionally have to move families, though this is avoided where possible. This is conjecture rather than fact. The report is also making an assumption that Mr and Mrs A were above fault in the situation.

Paragraph 82 We consider Mr and Mrs A and their children suffered avoidable distress and inconvenience because of the fault identified in the previous section

- a) We do not accept that waiting 2 ½ hours was humiliating and caused distress.**
- b) & c) We do not accept this point. As stated previously the proprietor ended the booking because they believed there was a serious breach for which the Mr and Mrs A had been warned previously**
- d) We were not involved in this process and cannot be held accountable for it**
- e) The Council had acted as a mediator between the proprietor and the Mr and Mrs A previously.**
- f) We have already apologised for the inappropriate remark by the customer service advisor and the individual no longer works for the organisation**

Paragraph 84 There is fault in the way the Council dealt with Mr and Mrs A as homeless applicants and in its arrangements for accommodating them. This caused avoidable distress, inconvenience, financial loss and avoidable expenses.

We do not agree with paragraph 84 for the reasons already outlined

Appendix III: Letter to the Local Government Ombudsman from Maidstone Borough Council

Recommendations

a) Apologise to Mr and Mrs A for the fault identified.

We have apologised to Mr and Mrs A for the fault we have already acknowledged.

b) Pay them £500 to reflect lost and broken belongings including a television. We are satisfied on a balance of probabilities, relying on the audio and video evidence of Mr X's conduct on the day of the eviction that there was some damage to their property and it is likely some belongings got left behind due to the pressure on Mrs A to leave immediately. As Mr and Mrs A are not in a position to provide receipts or further evidence of exact costs, a symbolic payment is appropriate

This is a dispute between the proprietor and the family, this should be tackled outside of the Council. We do not know what was in the property or had the opportunity to verify the claims being made, nor were we asked to store the items for the family.

By applying the "balance of probabilities" test the Ombudsman appear to be acting as a Civil Court, taking into account evidence that has not been tried and tested to judicial standards and awarding payment that has not been quantified in any way whatsoever. It is justified as a "symbolic payment". The Courts do not award symbolic payments. The Ombudsman appears to be entering areas that should quite properly only be within the domain of the Courts and it is inequitable to pursue this course of action.

c) Pay for the cost of bed and breakfast after the eviction

As highlighted earlier we have already formally offered this.

d) Pay their removal and storage costs of £370.

We agree that this cost wouldn't have been incurred and agree to this.

e) Pay them £750 which reflects some of the cost of takeaway food for the two months the family was in the Bed and Breakfast after the eviction. Without fault by the Council, Mr and Mrs A would have remained in the flat which had its own kitchen and not incurred these additional costs and;

A local housing authority is not under a duty to provide food or facilities to provide food, other residents in other accommodation do not receive these facilities. It also cannot be assumed that Mr and Mrs A may have remained within the flat for that period as there is no guarantee that that accommodation would have continued. Again the report is also

Appendix III: Letter to the Local Government Ombudsman from Maidstone Borough Council

making an assumption that Mr and Mrs A were above fault in the situation.

f) Pay them £2000 to reflect the high distress described in paragraph 82. We have taken into account in particular, that Mr and Mrs A's children were present on the day of the eviction. This is in line with our published guidance on remedies.

As already documented throughout this document we do not support this finding and therefore do not support the recommendation. We do not feel that the LGO provides reasoning for the sum that is reached or how the distress reflects in comparison for previous cases that the LGO has investigated or that Courts have investigated.

Paragraph 86 Within three months of our report, we recommend the Council reviews and formalises its working relationship with Mr and Mrs X in writing to avoid recurrence of the fault identified in this report and reports back to us with an action plan confirming how it plans to do this.

We gave had an arrangement with these proprietors for 20 years and this is the first incident of this type. The council is reviewing its TA strategy and a report will be provided to the Councils relevant committee in December 2017. This recommendation will be considered as part of that review.

Thank you in advance for reviewing these points.

