



**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE COUNCIL**

WEDNESDAY 27TH FEBRUARY 2019, AT 6.00 P.M.

PARKSIDE SUITE - PARKSIDE

**SUPPLEMENTARY DOCUMENTATION**

The attached papers have been published as a supplementary agenda to the Agenda previously distributed relating to the above mentioned meeting due to the size of the documents.

14b Alvechurch Parish Neighbourhood Plan (Pages 1 - 148)

**PLEASE NOTE**

The appendices to this report will be published as a supplementary agenda item due to the size of the documents, with paper copies being made available on request.

15a Council Tax Support Scheme (cover report to follow) (Pages 149 - 520)

**PLEASE NOTE**

The appendices to this report will be published as a supplementary agenda item due to the size of the documents, with paper copies being made available on request.

K. DICKS  
Chief Executive

Parkside  
Market Street  
BROMSGROVE  
Worcestershire  
B61 8DA

19th February 2019



**Neighbourhood Plan**

**COVERS THE PERIOD 2011-2030**

**QUALIFYING BODY**

**ALVECHURCH PARISH COUNCIL**

**Draft NP with Accepted Examiners modifications**

**November 2018**

Alvechurch Village Green



## Foreword:

When you read this draft plan you see it has a different look and feel to that of a regular planning document – that’s because it *is* different! Our Neighbourhood Plan (NP) is a new way of planning for the future of our Neighbourhood Area, the historic parish of Alvechurch.

At consultations we heard how you would like to see Alvechurch Parish develop in the future. Those comments have helped form a ‘vision’ for 2011-2030. The Alvechurch Parish Neighbourhood Plan (APNP) has been put together by a group of committed local volunteers and led by Alvechurch Parish Council. When formally adopted by our community at referendum, the NP will form a legal part of the process when Bromsgrove District Council determines planning applications in our parish.

The APNP gives a unique opportunity to influence the development of the parish. The vision for the parish is to remain a pleasant place to live by encouraging ample facilities, good work opportunities, and improved transport links including support for cycle routes. More activities are wanted for people to do, especially in the evenings. Importantly, there is a strong desire to protect our natural and built heritage assets indeed, a NP can prove beneficial towards the protection of what is good about and maintain our parish as a place where everyone feels comfortable and proud to live.

The APNP has developed policies to;

- Maintain the openness of the Green Belt from uncontrolled, large scale, or poorly placed development
- Support Bromsgrove District Council’s development plan by encouraging sustainable development around the edge of Alvechurch Village and not spread out into the countryside
- Ensure that development is sympathetic and has regard for; conservation, improvement and maintenance of the look, feel and sense of place of the parish and Alvechurch Village itself through reference to well-thought-out design guidance
- Take steps to give the younger and older members of the community preferred access to many of the new local homes
- Influence Local Highway Authorities to improve road safety, encourage the use of more integrated and sustainable methods of transport including provision for cycling; and
- Identify additional actions to improve Alvechurch’s’ facilities, services and local environment.

Unlike an old book our NP won’t rest on a shelf gathering dust, it will be used as a ‘prospectus’ to further encourage future investment in the parish thus contributing to the quality of life of all of us who live and work in the area..

Alvechurch Parish Council will use the APNP through local feedback to ensure that the community gets its fair share of investment from any development in the parish, including through any Community Infrastructure Levy (if such a CIL policy is adopted by the District Council) and any New Homes Bonus applicable to the parish.

Our Neighbourhood Plan is a long term proposition (2011-2030). It’s unrealistic to expect everything to happen overnight. That’s why we’ve included a series of plan policies, to ensure the plan’s momentum is maintained whenever new development comes along. The NP will be revisited on a five-yearly basis to make sure it’s up to date or to coincide with any prior review of the Local District Plan.

An electronic copy of the NP, together with the Basic Conditions Statement and the Consultation Statement can be found online at the Alvechurch Parish Neighbourhood Plan website [APNP web site](#)

On behalf of the parish of Alvechurch, I would like to thank the steering team immensely for all their hard work and dedication, and other members for their contributions. This has been no small task and without you we would not be near to completing this important document.

I would also like to thank all the residents, businesses and others who have commented and contributed to the development of the APNP over the past five years. We look forward to receiving your views on this Draft Neighbourhood Plan to help shape the future of our parish.

**Adrian H Smith: Chair, Alvechurch Parish Neighbourhood Plan**

(Representing the Alvechurch Parish Neighbourhood Plan Steering Group members)



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# THE ALVECHURCH PARISH NEIGHBOURHOOD PLAN

## SECTION 1: INTRODUCTION AND BACKGROUND

### Sections of the Neighbourhood Plan

<b>SECTION 1:</b>	INTRODUCTION AND BACKGROUND
<b>SECTION 2:</b>	ALVECHURCH PARISH TODAY AND KEY ISSUES
<b>SECTION 3:</b>	VISION, KEY AIMS AND OBJECTIVES
<b>SECTION 4:</b>	THE POLICIES OF THE APNP
<b>SECTION 5:</b>	FUTURE GROWTH IN THE PARISH
<b>SECTION 6:</b>	DELIVERY PLAN-MONITORING & REVIEW
<b>SECTION 7:</b>	GLOSSARY
<b>SECTION 8:</b>	LIST OF POLICIES
<b>APPENDICES:</b>	A, B, C and D are to be found in the Evidence Base Document
	HOW TO COMMENT ON THIS DOCUMENT

Fig 1. *How the NP is laid out*

1.1 This Alvechurch Parish Neighbourhood Plan (2011-2030) hereafter referred to as the (APNP) is organised into a number of sections as summarised in the table above. It has been led by the Alvechurch Parish Council (APC) to help the parish community have a say in shaping how the Neighbourhood Area will develop for future generations.

1.2 The Parish Council arranged a presentation in November 2011 to discuss Neighbourhood Plans (NPs). Residents used this opportunity to demonstrate they wanted to have a say in where new housing should go, what type was required and which members of the community housing should be aimed at. Residents would prefer not to leave this decision to potential developers and Bromsgrove District Council (BDC).

1.3 The 70-plus people who attended that first public meeting completed a questionnaire about aspects of life in the parish. There was a very clear vote for what people “valued most about Alvechurch Parish”. The three elements most chosen were “access to the countryside, green belt and open spaces”, “community services and facilities” and “appearance or feel of the area.” There was less agreement about what people “most wanted to improve.” However, the main ones were public transport, leisure services and facilities, traffic and parking, youth facilities, range and quality of shops, appearance or feel of the area, and opportunities for new business. There was also agreement on the need for more affordable housing.



1.4 Following that meeting, APC met and resolved to form a Neighbourhood Plan Steering Group that comprised elected members of the Parish Council and members of the local community. One of the Steering Group's first steps was the creation of a unique logo for advertising and promoting purposes.



1.5 The majority of the community when first asked about future housing responded: "We don't want any more new homes in Alvechurch Parish, as more will put undue pressure on school places and medical services– and we like it just as it is".

1.6 However, as one of the larger settlements in the Bromsgrove District area as stated in the adopted Bromsgrove District Plan 2011-2030, Alvechurch Village will be required to take a proportion of the district's future housing numbers. Consequently we can be sure that new housing is coming to Alvechurch Parish eventually.

1.7 The challenge then is not to find a way to stop development, but rather to manage change in the best way possible for the Neighbourhood Area. During our consultations you told us among various issues, those of most importance to you were:

- adequate provision of school places
- GP surgery capabilities
- The retention of green space and openness between our settlements by supporting and linking our APNP policies to County and District Green Infrastructure principles and policies
- Conserving local character and the local distinctiveness of our rural parish and settlements
- Improvements to overall highway safety and access plus additional crossing points
- Pedestrian-friendly improvements around the Alvechurch Village centre.

1.8 In order to maintain community access to our local schools and healthcare facilities, the Parish Council will work with local education and healthcare providers to ensure sufficient numbers of places are maintained. Developer contributions will be used to support these services.

1.9 The Parish Council will also work very closely with Bromsgrove District Council (BDC) when they soon undertake a review of the Green Belt as part of a review of the Local District Plan. Alvechurch parish has only Green Belt land available now for any significant future development. The Green Belt review is to release land around the settlement boundaries for future housing and employment. The larger settlements in the district, (Alvechurch Village being one) are expected to support BDC's future housing numbers.

## **What Area Does the Plan Cover?**

### **1.10 Designation of the Neighbourhood Plan Area**

The Parish Council applied to Bromsgrove District Council in 2012 for the whole of Alvechurch Parish to be designated as a Neighbourhood Area. (See map on page 8). In accordance with part 2 of the Neighbourhood Planning General Regulations 2012<sup>1</sup>, BDC publicised the application from APC for a six-week consultation. The application for designation was approved in January 2013 by BDC in accordance with 2012 Regulations.

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<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2012/637/contents/made> NP regulations 2012

As a result, Alvechurch Parish is designated as a Neighbourhood Area. Further details can be found on the Parish Council's website: <http://www.alvechurch.gov.uk/>

## 1.11 Alvechurch Parish Council confirms that this:

Neighbourhood Development Plan will cover the period 2011-2030 and the APNP relates only to the Parish of Alvechurch and to no other Neighbourhood Areas

APNP is the only Neighbourhood Development Plan in the designated area and that no other Neighbourhood Development Plan exists nor is in development for part or all of the designated area

The Designated Neighbourhood Area is outlined in red on the map below.

Our Statement of Basic Conditions sets out further information on this. This document can be viewed on the [APNP website](#)



Fig 2. Map of The designated Neighbourhood Area

## The Purpose of Neighbourhood Plans

1.12 The APNP relates to the use and development of land. Its primary purpose is to help in determining planning applications in the Neighbourhood Area (for our plan this is Alvechurch Parish). The Localism Act 2011<sup>2</sup> introduced new rights and powers to allow local communities to shape new development in their community by preparing a Neighbourhood Development Plan (NDP). This document is a NDP as defined in the Act. For further information about NPs you can visit the Department of Communities and Local Government (DCLG) website by following this link:

### 1.13 Submitting Body

Our APNP is submitted by Alvechurch Parish Council (APC), which is a qualifying body as defined by the Localism Act 2011.

### 1.14 How has our Neighbourhood Plan been prepared?

Delivery of the NP will be dependent of a number of key steps. These key steps are summarised in the following table:

step	Date	Task
1	2012	Initial presentation followed by further presentations and questionnaires to gather community comments.
2	2012-13	Steering Group formed and theme groups developed to work on community responses.
3	2014-15	Further presentations and surveys completed for business, schools, health care, local organisations and thoughts on future housing needed. A Vision and Key Aims were established to lead to Policies
4	2015-16	A draft NP document commenced and policies beginning to be formulated helped by Bromsgrove Planning Officers. The draft plan advertised by a publicity leaflet delivered to each of the 2300 parish dwellings
5	2016	Steering Group meetings increase from monthly to bi-monthly and Bromsgrove planning officers helping to check conformity with their emerging District Plan
6	2017	2017 Pre-submission publicity and consultation Submission of a neighbourhood plan or order proposal to the local planning authority Independent Examination

Fig 3. *The steps of Neighbourhood Plans*

## Who has been consulted?

1.15 **The Steering Group (SG) has met on over 60 occasions and a large number of local residents and businesses have contributed their ideas and opinions.** It's from this insight the APNP has derived its key aims and policies to make a true community plan. From the outset the SG was determined that residents should be kept informed and given every opportunity to tell this Group what they wanted for our parish.

1.16 Communication and consultations, in various forms, have played a major role in formulating the NP. The SG and Parish Council have organised consultative workshops, discussions, presentations, piggy-back events with the

<sup>2</sup> The Localism Act 2011 <http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>



annual 'Picnic in the Park' party, questionnaires, quarterly parish council newsletters, in the monthly Village Magazine, and in summer 2016 a fifteen page publicity booklet featuring latest NP news was delivered to every household<sup>3</sup>.

1.17 The SG has prepared and published web-based information on the NP's website.

<http://www.alvechurchparishplan.org>

1.18 Residents' Associations have held their own meetings to look at particular aspects of the NP. Interested developers have contributed their ideas at a public 'developer day' and house builders/developers have attended SG meetings on more than one occasion to present their proposals to the NP Steering Group.

1.19 All of the ideas and proposals in the NP have come from feedback gathered at meetings, presentations and consultations to build upon the suggestions already published in the former Alvechurch Parish Plan 2005. In addition to the NP, the Village Design Statement (2005) has been updated and made an essential part of this Neighbourhood Plan( APNP Policy HDNE 3)and renamed: **'The Alvechurch Parish Design Statement' (APDS)**<sup>4</sup>

## 1.20 Conversations have revolved around:

- Complying with the new housing requirements specified in the recently adopted Bromsgrove District Plan (2011-2030).
- The parish's employment needs
- The infrastructure required to ensure the economic vibrancy and sustainability of the parish
- Improving amenities, whilst protecting history and heritage
- The effective use of land and the preservation of the Green Belt and green space (have been central to many of the discussions)
- Quality of the environment and the desire to vary housing density, size and design (have been regular topics of debate)
- Sensible balances of affordable and executive homes, housing in clusters rather than in large estates and the wish to retain a rural perspective (have been prominent issues raised throughout our consultations)



The SG has consulted with as many people as possible including the Alvechurch Middle School children.

Fig 4. *Alvechurch Middle School questionnaire leaflet*

1.21 Every household in the parish and every accessible business have had a number of newsletters, brochures or leaflet either, inviting them to participate, or comment on proposals. There has been dialogue with the governors of Alvechurch Middle School and regular monthly updates provided at APC meetings. In addition to talking to the community, the SG has also benefitted from advice and support given by a wide range of external agencies, Worcestershire County Council (WCC), and BDC planning officers.

1.22 More information about the time-line of and further issues identified by the community from later consultations can be found in the separate Consultation Statement document, a copy of which can be found on the APNP website, in the library section.

<sup>3</sup> [15 page update Booklet 2016](#)

<sup>4</sup> 'The Alvechurch Parish Design Statement' copies are held in the Parish Council office or can be viewed on the [NP website](#)



1.23 As the qualifying body under Neighbourhood Planning legislation, APC is legally responsible for producing the NP, which must be approved in a public referendum of the parish's registered voters. Prior to the public referendum, the NP will have been subject to an examination by an independent external examiner.

1.24 The Plan was subject to a pre-submission consultation for six weeks and amended in the light of 91 responses from the local community and local businesses. When the Plan is formally submitted to BDC, it will be further subjected to a six- week public Statutory Consultation before sending the NP to an independent external examiner.

1.25 The cost of preparing the NP has been subsidised by a small Local Community grant and through small periodic funding from APC. The majority of the work has been undertaken by unpaid volunteers who live in and care for the parish. Some primary consultancy work has been undertaken by Kirkwell's and GAC Consultants (to get the Draft NP underway and produce a Sustainability Appraisal).

1.26 The Plan includes APNP policies and proposals for future Community Actions. The APNP policies will be used when assessing planning applications in the neighbourhood area if the NP becomes formally 'made' following a successful examination and community referendum.

1.27 From the findings of the various consultation exercises and local evidence base<sup>5</sup>, the SG formed a vision and objectives that were later refined into 'Key Aims'. The NP policies have been split into five topic themes, which identify local issues for each topic and the proposed actions to address them through; the 'Key Aims', policies and community actions.

## COMMUNITY ACTIONS

**1.28 Community Actions are non-statutory projects, that stand apart from the policies in this APNP .They are for the Parish Council to address aspirations brought forward from consultations by the community that can't be structured as a land use policy in this NP. For that reason they stand alone, separated from the land use policies at the very end of each Policy Topic section to which they relate and are written in a font of this colour.**

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<sup>5</sup> More detailed information on this extensive evidence base, including reports on the village consultations and workshops, can be found in the Alvechurch Parish Neighbourhood Plan supplementary documents on the Neighbourhood Plan website (<http://www.alvechurchparishplan.org>)

## SECTION 2: ALVECHURCH – TODAY

### ALVECHURCH PARISH

2.1) The parish of Alvechurch lies within the hillsides surrounding the upper Arrow Valley. It has many natural and historic rural assets including remnant features of the ‘dis-parked’ Alvechurch and Bordesley medieval deer parks, a network of public footpaths, bridleways, narrow lanes and ancient woodland. There are a number of medieval half-timbered buildings, as well as a large number of Georgian, Edwardian and Victorian buildings.

2.2) The Civil Parish of Alvechurch consists of three electoral parish wards: Alvechurch Village Ward, Alvechurch Hopwood Ward and Alvechurch South Rowney Green and Bordesley Ward. The Alvechurch Ward also comprises the village of Alvechurch and the small area of Withybed Green. The Hopwood Ward includes the north half of Weatheroak whilst the southern half of Weatheroak is contained within the Alvechurch Rowney Green and Bordesley Ward that also includes Holloway and Grange lanes.

### Places of Worship

2.3) The church of St Laurence dates back to 1239 and is situated on high ground, and was probably the site of an earlier Mercian church, although nothing remains of the earlier wooden building.

2.4) Much of the church was rebuilt between 1858 and 1861 by William Butterfield. There is a 1,348-pipe organ. The tower has a peal of eight bells, rung regularly by the North Worcestershire and District Change Ringing Association. The Ark, a £1m extension to the church was built in 2005.



Fig 5. *St Laurence's Church and the Ark*

2.5) The parish is well served for places of worship including the following: St Laurence C of E, St Mary Alvechurch – Catholic Church, Alvechurch Baptist Church and Rowney Green Shared Church - Methodist and C.E. Most of these places of worship also support other community uses.

### Relationship to other parishes and authorities

2.6) Situated within Worcestershire and the district of Bromsgrove, Alvechurch is one of Bromsgrove's 19 parishes and shares boundaries with Beoley, Wythall, Barnt Green, Cofton Hackett and Tutnall & Cobley Parishes. The parish also borders both the city of Birmingham to the North, Redditch Borough to the South and forms a vital part of the West Midlands Green Belt, which ‘prevents unrestricted sprawl of large, built up areas and neighbouring towns or cities merging into one another (National Planning Policy Framework paragraph 80)’.

## GREEN BELT AND ITS STATUS

2.7) Green Belt is one of the most significant (though restrictive in impact) planning policies intended to keep land permanently open. The current restrictions on new building in the Green Belt mean options for future development in Alvechurch parish are limited due to the lack of available development land. For further development to take place Bromsgrove District Council (BDC) will need to review the district's Green Belt boundaries. This Neighbourhood Plan would need to be reviewed at that time to reflect any changes made in the Local Plan that may affect the Alvechurch Parish Neighbourhood Plan Area. Other constraints are to do with Sites of Special Scientific Interests (SSSIs) and Local Wildlife and Heritage sites and assets. All of these constraints are touched on in later sections of this APNP.

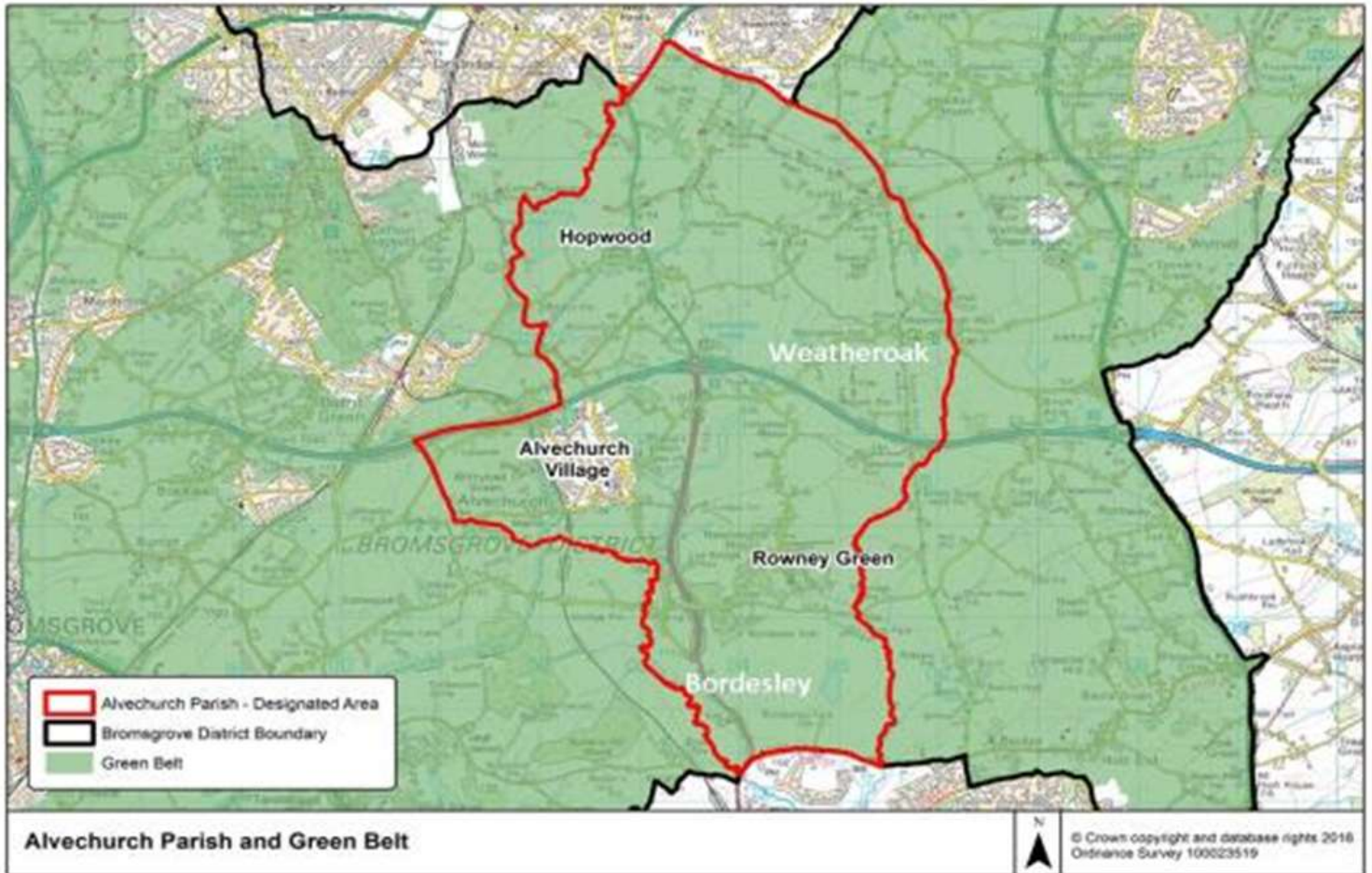


Fig 6. Map of the Green Belt area

2.8) Alvechurch parish, with the exception of the built-up area of Alvechurch Village itself, is washed over by the West Midlands Green Belt, (as seen in the map fig 6 above). Further information about the Green Belt can be found in Appendix C of the Evidence Base Summary document which can be viewed online on the Library page of the [APNP website](#).

2.9) The smaller settlements of the parish, including; Bordesley, Hopwood, Rowney Green and Weatheroak are all within the Green Belt as shown in figure 6. Hopwood and Rowney Green have village envelope status in the adopted Bromsgrove District Local Plan (2011-2030) Policies Map.

2.10) The Government attaches great importance to the Green Belt. The National Planning Policy Framework (NPPF paragraph 79) states that: “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

**The Green Belt serves five purposes (NPPF paragraph 80).**

- to check the unrestricted sprawl of large built-up areas
- to prevent neighbouring towns merging into one another
- to assist in safeguarding the countryside from encroachment
- to preserve the setting and special character of historic towns
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land

## FUTURE DEVELOPMENT

2.11) As a larger settlement Alvechurch Village can be expected to support some of the future strategic housing need of Bromsgrove District. Whilst the APNP cannot change the Green Belt boundary in the parish, we think it is important that local people are given the opportunity to influence when and if the need arises, where any Green Belt boundary changes that affect Alvechurch Village should be made. We will do this by working jointly and cooperating with BDC planning officers. This future exercise was explained to the Alvechurch community at two open day presentations in July 2014 at the Alvechurch Village Hall and can be seen in the Consultation Statement. Those results will be re-visited together with up to date community feedback at the time. This will provide an indication of local preference for Green Belt development locations to help inform the Green Belt and the Bromsgrove District Plan review process.

2.12) The Bromsgrove District Council Local Plan allocates enough land up to 2023 for Bromsgrove's related housing needs without using land in the Green Belt. Therefore if we are to support the needed housing for the district after that it will have to be on land taken out of the Green Belt land via a Bromsgrove District Plan review.

2.13) Our last ADR (Area of Development Restraint site as allocated in the old BDC District Plan 2004); on the corner Old Rectory Lane, has now been completed in 2016. If Alvechurch Village is to have more sustainable and affordable housing after 2023 for our young people and some for elderly people to downsize to, then land around the edge of the Alvechurch Village will need to be released. The Parish Council will work with BDC to ensure any release of land through a local authority led Green Belt review in line with a BDC Local Plan review is in the most sustainable locations. Community consultation will form a key part of this process.

## IMPORTANT PARISH ASSETS

2.14) These assets include; landscape Character Areas (noted in the Worcestershire Landscape Character Assessment and the adopted Bromsgrove District Plan), Local Wildlife Sites, Sites of Special Scientific Interest, Scheduled Monuments and a Conservation Area including medieval and post medieval buildings. There are two Scheduled Monuments in Alvechurch; Historic England list entry number, 1017527, a moated site 130m north east of Moorgreen Farm, and entry number 1018334, the moated site and fishponds at the Bishop's Palace. Many of the Parish's historical assets are listed buildings, structures and historical monuments some of which originate from the 15th century. A list of assets can be found in Appendix B in the Evidence Base Summary document, (this can be viewed on the [APNP website](#)), and more information can be found from: [The Historic Environment Record \(the HER\) at Worcestershire Archive and Archaeology Service](#).

2.15) Many of our important buildings can be seen in the Conservation Area: Figure 8 shows one of our two Sites of Special Scientific Interest (SSSI), Bittell Reservoirs, used and maintained by Barnt Green waters and used weekly by the Barnt Green Sailing and fishing clubs. The other SSSI is the Hopwood Dingle site, owned by the National Trust. All protected sites can be seen on the map (Figure 9) which shows the constraints of the parish.

2.16) By March 1797, the 2726 yard (2493 m) Wast Hills Tunnel was open and the Worcester Birmingham Canal<sup>6</sup> was trading through to [Hopwood](#). In 1807 the canal reached Tardebigge passing through Alvechurch without the use of locks. The canal now provides a route that links Lea End, Hopwood, Withybed Green and Alvechurch communities through walking, cycling and provides recreational opportunities of boating and fishing for local people. Throughout the parish the canal has many Victorian bridges and structures still treasured by the community.

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<sup>6</sup> [Worcester Birmingham Canal](#)



Fig 7. *The Worcester Birmingham canal at Withybed Green*

2.17) There are a number of Local Wildlife Sites and heritage assets including the church of St Laurence, which stands on high ground between School Lane and Bear Hill. On Bear Hill between the church and the main part of the village, there is a fine 16th century half-timbered house, now divided in two. There is some good half-timber work in the main Alvechurch Village centre. The majority of parish houses, apart from some farm related outlying buildings are of brick and of a comparatively recent date.



2.18) On an elevated plateau to the east of the village is the site of the former moated site and fishponds at the Bishops of Worcester Palace. The buildings have disappeared, but the important historic system of moats remains intact, inclosing a large rectangular area, subdivided by a cross moat. All but the trench on the north side are still filled with water. Just by the cross-road is an old water-mill (now a beauty clinic) worked by the River Arrow, which flows down the valley in which Alvechurch Village lies.

## CONSTRAINTS ON DEVELOPMENT



Fig 8. *Bittell reservoirs SSSI*

2.19) Other constraints on development apart from those mentioned within the parish are the SSSI's which are located in Hopwood (Bittell Reservoirs and The Hopwood Dingle). Local Wildlife and historical heritage sites and assets are also located within the parish area; all of these constraints are touched on in later sections of this APNP. A key to the constraints map (*fig.9*) seen on the next page can be viewed on the NP website, in the document *APPENDIX C: GREEN BELT & CONSTRAINTS*.

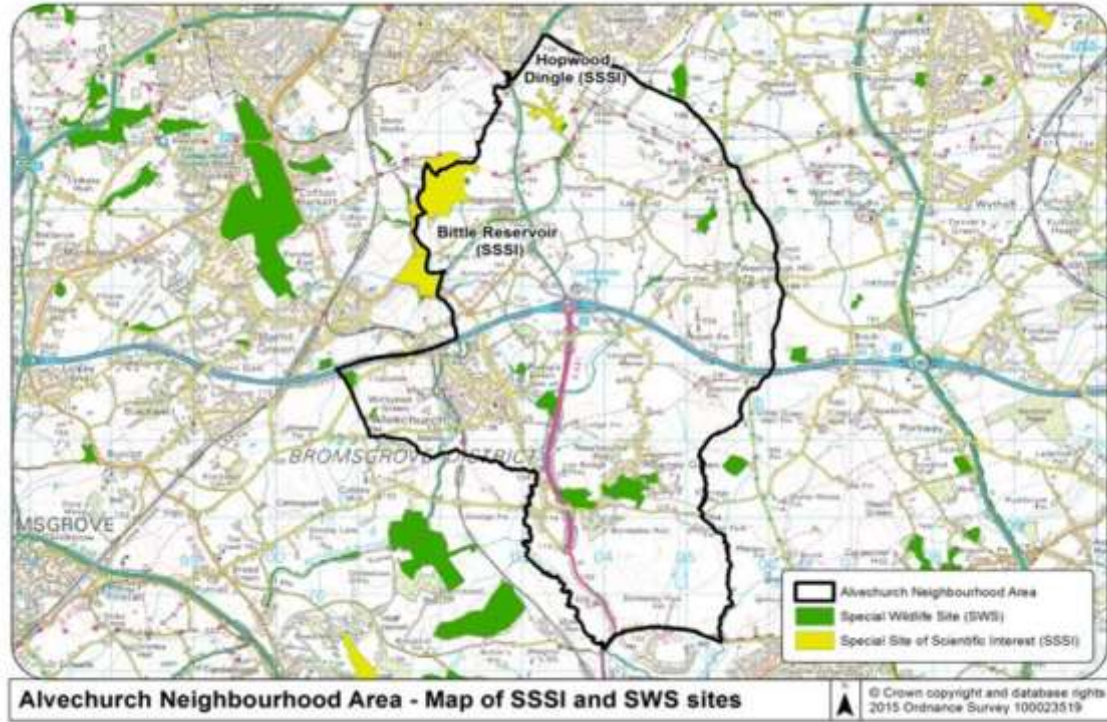


Fig 9. Map showing Parish Constraints

## LOCATION AND AMENITIES

2.20) Alvechurch is the main village within Alvechurch Parish and forms part of Bromsgrove District, in the northeast of the county of Worcestershire. Lying in the valley of the River Arrow, the nearest city is Birmingham, 17 km / 11 miles to the north, with the closest towns being Redditch, 8 km / 5 miles to the south and Bromsgrove, 9.5 km / 6 miles to the west. The parish is host to good transport links of all types including the north/south A441, the east/west M42, the Redditch/Lichfield cross-city rail service, and the Worcester Birmingham Canal. The River Arrow flows from its source in the nearby Lickey Hills through the parish and out towards Alcester. The village of Alvechurch lies in a valley surrounded by Hob, Scarfield, Coopers, Hopwood, Wast, Weatheroak, and Newbourne Hills



Fig 10. Map showing the Neighbourhood Area and the transport network

2.21) Some employment in the parish is related to transport services, such as the Hopwood Park M42 motorway services, the Alvechurch canal marina, the County Council highway's depot at Lye Bridge and Bordesley Hall, which provides units for small businesses. The impact of the closure of the major parts of the car manufacturing factory at Longbridge (located outside the parish to the North West) with the resulting changes to work patterns, social health and prosperity, has yet to be assessed.

[Ctrl and left click on the map for a larger version on the NP website or click this link](#)

2.22) Alvechurch railway station was built in 1859 and upgraded in 2015/2016. There are also many newer residential buildings and a First and Middle school with library. In 2008 a new first and middle school were built north-east of the village, the old school has since been demolished and the new housing estate has road names commemorating the house names of the school and previous rectors of St Laurence Church.

## 2.23) KEY ISSUES FOR THE FUTURE

2.24) A wide range of issues impacting on the future have been identified during the production of the APNP. These relate to each of those five topic themes mentioned earlier. A more in-depth summary of responses and community feedback is available in the Evidence Base Summary and Consultation Statement and appendices that accompany the NP.

2.25) Large retail, educational, care-homes and other businesses plus housing development at Longbridge, is under way and may well have an added effect on the Parish, with extra traffic making use of the access through Hopwood to Junction 2 of the M42. This will likely lead to further increases to the already high volume of traffic and speed issues recorded for Hopwood. Travel to school and places of employment, is made more difficult due to the extreme difficulty in crossing the A441 at 'rush hour' times, as result of having no pedestrian crossing points across the A441 for local people to access public transport stopping points.



Fig 11. Public highway footpath, too narrow and too close to the main highway

2.26) The NP will rely heavily on its design principles for development that takes place within the existing settlement boundaries to preserve the "distinctiveness" of this rural parish and its historic village centre of Alvechurch.

2.27) High quality design plays an important part in many of the APNP policies not only housing developments, but all types of development that relate to, conservation, heritage preservation, environmental promotion, supporting business

and improvements that aid getting around.

2.28) Consequently the APNP emphasises an intention to see parish development as being better because of attention to quality design.

2.29) Along with the suite of policies in this NP, key documents to assist development proposals in maintaining the rural distinctiveness of Alvechurch Parish are;

- the Alvechurch Parish Design Statement (APDS),
- the [Alvechurch Historic Environment Resource Assessment \(AHERA\)](#)

2.30) Copies of both of these documents will be kept in the Alvechurch Parish Council (APC) offices, and can be accessed electronically through the APC website <http://www.alvechurch.gov.uk/>



## A selection of Key Issues gathered during some of our community consultations

*“Current medical facilities in the parish are restrictive, including a lack of meeting rooms or any space for expansion”*

*“The need for better walking and cycling network to encourage increased levels of physical exercise”...*

*“Extra social and community infrastructure will be needed if there is a significant increase to housing up to 2030”.*

*“Pedestrian crossings needed in Hopwood!” (Picnic in the park)*

*“Traffic calming needed” (picnic in park)*

*“No building in green belt” (Hopwood Consultation)*

*“A mix of housing is better” (The Baptist Church consultation)*

*“Village needs to be more suitable for young couples - otherwise village will become elderly population”*

*“More housing for elderly - i.e. Bungalows”*

*“Integrated transport including effective linkages between rail and bus and improved routes for pushchair / disabled”*

*“New house building should include objectives for all houses to incorporate energy saving devices, solar energy, grey water retention and insulation”*

*“New housing should be close to existing public transport” – Alvechurch comment*

*“Focus should be on Alvechurch as even with large developments in the hamlets there wouldn’t be enough leverage to provide significant infrastructure”*

*“No infrastructure to support further development”*

*“Block road to precinct from Birmingham Road”*

*“Biodiversity projects are always good for a small community something I think the village could prosper from”*

*“Improve access = improved exposure of countryside and its value/beauty/issues - essential if we are going to inspire a new generation to care and take an interest in wildlife and the countryside”*

*“If business development is unavoidable, ecotourism/farming/outdoor leisure would fit better with our Parish’s character than selling out to yet more shops and offices which often have little character these days”*



## SECTION 3 - THE VISION AND THE KEY AIMS

### THE VISION STATEMENT

**“Alvechurch 2030 - where managed change and celebration of its rural character combine in a community made better by design”**

3.1) The aim of this NP is to retain and enhance the traditional values of a rural parish. Development which promote, protects and make improvements to the main historic village of Alvechurch and its outlying settlements, rural businesses, the built and natural environment and that which reflects the community’s needs and aspirations by incorporating new technology and sustainable building methods where appropriate is encouraged. The built environment should be compatible with local and national policies, but above all should enable all sections of the community to enjoy a sustainable way of life.

3.2) By pursuing this vision we can make the parish an even better place through development, a place led better by design.

- a. To promote and encourage good design to create healthy and attractive places where people genuinely want to live and work. A place that is sustainable for the needs of the community of ‘today’ and for our future generations.
- b. To secure sustainable development and amenities that will stand the test of time
- c. To support the local economy
- d. To provide high quality accommodation for all of our community
- e. To respect the individual character of the parish, and protect our historic and natural environment through better design and making sure development is located in the right places.
- f. The neighbourhood will be safe and enjoyable to move around on foot and bike and will be well connected to the rest of the parish and beyond by public transport.
- g. The APNP will give us a stronger voice in future local development when planning proposals are submitted to BDC.

3.3) We recognise the need for change but that change should be managed in such a way that the parish’s traditional character and sense of place is conserved and enhanced for the better.

## THE KEY AIMS:

### 3.4) How the visions will be delivered

3.5) To help achieve and deliver the Vision for Alvechurch Parish by 2030 the community have consulted on and identified a number of KEY AIMS for the APNP. These are:

KEY AIM 1:	Development that meets current and future needs of all age groups in a changing and growing Alvechurch parish community, whilst embracing high quality design.
KEY AIM 2:	Through providing opportunities of community participation, development within the Alvechurch Village boundary focused on well-designed house building within walkable locations of key facilities
KEY AIM 3:	Developing services, facilities and amenities especially around Alvechurch Village centre that will help to improve quality of life, create a sense of well-being, promote community safety and enable active and healthy lifestyles for the parish as a whole.
KEY AIM 4:	Maintaining a mix of local businesses appropriate to the character of Alvechurch Parish whilst serving the needs of local people and with the inclusion of sympathetic rural diversification contributing to the wider economy.
KEY AIM 5:	Encouraging varieties of leisure, cultural and sporting facilities and activities to enable opportunities for all, particularly youngsters and older people.
KEY AIM 6:	Promoting both integrated public transport (with associated pedestrian walkways, cycle routes and adequate parking) and safer roads (through effective traffic management) in order to serve the growing and changing Alvechurch community and increase access to the local countryside.
KEY AIM 7:	To maintain and enhance the built historic and the natural environment for present and future generations whilst promoting new development that enhances local character
KEY AIM 8:	Promotion of safe, sustainable developments that are designed to meet the latest energy efficiency standards and make the best use of existing resources whilst promoting the use of renewable energy for new developments in the Neighbourhood Plan Area.

## POLICY LAYOUT

3.6) A number of inter-related themes have emerged from our initial objectives that were refined into the Key Aims as shown above. These have been used as a basis to structure the policies under theme names or topics. The Steering Group members were assigned to a topic and dealt with the main community issues raised for that topic. There will inevitably be some overlap between the policies and the topics they sit within, i.e. in some cases a policy could apply to more than one topic area. **That is why it is important that this NP is used as a whole.**

## 3.7) THE NP POLICIES SIT WITHIN THE FOLLOWING TOPIC SECTIONS:

### A GENERAL POLICY (G)

FOLLOWED BY POLICIES IN BOXES OF THESE COLOURS RELATED TO THEIR TOPIC AREA:

Topic 1 Housing (H)

Topic 2 Heritage, Design and the Natural Environment (HDNE)

Topic 3 Leisure, Health and Well-Being (LHW)

Topic 4 Business, Shops and Services (BSS)

Topic 5 Getting Around and Transport (GAT)

## 3.8) POLICIES SECTIONS ARE SET OUT AS BELOW

- An introduction to each Topic Section
- The Key Aims associated with all the policies in the topic section.
- An introduction to each numbered policy
- *The 'Policy Aim': what the policy is trying to achieve*
- Followed by: 'Background / Justification' of the policy

## NON – STATUTORY COMMUNITY ACTIONS RELATING TO THE SECTION ARE SHOWN AT THE END OF THE POLICY TOPIC SECTIONS AND ARE LAID OUT AS FOLLOWS





Not all issues and aims are associated with land use and therefore cannot be included as a policy. Where that happens in this APNP, community projects are included as non-statutory 'Community Actions' and seen as a way for Alvechurch Parish Council to further an action in cooperation with the appropriate local authority or relevant body.

**COMMUNITY ACTIONS: ARE IN THIS COLOUR FONT AND BOX. And can be found at the end of each relevant topic section.**

Within this NP there are also projects titled Community Actions. There are many issues important to residents of the area which cannot be dealt with through the Neighbourhood Planning process under the 'umbrella of legislative planning'. As such, those issues will be dealt with as "Community Actions" to be progressed by the Parish Council through cooperation and discussions with the relevant local authority (LA), other public bodies and developers.

## OTHER DOCUMENTS INCLUDED AND TO BE USED WITH THIS NEIGHBOURHOOD PLAN

Access to these documents can be found on the Alvechurch Parish Council [website through this link](#)

	<p><b>THE ALVECHURCH PARISH DESIGN STATEMENT (APDS)</b> is rooted in a careful analysis of the Alvechurch Parish area and the characteristics that make it work and make it special. The APDS is an integral part of this Neighbourhood Plan Document (Policy HNDNE 3). It considers the evolution of the rural landscape, built, historic and natural environment. It sets out guidance for its repair, reinvention and regeneration according to; building form, public realm, massing, activity, sustainability and design. Key features of the parish’s heritage are considered including views, materials, landmark buildings and their embellishments.</p> <p>A copy of the Alvechurch Parish Design Statement (APDS) can be found on the Alvechurch Parish Council <a href="#">website at this link</a></p>
	<p><b>ALVECHURCH HISTORIC ENVIRONMENT RESOURCE ASSESSMENT (AHERA)</b> contains the products of a Worcestershire County Council (WCC) intensive urban and landscape characterisation exercise undertaken within the settlement of Alvechurch. The project aimed to; develop a method of 'historic townscape characterisation' for Worcestershire's rural urban areas, identify means through which to support local communities in the promotion of local distinctiveness and character, and generate evidence bases to inform locally responsive design and planning. This document can also be accessed on the Alvechurch Parish Council <a href="#">website at this link</a>. Many documents have been used to create this AHERA document such as pilot plans like the Worcestershire County Council (WCC) Historical Environmental Action Pilot plans: access to that <a href="#">pdf file can be found by using this link</a></p>
	<p><b>THE EVIDENCE BASE:</b> the 'Key Aims, Policies and Community Actions' in this NP have drawn from a variety of sources. More detailed information on this extensive evidence base, including reports on all settlement presentations, consultations and workshops, can be found in the Alvechurch Neighbourhood Plan Evidence Base document : on the NP website <a href="http://www.alvechurchparishplan.org">http://www.alvechurchparishplan.org</a></p>
	<p><b>THE CONSULTATION STATEMENT</b> – contains details of the persons and bodies that were consulted about the proposed neighbourhood development plan. It explains how they were consulted, summarises the main issues and concerns raised by the persons consulted, and describes how these issues and concerns have been considered. Where relevant these will be addressed in the proposed neighbourhood development plan.</p> <p>Copies of the Consultation Statement are available on the APNP website or at the Parish Council Office.</p>

## 3.9) Who will decide if the NP comes in to force?

3.10) You: as a member / resident of our parish by a majority vote at a referendum. Firstly the NP will be examined by an independent examiner to determine if the Plan meets the Basic Conditions as laid out in Paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990. It will then be the local community that decides whether to adopt the plan or not in a community referendum if approved by a majority vote of the local community, the NP will then form part of the Statutory Development Plan for the area. This means it will be used by the local planning authority when assessing planning applications in the neighbourhood area. Our APNP will only come in to force if it gains your support, the residents of Alvechurch Parish at a community referendum undertaken by BDC.

