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ORDINARY MEETING OF THE COUNCIL WEDNESDAY 15TH JANUARY 2014

Book 5 - 2013/2014

Council Enquiries – Ann Horgan, Ext. 2413

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David Marchant LLB (Hons) BSc (Hons) CEng FICE FCMI
Chief Executive

A **MEETING OF THE COUNCIL** of the Borough of Castle Point will be held in the Council Chamber, Council Offices, Kiln Road, Thundersley, on **WEDNESDAY, 15TH JANUARY, 2014 at 7.30 p.m.**, and all Members of the Council, listed below, are hereby summoned to attend to transact the undermentioned business.

Councillors Mrs A.M. Iles,(The Worshipful the Mayor), Mrs J.E.E.Govier,(Deputy Mayor), J. Anderson, L.J. Barrett, Ms G.Barton, D.A. Blackwell, C.N. Brunt, P.M. Burch B.Campagna, Mrs P.A. Challis, A.R. Cole, S.Cole ,D.T. Cross, W.J.C. Dick, Mrs B. Egan, E. Egan, Mrs P.D. Freeman, Mrs W. Goodwin, P.C. Greig, S.Hart , N.R. Harvey, R.C. Howard, G.I. Isaacs, Mrs.J.King, N.E.Ladzrie, Mrs J. Liddiard, P.J. May,J.A.Payne, Mrs.J.Payne, A. Partridge, C.G. Riley, W.K.Sharp, A.G.Sheldon,T.F. Skipp, N.G. Smith, J.A. Stanley, M.J.A. Tucker, A.C.Walter, Mrs L. Wass, Mrs G. Watson and N. Watson.

Chief Executive

AGENDA

PART I
(Business to be taken in public)

Before commencing the business of the meeting, prayers will be offered by the Chaplain.

1. Apologies for absence

2. Members' Interests

3. Minutes

To receive the Minutes of the meeting of the Ordinary Council held on 25th September 2013 and the Special Council held on 20th November 2013.

4. Mayor's Announcements

The Mayor will report at the meeting.

5. **Questions from members of the public of which Notice has been received**
None have been received.
6. **Any explanations for urgent decisions taken by Cabinet**
There are none.
7. **Any references from the Policy and Scrutiny Committees/Regulatory Committees**
There are none.
8. **Consideration of recommendations from Cabinet**

Local Council Tax Support Scheme 2014/15 – For approval a report is attached
9. **New Local Plan – Draft for Consultation**
For approval a report is attached.
10. **Report from the Leader of the Council**
The Leader is to report at the meeting.
11. **Notices of Motion**
There are none.
12. **Petitions submitted by Members of the Council of which Notice has been given**
There are none.



ORDINARY COUNCIL MINUTES

25TH SEPTEMBER 2013

MINUTES of the Ordinary Meeting of the Council of the Borough of Castle Point held in the Council Chamber, Council Offices, Kiln Road, Thundersley on 25th September 2013.

PRESENT:

Councillors Mrs A.M. Iles (The Worshipful the Mayor), Mrs J.E.E.Govier, (Deputy Mayor), L.J. Barrett, D.A. Blackwell, P.M. Burch, Mrs P.A. Challis, S.Cole, D.T. Cross, W.J.C. Dick, Mrs B. Egan, Mrs P.D. Freeman, Mrs W. Goodwin, P.C. Greig, S.Hart, R.C. Howard, G.I. Isaacs, J.A.Payne, Mrs.J.Payne, A. Partridge, C.G. Riley, W.K.Sharp, A.G.Sheldon, T.F. Skipp, J.A. Stanley, M.J.A. Tucker, A.C.Walter, Mrs G. Watson and N. Watson.

Apologies for absence were received from Councillors J. Anderson, Ms G.Barton, C.N. Brunt, B.Campagna, A.R. Cole, E. Egan, N.R. Harvey, Mrs.J.King, N.E.Ladzrie, Mrs J. Liddiard, P.J. May, N.G. Smith and Mrs L. Wass.

26. MEMBERS' INTERESTS

There were no disclosures of interest

27. MINUTES

The Minutes of the meeting of the Ordinary Council held on 23rd July 2013 were taken as read and signed as a correct record. The Mayor signed the Minutes.

28. MAYOR'S ANNOUNCEMENTS

The Mayor reported on events, activities and visits undertaken since the last Council meeting. These included a visit to Coastwatch; attendance at the St.Peter's Flower Festival; attending a performance by the Yardarm Folk Orchestra; attendance at the event held by the British Legion on Canvey Island to commemorate the end of the Korean War; unveiling a plaque in remembrance of the Cockleshell Hero Bill Sparks at the Bay Museum on Canvey Island; the formal reopening of Waterside Farm Leisure Centre and performing the opening ceremony with Danny Crates; presentation of trophies to those who took part in the London Marathon to raise funds for Link Radio.; an interesting trip to the Essex Record Office; a return visit, while on holiday, to Vanessa Baugh County Commissioner for District 5 Manatee County Government Florida .

Finally the Mayor thanked the Deputy Mayor for attending events during the Mayor's absence on holiday in particular the event held on 21st September 2013

to commemorate the 75th Anniversary of the Salvation Army Corps at Hadleigh Temple.

29. QUESTIONS FROM MEMBERS OF THE PUBLIC OF WHICH NOTICE HAD BEEN RECEIVED

There were none.

30. ANY EXPLANATIONS FOR URGENT DECISIONS TAKEN BY CABINET

There were none.

31. ANY REFERENCES FROM THE POLICY AND SCRUTINY COMMITTEES/REGULATORY COMMITTEES

There were none.

32. CONSIDERATION OF RECOMMENDATIONS FROM THE CABINET.

There were none.

33. REPORT OF THE LEADER OF THE COUNCIL

The Leader of the Council was pleased to report the good news that the Council continued to meet the requirements of the Investors in People (IiP) Standard for the gold award with a strong record of transformation, service improvement and a motivated work force with good leadership and partnership working.

The Leader in congratulating all staff offered her personal thanks to the staff and officers who spent time in discussion with the inspectors which resulted in the report which stated 'the culture of the Council is that of a flexible workforce that can and does face challenges, supporting staff development and improving services'.

The IiP Gold Award accreditation would be maintained until 2016.

The Leader referred to the success of the Waterside Farm Leisure Centre which had recorded some 15,000 visitors in the first four week since the Centre had reopened. These numbers were increasing.

The Leader reported that a new Leisure Strategy for the Borough was being prepared; as part of this young people were being encouraged to take up a new sport to enable them to keep fit. Older people's wellbeing continued to be encouraged through walking and other suitable exercises. Residents were particularly enjoying the new swimming facilities. The Leader, on behalf of Councillors, offered thanks and appreciation to all staff involved for their hard work in retaining residents' custom.

34. FINANCIAL RESULTS AND STATEMENT OF ACCOUNTS 2012/2013

The Council considered a report containing the financial out-turn results and audited Statement of Accounts for approval by Council.

The Statement of Accounts had been prepared in accordance with the Accounts and Audit Regulations 2011 and the Code of Practice on Local Authority Accounting in the United Kingdom 2012/13 and associated guidance.

The accounts had been audited by the Council's External Auditors BDO LLP and had been available for public inspection.

In order to ensure that the accounts were subject to robust scrutiny additional guidance had been produced. This included at Annex A to the report a high level interpretation of the accounts including explanations of account variances. Annex B to the report set out the purpose of each of the key financial statements and provided an analysis of figures, changes and movements between years. The Council's Treasury Management Activity for 2012/13 had been scrutinised by the Audit Committee in June 2013 and Cabinet in July 2013.

Following a presentation by the Head of Resources and a summary and explanation of the accounts by the Deputy Leader of the Council, the Council examined and discussed the audited accounts.

In concluding the debate on the accounts the Deputy Leader reminded the Council of the uncertainty facing local government finance and the likely reduction in government grant which would require tough decisions to be taken in the future. All Councillors would be involved in that process.

The Deputy Leader thanked the Head of Resources and her team for their work in preparing the accounts.

The Council concurred with the view that the overall financial results for 2012/13 generally indicated sound budgeting and good budgetary control.

Resolved – Following scrutiny:

1. To note the financial results for 2012/13 and explanation for budget variances.
2. To approve the audited Statement of Accounts.

The Mayor signed the Accounts.

35. NOTICES OF MOTION

Councillor Sheldon had given notice of the following:

As part of the response to Sir Michael Pitts' report on the Review of the Summer Floods of 2007, with effect from 1st April 2014 Essex County Council as the lead flood authority will become responsible for approving all future construction work which has surface water implications.

This Council welcomes this measure and in anticipation of the 1st April, moves that Essex County Council be consulted as the lead

flood authority on all planning application on sites over one hectare on surface water drainage issues as a quasi-formal consultee.

The Motion was MOVED by Councillor Sheldon and Seconded by Councillor Cross. Debate took place at the conclusion a vote was taken which was CARRIED and RESOLVED accordingly.

36. PETITIONS SUBMITTED BY MEMBERS OF THE COUNCIL OF WHICH NOTICE HAS BEEN GIVEN

There were none.

Mayor



SPECIAL COUNCIL MINUTES

20TH NOVEMBER 2013

MINUTES of the Special Meeting of the Council of the Borough of Castle Point held in the Council Chamber, Council Offices, Kiln Road, Thundersley on 20th November 2013.

PRESENT:

Councillors Mrs A.M. Iles (The Worshipful the Mayor), Mrs J.E.E. Govier, (Deputy Mayor), Ms G.Barton D.A. Blackwell, C.N. Brunt P.M. Burch, B.Campagna, Mrs P.A. Challis, S.Cole, W.J.C. Dick, E. Egan, Mrs P.D. Freeman, Mrs W. Goodwin, S.Hart, R.C. Howard, G.I. Isaacs, N.E.Ladzrie, P.J. May, A. Partridge, C.G. Riley, A.G.Sheldon, N.G. Smith, J.A. Stanley, M.J.A. Tucker, A.C.Walter, Mrs L. Wass, Mrs G. Watson and N. Watson.

Apologies for absence were received from Councillors J. Anderson, L.J. Barrett, A.R. Cole, D.T. Cross, Mrs B. Egan, P.C. Greig, N.R. Harvey, Mrs.J.King, Mrs J. Liddiard, W.K.Sharp, T.F. Skipp, J.APayne and Mrs.J.Payne.

37. MEMBERS' INTERESTS

Councillors Blackwell and Howard each declared a non pecuniary interest in respect of the Minute 38 the Deanes School as members of the Essex County Council who had both given evidence at the Essex County Council People and Families Scrutiny Committee on 14th November 2013.

Councillors Mrs. Challis and Councillor Riley each declared a non pecuniary interest in respect of the Minute 38 the Deanes School as they had given evidence at the Essex County Council People and Families Scrutiny Committee on 14th November 2013.

Councillor Dick declared a non pecuniary interest in respect of the Minute 38 the Deanes School as he had spoken at the Essex County Council Cabinet meeting on 7th November 2013 and had given evidence to the Task and Finish Group of the People and Families Scrutiny Committee

Councillor Sheldon declared a non pecuniary interest in respect of the Minute 38 the Deanes School as he had spoken at the Essex County Council Cabinet meeting on 7th November 2013, had given evidence to the Task and Finish Group of the People and Families Scrutiny Committee and given evidence at the Essex County Council People and Families Scrutiny Committee on 14th November 2013. He was also a governor of the King John School but was under voluntary suspension during consideration of the future of the Deanes School.

Councillor Stanley declared a personal non pecuniary interest in respect of the Minute 38 the Deanes School as the Chairman of Governors of the Cornelius Vermuyden School.

38. THE DEANES SCHOOL

This Special Council meeting had been convened under Council Procedure Rule 3(b) following notice in writing to the Chief Executive by five or more Members of the Council.

The Members' request was for '**a Special Council Meeting to discuss the Deanes School, its funding and what we can do to keep the school open.'**

Essex County Council's Cabinet on 7th November 2013 had decided to discontinue the Deanes School.

The Essex County Council's Cabinet decision had been subject to six calls which were considered at the meeting of the County Council's People and Families Scrutiny Committee on 14th November 2013. The County Council's People and Families Scrutiny Committee had decided to refer the decision back to the Cabinet to consider further evidence presented to the Scrutiny Committee. Essex County Council's Cabinet was to meet on 28.11.2013 to reconsider its decision.

Copies of the papers before the Essex County Council's Cabinet and the Scrutiny Committee were available to Members of the Council.

In summary the County Council were proposing to close the Deanes School with effect from August 2016 in the light of falling pupil numbers. The County Council was of the view that demands for school places could be met by the two remaining schools King John and Appleton. The demand for pupil places on Canvey Island could be accommodated by the two secondary schools on the Island.

In responding to the proposition the Borough Council had expressed reservations regarding the evidence before the Cabinet to support this. The County Council was using projections based on historic evidence. Representations had been made to challenge this on the basis that Essex County Council needed to consider the impact of future housing development in Benfleet Hadleigh and Thundersley and not merely on historic analysis. The County Council had also been asked to demonstrate that the projections for King John and Appleton Schools also take into account future development.

The same point had also been made in relation to the schools on Canvey Island.

The following recommendation was moved and seconded:

'This Council pledges its continuing support to the governors of the Deanes School in their actions to retain this local and well respected educational and sporting facility including their appeal to the Schools Adjudicator and any subsequent representations to the Secretary of State until the appeals process is exhausted.'

An amendment was agreed to include the addition after 'governors, teachers parents and pupils'

In speaking to support the recommendation Cllr Howard reported on a meeting with the Leader of Essex County Council who had assured him that the Cabinet would re-examine careful all the evidence before making a decision on the future on the Deanes School. To that end a series of meetings were to take place with Essex County Council's Cabinet .The Leader and Chief Executive were to attend such a meeting.

Members spoke during the debate without exception to urge the Essex County Council to keep the Deanes School open.

Resolved Unanimously:

This Council pledges its continuing support to the governors, teachers, parents and pupils of the Deanes School in their actions to retain this local and well respected educational and sporting facility including their appeal to the Schools Adjudicator and any subsequent representations to the Secretary of State until the appeals process is exhausted.

Mayor

AGENDA ITEM NO 8

ORDINARY COUNCIL

15th January 2014

Subject: **Local Council Tax Support Scheme 2014/15**

Cabinet Member: **Councillor Stanley – Corporate Policy, Resources and Performance**

1. Purpose of Report

- To summarise the results of public consultation on proposed changes to the scheme for 2014/15.
- To present the un-prescribed elements of the Local Council Tax Support scheme for 2014/15 for Castle Point Council to approve.

2. Links to Council's priorities and objectives

- Sound and strategic financial management - Improving the Council

3. Recommendations

1. That Council note the summary of responses to the consultation.
2. That Council approve the existing un-prescribed elements of the Local Council Tax Support scheme for working age claimants to continue unchanged from 1st April 2014 onwards.

4. Background Information

- 4.1 This report follows a report presented to Cabinet on 20th November 2013 which set out the council tax support scheme to be recommended to Council for adoption from 1st April 2014.
- 4.2 The final regulations in respect of the prescribed elements of the scheme are anticipated to be in place by January 2014. The elements of the scheme now presented to Council for approval relate to the un-prescribed local scheme.

5. Consultation responses

- 5.1 The consultation period ran from 30th August until 10th October 2013. During this period flyers were inserted with all Council Tax Bills and Benefit Notifications, publicity material and consultation forms were displayed at local libraries, Twitter messages were posted, a Press Release was issued, and information was prominently displayed on the Council's website to raise awareness and encourage participation in the consultation exercise.
- 5.2 Partners from the Benefit Information Network and Local Strategic Partnership were also invited by email to take part in the consultation and were encouraged to raise awareness amongst their customers.
- 5.3 48 responses were received in total. This was significantly lower than last year but in line with a general decline in response rates seen across most of the Essex Authorities.
- 5.4 The consultation questions covered a range of changes to existing elements of the scheme which would either increase or decrease entitlement for some or all groups.
- 5.5 Understandably those consulted did not agree with changes that would lead to a decrease in support and agreed with protecting certain vulnerable groups from changes that might reduce support.
- 5.6 A summary of responses from the consultation exercise are contained in **Appendix A** to this report.
- 5.7 ECC, Essex Police and Fire were consulted in relation to the scheme and have raised no objections through the consultation process.

6. Proposed Changes to the Local Council Tax Support Scheme for Castle Point Borough Council

- 6.1 The following aspects are all incorporated in the current scheme for Castle Point:
 - 1 The scheme is cost neutral, meaning that the cost to the Council and each pre-cepting authority does not exceed the funding notified by central government.
 - 2 As directed by central government, all pensioners are protected, meaning that the financial impact of the scheme falls solely on working age households.
 - 3 The scheme is means tested and contains weightings in the form of Premiums, Disregards, and Applicable Amounts to enable protection for working age vulnerable groups and households with children and/or disabilities.
 - 4 The scheme incentivises work by disregarding £25 per week of earned income.

- 5 Child benefit is regarded in full as income.
- 6 The scheme does not contain any mechanism to allow awards to be back dated for working age households.
- 7 The scheme, as far as possible, allows for expected growth in demand and is easy to claim and administer.
- 8 There is no entitlement to Second Adult Rebate within the scheme for working age claimants. Second Adult Rebate was awarded under Council Tax benefit where a single Council Tax payer had an adult friend or relative who lived with them and that second adult had a low income.
- 9 The savings limit is £6,000, meaning that claimants with capital to a value exceeding £6,000 are not entitled to Local Council Tax Support.
- 10 There are no Non-Dependant deductions for working age claimants. Non Dependant deductions were made from Council Tax Benefit where the claimant had another adult, who was not their partner, living in their household.
- 11 The Council's 'Local War Pensioner' provisions have been retained, meaning incomes received in respect of War Pensions for disablement or bereavement are fully disregarded when calculating support.
- 12 Support is capped at 70% of Council Tax liability, meaning all working age households are required to pay a minimum of 30% of their weekly council tax bill.
- 13 Support is capped at Council Tax Band D, meaning all working age households living in properties banded E to H will have their entitlement assessed as though they were living in a Band D property.
- 14 There is no requirement to calculate and award 'underlying entitlement' when overpayments occur.
- 15 A small sum is available to provide additional assistance in accordance with the Council's Exceptional Hardship Policy.

6.2 It is recommended that the scheme should not be changed for 2014/15.

6.3 The full policy detailing the scheme for working age claimants is some 134 pages in length and very technical. For this reason copies of this document, referred to as **appendix B**, have not been reproduced as part of this report but have been placed on deposit in the Members rooms.

7. Corporate Implications

a. Financial Implications

The Council and its preceptors receive a grant from central government in respect of the local council tax support scheme. The current scheme is

designed to be fully funded by this grant, and is therefore cost neutral to the Council.

Approximately half of the government grant for the scheme is included within the RSG element of the Council's main funding settlement. RSG for 2014/15 has significantly reduced but the Council has chosen to maintain funding for the local scheme at the level provided for 2013/14.

The calculation of the Council's minimum level of general reserves currently includes an element to cushion the authority from any financial risk arising during the first year of the scheme. This provision will be reviewed during the budget cycle for 2014/15.

b. Legal Implications

The Welfare Reform Act 2012 S33(1)(e) gave effect to a policy of localising council tax support by abolishing council tax benefit from a date appointed by the Secretary of State. On the 31st October 2012 the Local Government Finance Act 2012 inserted a new section 13A and Schedule 1A into the Local Government Finance Act 1992 whereby the Council had to make a scheme specifying reductions which are to apply to amounts of council tax payable in respect of dwellings situated in its area by persons whom the Council considers to be in financial need or persons in classes consisting of persons whom the Council considers to be in general financial need.

Before making a scheme the Council must:

- (a) Consult any major pre-cepting authority which has power to issue a precept to it;
- (b) Publish a draft scheme in such manner as it thinks fit and
- (c) Consult such other persons as it considers are likely to have an interest in the operation of the scheme

And having made a scheme, the Council must publish it in such manner as the Council thinks fit.

Failure to consult on the scheme or on any significant changes may put the Council at risk of legal challenge by those affected by the scheme.

Adoption of a local scheme is a statutory requirement and failure to do so will lead to a default scheme being imposed by the government for which there is insufficient funding.

The Council Tax (Administration and Enforcement) Regulations 1992 (the Regulations) make provisions as to the billing, collection and enforcement of council tax. These Regulations were amended to take into account penalties under the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013. The Regulations enable HM

Revenue & Customs to supply information to billing authorities relating to council tax.

Dept for Work and Pensions have plans to establish a Single Fraud Investigation Service which it is understood would investigate all benefit and tax credit fraud. This would have an impact on the Council's benefit fraud team.

Human resources/equality/human rights

A stage 2 Equality Impact Assessment for the current scheme was undertaken in 2012 and is appended at **appendix C** of this report.

c. Timescale for implementation and risk factors

The local scheme needs to be finalised by 31st January 2014. The new scheme must be operational from 1st April 2014.

Key project milestones are as follows:

Milestone	Timeframe	Purpose
Formal Public/Stakeholder Consultation	Aug 13 – Oct 13	Pre-cepting organisations & Residents
Grant Published	Nov 13 – Dec 13	
Cabinet Report	20.11.2013	Consultation outcome
Report to Council	18.12.2013	Proposed scheme to be recommended to Council
Final Scheme in place	31.01.2014	2014/15 scheme approval
Schemes in operation	01.04.2014	Adoption and Implementation
		Operation

Appendix A Consultation Summary Report

Appendix B Full S13a Policy – detailing the full scheme for working age claimants

Appendix C Stage 2 Equality Impact Assessment

8. Background Papers:

Local Council Tax Support Scheme 2014/15 update – report to Cabinet 18th September 2013

Local Council Tax Support (LSCT) update and proposed local scheme
2014/15 – report to Cabinet 20th November 2013

Report Author:

Eddie Mosuro – Community Support Manager

Castle Point Borough Council

2014/15 Proposed Local Council Tax Support Scheme

Consultation Summary Report

General comments and observations about the data

In total there were 355 'hits' registered on the council's consultation webpage and 109 'hit's' to the actual consultation form.

Of the 109 people who accessed the survey, 48 completed the survey whilst 61 skipped through the consultation without leaving any responses.

Of the 48 who responded, 28 were residents and 20 did not answer the question to indicate whether they were residents or organizations.

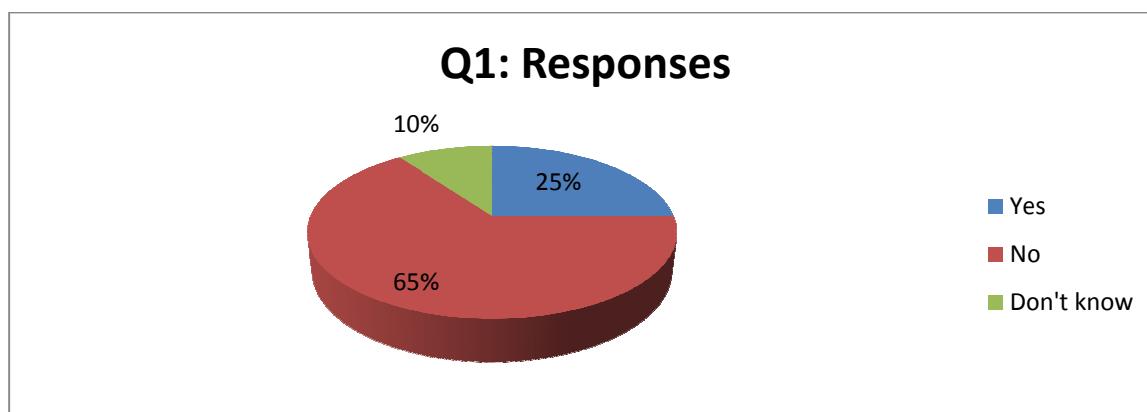
Respondents were asked to indicate if their household receives Local Council Tax Support. This question was optional. 30 people responded, 27% were in receipt of Local Council Tax Support whilst 73% were not.

The form contained a diversity data section, however this was optional and not all respondents answered this section of the survey.

Consultation Responses

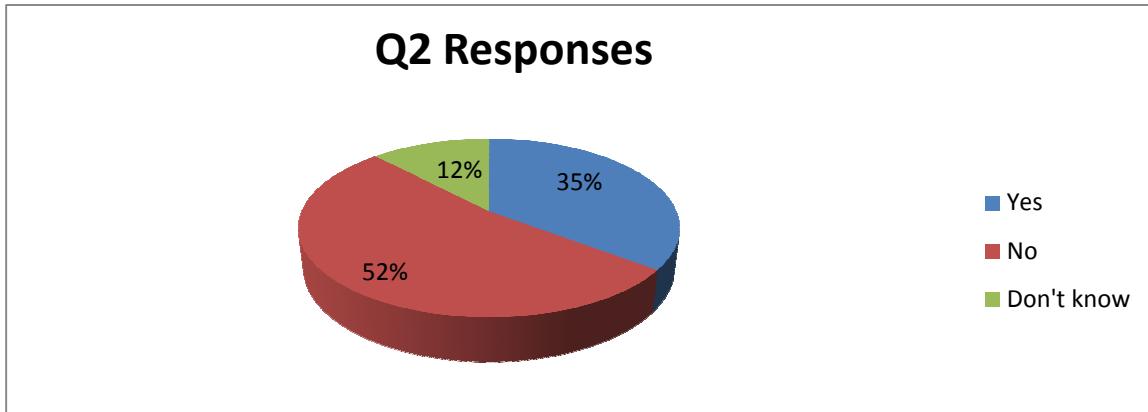
Q1: Currently all working age Council Tax Payers in receipt of Council Tax Support must pay at least 30% of their council tax bill themselves. If the Council has to make changes to the scheme should this % be increased?

There were 48 responses to this question. Results below indicate that most people do not agree that the % should be increased.