Appendix IV: List of changes to Housing Service

As discussed with Angela Woodhouse, please find below a list of changes that have been made in the Housing Service over the last two years, referenced in my email and copies of documents listed below.

- We have virtually ceased the use of B&B accommodation (except in emergencies)
- Taken on a portfolio of nightly paid self-contained temporary accommodation procured through a number of Temporary Accommodation Providers
- Adopted a Temporary Accommodation Strategy (attached)
- Purchased 29 units of self-contained accommodation to use as temporary accommodation
- Purchased and leased a further 11 units of shared accommodation
- Amended the appointment calendars to ensure that more customers approaching as homeless on the day can have a same day appointment (8 available homeless on the day appointments each day) and a calendar for booked appointments
- Made changes so that if customers approach late in day or there are no homeless on the day appointments available, we will arrange temporary accommodation for those applicants where there is reason to believe they are eligible, homeless and in priority need, rather than just provide the Out of Hours telephone number. This has result is very few approaches of applicants to the Out of Hours service.
- Drafted a Temporary Accommodation Policy (see attached)
- Brought back into the Housing Advice Service, from Customer Services, the Housing Advice Triage service as the first point of contact for customers approaching as homeless.
- Introduced new template licence agreements, depending on the type of property occupied (attached – please note this is held on our system hence the format and red writing)
- Expanded the Housing Advice service, so we have a larger team (from a team of 5.5 FTE's to a team of 18 FTE's - including officers focusing on homelessness prevention and a change the management structure to include Senior Officers and a Manager of the Team) .
- Contracted a nationally recognised Housing Consultant to review the housing advice service, the review was very complimentary and did not identify any significant areas for service improvement
- Training rolled out to all new staff including specific training relating to Temporary Accommodation to over case law, suitability, ending duty

Any questions please don't hesitate to come back to me

Anna Collier

Agenda Item 19

MAIDSTONE BOROUGH COUNCIL

COUNCIL

6 DECEMBER 2017

REPORT OF THE HEAD OF POLICY, COMMUNICATIONS AND GOVERNANCE – REVIEW OF ALLOCATION OF SEATS ON COMMITTEES (IF NECESSARY)/MEMBERSHIP OF COMMITTEES

Issue for Decision

The Council has a statutory requirement under the Local Government & Housing Act (1989) to ensure political proportionality in the membership of Committees. As a by election is scheduled for 30 November, it may be necessary to conduct a review of allocation of seats, depending on whether the result of the by election alters the political balance of the Council since the last review was undertaken.

There is also an item on the agenda (Planning Referral Process Review) at the Council meeting of 6 December that could change the overall number of seats available on Committees at the council. Depending on which option the Council resolves to adopt, a review of seats may be necessary to ensure overall proportionality. If Council chooses to retain the current arrangements in terms of Planning Referrals Committee then a review will not be necessary. Any other option agreed will have the effect of either increasing or decreasing the overall number of seats available on Committees across the Council and a review of seats will be required.

As the result of the by election will not be known until 30 November, and the vote on the outcome of the Planning Referral Process Review will not be known until the item has been considered at the meeting, the consequences for the review of allocation of seats and Membership of Committees will be circulated at the meeting.

Any resulting changes to the membership of Committees following the review of seats will also need to be agreed by Council, and the proposed membership of Committees will also be circulated at the meeting.

Recommendation Made

If a review of allocation of seats and membership of Committees is necessary:

1. That the review of allocation of seats is agreed.
2. That the membership of Committees is agreed.

Reasons for Recommendation

The Council has a statutory obligation to ensure political proportionality of its Committees. Therefore a review must take place if there is either a change in the political balance of the council or if the overall number of seats available on committees changes.

Alternatives Considered and Why Not Recommended

The Council could choose not to review the allocation of seats after changes to the political proportionality or the overall number of seats available on Committees. However this would mean the Council is

Background Documents

Appendix 1 – Review of Allocation of Seats (circulated separately)

Appendix 2 – Membership of Committees (circulated separately)

Note: Both appendices to be circulated at the Council meeting of 6 December, if they are required