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## SECTION 4 - THE POLICIES OF THE APNP





Fig 12. The old brick works a brownfield site in the Green Belt

## TOPIC THEMES AND INTRODUCTION TO POLICIES

- 4.1. As mentioned our Policies and Community Actions have been developed to sit under five topic headings to address the main community issues that have been identified.
- 4.2. A neighbourhood plan can be used to address the development and use of land. Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.
- 4.3. Each topic will have a set of land use policies relevant to that topic. There may also be some non-land use aspirations called '**Community Actions**' which consider local issues raised at community consultation that cannot be addressed by land use policies. The five topics and the policies that sit within them reflect the results from the local community and key stakeholder consultations, and have been developed using a wide range of available evidence (see separate Evidence Base document available from the APNP website [www.alvechurchparishplan.org](http://www.alvechurchparishplan.org))
- 4.4. The policies in this NP relate to land use and will be used when determining planning applications within the NP area. The five topics contain the key aims (which will help to achieve the overall vision of the Plan), and the policies that relate to that particular topic.
- 4.5. **THE APNP MUST BE TAKEN INTO ACCOUNT AS A WHOLE.**

### 4.6. GENERAL POLICY 1: ACTIVELY INVOLVING LOCAL PEOPLE IN THE PLANNING PROCESS

#### INFORMING THE COMMUNITY ABOUT PLANNING

- 4.7. Active involvement of both the Parish Council and the local community at the earliest stages of a development proposal is important to both improving the quality of the resultant scheme and in reducing potential delays. Pre-application discussions give local communities the opportunity to ensure that new development meets their aspirations and is likely to allay negative reactions to development in general.

4.8. The involvement of communities is usually seen as critical to the success of development and its passage way through planning in a positive manner. This is reinforced in the National Planning Policy Framework (NPPF) where it states at paragraph 66:

4.9. *“Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably”.*

4.10. The Parish Council and the Neighbourhood Plan Steering Group seek to encourage applicants to undertake pre-application consultations with local communities and stakeholders for all major development proposals. The aim of pre-application consultation is to encourage discussion before a formal planning application is submitted. This will enable interested parties, including communities, to have the opportunity to discuss with developers the proposals being put forward, and to express any concerns they may have before the proposals are submitted for planning approval. This is seen as a positive step in making the planning process more easily acceptable.

## KEY AIMS RELEVANT TO THE GENERAL POLICY

KEY AIM 1: Development that meets current and future needs of all age groups in a changing and growing Alvechurch Parish community, whilst embracing high quality design.

KEY AIM 2: Through providing opportunities of community participation, development within the Alvechurch Village boundary focused on well-designed house building within walkable locations of key facilities

KEY AIM 3: Developing services, facilities and amenities especially around Alvechurch Village centre that will help to improve quality of life, create a sense of well-being, promote community safety and enable active and healthy lifestyles for the Parish as a whole.

**The full list of ‘Key Aims’ and their contents can be found on page 20.**

**POLICY AIM:** *To make sure the community is involved with parish planning by providing a sense of ownership*

## GENERAL POLICY 1: ACTIVELY INVOLVING LOCAL PEOPLE IN THE PLANNING PROCESS

**Proposals for Major Developments that are accompanied by a Community Involvement Statement explaining how the pre-application process has actively engaged the local community, the Parish Council, and key stakeholders will be encouraged.**

**The Community Involvement Statement should include:**

- a. An explanation of how the consultation was designed to reach a broad cross-section of local people;
- b. A demonstration that a range of means was used to engage local people, – for example, a variety of publicity and a range of ways of providing input (including the opportunity to provide web-based comments as well as attending events in person);
- c. A record of the views expressed by local people;
- d. An explanation of how the proposals have responded to local people’s views, and intend to address any shortfalls to education or health facilities that arise from their proposal.

### Background / Justification

4.11. The definition of Major Development in the Town and Country Planning (Development Management Procedure) (England) Order 2015 is:

4.12. For dwellings, a major development is one where the number of residential units to be constructed is 10 or more. Where the number of residential units to be constructed is not given in the application, a site area of 0.5 hectares or more should be used as the definition of a major development. (See glossary for full description).

4.13. At pre-application stage, community involvement can help to inform improvements, address local concerns and overcome or mitigate objections at a later stage. As well as consulting the local community and key stakeholders, the applicant will also be expected to consult with the Parish Council and the relevant ward councillors in such community engagement.

4.14. When people are engaged in determining how the area in which they live evolves for the future and believe they've made a contribution to the planning process used to achieve their aims, it gives a positive feeling and a sense of ownership of their local environment. To that end this policy ensures local communities will be involved at the earliest stage in any major development proposal that may affect their locality.

## TOPIC 1- POLICIES FOR HOUSING

### KEY AIMS RELEVANT TO THE GROUP OF POLICES IN THE HOUSING TOPIC SECTION

KEY AIM 1: KEY AIM 2: KEY AIM 3: KEY AIM 5: KEY AIM 6 and KEY AIM 7:

The full list of 'Key Aims' and their contents can be found on page 20.

### Introduction and Background

4.15. Alvechurch Parish is a place lived in by 5,611 people (source: 2011 Census). It's an area with 2,364 homes, 1,704 of them in Alvechurch Village boundary itself. Alvechurch Parish is a Neighbourhood Area that covers Withybed Green, Bordesley, Hopwood, Rowney Green, Weatheroak and Alvechurch. The parish's population has a high percentage of elderly residents: 29% of our residents are aged over 60 (it's 23% more broadly in England and Wales). Nevertheless it's also an area associated with families, often with young children too.

4.16. Age is of real significance when you consider the parish population. Although we enjoy a high level of home ownership, we have a lower number of one and two bedroom properties than our neighbours in Bromsgrove town. This is a concern for a number of our residents, who have indicated that affordable housing for young people and families is hard to find in Alvechurch.

4.17. The situation is similarly challenging for our more elderly neighbours. As it appears many of the new building developments are larger, more expensive homes; we have to consider if we have the houses appropriate for older people. Whether we have the young or old in mind, it's important to think about what housing we need for Alvechurch to thrive. We know that there's limited land available to build upon, meaning there is only room for relatively small-scale development. Large-scale development only becomes achievable if current Green Belt boundaries are reviewed. If there is new housing, it should be environmentally friendly to protect Alvechurch's natural beauty and ensure running costs are kept low. For some of you, the question is simply 'Can we cope with any more housing?'

Parish Statistics	Alvechurch Parish	Bromsgrove
All Ages Population (2011)	5,611	93,637
Household total dwellings (2011)	2,364	39,374

Total Cars or vans(2011)	3,742	60,054
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*Fig 13. Parish Statistics National Census 2011*

4.18. With this as the background, there are lots of issues for us to work on if we are to achieve the right mix of properties for our people. Most, if not all, of the information and statistics are gathered from the 2011 census, the Worcestershire County Council (WCC) parish profile and the Bromsgrove District Council (BDC) evidence base.

**4.19. Introduction**

4.20. There is community support and need to provide a more balanced housing stock with smaller houses.

**4.21. Some community comments**

- More affordable housing should be provided.
- Housing suitable for older people should be provided.
- Housing should be provided at a scale which is appropriate to the character of the village and will enable new residents to integrate easily into village life.
- There should be provision for those with a strong local connection to have preferential access to housing.
- New development must be integrated into the community rather than creating communities within the community.

4.22. For any substantial future development to take place, the Alvechurch Village boundary would need to be enlarged through the release of land from the surrounding Green Belt through a local authority-led Green Belt and Bromsgrove District Plan review. This comes as a direct result of all previous future sites set aside for future housing, in the superseded Bromsgrove District Local Plan 2004-20011, having now all been developed as of 2017.

4.23. At several community consultations and from results from the whole parish questionnaire, (delivered through the Village magazine), the community responses to all options on each topic were recorded.

4.24. **To the Question:** “Where should we build future housing”? Out of the four options in the housing section, results favoured ‘Option One’.

4.25. ‘Option One’ stated: “We should build first on existing agreed sites and should accept long-term growth on Green Belt only adjacent to current houses”. The results showed that; 72% were in agreement, 15% disagreed and 13% neither agreed nor disagreed.

4.26. The National Planning Policy Framework (NPPF) <sup>7</sup> has a presumption in favour of sustainable development as does the adopted Bromsgrove District Plan 2011-2030, which highlights that new development should be located in Alvechurch Village as it is a sustainable location.

4.27. The adopted Bromsgrove District Plan sets the strategy for growth within Alvechurch Village to 2030. The District Plan classes Alvechurch Village as being “A Larger Settlement” and a strategic service centre in its settlement hierarchy (Bromsgrove District Plan Policy BDP 2 Settlement Hierarchy).

4.28. Alvechurch Parish, through the APNP, is looking to plan positively to meet such future sustainable housing growth and support district housing numbers as stated in the Bromsgrove District Local Plan 2011-2030, and will respond positively to the need for new homes when that time arises.

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<sup>7</sup> <https://www.gov.uk/government/publications/national-planning-policy-framework--2>





Fig 14. [Map of Sustainable modes of transport walking distances](#)

4.29. [Double click on map for a larger version or open its hyperlink](#)

4.30. Until more modern times, most villages, including those in this parish, have developed through incremental growth that harmonises with the existing character of their setting and buildings. It is essential that this continues to be the case. A good example can be seen with the recent Mill Court development within the Alvechurch Village Conservation Area (see photo on page 51).

4.31. However the Crown Meadow development shows typical influences of 20th century housing design, which has removed all trace of the historic enclosures and field boundaries that once would have dominated this area. This is referred to in the AHERA document.

4.32. [The Alvechurch Parish Design Statement \(APDS\)](#) and the [Worcestershire County Council Alvechurch Historic Environment Resource Assessment \(AHERA\)](#) need to be considered early on in the application process. The AHERA document is one of two villages Historic and Environmental Resource Assessments made by the archive department of Worcestershire County Council and, together with the APDS, should steer developers in designing high quality schemes for this neighbourhood area.

4.33. The APDS and AHERA set out clear design expectations and provide greater certainty for applicants about the sort of design, which is likely to be acceptable in this neighbourhood area. The recently published Housing White Paper (Feb 2017) states that *“good design is fundamental to creating healthy and attractive places where people genuinely want to live, and which can cater for all members of the community, young or old.”*

## 4.34. Locations for housing

### Introduction to Housing Policy 1



[Ctrl and left click map for a larger on line version or click here](#)

Fig 15. [Map of Alvechurch Village boundary](#)

4.35. The supply of new homes in Alvechurch Village and the wider parish must be realised in accordance with the distinctive features, scale and grain of the local area whilst also having regard to community wishes. Housing developments must be carefully considered and will only be acceptable where they reflect these principles and are consistent with the NP taken as a whole. New development for sustainability reasons should be located in Alvechurch

Village, with some small-scale development in the smaller settlements if and when a local need is proven. Development should primarily make use of brownfield sites, and complement the existing built environment whilst protecting and enhancing the natural environment.

4.36. Elderly people are a growing proportion of Alvechurch population. Population projections suggest that this trend is likely to continue and become more pronounced. For the NP area to remain as a reasonably balanced community, more needs to be done to also attract younger families.

4.37. A large proportion of our residents have lived in the parish for many years, arriving with children and remaining here long after their children have left home. Some of these residents would like to downsize to smaller

dwellings within easy walking distance of Alvechurch Village centre along with its service facilities. However opportunities are limited and recent developments have tended to provide larger family homes on sites close to the village centre. This is considered to have been a missed opportunity to help meet our recognised need for suitably located smaller homes with more elderly people in mind. Increased provision generally, but particularly on small sites close to the centre of Alvechurch Village, would help meet this need in a sustainable way and also potentially free up under-occupied 'family homes' for young families.

4.38. Support will be given to well-designed new housing development located on brownfield sites within Alvechurch Village settlement boundary. In the long term post 2023 it is possible that the village settlement area could well change if land is released from the Green Belt, following a local authority Green Belt and Local Plan review. However, until such time, short term development for housing will be concentrated within the Alvechurch Village settlement boundary as this is the most sustainable location and it is not located in the Green Belt. If it is decided in the future that land should be released from the Green Belt, then there will be a revision of the APNP to deal with any necessary changes.

**POLICY AIM:** *Aims to support development for new housing within the Alvechurch Village settlement boundary on suitable brownfield sites, as Alvechurch Village is the most sustainable location in the parish*

## **POLICY H1: LOCATIONS FOR NEW HOUSING DEVELOPMENT**

**Proposals for new housing development will need to show consideration to the Alvechurch Parish Design Statement and the Alvechurch Historic Environment Resource Assessment and will be supported in principal if they meet the following criteria;**

- a. It is located within the designated Alvechurch Village settlement boundary.**
- b. The redevelopment of brownfield land will be prioritised**
- c. It would not adversely impact on the existing residential amenity of adjoining occupiers**
- d. The Neighbourhood Plan should be used as a whole.**

**Apart from Alvechurch Village itself, the neighbourhood area is designated as Green Belt. Inappropriate development will not be supported in the Green Belt unless very special circumstances can be demonstrated (as set out in the NPPF, paragraphs 87 to 89).**

### **Background / Justification**

4.39. Policy H1 aligns with the aims of the NPPF and the adopted Bromsgrove District Plan 2011-2030, as it seeks to secure housing supply that meets local needs in the most sustainable locations. The neighbourhood area, apart from that within the Alvechurch Village settlement boundary, is designated as Green Belt. Therefore land outside of the Alvechurch Village boundary will be restricted by national Green Belt policy.

4.40. The Alvechurch Village settlement boundary is that which is shown on the adopted District Plan (2011-30) Policies Map as 'Residential Area'. At community consultations a number of respondents said; *"either that they don't want more housing or that they want further housing to be in appropriate and small-scale developments that won't change the feel of the parish"*.

4.41. Many people do not accept the premise that some Green Belt land may have to be released and just repeat that it should be preserved. Some do not realise we only have a limited number of brownfield sites and those are in the Green Belt. However, there is some indication that limited development around settlements may be acceptable through a Green Belt and Local Plan review. There is strong support for this to be small inexpensive houses (except

at Hopwood where affordable housing has been provided in 2012). There were several comments in other sessions about smaller housing for the elderly.

4.42. Consultation responses from customers at The Lounge in Alvechurch Village had a wide spread of views about housing, but many supported building smaller houses. The Baptist Church consultation responses are similar, and specifically mention housing for the elderly. There was one response that thought house building in Alvechurch is spoiling the traditional aura of the village, especially affordable housing and the people who live there. Another says the national housing shortage needs action.

4.43. From the ‘five venue’ consultations carried out around the parish area, the community gave clear support for locating any further housing in line with ‘Housing Option 1’: with 83 % of people agreeing as opposed to 10.2 % that disagreed. This option supports the aims of APNP Policy H1 and H2.

4.44. **Option 1** Development first on existing ADRs –further growth after 2023 immediately adjacent to existing settlements

**RESULTS from the ‘5 venues’**

No opinion	0
Strongly agree	26
Disagree	6
Neither	4
Agree	31
Strongly disagree	1
Total replies	68

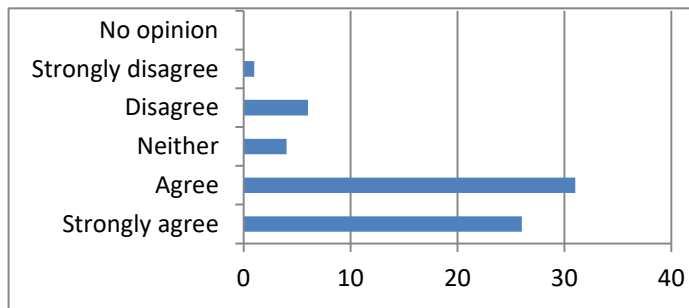


Fig 16. Table showing result of one of the housing options

## 4.45. Housing for Hopwood and Rowney Green

4.46. See Fig 18 on page 32 – Hopwood & Rowney Green village envelope status areas. Note Alvechurch village area (Fig 15) is not in the Green Belt however Hopwood and Rowney Green are completely washed over by the Green Belt.

### 4.47. Introduction to Policy H2

4.48. Hopwood and Rowney Green are classed in the Bromsgrove District Plan (2011-2030) as smaller settlements with limited opportunities for growth and the District Council will work with neighbourhoods and consider Green Belt land around all identified settlements in the settlement hierarchy and potential sites in Neighbourhood Plans. This may lead to alterations to some settlement boundaries and some village envelopes where suitable sites for development are identified.



Fig 17. Existing Affordable Housing in Hopwood built in 2012

**POLICY AIM:** To maintain the size and character of Hopwood and Rowney Green whilst protecting the Green Belt

## POLICY H2: HOUSING FOR HOPWOOD AND ROWNEY GREEN

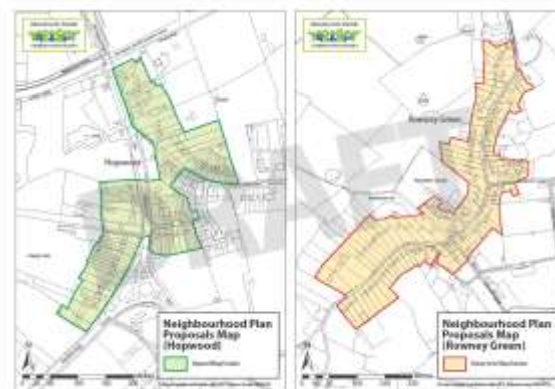
Proposals for new housing development that are well designed for Hopwood and Rowney Green will be supported if they show consideration for the Alvechurch Parish Design Statement and are subject to meeting the relevant requirements set out in other policies within this Neighbourhood Plan and the adopted Bromsgrove District Plan and where such development:

- a. Is limited to small residential infill development and maintains the continuity of existing frontage buildings, or is on brownfield land within the built-up area of the village where the site is closely surrounded by existing buildings
- b. Is not considered to be back garden development
- c. Is consistent with the character of the locality as outlined in the Alvechurch Parish Design Statement on its pages 29-32
- d. Provides at least one small home with two or fewer bedrooms for every one large dwelling with three or more bedrooms
- e. Is in suitable locations, on small infill plots giving opportunities for some well-designed self-build homes
- f. Is within the built up area and does not involve the outward extension of the village envelope as shown on the adopted Bromsgrove District Plan policies map

### Background / Justification

4.49. In the adopted Bromsgrove District Plan (2011-2030), the main area of growth is stated as Bromsgrove Town with Alvechurch Village listed as one of several larger settlements for sustainable growth.

Fig 18. Map of Hopwood & Rowney Green envelope areas



[Double click on map to enlarge or click here to open a larger on line version](#)

4.50. Hopwood and Rowney Green are listed as small settlements with village envelopes washed over by the Green Belt and “limited to suitable infill plots”, (Policy BDP2 Settlement Hierarchy), or for small rural exception sites when local people, shown by a local housing needs assessment, cannot afford a market value home (Policy BDP 9 Rural Exception Sites).

4.51. The APNP supports the policy approach of Bromsgrove District Plan Policies BDP 2 and 9, and adds to it the use of the APDS (POLICY HDNE3) to strengthen local policy and to help preserve the character of these two small settlements. Small infill plots in suitable locations could also provide opportunities for some well-designed self-build homes. The Neighbourhood Area has an open rural character with open land between settlements that make an important contribution to the rural character. Local residents expressed their strong support of maintaining this



openness by the protection of the Green Belt. It is important that infill development does not destroy this essential openness and does not adversely affect the natural beauty and landscape character of the area.

4.52. The Neighbourhood Area already has a higher than average proportion of larger properties (70% of total dwellings are 3 bedrooms or more, ONS 2011), which will tend to limit the opportunities for downsizing. At consultations and through resulting community feedback there was a general consensus for smaller housing for those accessing a home for the first time and for elderly residents wishing to downsize. Hence, the policy requests a provision is made for smaller homes.

#### 4.53. Affordable homes for local people

#### 4.54. Introduction to Policy H3

4.55. At the time of writing (March 2018) affordable housing includes social rented, affordable rented and intermediate housing, provided to specified eligible households whose needs are not met by the open market. Subject to proven local need, a limited amount of affordable housing could be provided within the Parish on small rural exception sites, where proposals for housing would not normally be permitted.

4.56. However the Government is proposing to amend the national planning policy definition of affordable housing so it encompasses a fuller range of products that can support people to access home ownership (The Housing and Planning Act 2016 received Royal Assent on 12th May 2016 and is now an Act of Parliament).<sup>8</sup>

4.57. The Department of Communities and Local Government (DCLG)<sup>9</sup> stated: “*We propose that the definition will continue to include a range of affordable products for rent and for ownership for households whose needs are not met by the market, but without being unnecessarily constrained by the parameters of products that have been used in the past which risk stifling innovation*”.

4.58. Development should also follow the guidelines set out in the NPPF paragraphs 88 to 90 and 54 to 55 and be subject to meeting the relevant requirements set out in the other policies within this Neighbourhood Plan. Development should also be compliant with the adopted Bromsgrove District Plan 2011-2030.

4.59. Affordable housing according to CPRE<sup>10</sup> is “*that which is provided to eligible households whose needs cannot be met by the open market. Eligibility is determined by local incomes and local house prices. Tenants renting accommodation from a housing association, local authority or landowner can expect to pay between 40% and 80% of the open market price*”.

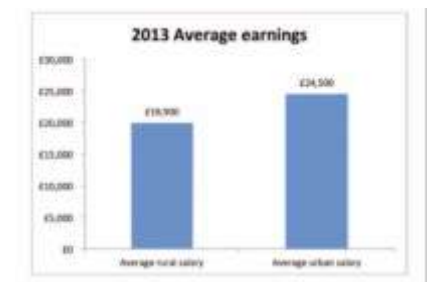


Fig 19. National Average earnings ONS 2011

4.60. The need for affordable housing is more acute in rural areas than in many urban areas due to the lower average wages of rural dwellers, as well as the reduced affordable housing stock, as the charts on this page demonstrate (numbers are the most recent available).

4.61. The lack of affordable housing in rural towns and villages has led to an increase in the average age of residents; leading communities to become the preserve of wealthy commuters and retirees. Between the 2001 and 2011 censuses, the median age of the rural population of England and Wales rose from 42 to 45, while the equivalent in urban areas rose from 36 to 37.2

<sup>8</sup> [Housing and Planning Act 2016](#)

<sup>9</sup> [The Department of Communities and Local Government \(DCLG\)](#)

<sup>10</sup> [CPRE Campaign to Protect Rural England](#)

4.62. Rural exception sites arise where a specific local housing need has been demonstrated, and a landowner is willing to provide some land at significantly less cost than on the open housing market. This would be on condition that the homes built will remain affordable and available to local people in need, in perpetuity. This would be brought forward in conjunction with Bromsgrove District Council (BDC) and an appropriate housing association.

4.63. Impacts on biodiversity and historic environment are uncertain as no specific sites are identified at the moment in July 2017. These impacts would be mitigated by other policies in this NP and the Bromsgrove District Plan. If sites are then identified in the future the requirements for an assessment of environmental impacts would likely need to be determined. Impacts on land use are also uncertain, as while the policy says brownfield sites will take priority, no sites as yet have been identified, so there could be an impact on the countryside and Green Belt.

4.64. Although GENERAL POLICY 1 would ensure that there is a formal pre-application consultation process on any major sites planned for development, Policy H3 is strengthened by ensuring local people are informed and given an opportunity to consult at an early stage, prior to the development of a formal planning application.

**POLICY AIM:** *to provide small scale affordable housing developments on rural exception sites for those with a local connection as identified through specific local needs surveys and through the Home Choice Plus scheme in consultation with the community*

## **POLICY H3: AFFORDABLE HOUSING ON RURAL EXCEPTION SITES IN THE GREEN BELT**

**When suitable rural exception sites have been identified for small scale affordable housing through cooperation with the local community, land owners, Alvechurch Parish Council and Bromsgrove District Council (see Community Action 1); proposals for small-scale affordable housing developments on the identified sites will be supported in principle, subject to the following criteria:**

- a. Ensuring that local people are informed and given an opportunity for consultation at an early stage, prior to the development of a formal planning application
- b. Redevelopment of brownfield land will take priority as sites are identified
- c. Proposals that cannot easily access local services and public transport will not be supported unless sufficient infrastructure can be provided to make the scheme sustainable
- d. They comprise no more dwellings than a local need survey identifies
- e. The proposal contributes to meeting the affordable housing needs of people with a very local connection as identified by BDC and the preferred housing association
- f. The development is appropriate in terms of its scale, character and location to the settlement to which it is associated and complies with the design principles outlined in the Alvechurch Parish Design Statement
- g. The development should be a complete scheme identified through a local needs survey
- h. Development will be encouraged if it includes a proportion of well-designed dwellings that meet the needs of elderly people and those with disabilities

**Open market housing will only be supported where such development can be demonstrated to be essential to ensure delivery of affordable housing as part of the same development proposal that should comprise no more than 10 dwellings in total (unless a proven need dictates a larger number). The affordable homes should not be visibly distinguishable in build or character from any on-site market value homes that may be required for the viability of the development.**

## Background / Justification to policy H3

4.65. The community have expressed a desire for affordable housing for young people with local connections that cannot afford to buy a house in the parish of Alvechurch.

4.66. The 2011 national census revealed that the Neighbourhood Area has an ageing population. To ensure the sustainability of the area it was considered by a number of people at consultations that a good age range including young families and older people is necessary. Consequently affordable homes to house this age range will be required.

4.67. Any new housing development in the Neighbourhood Area will be limited because of the Green Belt policy constraint. There is no site of any real size left that is not subject to Green Belt policy and given that the reserved building plots set aside for future development have been or are in the process of being developed, no substantial site is available for further development post 2023.

4.68. Although policy APNP General Policy 1 ensures there is a formal pre-application consultation process on sites planned for development together with APNP Policy H3 this ensures that local people are informed and given an opportunity to consult at an early stage on rural site locations.

## 4.69. Housing Design Principles

### 4.70. Introduction

4.71. Policies in Alvechurch Parish will encourage the provision of new housing in order to meet Local District Plan targets. Necessary infrastructure will need to accompany future housing, be sited in the most suitable and sustainable location, and developed in a sustainable manner through quality design.

4.72. Development is encouraged to improve movement into, and around the Alvechurch Village centre, by promoting cycling, walking and ease of access for those with restricted mobility. See CWIS cycling and walking strategy <sup>11</sup> on pages 76 to 78 of the Evidence Base Summary document, and the footnote below.

4.73. Proposals should also encourage development that strengthens sport, recreation, play and culture, by providing well-designed housing that protects and enhances the parish's heritage and environment.

4.74. As mentioned in "key Issues for the future" (on page 17), quality design plays a significant role in our policies leading to a better Alvechurch Parish. At public consultations, the community preference shown was for housing to be limited to developments with a majority of properties being for one, two and three bedrooms aimed especially for those accessing housing for the first time and for some properties for elderly residents wishing to downsize.

4.75. Alvechurch is a beautiful parish with many fine buildings. The Alvechurch Village community has strong views that the NP should ensure future development reflects its heritage and sense of place, and that any new development in the wider parish area should also acknowledge the character of the countryside, and show sensitivity to its environment. The Parish Council acknowledges the duty this puts upon it, and the expectation of quality and sustainability in any new build.

4.76. Previous consultations with developers have revealed that there is joint benefit if the NP sets out community expectations. Policy APNP H4 establishes a framework to guide all future housing developments. Individual site design and access statements will be required from every developer proposing to build any major development of 10 or more houses on sites located within this Neighbourhood Plan Area. Policy APNP H4 on Housing Design Principles is the foundation upon which these should be based.

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<sup>11</sup> [Cycling and walking investment strategy - GOV.UK](#)

4.77. The Government attaches great importance to the design of the built environment, as stated in the NPPF: *“Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”* (NPPF, paragraph 56) ; *“It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.”* (NPPF, paragraph 57)

4.78. Some of the newer housing from the 1960’s onward in Alvechurch is architecturally undistinguished and not in keeping with the rural locality and does not reflect the character of many villages in the surrounding area. For future development proposals, there is an opportunity to enhance the built environment and improve the quality of the design aesthetic within Alvechurch Village.

4.79. The APNP will use the role of design to deliver sustainable development and improve the quality of place for our communities. Importantly for neighbourhood planning, design also inspires and encourages people to participate in the planning process.

4.80. The Design Council believes that *“good design is fundamental to successful neighbourhood planning. Good design makes neighbourhoods more sustainable, adaptable and resilient and creates places where people want to live and work”*.



Fig 20. Example of sympathetic rural design

4.81. The Alvechurch Parish Design Statement (APDS) and the latest Worcestershire County Council (AHERA) documents provide detailed evidence that should be used by developers when they consider the design details for their proposals. Evidence of their use will be encouraged at planning application stage (further information on these resources can be found in topic 2: Heritage, Design and the Natural Environment).

**POLICY AIM:** to provide housing designed to be special, even ambitious while having regard to the surrounds

## POLICY H4: HOUSING DESIGN PRINCIPLES

- 1** Development proposals within the Neighbourhood Area that demonstrates high quality design will be encouraged. This means responding to and integrating with local surroundings and landscape context as well as the existing built environment. Proposals must also be in accordance with BDP Policy 19 ‘High Quality Design’.
- 2** Proposals should respond to and reflect the identity of the local setting by way of height, scale, spacing, layout, design and materials of building except where the surrounding local built character would be appropriate for more innovative buildings.
- 3** Proposals are encouraged to use locally sourced indigenous materials (including Alvechurch red brick, where appropriate), and incorporate suitable local detailing regarding the local building style to enhance the sense of place as indicated in the Alvechurch Parish Design Statement (APDS) and the Alvechurch Historic Environment Resource Assessment (AHERA).
- 4** Development, which proposes innovative design, will be expected to respect and take account of local heritage and character.
- 5** Development that fails to take the opportunities available for enhancing the local character and quality of the area and the way it functions will not be supported.
- 6** On schemes of more than 10 dwellings large areas of uniform type and size will not be acceptable.



**7 Planning proposals for new housing development will be expected to consider and take account of the following:**

- I. They respect the traditional character of a place and take into consideration its history, geology, transportation links and natural landscape
- II. They respect prevailing size, layout and access of existing nearby properties and development pattern that is in keeping with the Alvechurch rural locality.
- III. They respect and follow established building lines and street scene arrangements for front gardens; walls; railings; hedges and gateways, as suggested in the Alvechurch Parish Design Statement (APDS)
- IV. Garden sizes should reflect local character and be proportionate to meet the amenity requirements commensurate to the size of dwelling and number of bedrooms
- V. Driveways and entrances that reflect the surrounding street scene and respect local character
- VI. New housing development is designed to meet the requirements of 'Secured by Design'<sup>12</sup> to minimise the likelihood of crime and/or fear of crime
- VII. New housing developments will be encouraged to achieve the highest standard of Building for Life<sup>13</sup> to secure better design in the neighbourhood area
- VIII. Extensions to properties should be of a subordinate scale to the original building
- IX. Any necessary street and external lighting is positioned and directed to minimise adverse impact on amenity of neighbouring residents and should comply with the current guidelines recommended by 'The Institution of Lighting Professionals' (ILP)<sup>14</sup>, (see background information in justification below).

**8 Where a Design and Access Statement is required it should give a clear vision of the type of place that could be created by considering the local character and needs of the Neighbourhood Area and showing how the development will:**

- a. Use local building materials that are wherever possible, indigenous, have a natural harmony with the landscape, and which are selected with care to ensure they complement existing surrounding dwellings
- b. Promote, where feasible, waste water management both in respect of sustainable drainage and water capture (for use in activities such as gardening or vehicle washing)
- c. Maximise the use of renewable energy opportunities offered by a particular site
- d. Where feasible installing solar panels on new build and retrofitting renewable energy solutions to existing developments and structures
- e. Reducing the risk of fuel poverty by improving thermal efficiency
- f. Integrate new homes into the existing built environment and design a pedestrian and cycle friendly neighbourhood
- g. Provide access to local facilities and public transport links via convenient, direct paths with dropped kerbs suitable for children's pushchairs, wheelchair users, walking with a stick or walking frame, or using a mobility scooter
- h. Design streets in a way that encourages low vehicle speeds and allows them to function as shared spaces where appropriate

CONT.

<sup>12</sup> The official UK Police flagship initiative combining the principles of 'designing out crime' with physical security

<sup>13</sup> Building for Life 12 (BFL 12) is the industry standard for the design of new housing developments.

<sup>14</sup> [The Institution of Lighting Professionals' \(ILP\)](#)

- i. Design streets that accommodate some on-street parking to prevent anti-social parking on footways, and allow for trees and planting to reduce the visual impact of parked vehicles whilst having regard for 'secured by design' principles
- j. Provide garages set back from the street frontage and designed to reflect the architectural style of the house they serve
- k. Where appropriate provide parking spaces located in between houses (rather than in front) so that vehicles do not dominate the street scene
- l. Provide appropriate areas of children's play space and green landscaping.

**9 The WCC ALVECHURCH HISTORIC ENVIRONMENT RESOURCE ASSESSMENT and The ALVECHURCH PARISH DESIGN STATEMENT documents should be used in conjunction with policy APNP Policy H4 to ensure the character and quality of the Parish's historic environment is fully appreciated. They are important Neighbourhood Plan documents that should be used by developers as design guidance when they are considering how to design development for the Neighbourhood Area. Evidence of their use will be expected at planning application stage.**

## Background/Justification

4.82. It is important to achieve a balance of allowing new design and innovation whilst protecting the existing distinctive character of the surrounding built environment and the parish's rural landscape. We already have a rich variety of architectural styles in the Neighbourhood Area and, apart from one block of maisonette affordable housing and a couple of three storeys early 19th century listed farm buildings; the majority of buildings comprise two storey residential properties.

4.83. Our policies are not designed to unduly restrict development. Instead they challenge developers to deliver innovative development of high quality design that responds to the surroundings as stated in the AHERA document and the APDS, and is appropriate for future parish residents. The APDS and the AHERA set out clear design expectations for the neighbourhood area. APNP Policy H4 encourages developers to use these design guides when designing schemes for the neighbourhood area, as the documents will give greater certainty to developers about the sort of design that is likely to be acceptable.

4.84. In response to the recently published Housing White Paper (Feb 2017), the use of the widely accepted design standard 'Building for Life' will be encouraged when designing new housing developments to secure better design in the neighbourhood area.<sup>15</sup> (Fixing our broken housing market, White Paper published Feb 2017, page 30, and paragraph 1.46). NPPF paragraph 125 states: *"By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation"*.

4.85. Alvechurch is a rural parish and many residents at consultations expressed a desire to maintain the rural nature of its main village and smaller settlements and, where possible, prevent light pollution and increasing urbanisation. Information for lighting in rural setting can be found on the website of The Institution of Lighting Professionals (ILP)<sup>16</sup> *"Man's invention of artificial light has done much to safeguard and enhance our night-time environment but, if not properly controlled, obtrusive light (sometimes referred to as light pollution) can present serious physiological and ecological problems"* (ILP).

4.86. Policy APNP H4 will be used in conjunction with other policies in the Neighbourhood Plan when assessing proposals for housing development. In particular, development proposals will also need to be in accordance with policies set out in Topic 2 'Heritage, Design and the Natural Environment', and any other relevant planning policies.

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<sup>15</sup> <https://www.gov.uk/government/publications/fixing-our-broken-housing-market>

<sup>16</sup> [The Institution of Lighting Professionals \(ILP\)](#)

## Sustainable development through design

### 4.87. Introduction



4.88. Sustainability of an area should mean planning positively for the future that makes things better for residents and visitors alike, it is to encourage improvement and not add to any existing deficiencies. To achieve this, policies within the APNP will encourage development that not only meets District Plan targets but ensures the necessary infrastructure and community facilities are provided to support it. This ensures that decisions taken today do not have unreasonably negative effects on our future generations.

**POLICY AIM:** To encourage sustainable development that improves and enhances the existing way of life, and provides for a better future in the parish and, promotes zero carbon methods over the life time of the APNP

## POLICY H5: SUSTAINABLE DEVELOPMENT THROUGH DESIGN

- A. Developers will be encouraged to demonstrate how their proposal will achieve a high level of environmental sustainability in terms of design and construction. Proposals of 10 or more dwellings will be required to submit a 'Sustainability Statement' at planning application stage.
- B. Proposals should identify the risk of surface water flooding specifically, and if necessary developing a surface water management plan.
- C. New developments should minimise water use and incorporate waste water management and Sustainable Drainage Schemes (SuDS)<sup>17</sup>.
- D. Low or zero carbon emission schemes will be encouraged.
- E. To limit visual impact and support the diversion of food and water waste the following items should also be encouraged early in the design process and integrated into the overall scheme sympathetically:
  - Bin stores and recycling facilities
  - Cycle store
  - Rainwater storage butts and compost bins to encourage green lifestyles
  - Compost bin
  - Flues and ventilation ducts must be minimised through good design
- F. External lighting - inappropriate and badly designed external lighting of development that masks views of the night sky or negatively impacts on sites of biodiversity will be discouraged. Light glare and spillage must be minimised through good design.

<sup>17</sup> <http://www.bgs.ac.uk/suds/>

## Background / Justification

4.89. Sustainable design is covered by national standards. In Alvechurch Parish we want to encourage developers to go beyond the national standard and build exemplary sustainable homes and other types of buildings. Building new homes that meet the design standards of Lifetime Homes will be supported, see the standards website is provided for more clarity on this matter. [link to the Lifetime Homes website](#)

4.90. On major sites, a sustainability statement should be used to outline the proposed strategy for meeting energy and sustainability requirements as set out by Bromsgrove District Council, including:

- a. Proposals that reflect high quality development through improving design quality for its rural setting
- b. Minimising waste;
- c. Enhance or increase biodiversity
- d. Reduce the risk of flooding where necessary
- e. Pollution and air quality
- f. Building lifetime homes

4.91. Energy use in buildings accounts for almost half of all CO2 emissions. There is an opportunity for new dwellings to be designed to reduce energy use and, where possible, generate some energy from renewable sources. There is also an opportunity to improve the sustainability of the parish as a whole, not just in terms of energy use but also in the broader sense - including things such as walking and cycling.

4.92. When commenting on development proposals the Parish Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. The Parish Council will work proactively with applicants to find joint solutions to secure development that improves the economic, social and environmental sustainability of the parish area.

## A MIX OF HOUSING

### Introduction to Policy H6

4.93. There was negative feedback expressed in community consultations about the number of “executive” or large houses continually being built in our area over the years. These have been to the detriment of delivering a mix of housing that is affordable to the local community.

4.94. The Bromsgrove’s District Plan highlights this point in paragraph 8.67; *“However, it is important to note that Bromsgrove has a high proportion of large 4 and 5 bedroom homes. In order to help redress the balance between large homes currently available and the ageing population there needs to be a significant change in building patterns across the District”* and Policy BDP7.1 Housing Mix and Density requires: *“Proposals for housing must take account of identified housing needs in terms of the size and type of dwellings. To ensure mixed and vibrant communities are created development proposals need to focus on delivering 2 and 3 bedroom properties. On schemes of 10 or more dwellings it is accepted that a wider mix of dwelling types may be required”*.

4.95. Our prescription for housing mix is informed by application of the Bromsgrove District Plan policies to our Parish housing situation and what our parishioners have said in our consultation sessions. We will allow at the time of a review of our NP a change in the mix if future conditions in the parish point to it. We do not take the view that leaving the market to determine the mix necessarily ensures the desired outcome, as evidenced by the excess of larger housing types proposed or built in the district in recent years.

4.96. APNP Policy H6 will help to ensure that future housing development delivers a better balanced mix of property types, sizes and tenures to meet the housing needs specific to Alvechurch Parish in the future, considering market requirements at that time.

4.97. **POLICY AIM:** *To encourage sustainable development of a more suitable mix of property and tenures as supported by the community including an element of affordable housing. The policy aims to help those accessing the market for the first time and to also provide housing for older residents wishing to downsize from their current homes and free up larger houses for growing families.*

## **POLICY H6: PROVIDING A MIX OF HOUSING TYPES AND SIZES**

1. **Developments of 10 or more dwellings shall provide a mix of house types and garden space that is proportionate to the dwelling. New housing shall be well designed in scale, form and character to meet the needs of current and future households in the Neighbourhood Area.**
2. **Development of 11 or more dwellings will be required to include an element of affordable housing in accordance with the NPPF and the adopted BDP 2011-2030 Policy BDP8 Affordable Housing where viable. Affordable dwellings should not be visibly distinguishable in build or character from any on-site market value dwelling.**
3. **Proposals for developments of 10 or more dwellings should seek to achieve the following mix unless viability, market requirements at that time or other material considerations show a robust justification for a different mix:**
  - a. **Overall up to 10% of new dwellings should aim to have 1 bedroom**
  - b. **40% should aim to have 2 bedrooms with an element of ground floor single level dwellings to meet the needs of the elderly and people with disabilities**
  - c. **40% should aim to have 3 bedrooms**
  - d. **Up to 10% should aim to have 4 or more bedrooms.**
4. **The mix will be informed by the latest Strategic Housing Market Assessment and / or local documents and evidence, for example, Neighbourhood Plans, Parish Surveys, Parish Plans, Local Authority plans and developers' assessments.**

### **Background / Justification**

4.98. The Neighbourhood Area already has a higher than average proportion of larger properties, which will tend to limit the opportunities for downsizing (see the introductory paragraphs of this Topic 1). There was also a general consensus for smaller housing for those accessing a home for the first time and for elderly residents wishing to downsize.