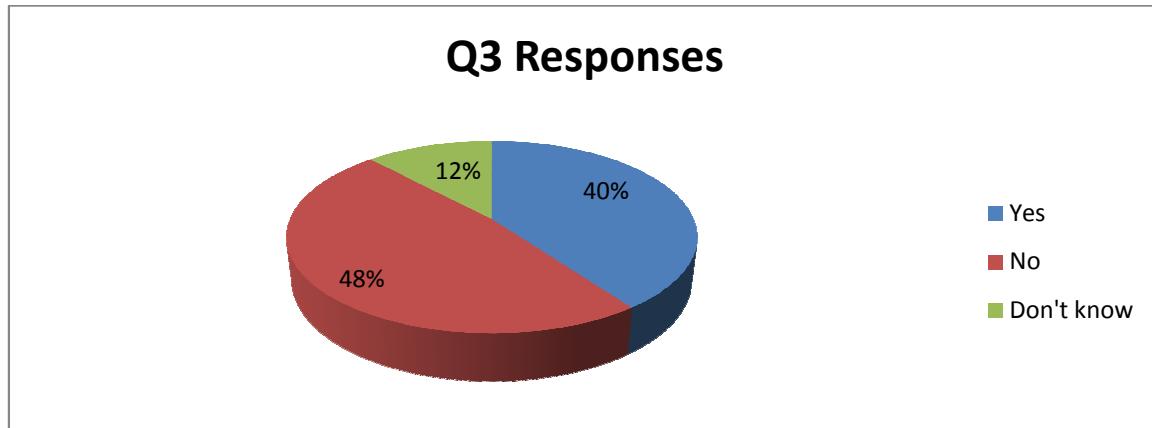
Q2: Currently anyone of working age that lives in a property with a Council Tax Band E, F, G or H will have their support calculated as if their property was in band D. If the Council has to make changes, should the level of support be further reduced so that anyone of working age that lives in a property with a Council Tax Band D, E, F, G or H has their support calculated as if their property was in band C?

There were 48 responses to this question. Results below indicate that most people do not want the Band restriction element of the current scheme reduced further to Band C.



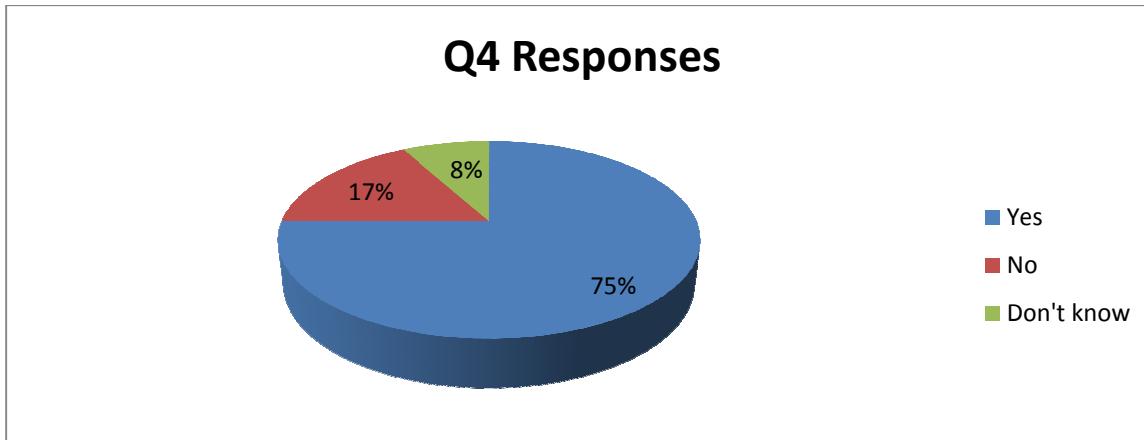
Q3: Currently there is no minimum award level for Council Tax Support. This means someone could be entitled to as little as 1p per week in support. If the Council has to make changes, should they introduce a minimum level of weekly Council Tax Support? This would mean that anyone currently entitled to less than the minimum level would no longer receive any support at all.

There were 48 responses to this question. Results below indicate that most people do not want to see a minimum award level introduced to the scheme. It is noted that this question scored the highest 'Yes' response rate from questions 1 to 3 – questions which were focused on different ways in which support could be reduced if necessary. This suggests that, if further reductions to the scheme were necessary, introducing a minimum award value might be regarded as a preferred way to do this.



Q4: Should people who can't work due to sickness or disability be protected from these proposed changes to the scheme?

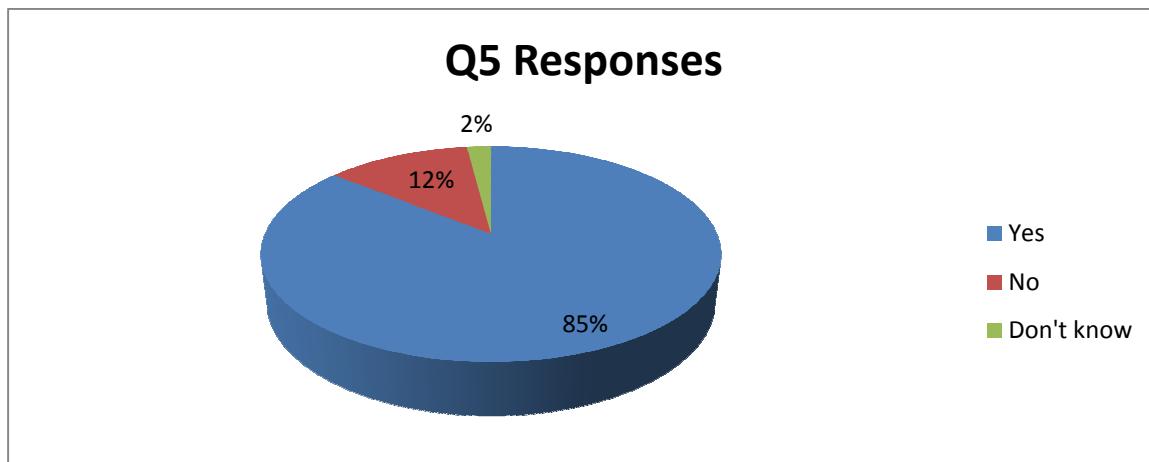
There were 48 responses to this question. Results below indicate that most people would like to see those who can't work due to sickness or disability to be protected from any changes to the scheme which would reduce support.



Q5: Should people who can't work because they provide care for a sick or disabled relative be protected from these proposed changes to the scheme?

There were 48 responses to this question. Results below indicate that most people would like to see those who can't work because they provide care for a sick or disabled relative to be protected from any changes to the scheme which would reduce support.

This question had the highest majority response rate of all the questions asked in the survey. It also scored a higher 'Yes' response rate than Q4 and scored the lowest 'Don't know' rate of all the questions asked. This suggests that protecting support for Carer's is generally a big concern for most residents and a topic for which most people have a clear view. It also suggests that protecting Carer's is seen as a slightly bigger concern than protecting sick or disabled residents.



Summary of 'free text' comments collected from the survey:**General Disapproval (5 comments);**

"Your proposed changes appear to be to increase your revenue by targetting those least able to afford it. If an increase in revenue from Council Tax IS necessary the changes should be made across the board and not aimed at those least able to afford it."

"Poor people should not pay council tax making them poorer to pay for the detritus on the council is shameful. We should have had a question to reduce the 30% down to nought."

"Why no 05 to pay. nothing in castle point is worth paying for. Because of you people i know attempted suicide this year you are Evil."

"enough is being taken from the poor. cut back else where."

"How many suicides do you want to be responsible for?"

General Support (1 comment);

"I fully support these changes and anything that encourages work. People of a working age with no disabilities should not be able to just claim benefits. Work should be more financially attractive than staying on benefits."

Disabilities/Carers/Vulnerable (4 comments);

"ALL DISABLED PEOPLE AND PEOPLE WHO ARE OVER 65 SHOULD BE EXEMPT"

"Please protect the carers and the disabled in Castle Point. They have already seen a marked increase in the amount they have to pay. This has had a direct effect on their disposable income and they should not be asked to pay more. Savings and cuts should be made elsewhere."

"As retired pensioners, we have always, and still pay relevant council tax. However, my daughter, who has Downes Syndrome has to pay Council Tax out of her benefits. I think this is appalling! My daughter would like to work but her disability prevents her from doing so!"

"It's time that the sick and disabled and the people that look after them are not punished for being how they are. What the hell is happening to this country."

Lone Parent/Families/Single People (1 comment);

"Single people who work low pay should be allowed to earn at least £120 before being stopped. Also why students, armed forces are exempt council tax or allowed to earn more. Those on apprenticeships while single person has to survive who works , but on a

low income has to live on £71.00 per week were as above can earn more not be. have to pay more if any council tax as single person i have to pay more i dont have enough to live on i work but earn below living wage but still being penalised. 1. single2. low income which is unfair and against basic human rights.”

Pensioners (1 comment);

“Council Tax should be lowered for state pensioners!”

Financial Concern/Debt/Poverty (4 comments);

“I am a single mother & i am looking for work. The changes have made me borrow to be able to afford living. I am sinking further and further into debt.”

“30% deduction is a lot of money coming out of £70.70 jsa, no further cuts on the poor are fair.”

“Until I read this questionnaire I hadn't realised how much you have already cut back on Council Tax Benefit. You are taking money from those who are already struggling to make ends meet - no wonder our food banks cannot keep up with the demand from people who can no longer afford to eat! This is a result of the Government who have demonised those unfortunate enough to be needing welfare benefits. It is a morally indefensible policy when those who are poor are suffering from the irresponsibility of the bankers and the wealthy are hardly affected by the cutbacks in the economy.”

“Reducing the Council Tax band level will act to see low income families and those on benefits increasingly concentrated in lower value parts of the borough. This has the potential to exacerbate deprivation in certain areas, and make being poor and/or unemployed the norm... what will children growing up in these areas aspire to. Are we at risk of creating a downward spiraling cycle of deprivation that will take years to undo? In setting a minimum award level the Council should consider a) what it costs to make a payment; and b) what will make a real difference to peoples quality of life. My sense would be that £5 per week (£20 per month) seems like the right level.”

Clarity of Survey/Scheme Information (3 comments);

“I lectured at London University yet it has taken me an hour and a half to try to understand what an earth you are talking about. I have reported you to the plain english campaign hopefully someone will be fired over this nonsense. “

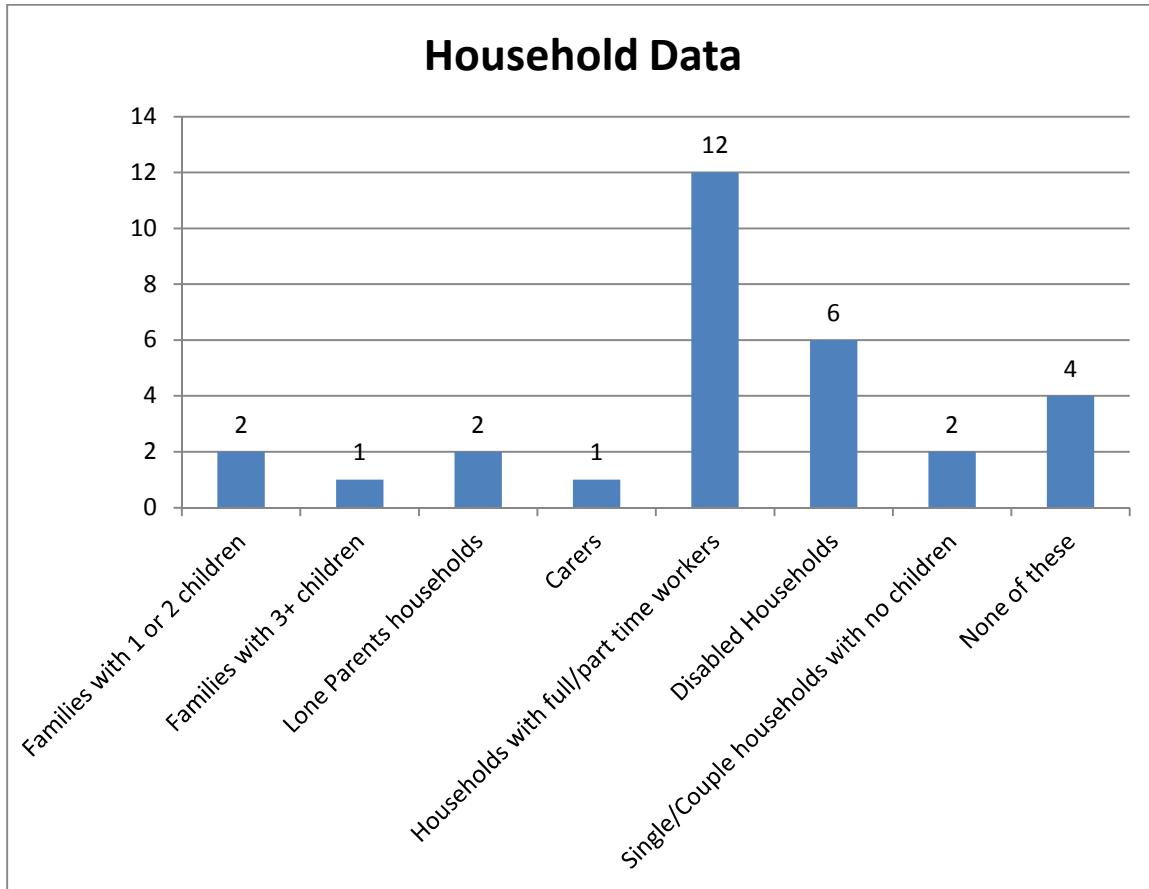
“Its hard to understand how you sleep at night wasting our money asking questions no one can manage understanding.”

“I have never seen Council Tax Support Scheme explained anywhere”

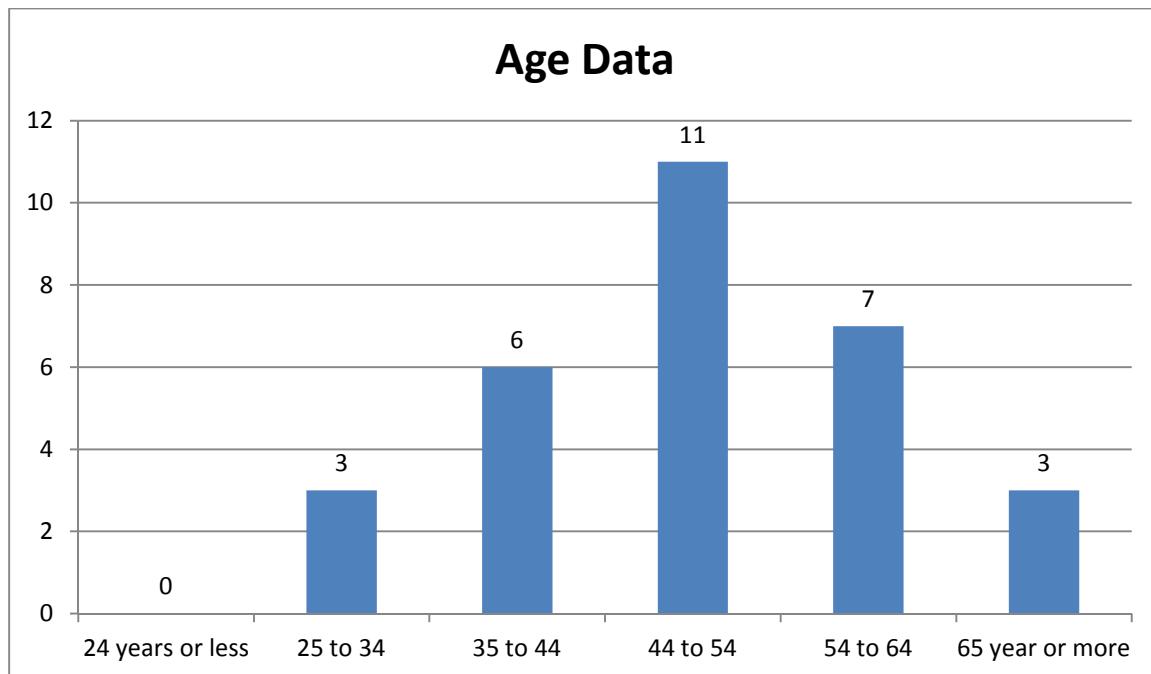
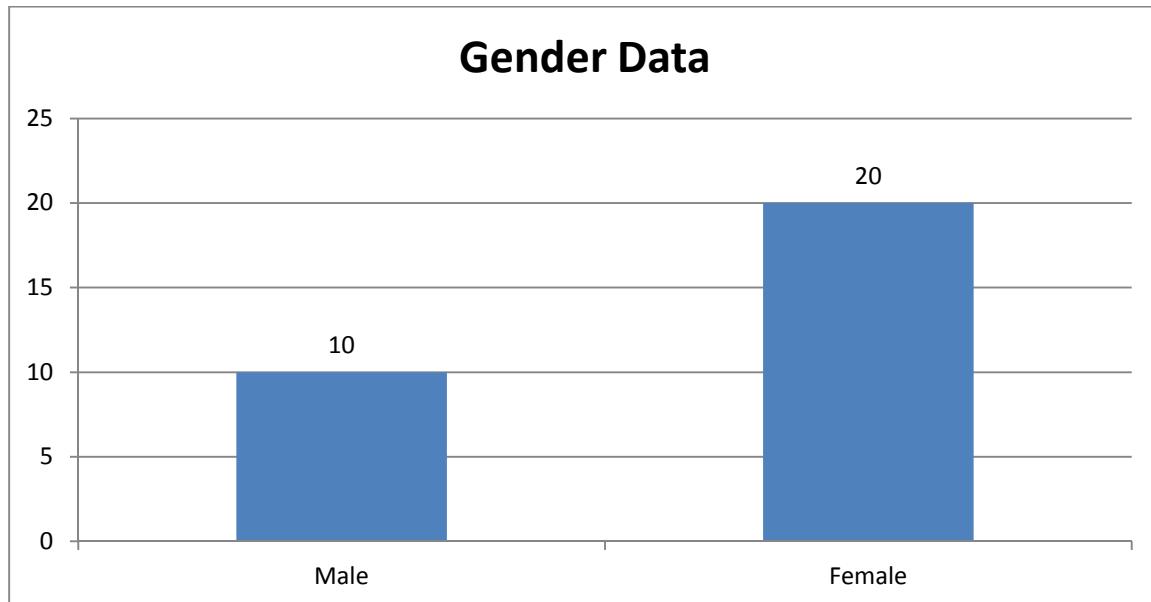
Diversity & Equality Data

Figures shown on the tables are the number of responses, not percentages.

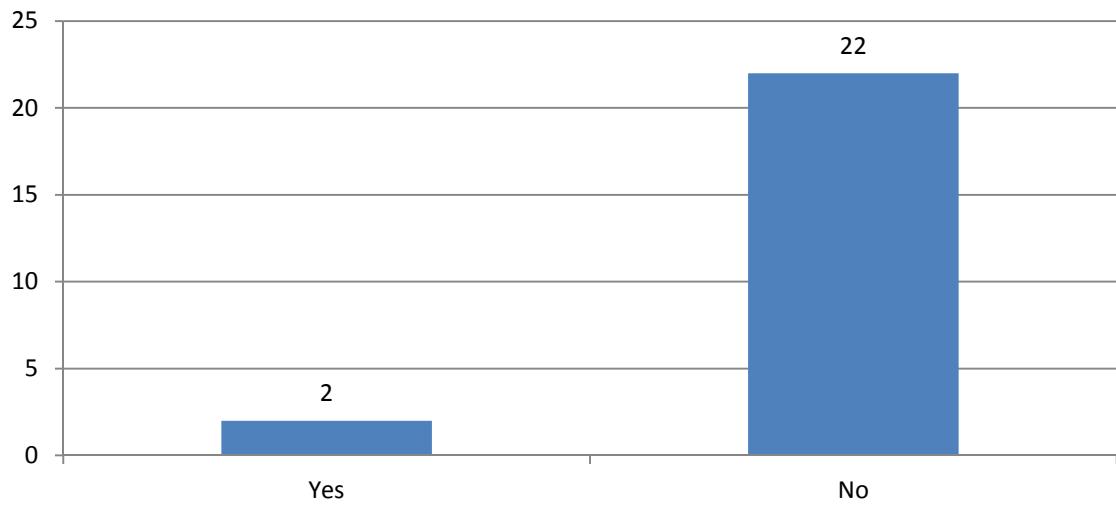
Not all respondents answered all the questions so the response total varies from question to question.



Respondents were asked to select only one category that best describes their household.

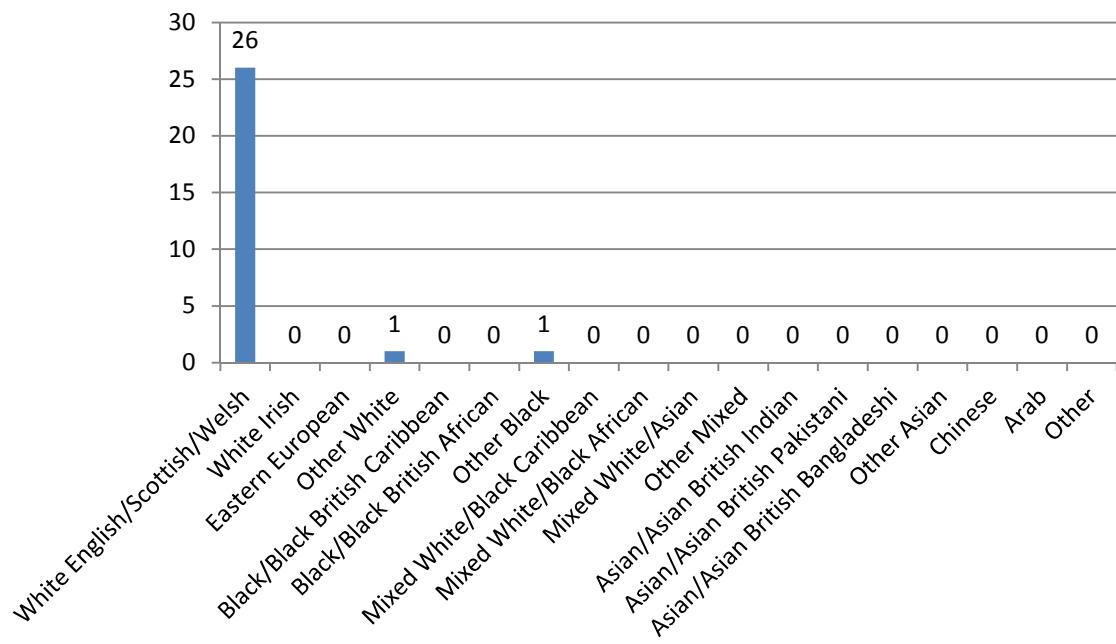


Do you have a long standing illness, disability or infirmity?

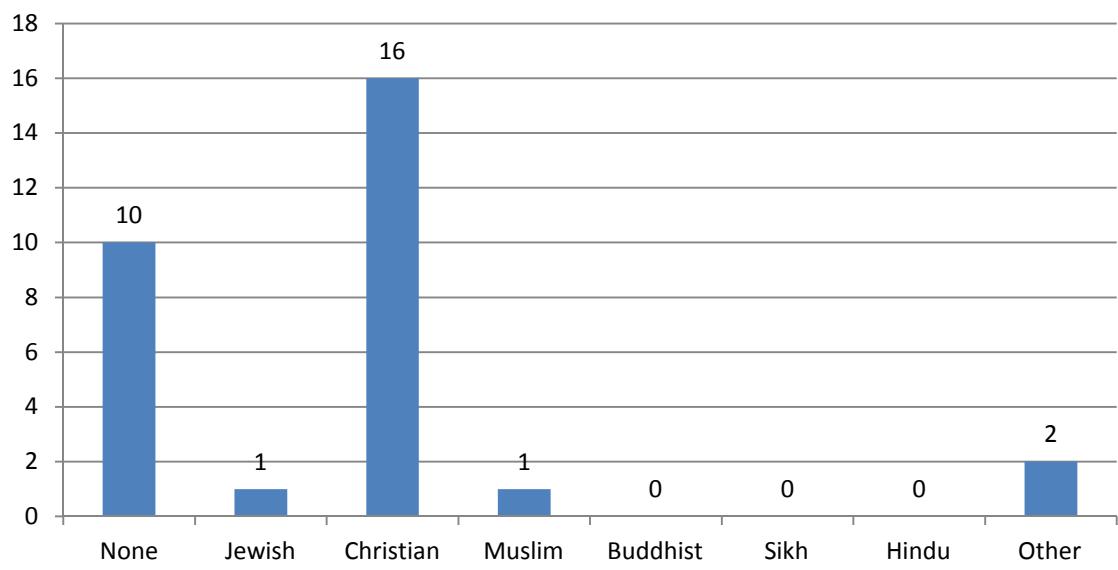


'Long standing' was described in the question as meaning 'anything that has troubled you over a period of time or that is likely to affect you over a period of time'.

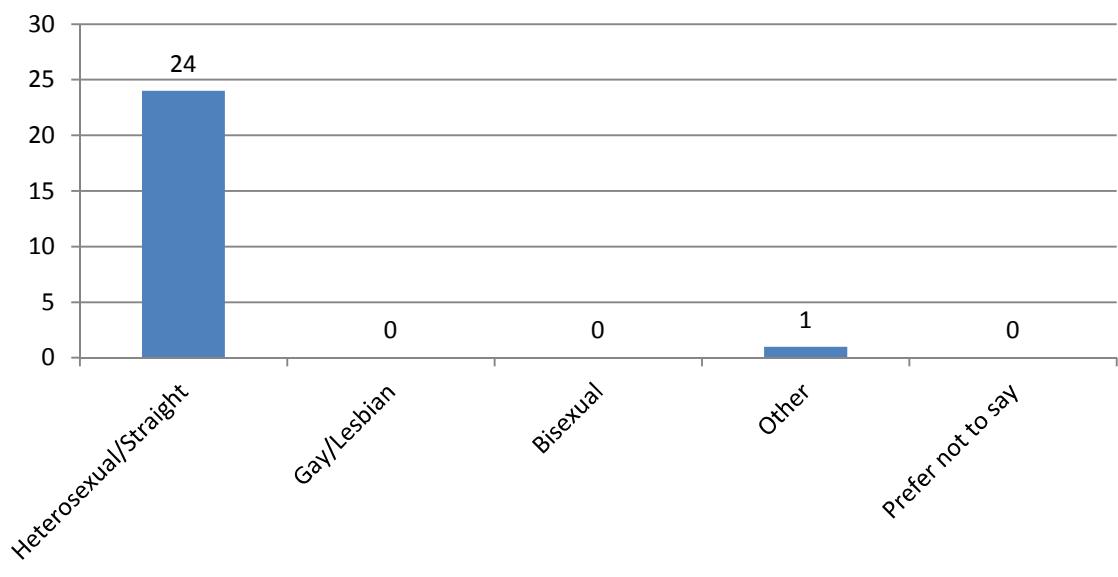
Ethnic Group Data



Religion Data



Sexual Orientation Data



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

DRAFT

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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 2014 until 31st March 2015.

1.2 This document details how the scheme will operate for both pension credit age and working age applicants and in accordance with Section 13A of the Local Government Finance Act 1992 specifies the classes of person who are to be entitled to a reduction under the scheme and is effective from 1st April 2014 for a period of one financial year.

1.3 The scheme in respect of pension age applicants is defined by Central Government within the following:

- Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012;
- Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (England) (Amendment) Regulations 2012;
- Council Tax Reduction Schemes (Transitional Provision) (England) Regulations 2013;
- Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013; and
- Local Government Finance Act 1992 (as amended by the Local Government Finance Act 2012).

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

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

1.4 There are three main classes under the prescribed pension credit age scheme, for each of which there are a number of qualifying criteria. In all cases individuals must not be of a prescribed class exempted from reduction, such as a person subject to immigration control with limited leave to remain. The definition of a pension credit age person is a person who:

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

- who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- who, subject to paragraph 5 of Schedule 1 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, is not absent from the dwelling throughout the day; in respect of whom a maximum Council Tax Reduction amount can be calculated;
- 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;
- 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;
- not have capital savings above £16,000; and
- 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:

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

Class C: alternative maximum Council Tax Reduction

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

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

The condition referred to in sub paragraph 1, 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:

- is not a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount;
- 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);
- is not a person who is residing with a cousin or with the members of a polygamous marriage where the applicant is a member of that couple; or of that marriage; and—
 - 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
 - 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;
- is not a person who, jointly with the applicant, falls within the same paragraph or section 6(2)(a) to (c) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or
- 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, fail to be disregarded for the purposes of discount.

Disregard of certain incomes

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

- a war disablement pension;
- a war widow's pension or war widower's pension;
- 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;
- a guaranteed income payment;
- 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;
- 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;
- pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

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

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

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

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

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

Class D

To obtain reduction the individual (or partner) must:

- have not attained the qualifying age for state pension credit³; or
- 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;
- be liable to pay council tax in respect of a dwelling in which he is solely or mainly resident;
- is not deemed to be absent from the dwelling.

¹Section 5 of this scheme

- e. not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- f. by somebody in respect of whom a maximum Council Tax Reduction² amount can be calculated;
- g. not have capital savings above £6,000³;
- 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 income⁴ is less than their applicable amount⁵ 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. be 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 £6,000⁹;
- 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 income¹⁰ is more than their applicable amount¹¹;
- 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 tax year; and
 - (ii) amount B is 2.6% 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:

¹ Sections 57 to 63 of this scheme

² Sections 39 to 42 and Schedule 3 of this scheme

³ Sections 13 to 32 and Schedule 3 and 4 of this scheme

⁴ Sections 13 to 14 and Schedule 1 of this scheme

⁵ Sections 68 to 74A of this scheme

⁶ Section 5 of this scheme

⁷ Sections 57 to 62 of this scheme

⁸ Sections 33 to 42 and Schedule 5 of this scheme

⁹ Sections 13 to 32 and Schedule 3 and 4 of this scheme

¹⁰ Sections 13 to 14 and Schedule 1 of this scheme

¹¹ Sections 68 to 74A of this scheme

Council Tax Reduction Scheme

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

DRAFT

Definitions and Interpretation

Sections 2-8

DRAFT

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 1999;

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

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

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

‘Abbeyfield Home’ means an establishment run by the Abbeyfield Society including all buildings 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 55A or 55B of the Employment Rights Act 1996;

‘an AFP’ 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 fails to be calculated;

‘attendance allowance’ means—

- an attendance allowance under Part 3 of the Act;
- an increase of disablement pension under section 104 or 105 of the Act¹;
- a payment under regulations made in exercise of the power conferred by paragraph 4(2)(b) of Part 2 of Schedule 8 to the Act²;
- an increase of an allowance which is payable in respect of constant attendance under paragraph 4 of Part 1 of Schedule 8 to the Act³;
- a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Compensation) Scheme 1988 (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 the 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 2000 (see section 989 of that Act).

‘the benefit Acts’ means the Act (SSIA), and the Jobseekers Act 1995 and the Welfare Reform Act 2000⁴;

‘board and lodging accommodation’ means accommodation provided to a family, for a charge which is inclusion 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 7th 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 SSCRA;

'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 2007;

'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;

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

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

'contributory employment and support allowance' means a contributory allowance under Part 1 of the Welfare Reform Act 2010;

'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 SSCRA;

'council tax reduction scheme' has the same meaning as 'council tax reduction or reduction' 'council tax support (or reduction)' means council tax reduction as defined by S13a Local Government Finance Act 1992 (as amended);

'couple' means:

(a) a man and a woman who are married to each other and are members of the same household;

(b) a man and a woman who are not married to each other but are living together as husband and wife;

(c) two people of the same sex who are civil partners of each other and are members of the same household; or

(d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners;

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;

'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 purposes of claiming council tax reduction; or

(b) by reference upon or with such a form in 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 existing 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 2019 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 60(1) or 61(1) 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 money 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 1997;

'a guaranteed income payment' means a payment made under article 18(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 3 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(1) of the Jobseekers Act 1995;

'income-related employment and support allowance' means an income-related allowance under Part 1 of the Welfare Reform Act 2017;

'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 10 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 Bardsford Royal and Marin Theresa Martin of the other part;

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

'Jobseekers Act' means the Jobseekers Act 1996; **'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 2006;

'the London Bombing Relief Charitable Fund' means the company limited by guarantee (number 5505077), 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 1121661) 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 15(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996 and the training scheme specified in regulation 15(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 suitable 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;

(iii) 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 trades;

'occupational pension scheme' has the same meaning as in section 1 of the Pensions Schemes Act 1993 as amended by the Public Service Pension Act 2013;

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

'partner' 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;

'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 1;

'personal pension scheme' means—

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

b. an annuity contractor trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 or a substituted contract within the meaning of section 622(3) or that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 of the Finance Act 2004;

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. '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 13(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 (c) 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 Jobseeker's Allowance Regulations 1995;

'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 14 (non dependent deductions) of those Regulations;

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

'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 1953 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;

(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.**

'service user group' means a group of individuals that is consulted by or on behalf of;

(a) a Health Board, Special Health Board or the Agency in consequence of a function under section 7(1) of the National Health Service (Scotland) Act 1978;

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

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

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

(e) a local authority in consequence of a function under section 3 of the Local Government Act 1999;

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

(g) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006;

(h) a local health board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006;

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

(j) the regulator or a private registered provider of social housing in consequence of a function under section 98, 193 or 196 of the Housing and Regeneration Act 2008, or

(k) a public or local authority in Great Britain in consequence of a function conferred under any other enactment;

for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used [or may potentially be used] by those persons;

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

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

'special account' means an account as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker's Allowance Regulations or Chapter 5 of Part 10 of the Employment and Support Allowance Regulations;

'sports award' means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc Act 1993 out of sums allocated to it for distribution under that section;

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

'State Pension Credit Act' means the State Pension Credit Act 2002;

'student' has the meaning prescribed in section 43;

'subsistence allowance' means an allowance which an employment zone contractor has agreed to pay to a person who is participating in an employment zone programme;

'support or reduction week' means a period of 7 consecutive days commencing upon a Monday and ending on a Sunday;

'the Tax Credits Act' means the Tax Credits Act 2002;

'tax year' means a period beginning with 6th April in one year and ending with 5th April in the next;

'training allowance' means an allowance (whether by way of pre-conditional 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 7 of the 1973 Act or is training as a teacher;

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

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

'Uprating Act' means the Welfare Benefit Up Rating Act 2013;

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

'war disablement pension' means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 6(9)(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 premium or allowance payable to a woman as a widow under an instrument specified in section 6(3)(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 6(3)(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 amended¹², and

'young person' has the meaning prescribed in section 9(1) and in section 112 of the SCSA.

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 purposes 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

¹² The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2013

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 27A of that Act;

(d) in respect of which an income-based jobseeker's allowance or a joint claim jobseeker's allowance would be payable but for a restriction imposed pursuant to section 6b, 6, 8 or 9 of the Social Security (Fraud) Act 2001 (loss of benefit provisions).

2.4A 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.

2.5 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.

2.6 In this scheme, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002 (small amounts of state pension credit).

3.0 Definition of non-dependant

3.1 In this scheme, 'non dependant' means any person, except someone to whom 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 ~~legitimately~~ 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 ~~Occupying persons to whom paragraph 3.2 a) to c) and f) refer, a person to whom any of the following sub-paragraphs applies shall be a non dependant—~~

- a. a person who resides with the person to whom he is liable to make payments in respect of the dwelling and either:
 - i. that person is a close relative of his or her partner; or
 - ii. the tenancy or other agreement between them is other than on a commercial basis;
- b. a person whose liability to make payments in respect of the dwelling appears to the

authority to have been created to take advantage of the council tax reduction scheme except someone who was, for any period within the eight weeks prior to the creation of the agreement giving rise to the liability to make such payments, otherwise liable to make payments of rent in respect of the same dwelling;

6. 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 dependent of one or more of the other residents in that dwelling who are so liable for the tax, unless the authority is satisfied that the change giving rise to the new liability was not made to take advantage of the support scheme;

4.0 Requirement to provide a National Insurance Number¹⁴

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

4.2 This subsection is satisfied in relation to a person if

- a. the claim for support is accompanied by:
 - i. a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or
 - ii. information or evidence enabling the national insurance number that has been allocated to the person to be ascertained; or
- b. the person makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated and the application for reduction is accompanied by evidence of the application and information to enable it to be allocated.

4.3 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; and
 - iii. has not previously been allocated a national insurance number.

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

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

This scheme also applies to a person if:

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

¹⁴ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

6.0 Remunerative work

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

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

- a. if there is a recognisable cycle of work, the period of one complete cycle (including where the cycle involves periods in which the person does not work, those periods but disregarding any other absences);
- b. in any other case, the period of 5 weeks immediately prior to that date of claim, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.

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 variations 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 on, 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 subject to Immigration Control – exempted from claiming under this scheme

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

7.1 The class of person described in this paragraph consists of any person treated as not being in Great Britain.

7.2 Except where a person falls within sub paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

7.3 A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside

in one of those places.

7.4 For the purposes of sub-paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with:

- (a) regulation 13 of the **EEA Regulations** or Article 6 of Council Directive No 2004/38/EC; 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 sub-paragraph if the person is:

- (a) a qualified person for the purposes of regulation 6 of the **EEA Regulations** as a worker or a self-employed person;
- (b) a family member of a person referred to in paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the **EEA Regulations**;
- (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the **EEA Regulations**;
- (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
- (e) a person granted limited leave to enter or remain in the United Kingdom outside the provisions of the rules made under section 3(2) of the Immigration Act 1971 on the rejection of their claim for asylum;
- (f) a person who has humanitarian protection granted under these rules; or
- (g) a person who is not a person subject to immigration control within the meaning of section 113(2) 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.

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

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

7.8 In this paragraph

'claim for asylum' has the same meaning as in section 94(1) of the **Immigration and Asylum Act 1999**;

'EEA Regulations' means the **Immigration (European Economic Area) Regulations 2006**;

'Person subject to immigration control' has the meaning given in section 115(9) of the **Immigration and Asylum Act 1999**.

8.0 Temporary Absence [period of absence]

8.1 Where a person is absent from the dwelling throughout any day then no support shall be payable.

8.2 A person shall not, in relation to any day, which falls within a period of temporary absence from that dwelling, be a prescribed person under paragraph 8.1.

8.3 In paragraph 8.2, a 'period of temporary absence' means

- a period of absence not exceeding 13 weeks, beginning with the first whole day on which

a person resides in residential accommodation where and for so long as:

- i. the person resides in that accommodation;
- ii. the part of the dwelling in which he usually resided is not let or sub-let; and
- iii. that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks, where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;

b. a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as:

- i. the person intends to return to the dwelling;
- ii. the part of the dwelling in which he usually resided is not let or sub-let; and
- iii. that period is unlikely to exceed 13 weeks; and
- c. a period of absence not exceeding 52 weeks, beginning with the first whole day of absence, where and for so long as:

 - i. the person intends to return to the dwelling;
 - ii. the part of the dwelling in which he usually resided is not let or sub-let;
 - iii. the person is a person to whom paragraph 8.1 applies; and
 - iv. the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

This paragraph applies to a person who is:

8.3

- a. detained in custody on remand pending trial or required, as a condition of bail, to reside:

 - i. in a dwelling, other than the dwelling referred to in paragraph 8.1, or
 - ii. in premises approved under section 13 of the Offender Management Act 2007, or, detained in custody pending sentence upon conviction;

- b. resident in a hospital or similar institution as a patient;
- c. undergoing, or his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
- d. following, in the United Kingdom or elsewhere, a training course;
- e. undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
- f. undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
- g. in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
- h. a student;
- i. receiving care provided in residential accommodation other than a person to whom paragraph 8.3(a) applies; or
- j. has left the dwelling 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.

This paragraph applies to a person who is:

8.5

- 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 (Disenfranchisement) 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.

8.6 Where paragraph 8.5 applies to a person, then, for any day when he is on temporary release if such temporary release was immediately preceded by a period of temporary absence

- a.

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

8.3 In this section:

- 'medically approved' means certified by a medical practitioner;
- 'patient' means a person who is undergoing medical or other treatment as an in patient in any hospital or similar institution; 'residential accommodation' means accommodation which is provided:
 - a. in a care home;
 - b. in an independent hospital;
 - c. in an Abbeyfield Home; or
 - d. in an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;
- 'training course' means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

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Sections 9 - 11
The family for Council tax reduction purposes

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9.0 Membership of a family

9.1 Within the support scheme adopted by the Council 'Family' means:

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

For the purposes of this 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 In paragraph 9.1 the definition of child or young person shall not apply to a person who is:

- a. on income support;
- b. an income-based jobseeker's allowance; or an income-related employment and support allowance; or has an award of Universal Credit; or
- c. a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefit(s)) applies.

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 **or** 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:

- placed with the applicant or his partner by a local authority under section 7(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
- placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
- placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009.

11.3 Subject to paragraph 11.4, paragraph 11.1 shall not apply to a child or young person who is not living with the applicant and he

- is being looked after by, or in Scotland is in the care of, a local authority under a relevant enactment; or
- has been placed, or in Scotland boarded out, with a person other than the applicant prior to adoption; or
- has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009; or in accordance with an adoption allowance scheme made under section 11 of the Adoption and Children (Scotland) Act 2000 (adoption allowances scheme).

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:

- that child or young person lives with the applicant for part or all of that reduction week; and
- the authority considers that it is responsible to do so taking into account the nature and frequency of that child's or young person's visits.

11.5 In this paragraph 'relevant enactment' means the Army Act 1955, the Air Force Act 1955, the Naval Discipline Act 1957, the Matrimonial Proceedings (Children) Act 1958, the Social Work (Scotland) Act 1968, the Family Law Reform Act 1969, the Children and Young Persons Act 1969, the Matrimonial Causes Act 1973, the Children Act 1975, the Domestic Proceedings and Magistrates' Courts Act 1978, the Adoption and Children (Scotland) Act 1978, the Family Law Act 1986, the Children Act 1989, the Children (Scotland) Act 1995 and the Legal Aid, Sentencing and Punishment of Offenders Act 2012 as amended.

Sections 12 – 14 & Schedule 1

Applicable Amounts for Council tax reduction purposes

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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):

- 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;
- 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;
- 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);
- 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);
- the amount of either the:
 - work related activity component; or
 - support component which may be applicable to him in accordance with paragraph 17 and 18 of Schedule 1 (the components);
- 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:

- 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;
- 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;
- 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;
- if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in paragraph 3 of Schedule 1 of this scheme (family premium);
- 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);
- the amount of either the:
 - work related activity component; or
 - support component which may be applicable to him in accordance with paragraph 17 and 18 of Schedule 1 (the components);
- the amount of any transitional addition which may be applicable to him in accordance with paragraphs 19 and 20 of Schedule 1 of this scheme (transitional addition).

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

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

- who has, or
- 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].

14.7 The adjustment referred to in sub-paragraph [1] is to multiply the maximum amount by 17 and divide the product by 52.

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

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Sections 15 – 32 & Schedules 3 & 4

Definition and the treatment of income for Council tax reduction purposes

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

15.1 The income and capital of:

- (a) an applicant; and
- (b) any partner of that applicant,

is to be calculated in accordance with the following provisions:

15.2 The income and capital of any partner of the applicant is to be treated as income and capital of the applicant, and in this Part any reference to the applicant applies equally to any partner of that applicant.

15.3 Where an applicant or the partner of an applicant is married polygamously to two or more members of his household:

- (a) the applicant must be treated as possessing capital and income belonging to each such member; and
- (b) the income and capital of that member is to be calculated in accordance with the following provisions of this Part in like manner as for the applicant.

15A.0 Calculation of income and capital: persons who 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 16 (circumstances in which income and capital of non dependent 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 15A(1)(e) of the 1997 Act (power of bidding 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 17 and dividing the product by 52.

15A.4 Sections 16 (income and capital of non dependent to be treated as applicant's) and 52 and 53 (disregards from income) apply (so far as relevant) for the purpose of determining any adjustment(s), which fail to be made to the figure for income under sub-paragraph (2).

15A.5 In determining the capital of an applicant:

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

an award of universal credit, the authority must use the calculation or estimate of the capital

of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining that award

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

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

- 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 17.2 are met, from those earnings plus whichever credit specified in sub-paragraph (b) of that paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in paragraph (3) applies in his case.

17.2 the conditions of this paragraph are that:

- 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
- 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:

- where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week;
- 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 (national 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 31A to 31H 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 42A of, and paragraph 1 or 14 of Schedule 18 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.

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.

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, 17 or 14 of the Child Minding and Day Care Exceptions (Wales) order 2010; or

e.

i. persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010;

or

ii. local authorities registered under section 83(1) of that Act, where the care provided is child minding or daycare within the meaning of that Act; or

f. by a person prescribed in regulations made pursuant to section 12(1) of the Tax Credits Act 2009 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 3(1)(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 or Part 3 of that Act does not apply by virtue of section 3(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 1/11 of the Act;

c. the applicant's applicable amount would include the support component of 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 discrimination made in accordance with the Employment and Support Allowance Regulations 2008;

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

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

f. there is payable in respect of him one or more of the following pensions or allowances—

- long term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the Act;
- attendance allowance under section 61 of the Act;
- smoke disablement allowance under section 68 of the Act;
- disability living allowance under section 71 of the Act;
- personal independence payment under the Welfare Reform Act 2012;
- an ALIP;
- increase of disablement pension under section 104 of the Act;
- 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 (iii), (iv) or (v) above;
- 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 ALIP 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 **or** for the purposes of paragraph 18.11 (not: paragraph 18.11d) applies to the applicant, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.

18.12A For the purposes of paragraph 18.11, once paragraph 18.11(v) 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—

- 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;
- 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
- who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.

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

- in the week before the period of maternity leave, paternity leave or adoption leave began she was in remunerative work;
- the applicant is incurring relevant child care charges within the meaning of paragraph 18.2; and
- she is entitled to either statutory maternity pay under section 161 of the Act, statutory paternity pay by virtue of section 172A or 172B of the Act, statutory adoption pay by virtue of section 172A 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

- the date that leave ends;
- 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
- 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

- 'qualifying support' means income support to which that person is entitled by virtue of paragraph 1(a) of Schedule 1B to the Income Support Regulations 1986; and
- 'child care element' of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credit Act (child care element) 2002.

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

- who has, or
- 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

- 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 work 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 19.1a[i] or [ii]

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

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 benefit 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 72 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made:

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

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 product by 7.

24.0 Disregard of changes in tax, contributions etc.

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

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

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

25.0 Earnings of employed earners

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

- a. any bonus or commission;
- b. any payment in lieu of remuneration except any periodic sum paid to an applicant on

- 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 redundancy;
- 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 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;

- g. any award of compensation made under section 112(4) or 113(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
- h. any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
- i. any such sum as is referred to in section 112 of the Act (certain sums to be earnings for social security purposes);
- j. any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
- k. any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;

l. the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001 as amended¹⁵;

25.2 Earnings shall not include

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

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

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

¹⁵ Social Security (Contributions) (Amendment) Regulations 2013, Social Security (Contributions) (Amendment No.2) Regulations 2013 and Social Security (Contributions) (Amendment No.2) Regulations 2013

i) income tax;

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

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

26.5 the amount in respect of any qualifying contribution shall be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this section the daily amount of the qualifying contribution shall be determined—

- a. where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;
- b. in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.

26.6 Where the earnings of an applicant are estimated under sub-paragraph (b) of paragraph 2) of the section 19 (average weekly earnings of employment earners), his net earnings shall be calculated by taking into account those earnings over the assessment period, less

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

27.0 Earnings of self-employed earners

27.1 Subject to paragraph 27.2, 'earnings', in the case of employment as a self-employed earner, means the gross income of the employment plus any allowance paid under section 7 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 trademark, or an original contributor to the book or 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 is to be treated as a corresponding fraction of a week) by dividing the earnings by

- (a) the amount of the reduction under this scheme which would be payable had the payment not been made, plus
- (b) an amount equal to the total of the sums which would fail to be disregarded from the payment under Schedule 3 (sums to be disregarded in the calculation of earnings) as appropriate in the applicant's case.

28.0 Calculation of net profit of self-employed earners

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

- a. in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- b. in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975, his share of the net profit derived from that employment, less

- i. an amount in respect of income tax and of social security contributions payable under the Act calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
- ii. one-half of the amount calculated in accordance with paragraph (28.11) in respect of any qualifying premium.

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

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

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

28.4 For the purposes of paragraph 28.1b) the net profit of the employment shall be calculated by taking into account the earnings of the employment over the assessment period less, subject to paragraphs 28.5 to 28.8, 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:

- any capital expenditure;
- the depreciation of any capital asset;
- any sum employed or intended to be employed in the setting up or expansion of the employment;
- any loss incurred before the beginning of the assessment period;
- the repayment of capital on any loan taken out for the purposes of the employment;
- any expenses incurred in providing business entertainment; and
- 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:

- the replacement in the course of business of equipment or machinery; and
- 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—

- 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;
- a deduction shall be made thereunder in respect of:
 - the excess of any value added tax paid over value added tax received in the assessment period;
 - 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;
 - 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:

- income tax; and
- social security contributions payable under the Act, calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
- one-half of the amount calculated in accordance with paragraph 28.11 in respect of any qualifying contribution

28.10 For the avoidance of doubt where an applicant is engaged in employment as a self-employed carer and he is also engaged in one or more other employments as a self-employed or employed carer 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

- where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;
- in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.

28.12 In this section, 'qualifying premium' means any premium which is payable periodically in

respect of a personal pension scheme and is so payable on or after the date of claim.

29.0 Deduction of tax and contributions of self-employed earners

29.1 the amount to be deducted in respect of income tax under section 28.1b (i), 28.3 b(i) or 28.9 a) (i) (calculation of net profit of self-employed earners) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 25(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 paragraph shall be calculated on a pro rata basis.

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

- 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(1) of the Act (small earnings exception) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year shall be reduced pro rata; and
- the amount of Class 4 contributions (if any) which would be payable under section 15 of the Act (Class 4 contributions renewable 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

- 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;
- 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 30.2 to 30.4, be his gross income and any capital treated as income under section 31 (capital treated as income).

30.2 There is to be disregarded from the calculation of an applicant's gross income under paragraph 30.1, any sum, where applicable, specified in Schedule A.

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, 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 2000 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 30.1 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 - (BxC)

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 disregard 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 disregard 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

- 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;
- 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
 - the day immediately before the day on which the next instalment of the relevant payment would have been due had the payment's continued; or
 - the last day of the last quarter for which an instalment of the relevant payment was payable to that person.

'quarter' in relation to an assessment period means a period in that year beginning on whichever of those dates is earlier

- 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, *r* or both.

30.11 **Or 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) applying; or
- b. in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act 1999 including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act 1999.

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 £5,000, 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 Employment and Training Act 1973 Act shall be treated as income.

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

32.0 Notional income

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

32.2 Except in the case of

- a. a discretionary trust;
- b. a trust derived from a payment made in consequence of a personal injury;
- c. a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
- d. any sum to which paragraph 47(1)(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 Custom 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 3 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;

in respect of a person's participation in the Work for Your Benefit Pilot Scheme;

d.

in respect of a previous participation in the Mandatory Work Activity Scheme;

e.

in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;

f.

under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—

(i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made; or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;

(ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and

(iii) the person referred to in (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

- i. the applicant performs a service for another person; and
- ii. 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)(g) 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 had 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 section 25(4)(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 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 payable by the applicant by way of a contribution towards an occupational or personal pension scheme.

32.13 Paragraphs (32.1), (32.2), (32.6) and (32.9) shall not apply in respect of any amount of income

other than earnings, or earnings of an employed earner, arising out of the applicant's participation in a service user group.

Sections 33 – 42 & Schedule 5

Definition and the treatment of capital for Council tax reduction purposes

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33.0 Capital limit

33.1 For the purposes of this scheme, the prescribed amount is £6,000 and no support shall be granted when the applicant has an amount greater than this level

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 (34.7), 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, 4 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 advances 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 Lillian Trust, MII 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 allowances 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 support except to the extent that that capital is reduced in accordance with section 40 (diminishing notional capital rule).