4.99. The community shows a desire for smaller, more reasonably priced homes. In 2012, "the lower quartile house price to earnings ratio was 8.89 in Bromsgrove District; significantly greater than the national ratio at 6.45 and the Worcestershire ratio of 7.43. It is clear that Bromsgrove is far in excess of the national ratio and it highlights a significant constraint on peoples' ability to access housing in Bromsgrove District, with house price increases far outstripping earnings increases".<sup>18</sup>

<sup>18</sup> [Amion Housing Needs Assessment – Report in response to Inspector's Interim Conclusions -29th August 2014](#)



4.100. The ‘Amion Housing Needs Assessment – Report in response to Inspector’s Interim Conclusions, 29th August 2014’, makes it clear that in Bromsgrove house price increases far outstrip earning increases. It is evident that with an average (median) gross annual income of £23,364<sup>19</sup>, many young residents wanting to buy a property in Alvechurch on their own will struggle to access anything other than affordable rented (2 bed dwelling) and social rented properties without considerable deposits.

Affordability Benchmark	Annual Income required in Bromsgrove
To Purchase LQ house (10% deposit)	£38,375
To Privately Rent LQ 2 bed dwelling (25% income)	£27,034
Privately Rent 3 bed dwelling (25% income)	£33,142
To access a 2 bed Affordable Rent (80% of market value) dwelling (25% income)	£21,627
To access a 3 bed Affordable Rent (80% of market value) dwelling (25% income)	£26,513
To access a Social Rent dwelling (25% income)	£16,628

**Table 3.1: Affordability benchmarks – Annual Income required**

Fig 21. *Affordability benchmarks-annual income required*

4.101. Figure 21 above is from the Amion Housing Needs Assessment – Report in response to Inspector’s Interim Conclusions -29th August 2014 see footnote 18 on page 41 for details of the report.

4.102. The adopted Bromsgrove District Plan identifies a need for two and three bed roomed properties in the district. The APNP seeks, based on the Worcestershire Strategic Housing Market Assessment 2012 and the Amion Housing Needs Assessment report 2014, a proportion of smaller housing for first-time occupiers and single story dwellings with some outdoor space for older residents. Throughout consultations, affordable housing was one of the key issues identified by local residents for the parish, with the view that development should consist of an element of small and affordable homes.

4.103. **The Worcestershire Strategic Market Housing Assessment 2012/13 (SMHA 2012/13) in the penultimate paragraph on page 106 states:** *“The demographic trends in household formation, particularly a large proportion of one person households, are one factor that will have an impact on the types and sizes of properties required (other factors will include income and availability of loan capital). This coupled with the expectations and aspirations of households means getting the right mix of housing is of great importance. The 2011 Census data has allowed us to explore the latest changes of demographics very closely and compare to past trends”.*

4.104. *Considering the changing nature of household composition implied under these two ‘Preferred Scenarios’ illustrates that the County, and each of the component Local Authorities, are likely to see a continued growth in single person and couple households, with a relatively small increase in family households.*<sup>20</sup>

**At community presentations the option shown below was well supported:**

4.105. **Consultation questionnaire Option:**

4.106. **Where should future housing be? Additional housing limited to small inexpensive houses if Green Belt has to be used?**

<sup>19</sup> [http://s3-eu-west-1.amazonaws.com/pub.housing.org.uk/Home\\_Truths\\_2017\\_West\\_Midlands.pdf](http://s3-eu-west-1.amazonaws.com/pub.housing.org.uk/Home_Truths_2017_West_Midlands.pdf)

<sup>20</sup> [February 2012\\_gva.co.uk](http://www.gva.co.uk) page 171.

4.107. From those community consultations: the results for the above option showed 67% agreed and 22% were against, 11 % neither agreed nor disagreed. APNP Policy H6 conforms to higher authority policies by encouraging future housing development of a suitable mix of dwellings that will meet the needs of the Alvechurch Parish community as a whole. APNP H6 will help to deliver more small and medium houses in the area – houses that families and younger people want and could afford, and some for our elderly residents as the community mentioned to members of the Steering group at several community consultations. Several participants at the Baptist Church sessions stressed “the need for more housing for the elderly”.

4.108. **The 2012 Worcestershire Strategic Housing Market Assessment (SHMA)** identifies that the proportion of older person households (those over the current working age) is forecast to grow from 21.4% to around 33% of the total population. This analysis suggests that there will be high demand for smaller properties suitable for meeting the needs of older person households.

4.109. Delivering a wide choice of homes by type and of good quality is essential to support sustainable mixed and inclusive communities. In Alvechurch this will underpin a well-balanced population that is vital to the ongoing viability of local services and the prosperity of the parish, particularly in light of the community’s increasingly ageing population.

4.110. If any development opportunities should arise, evidence from the Worcestershire Strategic Housing Market Assessment, community consultations and the Amion Housing Needs Assessment – Report in response to Inspector’s Interim Conclusions , 29th August 2014 support the view that accommodation should be one or a combination of the following smaller types:

- a. **Affordable housing for rental or shared ownership only by those with a local connection**
- b. **Properties aimed at those elderly residents downsizing, young families or first-time buyers, with an emphasis on smaller houses of the two to three bedroom variety**
- c. **Properties built to the new technical standards, with a proportion of ground floor single-storey dwellings located close to key facilities suitable for more elderly residents.**

4.111. There is a requirement in the adopted Bromsgrove District Plan to provide up to 40% affordable units on Greenfield sites or any site accommodating 200 or more dwellings. The District Council will seek to negotiate the mix of affordable housing tenures on individual schemes taking into account local needs, the housing mix in the local area and the impact on viability (Policy BDP8 Affordable Housing). Affordable units will be provided for those individuals in housing need as agreed by the BDC Choice based Letting Scheme or updated evidence.

4.112. Comments received from local residents at various consultations throughout 2012-2014 and in the parish questionnaire, included concerns that housing should be for local people. Those considered priority included first time buyers, young families, the disabled, and provision made to include some housing suited to older people.

## 4.113. **New housing, improved services and facilities**

### 4.114. **Introduction**



4.115. *Map of Indoor community facilities & parking*

[Double click on the map or Ctrl click here for a larger version of the map](#)

4.116. There are two schools in the parish: Crown Meadow First School and Nursery, and Alvechurch Church of England Middle School.

4.117. In 2017, school places for local children have not always been available, with some having to take places outside of the parish due to lack of places. As the parish population grows over the NP period and beyond, it is vital that our schools are able to offer sufficient places to cater for that growth. There may be circumstances leading to a need for building expansion on-site or even relocation to be considered to meet the required growth in pupil numbers.

4.118. It is understood by the community that population growth resulting from future major development post-2023, will put even more pressure on education, medical care and allied services already near to capacity in 2017. The Parish Council through the NP will work with the relevant health and education bodies and local authorities to mitigate any such shortfalls. This will include the use of developer contributions through Section 106 and CIL (if a CIL policy has been implemented and adopted by Bromsgrove District Council at that time).

#### 4.119. A NEW APPROACH TO DEVELOPER CONTRIBUTIONS

4.120. [A REPORT BY THE CIL REVIEW TEAM SUBMITTED OCTOBER 2016](#) (website link) (SUBMITTED OCTOBER 2016): "Our report also seeks to make the delivery of infrastructure at a neighbourhood level more certain and better directed to the items of infrastructure that really matter. By re-affirming the role of Section 106 contributions, we enhance the opportunity for local people to engage with developers over the community benefits that might be gained from development when the proposals are being devised".

4.121. The community has shown a wish to retain the small number of retail premises in Alvechurch Village centre yet desires to improve the look and type of those establishments. It is hoped Alvechurch's centre will be improved through the Parish Council working with developers and the local authorities, using good design principles and policies to enhance the vitality and viability of Alvechurch Village.

4.122.

**POLICY AIM:** To encourage safe, accessible, adequate and sustainable community services and facilities especially around Alvechurch Village centre to meet the future needs of parish residents. Developers will be encouraged to lessen any negative impact on health or educational services and facilities.

## POLICY H7: NEW HOUSING, IMPROVED SERVICES AND FACILITIES

- A. Where the need is identified, proposals for housing developments, that make provision for new or improved services and facilities, will be considered favourably.
- B. Contributions will be required as appropriate from each developer to fund any identified additional need for healthcare, education, leisure facilities, green infrastructure, highways and transportation. The upgraded, or additional, local facilities or services to be considered include:
  - a. Middle School expansion
  - b. Primary School expansion
  - c. Health care measures
  - d. Village centre traffic management improvements and related public realm upgrades
  - e. Support for public transport services
  - f. Additional car parking capacity
  - g. Allotment provision
  - h. More recreational public open space
  - i. Conservation of the natural environment, and
  - j. The creation and maintenance of riverside, canal-side and countryside public footpaths.

(No priority is implied by this list, which will vary over time)

CONT.

- C. Measures to mitigate the adverse impact of the development will be provided and /or secured by planning obligations where remedying these impacts is necessary to make development acceptable in planning terms; where the remedy is directly related to the development and where it is fairly and reasonably related in scale and kind to the development. Such obligations should also be in accordance with Policy BDP 6, Infrastructure Provision.
- D. Development that would have an unacceptable impact will not be supported.

## Background / Justification

4.123. As mentioned, community have concern regarding negative effects extra housing could have on school places, medical services and added to an increase in traffic related issues.

4.124. Through discussions with the schools and medical centre there is evidence of current pressure on education and health facilities; this will increase as upcoming major housing developments are built and occupied. In addition, as explained in the commentary on policies for the local economy there is a wish to locally retain and create more jobs. This means making improvements to better support local businesses, including attracting more visitors and tourists. Adding the listed requirements will support both parts of the above objective.

- Proposals for new housing in Alvechurch must ensure that the new homes are well integrated with the existing village. This integration could be achieved by a number of means including:
- Better provision of high speed broadband and improvements to electronic connectivity for the outlying areas of the parish.
- Encouraging joined up and integrated transport systems through cooperation with Worcestershire County Council and service providers. This should include safe, direct routes for pedestrians and cyclists to the rest of the village and its centre in particular.
- Encouraging new facilities that can be shared with the whole community including the smaller settlements e.g. improved open spaces or better retail, sporting and social outlets connecting new and old together via sustainable transport methods, extensions provided to existing schools and medical facilities or the provision of new schools or new medical centres.

4.125. The NP cannot propose land-use policies on the Green Belt at this time to resolve these important local issues but it does recognise the urgent need to support the schools and plan for their future. Alvechurch Parish Council will begin this consultation at the earliest possible opportunity with a view to formally advancing proposals relating to healthcare and educational use of land in the village, particularly land in the vicinity of the Birmingham Road, to the appropriate authorities as additions to the APNP.

4.126. Not all of these improvements can be addressed by land use policy. However the NP proposes to achieve some if not all of these aspirations through discussions and cooperation between Alvechurch Parish Council, local authorities, education and healthcare providers, and the applicant at pre-application stage.

4.127. This must be carried out through projects or '**Community Actions**'. For the Housing Topic, these non-statutory Community Actions follow in this next section and on the following page.

4.128. **A typical community comment summed this up:**

4.129. ***"Extra housing would put a strain on health and education facilities of the parish"***.

## NON STATUTORY COMMUNITY ACTIONS FOR THE HOUSING TOPIC

### Community Projects identified in the Draft Plan

Delivering the vision and key aims – Community Actions

Through the process of developing the Neighbourhood Plan some areas of community concerns cannot be covered by planning policy however as part of the Neighbourhood Planning process they can become 'Community Actions'/projects supported by Alvechurch Parish Council. These proposals can also be delivered in conjunction with other local organisations. Eight Community Actions have been identified as part of the preparation of this Neighbourhood Plan, these are described at the end of each Topic Policy section to which they relate.

A list of community priorities has been created through the consultation process and the development of the draft policies. These cannot be addressed through land use policies nor can they be delivered by the Neighbourhood Plan Group. Local Organisations are invited to get involved with delivering these Projects. These Community Actions are found after the policy topic sections to which they relate.

**COMMUNITY ACTION 1**, AIM: *To bring community views and wishes to Bromsgrove District council if particular local needs arise for small scale affordable housing in rural areas.*

### COMMUNITY ACTION 1: RURAL EXCEPTION SITES

The Parish Council will work positively and proactively with the local community and Bromsgrove District Council to identify suitable rural exception sites for small-scale affordable housing development when there is a proven local need.

If sites are identified through community and local authority cooperation in the future, the requirements for an assessment of environmental impacts would need to be determined to consider the impact on biodiversity and historic environment

**COMMUNITY ACTION 2**, AIM: *To secure funding to maintain, enhance and add the essential infrastructure and community facilities to meet the needs of parish residents, support local businesses, and the needs of those from the wider catchment area dependent on Alvechurch's Village's infrastructure and facilities*

### COMMUNITY ACTION 2: PLANNING FUTURE EDUCATION

The Parish Council will work with the associated trust/academy boards and the local authority to ensure that there are sufficient school places, and that admission policies are such that the schools will accommodate:

- a. Pupils from within the NP area as a priority



b. Those who wish to attend but live outside the NP areas that are either already within the system or have siblings already in the system.



Fig 22. *The new school facade*

- Creating a sustainable well designed community
- Encouraging more play and open spaces
- Protection and enhancement of important community facilities; like the school and medical services; infrastructure; environmental and historical assets
- The parish will become an area that is attractive for people to live in, work in and visit for current and future generations

## TOPIC 2- POLICES FOR HERITAGE, DESIGN AND THE NATURAL ENVIRONMENT

### Introduction:

#### KEY AIMS ASSOCIATED WITH POLICES IN TOPIC 2:

KEY AIM 1: KEY AIM 4: KEY AIM 6: KEY AIM 7: KEY AIM 8:

4.130. The full list of 'Key Aims' and their contents can be found on page 20.



4.131. People associated with Alvechurch Parish are privileged to enjoy a quality of life that mixes the benefits of pleasant villages and hamlets surrounded by attractive countryside, rich in native animal and plant life. This mix is enhanced by a wide range of historic and characterful buildings and monuments.

*Fig 23. Old houses Red Lion Street*

4.132. The parish also has a Conservation Area, the Bishop's Palace and Alvechurch (Allchurch) Deer Park as well as Bordesley Park, which was associated with the close-by former Bordesley Abbey. They include

ancient green amenity spaces and farmland.

4.133. The parish is well served by traditional farmsteads, which contribute to local distinctiveness and the varied character of our parish's countryside by reflecting not only local geology and building traditions but also varied farming practices. The future of the majority of historic farm buildings however is now increasingly dependent on diversification and new roles outside mainstream agricultural use. The popularity of the area and its setting has brought with it the threat of over-development. If it's not managed correctly, this could lead to the loss of our existing heritage, amenity and character.

4.134. From our consultation work there is overwhelming support for keeping the countryside wildlife friendly, with a high proportion "strongly agreeing" that access to the countryside should be improved, and that the use of green technology and energy conservation should be encouraged and increased within the parish. Within the context of enabling sustainable growth, the NP seeks to preserve the environment of the parish and Alvechurch Village (including its Conservation Area).

4.135. Development will be directed away from environmental resources of value and will be expected to minimise its impact on landscape, biodiversity and heritage. The issue of flooding will have to be appropriately mitigated by development. The area surrounding Alvechurch is mainly agricultural land that plays a contributory role in the rearing, growing and cultivation of food, both for the country's food supplies and for the economy.

4.136. This will be achieved by:

- Protecting agricultural land used in the process of food production;
- Protecting and maintaining existing green spaces of value to the community;
- Protecting natural habitats;
- Protecting the existing quality of landscape and encourage local biodiversity;
- Maintaining the village Conservation Area, listed buildings and all other non-designated heritage assets

- Minimising the risk of fluvial and surface water flooding

4.137. As well as planning for the future it is important to consider how the area's historic past and the natural environment defines Alvechurch. By including heritage and the natural environment in our plan, the community can really get to know the place in which they live. They can ensure it keeps its vitality, sense of identity, individuality and distinctiveness. Through this APNP we can choose the best ways for it to develop and grow. We can pass it on as a place to be proud of.

## Heritage

4.138. Alvechurch Village and Withybed Green were privileged to be one of only two settlements in Worcestershire to have a detailed Historic Environment Resource Assessments (AHERA). Two Historic Environment Action Plans (HEAPs) for Alvechurch Village and Withybed Green (ALV\_A1) and Rowney Green, Bordesley and Alvechurch Park (ALV\_A3) have been produced by WCC for Alvechurch Parish.

4.139. These documents together with the APDS are useful resources to be used by applicants when submitting their proposals. HEAP documents identify risks and deficiencies affecting the sustainability of all aspects that contribute towards a particular area or environment, promoting the character and special qualities of the environment in the context of managing change across the landscape, concentrating on Alvechurch Village area and its immediate environs.

## The Alvechurch Historic Environment Resource Assessment (AHERA)

4.140. The aim of the AHERA is "to ensure that the character and quality of Alvechurch Village and its immediate historic environment is fully appreciated in terms of its townscape, landscapes, historic buildings, urban form, and archaeology. Furthermore, that it is capitalised upon to its best advantage through locally responsive conservation and development initiatives, which recognise them as amongst the area's most significant assets." (AHERA, page 3)

4.141. There are 37 distinctive character areas or historic local environments identified around Alvechurch Village in the WCC's AHERA document that should be given equal consideration to aid design in addition to the use of the APDS, which is a parish wide design statement. Each of the character area statements describe the historic urban morphology, landscape context, built form, and inherited characteristics. The AHERA also includes over one-hundred historic buildings and archaeological monuments identified and recorded.

4.142. The NP recognises the historic environment is one of the important factors in making Alvechurch Parish unique and is a source of local identity and pride. It is therefore vitally important that this is reflected in our approach to the future management of our historic assets and that it is given sufficient weight in development decisions. Not all the parish's buildings or areas enjoy statutory protection and therefore consideration will be given to putting forward currently unlisted buildings for inclusion on the Statutory List

4.143. Design impacts on how people interact with places. Although design is only part of the planning process it can influence a range of economic, social and environmental objectives. New developments within Alvechurch Parish should seek to ensure through better design, that they have regard for not just for the short term but over the lifetime of this NP.

## The Alvechurch Village Conservation Area

4.144. The Conservation Area makes one of the most significant contributions to the character of Alvechurch as a whole. It still retains much of the original twelfth-century planned form. Alvechurch Parish council lists 46 buildings, and most of them are within the Conservation Area. Understanding the Conservation Area and the historic character of the parish will play a major role in designing new development. The AHERA document that was undertaken by WCC in 2014 provides a unique insight into the historic character of the parish area through a character assessment.

Developers will be expected to use this important resource together with the APDS when designing new development schemes in the NP area.

4.145. In addition, any development must make provision for the conservation and enhancement of the historic environment and the area's heritage assets. Development within or adjacent to the Conservation Area or a listed building must make sure it conserves and enhances these important areas and features of heritage value.



4.146. Development proposals in areas outside the Conservation Area will still need to take account of any historic features that may be present and design new development in a way that enhances and conserves the traditional local character of the neighbourhood area.

Fig 24. *The Alvechurch Village Conservation Area*

For more information and a clearer map [click here](#)

## History of the parish including the Conservation Area

4.147. Alvechurch means the church of the Lady Aelfgyth, possibly a relative of King Athelstan. King Offa gave the land forming the parish to the local church in the late eighth century. There is little doubt that there was a church here in Saxon times because information about Alvechurch in the Domesday Book mentioned the presence of a priest. Nothing is known about Aelfgiva, the Saxon lady who is presumed to have founded the church and so given the village the name it has held for over a thousand years.

4.148. Alvechurch and Wast Hills were Domesday Manors, Weatheroak and Hopwood were medieval hamlets and there are sites of deserted medieval hamlets at Radford, Pyria, Forhill, Alcott, Bittell and Red Hill. For some distance the parish boundary follows the Dagnell Brook, the waters draining from Weatheroak Hill to the River Arrow and south to the River Sever. Not far away water drains to the River Cole and north to the River Trent.

4.149. The pattern of settlement and land use that was established in medieval times can be discerned in the landscape today. In the 12th century the Bishop of Worcester, who was Lord of the Manor, enclosed land across the side of Newbourne Hill to hunt deer and built a palace with a moat, gardens and fish ponds. Many bishops, down to the 16th century, lived here and conducted their offices from the palace.

4.150. In 1239, perhaps because of the frequent presence of the bishop and his court, Alvechurch was granted a weekly market, an annual fair and later, the status of a borough. The annual fair was to be held "on the vigil, the day and the morrow of Saint Laurence", to which saint Alvechurch Parish Church is dedicated.

4.151. Alvechurch Park (written as Allchurch Park on the map by James Fish and held by Worcestershire County Council at the Hive) is still in existence with most of the boundary ditch and bank of the deer park pale still visible. It was, however, disparted before 1700 with enclosures changing the land use to farmland. The Bishop's Palace was pulled down in the 17th century but parts of the moat and a yew tree, which formerly stood in the palace grounds, still remain in the garden of the Moat House in Radford Road.

4.152. From the 19th century to the mid-20th Century there was a brick factory in the hamlet of Withybed on the edge of the village. Other local industries included nail and needle making. Dellow Cars were made in Alvechurch between 1949 and 1956.

## 4.153. BUILT HERITAGE AND CHARACTER

### 4.154. Introduction

4.155. The openness of the parish and its location set between Birmingham and Redditch and its countryside feel are greatly valued by all who live in Alvechurch Parish. Residents wish to preserve the rural look and feel of not only Alvechurch Village but also its outlying settlements.



Fig 25. In character rural housing at Mill Court in Alvechurch Village

4.156. Protection of traditional buildings of architectural and historic interest, and their settings, is paramount in preserving the traditional character of the neighbourhood area. Preservation and enhancement through management of sustainable growth is at the core of the APNP.

4.157. The historic core of Alvechurch Village, set within the Conservation Area, is considered a fundamental part of the APNP. The Conservation Area together with non-built, *non-designated* heritage assets of the parish, from park and field boundaries, marl pits, fishponds to canal bridges etc., seeks to maintain the parish historic and built distinctiveness. It also seeks to add to its quality by bringing well designed and planned integrity to future development in Alvechurch Parish



*POLICY AIM: to maintain, conserve and enhance the built heritage assets of the Parish and their settings.*

## **POLICY HDNE 1: BUILT HERITAGE AND LOCAL CHARACTER**

- 1. All development proposals for Alvechurch Parish (including alterations, extensions as well as a change of use) should continue to maintain, conserve and enhance the designated built heritage assets of the parish and their settings. Proposals for development that affect non-designated heritage assets will be considered taking account of the scale of any harm or loss and the significance of the heritage asset.**
- 2. The Neighbourhood Plan identifies the buildings and structures in the list in Appendix B as local heritage assets for the purpose of supporting BDP 20 of the Local Plan.**
- 3. Proposals that would contribute to the long term management of heritage assets will be encouraged.**
- 4. Proposals will be assessed against the following criteria:**
  - a. Development, including that within or adjacent to the Conservation Area, should respond to the distinctive local built character and its particular surroundings, and sensitively contribute to creating quality design appropriate to its rural setting.
  - b. Developments should be enhanced by landscaping and planting with existing trees and hedges preserved whenever possible and the avoidance of introducing inappropriate bunds or embankments;
  - c. Any new development adjacent to a heritage asset, listed building or building of historic interest and/or open space as defined in Section 3 should be sensitively designed to conserve and enhance the setting, form and character of the heritage asset, building and/or space;
  - d. The density of any new development should be in character with the local surrounding area, respect the semi-rural nature of the parish and be designed to give an impression of spaciousness with uniform houses and plots being avoided.
- 5. This policy requires developers to take full account the Alvechurch Historic Environment Resource Assessment, the Alvechurch Parish Design Statement and the Alvechurch Historic Environment Action Plan (HEAP) documents when preparing proposals for development. This awareness will need to be demonstrated at the planning application stage.**

### **Background / Justification**

4.158. The three documents mentioned in POLICY HDNE 1, will assist in bringing forward development that conforms to the wishes of the parish community.

4.159. The introduction to the HEAP explains the concept as strategic level documents that identify risks and deficiencies affecting the sustainability of all aspects that contribute towards a particular area or environment. HEAPs promote the character and special qualities of the environment in the context of managing change across the landscape. In order to achieve this, HEAPs assign priorities that can, through partnership working, deliver effective environmental conservation or enhancement through strategic planning policy and other frameworks that affect land management, conservation and enhancement.

4.160. In determining applications within the Conservation Area, or adjacent to listed buildings or any other heritage or environmental asset, the APNP will support planning applications that preserve, enhance or sustain the asset, its role in contributing to a sustainable community and the positive contribution new development can make

to local character when designed sympathetically and with quality materials as favoured by the community in their responses.

4.161. The APNP Policies turn some of the principles in the APDS and the AHERA documents into planning policy. Proposals will be assessed against the criteria in all APNP policies. In doing so, consideration of proposal's wider benefits, the views of the community and localised heritage and conservation issues, will be taken on board. Regard should also be taken of the communities indicated list of buildings and sites that are of archaeological and architectural significance, local distinctiveness, character and historic importance: as shown in Appendix B, References to the historic heritage of the parish can be viewed in the pdf documents on the "library page" of the [NP website](#)

4.162. The NP considers heritage assets that are valued by the local community will help to make sure that potential new development is properly integrated with what is already there and ensure that new development does not result in the loss of locally valued heritage assets. Addressing how best to integrate new development into an existing place can encourage people to be innovative. Taking into account what is special about a place often demonstrates that off-the-shelf design and construction might not be appropriate. It encourages sensitive development that respects historic buildings and their setting and place, thus invigorating an area, stimulating investment, entrepreneurship, tourism and employment.

4.163. Many of the buildings and features of historic interest in the parish that are valued by the local community are listed in APPENDIX B, Fig 35. TABLE OF NON-DESIGNATED HERITAGE ASSETS in the Evidence Base document. In parallel with this policy, the Parish Council proposes that these buildings and structures are considered by Bromsgrove District Council for inclusion in the Local List (See Community Action 3 at the end of this Topic section).

**4.164. However, the inclusion of any building or structure on the Local List is not necessary for the application of this policy. Clearly there may be a considerable elapse of time before this happens and it is made clear that policy HDNE1 applies whether or not the Council move to formally adopt the assets onto their Local List.**

## 4.165. DESIGN and LOCAL DISTINCTIVENESS

4.166. Section 1 of the APDS, and the character area statements in the AHERA document, establish the relationship between local settings, the built and natural environment that in turn creates the local distinctiveness of Alvechurch Parish.

4.167. Policy HDNE 2 expects new development to respond positively to the local distinctiveness of its environment and to demonstrate high quality design and a good standard of amenity space.

4.168. The National Planning Policy Framework (NPPF) guidance, states, "*it attaches great importance to the design and quality of the built environment and that it is important to plan positively for the achievement of high quality and inclusive design for all development*" (Paragraph 56).

4.169. The high quality of the special architectural and historic character and appearance of the NP area, especially within the Conservation Area, are described in the APDS and BDC's Conservation Area designation report; demonstrating why the area warrants special attention in managing proposals, to ensure they preserve or enhance its characteristics.

4.170. The picture below shows some of the local characteristics that create the parish's sense of distinctiveness. The parish features dispersed unique buildings, using detailing such as; Alvechurch Red bricks in different pattern bonds; prominent hedgerows and verges; stone or brick formed gateways; no kerbing to lanes; plenty of trees;

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windows and doors set within sandstone surrounds; steep and distinctive patterned embellished wooden gable ends setting off decorative ridge tiles and chimney stacks.



*Fig 26. Some Alvechurch buildings with local distinctive features*



**POLICY AIM:** To consider favourably development that retains the character and distinctiveness of the parish as mentioned in the APDS and the WCC's AHERA.

## **POLICY HDNE 2: LOCAL DISTINCTIVENESS**

- 1. Proposals for new development (including alterations, change of use and extensions) will be supported that are in keeping with their surroundings and preserve, promote and enhance the locally distinctive characteristics of the parish to maintain its historic identity and rural character, in conjunction with APNP Policy H4.**
- 2. Applicants will be expected to demonstrate how proposed development takes full account of the Alvechurch Parish Design Statement (refer to Policy HDNE 3), the Alvechurch Historic Environment Resource Assessment and the Alvechurch Historic Environment Action Plan (HEAP).**
- 3. Proposals will be assessed against the following criteria:**
  - a. New development within, or adjacent to, or directly affecting an area of public open space, should be sensitively designed to conserve and enhance the setting, form, character and sense of place.
  - b. Development proposals will be supported that enable the protection and enhancement of the key landscape features of the parish, including traditional orchards, farmland, woodlands, hedges, wetlands, wildlife corridors and other natural heritage sites.
  - c. Development that damages or results in the loss of ancient trees or trees of good arboricultural and amenity value will not normally be permitted. Proposals should be designed to retain ancient trees or trees of arboricultural and amenity value. Proposals should be accompanied by a tree survey that establishes the health and longevity of any affected trees.
  - d. All trees providing visual or acoustic screening from the M42, other noisy highways or business establishments throughout the Parish should be preserved wherever possible
  - e. Any development of the parish's traditional farmsteads should be informed by the Worcestershire Farmstead Assessment Framework.
- 4. Development proposals should seek to maintain and enhance local area distinctiveness through the built environment, in terms of buildings and public spaces and enhance the relationships and linkages between the built and natural environment.**

### **Background / Justification to Policy HDNE2**

4.171. The Neighbourhood Area has a rich historic built environment and landscape. A full description of this is set out in the APDS and other core evidenced documents (such as the AHERA) plus a catalogue of listed buildings and local assets (Appendix B, in the Evidence Base).

4.172. The positive features of a Neighbourhood Area contribute to the distinctive character and sense of identity. The most successful places tend to be those that are memorable with character that people can appreciate easily. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted. The current design codes for guidance relate to a broad range of issues, although criteria relating to character form a significant part of the assessment.

4.173. Historic farmsteads and their buildings contribute to local distinctiveness and the varied character of our countryside by reflecting local geology, building traditions and farming practices. Worcestershire County Council has been involved with a series of projects aimed at enhancing understanding of farmstead character and survival within Worcestershire, developing conservation guidance that can be used to inform the sustainable development or re-

development of historic farmsteads and their landscapes. The County Council have produced a **Farmstead Assessment Framework** to be used when considering the development or re-development of a traditional farmstead or farm building.

4.174. **The Farmstead Assessment Framework (FAF)**<sup>21</sup> and the work undertaken in producing it, forms a part in the evidence base for this NP. Any development of the parishes' traditional farmsteads should therefore be informed by the Worcestershire FAF. This framework is a key document to consider when formulating development proposals. Further information can be found on the WCC webpage here.

4.175. Community responses in this section gave overwhelming support for keeping the countryside as it is, with a high proportion "strongly agreeing", though some people confuse the environment and landscape character with the Green Belt.

**Amongst the community consultation comments, it was stated:**

4.176. **"We should ensure that any new housing developments are made to preserve existing hedgerows and mature trees and plant new trees"**

## THE ALVECHURCH PARISH DESIGN STATEMENT

### 4.177. Introduction

4.178. Following the formal adoption of this APNP the APDS (version 1.4) will replace the previous Alvechurch Village Design Statement SPD (version 1.3), and will form an integral part of the APNP when assessing planning applications located in the parish.

4.179. All those involved in the design of development in Alvechurch Parish are encouraged to use the design statement, which was produced through close collaboration between planners, highway officers, environment and landscape officers, urban designers, development officers, rural housing enablers and the local community.

**POLICY AIM:** *To make the Alvechurch Parish Design Statement an integral part of the Alvechurch Parish Neighbourhood Plan*

## POLICY HDNE 3: THE ALVECHURCH PARISH DESIGN STATEMENT (APDS)

**The character and setting of the Neighbourhood Area will be protected and enhanced through the positive use of the Alvechurch Parish Design Statement (August 2017). This Design Statement forms an integral part of the Alvechurch Parish Neighbourhood Plan. It will ensure any new development proposal complements and enhances the existing Alvechurch Village and all of the outlying parish settlements and parish areas. It also ensures new development adheres to its design guidelines and principles.**

**Development proposals will be expected to have regard to the Alvechurch Parish Design Statement. Evidence of its use will be encouraged at planning application stage.**

<sup>21</sup> [Worcestershire Farmstead Assessment Framework](#)





## Background / Justification

Fig 27. [The Alvechurch parish Design Statement](#)

4.180. In 2005 a large number of volunteers from the local community of Alvechurch Parish worked together with the Parish Council to make what was then the Alvechurch Village Design Statement (version 1.3). The Alvechurch Village Design Statement as it was first known was adopted by Bromsgrove District Council as a supplementary planning document to the Bromsgrove District Local Plan 2004

4.181. This design statement document has now been updated and renamed the Alvechurch Parish Design Statement (APDS) by the APNP Steering Group and forms a key design document to be used as part of this NP.

4.182. The community told us through the consultations that they had concerns relating to housing development, which overdevelops or is not in keeping with the Neighbourhood Area. Some comments said that house building in Alvechurch is spoiling the traditional aura of the village and its rural character. There is overwhelming support for protecting and conserving the countryside wildlife and encouraging an environmentally friendly parish.

4.183. All those involved in the design and development of rural housing are encouraged to use this design statement, produced through close collaboration between planners, highway officers, environment and landscape officers, urban designers, development officers and rural housing enablers.

4.184. Developments in rural areas like ours must be particularly sensitive to their surroundings and reflect relationships between buildings, spaces, the landscape and other features that are locally distinctive. This APDS will provide a useful design guide to enable developers to achieve suitable developments for our parish.

## 4.185. Landscape and open views

### 4.186. Introduction

4.187. Green areas within Alvechurch Village and the surrounding settlements are essential to the rural character of the parish area. Many walking groups including the Ramblers Association make use of Alvechurch's 28 miles or so of Public Rights of Ways (PROW), which are well maintained by the Alvechurch Village Society footpath volunteers who, in turn are supported by WCC Country Services.

4.188. Walkers, locally and from outside of the region, comment on the fine views from Alvechurch to the surrounding ridgeways and vice versa. The open gaps and views between the main areas of settlement and the smaller parish settlements are well cherished and valued, and make sure that one settlement does not 'run into' the next and each retain their own identity.

4.189. The layout of Alvechurch Village nestling in a valley surrounded by ridge lines and punctuated by open spaces was identified in the original village design statement as one of its most precious features. These open spaces connect the community with the landscape beyond. Green spaces are an essential feature, separating the elements of the main village, but also help unite them as a distinctive whole. It is the existence of these open spaces and views within the natural environment, which the local community placed at the top of their list of "likes" of the parish, and gives Alvechurch Parish its unique character.

Fig 28. Some of the parish landscape views



Dagnell end to Bordesley



Roberts corner to Hopwood



Station Rd south to Redditch



Station Rd toward Peck Wood Rowney Green



Redditch Rd (from School Lane) Newbourne Hill



View down Weatheroak Hill



From Pestilence Lane to Rowney Green

**POLICY AIM:** To encourage development that conserves the openness and existing character of the parish

## **POLICY HDNE 4: PROTECTING LANDSCAPE AND OPEN VIEWS**

New development should preferably be located on land of lesser environmental value and respect and seek to protect high-value agricultural land, important views, landmarks and local points of interest in the neighbourhood area, whilst having regard to the other policies in the Neighbourhood Plan. New development, where possible, should maximise opportunities to create new views.

Some of the views considered to be important are listed below.

Cont.

- A. From Clare and For-hills, Hopwood and its environs across open country towards Alvechurch & Rowney Green and vice versa.
- B. From Perry Croft/Grovely farm looking southwest towards Upper Bittell Reservoir and the Lickey escarpment and vice versa.
- C. From east of Alvechurch towards Newbourne Hill (Rowney Green) across Lye Meadows and vice versa.
- D. From Foxhill down across fields to Withybed Green and Alvechurch, and vice versa.
- E. From Dagnell End Road up to and across the old Bordesley Park and Bordesley Hall estate and vice versa.
- F. From the ridgeline along Rowney Green, eastward towards Icknield Street and north to Wast Hills and Weatheroak Hill and vice versa.
- G. From Station Road and the Salt Way footpath across fields southwards to Peck Wood and Shortwood.
- H. From the high ground near St Laurence church across towards Callow Hill, the canal towpath area, Oak Tree Close and the M42 adjacent to Altheastan Close.

## **Background / Justification**

4.190. The landscapes and open views were recorded during a walk around Alvechurch Village boundary and a drive around the parish area by members of the APNP Steering Group and by volunteers from the local community. From the observations and comments gathered from this exercise and from walkers from the local community and the parish questionnaire, Policy HDNE 4 was formed. The policy attempts to identify views and valued gaps, which are considered to be precious and give Alvechurch Parish its distinctiveness. The landscape of the parish is characterised by a relatively low-lying off-centre main village (Alvechurch), on the River Arrow, surrounded by hills, ridge lines and three smaller villages.

4.191. Part of the conception for this policy originated from community comments received and logged from the parish questionnaire, particularly the question for Option 2 as shown below:

### **Some community comments**

*Need to limit otherwise there will be no green belt left eventually*

*Green belt should be last option*



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*Need green belt between Alvechurch and Redditch and Barnt Green*

*Housing should follow roads between settlements but should be spaced to maintain rural character*

*Recognition of our unique space between Birmingham and Redditch*

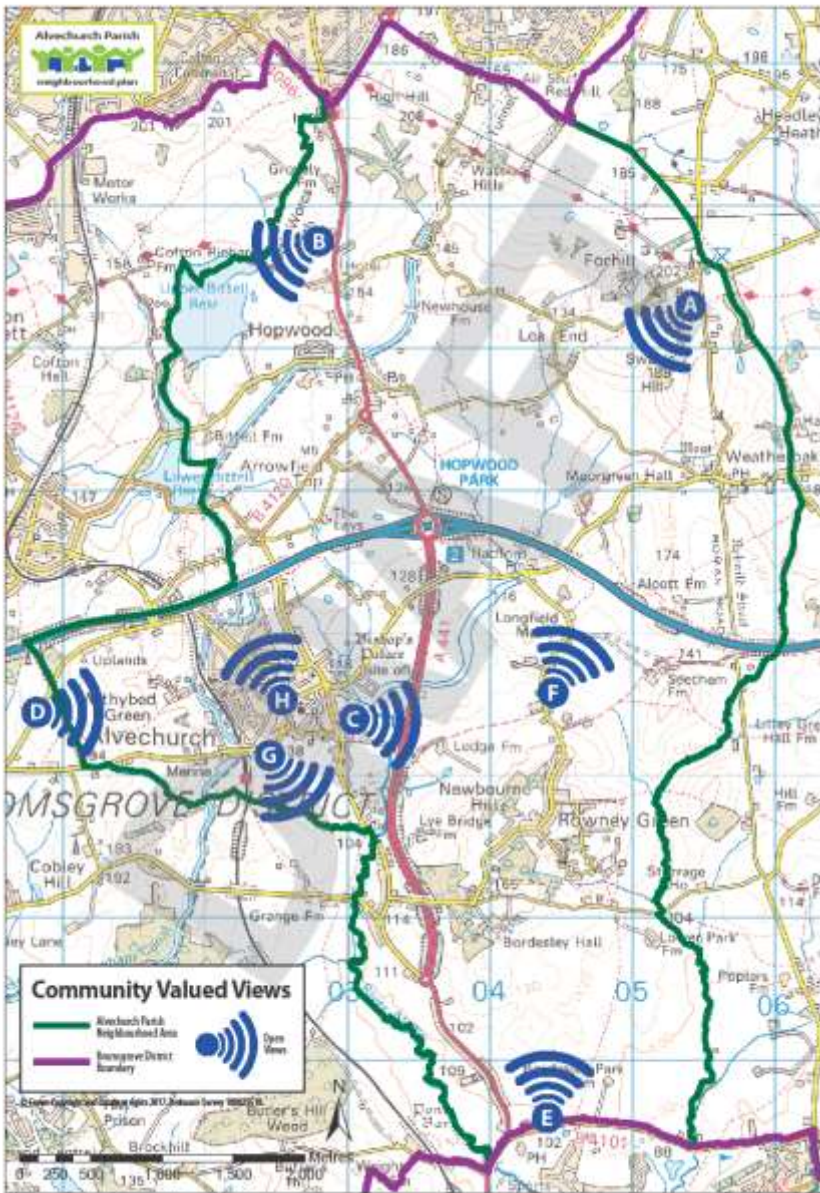
*To minimise urban spread + leave clearly defined areas of green belt would prevent it looking like one large urban sprawl*

*The highest oak trees towards the north of the village are visible from appreciable distances, and the coppice of which they are a part to the rear of Oak Tree Close also helps to reduce noise from the M-way for local houses.*

*I wondered if enough attention had been paid to the importance of trees in Alvechurch's landscape.*

Fig 29. Parish protected views

[Double click the map or use this link for a larger view the map](#)



## Access to the countryside

### 4.192. Introduction

4.193. Access to the countryside on well-designed footpaths and cycle-ways will encourage their use by local residents for recreational purposes. Walking is already an important recreational activity in the parish with Alvechurch Village Society not only leading monthly walks but also assisting Worcestershire County Council in maintaining over 28 miles of parish Public Rights of Way (PRoW), which criss-cross the parish's landscape. By protecting and enhancing the appearance of the natural environment, the quality of the landscape will be maintained, wildlife will be protected, and there will be benefits for the health of the local and wider community.



Fig 30. Alvechurch Village Society walkers accessing the countryside

**POLICY AIM:** To encourage proposals that protect, improve and conserve Alvechurch’s rural environment whilst encouraging access to the countryside for all.

## POLICY HDNE 5: ACCESS TO THE COUNTRYSIDE

- A. Development proposals are encouraged to make every opportunity to contribute to and connect to green networks and improve linkages between green spaces and increase public access to the countryside. In particular, proposals for new development should:
- B. Design new and improved footpaths, cycle-ways and bridleways to connect new development to the countryside, including accessibility provision for people with disabilities

C. Where possible, provide connections to key places such as; the Meadows, Worcester & Birmingham Canal, the River Arrow and parish woodlands that are open to the public.

### 4.194. Background / Justification

4.195. Whatever the activity or pattern of use, visiting, protecting and enhancing the countryside and natural environment has distinct benefits in the following ways:

- For the individual in terms of their health and well-being
- For the local economy through spending on local goods and services
- For conserving and enhancing natural habitats for the benefit of local wildlife

4.196. Results from the community consultations showed that 80% of respondents considered access to nature and the countryside to be good or very good in their local area, compared to just 3% who considered it to be poor. This 3% could be from those unable to access the countryside for one reason or another, being disabled was one.

4.197. Results from the community questionnaire that took place earlier in the APNP process, “Option 2 in the Environment four options” set of questions, and latest consultation comments, show a majority agreement that local people value access to the countryside.

4.198. [The Worcestershire Access and Informal Recreation Strategy 2009-2019](#) aims to ensure that local people and visitors are informed, provided for and welcomed to the countryside. Young people have their own particular needs, and for those too young to access transport independently, there is a need to ensure provision is available locally. One of the principles and values underpinning the Worcestershire Play Strategy<sup>22</sup> is to ensure that children and young people have safe and easy access to a range of play opportunities within a reasonable distance of their homes.