39.2 Except in the case of

- (a) a discretionary trust; or
- (b) a trust derived from a payment made in consequence of a personal injury; or
- (c) any loan which would be obtained only if secured against capital disregarded under Schedule 5; or

- (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
- (e) any sum to which paragraph 4(1)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 4(1)(a); or
- (f) any sum to which paragraph 48(1) of Schedule 5 relates; 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 upon 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 kind, 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 Ilkson Trust, M111 Limited, the Independent Living Fund (2006), the Skipton Fund, the Capita Foundation or the London Leamings

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 Intensive Activity Period specified in regulation 75(1)(a)(vi) of those Regulations;
 - iv. in a qualifying course within the meaning specified in regulation 17A(1) of those Regulations; or
 - v. in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
 - vi. in respect of a person's participation in the Mandatory Work Activity Scheme;
 - vi. in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme; or Back to Work Scheme;
 - vii. 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 creditor; 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 of, 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 40.1 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 2006 (notional capital);
- c. where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the reduction week to which 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 1996 (notional capital) and
- e. where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of reduction week to which paragraph 40.2 refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (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 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 $\frac{7}{t}$;

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 1996**, have been entitled to an income-based jobseeker's allowance in respect of the reduction week, within the meaning of this scheme, which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part week, that amount shall be determined by dividing the amount of the income-based jobseeker's allowance to which he would have been so entitled by the number equal to the number of days in the part week and multiplying the quotient so obtained by $\frac{6}{7}$; and

e.

if the applicant would, but for regulation 115 of the **Employment and Support Allowance Regulations 2008**, have been entitled to an income-related employment and support allowance in respect of the 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 the words 'relevant week' there were substituted the words 'relevant subsequent week'; and b. subject to paragraph 40.6, 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 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;

(i) 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

(ii) 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 4(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—

a. 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

b. any other period of less than a week for which it is payable;

'relevant week' means the reduction week or part week in which the capital in question or 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 sub-paragraph, the later or latest such reduction week on, 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) (national capital) where an applicant and one or more persons are beneficially entitled in possession to any capital asset they shall be treated, in the absence of evidence to the contrary, as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Section shall apply for the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital which the applicant does possess

42.0 Not Used

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Sections 43 - 56

Definition and the treatment of students for Council tax reduction purposes^{1b}

^{1b} Amounts shown in sections 43 to 56 will be uprated 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;

- 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;
- grants made under section 53(a) and (c) and 79(1) of the Education (Scotland) Act 1980;
- 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;
- 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

^a Financial Continuity 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;

- 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
- any sum, which in determining the amount of a student's allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority considers that it is reasonable for the following person to contribute towards the holder's expenses;

- the holder of the allowance or bursary;
- the holder's parents;
- the holders parent's spouse, civil partner or a person ordinarily living with the holder's parent as if he or she were the spouse or civil partner of that parent; or
- the holder's spouse or civil partner;

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

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

'education authority' means a government department, a local authority as defined in section 5/9 of the Education Act 1996 (Interpretation), a local education authority as defined in section 173 of the Local Government (Scotland) Act 1973, an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986, any body which is a research council for the purposes of the Science and Technology Act 1965, or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

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

a. is not funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers or 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 Ministers⁵⁵ 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—

- 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;
- 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
- is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves

- 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
- 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—

- any income by way of a grant;
- 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;

- 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;
- 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—

- 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;
- 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 on, as the case may be, the year's start and ending with either
 - 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, when a loan would have been assessed at such a rate had he had one; or
 - in any other case, the day before the start of the normal summer vacation appropriate to his course;
- 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 *Student's Allowances (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 7(9) of the *Education (Student Support) Regulations 2008*, regulation 4(7) of the *Education (Student Loans)* (Scotland) Regulations 2007 or regulation 7(8) of the *Education (Student Support) Regulations (Northern Ireland) 2007*, as the case may be;

'standard maintenance grant' means

- 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;
- except where paragraph (c) applies, in the case of a student residing at his parent's home, the amount specified in paragraph 3 thereof;
- 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;
- 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 course of study at an educational establishment; or
- 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

- 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
 - 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
 - on such earlier date (if any) as he finally abandons the course or is dismissed from it;
- 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;

- 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 I of the Council's induction scheme.

45.2 To be eligible for support, the student must be liable for Council Tax under Section 6 of the Local Government Finance Act 1992 and they must not be claimed to be a full time student or a persons 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 17(1) 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
ii) aged 21 and attained that age during a course of study which is not a course of higher education – this condition needs adding

iii) a qualifying young person or child within the meaning of section 1A2 of the Act (child and qualifying young person)

(ii) in respect of whom

i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 7 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 on, 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 Duration (Student Support) Regulations (Northern Ireland) 2000; or
- (v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986,

on account of his disability by reason of deafness.

45.3A Paragraph 45.3(i)(ii) only applies to a claimant until the end of the course during which the claimant attained the age of 21.

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

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

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

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

- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is:
 - (i) engaged in caring for another person; or
 - (ii) ill;
- (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
- (c) he is not eligible for a grant or a student loan in respect of the period specified in paragraph 45.8.

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

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

which shall first occur.

46.0 Calculation of grant income

- 46.1 The amount of a student's grant income to be taken into account shall, subject to paragraphs 46.2 and 46.3, be the whole of his grant income.
- 46.2 There shall be excluded from a student's grant income any payment:

(a) intended to meet tuition fees or examination fees;

(b) in respect of the student's disability;

(c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;

(d) on account of the student maintaining a home at a place other than that at which he resides during his course;

(e) on account of any other person but only if that person is residing outside of the United Kingdom and there is no appropriate 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 46.6, 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 surcharge variation 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 46.7(k) (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 46.7 (b) to (c) (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 covenant 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 (f) to (g); 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 46.7(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 coincides 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 June,

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 in 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 £350 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.1 A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under Article 3 of the *Education (Student Support) (Northern Ireland)* Order 1998, section 22 of the *Teaching and Higher Education Act 1998* or section 7(1) 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 bringing the period until receipt of the student loan; or
- (b) before the first day of the course to a person in anticipation of that person becoming a student,

that payment shall be disregarded as income.

53.0 Disregard of contribution

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

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

54.0 Further disregard of student's income

54.1 Where any part of a student's income ~~has already been taken~~ 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 funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or tootwear, 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.

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Sections 57 – 63

The calculation and amount of Council tax reduction

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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 70 per cent, of the amount

divided by B where:

(a) A is the lower of either:

i.

amount set by the appropriate authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; or

ii.

the amount set by the appropriate authority as the council tax for the relevant financial year in respect of a dwelling within Band D subject to any discount which may be appropriate to the person's circumstances; and

(b) B is the number of days in that financial year,

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

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 to 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, £0.00 x 17;
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £0.00 x 17.

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 £186.00, the deduction to be made under this paragraph shall be nil;
- (b) not less than £186.00, but less than £322.00, the deduction to be made under this section shall be nil;
- (c) not less than £322.00, but less than £401.00, the deduction to be made under this section shall be nil;

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, 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 fail to be deducted in respect of the other, or any other member, the higher amount shall be deducted.

58.4

In applying the provisions of paragraph 58.7 in the case of a couple or, as the case may be a polygamous marriage, regard shall be had, for the purpose of that paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.

58.5

Where in respect of a day—

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

58.6

No deduction shall be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is—

- (a) blind or treated as blind by virtue of paragraph 9 of Schedule 1 (additional condition for the disability premium); or
- (b) receiving in respect of himself

(i) attendance allowance, or would be receiving that allowance but for

(aa) a suspension of benefit in accordance with regulations under section 113(2) of the Act; or

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

(ii) the care component of the disability living allowance, or would be receiving that component but for

(aa) a suspension of benefit in accordance with regulations under section 113(2) of the Act; or

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

(a) the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);

- (b) an AFP, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allows for a suspension because a person is undergoing medical treatment in a hospital or similar institution.

58.7

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

- (a) although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or
- (b) he is in receipt of a training allowance paid in connection with a youth training established under section 2 of the 1973 Act or section 7 of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) he is a full time student within the meaning of section 44.0 (Student); or
- (d) he is not residing with the applicant because he has been a patient for a period of excess of 52 weeks, and for these purposes,

(i) 'patient' has the meaning given within this scheme; and

(ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.

58.8

- No deduction shall be made in respect of a non-dependant:
- (a) who is on income support, state pension credit, an income-based jobseeker's allowance or an income related unemployment and support allowance; or

(b) to whom Schedule 1 of the 1992 Act applies (persons disregarded for purposes of discount) but this sub-paragraph shall not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.

58.9 In the application of paragraph 58.7 there shall be disregarded from his weekly gross income—
 (a) any attendance allowance, disability living allowance or personal independence payment or an AIP received by him;
 (b) any payment made under or by the Trusts, the Fund, the Ilklem Trust, MII Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (DILF) which had his income fallen to be calculated under section 30 (calculation of income other than earnings) would have been disregarded under paragraph 24 of Schedule 4 (income in kind); and
 (c) any payment which had his income fallen to be calculated under section 30 would have been disregarded under paragraph 36 of Schedule 4 (payments made under certain trusts and certain other payments).

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

59.1 the prescribed daily percentage for the purpose of calculating support as a percentage of excess of income over the applicable amount which is deducted from maximum council tax reduction, shall be 2 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 5/ of this scheme

60.0 Not Used

61.0 Extended reductions: movers into the authority's area¹⁴

61.1 Where:

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

62.0 – 63.0 Not Used

¹⁴ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

Sections 64 – 67

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

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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 support shall be so entitled from the reduction week following the date on which that claim is made or is treated as made.

64.2 Where a person is otherwise entitled to council tax 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 1997 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 immediately 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

DRAFT

68.1 Making an application¹⁸

68.2 In the case of a couple or members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines.

68.3 Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act, and:

- (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 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.

68.4 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.

68.5 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).

68.6 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).

68.7 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.

68.8 The authority must:

- (a) inform any person making an application of the duty imposed by paragraph 9(1)(a) of the Council Tax Reduction Scheme (Prescribed Requirements) Regulations 2017;
- (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and

¹⁸ 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 scheme¹⁹

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 sections 101 to 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. (1) An application which is made in writing must be made to the designated office on a properly completed form.

(2) The form must be provided free of charge by the authority for the purpose.

69.4. (1) Where an application made in writing is defective because

- (a) it was made on the form supplied for the purpose but that form is not accepted by the authority as being properly completed; or
- (b) it was made in writing but not on the form approved for the purpose and the authority does not accept the application as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence;

the authority may, in a case to which sub paragraph (a) applies, request the applicant to complete the defective application or, in the case to which sub paragraph (b) applies, supply the applicant with the approved form or request further information and evidence.

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

69.5. 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.

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

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.

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

69.8. Notwithstanding other paragraphs within this section, the authority will determine the method by which claims are to be made as well as where claims should be sent or delivered.

69.9. (1) Where an applicant

¹⁹ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

(a) makes an application under this scheme which includes (or which he subsequently requests should include) a period before the application is made;

(b)

from a day in that period, up to the date he made the application (or subsequently requested that the application should include) a past period, the applicant had continuous good cause for failing to make an application (or requested that the application should include) that period;

the application is to be treated as made on the date determined in accordance with sub paragraph (7).

(2) That date is the latest of:

- a. the first day from which the applicant had continuous good cause;
- b. the day 6 months before the date the application was made;
- c. the day 6 months before the date when the applicant requested that the application should include a past period.

69A.0 **Date on which an application is made**

69A.1

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

(a) in a case where:

- (i) an award of state pension credit which comprises a guarantee credit has been made to the applicant or his partner; and
- (ii) the application for a reduction is made within one month of the date on which the claim for that state pension credit which comprises a guarantee credit was received at the appropriate DWP office,

the first day of entitlement to state pension credit which comprises a guarantee credit arising from that claim;

(b) in a case where:

- (i) an applicant or his partner is a person in receipt of a guarantee credit;
- (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling he occupies as his home; and
- (iii) the application is received at the designated office within one month of the date on which the change takes place;

(c) in a case where:

- (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner; and
- (ii) the application is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received;

the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;

(d) in a case where:

- (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit;
- (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home; and
- (iii) the application is received at the designated office within one month of the date of the change;

the date on which the change takes place;

(e) in a case where:

- (i) an applicant is the former partner of a person who was, at the date of his death or their separation, entitled to a reduction under the authority's scheme; and

(ii) the applicant makes an application for a reduction under that scheme within one month of the date of the death or the separation;

(i) except where paragraph (ii), (b) or (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;

(g) in any other case, the date on which an application is received at the designated office.

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

- (a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseeker's 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:

- (i) 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;
- (ii) 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, within such longer period as the authority may consider reasonable; or
 - (ii) the applicant supplies whatever information or evidence was requested within one month of the request; or,
 - (c) where the authority has requested further information, the authority receives at its offices the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.

69A.6 Except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for council tax to the authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under that authority's scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority must treat the application as having been made on the day on which the liability for the tax arises.

69A.7 Except in the case of an application made by a person treated as not being in Great Britain,

where the applicant is not entitled to a reduction under the authority's scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under its scheme for a period beginning not later than;

(a) in the case of an application made by;

(i) a pensioner, or

(ii) a person who has attained, or whose partner has attained, the age which is 1/2 weeks younger than the qualifying age for state pension credit,

the sixteenth reduction week following the date on which that application is made; or

(b) in the case of an application made by a person who is not a pensioner, the thirtieth reduction week following the date on which the application is made, the authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.

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 evidence³⁰

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

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

documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by that authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under its scheme and must do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.

73.5 Nothing in this paragraph requires a person who is a pensioner to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.

73.6 Where the authority makes a request under sub-paragraph (4), it must:

- (a) inform the applicant or the person to whom a reduction under its scheme has been awarded of his duty under paragraph 9 of Schedule 8 the Council Tax Reduction Scheme (Prescribed Requirements) Regulations 2012 (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 notes 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.*

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 21 of Schedule 5, other than a payment under the Independent Living Fund (2016);*
- (c) a payment which is disregarded under paragraph 58.9.*

73.8 Where an applicant or a person to whom a reduction under the authority's scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, he must where the authority so requires furnish the following information:

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

73.0 Amendment and withdrawal of application²¹

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 officer.

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 officer 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.

²¹ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

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 circumstances⁷⁹

74.1 Subject to sub-paragraphs (3), (6) and (7), an applicant (or any person acting on his behalf) must comply with sub-paragraph (7) if there is a relevant change of circumstances at any time:

- between the making of an application and a decision being made on it, or
- 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:

- in writing; or
- by telephone;

(i) where the authority has published a telephone number for that purpose unless the authority determines that in any particular case or class of case notification may not be given by telephone; or

(ii) in any case or class of case where the authority determines that notice may be given by telephone; or

(c) by any other means which the authority agrees to accept in any particular case, within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.

74.3 The duty imposed on a person by sub-paragraph (1) does not extend to notifying:

- changes in the amount of council tax payable to the authority;
- changes in the age of the applicant or that of any member of his family;
- 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.

⁷⁹ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

Decisions, decision notices and awards of Council tax reduction

Sections 75- 90

DRAFT

75.0 Decisions by the authority²³

/5.1

An authority must make a decision on an application under its scheme within 14 days of paragraphs 4 and 7 and Part 1 of Schedule 7 of the Council Tax Reduction Scheme (Prescribed Requirements) Regulations 2012 being satisfied, or as soon as reasonably practicable thereafter.

76.0 Notification of decision²⁴

76.1

The authority must notify in writing any person affected by a decision made by it under its scheme:

- in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;
- 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:

- informing the person affected of the duty imposed by paragraph 9 of Schedule 8 the Council Tax Reduction Scheme (Prescribed Requirements) Regulations 2012 (duty to notify change of circumstances) to notify the authority of any change of circumstances;
- explaining the possible consequences (including prosecution) of failing to comply with that duty; and
- 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

- the applicant;
- 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:
 - a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or

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

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

- (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.

77.0 Time and manner of granting council tax reduction²⁵

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, minded where necessary to the nearest penny.

77.2 The authority must notify the person entitled to a reduction under this scheme of the amount of that reduction and how his entitlement is to be discharged in pursuance of paragraph (1).

77.3 In a case to which paragraph (1)(b) refers:

- (a) if the amount of the council tax for which he remains liable in respect of the chargeable year, after any reduction to which sub-paragraph (1)(a) refers has been made, is insufficient to enable his entitlement to a reduction under the authority's scheme in respect thereof to be discharged, upon the final instalment of that tax becoming due any outstanding reduction:
 - (i) must be paid to that person if he so requires; or
 - (ii) in any other case must [as the authority determines] either be repaid or credited against any subsequent liability of the person to make a payment in respect of the authority's council tax as it has effect for any subsequent year;
- (b) if that person has ceased to be liable for the authority's council tax and has discharged the liability for that tax, the outstanding balance [if any] of the reduction under the authority's scheme in respect thereof must be paid within 14 days or, if that is not reasonably practicable, as soon as practicable thereafter;
- (c) in any other case, the reduction under the authority's scheme must be paid within 14 days of the receipt of the application at the offices of the authority or, if that is not reasonably practicable, as soon as practicable thereafter.

77.4 For the purposes of this paragraph "instalment" means any instalment of the authority's council tax to which regulation 19 of the Council Tax (Administration and Enforcement) Regulations 1992 refers (council tax payments).

78.0 Persons to whom support is to be paid²⁶

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

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

78.1 Subject to section 80 (payment on death) and paragraph (2), any payment of the amount of a reduction must be made to that person.²⁷

78.2 Where a person other than a person who is entitled to a reduction under this authority's scheme made the application for the reduction and that first person is a person acting pursuant to an appointment or is treated as having been so appointed, the amount of the reduction may be paid to that person.

79.0 Shortfall in support / reduction²⁸

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:

- 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
- 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 entitled²⁹

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 1997.

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 liability³⁰

82.1 Where:

- 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;
- the person entitled to the reduction is jointly and severally liable for the council tax; and
- 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 1997(1) 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.

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

²⁸ Inserted by Schedule 8 of the Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012

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 or is treated as having been so appointed, the amount of the reduction may be paid to that person.

83.0 - 90.0 Not used

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Sections 91 – 94

Collection, holding and forwarding of information for Council tax reduction purposes

DRAFT

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.

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) make a record of such information; and
(b) may hold that information, whether as supplied or obtained or researched, 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.

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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:

- an applicant;
- 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;
- a Deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit or support on his behalf;
- in Scotland, a tutor, curator, judicial factor or other guardian acting or appointed in terms of law administering that person's estate; or
- an attorney with a general power or a power to receive benefit or support appointed by the person liable to make those payments under the Powers of Attorney Act 1971, the enduring Powers of Attorney Act 1985, or the Mental Capacity Act 2005 or otherwise;
- 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:

- one month of the date of notification of the original decision; or
- 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 deems is reasonable. Such information must be supplied within:

- one month of the date of notification of the additional information; or
- 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 support in whole or in part the Council tax reduction where it appears to the authority that an issue arises whether:

- the conditions for entitlement to Council tax reduction are or were fulfilled; or
- a decision as to an award of such a support should be revised or superseded.

98.2 The authority may terminate, in whole or in part the Council tax reduction where it appears to the authority that an issue arises whether:

- the conditions for entitlement to Council tax reduction are or were fulfilled; or
- a decision as to an award of such a support should be revised or superseded.

Where the person fails to provide information to the authority as requested in relation to any matter relating to their liability for Council Tax

Section 99

Appeals against the authority's decisions

DRAFT

99.0 Procedure by which a person may make an appeal against certain decisions of the authority¹⁴

99.1 A person who is aggrieved by a decision of the authority, which affects;

- (a) the person's entitlement to a reduction under its scheme, or
- (b) the amount of any reduction to which that person is entitled,

may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.

99.2 The authority must;

- (a) consider the matter to which the notice relates;
- (b) notify the aggrieved person in writing;

- (i) that the ground is not well founded, giving reasons for that belief; or
- (ii) that steps have been taken to deal with the grievance, stating the steps taken.

99.3 Where, following notification under sub-paragraph (2)(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with sub paragraph (2)(b) within two months of the service of his notice, he may appeal to the valuation tribunal under section 16 of the 1992 Act.

DRAFT

¹⁴ Inherited by Council Tax Reduction Schemes, (President Requirements) (England) Regulations 2012

Section 100

Procedure for applying for a discretionary reduction

DRAFT

100.0 Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act⁵¹

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 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).

DRAFT

⁵¹ Inherited by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

Section 101 – 106A³²

Electronic Communication

DRAFT

³² Inverters by Council Tax Reduction 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 paragraph (1) if the conditions specified in 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 (1), 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 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 purposes 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

DRAFT

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. In particular the authority shall undertake actions provided by the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.

DRAFT

Schedule 1

Applicable Amounts²²

DRAFT

²² The amounts shown within this schedule shall be updated in line with the Housing Benefit Regulations 2014/15 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;	£xxx,xxx
b) is aged not less than 25;	
c) is aged not less than 18 but less than 25;	£xxx,xxx
2. Lone Parent	£xxx,xxx
3. Couple;	£xxx,xxx
a) Where the applicant is entitled to the main phase of employment and support allowance	£xxx,xxx
b) Where one member is aged not less than 18	£xxx,xxx
c) Polygamous Adoption	£xxx,xxx

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	£xxx,xxx
(a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixtieth birthday;	£xxx,xxx
(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.	£xxx,xxx

(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, £xxx,xxx;
- in any other case, £xxx,xxx;

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 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 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 Benefit(s)) 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 7(3) of the Act or the daily living component of the personal independence payment under the Welfare Reform Act 2012 or an ADP.

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	£xxx.xx
a. where the applicant satisfies the condition in paragraph 12(a) of Schedule 3 Housing Benefit Regulations 2006	
b. where the applicant satisfies the condition in paragraph 17(b) of Schedule 3 Housing Benefit Regulations 2006	£xxx.xx
Severe Disability Premium	£xxx.xx
a. where the applicant satisfies the condition in paragraph 14(2)(a) of Schedule 3 Housing Benefit Regulations 2006	
b. where the applicant satisfies the condition in paragraph 14(2)(b) of Schedule 3 Housing Benefit Regulations 2006	£xxx.xx
Disabled Child Premium	£xxx.xx
i. in a case where there is someone in receipt of carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 1(5):	
ii. in a case where there is no one in receipt of such an allowance:	£xxx.xx
Carer Premium	£xxx.xx in respect of each child or young person in respect of whom the condition specified in paragraph 16 of Part 3 of Schedule 3 Housing Benefit Regulations 2006
Enhanced Disability Premium	<p>(a) £xxx.xx in respect of each child or young person in respect of whom the conditions specified in paragraph 15 of Part 3 of Schedule 3 Housing Benefit Regulations 2006 are satisfied;</p> <p>(b) £1£xxx.xx in respect of each person who is neither (i) a child or young person; nor (ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified</p>

in paragraph 1b are satisfied;
(c) £xx,xx where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 15 of Part 3 of Schedule 3 Housing Benefit Regulations 2006 are satisfied in respect of a member of that couple or polygamous marriage.

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 £xxx. The amount of the support component is £xxx.

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

The figures stated in this schedule will be subject to annual increase effective from 1st April each year, in line with statutory up-rating figures notified by the Department for Work and Pensions for Housing Benefit.

Schedule 2

Not Used

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Schedule 3

Sums to be disregarded in the calculation of earnings³⁴

DRAFT

³⁴ All amounts within this schedule will be amended in line with the Housing Benefit Regulations 2006 (as amended)

2A. 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 reduction 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 75, 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 40 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 reduction
 - (i) the employment has not been terminated, but
 - (ii) the applicant is not engaged in remunerative work,
- In the case of an applicant who, before first day of entitlement to council tax reduction,
 - (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,
 - (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).

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) he is a member of a couple and his applicable amount includes an amount by way of the disability premium; and
 - (b) he or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.
 - (4)-(5) Not used
 - (6) 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, £25 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.
 - (1) 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.
 - (1) 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, £25 of earnings derived from one or more employments as
 - (a) as a part time fire fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to

which section 4 of that Act applies;

(b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;

(c) an auxiliary constable 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 1 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 £25;

(b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £75 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £25.

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 £75 if he is a single applicant, or up to £75 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 £75 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)

(6) Regulations 1975

'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 1(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 fail 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 an 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 fails 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 75 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

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

(iib) his applicable amount includes a family premium; or

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

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

(aa) the applicant's applicable amount includes a disability premium, the work-related activity component or the support component;

(bb) when 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.

- (3) The following are the amounts referred to in sub-paragraph (1):
 - (a) the amount calculated as disregarded 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 1A(1)(c); and
 - (c) 11.10
- (4) The provisions of section 6 shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that section were a reference to 30 hours.

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

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Schedule 4

Sums to be disregarded in the calculation of income other than earnings³⁵

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³⁵ Any amounts shown in this schedule will be uprated in line with the Housing Benefit Regulations 2006 as amended

1. Any amount paid by way of tax on income, which is to be taken into account under section 30 (calculation of income other than earnings).
2. Any payment made to the claim and in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.
3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme or Back to Work Scheme, but only for 52 weeks beginning with the date of receipt of the payment.
4. Any payment in respect of any expenses incurred or to be incurred by an applicant who is—
 - (a) engaged by a charitable or voluntary organisation, or
 - (b) volunteer,
 if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under section 32(1) (notional income).
5. Any payment in respect of expenses arising out of the applicant's participation in a service user group.
6. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.
7. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance the whole of his income.
8. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.
9. Where the applicant, or the person who was the partner of the applicant on 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.
10. Any disability living allowance or personal independence payment or AFP.
11. Any concessionary payment made to compensate for the non-payment of:
 - (a) any payment specified in paragraph 7 or 10;
 - (b) income support;
 - (c) an income-based jobseeker's allowance;
 - (d) an income related employment and support allowance.
12. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disability and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
13. Any attendance allowance.
14. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.