<sup>22</sup> [Worcestershire Play Strategy 2007-2010](#)



4.199. The strategy also asserts that children’s favourite place to play is outdoors, and access and recreation providers can help to ensure that children's' needs are taken into account in planning and maintaining sites.

Fig 31. *The boardwalk in the Wiggin (the Meadows recreation field)*

## Protection and Enhancement of the Natural Environment

### 4.200. Introduction

- The NP aims to improve the quality of our natural environment across our parish.
- We aim to counteract negative impacts on habitats and species and any damage that development may cause to the landscape.
- We will protect priority habitats such as the wildlife corridors of our natural river courses, canal and woodlands.
- We will support natural systems that protect our countryside such as reed beds, sustainable drainage systems (SuDS)<sup>23</sup> and biodiversity.



Fig 32. *The boardwalk at the Meadows*

- We will achieve this through joined-up cooperation at local authority and developer level discussions to create an ecological parish, which is resilient regardless of needed future development.

4.201. Alvechurch Parish, Green Infrastructure (GI) is supported by ‘Bromsgrove District Plan Policy BDP 24’. This policy, which requires development to have regard to the emerging Worcestershire Green Infrastructure Strategy, any local GI Strategy, and where available the GI Concept Plans aligns with APNP Key Aim 7.

## The Natural Environment

### 4.202. Introduction

Fig 33. *A Wellingtonia tree at the Social Club*

4.203. The APNP expects all new development in the Neighbourhood Area to show sensitivity to the natural environment, which includes all plants and animals, the habitats where they are found and the underlying rocks, soils, landforms and local views.

4.204. The Bromsgrove District Plan (2011-2030) describes how new development should respect the natural environment. The APNP policies apply to development of all sizes from alterations to private houses to large scale developments.

4.205. The high wildlife value of the countryside is evident by the wide variety of bird species, which live in the parish.



<sup>23</sup> A sustainable drainage system (SuDS) is designed to reduce the potential impact of new and existing developments with respect to surface water drainage discharges

4.206. The River Arrow and its tributaries flow through the parish. The APNP will look to conserve local biodiversity assets and promote the enhancement of biodiversity in accordance with priorities specified in the Local Biodiversity Action Plan (LBAP).

4.207. There are two SSSI's (Sites of Special Scientific Interest): Grovely Dingle (an example of old native woodland trees and ground flora), and the Bittell reservoirs (see figures 8 and 9). The north shore of Upper Bittell reservoir having rare shoreline plants.

Fig 34. Muntjac deer near Foxhill

4.208. Newbourne Wood is a local nature reserve owned by Worcestershire Wildlife Trust. Dagnell Brook is home to native freshwater crayfish (*Astacus pallipes*). See the map on page 16, which shows SSSIs and District, designated Local Wildlife Sites ((LWS).



#### Some of which are listed here:

- Meadow near Foxhill farm above Withybed Green,
- The Meadows (The Wiggin Field) in Alvechurch
- The old fish ponds in Alvechurch
- Peck Wood and Rowney Green (formerly known as Rowney Green Bog)
- Private nature reserve at Hopwood Service Station

4.209. Older pastures have interesting meadow flowers, bees and butterflies. Some woodland has ancient woodland flora. The Meadows in Alvechurch has a rich wildlife. Gardens in the traditional settlements are good wildlife havens. Nevertheless biodiversity is hampered by the over-mowing and over-cutting of grass verges and hedgerows, which have a negative impact on the wildlife that use these important green corridors.

4.210. The Neighbourhood Area is set in a pleasant rural landscape that is highly valued by the community. Oak, ash, beech and chestnut trees grow well around the village. Wellingtonia trees were planted within the village boundary to celebrate Wellington's victory at Waterloo.

4.211. Hedgerows are principally made up of blackthorn, hawthorn and hazel and often contain mature tree species including alder and willow. The hedgerows often also support elder, bramble, briar and ivy. These hedgerows are havens for some of the parish's wildlife, including birds, voles, field and door mice and gives cover to badgers, muntjac deer, roe deer, brown hare, stoat, weasel, meadow brown butterfly, marbled white butterfly, skylark, barn owl and kestrel.

4.212. In fact, hedgerows are so good for wildlife that 130 UK Biodiversity Action Plans (BAP) priority species are associated with them (The Wildlife Trust). This is why this NP seeks to protect the hedgerows in the parish.

4.213. Many of the fields in the parish have been enlarged by the destruction of hedgerows so the APNP encourages development that promotes new tree and hedgerow planting whilst conserving existing hedgerows and trees.

**POLICY AIM:** To protect and enhance the Natural environment and biodiversity in the Parish area

## POLICY HDNE 6: PROTECTION AND ENHANCEMENT OF THE NATURAL ENVIRONMENT

- 1 **New development proposals should contribute to protecting and enhancing the Natural Environment. The quality of soft landscaping will be of significant consideration when assessing the merits of any scheme. In particular, new developments should:**
  - a. Safeguard, create and connect wildlife corridors including new grassland / meadows, ditches and ponds and the canal to maximise biodiversity gain
  - b. Use planting schemes that encourages wildlife
  - c. Encourage, where possible, the protection, reconnection and extension of existing hedgerows, the establishment of new native hedges is encouraged;
  - d. Retain mature and established trees and Tree Preservation Orders (TPOs) throughout the parish especially in green isolated coppices such as at Woodpecker Close in Hopwood and the coppice to the rear of Oak Tree Close in Alvechurch.
  - e. Where appropriate include a tree planting scheme incorporating native species to soften and screen the development, and connect to areas of existing tree cover.
  - f. New housing development should ensure that garden boundaries include at least a 125mm<sub>2</sub> (5 inch<sub>2</sub>) hole in garden fences and walls to allow access for wildlife, such as hedgehogs, frogs and toads. The use of hedgehog shelters, bird nesting boxes, bat boxes and bug hotels on buildings and fence posts, to provide food and nesting opportunities is encouraged.
- 2 **In addition to the above, the following will be expected:**
  - Proposed development of poly-tunnels and glasshouses should take account of the visual impact on the landscape of the parish and its residents.
  - Locally valued habitats and wildlife corridors (particularly those relating to Peck Wood, Newbourne Wood the River Arrow and the canal area) should be protected and enhanced.
- 3 **Development that adversely affects the natural environment, biodiversity assets and ecological networks of the parish will be strongly resisted. Applications for new development must demonstrate that there will not be harmful effects on the natural environment, and that biodiversity enhancement has been provided in line with national guidance.**

### Background / Justification

4.214. A healthy natural environment, where farmland is producing food using sustainable farming systems that enable wildlife to thrive and flourish and our woodlands, wetlands and wildlife sites are protected and enhanced will be encouraged. The soils have slightly impeded drainage, which protect areas downstream from excessive flooding. Therefore development proposals that adversely affect the natural environment will be strongly resisted. The appearance of the natural environment of the disparked medieval Bordesley and Alvechurch Parks should be especially protected, the latter being a very good example of the “recently-recognised concept of medieval ‘aesthetically-modified’ landscapes”.

4.215. The many historic clay, marl and gravel extraction pits contribute significantly to biodiversity while the parish is an important area for wet and dry acid grassland and for wet valley side alder woodland, both rare habitats in the county. Development well away from these areas could change the water systems in the hills and so damage ancient woodland, ancient wood pasture and unimproved grassland.

4.216. The River Arrow with its tributary streams, the canal and riverside and canal side meadows form an important wildlife corridor. Its value is enhanced by the Bittell reservoirs, the fishery and by hedges and veteran trees, which line the narrow Roman road, the boundaries of the disparked medieval parks and the other historic route ways.

4.217. Where it is safe to do so, the sides or top of hedges should be cut only once every three years to provide more food for wildlife and save money for owners. The badger tunnel under the Alvechurch bypass into Peck Wood should be kept free from blockages so that badgers can roam safely over their territory.

*Fig 35. A preformed hedgehog-hole in fencing*

4.218. The once common hedgehog is now under threat from development, habitat loss caused by the reduction of hedgerows and an increase in the intensification of our agricultural landscapes. In the last 10 years, the hedgehog population has declined by 30%; there are thought to be less than one million left in the UK's (Source: The Wildlife Trust) gardens, hedgerows, woodlands, grasslands.



4.219. Parkland and cemeteries are all important hedgehog habitats. Adult hedgehogs travel between 1-2 km per night and over home ranges between 10-20 hectares in size. In suburban areas, this means they range over entire housing estates and neighbourhoods.

4.220. Therefore, this NP encourages the creation of hedgehog highways because hedgehogs need to be able to roam far and wide in search of food, mates and nesting sites. By cutting a 125mm<sub>2</sub> (5 inch<sub>2</sub>) hole in fences and boundary treatments or digging channels beneath garden boundaries to connect gardens up will create the much needed hedgehog highways.

4.221. During community consultations there was overwhelming support for keeping the countryside wildlife-friendly, with a high proportion “strongly agreeing”. Generally people support farming and other appropriate use, improving access to the countryside, and more use of green technology and energy conservation. Most people support more use of green technology and using the countryside productively.

4.222. For more information on Alvechurch’s natural environment relating to this policy, see an expanded background and justification to APNP Policy HDNE 6 written by Dorothy Snaddon (Steering Group member). This can be found in the Environment Section of the APNP Evidence Base Summary on pages 46 to 48, and in the Library section of the APNP website [www.alvechurchparishplan.org](http://www.alvechurchparishplan.org)

4.223. During community consultations there was overwhelming support.

### **Some community comments:**

*“We should ensure that any new housing developments are made to preserve existing hedgerows and mature trees and plant new trees.”*

*“Trees have the ability to block noise and pollution from highways and motorways”.*

*“Being able to access our beautiful countryside so easily is fantastic but what makes it so special is that it feels natural with lots of plants and animal variety - areas should be protected to ensure that this is maintained.”*

*“Publishing information about local biodiversity as well as services provided by local ecosystems would improve the way people value nature.”*

*“Very little done at present - wildlife friendly untidiness needs explanation to gain acceptance - interpretive boards etc.”*

*“Local farmers are the best custodians of the landscape - this should be mixed with good footpaths.”*

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## NON STATUTORY COMMUNITY ACTIONS FOR HERITAGE, DESIGN AND THE NATURAL ENVIRONMENT TOPIC

### Community Projects identified in the Draft Plan

Delivering the vision and key aims – Community Actions

The National Planning Policy Framework (NPPF) defines a heritage asset as follows:

*“A building, monument, site, place or landscape identified as having a degree of significance meriting consideration in planning decisions because of its heritage interests. Heritage assets include designated heritage assets and assets identified by the Local Planning Authority (including local listing)” (NPPF Annex 2: Glossary)*

The Parish Council will work with Bromsgrove District Council to compile a local heritage list for the Parish, using this information already collected and the criteria set out in the District Council’s Local Heritage List Strategy (adopted 2016). This community action is detailed below.

**COMMUNITY ACTION 3**, AIM: *To encourage Bromsgrove District Council to compile a Local Heritage List for Alvechurch*

## COMMUNITY ACTION 3: LOCAL HERITAGE LIST FOR ALVECHURCH PARISH

The Parish Council will work with the Conservation Officer at Bromsgrove District Council to compile a Local Heritage List for Alvechurch Parish. Local heritage lists identify heritage assets, which are valued by local communities and contribute to the character and local distinctiveness of an area.

The criteria set out in the District Council’s Local Heritage List Strategy (adopted 2016) will be used for assessing whether a non-designated heritage asset should be included on the local heritage list. The decision will be down to the District Council, but the Parish Council will do all that it can to help the District Council with this decision. Further information on the strategy can be viewed here: [BDC Local Heritage List Strategy](#)



## TOPIC 3 - POLICIES FOR LEISURE, HEALTH AND WELL-BEING

### Introduction

#### KEY AIMS ASSOCIATED WITH POLICES IN TOPIC 3:

KEY AIMS ASSOCIATED WITH THE GROUP OF POLICIES IN THIS TOPIC: KEY AIM 1: KEY AIM 3: KEY AIM 5: KEY AIM 6:

The full list of 'Key Aims' and their contents can be found on page 19.

4.224. The built and natural environments both have a significant impact on the health and well-being of local residents. For example the way we plan a new development and the way houses within it are designed and configured influence a person's living and working life.

4.225. Provision and any expansion of health and education facilities should also reflect Alvechurch's demography, which has a slightly higher percentage of older people than the surrounding neighbourhood. In Alvechurch 21.7% of the total population are aged over 65, compared with 20.4% in Bromsgrove, 19.5% in Worcestershire and 16.4% in England (Census 2011).

4.226. The percentages of 15 year olds and under (17.07%) residing in the parish is slightly lower than the percentage for Bromsgrove District and Worcestershire County (Census 2011). Housing, healthcare and education development in the parish should respond to this distribution in a growing population.

4.227. A King's Fund report observes that increasing access to parks and open spaces could reduce NHS costs of treating obesity by more than £2 billion and reduce mental health admissions as well, resulting in further savings for the NHS. However, research by the Woodland Trust shows that less than 17% of the population of England has access to local woodland within 500m of their home. In Worcestershire generally this figure is lower at 15%. Providing more accessible woods and green space can provide a critical link to healthier lives in Worcestershire (Source: Planning for Health in Worcestershire Technical Research Paper March 2015).

#### 4.228. HEALTH CARE PROVISION WITHIN THE PARISH

4.229. Currently this includes; the Alvechurch village centre GP surgery being a branch of the Northwood Medical Practice based in Birmingham which has approximately 4800 registered patients from Alvechurch, a dental practice that caters for private and NHS patients, a private cosmetic treatment centre, a private chiropractic clinic and a private optician's practice. Parish residents use health services commissioned by both the Birmingham South Central and the Redditch and Bromsgrove Clinical Commissioning Groups according to the GP practice with which they are registered.

4.230. **The key issues as seen by local people**, and indicated from our consultations with the community who make greater use of the Alvechurch medical practice (not all Alvechurch residents are patients at the Alvechurch Village centre GP practice) include:

- a. "Perceived current long waiting times for health care appointments"
- b. "Population growth at a certain point possibly needing extra practitioner"
- c. "Restricted medical facilities in the current leased building including lack of meeting rooms or any space for expansion"
- d. "Enhancement of facilities likely needed to meet any growth"
- e. "Existing facilities being remote from the other parts of the parish"
- f. "Encouraging better public transport provision"
- g. "Anomaly created by attachment of medical practice in Worcestershire to the South Central Birmingham CCG"

Fig 36. Alvechurch medical centre



**POLICY AIM:** To ensure a good provision of healthcare for parish residents by encouraging development schemes that actively contribute to improving the health and wellbeing of the neighbourhood area.

## **POLICY LHW 1: HEALTHY ENVIRONMENTS AND HEALTH CARE FACILITIES**

**1. Development will be supported that contribute to improving health and wellbeing within the Neighbourhood Area including the provision of age and dementia friendly outdoor environments through:**

- a. Providing a healthy living environment through good design and inclusion of green spaces;
- b. Provision of accessible open spaces and walkable neighbourhoods
- c. Provision of safe, well-lit and well-maintained routes and places
- d. Provision of pathways in strategic places containing seating located under street trees to allow shading during hot weather areas to help people rest and gather their thoughts.
- e. Segregated walking and cycling paths
- f. Promoting and enabling healthy lifestyles by creating environments that support walking and cycling and access to green open spaces;
- g. Providing good access to health facilities and health care services;

**2. To support major developments, in line with Worcestershire County Council, a Health Impact Assessment (HIA) will be required where the proposal is likely to have a significant impact on health and wellbeing. The HIA will need to be submitted alongside planning applications to demonstrate that the potential impacts on health and well-being have been considered at the planning and design stage. In particular, the HIA will need to assess what impact the proposed development will have on demand for and access to healthcare services. The HIA should be undertaken as early as possible, it is recommended that this is during the pre-application stage.**

**3. Where significant impacts are identified, measures to mitigate the adverse impact of the development will be provided and/or secured by planning obligations in accordance with “Policy BDP6 Infrastructure Contributions”.**

**4. Development that would have an unacceptable impact on health and wellbeing within the Neighbourhood Area will not be supported.**

### **Background / Justification**

4.231. The definition of Major Development in the Town and Country Planning (Development Management Procedure) (England) Order 2015 is: For dwellings, a major development is one where the number of residential units to be constructed is 10 or more. Where the number of residential units to be constructed is not given in the application, a site area of 0.5 hectares or more should be used as the definition of a major development. For all other uses, a major development is one where the floor space to be built is 1,000 square metres or more, or where the site area is 1 hectare or more.

4.232. Health Impact Assessments (HIA) is used to judge the effects a proposed development may have on the health and well-being of different groups of people. The findings of HIAs are used to make recommendations to

decision makers as to how any positive health impacts of a particular scheme may be increased and any negative impacts reduced.

4.233. A Health Impact Assessment (HIA) is a process which ensures that the effect of development on both health and health inequalities are considered and responded to during the planning process. Worcestershire County Council has produced a [HIA toolkit, Health Impact Assessments in Planning Toolkit for Worcestershire](#) which applicants are encouraged to use when preparing their HIA's for this Neighbourhood Area. This Health Impact Assessment in Planning Toolkit is intended to support the creation of healthy communities through health-promoting planning policies and development management in Worcestershire.

4.234. [The Toolkit will support our Neighbourhood Plan and help embed health impact considerations into the Plan.](#)

4.235. It is expected that the HIA of a planning proposal would be undertaken by the applicant and should be undertaken as early as possible, i.e. at pre-application stage. The applicant will be expected to undertake the HIA screening to demonstrate whether and to what extent, their proposal will have an impact (both positive and negative) on the local residents and future site users. This would vary depending on the type, scale and location of the proposal. The applicant would also be expected to undertake a stakeholder consultation as part of the HIA process, which should include consulting with local healthcare service providers.

4.236. The National Planning Practice Guidance (PPG) recognises that, in relation to planning applications, HIA may be a useful tool to identify where significant impacts on the health of local people are expected.

#### 4.237. **OPEN SPACE, SPORT AND RECREATION: THE MAIN FACILITIES FOR SPORT, LEISURE AND RECREATION FOUND IN THE PARISH ARE LISTED BELOW:**

Alvechurch Parish Council owns and administers four recreation areas:

1. The Wiggin Memorial Playing Field (The Meadows)
2. The Hopwood Playing Field and Community Centre, which includes a small, play area, two football pitches and a community building
3. The Rowney Green Playing field which includes a play area, pavilion and two tennis courts
4. The Alvechurch Village memorial green used for memorials services

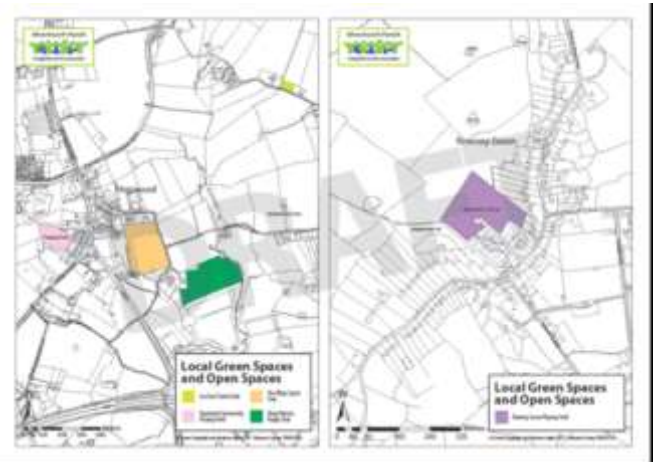


Fig 37. [Map of Hopwood and Rowney green open spaces](#)

[Ctrl and left click on map for larger version on the APNP website or click here](#)

In addition, the following facilities are located in the parish:-

5. A BDC owned informal recreation site with play area located in the middle of Alvechurch's residential area at the George Road playing field.
6. A BDC owned field at Swans Length in Alvechurch Village that includes a play area and a MUGA (Multi-User Games Area) facility.
7. A Parish Council run allotment site on a 10 year lease from the land owner at Old Rectory Lane

#### **RECREATIONAL AND OPEN SPACES RUN BY PRIVATE ORGANISATIONS INCLUDE:** (see maps figs 35 and 36)

8. The Alvechurch Football Ground (AFC) and club house
9. Kings Norton Rugby Club at Hopwood

10. Five Ways Sports Club at Hopwood
11. Alvechurch & Hopwood Cricket Club (having two grounds, one in Alvechurch and one in Hopwood)
12. Alvechurch Fisheries
13. Peck Wood (run by the district Methodist Church)

## Issues relating to Open Space, Sport and Recreation

The key issues as seen by local people and drawn from our consultation with the community (not ranked in any particular order) are:

- a. The need for better walking and cycling networks to encourage increase levels of physical exercise.
- b. Access to Alvechurch Village centre from the smaller settlements being a significant barrier to improving wellbeing
- c. Better public transport and cycling provision
- d. The lack of facilities and opportunities for young people within the village
- e. Need for more outdoor and indoor leisure facilities in a central location
- f. Opening up of usage of the school facilities in evenings and at weekend for the community at a sensible price
- g. Need for more facilities and services for the ageing population
- h. Tennis /bowls/ IT training
- i. The Parish Council should look to produce a "Sports Development Plan"

## 4.238. LOCAL GREEN SPACES

### 4.239. Introduction

4.240. The National Planning Policy Framework (NPPF) enables local communities through the preparation of a NP to identify green areas and open spaces that are of particular importance to the community and designate them as Local Green Spaces to give them special protection. The NPPF (para 76) states that *"by designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances."*

4.241. **Paragraph 77 of the NPPF** advises that *"Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*

- *Where the green space is in reasonably close proximity to the community it serves;*
- *Where the green area is demonstrably special to a local community and holds a particular local significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *Where the green area concerned is local in character and is not an extensive tract of land."*

4.242. **Paragraph 78 of the NPPF states:** *"Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts"*.

4.243. This NP has identified four green spaces that are worthy of Local Green Space designation. These green spaces are shown in Fig 37 and Table 3 (fig 39) below. The table sets out how each of the proposed Local Green Spaces meets the criteria in NPPF paragraph 77.

4.244. Although these areas are located within the Green Belt and therefore already have Green Belt policy protection, it was considered necessary as part of this NP to designate them as Local Green Spaces due to the Green Belt Review that will be taking place in the future by the BDC. At this stage we do not know what land could be released from the Green Belt as part of the Green Belt Review and the review of the Local Plan, so it seemed sensible to designate land that we felt worthy of Local Green Space protection to ensure its future long-term special protection.

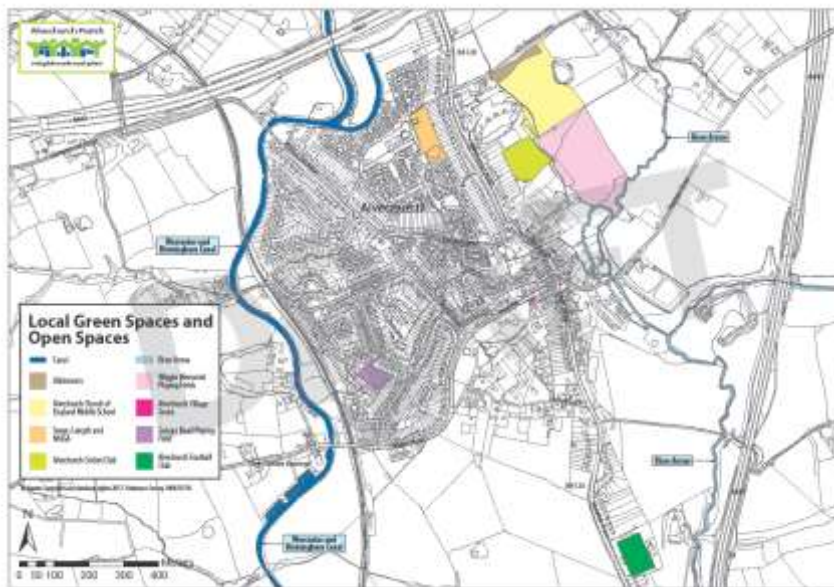


Fig 38. Map of open green spaces in Alvechurch Village

[Double click map for a larger version or click here for a larger online map](#)

## Local Green Space

Name and Location	Ownership	Distance from Local Community	Special Qualities / Local Significance	Extensive Tract of Land
Wiggin Field Centre of Alvechurch Village	Owned and maintained by the Parish Council	At the heart of Alvechurch Village  2minute walk from the centre	Left to the community in memory of a son lost in the First World War.  Provides local walks via a Public Right of Way (PROW)  Is a peaceful place with Wild Life Site designation	Large open field with a main football pitch and smaller training pitch and recently updated children's play area
Rowney Green Parish Council playing fields	Parish Council owned open fields providing facilities for football and tennis and open green space	To the rear of the village hall and within the main residential area of Rowney Green 2.4 miles from Alvechurch centre	Along with the village hall the fields provides two tennis courts free to parishioners and is the only source for social recreation within Rowney Green	Large playing field used for youth football, a pavilion building available to hire for community use
The Hopwood Community Playing Field	Parish Council owned field of two football pitches and small playground area	In the heart of the small Hopwood hamlet and 1.6 miles from the centre	The field is used for local Alvechurch youth football and has a community hall	A large playing field area providing 2 pitches and areas for



	with a community hall.	of Alvechurch Village.	available for the community to hire at preferential rates	children play and training. A hall is available for community use
Alvechurch Village Green	Parish Council owned. A small triangular memorial green	In Bear Hill adjacent to the village square	Used at war memorial services, and provides a little green space in the main village square	A small green area of land used for memorial services and flag raising

Fig 39. Table 3: Local Green Space – NPPF criteria

**POLICY AIM:** To identify and protect designated Local Green Space that is special to the local community whilst encouraging its use for healthy activities.

## POLICY LHW 2: PROTECTION OF LOCAL GREEN SPACES

In accordance with NPPF paragraphs 76 and 77, green spaces as identified on Figures 37 and 38 are designated as Local Green Spaces. The identified Local Green Spaces are:

- a. The Wiggin/Meadows Village Field
- b. Rowney Green Parish Council playing fields
- c. The Hopwood Community playing field
- d. The Alvechurch Memorial Green

**Development that would harm the openness or special character of a Local Green Space, or its significance and value to the local community, will not be supported unless there are very special circumstances, which outweigh the harm to the Local Green Space.**

### Background / Justification

4.245. National policy makes provision for local communities to identify green areas of particular importance to those communities, where development will not be permitted except in very special circumstances. These Local Green Spaces can be designated through the local plan or through neighbourhood plans. The sites listed in Fig 39, Table 3 above have been proposed as Local Green Spaces through the APNP consultation process. These are open spaces used for youth play, sporting activities, community recreation and in the case of the Alvechurch Village Green, for memorial services.

4.246. **Some community comments received:**

*“We should ensure that any new housing developments are made to preserve existing hedgerows... plant new trees”*

*“Being able to access our beautiful countryside ... is fantastic... should be protected” ...*

*“Must conserve and enhance this asset”*

## 4.247. OPEN SPACES

4.248. The Parish Council own and maintain several playing areas throughout the parish, which should be protected for continued use by the community and to encourage healthy activities for young and old alike. An ambition of this NP is not only to maintain those parish owned grounds, but also to preserve several privately owned facilities such as football and cricket grounds.

4.249. The areas alongside the banks of the River Arrow and canal towpath, accessed from many public rights of way, are also viewed as special by the local community. A number of open spaces valued by the community are listed in table 4. They are valued by the community because they provide sport, recreation and play opportunities and in the case of the River Arrow, there are opportunities to improve the local walking and recreation linkages, and also to enhance and preserve the biodiversity in wildlife.

*Fig 40. Images from the Wiggin Field known locally as "The Meadows"*



**POLICY AIM:** *To identify and protect the network of open spaces in the parish that is special to the local community whilst encouraging its use for healthy activities*

### **POLICY LHW 3: IMPROVEMENT TO, AND PROTECTION OF, OPEN SPACES**

**Over the lifetime of the NP, the broad scale and network of open spaces throughout the Neighbourhood Area will be protected and enhanced. Development that would result in any loss of the open space or would cause harm to the character, setting, appearance, general quality or accessibility will not be supported unless the community will gain equivalent benefit from open space improvements or the provision of replacement open space.**

**Open spaces that are particularly valued by the local community include:**

- a. The school playing fields
- b. The two Alvechurch Cricket Club Grounds (one being at Lea End in Hopwood)

CONT.

- c. BDC- owned George Road Play area (the only one not in the Green Belt)
- d. Along the course and curtilage of the River Arrow wildlife corridor
- e. Along the course of the Worcester Birmingham Canal and towpath
- f. The allotments
- g. Swans Length playing field including a play area & MUGA
- h. Five Ways Cricket and Rugby Club (Hopwood)
- i. Kings Norton Rugby Club (Hopwood)
- j. Alvechurch FC football ground at Lye Bridge Alvechurch.

**The Parish Council will be supportive of development proposals that make improvements to the quality of these and other open spaces throughout the Neighbourhood Area. Priorities will be the protection and/or enhancement of their local wildlife and biodiversity, improving access linkages for both cyclists and pedestrians, especially alongside the River Arrow and canal towpath and connecting Public Rights of Way to open spaces. These improvements will be funded from a combination of developer contributions and a range of other funding sources.**

### Background / Justification

4.250. The above open spaces are either privately owned areas or as with George Road and Swans Length playing areas are owned by BDC. All these areas are valued by the local community for their leisure use and in providing youth sport facilities. The privately owned allotments are on a short lease to the Parish Council and provide the only allotments in the parish. There is much speculation about proposed development on land that borders the River Arrow corridor, and the community have expressed a wish to protect wildlife and biodiversity areas.

4.251. This also applies to the Worcester Birmingham canal curtilage and the Alvechurch FC football club, which is in the process of re-siting to the Hayes field located on the northern boundary of the Parish in the Hopwood Parish Ward. Double click on map for larger version

4.252. Any proposals in the River Arrow area should keep a significant open barrier between development and the river wildlife curtilage. Neighbourhood consultations have shown a desire to maintain and enhance the parish’s landscape and green character areas – they also indicated support for future development to do the same in order to provide varied leisure and recreational opportunities as highlighted in APNP Policies LHW 2 and 3.

### 4.253. OTHER OPEN SPACES VALUED BY THE COMMUNITY

Name and Location	Ownership	Importance	Character	Extent and Nature
<p style="color: blue; font-weight: normal;">THESE AREAS LISTED BELOW ARE SOME OF THE OPEN SPACES THAT ARE VALUED BY THE LOCAL COMMUNITY (Note: this is not an exhaustive list of open spaces)</p>				

# Agenda Item 14b

Two cricket grounds  One in Alvechurch Village, one at Lea End, Hopwood	Privately owned	One in Alvechurch Village is within a four minute-walk of the centre. The other is In open Green Belt land close to Hopwood Dingle (SSSI).	Typical rural open rural cricket grounds.	Large parcels of Green Belt open countryside  In Alvechurch Village and Hopwood
George Rd, Alvechurch playground	BDC owned. Within the 20 <sup>th</sup> Century urban Tranter Avenue character area of Alvechurch	Only open green space that alludes to the once open field parcels.	Provides openness to join 20 <sup>th</sup> century character areas together.	Small Bromsgrove local authority owned field. Needed to retain a sense of rural connectivity. Informal/formal recreation
School playing fields, Alvechurch	To the rear of the first and middle schools	Used for sport and recreation. Some community hire use.	Within the village maintaining openness to the adjoining Green Belt to the east.	Large playing facility
Kings Norton Rugby & Five Ways Cricket + Rugby Club Hopwood	Privately owned clubs with fields in Ash Lane, Hopwood	Integrate well with the surrounding open farmland	Merge well with the rural landscape	Both significant hireable open sized spaces blending into the Hopwood community including PROW's. Well used by a wide community.
Swans Length, Alvechurch. Play area and field including multi-use games area (MUGA)	BDC owned	A green space within a densely built-up area	Provides an area of green separation from Birmingham Road	A significant playing area for this character area of Alvechurch
The Allotments Old Rectory Lane, Alvechurch	A small area leased from a private land owner	The only allotments in the parish	Part of the greater West Midland's Green Belt	Small area on a short lease 10 year lease
Alvechurch Football Club. Lye Meadow, Alvechurch	A small area leased from a private land owner	FA. Football played at a high standard. Entry is by small fee. Club house available for hire	Part of the greater West Midland's Green Belt, open visually important green space on entering the village	Accessible for a local fan base following: important facility reasonable walking distance of the Village Centre
The Worcester Birmingham canal and towpath	Controlled by the Canal and River Trust	Used for walking, cycling, fishing, canoeing, barging and as an access	A local wild life site and part of the Green Infrastructure of	Runs from north to south west through the parish.



		between settlements and a transport route.	Alvechurch Parish	
The curtilage of the River Arrow	Passes through various differently owned land	Public Rights of Way often meet the banks of the river in the parish	It is a Special Wildlife Site/Local Wildlife Site in the parish SP06/18	Cherished for its wildlife corridor and peaceful walks and views.

Fig 41. Table 4: Other open spaces in Alvechurch Parish

## 4.254. Sports and recreational facilities

### 4.255. Introduction

4.256. Future reviews of this NP will incorporate all recommendations made following continued consultation. The community expressed wishes to; “improve sports areas”, and that “ecotourism / farming /outdoor leisure would fit better with our Parish character”. The following policy and community actions are designed to address those points together with Parish Council joint working with local authorities, to generally improve sport and recreational facilities throughout Alvechurch Parish.



Fig 42. Alvechurch Juniors training at Rowney Green

Fig 43. The existing play areas at Swans Length





**POLICY AIM:** To improve facilities for all ages in providing leisure and recreational opportunities suitable for a growing and diverse community.

## **POLICY LHW 4: SPORT, LEISURE AND RECREATION FACILITIES**

1. Development proposals, which make a contribution to the improvement of sports and recreational facilities or create new facilities that meet the requirements of the local community and are in accordance with, BDP25 Health and Well-being will be considered favourably
  2. Priority will be given to the provision of the following:
    - a. Improvement to riverside walks along the River Arrow and linkages to green spaces
    - b. Toilet/changing facilities at the Wiggin playing field
    - c. New sports facilities, such as tennis courts, bowling green etc., in locations close to existing residential areas, being funded by any future development or from community grants
    - d. Initiatives for local food-growing, such as allotments
- Proposals for new residential development of 10 homes or more will be encouraged to:
- e. Contribute towards the provision of new (and improvement of existing) public open space, sport and recreation facilities- this is provided new proposals do not constitute inappropriate development in the Green Belt.
  - f. Make available accessible open space, sport and recreation facilities to all members of the local community.
3. Development proposals that help to increase or improve pedestrian and cycle access to open space, sport and recreation facilities will be considered favourably.
  4. Where it is appropriate, new development should contribute to ensuring that all people in Alvechurch have safe access to quality secure, well designed and stimulating recreation space.

### **Background / Justification**



Fig 44. The new play equipment being installed at the Wiggin Field in 2015

4.257. To enable all residents (especially children and young people) to live healthy and active lives they should be able to participate in physical activities that are appropriate for their age. This ranges from safe routes for active walking in the countryside, outdoor facilities for the older generation and play spaces for the more energetically minded members of the community.

4.258. Policy LHW 3 and LHW 4 together will help to increase and improve recreational opportunities for all residents. Developers should take account of these policies when designing their proposals.

## NON STATUTORY COMMUNITY ACTIONS FOR LEISURE, HEALTH AND WELL-BEING TOPIC

Support will be offered through the NP and Parish Council to the relevant Clinical Commissioning Group to deliver sufficient and appropriate locally based health care provision in the parish. Whilst at this time no requirement has been formally established, current patients and wider community views acknowledge that additional facilities could be required over the lifetime of the Plan due to future development. The Parish Council will encourage actively the provision of adequate healthcare facilities to meet the needs of the local resident population.

Alvechurch village's health facilities are important to the parish and its neighbours, and the Parish Council is committed to helping these facilities stay in the village and - if possible - expand their services. With healthcare provision currently being in a state of change there is little opportunity for this NP to directly impact on future parish healthcare facilities. However, it is important that this NP makes clear its support for ongoing provision of these facilities in our neighbourhood area.

It is understood by the community that population growth resulting from future major development post 2023, will put even more pressure on medical care and allied services already near to capacity in 2017. The Parish Council through the NP will work with the relevant health bodies and local authorities to mitigate any such shortfalls. This will include the use of developer contributions through Section 106 and CIL (if a CIL policy has been implemented and adopted by BDC at that time).

*COMMUNITY ACTION 4, AIM: to maintain adequate facilities for a growing community*

## COMMUNITY ACTION 4: PLANNING FUTURE HEALTH CARE PROVISION

- a. Parish Council support will be offered to the relevant Clinical Commissioning Group and principal local authority to deliver adequate and locally based health care facilities located in close proximity to Alvechurch Village centre:
- b. By indicating sites or alternative available buildings suitable for appropriate change of use to a medical facility;
- c. In any assessment for a purpose built medical centre within proposed development sites; or
- d. Working in combination with neighbouring parishes with a view of sharing a new centre that includes extra clinical services e.g. minor surgery, phlebotomy procedures, and routine scanning procedures. The Parish Council will strive to ensure that there are adequate medical facilities within the Neighbourhood Area to serve the growing Alvechurch Parish population.
- e. The parish is currently served mainly but not exclusively by a medical centre in The Square, Alvechurch. The commissioning of this centre's health care services is currently the responsibility of a Birmingham based Clinical Commissioning Group. More and extended clinical and related support facilities may be required over the lifetime of the Neighbourhood Plan. Through Community Action 4, the Parish Council will continue its support of the provision of adequate, accessible healthcare facilities to meet the needs (changing and growing) of the local resident population

### Background / Justification

Whilst, at this stage, no requirement for additional facilities has been identified, it is acknowledged that existing medical facilities are already stretched and further development is likely to make this situation worse. An NHS dentistry service at the village practice is not always available to everyone.

Proposals to improve such facilities will be encouraged. The first preference of development will be to fully explore the potential for the extension, upgrading or re-location of existing facilities within the village centre. If this is not practical or feasible, then land will be sought within any significant new development site large enough to accept such a facility with its associated car parking.

The funding for a proposed medical centre if necessary (either as an enhancement of existing facilities or provision of new) will be sought through developer contributions where relevant, and other sources, to ensure that medical facilities remain sustainable and near to the centre of the existing village. These should be convenient and accessible enough to meet the needs of local people.

[A typical community comment summed this up:](#)

*“Community facilities within Alvechurch Village are most valued but there is concern “extra housing would put a strain on health and education facilities of the parish”.*

Many people have expressed a desire for additional and improved leisure and sport facilities within the parish. Though this does not fall under statutory planning policy in a neighbourhood plan, it is seen as an aspiration that can be furthered as a ‘Community Action’ for the Parish Council and local authorities to explore.

There is already much support offered to the area from a number of organisations mostly associated with local churches or the village centres. ‘Picnic in the Park’ organised by the Parish Council gathers a good response every year. Local organisations, such as sports clubs, schools and libraries will be encouraged to offer their facilities for suitable meetings and organisations, to make full use of their potential.

Various Neighbourhood Watch schemes are in existence and these will be encouraged to grow to reduce the instances of crime making the parish a safer place to live.

Work on a Sports Development Strategy for Alvechurch will be co-ordinated by Alvechurch Parish Council, and involve local sports clubs such as Alvechurch Cricket Club, Alvechurch Football Club and Alvechurch Lions Youth Football. It will also include community groups, residents’ associations, senior citizens’ groups, and Women’s Institutes. The strategy will be agreed and adopted by Alvechurch Parish Council over the NP period.

**COMMUNITY ACTION, 5 AIM:** *To produce a sport and recreational strategy for the local community*

## **COMMUNITY ACTION 5: PROMOTING RECREATIONAL FACILITIES**

The Parish Council will produce a ‘Sports and Recreational Development Strategy’, which will strive to identify and deliver future improvement to sports, recreation and leisure facilities within the parish. Consultation with the local community will be undertaken in producing this strategy.

## TOPIC 4- POLICIES FOR BUSINESS, SHOPS AND SERVICES

### Introduction

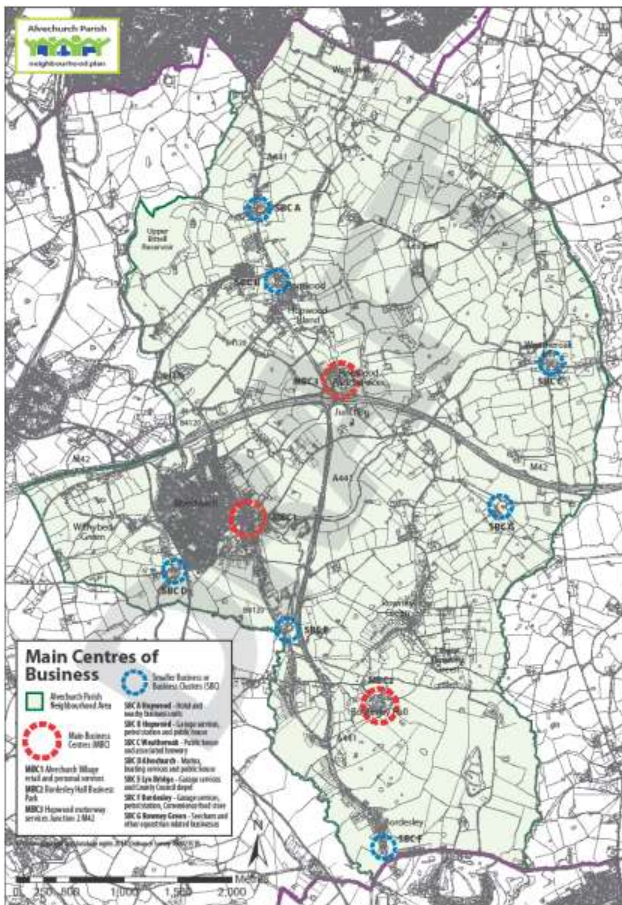
#### KEY AIMS ASSOCIATED WITH THE TOPIC 4 GROUP'S OF POLICIES:

KEY AIM 1: KEY AIM 2: KEY AIM 3: KEY AIM 4: KEY AIM 5: KEY AIM 6: KEY AIM 7: KEY AIM 8.

The full list of 'Key Aims' and their contents can be found on page 19.

4.259. Alvechurch Village is identified in the adopted Bromsgrove District Plan (2011 – 2030) as a large settlement. The Bromsgrove District Plan focusses economic growth primarily in Bromsgrove Town and Longbridge. Sustainable economic development in settlements, such as Alvechurch will be permitted when it achieves a

better balance between housing and employment, has the potential to reduce commuting and conforms to Green Belt policy set out within the NPPF.



4.260. The smaller settlements such as Hopwood and Rowney Green are seen as suitable for some small-scale rural employment opportunities through appropriate farm diversification and essential local amenities. The APNP seeks to promote a suitable mix of local businesses appropriate to the character of the parish.

4.261. The parish wants businesses that particularly serve the needs of local people but will also contribute to the wider district economy. Such businesses and the local employment opportunities they bring will include; small retail provision, office businesses, health and wellbeing provision, leisure and tourism and other services linked to everyday community needs. These would live alongside agricultural related businesses that support the wider rural economy.

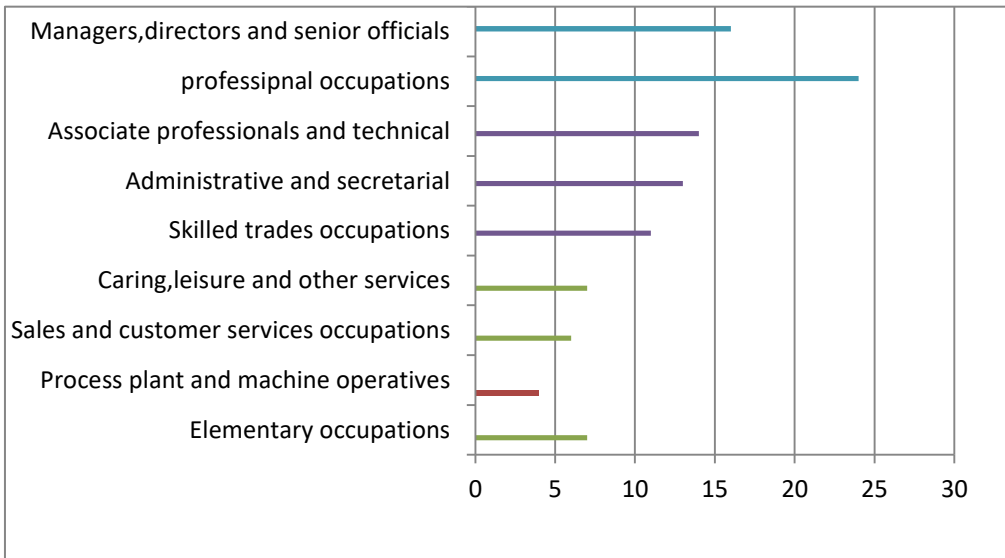
[Double click map for larger version or open this hyperlink](#)

Fig 45. Map of Parish centres of business

4.262. In terms of tourism, Alvechurch Parish has much to offer. There are around 28 miles of rural public footpaths, historic woodlands, two Scheduled Monuments, Bittell sailing lake, the Birmingham and Worcester Canal with Alvechurch Marina, and many historic buildings within the Conservation Area. Visitors will also find local shops, pubs, restaurants, a country house hotel and the Hopwood Park Motorway Services (at Jct 2 of the M42). The Parish Council recognises the need to encourage employment opportunities in recreation and tourism in order to attract more visitors to the parish, so supporting the vitality and viability of these local businesses and services.

## 4.263. THE OCCUPATIONS OF OUR RESIDENTS

Fig 46. Residents' occupations ONS Census 2011



4.264. Alvechurch Parish is generally an affluent area. More than 40% of residents are employed in managerial or professional occupations (England and Wales 28.2%).

4.265. Whilst many people (15% of those in work) in the parish work from home; 63% of residents in employment work more than five kilometres from home. About 7% of people in Alvechurch work mainly from home. This

compares with 2.98% in the West Midlands. There were 265 people claiming out of work benefits (November 2011), representing 6.8% of the population aged between 16 - 64 years.

4.266. There are high levels of commuting out from Alvechurch. From the 2011 Census, 66.5% of people in Alvechurch drive a car or van to work compared with averages of 64.4% for the whole of Worcestershire, and 54.9% across England. 66.5% of people in Alvechurch drive a car or van to work compared with averages of 64.4% for Worcestershire, and 54.9% for England.

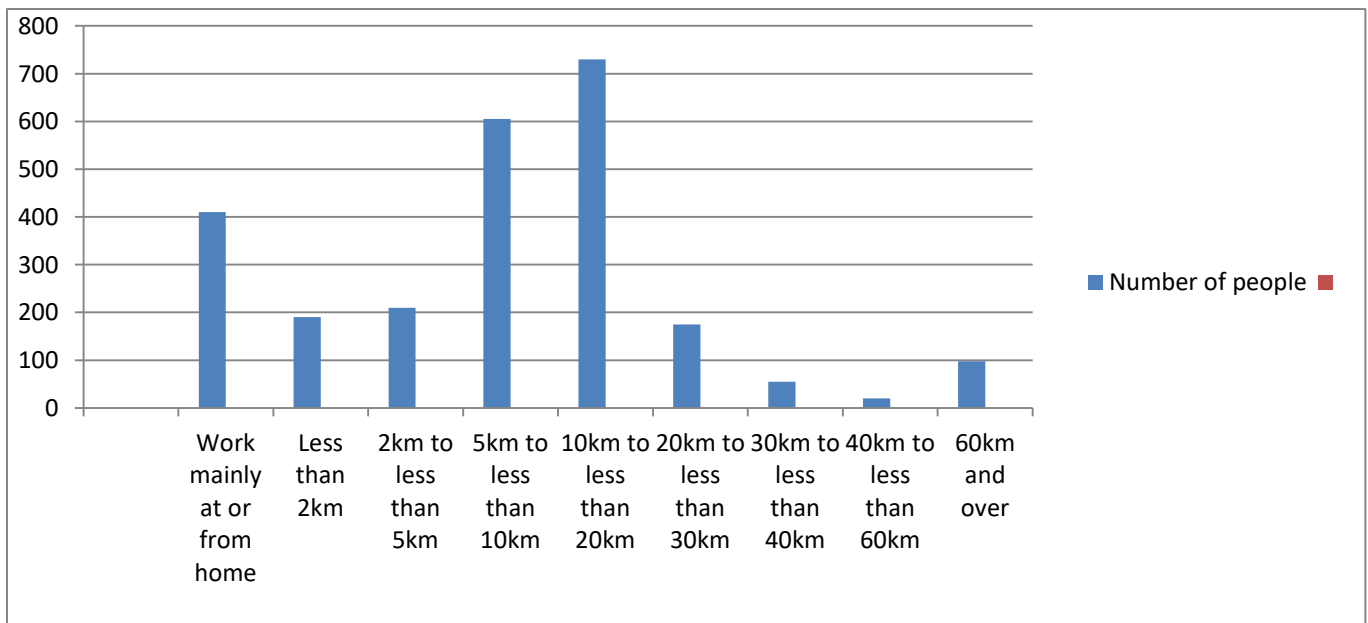


Fig 47. Distances residents travelled to work (Source: NOMIS, 2011)



## Results from community consultations relating to businesses:

4.267. Community consultations for the NP took place across the parish in the period from September 2012 to June 2017. Most of these sessions were timed to coincide with public events taking place and through attending various community group meetings. A great number of consultation responses were received, some of which revealed the following:

- There is some support for increasing local business even in small settlements. However there is no agreement that any Green Belt land should be used.
- There were positive comments about business development generally, especially in rural settlements, but results showed a spread of public opinion.
- The Baptist Hall consultation group in particular showed a reluctance to give up Green Belt land for business expansion or growth.

4.268. The comments submitted as part of the community consultations have helped to shape the policies in this topic on 'Local Businesses, Shops and Services'. Further to these community comments, the neighbourhood plan will particularly encourage small scale development, which supports existing businesses and boosts investment in future employment opportunities within the neighbourhood area. It is not expected that any growth of local business activity will mean more substantial numbers of the working population being employed within the parish.

## 4.269. LOCAL SHOPS

### 4.270. Introduction

4.271. It's not hard to see the attraction of Alvechurch Village centre and its retail offer. Nestled on the outskirts of both Redditch and Birmingham it caters well for the needs of local residents and commuters with a healthy mix of independent shops, cafes and restaurants. In more detail the village centre's retail businesses include butchers, an optician, a greengrocery / flower shop, hairdressers, insurance brokers, post office, beauticians, estate agents, and a mortician.

4.272. Of the village centre pubs, the Red Lion caters for the dining end of the market; The Swan is the more traditional 'drinking' and bar food type of pub. Real ale lovers however may decide to go up to the Canal Marina area to visit The Weighbridge, and if the choice is for a further short stroll out of the village and into the country side then The Crown at Witherby is close by. Travelling a couple of miles outside of Alvechurch Village is the micro-brewery pub, the Coach and Horses at Weatheroak. At Hopwood to the north is the Hopwood House Inn located on the canal-side, which offers an array of ales and family dining.

4.273. Fast-food and dining needs are met by, a fish and chip shop, a Chinese takeaway, Café Morso, the Lounge internet café / youth club, and the well frequented Dilshad restaurant, all taking advantage of being located in the Conservation Area at the heart of the village.

4.274. New retailers arrived in The Precinct and Square areas in 2017. These additions and the improvements being made to shop frontages in The Precinct area together with the projects highlighted in COMMUNITY ACTION 6, ALVECHURCH VILLAGE CENTRE IMPROVEMENT PLAN, are examples of how Alvechurch Village centre has begun to be improved into a better fit within the Conservation Area. At the same time it is showing initial signs of becoming a more pedestrian friendly area. This is a good start but more work needs to be carried out to satisfy the policies in this section.

**POLICY AIM:** - To protect, enhance and encourage retail uses in the Parish

## **POLICY BSS 1: LOCAL SHOPS**

**1. The local shopping facilities (A1 Use Class) in the Parish will be protected and enhanced. This will be achieved by:**

- a. Supporting the retention of existing shopping facilities;
- b. Supporting proposals for extensions to existing shopping facilities appropriate in scale to meet local needs, subject to Policy BDP 18 'Local Centres'.
- c. Supporting proposals for new small scale shopping facilities when appropriately located, subject to Policy BDP18 Local Centres

**2. Proposals that would result in the loss of existing local shopping facilities through change of use or redevelopment will be resisted unless there is alternative provision nearby, there is no reasonable prospect of continued use of the building or facility for similar community use, or there are permitted development rights.**

**3. Small shops within the settlement boundaries of Hopwood and Rowney Green that provide for very local essential everyday need and that encourage less frequent use of the motor vehicles will be supported.**

**4. Although Alvechurch is a growing parish, large scale (1500sq metres plus, floor space) retail units (supermarkets) (within Class-A Uses) would be out of keeping with the parish area and will not be supported.**

**5. The Parish Council recognises that if the Parish is faced with losing a valued facility it may use the Community Right to Bid to nominate it as an Asset of Community Value, and if designated giving the community a chance to buy and run the asset.**

### **BACKGROUND / JUSTIFICATION TO POLICY BSS 1**

4.275. The range of local shopping facilities located within the neighbourhood is vitally important to its local communities. ANP Policy BSS 1 aims to support the continued viability of retail and personal services provision in the Alvechurch Village central area with its ease of access for village residents and for those visiting from the other settlements within the parish. This policy also allows for the retention of (and any increase in) smaller shopping facilities within the settlement boundaries of Hopwood and Rowney Green where they provide for very local, essential everyday need.

4.276. The policy is also in line with NPPF paragraph 28, which states that for a strong rural economy, neighbourhood plans should: *"promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship"*.

Some community responses include:

- "Preserve the village centre"
- "With a good range of shops"
- "Should be spread to minimise impact in the community and protecting the village centre"
- "Keep the village a village"

## ALVECHURCH VILLAGE RETAIL CENTRE

Fig 48. *The Alvechurch 1950's shopping precinct before recent upgrading within The Conservation Area*



### 4.277. Introduction

4.278. Looking to the near future with the possibility of more housing in the parish, the local community were consulted on whether Alvechurch Village centre would benefit from its own business development plan. This would include exploring the potential for some pedestrianisation and corresponding road changes around The Square and The Precinct. The issue here is responding positively to the likely increase in the numbers of people using village centre facilities and the close contact they have with both passing and parking traffic



Fig 49. *The centre of Alvechurch Village entering from the south*

**POLICY AIM:** To enhance Alvechurch Village centre's role as a hub for shopping, tourism, social and leisure activity and to diminish the harmful effects of traffic whilst providing an appropriate level of car parking.

## **POLICY BSS 2: ALVECHURCH VILLAGE CENTRE**

**1. Within the shopping area of Alvechurch (as defined on the adopted BDP Policies Map), proposals for the change of use or redevelopment of existing ground floor shopping facilities to non-A1 uses will be supported where:**

- a. There are permitted development rights that allow the change
- b. The premises has been empty and actively marketed for a period of at least 12 months at an appropriate market price with a view to securing a new retail use
- c. The existing retail use is no longer needed within the parish or is not viable for an alternative retail use.

**2. Outside the defined shopping area, the development of a variety of residential, office/commercial, cafes/bars/restaurants, leisure and cultural uses will be encouraged. However, there should be no significant adverse impacts on residential amenity in terms of traffic disturbance, noise, odours, litter or hours of operation as a result of the proposal. Proposals will also need to show sensitivity to the Conservation Area.**

**3. Proposals to improve and enhance the vitality, historic character, appearance of the public realm and accessibility of the village centre will be supported. The priorities are:**

- d. Improving pedestrian and cycle access and an enhanced public realm
- e. Enhancing public transport accessibility
- f. Encouraging a greater mix of local independent retailers
- g. Promoting the village centre's role as a hub for shopping, tourism, social and leisure activity
- h. Preserving and enhancing the character and historic interest of the village centre and its designated Conservation Area
- i. Diminishing the harmful effects of traffic around the village centre whilst providing for an appropriate level of parking.

### **Background / Justification**

**4.279.** The local shops and small businesses in the village centre are valued, but some people consider they should be increased in number and variety. On 19th September 2016 a contributor to the Alvechurch Village Society Facebook page posted an item announcing the expected arrival in the village centre of a new store selling among other things fresh fruit and vegetables. This prompted replies from 60 other Facebook users. The main points in those exchanges (listed below as mentioned and not in rank order) were about:

- Where new stores might be based

- Some lease restrictions in the Precinct area on what stores might sell so preventing competition. Whereas competition and keen prices are desirable
- Car parking issues around the shops - number of spaces and position alongside moving traffic
- More shops needed as housing numbers grow but then where will cars park
- Current road /pavement arrangements should be changed for safer shopping
- Three new housing estates in the last 5 years in the village. Any more housing growth needs to be related to additional village centre shops and parking
- More shopping and recreation activities needed in the evening

4.280. APNP Policy BSS 2 addresses these issues. Additionally while the emphasis is on adding to the retail and leisure offers within the village centre, market forces may indicate that business use of shop or office premises is no longer viable. The policy recognises this and prepares for change of use.

## 4.281. SAFEGUARDING EXISTING BUSINESS

### 4.282. Introduction

4.283. Market forces often provide an economic incentive to local shop and pub owners to apply for planning permission to enable them to convert premises into dwellings, resulting in a loss of the facility to the local community. Paragraph 70 of the NPPF supports the preservation and enhancement of valued local services and facilities, and Policy BDP14, Designated Employment (para. BDP14.4) of the Bromsgrove District Plan reinforce this by resisting their change of use without overriding justification.

4.284. There is broad community support for a local economy that encourages those relatively few, non-retail local businesses within the parish and promotes new business start-ups or expansion where appropriate (usually brownfield) sites can be found for this purpose The parish needs to both retain existing and attract new enterprises to boost the local economy.

4.285. From our extensive community consultations, there is no desire for larger scale business units than those existing to be located in the parish, and certainly no wish for green belt land to be given up generally for business purposes. With the motorway access point in the parish (Junction 2, M42), major A roads travelling towards Birmingham, Redditch and Bromsgrove, and improved rail services, residents in large will be working elsewhere. This does mean the location of large-scale business (and the associated employment opportunities) in the parish is likely to be neither missed nor desired. (See Evidence Base paragraph 8.2)

4.286. Our community consultations explored whether small scale rural employment should be encouraged particularly in or near the small settlements in the parish stressing that business and buildings must be appropriate to the area. It is clear through the consultation evidence there is overwhelming support to encourage appropriate small businesses, some agri-related and including the craft industry and creative sectors.

4.287. Our policies for sustaining and expanding suitable local businesses in well-designed premises aim to support the local economy through business opportunities suitable to a parish like ours, centred mainly on Alvechurch Village whilst encouraging some opportunities for other diverse businesses within the wider, more rural area.

**POLICY AIM:** *To promote, protect and encourage sustainable use of parish based business assets whilst seeking to safeguard existing business uses.*



## POLICY BSS 3: SAFEGUARDING EXISTING BUSINESSES

Existing businesses in the parish will be protected and enhanced. This will be achieved by:

- a. Safeguarding existing businesses, subject to BDP Policy BDP14 Designated Employment
- b. Supporting the expansion of existing businesses where additional jobs will be created, subject to the sustainability of the scale and impact of the proposal and its consistency with requirements of BDP Policy 15 'Rural Renaissance'.
- c. Supporting the more effective use of existing business sites, particularly the Bordesley Hall site (see APNP Policy BSS7).

The loss of business in the parish will be resisted unless it can be demonstrated that the existing use is no longer viable, the business is relocating to alternative premises within the parish, or there are permitted development rights. Existing business premises should be retained wherever possible when it is in a sustainable location and does not impact negatively on neighbouring properties

### Background / Justification

4.289 Alvechurch parish is predominantly a residential area within Bromsgrove district. It is not viewed in the District Plan as a centre for new, substantial business activity and its location means access is good for residents to commute within in the larger West Midlands area. However, the existing (and probably increasing) population will need local shopping and leisure opportunities. Additionally the retention of non-retail business activity in agriculture and related industries, in small business units of the type found at Bordesley Hall (see policy APNP Policy BSS 7), and in provision of various personal and community services together ensure an area that is economically and socially sustainable.

### Community comments on business include:

- a. Good mix of shops is needed; If they can be accommodated within village; What we have in building stock is sufficient
- b. Depends on type of business - more shops on existing Alvechurch site ok but not using green belt for industrial sites
- c. Most of us would probably prefer to keep the character of the Parish as it is and commute outside for work
- d. There is already a feeling of the village being alive with the existing businesses and community groups
- e. Green belt land should not be used - it is bad enough that we have to sacrifice it for housing

## NEW BUSINESS IN THE PARISH

### Introduction

4.290 To promote sustainable economic growth and, to increase local job opportunities a blend of new business developments will be supported within the parish, providing they comply with policies set out in the Bromsgrove District Plan (2011-2030). With the primary focus on Alvechurch Village settlement, there will also be

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encouragement for other small scale business developments including agribusiness-related, subject to availability of land in other parts of the parish and national green belt policy.

4.291 Proposals will be supported where it can be demonstrated that they will not adversely impact on existing residential amenity, highway infrastructure or service uses. Proposals must also consider the character and appearance of the locality, and its natural environment.

4.292 Alvechurch Village's nature makes it inappropriate to use the village centre for large new business units or extra outlets, although there are opportunities to extend existing shops and to increase the amount of retail floor-space by change of residential use to A1 use. This will be supported unless it will lead to unacceptable amalgamation of existing plots to the detriment of the Conservation Area.

4.293 Where possible and to support Alvechurch's main shopping area, new retail development should take place in the village centre and the emphasis should be on planning for people to live and work nearer to Alvechurch Village and its centre. More rural employment located close to the village and residential uses, especially above shops will support this.



Fig 50. A new business in the retail Precinct

**POLICY AIM:-** To encourage a range of smaller scale businesses including rural enterprise in keeping with the conservation and character aspects of Alvechurch Parish, with particular reference to the village centre.

## POLICY BSS 4: NEW BUSINESS DEVELOPMENTS IN THE PARISH

- 1 **Proposals for new business development within the parish that strengthens the local economy through; investment in small and medium enterprises and start-up businesses will be supported providing the development is not inappropriate in the Green Belt and is subject to the following criteria:**
  - a. Proposals should be sustainable and respect the character of its surroundings by way of building scale and design, impact on the surrounding landscape, safeguarding residential amenity and road safety whilst also having regard to:
    - Identifying and taking account of flood risk, including that from surface water flooding
    - Promoting where feasible waste water management, including the use of SuDS Systems<sup>24</sup>
    - Maximising the opportunities for renewable or low carbon energy provided by the particular site
  - b. Brownfield sites are primarily used especially those in sustainable locations close to the railway station
  - c. Proposals likely to generate unacceptable noise, fumes, odour or other disturbance to neighbouring residential properties will not be supported
  - d. The proposed business development will lead to a likely increase in the number and quality of local job opportunities
  - e. Proposals for farm diversification must be sustainable and make use of the conversion of existing agricultural buildings
  - f. New or expanded sustainable rural tourism or leisure facilities having respect for the historic character and the surrounding countryside, (e.g. canal related or small craft enterprises that bring benefits to the local community)
  - g. Landscape schemes should be used to provide effective screening of the development from the surrounding countryside. Where possible, effective screening should include trees or woodland planting along the boundaries of the site
  - h. Proposals include provision for safe and attractive pedestrian and cycle routes
  - i. There is adequate off-street parking and vehicle storage space on site
  - j. The proposal is in accordance with other relevant policies within this NP.
- 2 **The change of use beyond the original purpose of non-permanent and insubstantial buildings such as sheds, out houses, chicken houses, glasshouses or isolated stables will not be supported. The removal of such buildings and the return to open use of the land on which they were located will be supported.**
- 3 **Any proposal requiring planning permission to change the use of land in the Parish to General Industrial use (B2) or distribution and storage uses (B8), or other uses which would generate heavy goods traffic, must demonstrate with the assistance of a Transport Statement that the proposal will not have unacceptable traffic impacts within the Parish**

### Background / Justification

4.294 This policy builds on the community view that supports new small-scale business ventures in Alvechurch Parish to cater for both local employment, and to meet the everyday needs of the resident population. The policy promotes appropriate new business ventures especially in agricultural- related forms and in leisure and tourism while paying attention to both benefits and constraints of building new business in rural locations.

<sup>24</sup> SuDS sustainable drainage Systems

4.295 The Parish Council recognises and encourages the important role of visitors to the parish in terms of supporting local businesses such as shops, pubs, visitor attractions and overnight accommodation, including at, bed and breakfast and the Westmead Hotel located in Hopwood. In addition the Parish Council will work to support local initiatives such as farmers' markets, festivals or similar public events to increase visitor numbers.

## Some community responses on new businesses:

- "A good mix of shops is needed"
- "It is acceptable to be a pretty commuter village"
- "Only round new station"
- "Try to focus on existing sites"
- "Some small planned businesses, but nothing larger."

## Communications infrastructure

### Introduction

4.296 The provision of good telecommunications is no less important in rural areas to support rural enterprise and the small but growing number of residents who work from home (currently 5% as indicated by the 2011 National Census). Currently fibre optic connections are the most robust and future-proof method of delivering high performance connectivity: this should be the aim for all new business and residential developments within Alvechurch Parish. Communication providers will be supported that provide unobtrusive connection hotspots throughout the parish.



Fig 51. Connectivity challenges in a rural community

**Policy Aim:** New communications developments that will deliver high performance and improved connectivity

## POLICY BSS 5: COMMUNICATIONS INFRASTRUCTURE

- 1. Proposals will be supported which incorporate the expansion and enhancement of electronic communication networks and high speed broadband, along with improvements to connectivity, such as the inclusion of "hotspots".**
- 2. Proposals for radio and telecommunication masts should be suitably camouflaged, kept to a minimum consistent with the efficient operation of the network and designed to minimise adverse visual impacts on the environment, residential amenity, character and appearance of the Alvechurch Parish area.**
- 3. Proposals for major residential development must contain a 'Connectivity Statement'. The statement should demonstrate how the proposal takes communications connectivity into account.**
- 4. Where possible, developers should provide suitable ducting for use by more than one service provider to make future connections to individual properties from connection points located on the public highway, or through some alternative connection point available to different service providers.**

## Background / Justification to policy BSS5:

4.297 For existing rural business and new enterprise to thrive modern technology is essential. Yet apart from Alvechurch Village centre and certain small sections within the parish, rural broadband connection service is slow and unreliable with comparatively low download and uploads speeds. There is a need to recognise the increasing numbers of people conducting their businesses from home and that this will grow due to changing economic pressures affecting travel and jobs. The NP reflects this in its proposals to provide more housing and to encourage the provision of local business premises, together with some retail facilities possibly with accommodation situated above, all of which will expect to be 'well connected'.

4.298 Slow broadband internet connections affect both the ability of residents to access information and the performance of businesses that rely on broadband as a key means of communication in a rural area. High-speed broadband will help to address these issues and brings with it a range of new opportunities, such as;

- Better remote and home working
- Access to more on-line applications and services at a time when the internet and digital media is continuing to grow as an important means of communication
- Attract new businesses into the parish and improving the wellbeing of its residents.
- Subject to NPPF 173, providing suitable ducting that can accept fibre on new developments, either to the nearest access point to existing internet providers or to a local access network; or another location that can be justified through a proposal connectivity statement.

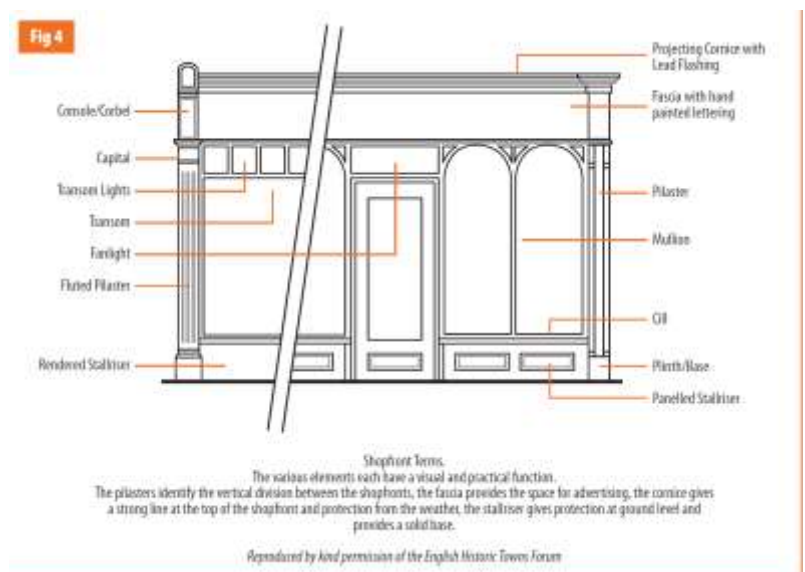
4.299 The world of telecommunications and connectivity is a changing environment with new technological advances occurring all the time. The provision of fibre optic connections is the most robust and future-proof method of delivering connectivity and this should be the aim for all developments. Other technologies may provide interim solutions.

## DESIGN IN ALVECHURCH VILLAGE CENTRE

### 4.300 Introduction:

4.301 Design principles should support the positive role that Neighbourhood Plans have in promoting vibrant diversified and localised retail development. This requires a new approach to understanding the needs of small and medium sized retailers and combating the continued loss of such businesses. In order to do this, increased restriction of new out-of-centre retail developments must combine with measures to increase the attractiveness of existing village centres both to shoppers, visitors, retailers and developers.

Fig 52. Shop Front design example:





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Reproduced with kind permission of the English Historic Town Forum, part of (BDC SPG2shopfront design). See page 35 of the BDC emerging Draft High Quality Design Supplementary Planning Document (SPD) being consulted on in 2018.

4.302 The strengths of existing shopping centres include a wide range of service and leisure facilities as well as shops, and should give good access to public transport services. Their weaknesses as often perceived by shoppers include being inconvenient, cluttered, dirty, traffic congested, unsafe and not adapting to the changing needs of shoppers and retailers. Further perceptions are of a lack of pedestrian facilities.

4.303 For village centres such as Alvechurch to achieve their full potential and continually improve as retail destinations, County, District and Parish Councils need to work together with developers using good design principles and policies to enhance the vitality and viability of their centre(s).

4.304 The statutory provisions for control over outdoor advertisements are quite detailed in England with present regulations set out in the [Town and Country Planning \(Control of Advertisements\) Regulations 2007](#). The Department for Community and Local Government (DCLG) booklet, 'Outdoor Advertisements and Signs - A Guide for Advertisers' is intended to help local planning authorities, people proposing to display advertisements and the general public understand how the control system works.



Fig 53. Source BDC SPG2 (Shopfront Design)

4.305 'A' Boards can be a particular problem. It should be noted that they are permitted on private property. However, the displaying of 'A' boards on public highways or footpaths is not permitted by present legislation. Consent to display an advertisement is required from Bromsgrove District Council.



## ASSESSING DESIGN IN ALVECHURCH VILLAGE CENTRE

**POLICY AIM:** - To maintain and conserve the historic and distinctive traditional character of Alvechurch Village centre through sympathetic design

## **POLICY BSS 6: ASSESSING DESIGN IN ALVECHURCH VILLAGE CENTRE**

**1. Within the Alvechurch Village centre, which is wholly located within the Conservation Area, planning proposals will be supported where the following criteria are satisfied:**

### **2. for shop frontages:**

- a. Traditional shop frontages are conserved, using traditional elements carefully related to the building, its age and its surroundings. Replacement of existing inappropriate shopfronts are preferred and encouraged rather than the use of additional unsuitable materials
- b. Existing original features traditional to shopfronts such as pilasters, fasciae, old ironmongery and original signs where possible, are encouraged and retained
- c. New shopfronts must both relate to the building of which it is to be an integral part and respect the proportions and architectural detailing of the building
- d. In the Conservation Area plate glass should not be used in buildings that originally had small windows and fasciae should have minimal projecting signage and suitable lighting appropriate to the age and proportion of the building
- e. Shop and business frontage changes including design, signs and outside lighting should have regard to the Alvechurch Parish Design Statement. Inappropriate shop or business frontage not in keeping with the locality, including outside displays will not be permitted

### **3. Business signage and advertising:**

- f. Advertising signs should be limited in number, small in scale, and reflect District and Parish policy objectives in terms of impact on and appropriateness in the rural and Conservation Areas
- g. Signage is constructed of traditional or appropriate materials designed to a high standard, with traditionally hand painted signage or raised metal letters preferred. It should be appropriately located on the premises and in keeping with the street scene. Fascia boards should be of a scale and design in keeping with the proportions of the building as a whole, and must conform to the local planning authority guidance
- h. Advertising should be adapted to fit buildings and the streetscape, particularly on listed buildings and in the Conservation Area
- i. Advertisements should not cause visual clutter in the street scene, or have adverse impact on the appearance of any building on which they are displayed due to size, design, construction or materials
- j. Street furniture and signage should be practical, of modest scale and in keeping with local surroundings
- k. Advertising is consistent in number, size, design and appearance with the rural and historic setting of Alvechurch Village
- l. Signs should not present a distraction to motorists
- m. Internally illuminated shop signs will not be permitted in the Conservation Area.

## Background / Justification to Policy BSS6

4.306 The appeal and vitality of Alvechurch Village centre is influenced by its primary retail frontages and so it is important that these are maintained to a high standard. Public consultations show broad community support for a range of improvements to the main shopping and business centre located around the central square area of Alvechurch Village. Additional responses included agreement for the control of unsightly or temporary advertising signs in the parish.

4.307 Resident complaints about ad hoc unapproved (and typically, unsightly) sign and street advertisements are also received by the Parish Council on a regular basis. These responses together provide further evidence for introducing control measures within this NP.

4.308 These measures will include protecting the setting and landscape of the parish from clutter especially in the Conservation Area. The intention is to limit signs and advertisements in the village (and as appropriate into the countryside including our smaller settlements and landscape beyond) to those necessary and in keeping with a rural and ancient parish and for businesses to operate. Policy BSS 6: contains necessary detail to support this.

### Some community responses on the further development of the Village centre:

- “Would love a shared space, ideally from Red Lion Garage to The Swan - this would be a long term aim”
- “Block road to precinct from Birmingham Road”
- “Would make village more welcoming”
- “The Square is dangerous for parking, entering/exiting parking spaces and for pedestrians - both of our cars been damaged on the square”
- “As the village expands, consideration is needed for managing this in the Centre”

## TOWARDS A VILLAGE CENTRE IMPROVEMENT PLAN

### 4.309 Introduction

4.310 Alvechurch Village centre is a place that provides for the immediate village community and also serves the wider parish area and its smaller settlement population. It is a place where people of all ages go for shopping, health care, other services and recreation as well. It is a sociable place during the day and evenings but further improvement to pathways and the road system is needed, particularly to benefit pedestrians and people of limited mobility.

4.311 Drawing on community consultations and presentations the majority, approximately 59 % have showed a preference for some “pedestrian friendly improvements” around the centre of Alvechurch Village. Approximately 25% were not in favour and a small number of people did not give a view. The village centre business community views will be sought in a survey organised by Bromsgrove DC officers during autumn 2017.

4.312 To plan for such improvements the Parish Council will work with Worcestershire County Council Highway officers, Bromsgrove Centres Manager and the Precinct land owner to explore the possibilities for some improved road layout, parking arrangements as well as improvements for the precinct itself through the non-statutory ‘Community Action 6’ following this section.

4.313 At the Bromsgrove DC cabinet meeting in November 2017 a cover paper about the Centres strategy as agreed, highlights a strategy albeit briefly for what is in prospect for main centres including Alvechurch Village.

4.314 The proposed strategy can be seen as a complimentary fit with the NP Community Action 6 on the Village centre improvement plan<sup>25</sup>. See Evidence Base Summary and the foot note below.

## BORDESLEY HALL AS A PARISH BUSINESS ASSET

### 4.315 Introduction

4.316 Bordesley Hall is a country house originally constructed in the 1830's. Since then parts of the large park estate surrounding the Hall has been sold. The Patrick family in the early 1900's became owners of the Hall and the associated nearby parkland. In 1942 the Hall's ownership changed to become the centre for the offices and research laboratories of the British Cast Iron Research Association.

4.317 In the period between 1950 and 1970 additional building took place around the Hall to provide office and industrial accommodation, totalling five office blocks and three industrial workshop buildings on a site of 16 acres. During the 1990's with the changing role of the Research Association more of the Hall itself and its outbuildings were let to a variety of tenants.

4.318 Situated about 1 mile from Alvechurch Village and with good access to junction 2 of the M42, Bordesley Hall's role today (as described by its current owners) is that of business park providing office and industrial accommodation.

4.319 Any new build on the brownfield site should not have an unacceptable impact on the amenity of nearby residents.

Fig 54. Bordesley hall Business venue



<sup>25</sup> [BDC Centres Strategy](#), also see ;Evidence Base Summary, appendix B.+ page 58 and page 65

**POLICY AIM:** - To support Bordesley Hall's continued use as a significant site for parish based business activity and so providing local employment opportunities that together bring associated social and environmental benefits.

## **POLICY BSS 7: BORDESLEY HALL EMPLOYMENT AREA**

The continuation of Bordesley Hall as one of the few business centres within the parish will be supported (currently for B1, B2 and B8, classes of use) and efforts made to maintain employment opportunities for local people.

New business development on the Brownfield Site area of Bordesley Hall will be encouraged which may make use of existing buildings or require new build in whole or in part.

- 1 Any such changes should ensure no undue adverse impacts on the amenities of surrounding residential or recreational uses.
- 2 Any visual impacts arising from changes to the site must be addressed through building design and site layout and landscaping
- 3 The change of use of Bordesley Hall for general housing purposes will not be supported unless it can be demonstrated that the existing use is no longer viable.

### **4.320 Background/Justification:**

4.321 The Bordesley Hall business area continues as an important source of local enterprise and employment. . In late 2016, there were 31 companies and approximately 155 people working at the Hall location. This compares with 2014 when in total 48 companies and 294 people were based there. At present in 2017 there are 26 companies and 70 people based at the site (Harris Lamb letting agent figures). According to these agents, while the site is attractive to some new businesses, it is perceived to be in a relatively remote location by other potential occupiers and does need significant modernisation.

### **4.322 Types of Companies recently found there vary vastly as follows:-**

4.323 Exhibition specialists, international flower preservationists, telecoms, air conditioning for large scale car manufacturing, handmade glass producer, commercial and retail plumbers, fishing tackle warehouse, child protection (charity), advertising, marketing, printing all materials, health and fitness training for schools, personal training, asbestos investigation and removal, jewellery for manufacturer, boat-sails maker, repair of cargo and steel fabrication, data centre, exhibition set up - large scale commercial, classic and vintage car specialists and renovators, environmental housing surveyors, architect, security and surveillance, electrical Installations, specialist sports surfacing, and bespoke software.

4.324 Although Alvechurch is mainly a parish with a primary residential purpose, a suitable blend of economic activity adds to community sustainability. That blend should include retail and personal service businesses and could include general industrial, warehousing and agri-related enterprise. The Bordesley Hall site continuing its use in the future for business purposes and bringing employment for local people helpfully adds to securing this blend.

4.325 However it is appreciated that changes or even their replacement may be needed at the Hall site to the current buildings in whole or in part to ensure continued and cost effective use of the site for business purposes. Where changes to the current buildings or site are being proposed, then consideration must be given to ensuring there are no undue adverse impacts on the nearby residents on the Holloway, in Rowney Green, and on the Peck Wood centre site in providing its residential, recreational and other purposes.



4.326 We have acknowledged that the users of the business park at Bordesley Hall are reducing in number. So we can see that change of business uses and/ or changes to the existing buildings and/ or their removal and subsequent new build may be among the future new business-focussed scenarios for this location.

4.327 With its still commanding position overlooking Bordesley Park, important both for its landscape features and as a vital part of the Green Belt between Redditch and Alvechurch Village, any changes to the Hall itself or to its outbuildings will require their visual impact to be managed through building design and site layout and landscaping considerations.

#### 4.328 A few relevant community comments

- “Priority should be given to businesses, which use local resources/labour and provide services which respond to needs of the local community - industrial symbiosis could be considered on a local level”
- “Bordesley already has a commercial centre which can be enlarged”
- “No more at the Old Hall in Rowney Green unless the Holloway is widened and footpaths are put in”
- “How sustainable/viable is this in reality? Businesses need amenities for their workers so development of both goes hand in hand”

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## NON STATUTORY COMMUNITY ACTION FOR BUSINESS, SHOPS AND SERVICES TOPIC SECTION

### Community Project as identified in the Draft Plan

#### Delivering the vision and key aims – Community Actions

Through the process of developing the Neighbourhood Plan some areas of community concerns cannot be covered by planning policy however as part of the Neighbourhood Planning process they can become ‘Community Actions’/projects supported by Alvechurch Parish Council. These proposals can also be delivered in conjunction with other local organisations.

#### Background / Justification:

An Improvement Plan could provide a safer, more pleasing village environment for pedestrians to use and meet socially whilst encouraging increased use of the village centre businesses for the community’s everyday shopping and service requirements.

To promote on-going prosperity and encourage local spending it is essential that Alvechurch Village Centre provides improved local services that sustain the vitality of communities across the entire parish. Receipts received from Community Infrastructure Levy (when and if set by BDC) will be used to deliver new community infrastructure and where necessary, BDC led planning obligations will be used to address any negative impacts resulting from new development.

Occasionally, development will offer substantial opportunities to enhance existing infrastructure, such as distributing high speed broadband to parts of the village that are currently on basic provision. Where such improvements are made as part of new development proposals, especially having village centre impact, this will be seen as a positive benefit.

Additional character development will be encouraged if it contributes to this village plan through public safe parking provision and improved traffic management. Encouragement will also be given for enterprises and additional amenities that enhance rural character signage and advertising.

The APNP will guide the Parish Council to carry out improvement projects throughout the plan's life using builder contributions and future CIL funding (when adopted by BDC). This village centre improvement plan is one example and it will be carried forward by a multi-agency management group.

***COMMUNITY ACTION 6: aim:** Through the adoption of the Village Centre Improvement Plan to work with public bodies and private developers on the remodelling and improvement of the village centre that gives priority to pedestrian use of retail and business services, while providing for safe movement of vehicles passing through the centre or parking in designated spaces*

## **COMMUNITY ACTION 6: ALVECHURCH VILLAGE CENTRE IMPROVEMENT PLAN**

- a. A Village Centre Improvement Plan will be prepared with advice from Worcestershire County Council and Bromsgrove District Council, including that of the Centres Manger, taking into account permitted development rights
- b. The Village Centre Improvement Plan will be used to improve and enhance the principal shopping and service area of Alvechurch Village, having particular regard to the Alvechurch Parish Design Statement for use of materials and design character
- c. New development schemes close to the Alvechurch village centre will be encouraged to make contributions and cooperate with the principal Local Authorities in taking forward this community improvement scheme
- d. The village centre, even though The Precinct is of the 20th century, is part of the Conservation Area. It is intended therefore to keep signage in the village centre to simple design elements that blend in with the overall historic setting of the Conservation Area
- e. The character of Alvechurch Village should not be harmed by inappropriate street signage and lighting or excessive street furniture or business advertising
- f. Some provision should be made for landscaping including the additions of greenery and trees
- g. Better pedestrian access and pathways will be sought including appropriate provision for disabled people, in particular a crossing point between the medical centre and the Square area
- h. Improvements that include improved access for cyclists and storage for bicycles will be sought at key village locations such as at, the village Precinct, The Square and at the railway station
- i. Measures that help improve existing parking in and near the village centre for its immediate residents and for centre users will be explored in conjunction with WCC Highways and local businesses.

## TOPIC 5: POLICIES FOR GETTING AROUND-TRANSPORT

### Introduction

#### KEY AIMS ASSOCIATED WITH THE TOPIC 5's GROUP OF POLICIES:

KEY AIM 1: KEY AIM 2: KEY AIM 3: KEY AIM 6: KEY AIM 8.

The full list of 'Key Aims' and their contents can be found on page 20.



4.329 The local road network allows relatively easy commuting to neighbouring towns and the city of Birmingham, though traffic volumes at peak times lead to some congestion. The key road elements are the M42, running east-west through the parish with an intersection at Hopwood and the A441, which runs north-south through the parish linking Birmingham to Redditch.

4.330 The A441 used to run through Alvechurch Village itself, but now forms a by-pass to the east of the village. The previous Worcestershire Local Transport Plan (LTP3) suggests traffic volumes fell slightly in 2009/11; these volumes are likely to have risen again as economic growth has started to return and the Longbridge development continues to expand. LTP4 (2017) does not quantify any traffic growth

[Double click map for larger version or open this hyperlink](#)

Fig 55. *Map of transport routes of Alvechurch parish*

4.331 Current traffic volumes are far higher than some major routes (such as the A441) were ever engineered for. Local roads connecting different parts of the parish and residential streets are generally good and few parts of the parish are isolated. Some of these smaller roads suffer from speeding problems.