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 53(1) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);

(iii) directions made under section 133A of the Education (Scotland) Act 1980 and paid under section 127(1) 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 127(1) 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, have 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) ~~revised 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 fails 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; payment 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;

(g) an Armed Forces Compensation Scheme payment

17. Subject to paragraph 35, £15 of any:

(a) widowed mother's allowance paid pursuant to section 30A of the Act;

(b) widowed parent's allowance paid pursuant to section 30A 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, 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;

(i) is not in receipt of any award, grant or student loan in respect of that education; or

(ii) is in receipt of an award under section 7 of the Education Act 1962 (discretionary awards) or an award bestowed by virtue of the Teachers 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 (i) 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 £70.00, 100 per cent. of such payments;

(b) where the aggregate of any such payments exceeds £70.00, £70.00 and 50 per cent. of the excess over £20.00.

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 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 11 of the Adoption and Children (Scotland) Act 2007 (Adoption Allowance Schemes);

(b) not used 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 1995 (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(e) (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(1A) 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 16(1A) 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 not 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 1961.

(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 17 shall in no case exceed £70 per week.

(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 1999 Act (exclusion 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 applicable amount includes an amount by way of a family premium, 115 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 shall 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;

'debt 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.

49. Not used

50. Any payment [other than a training allowance] made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1941 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. (Disability 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. (Disability 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 1953; and
equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disability 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. ¹ 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

57. Any payment made under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 17D 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 (7), 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;

(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 substantiation 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 21(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.

Schedule 5

Capital to be disregarded³⁶

DRAFT

³⁶ 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, 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 carer, 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 carer 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, is engaged as a self-employed carer in that business as soon as he recovers or is able to become engaged or is 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 provided.

- (4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was provided as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

- 9. (1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of:
 - (a) any payment specified in paragraphs 7, 9 or 10 of Schedule 4;
 - (b) an income related benefit under Part 7 of the Act;
 - (c) an income based jobseeker's allowance;
 - (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
 - (e) working tax credit and child tax credit
 - (f) an income related employment and support allowance

but only for a period of 52 weeks from the date of the receipt of arrears or of the concessionary payment.

- (2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £2,000 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 3(8)(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;
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 enable the applicant to complete the purchase;
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.
15. (i) References in sub-paragraphs (2) and (3) to the applicant are to be construed as including references to his partner (where applicable).
16. The value of the right to receive any income under a life interest or from a life rent.
17. The surcharge 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 17 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 resources 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 (1) 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 discretionary 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 United MI 11 Limited, the Skipion Fund, the Customs Foundation or the Independent Living Fund (2006).

35. Any payment made pursuant to section 7 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 179 of the Housing Act 1989 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 1 (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 1941 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 1948 to homeworkers assisted under the Blind Homeworkers' Scheme.

46. (1) Subject to sub-paragraph (2), where an applicant satisfies the conditions in section 13(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 13(3) and (6) of the Act the applicant also satisfies the conditions in section 13(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.

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 rules, 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 49 or 73(1) of the Education Act 1996;

(ii) directions made under section 73(1) of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992, corresponding to such an education maintenance allowance, made pursuant to;

(iii) 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

(iv) 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 51(8) of the Education Act 1996;

(b) regulations made under section 49 of the Education (Scotland) Act 1980; or

(c) directions made under section 73(1) 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 amounts 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 internment of—

- (a) the applicant;
- (b) the applicant's partner;
- (c) the applicant's deceased spouse or deceased civil partner; or
- (d) the applicant's partner's deceased spouse or deceased civil partner,

by the Japanese during the Second World War, £10,000.

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 Ashfield 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 Creutzfeldt Jakob disease;

'relevant trust' means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

'trust payment' means a payment under a relevant trust.

58. The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant's partner, the applicant's deceased spouse or deceased civil partner or the applicant's partner's deceased spouse or deceased civil partner

- (a) was a slave labourer or a forced labourer;
- (b) had suffered property loss or had suffered personal injury; or
- (c) was a parent of a child who had died,

during the Second World War.

59. (1) Any payment made by a local authority, or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service, which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.

(2) For the purposes of sub paragraph (1) 'local authority' includes, in England a county council.

60. Any payment made under regulations made under section 57 of the Health and Social Care Act 2001 or under section 12B of the Social Work (Scotland) Act 1968, or under section 12A to 12D of the National Health Service Act 2006 (direct payments for health care).

61. Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

62. Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).



Local Council Tax Support Scheme

Equality Impact Assessment (EqIA)

2013

Strategy and Policy EqIA

All strategies and policies must be initially screened for their positive and negative equality impacts.

This initial screening will determine whether or not it is necessary to carry out a full EqIA for the strategy or policy.

This template has been designed to help you initially screen your strategy or policy and, if necessary, undertake a full EqIA .

Title of strategy or policy:	Local Council Tax Support Scheme
Person undertaking EqIA:	Eddie Mosuro
Head of Service:	Wendy Livings
Department:	Housing & Communities
Date EqIA completed:	28.10.13

Strategy and policy overview

Strategy and policy overview	
What is the strategy or policy intending to achieve?	To fulfil the Local Authorities legal obligation under the Localism Act to provide a Localised Council Tax Support Scheme with effect from 1.4.14
What are the summary aims and objectives of the strategy or policy?	To implement a scheme which is cost neutral to the Council whilst achieving the savings required under the reduced Grant provisions and implement a scheme in accordance with prescribed legislation.
Who will benefit from implementing the strategy or policy?	The scheme benefits those on low incomes by providing them with support to pay their Council Tax. In particular it provides full protection to Pensioners (as prescribed within the requirements of the Localism Act) and includes locally determined protections for vulnerable groups and incentives to encourage people into work.
What are the links to the Council's corporate priorities?	This Policy supports the Council's corporate priority of Improving the Council by ensuring sound and strategic financial management and focussing on the needs of our customers, including minority and vulnerable groups.
What are the links to other Council strategies and policies?	Corporate Debt Recovery Policy Exceptional Hardship Policy Homelessness Review and Strategy Action Plan

What are the links to other community strategies and policies?	National Strategy for tackling child poverty under the Coalition Government: https://www.education.gov.uk/publications/standard/publicationDetail/Page1/CM%208061
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Equality Act 2010

The Equality Act 2010 introduces 2 specific statutory duties on public bodies such as local authorities:

- **Socio-economic duty:**
 - Have due regard when making strategic decisions to the need to reduce inequalities of outcome which result from socio-economic disadvantage
- **Single (integrated) equality duty:**
 - Eliminate discrimination, harassment and victimisation or any other conduct prohibited by the Act
 - Advance equality of opportunity between persons 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 Equality Act 2010 brings together all of the different equality strands and refers to them as “**protected characteristics**”:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief

- Sex
- Sexual orientation

Initial screening

This initial screening template will determine whether or not the strategy or policy requires a full EqIA

If any of the answers to the 6 screening questions is “yes”, then a full EqIA will be required.

Initial screening		
Does the strategy or policy aim to reduce inequalities of outcome which result from socio-economic disadvantage?	Yes / No	The Policy fundamentally aims to provide financial assistance in meeting Council Tax costs for those disadvantaged by socio-economic factors.
Does the strategy or policy aim to eliminate discrimination, harassment and victimisation?	Yes / No	The scheme is prescribed for pension age people, however the scheme for working age people is less prescribed. Guidance has been given on treatment of vulnerable groups and work incentives. The design of the working age scheme has sought to eliminate discrimination.
Does the strategy or policy aim to advance equality of opportunity?	Yes / No	The Policy fundamentally aims to provide support with Council Tax for those who are socio-economically disadvantaged whilst also encouraging people into work.

Appendix C

		<p>It has been recognised that in this regard opportunities for some groups may not be equal and therefore the Policy has been designed to provide protection for those groups where advancement of equal opportunity would be restricted.</p>
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Initial screening (continued)		
Does the strategy or policy aim to foster good community relations?	Yes / No	No evidence available – not applicable.
Does the strategy or policy have the potential to make a negative contribution to equality?	Yes / No	The scheme may fundamentally make a negative contribution to equality for certain groups – children, families, lone parents etc.
Does the strategy or policy make a positive contribution to equality?	Yes / No	Pension age people are specifically protected under Government Regulations.
Initial screening outcome	Full EqIA is required	

Full assessment

Information gathering	
What quantitative and qualitative information is there?	Initial worked case studies were reported in Appendix C of the 18.7.12 Cabinet Report. These case studies outlined four possible options for delivering a scheme for working age people and outlined the effects on different households, including those containing people with protected characteristics.
What additional information is required?	<p>From caseload data in 2012 we knew that 7693 people were in receipt of Council Tax Benefit and that 3502 of these were working age households.</p> <p>Lone Parent households accounted for the highest portion of Council Tax Benefit expenditure (40.28%) whilst families with children accounted for 19.09%.</p> <p>Households with children (whether lone parents or families) made up the largest portion of the caseload and further modelling and analysis of the effects of the % liability cut level (which affects all households) and the inclusion of Child Benefit as income (which affects households with children) was conducted to inform the final 2013/14 scheme.</p> <p>Caseload data in 2013 shows that there are currently 6994 households in receipt of Local Council Tax Support, and that 3004 (43%) of these are of working age.</p>
What are the outcomes of any internal and/or external consultation with stakeholders?	Consultation was undertaken between 30.8.13 and 10.10.13. 48 responses were received. There were no responses from organisations. The mix of respondents is believed to be representative of diversity within the wider local community.

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What further consultation is required?	<p>Consultation questions focussed on a range of changes to existing elements of the scheme which would decrease entitlement. The consultation also asked whether certain groups should be protected from such decreases in support.</p> <p>Generally respondents did not agree with any of the changes that would lead to a decrease in support whilst agreeing that certain groups should be protected from any such changes.</p> <p>Responses also showed that introducing a minimum award value to reduce support and protecting those who are unable to work due to providing care for a sick or disabled relative were generally regarded as more palatable options, should further reductions need to be made to the scheme.</p> <p>Free text responses indicated that there was general concern for how people will be able to financially manage if support was further reduced.</p> <p>There is no requirement to conduct further consultation.</p> <p>Members will be required to consider the Consultation results when deciding on the final scheme for 2014/15.</p>
What examples are there of existing good practice?	<p>Some elements of the proposed working age scheme design (i.e. Band restriction, % liability reduction, removal of Second Adult Rebate) have been agreed as part of the overarching Pan Essex scheme – other elements have been designed to meet specific needs within Castle Point.</p> <p>Guidance provided by DCLG, outlining good practice with regards to treatment of vulnerable groups (http://www.communities.gov.uk/publications/localgovernment/lscvulnerablepeople) and incentives to work (http://www.communities.gov.uk/publications/localgovernment/lscworkincentives),</p>

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	<p>has been considered in designing the scheme.</p> <p>The Local Government Finance Bill: Localizing Support for Council Tax – Updated Impact Assessment is also available here: http://www.communities.gov.uk/publications/localgovernment/lgblocalisingcounciltax</p> <p>Each Local Authority is required to adopt their scheme by 31.1.14.</p> <p>It is currently too early for schemes to be held up as examples of good practice however it is noted that most Local Authorities adopted similar 'means tested' schemes during 2013/14 and most are intending to maintain this type of scheme in 2014/15.</p>
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Making a judgement	
How will the strategy or policy eliminate discrimination, harassment and victimisation?	<p>Higher Rate Disability Benefits will continue to be disregarded thereby protecting those with specific long term conditions. People with disabilities will continue to receive additional premiums as part of the calculation of their award and also may receive additional financial support through the Exceptional Hardship Fund. Without these elements the policy could potentially be discriminatory to those who fall within the 'disability' characteristic group.</p> <p>No other impacts on protected groups have been identified.</p>
How will the strategy or policy advance equality of opportunity?	The Policy is compliant with specific Government Regulations on protection for Pension Age people. This advances equality of

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	<p>opportunity for those who fall within the 'age' characteristic group (specifically those of Pension age) who would otherwise be disadvantaged by the schemes fundamental incentives to work.</p> <p>Parents will continue to receive a child allowance and family premium as part of the calculation of their award, which is consistent with the Council's duty to safeguard and promote the welfare of children. All working parents will receive a disregard of their earnings to reflect childcare costs incurred. This advances equality of opportunity for those who fall within the 'age' characteristic group (specifically those aged 0 to 17, families and lone parents with children, pregnant women) who would otherwise be disadvantaged.</p> <p>Higher Rate Disability Benefits will continue to be disregarded thereby protecting those with specific long term conditions. People with disabilities will continue to receive additional premiums as part of the calculation of their award and also may receive additional financial support through the Exceptional Hardship Fund. This advances equality of opportunity for those who fall within the 'disability' characteristic group who would otherwise be disadvantaged and may have less opportunity to improve their financial circumstances through work.</p> <p>No other impacts on protected groups have been identified.</p>
How will the strategy or policy foster good community relations?	No impacts on protected groups identified – not applicable

Making a judgement (continued)	
Does the strategy or policy have the potential to make a negative contribution to equality? If so, which groups with “protected characteristics” will be affected and what are the reasons?	<p>17 year olds may be disadvantaged indirectly if their parents have to pay more as a result of this policy.</p> <p>People aged over 18 and of working age will be required to pay more.</p> <p>People with disabilities who are below pensionable age will need to pay more.</p> <p>Careful consideration has been given to the overall impact of the inclusion of Child Benefit as an income on protected groups. The restricted grant funding has meant that it is not financially possible to completely protect all protected characteristic groups from the full effects of this scheme unless the Local Authority decides to not to adopt a cost neutral scheme. However, the proposed design of the scheme does afford these groups some level of protection, advancing equality of opportunity between those with protected characteristics and those without.</p>
What can be done to address any contribution to inequality caused by the strategy or policy?	17 year olds may be disadvantaged indirectly if their parents have to pay more as a result of this policy:

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	<p>Parents will continue to receive additional allowances, which is consistent with the Council's duty to safeguard and promote the welfare of children.</p> <p>People over 18 of working age will be required to pay more:</p> <p>The Council is enhancing its current arrangements for providing directly, or signposting customers to, information and advice on income maximisation, financial capability, and debt management. Incentives to work have been included in the scheme design.</p> <p>People with disabilities who are below pensionable age will need to pay more:</p> <p>Higher Rate Disability Benefits will continue to be disregarded thereby protecting those with specific long term conditions.</p> <p>A discretionary local Exceptional Hardship Policy is available to provide additional assistance to those who are particularly vulnerable and are suffering exceptional financial hardship.</p>
What can be done to assist understanding of the strategy or policy?	<p>Details of the existing (2013/14) scheme were widely publicised both before and during Annual Billing in 2013. 'Easy read' and 'detailed' information on the current scheme is available online and in hard copy format (upon request). This information will be refreshed again once a decision on the 2014/15 scheme is made.</p> <p>An on-line 'Calculator' is available to assist those who want to find out if they would be entitled to Support and resources are available to explain the scheme to any individuals or</p>

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	organisational groups who require assistance. Members of the Benefit Information Network will be briefed before April on the 2014/15 scheme.
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The real value of completing an EqIA comes from the actions that will take place and the positive changes that will emerge through conducting the EqIA.

The action plan should be SMART and feed directly in to the strategy or policy itself and any associated Service Plan. In addition, it should be consistent with any corporate equality actions.

The action plan should only include the main actions likely to have the greatest impact. It need not be a comprehensive list of all the possible things that might provide positive outcomes. It is unlikely that any action plan will have less than 6 to 8 actions but an action plan that runs to several pages may not provide sufficient focus and deliverability.

Action plan					
Equality objective	Action(s)	Lead responsibility	Resources	Timescale(s)	Outcome(s)
Assist understanding of the Policy	Refresh website and hard copy information once 2014/15 Final Scheme formally adopted.	Community Support Manager	Staff time & printing costs.	Jan – Mar 2014	All affected groups fully aware of the Policy and how it will affect them.
Assist understanding of the Policy	Engage with local advice and support groups through the Benefit Information Network Group.	Community Support Manager	Staff time.	Jan – Mar 2014	All local advice and support groups fully aware of the policy and how it will affect their customers.

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Advancing equality of opportunity.	Proactively identify suitable cases for Exceptional Hardship awards by drawing on case study information developed in 2013/14.	Benefit Manager & Revenues Manager	Staff time, provision of discretionary funding pot	Jan 2014 – Mar 2015	Reduce impact of the scheme on those suffering exceptional financial hardship.
Advancing equality of opportunity.	Maintain and develop a range of support services and referral arrangements to provide assistance with financial capability, budgeting, and/or debt management advice.	Revenues Manager/First Contact Manager	Staff time, funding pot for services, additional staff resource.	Jan 2014 – Mar 2015	Customers adequately supported and equipped with skills to manage financial impact.

Finally....

- Sign the EqIA
- Ask your Head of Service to sign the EqIA
- Save a copy of the EqIA in the “N” drive folder for strategy and policy EqIAs:

<N:\Diversity\Diversity records from September 2009\EqIAs - strategies and policies>

- Publication
 - Council website

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- Make copies available for e-mail distribution, in hard copy format and by other means as appropriate (e.g. large print, Braille, CD, other languages, etc.)
- Internal communication to appropriate colleagues
- Agree arrangements for monitoring, exception reporting and review/refresh

ORDINARY COUNCIL

15th January 2014

Subject: New Local Plan – Draft for Consultation

Report of the: Chief Executive – David Marchant

1. Purpose of Report

To explain the work that has been undertaken to prepare a draft New Local Plan and associated documents for Castle Point, and to seek the Council's consent to proceed to consultation.

2. Links to Council's Priorities and Objectives

Environment – Civic Pride
Regeneration and Homes
Improving the Council

3. Recommendations

3.1 To note the position and implications on the draft Local Plan with regard to land at Glebelands as set out at paragraphs 13.47 to 13.49.

3.2

- a) To publish for consultation the draft New Local Plan, as attached at appendix 1 of this report, for a period of no less than 6 weeks from the end of January 2014.
- b) Alongside the draft New Local Plan, publish for consultation the Preliminary Draft Community Infrastructure Levy Charging Schedule for a period of no less than 6 weeks from the end of January 2014.
- c) Alongside the draft New Local Plan, publish for consultation the draft Reviewed Developer Contributions Guidance SPD for a period of no less than 6 weeks from the end of January 2014.
- d) Alongside the draft New Local Plan, publish for consultation the draft Reviewed Statement of Community Involvement for a period of no less than 6 weeks from the end of January 2014.
- e) Make available for public examination the evidence base and supporting documents prepared to inform and accompany the draft New Local Plan and associated documents.
- f) Officers should undertake further additional work as necessary, in consultation with the Leader of the Council, to fulfil the Duty to Co-operate.

g) Officers to report back the results of consultation alongside a revised and finalised New Local Plan to the meeting of the Council in June/July 2014.

3.3 To agree a revised Local Development Scheme setting out the programme for preparing the New Local Plan and associated planning policy documents.

3.4 To appoint a Task and Finish Group to review the response to consultation on the draft Local Plan. Membership to reflect the political balance of the Council and to be chaired by the Cabinet Member for Economic Development and Business Liaison.

3.5 To request Counsel to review the consultation on the draft New Local Plan and advise on the final Local Plan.

3.6 To appoint a Master Plan Working Group for each site identified for master planning or planning briefs to work with officers, other service providers and developers to prepare a master plan or planning brief for report and formal agreement by the Cabinet. Membership to comprise the Chairman the Cabinet Member for Economic Development and Business Liaison together with Ward Councillors for each site.

(Note - Planning approval will still be required from the Development Control Committee to progress development in respect of each of the Master Plan sites)

4. Background

4.1 At its meeting in September 2011, the Council agreed to withdraw the LDF Core Strategy from Examination and commence work to prepare a New Local Plan. A Local Development Scheme setting out the process for preparing the New Local Plan was agreed in January 2012, and Issues Consultation was undertaken thereafter.

4.2 Since the Issues Consultation closed in March 2012, considerable work has been undertaken on preparing a robust evidence base for the New Local Plan including, where appropriate, working with specialist consultants and neighbouring authorities. In October 2012, a report to the Council's Cabinet outlined the findings of the first tranche of evidence base work undertaken. This included:

- Greater Essex Demographic Forecasts Phase 3 Report (July 2012);
- Castle Point Employment and Retail Needs Assessment (September 2012);
- Castle Point Open Space Appraisal Update (September 2012);
- Castle Point Playing Pitch Assessment (May 2012); and
- Castle Point Empty Homes Report (September 2012).

4.3 Since this time, additional evidence base work has been undertaken on a number of other topics. The findings of this additional work are set out later in this report.

4.4 Additionally, in December 2012, the Council agreed an initial list of strategic sites on which it would be prepared to accommodate housing development. These sites are:

- Land allocated for Housing at Point Road, Canvey Island;
- Land allocated for Long Term Housing at Kiln Road, Thundersley;
- Land allocated for Long Term Housing at Scrub Lane, Hadleigh;
- Land allocated for Long Term Housing at Thorney Bay Caravan Park, Canvey Island;
- Previously developed land within Hadleigh Town Centre, delivered through Town Centre Regeneration;
- Previously developed land within the Green Belt at Brickfields, Great Burches Road, Thundersley;
- Previously and partially developed land within the Green Belt at 396 to 408 London Road, Benfleet;
- Previously developed land within the Green Belt on the footprint of the former Castle View School, Canvey Island; and
- Partially developed land and greenfield land within the Green Belt between Felstead Road and Catherine Road, Benfleet.

4.5 It was intended that these sites would form the five year housing land supply for Castle Point. It was recognised at that time that additional sites would be required to meet the need for housing later in the plan period beyond 2018. The additional evidence base work has been used to determine which sites may be appropriate to accommodate such housing.

5. Policy Context

5.1 The National Planning Policy Framework (NPPF) sets out the Government's policies with regard to plan-making. It expects local plans to seek to meet the objectively assessed need for development (housing, employment, retail etc) within the area, in a sustainable way and supported by any necessary provision of infrastructure. The expectation is that local authorities will work jointly on areas of common interest for the mutual benefit of neighbouring authorities and work collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly co-ordinated and clearly reflected in individual local plans.

5.2 Where such needs cannot be met within the area, local authorities are required to cooperate with their neighbours in order to determine as to whether development can be accommodated elsewhere – this is known as the Duty to Cooperate, and is a statutory duty arising from the Localism Act. Failure to comply with the Duty will result in a plan being found procedurally unsound. The revised Coventry Core Strategy and the North London Waste Local Plan were both found procedurally unsound for this reason.

5.3 Local Plans are subject to independent examination by a planning inspector before they can be adopted. The examination checks that the proposed Local

Plan is sound. The NPPF sets out four tests of soundness that must be met. These tests are:

- **Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
- **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

5.4 Numerous authorities from around the country have had their examinations suspended, or have otherwise withdrawn their Core Strategy/Local Plan as a consequence of their plan either not being supported by evidence, or otherwise for insufficient evidence having been prepared. Notably, a series of authorities in the Nottingham area have been required to undertake Green Belt Reviews in order to seek additional land for the accommodation of housing. Other authorities including Bath and North East Somerset, East Hampshire, Ribble Valley and Waverley have meanwhile had to undertake reviews of their Strategic Housing Market Assessments in order to satisfy the inspector that their objectively assessed need for housing has been identified and planned for.

5.5 In August 2013, the Government published its National Planning Practice Guidance (NPPG) in beta (draft) format. This provides practice guidance on a range of matters relevant to plan-making including matters such as objectively assessing development need, identifying the capacity to accommodate development, and undertaking work on the Duty to Co-operate in instances where there is an insufficient supply of land for development. The final version of this guidance is expected to be published shortly. It is not expected that the final version will depart significantly from the draft, as much of the guidance built on the approaches already being applied widely by Inspectors. Weight will need to be given to this guidance where plans are submitted for examination after the final version is published.

6. The Evidence Base

6.1 In order for the New Local Plan to pass the tests of soundness, in particular the 'justified' and 'effective' tests it is necessary for it to be based on evidence. Since October 2012, a number of pieces of evidence base work have been undertaken. These include the Strategic Housing Land Availability Assessment (SHLAA) and the Annual Monitoring Report (AMR) reported to the Cabinet in November 2012.

6.2 Over the last 12 months an additional fifteen studies have been undertaken in order to ensure that the policies in the local plan can be sufficiently evidenced.

In order to ensure that key partners such as the local highway authority, the local education authority and neighbouring districts are able to support the New Local Plan, and the proposals contained within it, the Council has worked with these organisations, as appropriate, on the preparation of the evidence base. This has meant that these organisations have a shared understanding of the issues that affect Castle Point, and have been able to provide specialist advice on how issues can be addressed. Early involvement of these organisations in the preparation of the New Local Plan will prevent them from raising objections to proposals that are based on the evidence, and will enable them, as appropriate; to plan for the delivery of infrastructure required to support development proposals.

6.3 This section of the report describes the work that has been undertaken, with the individual studies available as background papers.

South Essex Strategic Housing Market Assessment

6.4 The Strategic Housing Market Assessment (SHMA) is a fundamental piece of evidence in the preparation of Local Plans. The examination of plans elsewhere in England has highlighted the important role the SHMA plays in demonstrating that the 'Duty to Cooperate' has been fulfilled in identifying and delivering objectively assessed housing needs. Therefore, considerable work has been undertaken to scrutinise and understand early drafts of the South Essex SHMA. The SHMA indicates that a realistic level of housing growth in Castle Point over the period 2011 to 2031 is 200 homes per annum based on historic patterns of housing delivery. This level of growth is part of growth of around 2,800 homes per annum projected across South Essex.

Housing Growth Topic Paper

6.5 The level of growth identified for Castle Point in the SHMA is lower than the CLG Household Projections for Castle Point, and therefore additional work on demographic forecasting, has been undertaken on the Council's behalf by Edge Analytics Ltd and Turley Associates in order to understand the implications of the level of growth identified in the SHMA for Castle Point. This enabled the requirements for assessing development need set out in the beta version of the National Planning Practice Guidance to be taken into account, ensuring that the need for housing emerging as a result of economic growth and market indicators was included in any calculation of objectively assessed housing need. This report finds that the objectively assessed need for housing in Castle Point is of the order of 400 to 500 homes per annum. This is somewhat higher than the level that is realistically likely to be delivered as identified by the SHMA.