4.332 A key element of traffic management in the parish is the influence of out-of-parish developments (in south Birmingham and Redditch) which generate additional traffic volumes and safety issues as vehicles travel into the parish to join the M42. This safety aspect is especially true on the A441 down Hopwood Hill where large volumes of traffic including HGVs are travelling through a residential area on a single carriageway road without any pedestrian crossings.

Fig 56. *A441 traffic during the day at Hopwood, even busier in rush hour*



4.333 Public parking facilities in the parish are concentrated in Alvechurch Village centre (13 spaces around The Square). The Tanyard Lane longer stay car park (45 spaces) is supplemented by 47 spaces at the Alvechurch Sports and Social Club in Radford Road (available to the public during the daytime under a shared-use agreement giving 2 hours maximum parking) and approximately 25 spaces of designated and short term on-street parking. There are 6 designated spaces (three within the Tanyard Lane car park) for drivers with disabilities.

4.334 All of this parking is free and is well used by residents and visitors to shops and services. Dedicated parking provision for the Alvechurch schools and library complex is relatively poor, leading to a significant amount of inconsiderate on-street car parking along Birmingham Road at peak times in the school day.

## 4.335 MOVING AROUND

4.336 Pedestrian movement is aided by the many intersecting roads in Alvechurch, which are supplemented by a number of alleyways. This makes the village centre very accessible for pedestrians. Alvechurch Village is a compact settlement and few village properties are more than 15 minutes' walk from the village centre. The walk to the railway station is the most significant undulation in what is largely a flat settlement.

4.337 Alvechurch is a fairly large semi-rural area with over 27 miles of Public Rights of Way (PROW) criss-crossing the parish. These PROWs comprise footpaths and bridleways, many of which are well used by the local community and rambler groups from Birmingham and elsewhere.



Fig 57. Alvechurch new rail station completed 2015

4.338 **Alvechurch has a rail link**, to Birmingham and Redditch, on what is locally known as the Cross-City line. Services are well used for commuting and leisure. From the village a section of the line has been upgraded to improve the facilities at Alvechurch railway station and an additional three mile section of dual track has been added between Alvechurch and Redditch to facilitate a timetable upgrade from two to three trains per hour in each direction

4.339 **The number of bus routes**, is limited in the parish. The hourly 146 service runs to Birmingham and Redditch during week days and every hour on a Saturday, with the last bus returning from Birmingham at 6.40pm. A less frequent out and return during the week service connect the rest of the parish with Redditch and Bromsgrove, passing the railway station. Some school services operate to and from the high schools in Bromsgrove (approximately five). The current limited amount of funding coming from Government means there is further pressure to reduce these general public bus services, which are especially valuable to older people.

4.340 The APNP will encourage the Parish Council to work with local authorities to seek to secure contributions to develop enhanced Community Transport services in the area, as this can be a really positive, locally focussed way to support enhanced public transport services where bus provision is uneconomic. Community Transport is seen as a way of replacing scheduled bus services as a more cost-effective means of ensuring accessibility to services for those who cannot access a car for a variety of reasons. See <http://www.communitytravel.org.uk> for details.

4.341 **The Worcester-Birmingham Canal** is the final piece of the local transport infrastructure, which runs north-south through the parish. Its towpath (recently upgraded in parts) is as well used as any footpath in the area to connect small settlements, by both walkers and cyclists alike.



4.342 The canal forms a community, social and recreational outlet for many people (both residents and visitors); through boating, walking, cycling and fishing. The canal is also seen as being able to have a positive effect on the local economy through the encouragement of tourism, centred on holidaying and canal boat trips, which can be hired from the local Alvechurch Marina.

4.343 New development will create additional use of the existing parish Green Infrastructure (GI) possibly resulting in its degradation. New development should therefore be required to fund improvements to the GI asset to ensure it remains fit for purpose for both existing and new users as recognised and supported by the NPPF.

## 4.344 WALKABILITY

4.345 Alvechurch Parish is well known throughout various rambling clubs for its well-maintained country footpaths (PROWs). Alvechurch Village Society (AVS) volunteers maintain these footpaths that connect various areas of the parish via the rural landscape. These are well used by the community and AVS promotes these paths as a “Gateway to the Countryside”.

4.346 If Alvechurch Parish is to maintain its character as a rural landscape area, it must continue to be seen as ‘compact’ and connected to the countryside around it. This means that Alvechurch Village itself should be a place where people can easily walk to the facilities they need, the village centre in particular, and to surrounding settlements. Various studies (such as those carried out by the Institute of Highways and Transportation in 2000) suggest that the average time for which people will leisurely walk rather than get in their cars is about 15 minutes.



4.347 For our parish to remain sustainable, new development therefore should ideally be within 15 minutes and no more than a 20 minutes’ comfortable walk to the village centre.

4.348 Walking should be encouraged because it is the most energy efficient and the only fully sustainable mode of travel. Yet walking as a mode of travel seems to be declining throughout the country. The 2010 National Travel Survey results make for disappointing reading for those who attempt to encourage sustainable travel. For example the results for travel mode journey distances of 0 – 1.6km, show a 2% decrease in the number of people walking (77.1%) and a 1.7% increase in the number of people travelling by car (19.9%) compared to the 2009 results (2010 National Travel Survey (The NTS).

Fig 58. *Map of Sustainable walking distances*

[You can double click on the map or open this hyperlink to see a larger map](#)

### Improved walking conditions can:

- Increase the proportion of travel made on foot
- Enable greater use of public transport
- Improve personal health
- Help those who have least travel choices
- Benefit the environment
- Encourage trade and competitiveness for local services
- Increase land and property values
- Mean less use of cars to counteract our overcrowded roads and to lessen the effects of declining rural public bus services.



4.349 Many journeys by car are short and could transfer to walking by making walking a more pleasant activity. By providing key facilities and services within reasonable walking distances of households and attractive and safe walking routes to access them, then people will be encouraged to walk or cycle instead of using their cars.

4.350 To address the lack of greener transport options, housing and business developments, which encourage integrated systems and include the provision of footpath and cycle routes, will be looked at favourably by the NP.

## 4.351 CYCLING

4.352 Cycling is as sustainable a method of getting around as walking and also promotes good health. Alvechurch Parish, with its network of footpaths, is very suitable for cycling but there are no dedicated off-road cycle routes in the parish and very little encouragement to get people cycling e.g. by provision for storage/parking of bikes at the railway station, and the village centre and footways incorporating cycle tracks.

4.353 Elsewhere in the country, cycle routes have too often been designed in a piecemeal fashion, or cyclists have been an afterthought in highway design. We have learnt from best practice areas (Plymouth, Norwich and Dudley to name a few), thinking bike at the beginning of a design and planning process can reap dividends for other road users as well as cyclists.

4.354 Cycling is a convenient and practical mode of transport for many journeys. Encouraging people to take up cycling for more trips helps achieve several transport aims and wider environmental and health objectives. The majority of roads in the Neighbourhood Area are available to cyclists; however the speed and volume of traffic on some makes cycling on them unattractive. This is particularly the case for new, less confident or occasional cyclists.



Fig 59. The road junction at Alvechurch Village Square

4.355 Encouraging people to travel by bicycle over other unsustainable transport modes can start to tackle congestion, particularly for relatively short distance journeys (up to 10 miles). Carbon emissions can be reduced and some health problems like obesity can be addressed.

4.356 These factors are highlighted in the third [Worcestershire County Council Local Transport Plan 3](#) (LTP3) and Worcestershire's new Local Transport Plan (LTP4)

4.357 (WCCLTP4), where specific objectives for their cycling policy will be to:

- Enable more people to choose to cycle, more safely and more often
- Create a culture and environment, which makes cycling a realistic and attractive travel option
- Promote cycling as an enjoyable, every day and healthy activity
- Reduce cycling casualties
- Promote integrated and effective land use and transport planning such that new developments are located and designed to maximise accessibility by cycling

## 4.358 Promoting cycling can deliver;

- economic benefits by increasing the accessibility and viability of village centre facilities;

- environmental benefits, as an energy efficient method of travel
- social benefits, as a cheap and healthy mode of travel

4.359 Applied across communities, cycling can ease access to all local facilities, including health, employment, leisure, education, retail and transport services. Most cyclists are happy using public roads, but less-confident and more vulnerable people (including children); need to have routes segregated from other vehicles, especially to schools and village centres with routes wide enough for children to be accompanied.

4.360 The NP encourages the WCC LTP3 and LTP4 transport policy and supports the parliamentary initiative [CYCLING AND WALKING INVESTMENT STRATEGY \(CWIS\)](#), which recommends a statutory requirement that the needs of cyclists and pedestrians are considered at an early, stage of all new development schemes.

## GETTING AROUND AND TRANSPORT POLICIES

### 4.361 Introduction

4.362 The policies in this section are guided by the WCC LTP 3 and LTP4 (recently adopted), which embody national and regional transport policies and trends. The Local Transport Plan is in place to complement District Plans (as in Bromsgrove) and Neighbourhood Plans like this one.

4.363 The following policies aim to improve the safe and efficient movement of people around the parish. They have been framed by analyses of current transport arrangements in the parish e.g. traffic surveys (summarised in the Evidence Base) and by consultations with the local community. Much of that consultation has been explicitly part of the Neighbourhood Plan development process but the policies and community actions also relate to community needs identified separately over the last 2/3 years.

### The policies are intended to:

4.364 Improve settlement connectivity within the parish i.e. better footways (pavements), provision of dedicated cycle routes and better planned bus scheduling. The evidence base shows that, compared to other places in Worcestershire, bus services and access to them is relatively poor.

4.365 The Bromsgrove Advertiser 12 Jan 2015 stated-*“BUS services in Worcestershire have been revealed as among the worst-hit in the entire country today - with angry campaigners saying the cuts are more than twice as bad as other rural areas. The Campaign for Better Transport has named the county among six parts of the UK where cuts have been the deepest”*.

### Improve highway safety

4.366 Make the primary link road to the M42 and on other parish roads safe for all road users, not just for motor vehicles. There have been many complaints to the Parish Council about the lack of pedestrian crossing points, speeding and poorly maintained footways on the A441 at Hopwood and Bordesley.

### Improve the accessibility to rail services;

4.367 The railway station currently has a poorly-surfaced and badly-drained car park reducing available spaces below the published number of 50. A key piece of work to inform future rail use at Alvechurch is for the Parish Council to work with WCC and transport operators for them to produce a fit for use station and car-park through a “Station Travel Plan”.

### In the short term;

4.368 Alvechurch Parish Council, supported by WCC will lobby the incumbent Train Operating Company to pursue the development of a robust Station Travel Plan for Alvechurch Railway Station, which will aim to improve access to and from the station by all modes of transport (in particular pedestrians, cyclists and buses, where services are provided).

**POLICY AIM:** to promote more sustainable and easily accessed methods of travel that reduces the need for vehicle use

## POLICY GAT 1: GETTING AROUND

1. Proposals for development should identify the realistic levels of traffic they are likely to generate and must assess the potential impact on the local community. Development that would give rise to unacceptable traffic conditions will not be supported.

2. Proposals must be designed to integrate well into the existing community and those that also contribute to the attractiveness of walking, cycling and use of public transport, will be considered favourably.

3. Using the APNP, Alvechurch Parish Council will work with the Worcestershire County Council (WCC) as the Local Highway Authority, public transport providers, local schools, the Canal and River Trust and developers to produce a long term sustainable traffic management strategy for improvements to the highway network in the parish to reduce community impact from development.

Consideration should be given to the following:

- a. Opportunities to connect the parish's smaller settlements to the Alvechurch Village service centre by promoting improved and well maintained canal towpaths, footways and where possible provide a shared space between pedestrians and cyclists, ideally with the physical separation of such space from road traffic where appropriate
- b. Promoting the development of enhanced public transport provision. Developers will be expected to engage with local bus operators and community transport operators to explore and identify opportunities to enhance access by public transport, supported by a suitable business case to ensure long-term financial sustainability
- c. Provision of designated safer routes to Alvechurch schools (Sustrans)<sup>26</sup> to improve the safe delivery of pupils to the Crown Meadow First and Alvechurch Middle School's site on foot, by bicycle, and public transport
- d. Provision of pedestrian crossing points on main roads near bus stops
- e. Requiring developer financial contributions for local infrastructure enhancement where adverse impacts are identified
- f. Provision for sustainable transport by encouraging the use of electric cars and consideration should be given to the provision of electric vehicle charging infrastructure within new developments.

### Background / Justification

4.369 This policy is required to make getting around the Parish easier and in more sustainable ways. Community consultations tell us this is what local people want and show for example that if easier walking routes are provided to key facilities like schools, then people will use the walking routes instead of using their car. See footnote <sup>22</sup> below Safer Routes to School Scheme See Appendix, Glossary

<sup>26</sup> [Safe Routes to Schools](#)

4.370 Cycling is an ever more popular leisure activity and should be encouraged, partly for health reasons, but also to improve the connectivity between Parish settlements.

4.371 Almost all bus services in the County are now operated commercially (i.e. without any intervention by Worcestershire County Council), so the County Council has very limited influence over the way these services are provided. Encouraging more use of Community Travel and transport opportunities could be a way of overcoming limited access to public transport. See <http://www.communitytravel.org.uk>

## PARKING IN ALVECHURCH

### Introduction

4.372 Alvechurch Village centre provides public parking in the Tanyard Lane and Alvechurch Sports and Social Club car parks. Indiscriminate parking on the Birmingham Road whilst dropping off children for school causes problems for residents on the Birmingham Road during the twice daily school run. Many children arrive from surrounding areas and a significant number of parents will drop their children off on the way to work.

4.373 There are some concerns about the financial position of the Sports and Social Club and a worry about losing its public car park provision in the centre of the village. This would impact on traffic in the village centre and the availability of parking spaces for shoppers.

4.374 This map of facilities also shows areas of parking in Alvechurch Village.



Fig 60. Map showing Alvechurch Village parking areas

[You can Ctrl click on the map or open this hyperlink to see a larger version of the map.](#)



Fig 61. Tanyard lane BDC owned car park

**POLICY AIM:** To make community areas of the parish more accessible and pedestrian friendly by providing alternatives to vehicle use, and by ensuring safe and adequate parking at key parish locations for the parking of all categories of vehicles and for unloading by delivery vehicles.

## **POLICY GAT 2: PROVISION OF ADEQUATE PARKING**

**1. To manage the impact of motorised vehicles by ensuring there are adequate parish-wide parking and disabled parking spaces. The Parish Council will work with Worcestershire County highways and transport providers to achieve development proposals that, where appropriate, provide contributions in accordance with WCC (Local Highway Authority) standards and current Local Transport Plan policies for:**

**g.** The provision of adequate spaces at key parish facilities e.g. the Alvechurch Village retail centre, the schools, the railway station and all parish community used buildings; for parking by all categories of vehicle drivers and for loading and unloading by delivery vehicles at village centre commercial premises

**h.** Including secure and safe cycle storage at key parish facilities, e.g. schools, medical practices, the village retail area and at the railway station taking into account changes in travel patterns. This will contribute towards cycling becoming a more convenient travel option than single-occupancy car use for short trips

**i.** Providing measures that discourage pavement and similarly unsafe parking near to schools and Alvechurch Village centre, by installation of bollards, on-street payment charges or other engineering methods suitable and in keeping with a rural environment;

**2. Current public parking sites shown below should be protected and retained**

- Alvechurch Sports & Social Club (listed as a community asset)
- Tanyard Lane public car park (owned by Bromsgrove District Council)

**3. Development at these sites will only be supported when it can be clearly demonstrated there is no longer a need for the parking facility, or equivalent public parking space is provided elsewhere within comfortable walking distance of the Alvechurch Village essential services and in easy access for people with disabilities.**

### **Background / Justification**

4.375 Alvechurch Village centre has a number of parking issues. Public parking is provided in the Tanyard Lane and Alvechurch Sports and Social Club car parks but there is also on-street parking in Bear Hill, Swan Street and along the Birmingham Road and its service road, some of it on pavements. This can make access unsafe for pedestrians and those with children or disabilities. Indiscriminate parking while dropping off or picking up children near the schools causes problems for residents on Birmingham Road.

4.376 Previous concerns about the financial viability of the Sports and Social Club mean the use of its car park may not have long term security. This would impact on traffic in the village centre and the availability of parking spaces. To negate this, the Parish Council has nominated the Sports and Social Club to the local authority as an Asset of Community Value for a 'Community Right to Bid' that is a community-focused, locally-led action by providing an important tool to help communities looking to take over and run local assets.



4.377 Vehicles are an integral part of most of our daily lives. Often this comes at a cost: congestion, ambient air pollution, noise, deteriorated public safety and nuisance. To limit these impacts in our rural environment this policy will seek to ensure the impact of motor vehicle journeys' generated by new development is minimised.

4.378 At some time in the future it may be feasible for the Parish Council to take over the management of the Tanyard Lane public car park from BDC. Existing village centre parking is well located to serve the village centre facilities and is essential to the commercial and community uses which contribute to the vitality and viability of the centre. The NP through Alvechurch Parish Council seeks to retain the parking facilities at the Sports and Social Club and Tanyard Lane for this purpose and for the plan period.

4.379 One of the best ways to support Alvechurch's shops and retail outlets is to encourage people living and working in the area to use existing shops and services. The provision of good parking facilities along with much improved footway and cycle access will ensure this objective and encourage more sustainable modes of travel and footfall into Alvechurch Village centre. Meeting this objective also requires encouragement from potential development sites within the village boundary to be suitably developed to support a more attractive and better functioning Alvechurch Village centre.

## Community response to parking questionnaire

### Transport option 2: Car parking in Alvechurch Village centre needs review; the results of all 5 venues

Strongly agree 17 Agree 27 Neither 16 Disagree 3 Strongly disagree 0 No opinion 0 from a total of 64.

## IMPROVING ROAD SAFETY

### 4.380 Introduction

4.381 The main A441 forms the backbone of the parish, leading traffic from Birmingham and Redditch towards the M42 motorway at Junction 2 through the residential area of Hopwood. Due to the volume and speed of traffic along this road it is a major concern for residents especially in Hopwood and Bordesley as there are no light controlled crossings. The A441 at Hopwood and Bordesley is in need of safer management and traffic calming measures to improve safety for all road users.

4.382 There is also concern about the congestion on Birmingham Road outside the school twice a day as residents' park along the length of this road to drop and pick up children. The community has expressed a wish for this area to be included in a 20mph scheme to run throughout the main Alvechurch Village area from Old Rectory Lane to School Lane. This together with discouraging parking along this road near the school would go a long way to promoting a safer walk to school route.

4.383 The NP through Alvechurch Parish Council will encourage WCC, The West Mercia Police Safer Roads Partnership and where appropriate BDC to help provide traffic calming measures. These should include landscape engineering, which better define settlements and influence driver behaviour that will improve safety in Alvechurch parish through improved highway and footway maintenance. Development would be made in accordance with the recommended standards of WCC and its Local Transport Plans.

4.384 **Community Action 7** and **Policies GAT 1, 2 and 3**, work in tandem to address wished for traffic management improvements and residents aspirations concerning modes of travel and road safety issues.

# Agenda Item 14b

4.385 Community response to APNP questionnaires, West Mercia Police Safer Roads Partnership meetings, and a residential petition show there is evidence that engineering measures are needed and requested as stated in APNP Policy GAT 3 to improve road safety through the provision of the suggested pedestrian safety measures.

4.386 Parish footpaths next to highways often lack the regular maintenance necessary to keep them of a standard that's required to allow comfortable walking for all users. Community Action 7 addresses this need for improvement. (See fig.60). Verges along our main highways are wide enough for footways/highway footpaths to be able to include some provision for cyclists as and when they are renewed through regular maintenance schemes.



Fig 62. *A poorly maintained footpath alongside the A44 1 at Hopwood*

4.387 The Parish Council suggests an ongoing project to better manage parish transport systems and road safety, as set out in Community Action 7.

4.388 Traffic and congestion is a key issue to emerge from our consultations. Policy GAT 3 identifies particular problem areas. However, through Community Action 7 below, the Parish Council will look for solutions by working with WCC to influence driver behaviour, in reducing speeding and encouraging safer driving habits. The NP cannot include

highway matters as part of its 'land use'<sup>27</sup> policies. (It is important to remember that only policies dealing with land use can form part of a neighbourhood plan)

4.389 Only the local highways authority can induce safer driving habits through highway engineering solutions, in our case that's WCC.



Fig 63. *Results of Large Goods Vehicles parking on highway footways, A441*

<sup>27</sup> [NP polices must relate to the development and use of land.](#)

**POLICY AIM:** To secure both reductions in traffic speed through the designation of 20mph residential areas, and the installation of more safe crossing points for pedestrians

## **POLICY GAT 3: IMPROVING ROAD SAFETY AND TRAFFIC MANAGEMENT**

**1. The APNP supports development proposals that promote traffic calming measures to improve highway safety in Alvechurch Parish.**

Alvechurch Parish Council working with Worcestershire County Council, The West Mercia Police Safer Roads Partnership and, where appropriate Bromsgrove District Council, will seek to promote traffic calming measures through developer contributions and use of any future adopted Community Infrastructure Levy receipts. These will be aimed at roads with expected significant increase in traffic volumes or on routes where there are known highway safety issues.

**2. They will provide:**

- a. Highway engineering, which better defines entrances to residential settlements and villages, for example, pinch-points, gateways, reducing road widths and centreline road markings to reduce vehicle speeds
- b. Road surface markings that better influence driver behaviour together with improved highway and footway design and maintenance in accordance with the recommended standards of Worcestershire County Council and their current Local Transport Plan (LTP) including

**Appropriate crossing points are required:**

- Across the A441 at Hopwood and Bordesley (pelican crossing, puffin crossing, zebra crossing, or refuges etc.) where there are bus stops
  - From the Medical Centre to The Square in Alvechurch Village
- c. Improvements to safety and visibility at the No Right Turn junction of Ash Lane, and along the A441 in the Hopwood residential area through contributions from any proposed development accessing or egressing either of these roads
  - d. 20mph zones in the more populated areas of the parish where appropriate and especially between Old Rectory Lane and School Lane in Alvechurch Village

**3. Development proposals for new or expanded business growth, including farm diversification, will be required to assess and mitigate the impacts that Large Goods Vehicles (LGV) using minor roads and lanes will have on; verges, road surfaces and the quality of life of nearby residents.**

**4. Development proposals likely to have a severe residual impact on road safety, and / or congestion on the highway network will not be supported unless such impacts can be adequately mitigated.**

**5. Development from outside the parish that is seen to have a significant traffic impact on the Neighbourhood Plan Area roads should have joint authority mitigation measures to negate such impact. To achieve this Alvechurch Parish Council will work with the WCC Local Highway Authority in achieving measures to mitigate such impact via developer contributions agreed with the relevant highway authority.**

**6. Traffic impact includes effects of adverse road and footways safety, congestion and pollution on main and side roads and rural lanes.**

**4.390** The main A441 forms the backbone of the Parish, leading traffic from Birmingham and Redditch towards the M42 motorway at Junction 2. Due to the volume and speed of traffic along this road it is a major concern for residents especially in Hopwood and Bordesley. It is in need of safer management and traffic calming measures. (See also non- statutory Community Action 7 below). At community consultations in Hopwood the single most raised issue is the lack of any safe crossing points along the A441 especially near to bus stops and community centres. This issue is closely followed by the poor condition of footpaths linking Hopwood to the service centre of Alvechurch Village.

## NON STATUTORY COMMUNITY ACTION FOR THE GETTING AROUND AND TRANSPORT TOPIC SECTION

*Community Action Aim: The Parish Council will continue to encourage reductions in speed, the provision of safe crossing points and better maintained footpaths for pedestrians. It will also work with relevant agencies to improve public transport and its integration through this non-policy aim.*

## COMMUNITY ACTION 7: BETTER TRAFFIC AND TRANSPORT MANAGEMENT

- a. Transport-related services and facilities such as the following projects will be supported by the Parish Council where it can be evidenced that they conform to all relevant Local Transport Authority and national transport objectives and standards.
- b. The Parish Council also wishes to promote and encourage more sustainable and environmentally sensitive transport choices, with the desired outcomes of reducing demand to travel by car in Alvechurch Parish, favouring walking and cycling for shorter, more local journeys.
- c. The Parish Council will also work with Worcestershire County Council (the Local Highway Authority) to: Consider the traffic demand impacts on Alvechurch Parish from out of parish development, generated by neighbouring local authorities; in particular on the A441. Traffic impacts include congestion and associated environmental deterioration and reduced user safety. Measures will be sought to mitigate such impacts via developer contributions, which will be agreed with the Local Highways Authority.
- d. Work with the Local Highway Authority and other relevant organisations to develop proposals and plans for the following community projects:
- e. *Remove unnecessary and poorly maintained signage to prevent street clutter.*
- f. *Establish an Alvechurch Village centre redevelopment plan, a project to support business and other policies in the Neighbourhood Plan by improving the safety around and accessibility to village centre facilities and services. This may include pedestrianisation options, road surfacing changes and a 20mph speed control zone.*
- g. *Produce a pedestrian crossing proposal for the A441 at Hopwood plus other possible engineering modifications to the highway and footways to improve road and pedestrian safety*
- h. *Promote, in co-operation with the Cross-City line franchise holder for Alvechurch railway station, "Phase 2, car park surfacing, marking out, provision of facilities for disabled drivers and with the bus operators, clearer integration of bus to rail services.*

- i. *Provide at Redditch Road, south of Alvechurch....additional traffic calming facilities in an area prone to minor accidents, including potential pinch points and other engineering modifications to reduce vehicle speeds and improve road safety.*
- j. *Encourage provision of Alvechurch – Hopwood cycleway improvement...a segregated cycleway / footway between the 2 settlements.*
- k. *Encourage and support Worcestershire County Council to provide cycle infrastructure, aligned to better maintained footpaths throughout the parish particularly as part of scheduled maintenance of the public highway and its footways*
- l. *Provide needed signage at key visitor points (e.g. The Marina and canal tow-paths) indicating routes to the village centre.*
- m. *Install community accessible electric vehicle charging point/s....Alvechurch Parish Council to work with other stakeholders to assess the opportunities and benefits of a community charging point or points within the parish.*
- n. *Explore the possibility of neighbouring parishes funding and sharing a community bus pilot scheme.*

## **Background / Justification Community Action 7**

Alvechurch Parish Council will work with the appropriate agencies to provide traffic calming measures. These should include features that influence driver behaviour, improve safety and are in line with Local Transport Plan standards.

The opening paragraphs on page 106, community response to APNP questionnaires show clear evidence, that engineering measures are needed and requested as stated in Policy GAT 3, to improve road safety through the provision of suggested pedestrian safety measures.

Traffic and congestion is a key issue to emerge from our consultations. Policy GAT3 identifies particular problem areas. However, through the implementation of Community Action 7, the Parish Council will look for solutions by working with WCC to influence driver behaviour in reducing speeding and encouraging safer driving, as mentioned on page 105 in the introduction to the section on **‘Improving road safety’**.

---

## **SECTION 5- FUTURE GROWTH IN THE PARISH**

### **Introduction**

#### **Key Aims associated with future growth in the parish**

KEY AIM 1: KEY AIM 3: KEY AIM 5: KEY AIM 6: KEY AIM 7: KEY AIM 8:

The full list of ‘Key Aims’ and their contents can be found on page 20.

4.391 This following section deals with how future development might be addressed in Alvechurch Parish neighbourhood area as a large area of the parish is covered by Green Belt policy. Alvechurch Village itself is located outside of the Green Belt, but there is a limited amount of land available that is of a suitable size for new housing development.

4.392 Therefore in order to accommodate housing that’s needed for the future a BDC Green Belt review would have to take place and our local community should be given a say in where that should be when the time comes.



**COMMUNITY ACTION 8**, AIM: Please note the following section is purely seen as a possible way to give our local community a say in any future Local Authority instigated Green Belt review, and to allow at the appropriate time some future development in Alvechurch Parish to 2030

## COMMUNITY ACTION 8: FUTURE GROWTH FOR THE PARISH

- a. Alvechurch Parish Council will work pro-actively with Bromsgrove District Council on matters affecting the designated neighbourhood area of Alvechurch Parish as the Bromsgrove District Plan Review is progressed
- b. The NP can then be reviewed to remain in conformity with the adopted Local Plan in use at that time.
- c. This is seen as a useful partnership approach in establishing areas of land that could support future housing numbers that Bromsgrove District Council allocates to Alvechurch, being one of the six larger settlements indicated in the adopted Bromsgrove District Plan 2011-2030.

### Background information

Community Action 8 provides a steer at the appropriate time as to where future development in Alvechurch Parish should be located.

The adopted Bromsgrove District Plan (2011-2030) identifies Alvechurch as one of six larger settlements within the district that is expected to take some of the future housing growth from 2023-2030. To accept this future housing growth from 2023-2030, the NP needs to be able to plan positively for the future.

The National Planning Policy Framework is clear that Green Belt reviews are matters only for local planning authorities such as BDC and not for Neighbourhood Plans. In the interest of the Localism Act (2011) however, whilst the NP cannot revise the Green Belt boundary through its own policies, the Parish Council believe that it is extremely important that local residents should have a substantial say in where such future local authority led changes for Alvechurch might be. The Parish Council will therefore engage with the local community and work proactively with BDC when establishing where future growth is to be located within our parish

Until such time, Green Belt land in our parish continues to be protected by both national and local policy. The Parish Council will continue to object to any inappropriate planning applications that may come forward for development in our Green Belt.

The community gave their views on broad areas of land around Alvechurch in July 2014 at a community consultation event for the NP. These views will be used by the Parish Council when putting forward the community's wishes. We will also hold future consultation events to enable everyone to have a say, including those that missed out last time and any new residents that have moved into the parish since July 2014. The results of the July 2014 community consultation can be found in our Evidence Base document. See our website for further details:

<http://alvechurchparishplan.org/>

## SECTION 6- MONITORING AND REVIEW OF THE PLAN

### Who will ensure the Neighbourhood Plan is followed

4.393 Alvechurch Parish Council will ensure the NP is followed and regularly reviewed.

### Review periods.

4.394 To ensure that the NP is actively managed between its adoption and the end date of 2030 and to take into account possible changes in national or local planning policies, the following review periods will be adopted:

4.395 After the NP's implementation, the Parish Council will prepare an annual report. The annual report will monitor progress of the NP in the previous year and details as to whether policies in the plan have been effective when determining planning applications for the neighbourhood area. This process will involve the monitoring of planning applications for the neighbourhood area. The Annual Report will be made available on the Parish Council's website and in hardcopy at the Parish Council Office and the local library.

4.396 The NP will be reviewed at least every five years. The first review is likely to take place in 2022/23, followed by a second review in 2027/28. The purpose of these reviews will be to revise and update the plan as changes happen in our Parish. The reviews will be undertaken by a steering group who will be members of the Parish Council. Volunteers from the local community will also be recruited to assist with the review and evidence gathering for any updates to the plan.

4.397 During the review in 2027/28 the Parish Council will consider the need for a subsequent NP, and if so desired, to set up a project plan to undertake the work. In terms of the key areas of action the following summarises the Parish Councils approach to delivery and implementation.

### Housing growth:

4.398 The Parish Council will work with developers and the local authorities to deliver incremental growth over the lifetime of the NP.

### Local character:

4.399 The Parish Council will work with residents, owners of land and buildings and other stakeholders to redevelop brownfield sites, such as the old brick works site, and bring back into use any vacant properties, especially those that make a positive contribution to the character of the area.

### Local facilities:

4.400 The Parish Council will work with local organisations and local authorities to improve facilities and services for local people.

### Local economy:

4.401 The Parish Council will encourage businesses to improve local employment opportunities. The creation of more individual retail units within the parish will be encouraged.

### Transport and communication:

4.402 The Parish Council Community Safety Group will work to find ways to improve road safety and address speed and parking issues. Investigate with stakeholders the possibility of integrating the bus service with the railway station. High speed broadband in Alvechurch Parish must also be a priority.

## Landscape and environment:

4.403 The Parish Council will work with Environmental Wildlife Groups to ensure that wildlife and the countryside within Alvechurch Parish is protected.

## THE END

**ALL OTHER APPENDICES CAN BE FOUND AT THE END OF THE EVIDENCE BASE SUMMARY DOCUMENT**

## SECTION 7-GLOSSARY

**ADR:** Area of Development Restraint. Is land removed from the Green Belt and set aside by Local Authorities for development in the future to meet the Strategic housing figures of the Local Authority.

### **Affordable Housing:**

From April 2012 affordable housing is defined in the National Planning Policy Framework

(Prior to this the definitions in Planning Policy Statement 3 apply).

Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80 per cent of the local market rent (including service charges, where applicable).

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing. Homes that do not meet the above definition of affordable housing, such as 'low cost market' housing, may not be considered as affordable housing for planning purposes.

### **Local people & affordable housing**

Criteria and Allocations Policy for the Letting and Allocation of Rural Affordable Housing Developed under 'Exception Site' Policy Affordable Social housing

All applicants wishing to be considered for Rented Housing within the proposed scheme must be registered on the Bromsgrove District Council (BDC) Home Choice Plus, choice based lettings scheme.

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1. The District Council will also nominate applicants registered on Home Choice Plus for consideration for Shared Ownership or Fixed Equity units where applicants have expressed a wish to be considered by placing a bid on Home Choice Plus.

2. The following Local Connection Eligibility Criteria will be applied: (The –first phase of eligibility will be considered initially, and only if insufficient applicants are eligible will the other phases be considered in order.)

The first phase of eligibility will be restricted to:

1) Local residents within the parish, with a minimum term of residence who want to remain in the locality but cannot afford to do so

2) Those who have previously resided in the parish for a number of years and who need to return to the parish but cannot afford to do so and who qualify as one or more of the following:

More information can be found at this link; <https://www.gov.uk/guidance/definitions-of-general-housing-terms>

**Ancient woodland:** An area that has been wooded continuously since at least 1600 AD.

**Archaeological interest:** There will be archaeological interest in a heritage asset if it holds, or potentially may hold, evidence of past human activity worthy of expert investigation at some point. Heritage assets with archaeological interest are the primary source of evidence about the substance and evolution of places, and of the people and cultures that made them.

**Alvechurch Parish Council (APC):** the first tier of local government in Alvechurch

**Biodiversity:** The term 'biodiversity' is commonly used to describe the number, variety and variability of living organisms. This very broad usage, embracing many different parameters, is essentially a synonym of 'Life on Earth'.

**Conservation (for heritage policy):** The process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance.

**Community Infrastructure Levy: (CIL)** A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their area.

**Community Right to Build Order:** An Order made by the local planning authority (under the Town and Country Planning Act 1990) that grants planning permission for a site-specific development proposal or classes of development.

**CPRE:** The Campaign for the Protection of Rural England

**Designated Heritage Asset:** Is a World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under the relevant legislation.

**Development plan:** This includes adopted Local Plans, neighbourhood plans and the London Plan, and is defined in section 38 of the Planning and Compulsory Purchase Act 2004. (Regional strategies remain part of the development plan until they are abolished by Order using powers taken in the Localism Act. It is the government's clear policy intention to revoke the regional strategies outside of London, subject to the outcome of the environmental assessments that are currently being undertaken.)

**Drumlin:** A drumlin, from the Irish word droimnín ("littlest ridge"), first recorded in 1833, and in the classical sense is an elongated hill in the shape of an inverted spoon or half-buried egg formed by glacial ice acting on underlying unconsolidated till or ground moraine. (Used in heritage documents and mentioned in the Evidence Base)

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**Dispark** : To throw open (a private park); especially : to convert (a park) to something else than a private park Henry VIII decided to dispark the Duchy parks and turn them more profitably into pasture — A. L. Rowse

**Green Infrastructure:** A network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities

**Heritage Asset:** A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing).

**Historic environment:** All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.

**Inclusive design:** Designing the built environment, including buildings and their surrounding spaces, to ensure that they can be accessed and used by everyone.

**Local Development Order:** An Order made by a local planning authority (under the Town and Country Planning Act 1990) that grants planning permission for a specific development proposal or classes of development.

**Local Enterprise Partnership (LEP):** A body, designated by the Secretary of State for Communities and Local Government, established for the purpose of creating or improving the conditions for economic growth in an area.

**Local planning authority (LPA):** The public authority whose duty it is to carry out specific planning functions for a particular area. All references to local planning authority apply to the district council, London borough council, county council, Broads Authority, National Park Authority and the Greater London Authority, to the extent appropriate to their responsibilities.

**Local Green Space:** The National Planning Policy Framework (NPPF) introduced a new concept of a Local Green Space designation (1). This is a discretionary designation to be made by inclusion within a local development plan or neighbourhood development plan.

The designation should only be used where the land is not extensive, is local in character and reasonably close to the community; and, where it is demonstrably special, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife (2).

Policies within the local development plan or neighbourhood development plan for managing development within a Local Green Space should be consistent with the policies protecting green belts within the NPPF (3).

**Local Plan:** The plan for the future development of the local area, drawn up by the local planning authority in consultation with the community in our case, Bromsgrove District Council. In law this is described as the development plan documents adopted under the Planning and Compulsory Purchase Act 2004. Current core strategies, or other planning policies, which under the regulations would be considered to be development plan documents, form part of the Local Plan. The term includes old policies, which have been saved under the 2004 Act.

**Local Wild Life sites:** Local Wildlife Sites are identified and selected locally using robust, scientifically-determined criteria and detailed ecological surveys. As a result, these special and often secret spaces have a huge part to play in the natural green fabric of our towns and countryside. These sites are named differently across the UK. In England, they are Local Wildlife Sites.

**Major Development:** The Town and Country Planning Order 2015, (Development Management Procedure) (England): "Major development", means development involving any one or more of the following— (a) the winning



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and working of minerals or the use of land for mineral-working deposits; (b) waste development; (c) the provision of dwelling houses where— (i) the number of dwelling houses to be provided is 10 or more; or (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i); (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or (e) development carried out on a site having an area of 1 hectare or more; “mining operations” means the winning and working of minerals in, on or under land, whether by surface or underground working”

**Massing:** The combined effect of the height, bulk and outline of a building or group of buildings

**Neighbourhood Development Order:** An Order made by a local planning authority (under the Town and Country Planning Act 1990) through which Parish Councils and neighbourhood forums can grant planning permission for a specific development proposal or classes of development.

**Neighbourhood Plan (NP):** A plan prepared by a Parish Council or Neighbourhood Forum for a particular neighbourhood area (made under the Planning and Compulsory Purchase Act 2004).

**Older people:** People over retirement age, including the active, newly-retired through to the very frail elderly, whose housing needs can encompass accessible, adaptable general needs housing for those looking to downsize from family housing and the full range of retirement and specialised housing for those with support or care needs. Open space: All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.

**Original building:** A building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.

**People with disabilities:** People have a disability if they have a physical or mental impairment, and that impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. These persons include, but are not limited to, people with ambulatory difficulties, blindness, learning difficulties, autism and mental health needs.

**Planning condition:** A condition imposed on a grant of planning permission (in accordance with the Town and Country Planning Act 1990) or a condition included in a Local Development Order or Neighbourhood Development Order.

**Planning obligation:** A legally enforceable obligation entered into under section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal.

**Renewable and low carbon energy:** Includes energy for heating and cooling as well as generating electricity. Renewable energy covers those energy flows that occur naturally and repeatedly in the environment – from the wind, the fall of water, the movement of the oceans, from the sun and also from biomass and deep geothermal heat. Low carbon technologies are those that can help reduce emissions (compared to conventional use of fossil fuels).

**Rural exception sites:** Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. Small numbers of market homes may be allowed at the local authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding. Rural Exceptions Site to reflect Local Plan Policy APNP H3:

“A small site adjacent to the settlement boundary used to deliver affordable housing for local people in accordance with emerging District Local Plan Policy BDP9. These are sites that would not normally be considered suitable for housing development. Local people are people who meet the Settlement Connection criteria.”

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**Safer routes to school scheme (SRTS):** Safe Routes to Schools aim to enable more young people to walk and cycle to school. They usually involve a series of highway measures supported by other community and school projects making roads safer and providing the infrastructure and skills to make walking and cycling a popular choice.

**Site of Special Scientific Interest:** Sites designated by Natural England under the Wildlife and Countryside Act 1981.

**Strategic Environmental Assessment (SEA):** A procedure (set out in the Environmental Assessment of Plans and Programmes Regulations 2004) which requires the formal environmental assessment of certain plans and programmes which are likely to have significant effects on the environment.

**Supplementary planning document (SPD):** Documents, which add further detail to the policies in the Local Plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.

**Sustainable transport modes:** Any efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, low and ultra-low emission vehicles, car sharing and public transport.

**Syncline:** A syncline is a concave geological fold, with layers that dip downward toward the centre of the structure. This arrangement is opposite to that of an arching anticline. (Used in the evidence Base)

**Transport Assessment:** A comprehensive and systematic process that sets out transport issues relating to a proposed development. It identifies what measures will be required to improve accessibility and safety for all modes of travel, particularly for alternatives to the car such as walking, cycling and public transport and what measures will need to be taken to deal with the anticipated transport impacts of the development.

**Transport statement:** A simplified version of a transport assessment where it is agreed the transport issues arising out of development proposals are limited and a full transport assessment is not required.

**Travel plan:** A long-term management strategy for an organisation or site that seeks to deliver sustainable transport objectives through action and is articulated in a document that is regularly reviewed.

**Wildlife corridor:** Areas of habitat connecting wildlife populations.

**Windfall sites:** Sites, which have not been specifically identified as available in the Local Plan process. They normally comprise previously-developed sites that have unexpectedly become available.

## How to comment on this document

You can comment by email or writing to

Clerk to Alvechurch Parish Council  
Ground Floor, 1A George Road, Alvechurch, B48 7PB  
0121 447 8016  
[clerk@alvechurch.gov.uk](mailto:clerk@alvechurch.gov.uk)  
[www.alvechurch.gov.uk](http://www.alvechurch.gov.uk)

Pre-Submission documents can be viewed online at the web site above or as hard copies from the Parish Council Offices, at the address above.