Greater Essex Demographic Forecasts Phase 4

6.6 This report builds on earlier work carried out by Edge Analytics Ltd to model population change and the need for housing and jobs in Castle Point. It compares Sub-national Population Projections over time, having regard to the 2010 Sub-national Population Projections and the interim 2011 Sub-national Population Projections in particular. It also presents early information emerging from the Census 2011, which indicate variations in the levels and types of migration into Castle Point compared to that expected in the 2010 projections.

6.7 Additionally, the report gives consideration to the impact of London on migration levels in Essex. A comparison has been undertaken to determine whether East London districts are likely to provide for, over provide, or under provide for their population needs, having regard to the 2010 Sub-national Population Projections and modelling carried out by the Greater London Authority.

6.8 The report concludes that international migration is unlikely to be a driver of population change or housing need in Castle Point. Castle Point experiences net emigration with more people leaving the borough to live abroad compared to those moving into the borough from other countries. However, it is expected that localised migration from other parts of south Essex and east London will impact on the size of the population and the need for housing in Castle Point. Localised migration is expected to improve the balance of the population by bringing working age people into the borough, supporting the labour needs of local businesses.

Transport Evidence for the New Local Plan

6.9 This has been prepared on behalf of the Council by consultants URS. Officers of Essex County Council have supported the Council in the appointment of these consultants and have provided data for this project. They have signed off, from a technical perspective, the modelling approach used in this work, and the outcomes of the assessment.

6.10 The assessment has considered the quantitative capacity of 17 key junctions across Castle Point to accommodate growth. A baseline was established, and then three scenarios were modelled – 1) 2019 including the five year housing land supply; 2) 2029 including the five year housing land supply and modelled growth beyond 2019; and 3) 2029 including the five year housing land supply, and all other sites presented to the Council. Scenario 3 represents a worst case scenario.

6.11 Junction modelling has been undertaken for four junctions to see whether improvements could be achieved. Additionally, highway projects within the Local Transport Plan were assessed for their ability to improve highway capacity.

6.12 Finally, each of the sites being considered for inclusion in the plan was assessed in terms of accessibility criteria.

6.13 Overall, the report finds that there are likely to be capacity issues at some key junctions in Castle Point, with the Woodman's Arms junction and the Tarpots junction most affected. Improvements to the capacity of the highways network along with improvements to public transport provision are recommended. Potential development sites within proximity of public transport corridors are favoured. Given the involvement by Essex County Council Officers in the development of this report, proposals in the New Local Plan that are based on its findings and recommendations are unlikely to attract an objection on highways grounds. The Highway Authority would therefore be likely to support the Council's position at the examination in public.

Whole Plan Viability Phase 1 Report

6.14 This has been prepared by Peter Brett Associates in accordance with the Harman Report on assessing the viability of plans. It has examined the viability of development generally across the borough, having regard to the differences between Canvey Island and Benfleet, Hadleigh and Thundersley. It has also examined the viability of the different development sites being considered for inclusion in the New Local Plan.

6.15 It finds that values are typically higher in Benfleet, Hadleigh and Thundersley than they are on Canvey Island. It therefore recommends higher levels of affordable housing provision and Community Infrastructure Levy from sites in Benfleet, Hadleigh and Thundersley.

6.16 As well as providing evidence on the appropriateness of proposals for inclusion in the draft New Local Plan, the Whole Plan Viability Assessment is also a requirement of the NPPF insofar as it checks whether the plan as a whole is viable and therefore effective. The Phase 1 Whole Plan Viability Assessment determines that the draft New Local Plan is generally viable, and therefore appropriate.

6.17 There may however be some issues associated with the delivery of town centre regeneration as a consequence of viability. However, time and a flexible approach would ensure that delivery could occur during the plan period.

6.18 The provision of employment floorspace on a speculative basis is also unlikely to be viable. However, the availability of land means that those who have an interest in delivering employment provision in Castle Point can do so.

Community Infrastructure Needs Assessment Working Draft

6.19 This document considers the need for community infrastructure to support growth. Initial borough-wide modelling has been completed and some service providers have provided feedback. However, at this time not all service providers have been able to engage fully with the process due to change in their own services. This has particularly been the case for health, and also for services with an element of discretion such as the library service and youth service where budgets are under review.

6.20 The assessment identifies a schedule of community infrastructure requirements based on the initial borough-wide modelling that has been undertaken. This identifies the need for additional provision across most sectors, and includes the requirement for additional early years provision, additional primary school provision and additional GP provision. As part of consultation on the draft New Local Plan further engagement will be undertaken with service providers to ensure that the assessment of need has identified the full range of requirements moving forward.

Local Wildlife Site Review

6.21 A full local wildlife site review was undertaken in 2012 by EECOS, the consultancy branch of the Essex Wildlife Trust. This examined sites across

the borough in order to identify locations where biodiversity action plan species and/or habitats were present, and worthy of designation.

Flood Risk Sequential and Exception Test Report for Housing Site Options

6.22 Each of the sites being considered for inclusion in the New Local Plan has been assessed against the sequential and, where appropriate, the exception tests set out in the NPPF, and its supporting technical guidance. Additionally, consideration was given to the findings of the South Essex Surface Water Management Plan to determine whether surface water and/or groundwater may also be a source of flood risk at each of the sites.

Green Belt Boundary Review

6.23 The Green Belt Boundary Review has drawn on evidence arising from the Green Belt Functions Assessment, the Green Belt Landscape Assessment, appeal decisions and other commentary regarding the Green Belt in Castle Point to determine if and where the Green Belt boundaries in Castle Point can be amended. Consideration has been given to proposed locations for development, as well as other locations where Green Belt boundary reviews may be appropriate to support planning objectives.

Sustainability Appraisal of Sites Review

6.24 In 2011 Baker Associates prepared a sustainability appraisal of sites. This report has been reviewed by officers of the Council to take into account changes to the proposals coming forward for each of the different sites. The review should be read alongside the original Baker Associates Report.

Housing Sites Options Topic Paper

6.25 This topic paper summarises the assessment of sites that has occurred in individual studies (Sustainability Appraisal of Sites, Transport Evidence, Whole Plan Viability Assessment, Sequential and Exceptions Test), and presents a guide to decision makers on the positive and negative attributes of each of the sites under consideration for inclusion in the plan.

Housing Capacity Topic Paper

6.26 This examines the evidence available to the Council in respect of the likely capacity of the borough to accommodate growth. It has regard to the borough's physical constraints on growth, including the borough's size, bodies of water, flood risk, nature conservation and landscape value. It also has regard to the strategic functions of the Green Belt and the role the Green Belt plays in accommodating animal husbandry uses. Overall, it determines that the capacity of the borough to accommodate growth is in the region of 4,000 homes (200 homes per annum). This demonstrates that the Council's earlier decision of December 2012 to plan for 200 homes per annum is appropriate having regard to the evidence.

Local List of Non-Designated Historic Asset Review

6.27 This review establishes a framework for assessing the contribution buildings and other structures make to the quality of the historic and aesthetic environment in Castle Point. The Local List of Buildings of Historic Importance, set out in the 1998 Local Plan, along with any other buildings or structures suggested following consultation with the local historic groups,

were assessed against this framework. A proposed revised list of Non-Designated Historic Assets, as they are now known in the NPPF, is identified in this report.

Urban Characterisation Assessment

6.28 This assessment considered the quality of the urban environment in Castle Point by assessing individual character areas against the seven urban design objectives set out by CABE in *By Design*. Consideration was given to both the quality of buildings and structures, as well as the quality of the public realm and open spaces.

Report on the Residential Use of Caravan and Park Home Sites

6.29 This report sets out information on the residential use of caravan sites and park home sites in Castle Point. It was initially based solely on secondary data from the 2001 and 2011 Census' and also Council Tax records. However, following the Glebelands Appeal, a survey of residents living in caravans and park homes was also undertaken to gain an insight into the choices residents have made in selecting to live on these sites.

7. The Draft New Local Plan

7.1 Building on the evidence base, a draft New Local Plan has been prepared. It has been formatted to follow the structure of the NPPF, employing the same thematic chapter headings. This has helped to ensure that the plan is compliant with the NPPF, meeting the final test of soundness identified earlier in this report.

7.2 Each chapter includes strategic policies setting out the Council's overall approach to the issue under consideration. Where appropriate, the strategic policies are followed by allocation policies which set out the spatial aspects of the Council's strategy. Finally, a series of development management policies are included within each chapter which explain the considerations the Council will apply when considering planning applications for development.

7.3 The following sections of this report will highlight the main policy requirements in each chapter. It is however recommended that the draft New Local Plan is read and considered in full.

8. Vision and Objectives

8.1 The first five chapters of the draft New Local Plan set out the context in which the draft New Local Plan has been prepared. This includes the policy context, the spatial context and key drivers of change. The key drivers for change in Castle Point are identified as being:

- The economic growth agenda;
- Demographic change and population growth;
- Improvements to the quality of life sought by residents;
- Protection of the environment;
- Climate change and flood risk; and
- Significant growth and regeneration projects elsewhere in South Essex.

8.2 Having regard to this context and the drivers of change, the following vision for Castle Point is set out in the draft New Local Plan:

By 2031, Castle Point will play a pivotal role in the South Essex sub-region by providing communities where people want to live, and a high quality natural environment, supporting economic growth opportunities in both Castle Point and neighbouring districts.

Communities will have been improved through appropriate, high quality development that provides a good mix of homes to support citizens throughout the different stages of their lives. These communities will have good access to services and facilities that respond to the needs of all generations, and local town centres and local shopping parades will provide a range of shopping facilities that local people want to visit.

The environment for business within Castle Point will have been improved through appropriate investment in education and training, the public realm, and new and improved business premises. Employment opportunities within Castle Point will be more competitive, and support a good quality of life for those local residents that need or prefer to work close to home.

In order to improve the quality of life within the communities in Castle Point, the public transport network will have been enhanced to provide links for all of the borough's residents to education, employment, shopping and leisure opportunities within Castle Point and in neighbouring districts, so that public transport is a realistic alternative to the private car. It will also be possible to make more local journeys by foot or bicycle through enhancements to the network of footpaths and cycle ways.

Castle Point will benefit from an enhanced network of formal open spaces, accessible natural green spaces and open land. Where appropriate, having regard to nature conservation concerns, access to green and open spaces will have been increased so that the local communities, communities in neighbouring districts and visitors can further enjoy the diverse landscape of Castle Point and the Thames Estuary waterfront.

Important features in the natural and historic environment including wildlife, habitats, landscape features, historic buildings and archaeology will have been protected and where possible enhanced. Opportunities to improve the quality of land, air and water will have been realised in order to ensure that the environment is healthy and more resilient to the risks of climate change.

The design and location of new development will have ensured that additional pressures on the natural environment are minimised, and that the threats posed to communities by climate change, and all types of flood risk and man-made hazards are suitably managed and reduced.

8.3 In order to deliver this vision the draft New Local Plan seeks to achieve eight clear objectives. These were derived as a consequence of the consultation

undertaken with residents, businesses and other stakeholders in January to March 2012.

Objective 1: *To promote more sustainable travel patterns within Castle Point through the location of development, and the provision of public transport and cycling infrastructure to complement the existing highway network.*

Objective 2: *To protect and enhance the network of high quality, accessible green and open space throughout Castle Point.*

Objective 3: *To protect and enhance the range of services that support healthy and active communities within Castle Point.*

Objective 4: *To make the town centres in Castle Point places where local people want to shop.*

Objective 5: *To create an environment that supports business growth, and creates local job opportunities.*

Objective 6: *To provide high quality homes in sustainable locations that meet the needs of local people through an appropriate mix of housing sizes, types and tenures.*

Objective 7: *To protect and enhance the quality of the natural and built environment within Castle Point, having particular regard to features of ecological, landscape and historic importance.*

Objective 8: *To promote high levels of sustainability and resilience to natural and man-made risks through the location and design of development, having particular regard to the implications of climate change.*

9. Building a Strong, competitive economy

- 9.1 Having regard to the economic modelling set out in the Employment and Retail Needs Assessment, the draft New Local Plan seeks to provide a minimum of 2,100 jobs in Castle Point in the period to 2031 through the provision of 10,000m² of employment floorspace. Additionally, it seeks to improve the value of the local economy through investment in education and training, in enterprise and business development and through the promotion of growth in knowledge based business sectors.
- 9.2 There are low levels of vacancies (1%) within the three existing employment areas. Therefore, these have been protected from redevelopment for other purposes. Additionally, land is allocated for employment purposes at west Canvey (18ha) and adjacent to Manor Trading Estate (4ha). An allocation of around 4 to 5ha in Benfleet was recommended by the Employment and Retail Needs Assessment.
- 9.3 In recognition of their role within the local economy, three sector specific policies are included addressing a) the role of the port facilities at south Canvey, having regard to the safety issues associated with these; b) the role of the seafront entertainment area; and c) opportunities to grow the local construction industry.

10. Ensuring the vitality of town centres

- 10.1 Having regard to the findings of the Employment and Retail Needs Assessment, the draft New Local Plan seeks to provide 11,650m² of additional retail floorspace by 2031, focusing new provision within existing town centres through the delivery of the Canvey and Hadleigh Town Centre Masterplans.
- 10.2 Vacancy rates within town centres and local shopping parades are relatively low, compared to elsewhere, at less than 10%, and therefore the policies in the plan seek to retain shopping parades for retail and retail related purposes. However, in order to avoid long term vacancies a policy which permits alternative uses of vacant shops is included.
- 10.3 The existing out of centre shopping areas at west Canvey and at Stadium Way are recognised due to their contribution to convenience and comparison shopping provision within the borough. A sequential and impact test is required to ensure that development in these areas does not undermine town centre regeneration. Due to the scale of town centres in Castle Point, a threshold for impact assessments of 1,500m² can be justified compared to the national threshold of 2,500m².
- 10.4 In response to evidence from the borough's Health Profile, and also as a result of concerns from residents expressed through consultation, a policy limiting the number of hot food takeaways in any one shopping parade has also been included.

11. Promoting sustainable transport

- 11.1 The findings of the Transport Assessment clearly indicate the need to manage congestion on the highway network and improve the quality of the public transport network. Additionally, policies related to the environment and health and wellbeing drive a requirement for improvements to cycling and footpath networks also. The transport section of the draft New Local Plan therefore seeks to deliver the following improvements to the transport network:
 - Extension to Roscommon Way Phase 2;
 - Widening of Somnes Avenue;
 - Route improvements along the A129 Rayleigh Road between the Rayleigh Weir and Victoria House Corner junctions;
 - A new junction on the A130 Canvey Way to provide access to the west of Benfleet;
 - Dualling of the A130 Canvey Way between the Sadlers Farm junction and the junction providing access to the west of Benfleet;
 - Minor junction improvements at both ends of Kenneth Road;
 - Highway improvements in Canvey and Hadleigh Town Centres;
 - The Hadleigh Farm and Country Park Olympic Legacy Project;
 - Improvements to the footpath and cycling networks across Castle Point in order to address any gaps in these networks;
 - Provision and enhancement of cycling infrastructure, including cycle parking facilities and crossings, at public transport nodes and other

- appropriate destinations, including town centres, employment areas, schools and other publicly accessible buildings, within Castle Point;
- Enhanced public transport services connecting towns in Castle Point with employment nodes in Basildon and Southend;
- The extension of the A13 Passenger Transport Corridor from Kenneth Road to the boundary with Southend; and
- Additional public transport infrastructure provision in and around development sites.

11.2 Additionally, development management policies set out requirements in terms of transport infrastructure, access and parking provision that must be met when planning applications are received.

11.3 There is also a specific policy related to the port facilities at South Canvey which require specific enhancements to the access arrangements to Canvey Island in the instance that there is significant shift towards increased movement of freight by road.

12. Supporting high quality communication infrastructure

12.1 The NPPF places great importance on the provision of high speed communication networks. Therefore, policies have been included within the draft New Local Plan to address this matter. These policies seek for the provision of new communications infrastructure to improve the quality and availability of service provision, including 4G services and superfast broadband. In doing so, it is expected that consideration is given to design and setting, and that the safety of infrastructure can be demonstrated in accordance with the International Commission on Non-ionizing Radiation Protection (ICNIRP) requirements. Proposals for development on the urban periphery will be required to incorporate communications infrastructure ensuring access to 4G mobile services and superfast broadband.

13. Delivering a wide choice of high quality homes

Growth and Mix

13.1 Having regard to the Housing Growth Topic Paper, it has been determined that the Objectively Assessed Need for Housing in Castle Point is of the order of 400 homes per annum.

13.2 However, the SHMA indicates that realistically it can be expected that Castle Point can deliver around 200 homes per annum. This is supported by evidence on capacity emerging from the SHLAA and the Housing Capacity Topic Paper. The SHLAA demonstrates that there is only capacity of the order of 4,000 homes which can be delivered in Castle Point between 2013 and 2028. This is supported by the Housing Capacity Topic Paper which demonstrates that there are a number of physical barriers to growth including water bodies, flood risk, nature conservation designations including an SPA, SSSIs, ancient woodlands and local wildlife sites, and historic landscape features which limit growth in Castle Point. Additionally, there is a requirement to maintain the strategic functions of the Green Belt, even if local areas of Green Belt are affected by development.

13.3 The New Local Plan therefore seeks to deliver at least 4,000 homes (200 homes per annum) within Castle Point in the period 2011 to 2031. This level of growth was previously agreed by the Council at its meeting of December 2012. This requires amendment of the Green Belt boundaries. It also requires key sites within the urban area to be brought forward for housing development. Strategic housing sites are identified in the following sub-section.

13.4 As well as identifying strategic housing sites, this section also supports housing growth by supporting the principle of redevelopment within existing residential areas, and by setting out policies that protect existing homes from redevelopment for other purposes and for bringing empty homes back into use.

13.5 In addition to housing growth, the section also addresses issues associated with the size and types of housing to be provided. Evidence from the SHMA has been used to set out a policy on housing mix. Evidence from the SHMA has also been used to determine the need for affordable housing. This indicates that 73% of new homes should be affordable. However, the Whole Plan Viability Assessment indicates that in order to deliver sustainable development accompanied by sufficient infrastructure approximately 20% of new homes should be affordable, with higher levels of provision in Benfleet, Hadleigh and Thundersley (25%), compared to Canvey Island (15%).

13.6 As well as addressing the need for housing, this section of the report also considers the need for other types of accommodation such as residential care provision. It is considered that there is a need over the period to 2031 to provide an additional 90 residential care beds within Castle Point. One allocation for this type of provision is set out in the strategic sites section that follows – proposed policy H17.

13.7 Finally, this section addresses the issue of the residential use of caravans, and seeks to ensure that any additional provision of caravans is sustainable and suitable to its location and future occupiers.

Strategic Sites

13.8 In order to deliver the housing requirement (at least 4,000 homes and 90 residential care beds), fifteen strategic sites are identified in the draft New Local Plan with policies setting out the design and infrastructure requirements for each site. These policies have been prepared having regard to the outcomes of work on the evidence base including the Sustainability Appraisal of Sites, the Sequential and Exceptions Test, the Green Belt Boundary Review, Transport Modelling, the SHLAA, the Whole Plan Viability Assessment and the Local Wildlife Site Review.

13.9 Officers advice on the strategic sites appropriate for inclusion in the Local Plan is set out below:

H4 – Land off Kiln Road, Thundersley – 450 homes

13.10 Part of this site was safeguarded for housing in the 1998 Adopted Local Plan. The remaining land was designated as Green Belt.

13.11 With regard to the land safeguarded for housing, approximately 75% of the site now has planning consent for housing and construction is underway on a scheme for 150 homes, with several smaller sites also close to construction. There does however remain a plot of land to the east of the current development site with capacity for approximately 50 homes. Initial enquiries have been made by a housebuilding company in respect of this site.

13.12 The area of land designated as Green Belt is in multiple ownership, although many of the landowners have land in the phase of development under construction. This site is therefore considered to be developable, although there is some uncertainty associated with this.

13.13 This area of Green Belt is entirely surrounded by residential development and is disconnected from the wider Green Belt. There are however features of landscape value and areas of nature conservation importance including a local wildlife site within this area. Therefore, the proposals put forward require an approach to development that creates a parkland environment and retains areas of woodland. Having regarded these constraints it is considered that the capacity of the Green Belt part of this site is around 400 homes.

13.14 The total overall capacity for this entire site including existing commitments has been assessed to be around 600 homes. Members have indicated concern with regard to the extent of the proposals for this site, and sought for the number of homes over this entire site to be restricted to 450 in total. Specifically, Members have asked that the area of land to the north of the Chase and to the east of SEEVIC sports field is not brought forward for development.

13.15 There is no evidence to support the removal of this part of the site from the proposals for redevelopment in this area, and it is unclear as to how this land should be treated in the future. Due to the disconnection with the wider Green Belt the site it is difficult to justify a Green Belt allocation, although this is currently shown. The site could potentially be safeguarded for housing development beyond 2031; however given that this site is deliverable it would be difficult in planning terms to justify a delay to development on this site.

H5 – Land at Thorney Bay Caravan Park, Canvey Island – 600 homes

13.16 Land in this location was safeguarded for housing in the 1998 Adopted Local Plan. A resolution to grant outline consent for the redevelopment of this site for residential purposes was made by the Development Control Committee in February 2013. The landowners have indicated that the site can accommodate approximately 600 homes and assessments carried out by officers support this assumption.

13.17 The site is located adjacent to the existing urban area and is therefore relatively sustainable in terms of accessibility. However, it is located on Canvey Island and therefore there is a risk of flooding that will need to be

addressed through the detailed design of development for the site. The site is also nearby the Calor Gas Terminal, and this has acted to determine the western extent of development. There is some nature conservation interest towards the northern part of the site that will need to be avoided and conserved as part of the development process.

- 13.18 The landowner has expressed a clear interest in delivering housing on this site, with discussions regarding phase 1 of the development having occurred already. Due to the location of the site, viability is potentially an issue; however the Whole Plan Viability Assessment indicates that certain types of residential development (houses as opposed to flats) are still viable in this location. Therefore, this site should be deliverable within the plan period.
- 13.19 The proposed extension to Roscommon Way linking Haven Road with Western Esplanade runs through this site. This section of the site is safeguarded for the provision of the road.

H6 – Land at Point Road, Canvey Island – 160 homes

- 13.20 Land in this location was designated for residential purposes in the 1998 Adopted Local Plan. A resolution to grant consent for the redevelopment of the western section of this site for residential purposes was made by the Development Control Committee in July 2013. The application for this portion of the site was for 99 units. Assessments carried out by officers indicate that the slightly smaller eastern portion of the site could accommodate around a further 60 units.
- 13.21 The site is located within the existing urban area and is therefore relatively sustainable in terms of accessibility. However it is located on Canvey Island and therefore this is a risk of flooding. This risk has been adequately addressed as part of the proposals for the western portion of the site, indicating that there is the potential to achieve appropriate, flood resistant and flood resilient development on the eastern portion of the site also.
- 13.22 The landowners have expressed a clear interest in delivering housing on this site, subject to the relocation of the existing business to the western part of Canvey Island. Detailed applications for peripheral elements of the site have already been granted consent. Due to the location of the site on Canvey Island, the nature of the proposal which includes flats, and also the needs of the existing business, there are potential viability issues. However, due to the nature of the existing business (builders' merchants) it is considered that this site could still viably deliver new homes during the plan period.

H7 – Land off Scrub Lane, Hadleigh – 64 homes

- 13.23 Land in this location was safeguarded for residential purposes in the 1998 Adopted Local Plan. The land is owned by Essex County Council who have been undertaking a competitive sales process in order to dispose of the land. Developers interested in the site have indicated it has capacity of the order of 64 homes. Assessment work carried out by officers support this assumption.
- 13.24 The site is located within the existing urban area and it is therefore relatively sustainable in terms of accessibility. There are no known environmental

issues affecting the site, although due to its location in Hadleigh, which is served by the Southend Waste Water Treatment Works, the onsite management of surface water runoff is essential to ensure long-term capacity of these works.

13.25 It is expected that the development of this site will enable the provision of a new school building for Hadleigh Junior School, with the entrance to the school provided through this site.

H8 – land at the former Castle View School, Canvey Island – 50 homes

13.26 Land in this location was designated Green Belt in the 1998 Adopted Local Plan. However, a proportion of the site is developed with the buildings of the former Castle View School. These buildings now stand empty, and risk falling into dereliction. It is proposed that these buildings are redeveloped for residential purposes. Assessments indicate that a development of approximately 50 homes could be accommodated within the footprint of the existing buildings. It should be noted that the proposed residential allocation would not extend to include the school playing fields as these are required for sports provision.

13.27 The site is located adjacent to the existing urban area and is therefore relatively sustainable in terms of accessibility. There are no known nature conservation designations affecting the site. However, the site is located on Canvey Island and development will therefore need to be designed to be flood resistant and resilient.

13.28 The site is owned by Essex County Council, which has indicated that they will be disposing of it in 2014. Due to the location of the site, viability is potentially an issue; however this part of Canvey generally achieves higher house prices and the Whole Plan Viability Assessment indicates that certain types of residential development are still viable even at lower prices. Therefore, this site should be deliverable within the plan period.

H9 – Land between Felstead Road and Catherine Road, Benfleet – 200 homes

13.29 Land in this location was designated Green Belt in the 1998 Adopted Local Plan. The land in this location comprises of a number of plots with some limited development of homes and commercial premises. The northern section of the site fronting the London Road received a resolution to grant planning consent for 50 net new homes in 2013. The owners of the southern section of this site have come together to promote their site in a comprehensive way, and have secured a developer who has recently submitted a planning application for 178 homes for this part of the site.

13.30 The site is located adjacent to the existing urban area and is therefore relatively sustainable in terms of accessibility. The site is however wooded in parts, and therefore it has been necessary to seek the conservation of areas of woodland and nature conservation value as part of the proposals for the site. Additionally, the local roads around the site experience congestion due to parking associated with the nearby schools, and ‘rat-running’ to the A13. Therefore, improvements to the local highway network are also necessary.