**FURTHER APPENDICES CAN BE VIEW IN THE EVIDENCE BASE  
DOCUMENT AND ON THE NP WEBSITE.**

**APPENDIX A: EVIDENCE BASE, HYPERLINKS & DOCUMENTS BY TOPIC**

**APPENDIX B: ASSETS OF ALVECHURCH PARISH**

**APPENDIX C: GREEN BELT & CONSTRAINTS**



## **Report on Alvechurch Parish Neighbourhood Plan 2011-2030**

**An Examination undertaken for Bromsgrove District Council with the support of Alvechurch Parish on the submission version of the Plan dated 19 March 2018.**

Independent Examiner: Bob Yuille Msc Dip TP MRTPI

Date of Report: Final Version 07 November 2018

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## **Main Findings** - Executive Summary

From my examination of the Alvechurch Parish Neighbourhood Plan (the Plan) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – Alvechurch Parish Council;
- The Plan has been prepared for an area properly designated – Fig 2 of the Plan;
- The Plan specifies the period to which it is to take effect – 2011-2030; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### *Alvechurch Parish Neighbourhood Plan 2011-2030*

- 1.1 Alvechurch parish occupies land between the town of Bromsgrove to the south and the city of Birmingham to the north. With the exception of the built-up area of the village of Alvechurch, the entire parish is washed over by the West Midlands Green Belt. The parish is predominantly rural in character but the M42 runs east to west across it and the A441 runs north to south down it. The parish is also served by the Redditch to Lichfield cross rail service. The village of Alvechurch is in the valley of the River Arrow.
- 1.2 Work on the Alvechurch Parish Neighbourhood Plan began in November 2011 and was followed shortly by the formation of a Neighbourhood Planning Steering Group, consisting of members of Alvechurch Parish Council and of the local community. This group has led the preparation of the Plan.

## *The Independent Examiner*

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Plan by Bromsgrove District Council (the Council) with the agreement of Alvechurch Parish Council (the Parish Council).
- 1.4 I am a chartered town planner and former government Planning Inspector and have had considerable experience in examining development plans. I am an independent examiner and do not have an interest in any of the land that may be affected by the Plan.

## *The Scope of the Examination*

- 1.5 As the independent examiner I am required to produce this report and recommend either:
- (a) that the Plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified Plan is submitted to a referendum; or
  - (c) that the Plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the Plan meets the Basic Conditions;
  - Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
    - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
    - it sets out policies in relation to the development and use of land;
    - it specifies the period during which it has effect;
    - it does not include provisions and policies for 'excluded development';
    - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;

- whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
  - Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended)('the 2012 Regulations').
- 1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

## *The Basic Conditions*

- 1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the Plan must:
- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
  - Contribute to the achievement of sustainable development;
  - Be in general conformity with the strategic policies of the development plan for the area;
  - Be compatible with and not breach European Union (EU) obligations; and
  - Meet prescribed conditions and comply with prescribed matters.
- 1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the Plan should not be likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2017) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats etc.) Regulations 2007), either alone or in combination with other plans or projects.

## **2. Approach to the Examination**

### *Planning Policy Context*

- 2.1 The Development Plan for the area, not including documents relating to excluded minerals and waste development, is the Bromsgrove District Local Plan 2011-2030 (the Local Plan), adopted in January 2017.

- 2.2 Work on the Bromsgrove District Plan Review, including a Green Belt Review, has commenced, the first stage of which consists of consultations on an Issues and Options Report. These took place during the preparation of this report. Planning Practice Guidance (PPG) Reference ID: 41-009-20160211 is clear that whilst there is no requirement for a neighbourhood plan to be in general conformity with an emerging local plan, the aim should be to minimise any conflict. However, at this juncture the Bromsgrove District Plan Review is clearly at a very early stage in its progress towards adoption.
- 2.3 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF/‘the Framework’). The PPG offers guidance on how this policy should be implemented. A revised NPPF was published during this examination on 24 July 2018, replacing the previous 2012 NPPF. The transitional arrangements for local plans and neighbourhood plans are set out in paragraph 214 of the 2018 NPPF, which provides ‘The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019’. A footnote clarifies that for neighbourhood plans, ‘submission’ in this context means where a qualifying body submits a plan to the local planning authority (LPA) under Regulation 15 of the 2012 Regulations. The Alvechurch Neighbourhood Plan was submitted to Bromsgrove District Council in March 2018. Thus, it is the policies in the previous NPPF that are applied to this examination and all references in this report are to the March 2012 NPPF and its accompanying PPG.

### *Submitted Documents*

- 2.4 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the ‘Amended Version for Formal Submission’ draft of the Plan dated 19 March 2018;
  - Fig 2 of the Plan which identifies the area to which it, the Plan, relates;
  - the Consultation Statement, March 2018;
  - the Basic Conditions Statement, January 2018;
  - all the representations that have been made in accordance with the Regulation 16 consultation;
  - The Strategic Environmental Assessment and Habitats Regulation Assessment Screening Opinion, September 2015;
  - The Sustainability Appraisal of the Alvechurch Neighbourhood Plan, March 2018;
  - Alvechurch Parish Design Statement;
  - Alvechurch Parish Neighbourhood Plan Evidence Base Summary;
  - and

- The answers by the Parish Council and the Council to questions, raised in my letter of 21 September 2018<sup>1</sup>.

## *Site Visit*

- 2.5 I made an unaccompanied site visit to the Plan area on 5 October 2018 to familiarise myself with it and visit relevant sites and areas referred to in the Plan and the submitted evidence.

## *Written Representations with or without Public Hearing*

- 2.6 This examination has been dealt with by written representations. There was a request for a Hearing but I considered this to be unnecessary as the consultation responses clearly articulated the objections to the Plan, and presented arguments for and against the Plan's suitability to proceed to a referendum.

## *Modifications*

- 2.7 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

## **3. Procedural Compliance and Human Rights**

### *Qualifying Body and Neighbourhood Plan Area*

- 3.1 The Plan has been prepared and submitted for examination by Alvechurch Parish Council which is a qualifying body for an area that was designated by Bromsgrove District Council on 23 January 2013.
- 3.2 It is the only neighbourhood plan for Alvechurch Parish and does not relate to land outside the designated Neighbourhood Plan Area.

### *Plan Period*

- 3.3 The Plan specifies clearly the period to which it is to take effect, which is from 2011 to 2030.

### *Neighbourhood Plan Preparation and Consultation*

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<sup>1</sup> View at: <http://www.bromsgrove.gov.uk/council/policy-and-strategy/planning-policies/neighbourhood-plans/alvechurch-neighbourhood-plan.aspx>



- 3.4 The Plan has taken more than five years to prepare. In that time, the local community has been consulted and kept abreast of events by way of meetings, events, posters, flyers, web sites and the Parish Magazine. Consultations have been carried out at ward level; businesses and landowners have been consulted as have the Council, the local medical centre and the local school. The parish as a whole was consulted in 2014 by way of a questionnaire, a number of community open days have been held and a further parish wide consultation exercise was carried out in 2016.
- 3.5 Statutory consultation under Regulation 14 and Regulation 16 have been carried out with the latter exercise eliciting 17 responses, all of which have been considered in the preparation of this report.
- 3.6 With these points in mind, I am satisfied that the Plan has been publicised in a manner that is likely to bring it to the attention of people who live, work or carry on business in the parish of Alvechurch; that the consultation process has met the legal requirements and that it has had due regard to the advice on plan preparation and engagement in the PPG.

### *Development and Use of Land*

- 3.7 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

### *Excluded Development*

- 3.8 The Plan does not include provisions and policies for 'excluded development'.

### *Human Rights*

- 3.9 The Council is satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998), and from my independent assessment I see no reason to disagree.

## **4. Compliance with the Basic Conditions**

### *EU Obligations*

- 4.1 The Plan was screened for Strategic Environmental Assessment and for Habitats Regulations Assessment by the Council, which found that it was unnecessary to undertake these exercises. The statutory consultees (Natural England, the Environment Agency and English Heritage, as was) concur with this conclusion. Having read the Strategic Environmental Assessment Habitat Regulation Assessment Screening Determination, dated September 2015, I also support this conclusion.

## Main Issues

4.2 Having considered whether the Plan complies with various procedural and legal requirements, it is now necessary to deal with whether it complies with the Basic Conditions (see paragraph 1.8 of this report), particularly whether it has regard to national policy and guidance; whether it is in general conformity with strategic development plan policies; and whether it contributes to sustainable development. This is done by considering two main issues:

1. General issues of compliance of the Plan, as a whole; and
2. Specific issues of compliance of the Plan policies.

## *General Issues of Compliance*

### Compliance with National and Development Plan Policy

- 4.3 The Plan's aims include meeting current and future development needs whilst embracing high quality design; developing local services facilities and amenities; maintaining an appropriate mix of local businesses; encouraging leisure, cultural and sporting activities for all; promoting integrated public transport and safer roads; maintaining and enhancing the built historic environment and the natural environment; and promoting safe, sustainable development.
- 4.4 These aims, and the policies which embody them, clearly have regard to national policies as set out in the Framework which similarly seek to deliver a wide choice of high quality homes (section 6); which requires good design (section 7); which supports a prosperous rural economy (section 3); which promotes healthy communities (section 8); which promotes sustainable transport (section 4); which seeks to conserve and enhance the natural environment and the historic environment (sections 11 and 12); and which sets out a presumption in favour of sustainable development (paragraph 14).
- 4.5 Similarly these aims and their associated policies are in general conformity with the Local Plan insofar as that document also contains policies which aim to provide suitable levels of residential development in settlements such as Alvechurch (Policy BDP2); to satisfy the social and economic needs of rural communities (Policy BDP15); to meet the communities needs for services and facilities (Policy BDP12); to promote health and well being (Policy BDP25); to ensure high quality design (Policy BDP19); to manage the historic environment (Policy BDP20); to better manage the natural environment (BDP21); and, more generally, take a

positive approach that reflects the presumption in favour of sustainable development (Policy BDP1).

- 4.6 I am satisfied, therefore, that, subject to the more detailed consideration of individual policies that will take place subsequently in this report, the Plan meets the Basic Conditions insofar as it has regard to national policies and advice and is in general conformity with the strategic policies of the Local Plan.

#### Contribution to Sustainable Development

- 4.7 Sustainable development has an economic, a social and an environmental dimension. There is no dispute that the Plan – with its policies dealing with Leisure, Health and Well-Being as well as with Heritage, Design and Natural Environment – contributes to the social and environmental dimensions of sustainable development. There is, however, a question as to whether it makes an appropriate contribution to the economic dimension of sustainable development, particularly in relation to housing.
- 4.8 The situation regarding housing provision in the Plan area is as follows. Alvechurch Parish, with the exception of the built-up area of Alvechurch Village itself, is washed over by the West Midlands Green Belt. The Local Plan only allocates enough land to meet identified housing needs up to 2023. Further land will need to be taken out of the Green Belt to meet longer term needs. This will be done by way of a Review of Green Belt carried out as part of a Review of the Local Plan. Work on this review has commenced. As one of the larger settlements in the area, Alvechurch Village will be expected to take a proportion of the District's housing.
- 4.9 It is certain that new housing will be needed in the Plan area eventually. When it is decided what land should be released from the Green Belt, there will be a revision of the Plan to deal with any necessary changes but until that time, housing development will be concentrated within Alvechurch Village. The Plan makes clear that the challenge is not to find a way to stop development, but rather to manage change in the best way.
- 4.10 It has been suggested by representors that the Plan should be put temporarily on hold, pending the outcome of the Local Plan Review. I do not agree; the Plan contains policies dealing with matters other than housing and I see no overriding reason why these should be delayed simply because the Plan itself will need to be reviewed in the near future.
- 4.11 It has also been variously suggested by representors that the Plan should contain policies which would allow for the development of greenfield and brownfield sites in the Green Belt; or that it should review the Green Belt boundaries within the Plan area and allocate land for new development; and/or that it should include details of the consultation exercises that

have been carried out on the suitability for development of various sites in the area.

- 4.12 However, subject to my comments on individual policies, I can find no fault with the approach taken in the Plan, indeed I see considerable merit in it. In effect, it delegates decisions on Green Belt releases and housing land allocations to the Local Plan where such matters can be considered on a District wide basis rather than on a parochial basis. The Plan specifically acknowledges that it will need to be reviewed to incorporate the results of the Local Plan Review. I am satisfied, therefore, that the Plan contributes to sustainable development and thus meets the Basic Conditions in this respect.

## Overall Findings – General Issue of Compliance

- 4.13 For the reasons set out above I consider that the Plan has regard to national policies and advice, is in general conformity with the strategic policies in the Local Plan and contributes to sustainable development. Subject to comments made subsequently on individual policies, the Plan meets the Basic Conditions in all these respects.

## *Specific Issues of Compliance*

- 4.14 Before considering individual policies it is relevant to note that the Plan contains a number of 'Community Actions' which seek to address various community aspirations. However, the Plan makes clear (paragraph 128), that these are non-statutory projects and are not to be treated as policies. Consequently, I make no comment on them.
- 4.15 One other general point is that in various policies reference is made to permitting development. It is not the role of a development plan policy to permit or refuse development. Such a policy will be an important factor in any decision but it will not be the sole determinant. The word 'permitted' should therefore be replaced with the word 'supported', as will be done subsequently in various proposed modifications.
- 4.16 **General Policy 1** seeks to encourage the active involvement of local people in the planning process. This is in general conformity with the Local Plan (paragraph 3.1.14) which identifies the greater involvement in planning by local communities as one of its key challenges. Similarly, one of the core principles of the Framework (paragraph 17) is to empower local people to shape their surroundings. **General Policy 1** clearly has regard to this and meets the Basic Conditions.

## *Housing Policies*

- 4.17 The Plan contains seven housing policies, two of which (**Policy H1 and Policy H2**) seek to restrict housing development to sites within the village of Alvechurch and the smaller settlements of Hopwood and Rowney Green. As has already been discussed, it is accepted in the Plan that these policies will only prevail until the Local Plan Review has identified further housing sites, whereupon they will be reviewed as necessary. Given this background, these policies have regard to the Framework (paragraph 47) which seeks to boost significantly the supply of housing land and they are in general conformity with Local Plan Policy BDP3 which establishes that the Local Plan will be reviewed to identify more sites for housing in the District.
- 4.18 However, having established that new housing will be located within the Alvechurch Village settlement boundary, **Policy H1** goes on to set out a number of further criteria several of which are superfluous and detract from its clarity<sup>2</sup>. **Policy H1c** deals with the loss of open space, community assets or employment use, all matters dealt with in other policies in the Plan. It is made clear elsewhere in the policy (**Policy H1j**) that the Plan is to be read as a whole. **Policy H1c** should, therefore be deleted. **Policy H1d** seeks to control development outside the settlement boundary while **Policy H1e** gives advice on defining a settlement boundary. Neither are needed and both should be deleted.
- 4.19 **Policy H1f** and **Policy H1g** deal with matters such as local landscape and the scale of development but again these are superfluous and compromise clarity as they are dealt with in other policies in the Plan. They should also be deleted. **Policy H1i** requires all new development to be within 15 minutes' walk of the village centre but all land within the settlement boundary falls into that category. **Policy H1i** should, therefore be deleted in the interests of achieving clarity. For the reasons set out in paragraph 4.15, the word 'permitted' should be replaced with the word 'supported'.
- 4.20 All these modifications are shown in **PM1**. With these modifications in place, **Policy H1** and **Policy H2** meet the Basic Conditions.
- 4.21 **Policy H3** deals with affordable housing on rural exception sites in Green Belt. Local Plan Policy BDP9 also deals with rural exception sites and makes clear that large settlements such as Alvechurch Village will not be acceptable locations for such sites. **Policy H3**, which of course applies to the Plan area as a whole and not just to the village, does not mention this but does make clear that the District Council would be involved in the selection of such sites. That being so, I am satisfied that **Policy H3** is in general conformity with Local Plan Policy BDP9. **Policy H3** also has regard to the Framework (paragraph 47), which stresses the need to make provision for affordable housing. For the reasons set out in

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<sup>2</sup> See PPG Reference ID: 41-041-20140306.

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paragraph 4.15 the word 'permitted' should be replaced with the word 'supported' as shown in **PM2**. Subject to these modifications, **Policy H3** meets the basic conditions.

- 4.22 **Policy H4** sets out housing design principles. It is in general conformity with Local Plan Policy BDP19, which seeks to provide high quality design, indeed it specifically refers to that policy. **Policy H4** also has regard to the Framework (Section 7) which requires good design. **Policy H4** is lengthy and detailed but is not to be criticised for this as it simply contains the sort of advice that would be expected in the Design Guide Supplementary Planning Document referred to in Local Plan Policy BDP19. The policy, with its use of words like 'encourage', 'where appropriate' and 'wherever possible' is not unnecessarily restrictive or prescriptive nor does it seek to stifle innovative design, where this takes account of local heritage and character.
- 4.23 For the reasons set out in paragraph 4.15 of this report the words 'shall not be permitted' in **Policy H4 5** should be replaced with the words 'will not be supported' as shown in **PM3**.
- 4.24 It is suggested that the requirement of **Policy H4 7 ii** that development respect the prevailing size, layout and access of nearby properties will not be possible because of the mix of housing proposed in Policy H6. However, as I will note when discussing **Policy H6**, that mix of housing is not set in stone. It can, therefore, coexist with the requirements of **Policy H4 7 ii**. In the interests of clarity, however, the extraneous words in **H4 7 ii** need to be deleted as shown in **PM3**.
- 4.25 It is also pointed out that the bulk of the historic core of Alvechurch consists of continuous frontages close to the highway. In that context, it is questionable as to whether it would be appropriate to require parking to be between buildings as **Policy H4 8 k** does. This is a valid point and the words 'Where appropriate' should be added to **Policy H4 8 k**, as shown in **PM3**.
- 4.26 The question has been raised as to whether **Policy H4** should refer to viability. I do not think this is necessary. As the Framework establishes (paragraph 56), good design is a key aspect of sustainability; it is, therefore, to be expected in any development. Finally, it is suggested that **Policy H4** is repetitious in places. There is some merit in this point but, in this instance, it does not affect the clarity of the policy and does not, therefore, need modification in this respect.
- 4.27 In its modified form, I am satisfied that **Policy H4** meets the Basic Conditions.

- 4.28 **Policy H5** seeks to achieve sustainable development through design. The aim of this policy is to meet the challenge of climate change and clearly has regard to Section 10 of the Framework, which has the same aim. It is also generally consistent with Policy BDP19 and BDP23 of the Local Plan, which encourage the use of sustainable construction methods and materials and the use of sustainable drainage systems.
- 4.29 **Policy H5** deals with the question of external lighting and clearly sets out what sort of lighting it seeks to discourage. The policy as a whole is not unduly prescriptive or restrictive with the use of words such as 'encourage', 'discourage' and 'should', providing an element of flexibility. That being so, I see no need to incorporate references to viability into the policy. **Policy H5** meets the Basic Conditions.
- 4.30 **Policy H6** seeks to provide a mix of housing types and sizes and at **Policy H6 3** sets out a particular mix that should be provided on developments of 10 or more dwellings. This mix lays emphasis on the provision of smaller properties with 10% having 1 bedroom, 40% having 2 bedrooms, 40% having three bedrooms and 10% having 4 bedrooms or more.
- 4.31 Representors are of the opinion that such a mix is not in general conformity with Local Plan Policy BDP7 (which deals with housing mix) and is not based on evidence. While the Local Plan acknowledges in the supporting text to Policy BDP7 that there is a *'high demand for smaller properties suitable for meeting the needs of older person households'* (Paragraph 4.65), it goes on to say that there is likely to be a *'sustained demand for family housing recognising that moderate and larger properties represent the aspiration for many households of different age-groups'*. Policy BDP7 itself acknowledges the *'need to focus on delivering 2 and 3 bedroom properties'* but goes on to say that on *'schemes of 10 or more dwellings it is accepted that a wider mix of dwelling types may be required'*.
- 4.32 I do not consider **Policy H6** to be significantly out of step with Policy BDP7. While **Policy H6** seeks to increase the proportion of smaller 1 and 2 bedroom properties over the existing low level of such properties in the Plan area, it would still allow for 50% of new properties to be of moderate and larger size houses (3 and 4 bedrooms or more) suitable for families. In other words, the policy does not simply focus on the provision of 1 and 2 bedroom properties.
- 4.33 Moreover, **Policy H6 3** is heavily caveated. It says that developers should seek to achieve the stated mix *'...unless viability, market requirements at that time or other material considerations show a robust justification for a different mix'*. **Policy H6 4** goes on to say, *'The mix will*

*be informed by the latest Strategic Housing Market Assessment and/or local documents and evidence...'. In other words, the housing mix proposed in **Policy H6 3** is not set in stone but is open to negotiation. I also note that the District Council has raised no objection to **Policy H6**, so it is reasonable to assume that it regards this policy as being in general conformity with Policy BDP7.*

- 4.34 As to the evidence, the Plan area has a higher than average proportion of larger properties and there is community support for increasing the number of smaller properties to cater for first time buyers and the elderly seeking to down size. I acknowledge that there is evidence that, whatever they may say, in practice the elderly may not wish to downsize; that people do not necessarily occupy houses that 'fit' their household size; and that with the increase in home working there will be a demand for larger housing units that provide office accommodation. Nonetheless, I consider the Plan's aspiration to provide more, smaller, accommodation is reasonable and is backed up by proportionate evidence, including the desire of local people to shape the place they live in.
- 4.35 **Policy H6** also has regard to the Framework (paragraph 50) which requires a mix of housing based on current and future demographic trends and identifies the size of housing required in particular locations. **Policy H6** meets, therefore, the Basic Conditions.
- 4.36 **Policy H7** attempts to ensure that new housing is accompanied by improved services and facilities. **Policy H7 C** refers to these being provided by way of planning obligation but does not mention the three tests set out in the Framework (paragraph 204), which have to be met before such obligations can be sought. These tests should be included in the policy as shown in **PM4**. For the reasons set out in paragraph 4.15, the word 'permitted' in **Policy H7 D** should also be replaced with the word 'supported' as shown in **PM4**. With these modifications, **Policy H7** meets the Basic Conditions.

### *Policies for Heritage, Design and the Natural Environment*

- 4.37 **Policy HDNE 1** deals with Built Heritage and Local Character. This policy is in general conformity with Local Plan Policy BDP20. If the policy is to have due regard to the Framework (paragraphs 126 to 141). it should make a clear distinction between designated and non-designated heritage assets. In the interests of clarity, Appendix B to the Evidence Base Summary should be re-organised so that all the buildings and structures identified as Non-Designated Heritage Assets are set out in a separate list under that name. These modifications are shown in **PM5**.

- 4.38 Paragraph 126 of the Framework makes clear, amongst other things, that in framing policies the desirability of sustaining and enhancing the significance of heritage assets must be balanced against the desirability of new development making a positive contribution to local character and distinctiveness. **Policy HDNE 1** does this by balancing the requirement to preserve and enhance heritage assets against the encouragement it gives, at point 3, to proposals that would contribute to the long term management of such assets. Moreover, at point 5, **Policy HDNE 1** sets out how development could contribute to local character and distinctiveness.
- 4.39 In the interests of clarity, an incorrect reference in **Policy HDNE 1 2** should be corrected and the words '*non-definitive*' deleted. The supporting text to the policy (paragraphs 4.162 and 4.163) is the most suitable place to explain both that the Parish Council are seeking the inclusion of buildings on a Local Heritage List and the implications of this in policy terms. **Policy HDNE 1 4** should, therefore, be deleted. The Parish Council has confirmed that there are 46 Listed Buildings and structures in the Plan area; the incorrect references to 49 such buildings and structures in paragraph 4.143 should be corrected. The List entitled Historic England 2016 National Heritage List for Alvechurch in Appendix B of the Evidence Base Summary should be revised to include all of these buildings and structures. All of these modifications are shown in **PM5**.
- 4.40 In its modified form **Policy HDNE 1** is in general conformity with Local Plan Policy BDP20. As discussed above, it also has regard to the Framework. **Policy HDNE 1**, therefore, meets the Basic Conditions.
- 4.41 **Policy HDNE 2** seeks to promote and enhance local distinctiveness. The Parish Council has confirmed that this relates to the rural character of the area rather than built heritage issues such as are dealt with in Policy HDNE 1 or design issues such as are dealt with in Policy H4 and HDNE 3. That being so all references to built heritage issues contained in **Policy HDNE 2** should be deleted as shown in **PM6** as these are dealt with in Policy HDNE1.
- 4.42 In its modified form **Policy HDNE 2** is in general conformity with Local Plan Policies BDP21 and BDP24 which seek to better manage the natural environment and deliver high quality green infrastructure. This policy also has regard to the Framework (section 11) which is concerned with conserving and enhancing the natural environment. **Policy HDNE 2** meets the Basic Conditions.
- 4.43 **Policy HDNE 3** seeks to make the Alvechurch Design Statement an integral part of the Plan. This document performs many of the functions of a Design Guide. **Policy HDNE 3** is, therefore, in general conformity

with Local Plan Policy BDP19 which refers to preparing a Design Guide Supplementary Planning Document and has regard to the Framework (paragraph 17), one of the core principles of which is to secure high quality design. **Policy HDNE 3** meets the Basic Conditions.

- 4.44 **Policy HDNE 4** deals with protecting landscape and open views. The first paragraph of the policy applies to the whole Plan area and seeks to protect high value agricultural land, important views, landmarks and local points of interest. Such an approach is generally consistent with those Local Plan policies (Policy BDP21 and Policy BDP24), which seek to better manage the natural environment and deliver high quality green infrastructure and has regard to the Framework (section 11) insofar as this seeks to conserve and enhance the environment.
- 4.45 **Policy HDNE 4** also identifies a list of views which local people have determined are valued but goes on to say, *'This is not an exhaustive list: there will be other views of equal importance which should be protected where possible'*. PPG (see footnote 2 above) states that a policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. The section of **Policy HDNE 4** quoted above could not be applied consistently and with confidence as these other views are not identified. This aspect of **Policy HDNE 4** should, therefore, be deleted as shown in **PM7**.
- 4.46 As to the views that are identified, these have been selected by local people and having visited them it is easy to see why they are valued by the local community, even though they are not covered by any landscape designation. This of course, involves subjective judgements but there is an element of subjectivity in any such judgement including those made in formal landscape assessments.
- 4.47 The point is made that two of these views, View E and View G, contain land which is being promoted for housing. A formal landscape assessment of each of these areas has been commissioned and carried out and in each case an identical conclusion has been reached, namely that the proposed development *'..would be sympathetic to the topography of the site and sensitively designed to integrate with the surrounding existing environment and the wider landscape'*. It is not for me to comment on these conclusions, other than to say that if they are well founded the proposed developments would not be precluded by **Policy HDNE 4**. This policy does not seek to sterilise land in the Plan area. Rather it says that new development should *'preferably'* be located on land of lesser environmental value and that, amongst other things, it should respect and seek to protect important views.



- 4.48 In its modified form, **Policy HDNE 4** meets the Basic Conditions.
- 4.49 **Policy HDNE 5** seeks to encourage access to the countryside. This is in general conformity with Local Plan Policies BDP24 and BDP25, which seek to deliver high quality green infrastructure and promote health and well-being. The policy also has regard to the Framework (section 8), which is similarly concerned with promoting healthy communities. **Policy HDNE 5** meets the Basic Conditions.
- 4.50 **Policy HDNE 6** seeks to protect and enhance the natural environment. This policy has regard to the Framework (section 11), which seeks to attain the same end and is in general conformity with Local Plan Policies BDP21 and BDP24 which seek the better management of the natural environment and the delivery of high quality green infrastructure. **Policy HDNE 6** meets the Basic Conditions.

### *Policies for Leisure, Health and Well-Being*

- 4.51 **Policies LHW 1, LHW 3** and **LHW 4** deal respectively with healthy environments and health care facilities, with improvements to and the protection of open spaces and with improving sport leisure and recreation facilities. All these policies refer, directly or indirectly, to mitigation measures being secured by planning obligations. However, as modified Policy H7 makes clear, such obligations will only be sought where, amongst other things, they are necessary to make development acceptable in planning terms. That being so, there is no necessity for these policies to refer specifically to viability.
- 4.52 For the reasons set out in paragraph 4.15 the word 'permitted' should be replaced with the word 'supported' in **Policy LHW 1 4** and **Policy LHW 3**, as shown in **PM8**.
- 4.53 **Policies LHW 1, LHW 3** and **LHW 4** are generally consistent and have regard to Local Plan Policy BDP25 and the Framework (section 8), each of which seek to foster health and well being. These policies meet the Basic Conditions.
- 4.54 **Policy LHW 2** designates four Local Green Spaces. The policy gives the figure number of the plan on which these are shown. However, this is incorrect. In the interests of accuracy this error should be corrected as shown in **PM9**.
- 4.55 Having visited these sites, I am satisfied that all are reasonably close to the community they serve, that they are local in character and that they are not extensive tracts of land. I have no reason to doubt that they are

special to the local community and of particular local significance. That being so, **Policy LHW 2** has regard to the Framework (paragraphs 76 to 78) which set out the criteria for designating Local Green Spaces and is generally consistent with Local Plan Policy BDP 1 which acknowledges the role that such spaces play in the planning process. I therefore consider that the sites identified in the policy should be considered as Local Green Space. For the reasons set out in paragraph 4.15, the word 'permitted' should be replaced with the word 'supported' as shown in **PM9**. With this modification, **Policy LHW 2** meets the Basic Conditions.

## *Policies for Business, Shops and Services*

- 4.56 **Policies BSS 1, BSS 2, BSS 3 and BSS 4** seek variously to protect and encourage business, shops and services in the Plan area. These policies have regard to the Framework insofar as it seeks to support a prosperous rural economy. They are also in general conformity with Local Plan Policies which seek to promote sustainable economic development in rural areas (Local Plan Policy BDP 13), to maintain and promote existing employment provision (Local Plan Policy BDP 14), to satisfy the social and economic needs of rural communities (Local Plan Policy BDP 15) and to support Local Centres (Local Plan Policy BDP 18).
- 4.57 For the reasons set out in paragraph 4.15 above, the word 'permitted' should be replaced with the word 'supported' in **Policy BSS 2** and **Policy BSS 4** as shown in **PM10**. With these changes in place, **Policies BSS 1, BSS 2, BSS 3 and BSS 4** meet the Basic Conditions.
- 4.58 **Policy BSS 5** seeks to ensure that new development will deliver high performance and improved communications infrastructure. The policy includes the provision that for major residential developments a 'Connectivity Statement' be prepared, which demonstrates how this aim will be achieved. This is a reasonable requirement for such major schemes as it will encourage home working in general conformity with Local Plan Policy BDP 15, and has regard to the Framework (paragraph 42), which recognises that high quality communication infrastructure is essential for sustainable economic growth. **Policy BSS 5** meets the Basic Conditions.
- 4.59 **Policy BSS 6** deals with matters of design in Alvechurch Village centre. This policy has regard to the Framework (section 7) and the Local Plan (Policy BDP 19) each of which seek good design. **Policy BSS 6** meets the Basic Conditions.
- 4.60 **Policy BSS 7** deals with development at Bordesley Hall, a former country house in Green Belt now used as a local employment site. The supporting text to this (paragraphs 4.319 and 4.326) limits new build to the

brownfield part of the site, which is defined as the hall and its outbuildings. However, this is not in general conformity with Local Plan Policy BDP4.4d which allows for '*proportionate extensions to non-residential buildings*' Local Plan Policy 14.4 and 14.5 make similar points. This aspect of the supporting text should, therefore, be deleted as shown in **PM11**. In the interests of clarity paragraph 4.319 and 4.326 should also be reworded as shown in **PM11**.

- 4.61 **Policy BSS 7** also states (at point 3) that the change of use of Bordesley Hall for general purpose housing will not be supported. This is inconsistent with Policy BSS3 which states that the loss of business in the parish will be resisted unless it can be demonstrated that the existing use is no longer viable. Nor is it in general conformity with Local Plan Policy BDP 14, which makes a similar point. This aspect of **Policy BSS 7** should, therefore, be modified as shown in **PM12**. With these modifications, **Policy BSS 7** meets the Basic Conditions.

### *Transport*

- 4.62 **Policies GAT 1, GAT 2 and GAT 3** variously seek to promote sustainable travel, to reduce the need for the use of private vehicles, to provide adequate parking and to improve road safety and traffic management. Paragraph 32 of the Framework states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. **Policy GAT3 4** should be modified to reflect this requirement as shown in **PM13**.
- 4.63 For the reasons set out in paragraph 4.15 the word 'permitted' should be deleted from **Policy GAT 1** and **Policy GAT 2** and replaced with the word 'supported', as shown in **PM14**. With these modifications, the policies all meet the Basic Conditions.

## **5. Conclusions**

### *Summary*

- 5.1 The Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the Neighbourhood Plan, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

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## *The Referendum and its Area*

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Plan as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

## *Overview*

- 5.4 The Parish Council are to be congratulated for taking on what can be a time consuming and burdensome task. It has firmly grasped that the parish of Alvechurch will see more development in the future, it has arrived at a sensible approach to deciding how sites for additional development will be selected and it has devised a comprehensive range of policies to shape that development.

*Bob Yuille*

Examiner

## Appendix: Modifications

Proposed modification number (PM)	Reference	Modification
PM1	Policy H1	<p><b><i>Proposals for new housing development will need to show consideration to the Alvechurch Parish Design Statement and the Alvechurch Historic Environment Resource Assessment and will be supported in principal if they meet the following criteria;</i></b></p> <p><b><i>a. It is located within the designated Alvechurch Village settlement boundary.</i></b></p> <p><b><i>b. The redevelopment of brownfield land will be prioritised</i></b></p> <p><b><i>c. It would not lead to the loss of open space, community asset or employment uses, which are desirable to maintain</i></b></p> <p><b><i>d. Development should not extend existing ribbon development and should contain the spread of the Village, by promoting infilling up to its natural physical boundaries</i></b></p> <p><b><i>e. Criteria for defining development boundaries: boundaries should follow clearly defined physical features such as: walls, fences, hedgerows, roads, streams, and water courses in general. However, some development boundaries may follow along the rear of built development rather than physical features to prevent inappropriate back land development, for instances where dwellings have large back gardens</i></b></p> <p><b><i>f. Proposals that preserve those elements of the setting and that make a positive contribution to or better reveal the significance of the local landscape, natural environment or heritage assets</i></b></p>



		<p><del>should be treated favourably.</del></p> <p><del>g. The scale, height and form of the proposed development will fit unobtrusively with existing buildings and spacing between buildings would respect the character of the street scene</del></p> <p><del>h. It would not adversely impact on the existing residential amenity of adjoining occupiers</del></p> <p><del>i. To meet sustainable criteria new development where possible should be located within 15 minutes and no more than a 20 minutes' comfortable walk of the Village centre at a comfortable pace. (see map on page 27, Fig 14, Map of Sustainable modes of transport walking distances)</del></p> <p><del>j. The Neighbourhood Plan should be used as a whole.</del></p> <p>Revise bullet letters following deletions.</p> <p><b><i>Apart from Alvechurch Village itself, the neighbourhood area is designated as Green Belt. Inappropriate development will not be permitted <u>supported</u> in the Green Belt unless very special circumstances can be demonstrated (as set out in the NPPF, paragraphs 87 to 89).</i></b></p>
PM2	Policy H3	<p><b><i>Proposals that cannot easily access local services and public transport will not be permitted <u>supported</u> unless sufficient infrastructure can be provided to make the scheme sustainable.</i></b></p> <p><b><i>Open market housing will only be permitted <u>supported</u> where such development.</i></b></p>
PM3	Policy H4	<p><b><i>H4 5 Development that fails to take the opportunities available for enhancing the local character and quality of the area and the way it functions shall <u>will</u></i></b></p>

		<p><b><i>not be permitted supported.</i></b></p> <p><b><i>H4 7 II. They respect prevailing size, layout and access of existing nearby properties and development pattern that is in keeping with the Alvechurch rural locality, following good design principles, (refer to paragraph three(C) above APDS</i></b></p> <p><b><i>H4 8 k. Where appropriate Pprovide parking spaces located in between houses (rather than in front) so that vehicles do not dominate the street scene.</i></b></p>
PM4	Policy H7	<p><b><i>H7 C. <del>Where significant impacts are identified,</del> Mmeasures to mitigate the adverse impact of the development will be provided and /or secured by planning obligations <u>where remedying these impacts is necessary to make development acceptable in planning terms; where the remedy is directly related to the development and where it is fairly and reasonably related in scale and kind to the development.</u> Such obligations should also be in accordance with Policy BDP 6, Infrastructure Provision.</i></b></p> <p><b><i>H7 D Development that would have an unacceptable impact will not be permitted supported.</i></b></p>
PM5	Policy HDNE 1	<p><b><i>All development proposals for Alvechurch Parish (including alterations, extensions as well as a change of use) should continue to maintain, conserve and enhance the <u>designated</u> built heritage assets of the parish and their settings. Proposals for development that affect non-designated heritage assets will be considered taking account of the scale of any harm or loss and the significance of the heritage asset.</i></b></p>

	Appendix B	<p><b>HDNE1 2. The Neighbourhood Plan identifies the buildings and structures in the <del>not definitive</del> list in Appendix <del>CB</del> as local heritage assets for the purpose of supporting BDP20 of the Local Plan.</b></p> <p><del>4. In parallel with this policy, the Parish Council proposes that these buildings and structures are considered by Bromsgrove District Council for inclusion in the Local Heritage List. However whether they are included on a Local Authority list or not is not necessary for the application of this policy.</del></p> <p>Appendix B to the Evidence Base Summary should be re-organised so that all the buildings and structures identified as Non-Designated Heritage Assets are set out in a separate list under that name.</p>
PM6	Policy HDNE 2	<p><b><del>a. New development within, or adjacent to, or directly affecting the Conservation Area, a heritage asset, building or feature of historic interest, or an area of public open space, should be sensitively designed to conserve and enhance the setting, form, character and sense of place.</del></b></p> <p><b><del>—b. The demolition of buildings or features that are identified as Local Heritage Assets will not be supported. (See Community Action 3)</del></b></p> <p><b><del>—c. The protection and safeguarding of historic boundaries and historic hedges, especially around the Bishop’s Palace and Deer Park areas.</del></b></p>
PM7	Policy HDNE 4	<p><b><del>Some of the views considered to be important are listed below. This is not an exhaustive list; there will be other views of equal importance that should be protected where possible:</del></b></p>
PM8	Policies LHW 1 and LHW 3	<p><b>LHW 1 4. Development that would have an unacceptable impact on health and wellbeing within the Neighbourhood Area will not be</b></p>

		<p><b><u>permitted supported.</u></b></p> <p><b><i>LHW 3 Development that would result in any loss of the open space or would cause harm to the character, setting, appearance, general quality or accessibility will not be <u>permitted supported</u> unless the community will gain equivalent benefit from open space improvements or the provision of replacement open space.</i></b></p>
PM9	Policy LHW 2	<p><b><i>In accordance with NPPF paragraphs 76 and 77, green spaces as identified on <del>page 69 map Fig 36</del> <u>Figures 37 and 38</u> are designated as Local Green Spaces. The identified Local Green Spaces are:</i></b></p> <p><b><i>Development that would harm the openness or special character of a Local Green Space, or its significance and value to the local community, will not be <u>permitted supported</u> unless there are very special circumstances, which outweigh the harm to the Local Green Space.</i></b></p>
PM10	Policy BSS 2  Policy BSS 4	<p><b><i>BSS 2 1. Within the shopping area of Alvechurch (as defined on the adopted BDP Policies Map), proposals for the change of use or redevelopment of existing ground floor shopping facilities to non-A1 uses will be <u>permitted supported</u> where:</i></b></p> <p><b><i>BSS 4 2 The change of use beyond the original purpose of non-permanent and insubstantial buildings such as sheds, out houses, chicken houses, glasshouses or isolated stables will not be <u>permitted supported</u>. The removal of such buildings and the return to open use of the land on which they were located will be supported.</i></b></p>
PM11	Paragraphs 4.319 and	<p><del>4.319 The Neighbourhood Plan accepts that</del>  <b><i>a</i></b>Any new build on the brownfield site (that is the hall and its outbuildings) should be</p>

	4.326	<p>with not have an unacceptable “minimal impact” on the amenities of the identified nearby residents or other facilities.</p> <p>4.326 We have acknowledged that the users of the self-styled business park at Bordesley Hall are reducing in number. So we can see that change of business uses and/ or changes to the existing buildings and/ or their removal and subsequent new build may be among the future new business- focussed scenarios for this location. We assert that any such change of use or new build must be confined to the existing site area being brownfield within what is currently a strict Green Belt setting</p>
PM12	Policy BSS 7	<p><b><i>Policy BSS 7 3 The change of use of Bordesley Hall for general housing purposes, when tested against the sustainability principles underlying this neighbourhood Plan, will not be supported unless it can be demonstrated that the existing use is no longer viable.</i></b></p>
PM13	Policy GAT 3	<p><b><i>Policy GAT 3 4 Development proposals likely to have a significant effect severe residual impact on road safety, or which is likely to exacerbate and/or congestion on the highway network will not be granted supported unless such impacts can be adequately mitigated. Where development is likely to lead to increases in traffic flows or congestion, developers must take proportionate steps to mitigate any impact.</i></b></p>
PM14	Policy GAT 1	<p><b><i>Policy GAT 1 1. Proposals for development should identify the realistic levels of traffic they are likely to generate and must assess the potential impact on the local community. Development that would give rise to unacceptable traffic conditions will not be permitted</i></b></p>



	Policy GAT 2	<p><b><u>supported.</u></b></p> <p><b><i>Policy GAT 2 3. Development at these sites will only be <del>permitted</del><u>supported</u> when it can be clearly demonstrated there is no longer a need for the parking facility, or equivalent public parking space is provided elsewhere within comfortable walking distance of the Alvechurch Village essential services and in easy access for people with disabilities.</i></b></p>
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# DECLARATION OF RESULT OF POLL

## Neighbourhood Planning Referendum Thursday 10 January 2019 Alvechurch Parish

I Kevin Dicks, being the Counting Officer at the above referendum held on Thursday 10 January 2019, do hereby give notice that the results of the votes cast is as follows:

Question		
Do you want Bromsgrove District Council to use the Neighbourhood Plan for Alvechurch Parish to help it decide planning applications in the neighbourhood area?		
	Votes Recorded	Percentage
Number cast in favour of a <b>Yes</b>	1575	96.7%
Number cast in favour of a <b>No</b>	54	3.3%

The number of ballot papers rejected was as follows:	Number of ballot papers
A want of an official mark	—
B voting for more answers than required	—
C writing or mark by which voter could be identified	—
D being unmarked or wholly void for uncertainty	—
E rejected in part	—
Total	0

Electorate: 4463

Ballot Papers Issued: 1629

Turnout: 36.50%

And I do hereby declare that more than half of those voting have voted **in favour of** the Neighbourhood Plan.