13.31 The Whole Plan Viability Assessment indicates that this part of Castle Point is a higher value area, and therefore development of this site for residential purposes should be viable. The landowners have indicated a willingness to promote their land for development and a nationally recognised housebuilding company has submitted an application for the site. Therefore, this site should be deliverable within the plan period.

H10 – Land East of Rayleigh Road, Hadleigh – 430 homes

13.32 Land in this location was designated Green Belt in the 1998 Adopted Local Plan. The land in this location comprises several open fields separated by field boundaries. To the north of the site is the Rayleigh Weir shopping and industrial area. There is residential development to the west and south of the site. There is woodland with ancient landscape value to the east of the site.

13.33 A nationally recognised house building company previously promoted the western part of this site for housing development. However, it has expanded the site eastwards which now enables the provision of a spine road through the site, providing an alternative route for traffic travelling to Daws Heath and Hadleigh from the Rayleigh Weir. In expanding the site they have carried out a landscape assessment which has resulted in a proposal for around 490 homes surrounding a large area of publicly accessible open space. Assessments carried out by officers indicate that a quantum of housing of some 450 dwellings is appropriate given the landscape character of the site.

13.34 Due to the involvement of a nationally recognised house building company in the promotion of this site, and the findings of the Whole Plan Viability Assessment which indicates that residential development in this location should be viable, it is considered that this site should be deliverable within the plan period.

13.35 Concern has been expressed by Members about development in this location, and it has been suggested that the capacity of the site within the plan is restricted to 430 units.

13.36 Whilst this revised figure (430) is not substantially lower than the assessed capacity of the site (450), it does mean that the use of land at this site will not be optimised, making the plan less sustainable and less able to deliver against the housing needs of the borough. Given that there is evidence to suggest that a higher quantum of development can be accommodated on this site this arbitrary restriction on the number of units at this site may not be sound

H11 – Land South of Daws Heath, Hadleigh – 180 homes

13.37 Land in this location was designated Green Belt in the 1998 Adopted Local Plan. The land in this location comprises several open fields separated by field boundaries. Daws Heath Road runs north-south through the centre of this proposed allocation. There are some buildings on these sites associated with farm and residential use. Caravan storage also occurs on Solby Wood Farm, to the west of Daws Heath Road.

13.38 Land in this location is adjacent to Daws Heath and is reasonably sustainable in terms of accessibility. The landscape in this area is however sensitive due to the presence of ancient woodland and open paddocks nearby. As a consequence, it is expected that the design and landscaping of development in this location should seek to limit its impacts on the wider landscape. Having regard to these concerns, officers have accessed the capacity of sites in this location as being of the order of 140 homes.

13.39 Landowners for sites both east and west of Daws Heath Road in this location have indicated a willingness to bring forward their land for residential development. Initial pre-application discussions have occurred for Solby Wood Farm to the west of Daws Heath Road. The Whole Plan Viability Assessment indicates that residential development in this location should be viable. Therefore, it is considered that this site should be deliverable within the plan period.

13.40 Local Members have advised officers that they believe additional capacity can be achieved on this site, and have asked that the allocation be increased to 180 homes. However this extra quantum of development is likely to result in harm to the landscape and potentially reduce the sustainability of development in this location.

H12 – Land South of Eastwood Old Road, Eastwood – 50 homes

13.41 Land in this location was designated Green Belt in the 1998 Adopted Local Plan. The land in this location comprises several open fields separated by field boundaries. There is some limited development around the southern and eastern peripheries of the site. The site is located on the Southend boundary and if developed would be accessed and services by Eastwood.

13.42 Due to the proximity to Eastwood, this site is reasonably sustainable in terms of accessibility. However, the site is immediately adjacent to a SSSI, and is nearby an area of ancient landscape. As a consequence development in this location would need to be located and designed to avoid harm to biodiversity and to the integrity of the landscape. The assessed capacity of this site is therefore of the order of 50 to 100 homes.

13.43 Due to the potential impact on Eastwood, officers at Southend Borough Council were asked to provide some initial feedback on this proposal. They have indicated that they have concerns regarding the impact of this potential allocation on highway capacity at the A127 Progress Road junction and on the capacity of local services.

13.44 Whilst the residential development of this site is likely to be viable, this site has not been promoted for development by the landowner and there is no known developer interest in this site. This site has been included within the plan at the request of Members; however at this time it cannot be considered to be deliverable.

H13 – Land West of Glebelands, Thundersley – 100 homes

13.45 Land in this location was designated Green Belt in the 1998 Adopted Local Plan. This site is located on the borough's western boundary and forms part of a larger swathe of Green Belt separating New Thundersley from Bowers Gifford.

13.46 This site was previously the subject of a planning application and planning appeal for 165 homes. The Inspector for the planning appeal recommended that the appeal was allowed as the impact of development on the Green Belt would not be so significant as to outweigh the need for housing. However, the Secretary of State did not share this view and dismissed the appeal.

13.47 A Judicial Review into the decision of the Secretary of State was lodged by the appellants in August 2013. This was heard at the High Court in Manchester in December 2013 but at the time of writing the Court's decision is still awaited. There are a number of possible decisions – the Court could find that the original decision is soundly based and dismiss the challenge, or it could find that an error in law means that the appeal must be remitted to the Secretary of State for re-consideration.

13.48 In the event that the appeal is remitted to the Secretary of State, there is unlikely to be an early conclusion to the case. The Secretary of State could for example require a further public inquiry to be held so that a fresh decision can be reached.

13.49 In the circumstances there is therefore no justifiable planning reason to further delay progress with the New Local Plan pending the outcome of this challenge. As the Secretary of State made clear in his original decision letter “planning decisions should be plan led where possible”, i.e. through the development plan process rather than by individual planning applications.

13.50 Members had previously indicated a desire to create a green gateway and green boundary to the borough's western boundary. In order to achieve this it is proposed through the New Local Plan that a green buffer of approximately 30m in width is retained alongside the A130 and made available as a public greenway. This has been taken into account in considering land west of Glebelands. As a consequence the capacity of this site is assessed to be around 100 homes.

13.51 Due to the proximity of this site to the existing urban area, it is considered to be sustainable in terms of accessibility. Furthermore, there are no significant environmental issues affecting the site, although there is a potential issue with groundwater which will need to be addressed through the design of the development to ensure flood resistance and resilience.

13.52 The developers for this site have shown considerable persistence in their pursuit of development on this site indicating a clear desire to deliver development in this location. Furthermore, this site is in an area where residential development is considered to be viable. It is therefore considered that this site should be deliverable within the plan period.

13.53 Officers have recommended the inclusion of this site within the New Local Plan, based on the strategy of creating a green gateway and boundary to the borough and the evidence available.

H14 – Land West of Benfleet, Benfleet – 800 homes

13.54 Land in this location was designated Green Belt in the 1998 Adopted Local Plan. This site is located on the borough's western boundary and forms part of a larger swathe of Green Belt separating Benfleet and Pitsea.

13.55 The site comprises three large parcels of land in two main ownerships. The southernmost parcel of land has been the subject of a recent planning application which was refused on Green Belt grounds only.

13.56 It is proposed that all three parcels of land in this location are brought forward for development in a comprehensive manner in order to deliver a green edge to the borough (30m wide buffer as per site H13 also), and also an additional access route into Benfleet from the A130 Canvey Way which would relieve some pressure on the Tarpots junction and be of benefit to those who live within the existing residential areas of Benfleet.

13.57 Due to the proximity of this site to the existing urban area, it is considered to be sustainable in terms of accessibility. Furthermore, there are no significant environmental issues affecting the site, although existing open space provision will need to be retained and expanded to support growth. Due to the scale of development proposed in this location, a new primary school and nursery are required, as is a new healthcare centre. There is sufficient space to accommodate these requirements on this site.

13.58 There is no planning reason to suggest that this proposal, including the infrastructure requirements, is undeliverable. Once open space, highways and community requirements are taken into account the site has capacity for around 800 homes. Due to the known interest of landowners and a house building company in this site, and the findings of the Whole Plan Viability Assessment which indicate that residential development in this area is viable, it is considered that this site should be deliverable within the plan period.

H15 – Land off the Glyders, Benfleet – 35 homes

13.59 Land in this location was designated Green Belt in the 1998 Adopted Local Plan. There is residential development to the north, south and west of this site. There is a tree lined hedgerow running north to south through the site. The site is also visible within the wider landscape due to the steeply rising topography of the land.

13.60 Due to the location of the site, adjacent to existing residential development, it is considered to be sustainable in accessibility terms. There is however a need to design the site carefully to ensure that it retains the tree lined hedgerow and to ensure that it integrates well with the surrounding residential development having regard to the topography of the land. Additionally, due to surface water flood risk issues elsewhere below the level of this site, it is important that the design of development incorporates sustainable urban drainage mechanisms.

13.61 Due to the size and constraints affecting this site assessments indicate the capacity of this site is of the order of 35 homes. The landowner has promoted this site for development and a local development company has become involved in pursuing development. The site is in an area where residential development is viable, and therefore there is a reasonable prospect that this site is deliverable within the plan period.

H16 – Land East of Canvey Road, Canvey Island – 275 homes

13.62 Land in this location was designated Green Belt in the 1998 Adopted Local Plan. This site is an undeveloped, flat, open field. There is existing residential development to the south, east and west of the site. Land to the north east of the site is partially developed with a secondary school.

13.63 Due to the location of the site, adjacent to the existing residential area, including a secondary school and primary school, this site is considered to be sustainable in terms of accessibility. Furthermore, whilst there are some areas of nature conservation and landscape value nearby, this site is not considered to be of particularly high value. The site is however located on Canvey Island. Therefore, flood risk affects the site. As a consequence, it will be required that the sequential test is passed before this site can be developed. Furthermore, any development that does occur will need to be flood resistant and flood resilient.

13.64 This site is owned by a nationally recognised housebuilding company, who have indicated a desire to bring the site forward for development and have invested in assessments, plans and consultation. They have prepared plans which include on-site management of surface water and open space provision. As a consequence of these plans, it is considered that the capacity of this site is around 275 homes. Assessment work indicates that this is an appropriate capacity given the constraints.

13.65 The Whole Plan Viability Assessment indicates that viability is likely to be more challenging on Canvey Island, although certain types of residential development are still viable. Furthermore, the land is owned by a nationally recognised housebuilding company. There is therefore a reasonable prospect that this site could be delivered within the plan period.

H17 – Land Fronting Canvey Road, Canvey Island – 50 residential care beds

13.66 Land in this location was designated Green Belt in the 1998 Adopted Local Plan. This site is however previously developed, and has been promoted by the landowners for redevelopment as a residential care home.

13.67 This site is slightly removed from existing residential areas of Canvey Island, and is not considered to be the most appropriate location for residential development from an accessibility perspective. However, residential care relies largely on services delivered to site and so this may be less of an issue. Accessibility is better considered from the perspective of employees and visitors. The site is on a bus route and nearby employment opportunities at Charfleets Industrial Estate and is therefore appropriately located in this regard.

13.68 The site itself is not environmentally constrained, with the exception of flood risk. However, the land to the west of the site is an ancient landscape and local wildlife site. This will provide a pleasant and attractive outlook for residents of the proposed care home. In terms of flood risk, it will be necessary for any development to be flood resistant and flood resilient and for bedspaces to be located above ground floor level. This will see the number of bedspaces that can be provided on this site restricted to around 50.

13.69 The Whole Plan Viability Assessment indicates that residential care developments are viable within Castle Point. Furthermore, one of the landowners owns a residential care home elsewhere and would therefore be likely to operate the home proposed for this site. There is therefore a reasonable prospect that this site will be deliverable, as a residential care home, within the plan period.

H18 – Land at North West Thundersley – Safeguarded Land and Broad Location for up to 400 homes

13.70 Throughout the plan making process there has been some local interest in assessing the potential for accommodating a proportion of housing growth for the borough to the north-west of Thundersley.

13.71 Compared to other parts of the Green Belt in Castle Point, this area is relatively unconstrained, although there is evidence to indicate potential issues with ecology, archaeology and surface water. Additionally, the area under consideration is a large swathe of Green Belt which forms part of the separation between Thundersley and the nearby towns of Wickford, Rayleigh and Bowers Gifford. Development in this location has the potential to impact on the strategic function of the Green Belt from a South Essex perspective and would need to be appropriately located and designed to maintain the sense of separation that currently exists.

13.72 Whilst this area is not significantly constrained, there are substantial issues with the deliverability of this site. Land Registry searches have revealed at least 117 landowners within this area. There are also a number of parcels of land that are unregistered. Whilst some of these landowners have indicated that they may be willing to redevelop their land for housing, there is no legal mechanism in place to coordinate the delivery of such development. A developer who previously attempted to assemble a site for development in this area has indicated difficulties experienced in this regard.

13.73 Access to this area is currently achieved via a network of un-made roads. A large scale residential development would require an access constructed to the appropriate standard. Taking access from the existing urban area would exacerbate congestion at the Tarpots and Woodman's Arms junctions. Meanwhile, the Highway Authority has clearly indicated objections to access being taken from the strategic road network (A127 and A130). A suitable solution may be to reconfigure the Rayleigh Spur junction. However, in order to maintain flows on the strategic road network it is estimated that this would cost in the order of £60m. This level of infrastructure financing is not available from the public purse, and would make the development of this site unviable if sought from the new homes proposed.

13.74 As a consequence of these significant constraints on deliverability, this site is not recommended for inclusion in the New Local Plan. It is proposed that land in this location should be safeguarded for housing provision in the period beyond 2031. This would give the opportunity for landowners and developers to attempt to assemble a site in this location and put forward a suitable masterplan for its development including suitable access arrangements.

13.75 Nonetheless, Members have sought for some land within this area to be brought forward within the plan period. A particular parcel of partially and previously developed land for this purpose has been identified adjacent to the A127 comprising an existing nursery and some land currently in low density industrial use. It is suggested that approximately 400 homes can be accommodated on this parcel of land.

13.76 There are however significant issues regarding this proposal given the difficulties associated with access and deliverability raised above.

13.77 Furthermore due to the landownership issues in this area, there is also a risk that individual landowners will pursue their own ambitions for their land rather than assist in the delivery of a comprehensive development. Safeguarded land is recognised in national policy. The ongoing protection of safeguarded land in accordance with Green Belt policy is a key element of the national planning policy approach. By identifying part of this site as a housing location, the protection from small scale development proposals is only set out in local policy. A single decision, perhaps at appeal, would then have the potential to jeopardise the Council's entire approach to this site by virtue of small scale proposals.

Alternative Sites

13.78 Initially, land at **Oak Tree Farm, Hadleigh** was considered for inclusion within the draft New Local Plan. The site is sustainably located adjacent to the existing urban area, and there is a nationally recognised house building company interested in development of the site. However, the proposed development extended beyond the current Green Belt boundary and would result in an illogical intrusion into the Green Belt separating Hadleigh from Leigh-on-Sea. As a consequence this site is not allocated. This is supported by evidence in the Green Belt Boundary Review and is sound.

13.79 Investigations into the potential to bring forward residential development on **land south of Daws Heath Road** were also carried out. This land had not been promoted for development by the landowners and was not considered to be developable. Furthermore, it brought development into direct proximity of ancient woodland and a Local Wildlife Site, impacting on sustainability. In reviewing this evidence it has been concluded that residential development of this site is not supported by evidence and it should not be included in the New Local Plan.

13.80 **The Triangle Site, Canvey Island** is located between Canvey Road, Northwick Road and Roscommon Way. It is open land used for grazing, forming part of West Canvey Marshes. It is designated as an ancient landscape and also as a Local Wildlife Site. It is also separated from the existing urban area including community services by a busy road. This site is

not therefore considered to be a sustainable development location for housing. The land is owned by a national retailer and has been promoted for development. However, no clear proposals have ever been put forward as to the nature of the proposed development. It is not therefore clear as to the deliverability of development on this site. Due to the sustainability issues and lack of clarity surrounding deliverability this site has not been proposed for inclusion in the New Local Plan.

14. Requiring good design

14.1 This section of the draft New Local Plan sets out a framework for assessing the design of development proposals, and seeking improvements to the quality of the urban environment and the public realm. It includes policies that applicable to both residential and business/retail proposals. It also addresses issues associated with advertisements. The use of design reviews is promoted as part of this chapter, as is the provision of public art as a means of enhancing sense of place. Finally, regard is had to the role existing buildings and places have in creating a sense of place. The draft New Local Plan sets out a policy that seeks to promote and retain those buildings and features of the urban environment that form local reference points. The policies set out in this section have been informed by good practice set out in CABE and Design Council guidance documents, and by the Urban Characterisation Assessment.

15. Promoting healthy communities

15.1 This section of the draft New Local Plan addresses the need for open space provision and community facilities in Castle Point. The Essex Joint Strategic Needs Assessment, the Essex Adult Social Care Market Position Statement, the Community Needs Assessment Working Draft and the Open Space Appraisal have informed this section of the draft plan.

15.2 This section aims to use planning opportunities to deliver:

- a) A high quality, healthy, living environment;
- b) A more physically active population;
- c) Greater community cohesion, reduced social isolation, particularly amongst older people;
- d) Greater community resilience, and increased ability within the community to run facilities, services and events for itself;
- e) Reduced levels of deprivation and health inequalities on Canvey Island, and at west Canvey in particular; and
- f) Opportunities for all young people to meet their potential and flourish.

15.3 In order to achieve these aims the policies in this section seek, amongst other things to protect community buildings and open spaces (including playing pitches and allotments), and to deliver:

- At least 32ha of additional open space, with housing sites in excess of 3ha in size delivering 200m² of open space per home;

- Additional indoor sports facilities including indoor bowling provision and a publicly accessible sports hall for the Benfleet, Hadleigh and Thundersley area;
- Education and learning facilities aligned with growth;
- Health and social care provision aligned with growth; and
- The redevelopment of buildings at John H. Burrows to create a sports and community hub.

16. Protecting Green Belt land

16.1 The section on the Green Belt has been informed by the Green Belt Functions Assessment, the Green Belt Landscape Assessment, the Green Belt Boundary Review and an older document prepared for the Council in 2005 entitled 'Metropolitan Green Belt Review of Existing Supplementary Planning Guidance re: Provision of Replacement Dwellings and Extensions.

16.2 The draft New Local Plan identifies 2,517ha of land within Castle Point as Green Belt. This represents 92% of the Green Belt identified in the 1998 Adopted Local Plan. The extent of Green Belt identified within the draft New Local Plan is protected from development in accordance with the NPPF, except in those circumstances that are defined in national policy.

16.3 Policies on the extension, alteration, replacement and change of use of existing buildings in the Green Belt are included within the plan. Unlike the 1998 Adopted Local Plan which applied a strict volumetric restriction of extensions in the Green Belt (also applied in relation to replacements), a criteria based policy is included in the draft New Local Plan. This enables consideration to be given to matters such as the plot size, the mass of the building proposed and the surrounding landscape and landscaping. It is hoped that such an approach will prevent poorly designed, but volume compliant, proposals coming forward.

16.4 Whilst the policies in this section mainly set out a presumption against development in the Green Belt, there is a draft policy addressing those types of activity and development that may occur. Consistent with the NPPF these include:

- Improved access;
- Outdoor sport and recreation;
- Retention and enhancement of landscapes;
- Improvements to visual amenity;
- Improvements to biodiversity; and
- Improvements to damaged and derelict land.

17. Meeting the challenges of climate change, flooding and coastal change

17.1 Due to the proximity of Castle Point to the coast, this section of the draft New Local Plan includes important policies on flood risk and climate change.

17.2 In terms of flood risk, the Thames Estuary (TE) 2100 Plan, the South Essex Strategic Flood Risk Assessment (SFRA) and the South Essex Surface Water

Management Plan have provided evidence as to the policies that should be included within the New Local Plan.

- 17.3 With regard to Canvey Island, which is at high risk of flooding but is substantially defended from flooding, regard has been had to the SFRA and the TE2100 Plan in designating a Coastal Change Management Area. Specific requirements in terms of development have been set out in order to address the potential risk of flooding on Canvey Island. Additionally, in accordance with the TE2100 Plan a buffer of 19m has been identified adjacent to the existing sea defences in which future flood defence will occur.
- 17.4 Separate Coastal Change Management Areas have been identified for Hadleigh Marshes and South Benfleet. In South Benfleet, the playing fields are identified as a flood storage area for both tidal and surface water flooding and are not therefore suitable for development for other purposes.
- 17.5 Surface water flooding is an issue for all areas of Castle Point, and therefore a draft policy has been prepared which requires surface water management to occur as part of development proposals, particularly within those Critical Drainage Areas identified in the South Essex Surface Water Management Plan.
- 17.6 In terms of climate change the policies in this section use evidence set out in the Sustainability Appraisal and the Watercycle Study. Additionally, regard has been had to the Whole Plan Viability Assessment which indicates that viability can be affected by early implementation of higher levels of the Code for Sustainable Homes. As a consequence, the policies on Climate Change require compliance in terms of energy and water efficiency with Code Level 4, rising with the Building Regulations over time. They also require consideration to be given to the sustainability of materials and the way in which site waste is managed. For existing buildings, low cost improvements are sought in terms of energy and water efficiency to offset the impacts of an extension.

18. Conserving and enhancing the natural environment

- 18.1 This section of the draft New Local Plan addresses matters related to green infrastructure, wildlife, the landscape and pollution control.
- 18.2 Green Infrastructure has the potential to deliver a range of benefits supporting other elements of plan. For example, Green Infrastructure can provide water storage contributing to flood risk management, it can provide opportunities for exercise and recreation, and it can provide green routes that encourage walking and cycling. In addition to this it can contribute to the quality of the natural environment and provide habitats important for biodiversity. As a consequence, the Green Infrastructure policy in the draft New Local Plan is extremely important in the delivery of other aspects of the plan. The Green Infrastructure policy builds on work already underway across South Essex in terms of the Green Grid Strategy and the Greater Thames Marshes Nature Improvement Area.
- 18.3 In terms of the landscape, the Thames Gateway Historic Characterisation Assessment and the Essex Wildlife Trusts Living Landscapes programme have provided the evidence necessary to identify areas of significant historic

and natural value in Castle Point. Three key landscape areas are identified in the draft New Local Plan. These are the Daws Heath Historic Natural Landscape, the Hadleigh Castle and Marshes Historic Natural Landscape and the Canvey Marshes Historic Natural Landscape. Within these areas specific regard to the quality and nature of the environment is required when seeking to bring forward development. The development management policy in relation to the landscape and landscape features seeks to protect and enhance the landscape across the borough, with a particular emphasis on these historic natural landscapes.

- 18.4 In terms of biodiversity, information from Natural England, alongside the Local Wildlife Site Review has provided the evidence for the draft New Local Plan. Consistent with the NPPF, the draft New Local Plan affords the greatest protection to European and national designated sites including the Benfleet and Southend Marshes SPA and the SSSIs. Where impacts to these sites cannot be addressed through avoidance, on-site mitigation and/or management development proposals will not be considered acceptable.
- 18.5 The draft New Local Plan identifies Local Wildlife Sites, which have been identified due to their assemblage of biodiversity action plan species and/or habitats. The NPPF is clear that compensation can be used to address the impact of development in relation to such sites. However, the policies in the draft New Local Plan are clear that where this does occur there should be a net gain in biodiversity.
- 18.6 In terms of pollution control, the plan addresses potential risk to water quality, air quality and contamination of land, and also to the health, safety and well-being of residents.
- 18.7 In terms of water quality the Thames River Basin Management Plan indicates that there is poor water quality in the Thames at present, and a need to improve it in order to achieve EU Water Framework Directive requirements. The South Essex Watercycle Study meanwhile has indicated that the Southend Water Recycling Centre is close to capacity. Therefore, a policy has been included within the plan which seeks to reduce flows to this Centre by removing surface water from the system, thereby creating sufficient capacity for additional foul water flows. This will help to prevent foul water discharges to the Thames, supporting water quality improvements.
- 18.8 In terms of the contamination of land a specific policy is included which seeks for contaminated land to be made safe before development can occur. In terms of other forms of pollution, and impacts on residential amenity, a new policy similar to policies EC3 and EC4 of the 1998 Adopted Local Plan has been included due to the success the Council has had in the application of these existing policies. The inclusion of such a policy in the draft New Local Plan is supported by the outcomes of Air Quality Monitoring in Castle Point, the Thames River Basin Management Plan and the South Essex Watercycle Study.
- 18.9 Finally, the specific risks to public safety posed by the hazardous installations at South Canvey are addressed in this section. A policy has been included making it clear that the advice of the HSE will be adhered to when considering applications for development within proximity of the hazardous installations.

19. Conserving and enhancing the historic environment

- 19.1 The section on the historic environment has been informed by information held by English Heritage, and also through a review of the Local List of Buildings of Historic Interest involving the local community archives for Benfleet, Canvey Island and Hadleigh and Thundersley.
- 19.2 The policies in the draft New Local Plan seek to conserve and enhance the historic environment, and where possible seek for the historic environment to be reflected in proposals for new development in order to enhance the sense of place.
- 19.3 Designated historic assets, including Listed Buildings and Scheduled Ancient Monuments, are afforded the greatest level of protection, in accordance with the NPPF. Where proposals are expected to affect an historic asset high quality design and landscaping is expected, and programmes of recording and archiving required. Recording and archiving are also considered to be key to the conservation of archaeology.
- 19.4 With regard to non-designated historic assets, a revised list of such assets is included within the draft New Local Plan, with policies seeking to preserve and enhance such assets where possible.

20. Traveller Sites

- 20.1 In the absence of evidence to suggest a significant need for additional pitches for the accommodation of gypsies and travellers within Castle Point, a criteria based policy has been included within the draft New Local Plan which requires the need for the pitch to be demonstrated, and for the impact of the pitch on amenity, the landscape and the environment, and where necessary the Green Belt to be minimised.

21. Legal and Policy Compliance

- 21.1 The proposals set out in local plans have the potential to effect the environment, and the wellbeing of residents. The affects of a plan in one place can also effect other areas. There are therefore numerous statutory requirements that need to be met when preparing a local plan. This section of the report sets out how the draft New Local Plan has been prepared to ensure that these statutory requirements have been addressed.

Sustainability Appraisal and Strategic Environmental Assessment

- 21.2 In order to ensure that the policies in the New Local Plan are sustainable, a full sustainability appraisal and strategic environmental assessment of the policies set out in the draft New Local Plan has been undertaken, where appropriate considering reasonable alternatives. The full report is available as a background paper to this report. In summary, the Sustainability Appraisal and Strategic Environmental Assessment conclude that:

- 1) *The draft Local Plan is generally sustainable, with mitigation proposed within the policy content where conflicts between differing sustainability objectives arise. It is therefore appropriate to move forward with the plan-making process on the basis of this plan.*

- 2) *The Council should however consider whether it is satisfied that the benefits associated with a new road for Canvey Island are sufficient to outweigh the impact such a proposal would have on biodiversity (designated sites). If they are not satisfied of the benefits, this proposal should not be included in policy T2 and T5.*
- 3) *The Council should reconsider the proposals for policies H4, H10, H11 and H18 having regard to the evidence base in order to improve the sustainability of the proposals for these locations.*
- 4) *As the plan does not meet the likely need for housing in Castle Point, the Council should engage in conversations with its neighbours to see whether they are able to accommodate unmet need. This will assist in avoiding issues associated with affordability, and the secondary effects of unmet need and displaced need.*
- 5) *The Council should continue to work in partnership with its neighbours through the Thames Gateway South Essex Partnership to deliver the Planning and Transport Strategy.*
- 6) *The Council should support the work of the Nature Improvement Area Partnership in delivering the compensatory provision set out in the TE2100 Plan.*
- 7) *The Council should, in moving forward with this plan, put in place mechanisms to monitor those indicators set out in the monitoring framework at appendix 2. It should also establish a review process for the local plan, in the event that the Local Plan causes un-anticipated harm.*

21.3 In order to ensure that the New Local Plan is legally and procedurally sound, the findings of the sustainability appraisal and strategic environmental assessment should be taken into account when making decisions in relation to the New Local Plan and policies within it.

Habitat Regulation Assessment

21.4 In order to ensure that the policies in the New Local Plan do not have an adverse impact on one or more 'European' Sites (sites designated as a consequence of their nature conservation value under the EU Habitat Directive), a Habitat Regulation Assessment has been undertaken. The full report is available as a background paper to this report. It concludes that:

The draft New Local Plan will have minimal impact on the well-being of European sites, subject to the additional proposed text being included in policy E10. Its proposals do not include sites which would bring about direct harm to European sites, and it plans to manage the pressures of development on water quality and on recreational activity. There however remain three issues that need to be addressed:

1. *Widespread acknowledgement amongst districts that good quality open space provision within new developments minimises recreational pressure on European sites. This will need to be achieved through*

engagement with other districts during their plan-making process (Duty to Cooperate);

2. *There remains an issue with the potential impacts of increased shipping activity in the Thames Estuary on European sites. This will be addressed through the EIA's submitted with planning applications for waterborne freight reception facilities. This may impact on the scope of redevelopment that can occur at south Canvey, although as policy E10 does not seek a specific level of growth this does not undermine the effectiveness of the plan; and*
3. *Any proposals for a hub airport in the Thames Estuary will have a significant in-combination effect on European sites. If such proposals are pursued by the Government it will be necessary to amend the New Local Plan. However, it is likely that it take such time for any decision on this matter to be made, and many years before such a proposal could be delivered. It does not therefore threaten the integrity of the New Local Plan at this time.*

21.5 In order to ensure that the New Local Plan is legally and procedurally sound, the findings of the Habitat Regulation Assessment should be taken into account when making decisions in relation to the New Local Plan and policies within it.

Equality Impact Assessment

21.6 In order to ensure that the policies in the New Local Plan do not have an adverse impact on one or more groups of people with a characteristic protected under the Equality Act, do not cause economic or social deprivation, and contribute towards improved social equity and equality of opportunity, an equality impact assessment of the draft New Local Plan has been undertaken. The full report is available as a background paper to this report. It concludes that:

The Objectives and Policies of the New Local Plan have been comprehensively tested and analysed against the assessment questions previously identified in the EqIA scoping report's framework, in order to determine whether there are likely to be any socio-economic or equality impacts as a result of the Plan.

The analysis found the Objectives and Policies of the New Local Plan to meet the socio-economic and single (integrated) equality duties of the Equalities Act 2010, and that there were no areas which needed to be changed or given further consideration in order for the Council to fulfil its duties under the Act.

21.7 In order to ensure that the New Local Plan is legally and procedurally sound, the findings of the Equality Impact Assessment should be taken into account when making decisions in relation to the New Local Plan and policies within it.

Duty to Co-operate

21.8 The Localism Act sets out a requirement for Local Authorities to co-operate with others in the preparation of their Local Plans. The Town and Country Planning (Local Plan) Regulations specify the bodies between which such cooperation should occur.

21.9 The NPPF meanwhile details the matters over which co-operation should occur if there is a cross-boundary issue that needs to be addressed. It is clear within the wording of the tests of soundness that a plan may be found unsound if cooperation has not been undertaken in a positive and effective manner. The recently published NPPG meanwhile provides guidance on the way in which co-operation should be undertaken; particularly in instances where development needs cannot be met within the borough.

21.10 Castle Point works closely with its neighbours through the Thames Gateway South Essex Partnership, and as such there is a well established platform for co-operation within South Essex. Joint working on the SHMA, on the TGSE Planning and Transport Strategy, and on the emerging TGSE Economic Growth Strategy for the LEP Plan highlights the capacity and ability of this partnership to work together and co-operate.

21.11 Furthermore, the engagement of other organisations in the preparation of the evidence base for the New Local Plan demonstrates the Council's commitment to working with others to prepare and implement the New Local Plan. Examples include the recent preparation of the Transport Evidence for the New Local Plan in conjunction with Essex County Council, and work undertaken in 2011-2012 on the South Essex Watercycle Study and Surface Water Management Plan in conjunction with neighbouring districts, Essex County Council, the Environment Agency and Anglian Water. Where the New Local Plan integrates the findings and recommendations of these jointly prepared studies, it is unlikely that it will attract objections from the organisations involved. These organisations will therefore be in a position to support the Council at the examination in public.

21.12 However, as Castle Point is not able to meet its Objectively Assessed Need for housing, it is necessary for the Council to undertake additional work in order to fulfil the Duty to Co-operate. This will require the Council working with our neighbours in South Essex, along with authorities in East London and elsewhere in Essex to determine whether unmet housing needs can be met elsewhere.

21.13 Additionally, there is a need to engage with our immediate neighbours on specific proposals set out in this plan as follows:

- Thurrock and Essex County Council – proposals for the North Thames Link Road
- Basildon – Green Belt separation between New Thundersley and Bowers Gifford
- Basildon, Rochford and Chelmsford – A130 Green Belt Corridor
- Basildon, Rochford and Essex County Council – proposals for safeguarded land at North West Thundersley
- Southend – proposals for housing at Eastwood Old Road
- Thurrock – proposals for employment at West Canvey, and any changes that are likely to occur at the former Coryton Oil Refinery which affect the HSE Consultation Zone around that installation

21.14 Work on the Duty to Co-operate has not yet been completed but can reasonably be undertaken alongside consultation focusing on those issues

identified in paragraphs 21.12 and 21.13 above. It is however important that work on the Duty to Co-operate is finalised before the Local Plan is submitted for examination. It should be noted that the Coventry Core Strategy, Kirklees Core Strategy and the North London Waste Plan have all been withdrawn as a consequence of failing to meet the Duty to Co-operate.

22. Community Infrastructure Levy Preliminary Draft Charging Schedule

22.1 Work has been undertaken to prepare a Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule alongside the draft New Local Plan. The Whole Plan Viability Assessment provides the evidence base for this piece of work, with the findings used to define the level of charge proposed for different uses and different areas. The charges to be consulted on within the Preliminary Draft Charging Schedule are as follows:

Type of Development	CIL Charge	
	Canvey Island (SS8)	Benfleet, Hadleigh and Thundersley (SS6, SS7, SS9)
Residential (Use Class C3 including sheltered or specialist housing)	£30 per sq m	£120 per sq m
Residential Care Homes (Use Class C2)		£80 per sq m
Hotels (Use Class C1)		£40 per sq m
Retail – Convenience (Use Class A1 [Food])		£140 per sq m
Retail – Out of Town Centre Comparison (Use Class A1 [non-food])		£60 per sq m
Food and Beverage (Use Classes A3/A4/A5)		£40 per sq m
All other uses		£0 per sq m

22.2 A draft instalment policy is also included within the Preliminary Draft Charging Schedule. This enables developers to pay their CIL Liability in stages assisting with cash flow issues and helping to ensure the viability of development.

23. Draft Revised Developer Contributions Guidance SPD

23.1 In 2009 the Council adopted a Developer Contributions Guidance SPD. Since this time there have been significant policy and legislative changes which mean that the Guidance is now out of date and needs to be revised in order to accompany the Community Infrastructure Levy.

23.2 The Draft Revised Developer Contributions Guidance SPD sets out the instances in which Section 106 (S106) Agreements will be sought when the Community Infrastructure Levy is in place, focusing on Affordable Housing provision, the provision of on-site open space, wildlife management, landscaping and public realm works, drainage and flood risk management works, public art, CCTV, littering and recycling bins and employment.

- 23.3 Essex County Council has its own Developer Contributions Guidance, and therefore those infrastructure requirements of the County Council are not addressed in the revised SPD.
- 23.4 It should be noted that where planning obligations are sought via S106 they must meet the tests of the Community Infrastructure Levy Regulations. A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:
 - a. necessary to make the development acceptable in planning terms;
 - b. directly related to the development; and
 - c. fairly and reasonably related in scale and kind to the development.

- 23.5 Additionally, financial contributions arising from more than five sites cannot be pooled as of April 2015. Therefore, many of the financial contributions previously sought for schools, libraries etc cannot be captured through S106 Agreements, and will need to be delivered via the Community Infrastructure Levy, or other funding sources.

24. Draft Revised Statement of Community Involvement

- 24.1 The Statement of Community Involvement (SCI) sets how Castle Point Borough Council, as the local planning authority, intends to engage and involve residents, businesses and all other stakeholders during the process of considering planning applications and planning enforcement matters, and when preparing planning policy documents. All local planning authorities are required to produce a Statement of Community Involvement (SCI), under Section 18 of Part 2 of Chapter 5 of the Planning and Compulsory Purchase Act.
- 24.2 Since the Council adopted its Statement of Community Involvement in 2006, there have been substantive changes to the planning system. The Council has also undertaken considerable engagement with the local community on planning matters and learnt from those experiences. The New Local Plan Issues Consultation Report examined the consultation process undertaken at that time as well as the consultation responses that emerged and has formed part of the evidence base for the review of the Statement of Community Involvement.
- 24.3 The draft Revised Statement of Community Involvement has been made more succinct and focused on what residents, businesses and stakeholders want to know about planning practices and how they can engage effectively.

25. Next Steps

The Local Development Scheme

- 25.1 Local Plans are expected to be progressed in accordance with the Local Development Scheme. The current Local Development Scheme was adopted in January 2012. As a result of the extensive work required to prepared the evidence for the draft New Local Plan the timetable set out in the current Local Development Scheme has not been met. It is therefore necessary to revise the Local Development Scheme as the Council's Local Plan moves forward to reflect the following programme:

Action	Date
Council Decision to Consult	15 th January 2014
Consultation preparation	16 th – 23 rd January 2014
Consultation on Draft Local Plan	24 th January 2014 to 21 st March 2014
Analyse Consultation Responses	April 2014
Finalise Local Plan	May 2014
Council Decision to Submit	June 2014
Pre-submission consultation preparation	June/July 2014
Pre-submission consultation	July to August 2014 (6 weeks)
Submission preparation	July/August/September 2014
Submission	30 th September 2014
Examination	December 2014
Inspectors Report	February 2015
Adoption	March 2015

Consultation

25.2 Subject to the agreement of the Council to consult on the draft New Local Plan consultation will be undertaken in a manner that ensures that the requirements and spirit of the Town and Country Planning (Local Plan) Regulations are met. The draft New Local Plan will be made widely available for consultation with residents, businesses and other stakeholders for a period of 8 weeks from the 24th January to the 21st March 2014.

25.3 The consultation will include:

- A mail-out to all residents and businesses summarising the key proposals in the draft New Local Plan;
- Advice sessions for residents and businesses;
- Meetings with stakeholders as appropriate; and
- Opportunities for people to provide comments in writing, by email, and online.

25.4 In order to make efficient use of resources and ensure that the other policy documents the Council has been working on are effectively informed by the community and stakeholders, the CIL Preliminary Draft Charging Schedule, the Draft Revised Developer Contributions Guidance and the Draft Revised Statement of Community Involvement will be made available for consultation alongside the draft New Local Plan, subject to the recommendations of this report being agreed. Copies of these documents are available on-line and have been placed in each of the Members Group rooms.

Duty to Co-operate

25.5 In order to ensure that the legal and policy requirements of the Duty to Co-operate are met, a series of meetings between the Council, its neighbours and other relevant bodies will be organised for the period before and during the consultation in order that the strategic issues identified in paragraphs 21.8 to 21.13 of this report can be addressed.

25.6 The National Planning Practice Guidance highlighted the need for elected Members to be fully engaged in the cooperation process, as it will be necessary for agreements to be made with others that are politically acceptable and capable of delivery. It is expected that the Leader of the

Council, in consultation with the Cabinet, will deal with this as part of her normal role within the TGSE Partnership.

Legal Review

- 25.7 There are numerous legal duties to be fulfilled in the preparation of a local plan including the requirement for statutory assessment, the requirements of the duty to cooperate and procedural requirements set out in planning legislation. Furthermore, it is possible, as is evident from the Glebelands Judicial Review, to challenge policy decisions from a legal perspective.
- 25.8 It is therefore considered prudent at this time to seek the advice of Counsel on the draft New Local Plan and the processes that has been undertaken in its preparation to date.
- 25.9 Such advice will provide a timely independent perspective on the soundness of the proposals set out in the draft New Local Plan. Potential risks to the soundness of the plan can be identified before the plan is submitted for independent examination, preventing issues arising during the examination process resulting in the plan being found unsound.

Task and Finish Group to Review the Consultation Outcomes

- 25.10 The consultation undertaken previously on the issues for the New Local Plan generated around 4,000 consultation responses from residents, businesses and other stakeholders. It is expected that the consultation on the Draft New Local Plan will generate a similar level of response.
- 25.11 It is important that the matters raised through the consultation are given careful consideration by the Council before it decides how to proceed with the New Local Plan. In order to ensure that this occurs, it is proposed that a politically balanced task and finish group of Members, chaired by the Cabinet Member for Economic Development and Business Liaison, is appointed by the Council to review the consultation outcomes and report back to the Council in June 2014.

Master Plans and Planning Briefs

- 25.12 The draft housing allocation policies for strategic sites each require a master planned approach to be taken in order to deliver the infrastructure necessary to support development and to ensure that the impacts of development are managed. Smaller sites are expected to be delivered in accordance with planning briefs.
- 25.13 Site planning provides the opportunity for Members to work with officers, other service providers and developers to achieve the best outcomes from development sites for their constituents.
- 25.14 In order to ensure that the right local Members are involved in the masterplanning process, a separate 'Master Plan Working Group' will be formed for each site, as and when developers are ready to progress. The Master Plan Working Group will in each case be chaired by the Cabinet Member for Economic Development and Business Liaison and will comprise the Ward Members for the area in which the site is located.

25.15 The purpose of the Master Plan Working Group will in each case be to work with officers, other service providers and the developers to prepare and agree a master plan or planning brief for the site in question. The Master Plan Working Group will report the master plan or planning brief to the Cabinet for formal agreement.

25.16 The Master Plan Working Group shall follow a similar procedure as that in the Council's Pre-Application protocol. Developers will still be required to submit a planning application for consideration by the Development Control Committee for Master Plan Sites.

26. Corporate Implications

26.1 The publication or delay in publishing a New Local Plan for the Council has a number of corporate implications, and these are described below.

(a) Planning Implications

26.2 As a consequence of the amendments made to the proposed strategic housing sites at the request of Members the New Local Plan has become less sound, for the reasons given in Section 13 of the report above.

26.3 For example:

- The reduction in capacity at Land off Kiln Road cannot be justified in planning terms and leaves the status of part of the site unclear.
- The introduction of land south of Eastwood Old Road and land at North West Thundersley has in principle increased the housing land supply, but with sites that are not considered to be deliverable.
- Furthermore, the restriction on the number of units at Rayleigh Road site is inconsistent with evidence to suggest that a higher quantum of development can be accommodated on this site.

26.4 On this basis, Members are advised that the soundness of these allocations is likely to be challenged at the later stage of the plan-making process by the Planning Inspector conducting an examination into the plan. Furthermore, any attempt to remove sites with a higher likelihood of delivery in favour of other less sustainable and less deliverable sites may result in the plan's approach to housing provision being found to be faulty.

26.5 This in turn could put the entire plan at risk with the Council being faced with the prospect of either a finding of unsoundness or having to withdraw another development plan document after examination.

26.6 The costs associated with such scenarios are significant, with abortive costs in preparing for an ultimately fruitless examination and also with the need to refresh background evidence to start the whole process again.

26.7 Failure to make progress with the New Local Plan will also leave the Council exposed to speculative development proposals in unwelcomed locations, and with no mechanism for being able to negotiate maximum benefits from development proposals.

26.8 As a consequence, the Council will find itself spending considerable sums of money on appeals, as identified below in this report. Ultimately, development may be permitted on appeal as it has been elsewhere, when insufficient progress has been made with the local development planning process.

(b) Financial Implications

26.9 Expenditure to Date: The technical work involved in preparing a New Local Plan has been carried out using existing resources. However this has necessitated the collection of appropriate background evidence to support draft policies, at a cost of approximately £159,228.

26.10 If no progress is made on the New Local Plan at this time, then there is a strong possibility that this background evidence will need to be refreshed and updated, for which no budget provision exists.

26.11 Required Expenditure: It is estimated that a borough-wide consultation, similar to that undertaken for the Issues Consultation in 2012, will cost around £16,200. This has been included in budget projections for the New Local Plan.

26.12 In order to progress the New Local Plan beyond consultation, the following financial resources are required:

- Duty to Cooperate A130 Work - £5,000
- Phases 2 and 3 of Whole Plan Viability Assessment - £16,200
- Submission Consultation - £23,000
- Examination - £78,000

26.13 These estimated costs are currently included in the approved budget for progressing the New Local Plan.

26.14 Potential Cost Avoidance: It is estimated that by making progress with the New Local Plan, the Council could avoid in the region of £1.3m in appeal costs. These estimated appeal costs are not currently included in the Council's detailed budget, but do form part of the calculation of the minimum required level of General Fund reserves.

26.15 Potential Income Generation: There will be longer term potential financial implications from approval and adoption of the local plan. These cannot be quantified at this time, and will need to be the subject of future reports, but could potentially include additional income from:

- Community Infrastructure Levy;
- An increased Council Tax Base from new properties;
- Business Rates from new businesses and
- New Homes Bonus funding.

26.16 It should be noted however that some of these additional income streams will have costs associated, for example an increase in dwellings would result in increased costs of servicing those properties, such as refuse and recycling collection costs to name one example. In addition an increased tax base could

have a knock on effect of reduced central government revenue support grant funding.

26.17 The Council will only retain a portion of any increase in business rates income, with the remainder required to be shared with central government and Essex major precepting bodies.

(c) Legal Implications

26.18 As set out in section 21 of this report there are a number of statutory requirements that must be met during the preparation of a New Local Plan. These include the requirements to carry out and consider Sustainability Appraisals, Habitat Regulations Assessment and Equality Impact Assessments. These requirements have been met in the preparation of the draft New Local Plan. Therefore, provided these documents are considered as part of the decision making process there should be no legal implications for the Council in respect of these procedural requirements. However, failure to take into account the findings of these assessments in the decision making process could result in the New Local Plan being found to be procedurally unsound.

26.19 The Localism Act introduced the Duty to Co-operate. At this time the requirements of this duty have not been met in full. Failure to co-operate on planning issues that cross administrative boundaries particularly those which relate to the strategic priorities set out in the NPPF at paragraph 156 by engaging with neighbouring authorities and other relevant bodies during preparation and in the period up until the finalisation of the New Local Plan would have legal implications as the plan would be found to be procedurally unsound. This report recommends actions to avoid this.

26.20 The New Local Plan will be subject to independent examination by a planning inspector who will consider whether the tests of soundness set out in the NPPF have been met. There is a risk that as currently drafted the New Local Plan will be found unsound for the following reasons:

- Due to the lack of evidence to support removal of part of the land off Kiln Road, Thundersley from the proposals for redevelopment;
- Not optimising the assessed capacity of the site at land east of Rayleigh Road, Hadleigh for 450 units;
- Increasing the capacity to 180 homes on the site at land south of Daws Health due to potential harm to the landscape;
- Lack of interest in delivering the site at land south of Eastwood Old Road, Eastwood by the landowners; and
- Substantial issues as to deliverability of the site at land at north west Thundersley.

26.21 The significance of these legal risks will be considered as part of the review of the draft New Local Plan undertaken by Counsel. He will provide an independent perspective on the risks associated with these matters.

26.22 Failure to adopt a New Local Plan will result in the inability of the Council to seek contributions for infrastructure improvements through CIL as the Council will only be able to seek developer contributions through negotiation via S106 Agreements which as from April 2015 is limited in its use as identified in paragraph 23 of this report.

(d) Human Resources and Equality Implications

Human Resources

26.23 Additional temporary administrative support will be required in the Planning Policy Service to deliver the recommendations of this report. This additional support has been included within the financial requirements set out above.

26.24 Should the Council not put a local plan in place, appeals will place a significant strain on the resources and performance of the Development Control and Legal teams in particular.

Equality Implications

26.25 An Equality Impact Assessment has been prepared to accompany the Draft New Local Plan. The outcomes of this assessment are reported at paragraphs 21.6 and 21.7 of this report, and should be considered when decisions are taken with regard to the New Local Plan.

(e) IT and Asset Management Implications

26.26 The consultation process will make use of existing IT resources. There are no IT implications arising directly from this report or the draft New Local Plan.

26.27 There are no asset management implications arising directly from this report or the draft New Local Plan.

(f) Summary

26.28 The Council now needs to make progress with a New Local Plan. The Government has made very clear that it expects the planning process to be plan-led. It is now considering legislation to compel local planning authorities to prepare statutory development plans. Members are referred to the announcement made in the Government's Autumn Statement.

26.29 As with planning applications, where those councils with a poor track record of performance find themselves "designated", it is conceivable that a similar process will be applied to those councils with a poor track record of development plan preparation. The Council would still remain responsible for the Government's costs in preparing the New Local Plan on behalf of the Council and the Council would have no control over the process.

26.30 These reputational consequences will also have financial consequences. Considerable resources will have been deployed to ensure that the Council has the appropriate evidence in place to support its plan, but if progress is not now made then this evidence will become dated and will at some point in the future need to be refreshed.

26.31 Finally delay in progressing a local plan will not prevent those who wish to develop in the borough from bringing forward planning applications. The Council will be at a significant disadvantage in determining these cases without a New Local Plan, particularly if challenged at appeal. Moreover the Council will lose the ability to secure community benefits and improvements to infrastructure.

27. Timescale for Implementation

27.1 Should the Council decide to proceed to consultation on the draft New Local Plan, the timetable set out at paragraph 25.1 of this report will be followed, with consultation commencing at the end of January 2014. The outcomes of the consultation, along with a revised and finalised New Local Plan will be reported back to the Council in June 2014.

28. Background Papers

- National Planning Policy Framework
- National Planning Practice Guidance Beta Version
- Castle Point Sustainability Appraisal and Strategic Environmental Assessment - *New Local Plan: Draft Local Plan Policies and Alternative Policy Options* (November 2013)
- Castle Point Sustainability Appraisal of Sites (2010)
- Castle Point Sustainability Appraisal of Site Review (2013)
- Castle Point Habitat Regulation Assessment - *New Local Plan Screening Assessment Pre-consultation* (November 2013)
- Castle Point Equality Impact Assessment (EqIA) - *New Local Plan* (November 2013)
- Castle Point New Local Plan Issues Consultation Report (May 2012)
- Castle Point Whole Plan Viability Assessment Phase 1 Report (October 2013)
- Castle Point Employment and Retail Needs Assessment (September 2012)
- Castle Point – Transport Evidence for the New Local Plan (October 2013)
- Greater Essex Demographic Forecasts Phase 3 Report (July 2012)
- Greater Essex Demographic Forecasts Phase 4 Report (March 2013)
- Thames Gateway South Essex Strategic Housing Market Assessment (December 2013)
- Castle Point Housing Growth Topic Paper (October 2013)
- Castle Point Housing Options Topic Paper (November 2013)
- Castle Point Housing Capacity Topic Paper (November 2013)
- Castle Point Strategic Housing Land Availability Assessment (October 2013)
- Castle Point Empty Homes Report (September 2012)
- Castle Point Report on the Residential Use of Caravans and Park Home Sites (October 2013)
- Castle Point Urban Characterisation Report (2013)
- Castle Point Open Space Appraisal Update (September 2012)
- Castle Point Playing Pitch Assessment (May 2012)
- Castle Point Community Infrastructure Needs Assessment Working Draft (November 2013)

- Essex Joint Strategic Needs Assessment – Castle Point Profile
- Castle Point Green Belt Boundaries Review (November 2013)
- South Essex Strategic Flood Risk Assessment (2010)
- South Essex Surface Water Management Plan (2012)
- Castle Point Flood Risk Sequential and Exception Test Report for Housing Site Options (2013)
- South Essex Watercycle Study (2012)
- Castle Point Local Wildlife Site Review (2012)
- Castle Point Local List of Non-Designated Historic Asset Review (2013)

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