Dated Thursday 10 January 2019



Kevin Dicks  
Counting Officer

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**Bromsgrove District Council  
Council Tax Reduction Scheme**

S13A and Schedule 1a of the Local Government Finance Act 1992

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## **1.0 Introduction to the Council Tax Reduction Scheme**

- 1.1 The following has been adopted by the Council and details the Council Tax Reduction scheme adopted by the authority for the financial year 2019/20
- 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.
- 1.3 The scheme in respect of pension age applicants is defined by Central Government within the following:
  - Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012;
  - Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (England) (Amendment) Regulations 2012;
  - Council Tax Reduction Schemes (Transitional Provision) (England) Regulations 2013;
  - Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013;
  - Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2013;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) (No. 2) Regulations 2014
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2015;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2016;
  - The Council Tax Reduction Schemes (Amendment) (England) Regulations 2017 ;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2018; and
  - Local Government Finance Act 1992 (as amended by the Local Government Finance Act 2012)



## 2.0 Interpretation

(1) In this scheme—

**“the 1992 Act”** means the Local Government Finance Act 1992;

**“Abbeyfield Home”** means an establishment run by the Abbeyfield Society including all bodies corporate or unincorporated which are affiliated to that society;

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

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

**“applicable amount”** means

(a) in relation to a pensioner, the amount calculated in accordance with paragraph 25 and Schedule 2; and

(b) in relation to a person who is not a pensioner, the amount calculated in accordance with  
(i) paragraph 26 and Schedule 3; or  
(ii) paragraph 28, as the case may be;

**“applicant”** means a person who has made an application;

**“application”** means an application for a reduction under this scheme;

**“approved blood scheme”** means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products

**“assessment period”** means

(a) in relation to pensioners:

(i) in relation to the earnings of a self-employed earner, the period determined in accordance with paragraph 43 for the purpose of calculating the weekly earnings of the applicant; or

(ii) in relation to any other income, the period determined in accordance with paragraph 40 for the purpose of calculating the weekly income of the applicant;

(b) in relation to persons who are not pensioners, such period as is set out in paragraphs 47 to 49 over which income falls to be calculated;

**“attendance allowance”** means

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

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

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

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

**“the authority”** means East Hants District Council in relation to whose area this scheme has effect by virtue of paragraph 4(6) of Schedule 1A to the 1992 Act;

**“basic rate”** has the meaning given by the Income Tax Act 2007;

**“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;

**“the benefit Acts”** means the SSCBA, the Jobseekers Act 1995, the State Pension Credit Act 2002 and the Welfare Reform Act 2007;

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

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

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

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

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

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

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

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

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

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

“**couple**” has the meaning given by paragraph 4;

“**designated office**” means the office of the authority designated by it for the receipt of application;

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

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

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

“**disability living allowance**” means a disability living allowance under section 71 of the SSCBA;

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

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

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

“**employed earner**” is to be construed in accordance with section 2(1)(a) of the SSCBA 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;

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

“**employment zone**” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999 and 2014 and an ‘**employment zone programme**’ means a programme established for such an area or areas designed to assist applicants for a jobseeker’s allowance to obtain sustainable employment;

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

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

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

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

“**family**” has the meaning given by paragraph 6;

“**the Fund**” means moneys made available from time to time by the Secretary of State for the benefit

of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992;

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

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

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

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

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

**“independent hospital”**

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

(b) in Wales has the meaning given by section 2 of the Care Standards Act 2000; and

(c) in Scotland means an independent health care service as defined by section 10F of the National Health Service (Scotland) Act 1978;

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

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

**“Jobseekers Act”** means the Jobseekers Act 1995; ‘Jobseeker’s Allowance Regulations’ means the Jobseeker’s Allowance Regulations 1996 and Jobseeker’s Allowance Regulations 2013 as appropriate;

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

**“the London Emergencies Trust”** means the company of that name (number 09928465) incorporated on 23rd December 2015 and the registered charity of that name (number 1172307) established on 28th March 2017

**“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 or the applicant is a member of the work-related activity group except in Part 1 of Schedule 3;

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

**“maximum council tax reduction amount”** means the amount determined in accordance with paragraph 29 (pensioners) or 29A (persons who are not pensioners);

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

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

**“mobility supplement”** means

- (a) in relation to pensioners, a supplement to which paragraph 5(1)(a)(vii) of Schedule 5 refers;
- (b) in relation to persons who are not pensioners, a supplement to which paragraph 13 of Schedule 8 refers;

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

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

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

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

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

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

- (a) meeting, or helping to meet an immediate short-term need—
  - (i) arising out of an exceptional event or exceptional circumstances, or
  - (ii) that needs to be met to avoid a risk to the well-being of an individual, and
- (b) enabling qualifying individuals to establish or maintain a settled home, and—
  - (i) **“local authority”** has the meaning given by section 270(1) of the Local Government Act 1972; and
  - (ii) **“qualifying individuals”** means individuals who have been, or without the assistance might otherwise be
    - (aa) in prison, hospital, an establishment providing residential care or other institution, or
    - (bb) homeless or otherwise living an unsettled way of life; and **“local authority”** means a local authority in England within the meaning of the Local Government Act 1972;

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

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

**“partner”**, in relation to a person, means:

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

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

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

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

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

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

**“person treated as not being in Great Britain”** has the meaning given by paragraph 21;

**“person who is not a pensioner”** has the meaning given by paragraph 3(2)(b);

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

**“personal pension scheme”** means:

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993 as amended by the Public Service Pension Act 2013;
- (b) an annuity contract or 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) of that Act which is treated as having become a registered pension scheme by virtue of paragraph

1(1)(f) of Schedule 36 to the Finance Act 2004;

(c) a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;

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

**“polygamous marriage”** means any marriage to which paragraph 5 applies;

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

(a) in the case of a woman, pensionable age; or

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

**“qualifying contributory benefit”** means

(a) severe disablement allowance;

(b) incapacity benefit;

(c) contributory employment and support allowance;

**“qualifying 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 the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency 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 week”**, in relation to any particular day, means the week within which the day in question falls;

**“remunerative work”** has the meaning given by paragraph 10;

**“rent”** means **“eligible rent”** to which regulation 12 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 refer, less any deductions in respect of non-dependants which fall to be made under paragraph 30 (non-dependant deductions);

**“savings credit”** is to be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002;

**“the Scottish Infected Blood Support Scheme”** means the scheme of that name administered by the Common Services Agency (constituted under section 10 of the National Health Service (Scotland) Act 1978

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

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

**‘self-employment route’** means assistance in pursuing self-employed earner’s employment whilst participating in–

(a) an employment zone programme;

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

(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’** references in this scheme to an applicant participating as a service user are to

a. a person who is being consulted by or on behalf of–

(i) the Secretary of State in relation to any of the Secretary of State’s functions in

the field of social security or child support or under section 2 of the Employment and Training Act 1973; or

(ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such functions in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person; or

b. the carer of a person consulted as described in sub-paragraph (a) where the carer is not being consulted as described in that sub-paragraph;

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

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

**“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”** means state pension credit under the State Pension Credit Act 2002;

**“student”** has the meaning given by paragraph 73;

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

**“training allowance”** means an allowance (whether by way of periodical grants or otherwise) payable:

(a) out of public funds by a Government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Chief Executive of Skills Funding or the Welsh Ministers;

(b) to a person for his maintenance or in respect of a member of his family; and

(c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers,

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

**“the Trusts”** (except where the context otherwise requires) means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No. 2) Trust and

**“Trustees”** is to be construed accordingly;

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

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

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

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

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

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

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

**“water charges”** means:

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

(b) as respects Scotland, any water and sewerage charges established by Scottish Water under a



charges scheme made under section 29A of the Water Industry (Scotland) Act 2002,

in so far as such charges are in respect of the dwelling which a person occupies as his home;

**“the We Love Manchester Emergency Fund”** means the registered charity of that name (number 1173260) established on 30th May 2017

**“working tax credit”** means a working tax credit under section 10 of the Tax Credits Act 2002 as amended<sup>1</sup>; and

**“young person”** means a person who falls within the definition of qualifying young person in section 142 of the SSCBA.

(2) In this scheme, where an amount is to be rounded to the nearest penny, a fraction of a penny must be disregarded if it is less than half a penny and must otherwise be treated as a whole penny.

(3) For the purpose of this scheme, a person is on an income-based jobseeker's allowance on any day in respect of which an income-based jobseeker's allowance is payable to him and on any day:

(a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker's allowance but where the allowance is not paid because of a reduction in accordance with section 19 or 19A or regulations made under section 17A or 19B of the Jobseekers Act 1995 (circumstances in which a jobseeker's allowance is not payable);

(b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker's allowance is payable to him or would be payable to him but for section 19 or 19A or regulations made under section 17A or 19B of that Act; or

(c) in respect of which an income-based jobseeker's allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions).

(4) For the purposes of this scheme, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day:

(a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act 2007 (disqualification); or

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

(5) For the purposes of this scheme, two persons must be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.

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

### **3.0 Application of scheme: pensioners and persons who are not pensioners**

(1) This scheme applies to—

(a) pensioners who fall within any of classes A to C; and

(b) persons who are not pensioners who fall within any of classes D to E.

(2) In this scheme:

(a) a person is a “pensioner” if—

(i) he has attained the qualifying age for state pension credit; and

(ii) he is not, or, if he has a partner, his partner is not—

<sup>1</sup> The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2013; The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2015

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

#### **4.0 Meaning of "couple"**

- (1) In this scheme "couple" means:
  - (a) a man and woman who are married to each other and are members of the same household;
  - (b) a man and woman who are not married to each other but are living together as husband and wife;
  - (c) two people of the same sex who are civil partners of each other and are members of the same household; or
  - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.
- (2) Two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes. The above includes the Marriage (Same Sex Couples) Act 2013 and The Marriage (Same Sex Couples) Act 2013 (Commencement No. 3) Order 2014

#### **5.0 Polygamous marriages**

- (1) This paragraph applies to any case where—
  - (a) a person is a husband or wife by virtue of a marriage entered into under a law which permits polygamy; and
  - (b) either party to the marriage has for the time being any spouse additional to the other party.
- (2) For the purposes of paragraph 4 (meaning of "couple") neither party to the marriage is to be taken to be a member of a couple.

#### **6.0 Meaning of "family"**

- (1) In this scheme "family" means
  - (a) a couple;
  - (b) a couple and a member of the same household for whom one of them is or both are responsible and who is a child or a young person; or
  - (c) a person who is not a member of a couple and a member of the same household for whom that person is responsible and who is a child or a young person.
- (2) The references to a child or young person in sub-paragraph (1)(b) and (c) include a child or young person in respect of whom section 145A of the SSCBA applies for the purposes of entitlement to child benefit, but only for the period prescribed under section 145A(1).
- (3) The references to a young person in sub-paragraph (1)(b) and (c) do not include a young person who is—
  - (a) on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, or has an award of universal credit; or
  - (b) a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies.

## **7.0 Circumstances in which a person is to be treated as responsible or not responsible for another**

- (1) A person is to be treated as responsible for a child or young person who is normally living with him, including a child or young person to whom paragraph 6(2) applies.
- (2) Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person must be treated for the purposes of sub-paragraph (1) as normally living with—
  - (a) the person who is receiving child benefit in respect of that child or young person, or
  - (b) if there is no such person—
    - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
    - (ii) in any other case the person who has the primary responsibility for him.
- (3) For the purposes of this scheme a child or young person is the responsibility of only one person in any reduction week and any person other than the one treated as responsible for the child or young person under this paragraph is to be treated as not so responsible.

## **8.0 Households**

- (1) Subject to sub-paragraphs (2) and (3), an applicant and any partner and, where the applicant or his partner is treated (by virtue of paragraph 7) as responsible for a child or young person, that child or young person and any child of that child or young person, are to be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.
- (2) A child or young person is not to be treated as a member of the applicant's household where he is—
  - (a) placed with the applicant or his partner by a local authority under section 22C or 23(2)(a) of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of that Act, or section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained)”;  
or in Scotland boarded out with the applicant or his partner under a relevant enactment; or
  - (b) placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
  - (c) placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009 or the Adoption (Northern Ireland) Order 1987.
- (3) Subject to sub-paragraph (4), sub-paragraph (1) does not apply to a child or young person who is not living with the applicant and who—
  - (a) is being looked after by, or in Scotland is in the care of, a local authority under a relevant enactment; or
  - (b) has been placed, or in Scotland boarded out, with a person other than the applicant prior to adoption; or
  - (c) has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009.
- (4) The authority must treat a child or young person to whom sub-paragraph (3)(a) applies as being a member of the applicant's household in any reduction week where—
  - (a) that child or young person lives with the applicant for part or all of that reduction week; and
  - (b) the authority considers that it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.
- (5) In this paragraph “relevant enactment” means:
  - (a) the Army Act 1955;
  - (b) the Air Force Act 1955;

- (c) the Naval Discipline Act 1957;
- (d) the Matrimonial Proceedings (Children) Act 1958;
- (e) the Social Work (Scotland) Act 1968;
- (f) the Family Law Reform Act 1969;
- (g) the Children and Young Persons Act 1969;
- (h) the Matrimonial Causes Act 1973;
- (i) the Children Act 1975;
- (j) the Domestic Proceedings and Magistrates' Courts Act 1978;
- (k) the Adoption and Children (Scotland) Act 2007;
- (l) the Family Law Act 1986;
- (m) the Children Act 1989;
- (n) the Children (Scotland) Act 1995; and
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

## 9.0 Non-dependants

- (1) In this scheme, "non-dependant" means any person, except someone to whom sub-paragraph (2) applies, who normally resides with an applicant or with whom an applicant normally resides.
- (2) This paragraph applies to—
  - (a) any member of the applicant's family;
  - (b) if the applicant is polygamously married—
    - (i) where the applicant has (alone or jointly with his partner) an award of universal credit, any:
      - (aa) party to such a marriage other than the applicant's partner; and
      - (bb) any child or young person who is a member of his household and for whom he or his partner or another party to the polygamous marriage is responsible; or
    - (ii) in any other case, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
  - (c) a child or young person who is living with the applicant but who is not a member of his household by virtue of paragraph 8 (households);
  - (d) subject to sub-paragraph (3), any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under section 6 or 7 of the 1992 Act (persons liable to pay council tax);
  - (e) subject to sub-paragraph (3), any person who is liable to make payments on a commercial basis to the applicant or the applicant's partner in respect of the occupation of the dwelling;
  - (f) a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.
- (3) Excepting persons to whom sub-paragraph (2)(a) to (c) and (f) refer, a person to whom any of the following paragraphs applies is a non-dependant:
  - (a) a person who resides with the person to whom he is liable to make payments in respect of the dwelling and either—
    - (i) that person is a close relative of his or his partner; or
    - (ii) the tenancy or other agreement between them is other than on a commercial basis;
  - (b) a person whose liability to make payments in respect of the dwelling appears to the authority to have been created to take advantage of a council tax reduction scheme except someone who was, for any period within the eight weeks prior to the creation of the agreement giving rise to the liability to make such payments, otherwise liable to make payments of rent in respect of the same dwelling;
  - (c) a person who becomes jointly and severally liable with the applicant for council tax in respect of a dwelling and who was, at any time during the period of eight weeks prior to his becoming so liable, a non-dependant of one or more of the other residents in that dwelling who are so

liable for the tax, unless the change giving rise to the new liability was not made to take advantage of a council tax reduction scheme.

## **10.0 Remunerative work**

- (1) Subject to the following provisions of this paragraph, a person must be treated for the purposes of this scheme as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.
- (2) Subject to sub-paragraph (3), in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard must be had to the average of hours worked over
  - (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
  - (b) in any other case, the period of 5 weeks immediately prior to the date of application, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.
- (3) Where, for the purposes of sub-paragraph (2)(a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work must be disregarded in establishing the average hours for which he is engaged in work.
- (4) Where no recognisable cycle has been established in respect of a person's work, regard must be had to the number of hours or, where those hours will fluctuate, the average of the hours, which he is expected to work in a week.
- (5) A person must be treated as engaged in remunerative work during any period for which he is absent from work referred to in sub-paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.
- (6) A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any reduction week is to be treated as not being in remunerative work in that week.
- (7) A person must not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave, or is absent from work because he is ill.
- (8) A person must not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which—
  - (a) a sports award has been made, or is to be made, to him; and
  - (b) no other payment is made or is expected to be made to him.

## **11.0 Procedure for reduction applications and appeals against reduction decisions**

Schedule 1 contains provisions about the procedure

- (a) by which a person may apply for a reduction under this scheme;
- (b) by which a person may make an appeal against certain decisions of the authority;
- (c) by which a person can apply to the authority for a reduction under section 13A(1)(c) of the 1992 Act.

**CLASSES OF PERSON ENTITLED TO A REDUCTION UNDER THIS SCHEME**



## **12.0 Classes of person entitled to a reduction under this scheme**

- (1) The classes of person described in paragraphs 13 to 18 are entitled to a reduction under this scheme.
- (2) In those paragraphs, references to the applicant's income or capital include, in a case where that income or capital cannot accurately be determined, references to the applicant's estimated income or capital.

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

On any day class A consists of any person who is a pensioner

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) whose income (if any) for the relevant week does not exceed his applicable amount, and
- (f) who has made an application.

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

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

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) whose income for the relevant week is greater than his applicable amount;
- (f) in respect of whom amount A exceeds amount B where—
  - (i) amount A is the maximum council tax reduction in respect of the day in the applicant's case; and
  - (ii) amount B is  $2 \frac{6}{7}$  per cent of the difference between his income for the relevant week and his applicable amount, and
- (g) who has made an application.

## **15.0 Class C: alternative maximum council tax reduction – pensioners**

- (1) On any day class C consists of any person who is a pensioner
  - (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
  - (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax reduction amount can be calculated;
  - (d) who does not fall within a class of person not entitled to a reduction under this scheme;
  - (e) who has made an application; and
  - (f) in relation to whom the condition in sub-paragraph (2) is met.
- (2) The condition referred to in sub-paragraph (1)(f) is that no other resident of the dwelling is liable to pay rent to the applicant in respect of the dwelling and there is an alternative maximum council tax reduction in respect of the day in the case of that person which is derived from the income, or aggregate incomes, of one or more residents to whom this sub-paragraph applies.
- (3) Sub-paragraph (2) applies to any other resident of the dwelling who:
  - (a) is not a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount;
  - (b) is not a person who is liable for council tax solely in consequence of the provisions of section 9 of the 1992 Act (spouse's or civil partner's joint and several liability for tax);

- (c) is not a person who is residing with a couple or with the members of a polygamous marriage where the applicant is a member of that couple or of that marriage and
  - (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the 1992 Act (persons disregarded for the purposes of discount), falls to be disregarded for the purposes of discount; or
  - (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;
- (d) is not a person who jointly with the applicant falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or
- (e) is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

## **16.0 Class D: persons who are not pensioners whose income is less than the applicable amount**

On any day class D consists of any person who is not a pensioner:

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19A (periods of absence from a dwelling: persons who are not pensioners), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) whose income (if any) for the relevant week is less than his applicable amount, and
- (f) who has made an application.

## **17.0 Class E: persons who are not pensioners whose income is greater than the applicable amount**

On any day class E consists of any person who is not a pensioner:

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19A (periods of absence from a dwelling: persons who are not pensioners), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) whose income for the relevant week is greater than his applicable amount;
- (f) in respect of whom amount A exceeds amount B where—
  - (i) amount A is the maximum council tax reduction in his case; and
  - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount, and
- (f) who has made an application.

## **18.0 Class F persons who are not pensioners who are deemed to be Care Leavers in accordance with Schedule. 12 of this scheme.**

On any day Class F consists of any person who is not a pensioner ;

- (a) who is deemed to fall within the definition of 'care leaver' as. Defined within Schedule 12;
- (b) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (c) who, subject to paragraph 19A (periods of absence from a dwelling: persons who are not pensioners), is not absent from the dwelling throughout the day;
- (d) in respect of whom a maximum council tax reduction amount can be calculated;
- (e) who does not fall within a class of person not entitled to a reduction under this scheme;
- (f) whose entitlement can be calculated in accordance with Schedule 12.

## **19.0 Periods of absence from a dwelling: Pensioners**

- (1) A person is not absent from a dwelling in relation to any day which falls within a period of temporary absence from that dwelling.
- (2) In sub-paragraph (1), a “period of temporary absence” means:
- (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as:
- (i) the person resides in that accommodation in Great Britain;
  - (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 within Great Britain 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;
  - (iii) that period is unlikely to exceed 13 weeks; and
- (c) a period of absence within Great Britain not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as:
- (i) the person intends to return to the dwelling;
  - (ii) the part of the dwelling in which he usually resided is not let or sub-let;
  - (iii) the person is a person to whom sub-paragraph (3) applies; and
  - (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period and
- (d) subject to sub-paragraphs (2F), (3C), (3E) and (3G) and where sub-paragraph (2E) applies, a period of absence outside Great Britain not exceeding 4 weeks, beginning with the first day of that absence from Great Britain 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 resides is not let or sub-let; and
  - (iii) the period of absence from Great Britain is unlikely to exceed 4 weeks.
- (2A) The period of 13 weeks referred to in sub-paragraph (2)(b) shall run or continue to run during any period of absence from Great Britain.
- (2B) Where:
- (a) a person returns to Great Britain after a period of absence from Great Britain (period A);
  - (b) that person has been absent from the dwelling, including any absence within Great Britain, for less than 13 weeks beginning with the first day of absence from that dwelling; and
  - (c) at the outset of, or during, period A, period A ceased to be treated as a period of temporary absence, then any day that follows period A and precedes the person’s return to the dwelling, shall not be treated as a period of temporary absence under sub-paragraph (2)(b).
- (2C) The period of 52 weeks referred to in sub-paragraph (2)(c) shall run or continue to run during any period of absence from Great Britain.
- (2D) Where:
- (a) a person returns to Great Britain after a period of absence from Great Britain (period A);
  - (b) that person has been absent from the dwelling, including any absence within Great Britain, for less than 52 weeks beginning with the first day of absence from that dwelling; and
  - (c) at the outset of, or during, period A, period A ceased to be treated as a period of temporary absence,

then, any day that follows period A and precedes the person's return to the dwelling, shall not be treated as a period of temporary absence under sub-paragraph (2)(c).

- (2E) This sub-paragraph applies where:
  - (a) a person is temporarily absent from Great Britain;
  - (b) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
  
- (2F) If the temporary absence referred to in sub-paragraph (2)(d) is in connection with the death of:
  - (a) the person's partner or a child or young person for whom the person or the person's partner is responsible;
  - (b) the person's close relative;
  - (c) the close relative of the person's partner; or
  - (d) the close relative of a child or young person for whom the person or the person's partner is responsible,

then the period of 4 weeks in the opening words of sub-paragraph (2)(d) may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return to Great Britain within the first 4 weeks (and the reference in sub-paragraph (iii) of that paragraph to a period of 4 weeks shall, where the period is extended, be taken as referring to the period as so extended).
  
- (3) This sub-paragraph applies to a person who—
  - (a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—
    - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
    - (ii) in premises approved under section 13 of the Offender Management Act 2007, or is detained in custody pending sentence upon conviction;
  - (b) is resident in a hospital or similar institution as a patient;
  - (c) is undergoing, or whose partner or dependent child is undergoing, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
  - (d) is following, a training course;
  - (e) is undertaking medically approved care of a person;
  - (f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
  - (g) is receiving medically approved care provided in accommodation other than residential accommodation;
  - (h) is a student;
  - (i) is receiving care provided in residential accommodation and is not a person to whom sub-paragraph (2)(a) applies; or
  - (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.
  
- (3A) This sub-paragraph applies to a person ("P") who is:
  - (a) detained in custody on remand pending trial;
  - (b) detained pending sentence upon conviction; or
  - (c) as a condition of bail required to reside—
    - (i) in a dwelling, other than a dwelling P occupies as P's home; or
    - (ii) in premises approved under section 13 of the Offender Management Act 2007(7),
 and who is not also detained in custody following sentence upon conviction.
  
- (3B) This sub-paragraph applies where:
  - (a) a person is temporarily absent from Great Britain;

- (b) the person is a member of Her Majesty's forces posted overseas, a mariner or a continental shelf worker;
  - (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
- (3C) Where sub-paragraph (3B) applies, a period of absence from Great Britain not exceeding 26 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as:
- (a) the person intends to return to the dwelling;
  - (b) the part of the dwelling in which he usually resided is not let or sub-let;
  - (c) the period of absence from Great Britain is unlikely to exceed 26 weeks.
- (3D) This sub-paragraph applies where—
- (a) a person is temporarily absent from Great Britain;
  - (b) the person is a person described in any of paragraphs (b), (c), (g) or (j) of sub-paragraph (3);
  - (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
- (3E) Where sub-paragraph (3D) applies, a period of absence from Great Britain not exceeding 26 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as:
- (a) the person intends to return to the dwelling;
  - (b) the part of the dwelling in which he usually resided is not let or sub-let;
  - (c) the period of absence is unlikely to exceed 26 weeks, or in exceptional circumstances, is unlikely substantially to exceed that period.
- (3F) This sub-paragraph applies where:
- (a) a person is temporarily absent from Great Britain;
  - (b) the person is a person described in any of paragraphs (a), (d), (e), (f), (h) or (i) of sub-paragraph (3);
  - (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
- (3G) Where sub-paragraph (3F) applies, a period of absence from Great Britain not exceeding 4 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as:
- (a) the person intends to return to the dwelling;
  - (b) the part of the dwelling in which he usually resided is not let or sub-let;
  - (c) the period of absence is unlikely to exceed 4 weeks, or in exceptional circumstances, is unlikely substantially to exceed that period.”;
- (4) This sub-paragraph applies to a person who is—
- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, 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.
- (5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—
- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he must be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
  - (b) for the purposes of sub-paragraph (3A), he must be treated as if he remains in detention;
  - (c) if he does not fall within paragraph (a), he is not to be considered to be a person who is liable to pay council tax in respect of a dwelling of which he is a resident.

- (6) In this paragraph—
- “continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any of the activities mentioned in section 11(2) of the Petroleum Act 1998;
- “designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964 as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;
- “mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where—
- (a) the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
  - (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;”;
- “medically approved” means certified by a medical practitioner;
- “member of Her Majesty’s forces posted overseas” means a person who is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006(10)), who is absent from the main dwelling because the person has been posted outside of Great Britain to perform the duties of a member of Her Majesty’s regular forces or reserve forces;
- “patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;
- “prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;”
- “residential accommodation” means accommodation which is provided in:
- (a) a care home;
  - (b) an independent hospital;
  - (c) an Abbeyfield Home; or
  - (d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;
- “training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State

**19A.0 Periods of absence from a dwelling: Persons who are not pensioners**

- (1) A person is not absent from a dwelling in relation to any day which falls within a period of temporary absence from that dwelling.
- (2) In sub-paragraph (1), a “period of temporary absence” means
  - (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as—
    - (i) the person resides in that accommodation;
    - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
    - (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,
 where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;
  - (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as:
    - (i) the person intends to return to the dwelling;
    - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
    - (iii) that period is unlikely to exceed 13 weeks; and
  - (c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that



absence, where and for so long as:

- (i) the person intends to return to the dwelling;
- (ii) the part of the dwelling in which he usually resided is not let or sub-let;
- (iii) the person is a person to whom sub-paragraph (3) applies; and
- (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

(3) This sub-paragraph applies to a person who—

- (a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—
  - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
  - (ii) in premises approved under section 13 of the Offender Management Act 2007,or is detained in custody pending sentence upon conviction;
- (b) is resident in a hospital or similar institution as a patient;
- (c) is undergoing, or whose partner or dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
- (d) is following, in the United Kingdom or elsewhere, a training course;
- (e) is undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
- (f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
- (g) is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
- (h) is a student;
- (i) is receiving care provided in residential accommodation and is not a person to whom sub-paragraph (2)(a) applies; or
- (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.

(4) This sub-paragraph applies to a person who is

- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983 (as amended by the Mental Health (Discrimination) Act 2013), or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995 or, in Northern Ireland, under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986); and
- (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989.

(5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—

- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he must be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
- (b) for the purposes of sub-paragraph (3)(a), he must be treated as if he remains in detention;
- (c) if he does not fall within paragraph (a), he is not to be considered to be a person who is liable to pay council tax in respect of a dwelling of which he is a resident.

(6) In this paragraph—

“medically approved” means certified by a medical practitioner;

“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;

“residential accommodation” means accommodation which is provided in

- (a) a care home;
- (b) an independent hospital;
- (c) an Abbeyfield Home; or
- (d) an establishment managed or provided by a body incorporated by Royal Charter or constituted

by Act of Parliament other than a local social services authority;

“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

**CLASSES OF PERSON EXCLUDED FROM THIS SCHEME**

## 20.0 Classes of person excluded from this scheme

The classes of person described in paragraphs 21 to 24 are not entitled to a reduction under this scheme.

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

- (1) The class of person described in this paragraph consists of any person treated as not being in Great Britain.
- (2) Except where a person falls within sub-paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.
- (3) A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.
- (4) For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with—
  - (a) regulation 13 of the EEA Regulations or Article 6 of Council Directive 2004/38/EC;
  - (aa) regulation 14 of the EEA Regulations, but only in a case where the right exists under that regulation because the person is—
    - (i) a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of those Regulations, or
    - (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker;
  - (ab) Article 45 of the Treaty on the functioning of the European Union (in a case where the person is seeking work in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland); or
  - (b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen).
- (5) A person falls within this paragraph if the person is—
  - (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
  - (b) a family member of a person referred to in sub-paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
  - (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
  - (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
  - (e) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971 where that leave is—
    - (i) discretionary leave to enter or remain in the United Kingdom,
    - (ii) leave to remain under the Destitution Domestic Violence concession which came into effect on 1st April 2012, or
    - (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005.
  - (f) a person who has humanitarian protection granted under those rules;
  - (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 and who is in the United Kingdom as a result

of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom;

- (h) in receipt of income support, or on an income-related employment and support allowance;
- (ha) in receipt of an income-based jobseeker's allowance and has a right to reside other than a right to reside falling within paragraph (4) or
- (i) a person who is treated as a worker for the purpose of the definition of "qualified person" in regulation 6(1) of the EEA Regulations pursuant to regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an "accession State national subject to worker authorisation").

**Transitional provision**

The above does not apply to a person who, on 31st March 2015—

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

The events are—

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

(In this section "the Act" means the Local Government Finance Act 1992).

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

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

(8) In this paragraph—

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

"EEA Regulations" means the Immigration (European Economic Area) Regulations 2006.

**22.0 Class of person excluded from this scheme: persons subject to immigration control**

(1) Persons subject to immigration control are not entitled to a reduction under this scheme.

(2) "Person subject to immigration control" has the meaning given in section 115(9) of the Immigration and Asylum Act 1999.<sup>2</sup>

**23.0 Class of person excluded from this scheme: capital limit**

(1) The class of person described in this paragraph consists of any person whose capital exceeds £16,000.

(2) Capital for the purposes of sub-paragraph (1) is to be calculated in accordance with Part 10 of this scheme.

**24.0 Class of person excluded from this scheme: students**

The class of person described in this paragraph consists of any student to whom paragraph 75(1) applies (except to the extent that a student may be entitled to an alternative maximum council tax reduction by virtue of paragraph 18).

**APPLICABLE AMOUNTS**



## 25.0 Applicable amounts: pensioners

- (1) The applicable amount for a pensioner for a week is the aggregate of such of the following amounts as apply in his case—
- (a) an amount in respect of his personal allowance, determined in accordance with paragraph 1 of Schedule 2 (personal allowance);
  - (b) an amount determined in accordance with paragraph 2 of that Schedule in respect of up to two individuals who are either children or young persons and who are members of his family
  - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of that Schedule (family premium);
  - (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums).
- (1A) For the purposes of sub-paragraph (1)(b) as it applies apart from sub-paragraph (1C), where the family includes more than two individuals who are either children or young persons and under paragraph 2 of that Schedule a different amount applies to different individuals, the two amounts to be included in the applicable amount shall be those that result in the greatest possible total amount.
- (1B) Sub-paragraph (1C) applies where—
- (a) (whether or not as part of a tax credit couple as defined in section 3(5A) of the Tax Credits Act 2002) the applicant has an award of child tax credit (whether or not any amount is payable by way of such credit) in respect of a child or young person who is a member of his family; and
  - (b) the total amount to be included in the applicable amount under sub-paragraph (1)(b) as substituted by sub-paragraph (1C) would be higher than the total amount that would be included under paragraph (1)(b) apart from sub-paragraph (1C).
- (1C) Where this paragraph applies, for sub-paragraph (1)(b) substitute—
- (b) an amount determined in accordance with paragraph 2 of that Schedule in respect of any child or young person who is a member of his family and in respect of whom the individual element of child tax credit has been included in the determination of the maximum rate of that credit;”.
- (2) In Schedule 2—
- “additional spouse” means a spouse by the party to the marriage who is additional to the party to the marriage;
  - “patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005.

## 26.0 Applicable amounts: persons who are not pensioners<sup>3</sup>

- (1) Subject to paragraphs 27 and 28, the applicable amount for a week for a person who is not a pensioner is the aggregate of such of the following amounts as may apply in his case—
- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 of Schedule 3;
  - (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 3 of that Schedule;
  - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part 2 of that Schedule (family premium);
  - (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums);
  - (e) the amount of either the—
    - (i) work-related activity component; or
    - (ii) support component, which may be applicable to him in accordance with Parts 5 and 6 of that Schedule (the components);
  - (f) the amount of any transitional addition which may be applicable to him in accordance with

<sup>3</sup> The Council has resolved that the Applicable Amounts for persons who are not pensioners will be uprated in line with the Housing Benefit Regulations 2006 as amended by the Social Security Benefits Up-rating Orders.

Parts 7 and 8 of that Schedule (transitional addition).

(2) In Schedule 3—

**“additional spouse”** means a spouse by the party to the marriage who is additional to the party to the marriage;

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

**“patient”** means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005.

## **27.0 Polygamous marriages: persons who are not pensioners**

(1) This paragraph applies where an applicant who is not a pensioner is a member of a polygamous marriage and does not have (alone or jointly with a party to a marriage), an award of universal credit.

(2) The applicable amount for a week of an applicant where this paragraph applies is the aggregate of such of the following amounts as may apply in his case:

(a) the amount applicable to him and one of his partners determined in accordance with paragraph 1(3) of Schedule 3 as if he and that partner were a couple;

(b) an amount equal to the difference between the amounts specified in sub-paragraphs (3) and (1)(b) of paragraph 1 of that Schedule in respect of each of his other partners;

(c) an amount determined in accordance with paragraph 2 of that Schedule (main phase employment and support allowance) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;

(d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part 2 of that Schedule (family premium);

(e) the amount of any premiums which may be applicable to him determined in accordance with Parts 3 and 4 of that Schedule (premiums);

(f) the amount of either the—

(i) work-related activity component; or

(ii) support component,

which may be applicable to him in accordance with Parts 5 and 6 of that Schedule (the components);

(g) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

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

(1) Subject to sub-paragraph (2), in determining the applicable amount for a week of an applicant who is not a pensioner:

(a) who has, or

(b) who (jointly with his partner) has,

an award of universal credit, the authority must use the calculation or estimate of the maximum amount of the applicant, or the applicant and his partner jointly (as the case may be), subject to the adjustment described in sub-paragraph (3).

(2) In determining the applicable amount for a week of an applicant who is a member of a polygamous marriage, the fact that two people are husband and wife is to be disregarded if:

(a) one of them is a party to an earlier marriage that still subsists; and

(b) the other party to that earlier marriage is living in the same household.

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

the product by 52.

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

**MAXIMUM COUNCIL TAX REDUCTION FOR THE PURPOSES OF CALCULATING ELIGIBILITY FOR A REDUCTION  
UNDER THIS SCHEME AND AMOUNT OF REDUCTION**

## **29.0 Maximum council tax reduction amount under this scheme: pensioners**

- (1) Subject to sub-paragraphs (2) to (4), a person's maximum council tax reduction amount in respect of a day is 100 per cent of the amount A/B where:
  - (a) A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
  - (b) B is the number of days in that financial year, less any deductions in respect of non-dependants which fall to be made under paragraph 30 (non-dependant deductions: pensioners and persons who are not pensioners).
- (2) In calculating a person's maximum council tax reduction under this scheme 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 (other than a reduction under this scheme), is to be taken into account.
- (3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum council tax reduction in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.
- (4) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.
- (5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly and severally liable for council tax, where the applicant is a person who is not a pensioner, does not include a student to whom paragraph 75(1) (entitlement of students to a reduction under this scheme) applies.
- (6) In this paragraph "relevant financial year" means, in relation to any particular day, the financial year within which the day in question falls.

## **29A.0 Maximum council tax reduction amount under this scheme: persons who are not pensioners**

- (1) Subject to sub-paragraphs (2) to (4), a person's maximum council tax reduction amount in respect of a day is 85 per cent of amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act,  
  
less any deductions in respect of non-dependants which fall to be made under paragraph 30 (non dependant deductions: pensioners and persons who are not pensioners).
- (2) In calculating a person's maximum council tax reduction under this scheme 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 (other than a reduction under this scheme), is to be taken into account.
- (3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum council tax reduction in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.
- (4) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.
- (5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly and severally liable for council tax, where the applicant is a person who is not a pensioner, does not include a student to whom paragraph 75(1) (entitlement of students to a reduction under this scheme) applies.

(6) In this paragraph “relevant financial year” means, in relation to any particular day, the financial year within which the day in question falls.

### **30.0 Non-dependant deductions: pensioners and persons who are not pensioners<sup>4</sup>**

- (1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 29 are –
- (a) in respect of a non-dependant aged 18 or over in remunerative work, £12.20 x 1/7;
  - (b) in respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, £4.00 x 1/7.
- (2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is—
- (a) less than £207.70, the deduction to be made under this paragraph is that specified in sub-paragraph (1)(b);
  - (b) not less than £207.70 but less than £360.10, the deduction to be made under this paragraph is £8.10 x 1/7;
  - (c) not less than £360.10 but less than £447.40, the deduction to be made under this paragraph is £10.20 x 1/7.
- (3) Only one deduction is to be made under this paragraph in respect of a couple or, as the case may be, members of a polygamous marriage (other than where there is an award of universal credit) and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount is to be deducted.
- (4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of that sub-paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.
- (5) Where in respect of a day—
- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
  - (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of spouses and civil partners); and
  - (c) the person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant must be apportioned equally between those liable persons.
- (6) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is—
- (a) blind or treated as blind by virtue of paragraph 10 of Schedule 3 (additional condition for the disability premium); or
  - (b) receiving in respect of himself—
    - (i) attendance allowance, or would be receiving that allowance but for—
      - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
      - (bb) an abatement as a result of hospitalisation; or
    - (ii) the care component of the disability living allowance, or would be receiving that

<sup>4</sup> The Council has resolved that the amounts in respect of Non Dependant Deductions for persons who are not pensioners will be uprated in line with the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2014. Pensioners will be uprated in line with Central Government requirements.



component but for—

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

(7) No deduction is to be made in respect of a non-dependant if:

- (a) although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or
- (b) he is in receipt of a training allowance paid in connection with youth training established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) he is a full-time student within the meaning of Part 11 (students); or
- (d) he is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
  - (i) “patient” has the meaning given in paragraph 19(6), and
  - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.
- (e) he is not residing with the claimant because he is a member of the armed forces away on operations

(8) No deduction is to be made in respect of a non-dependant:

- (a) who is on income support, state pension credit, an income-based jobseeker's allowance or an income-related employment and support allowance; or
  - (b) to whom Schedule 1 to the 1992 Act applies (persons disregarded for purposes of discount) but this paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers
  - (c) who is entitled to an award of universal credit where the award is calculated on the basis that the person does not have any earned income.”;
- For the purposes of sub-paragraph (c), “earned income” has the meaning given in regulation 52 of the Universal Credit Regulations 2013

(9) In the application of sub-paragraph (2) there is to be disregarded from the non-dependant's weekly gross income:

- (a) any attendance allowance, disability living allowance, personal independence payment or an AFIP received by him;
- (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund or the Independent Living Fund (2006) which, had his income fallen to be calculated under paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind);
- (c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments); and
- (d) any payment made under, or by, a trust which is approved by the Secretary of State and which is established for the purpose of giving relief and assistance to a disabled person whose disability was caused by their mother having taken a preparation containing the drug known as Thalidomide during her pregnancy.

**ALTERNATIVE MAXIMUM COUNCIL TAX REDUCTION FOR THE PURPOSES OF CALCULATING ELIGIBILITY FOR A REDUCTION UNDER THIS SCHEME AND AMOUNT OF REDUCTION: PENSIONERS**

## **31.0 Alternative maximum council tax reduction under this scheme: pensioners**

- (1) Subject to sub-paragraphs (2) and (3), the alternative maximum council tax reduction in respect of a day where the conditions set out in paragraph 15 (alternative maximum council tax reduction: pensioners) are fulfilled, is the amount determined in accordance with Schedule 4 (amount of alternative council tax reduction).
- (2) Subject to sub-paragraph (3), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the alternative maximum council tax reduction in his case, the amount determined in accordance with Schedule 4 must be divided by the number of persons who are jointly and severally liable for that tax.
- (3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, solely by virtue of section 9 of the 1992 Act (liability of spouses and civil partners), sub-paragraph (2) does not apply in his case.

**AMOUNT OF REDUCTION UNDER THIS SCHEME**

## **32.0— Amount of reduction under this scheme: Classes A to F**

- (1) Where a person is entitled to a reduction under this scheme in respect of a day, the amount of the reduction to which he is entitled is as follows.
- (2) Where the person is within class A or D, that amount is the amount, which is the maximum council tax reduction in respect of the day in the applicant's case.
- (3) Where the person is within class B or E, that amount is the amount found by deducting amount B from amount A, where "amount A" and "amount B" have the meanings given in paragraph 14(f) or 17(f), as the case may be.
- (4) Where the person is within class C, that amount is the amount, which is the alternative maximum council tax reduction in respect of the day in the applicant's case.
- (5) Sub-paragraph (6) applies where both:
  - (a) sub-paragraph (2) or sub-paragraph (3), and
  - (b) sub-paragraph (4),apply to a person.
- (6) The amount of the reduction to which the person is entitled is whichever is the greater of:
  - (a) the amount of the reduction given by sub-paragraph (2) or sub-paragraph (3), as the case may be, and
  - (b) the amount of the reduction given by sub-paragraph (4).
- (7) Persons who fall within Class F shall be entitled to reduction in line with the provisions stated in Schedule 12

**INCOME AND CAPITAL FOR THE PURPOSES OF CALCULATING ELIGIBILITY FOR A REDUCTION UNDER THIS  
SCHEME AND AMOUNT OF REDUCTION**



## **Income and capital: general**

### **33.0 Calculation of income and capital: applicant's family and polygamous marriages**

- (1) The income and capital of—
  - (a) an applicant; and
  - (b) any partner of that applicant,is to be calculated in accordance with the provisions of this Part.
- (2) The income and capital of any partner of the applicant is to be treated as income and capital of the applicant, and in this Part any reference to the applicant applies equally to any partner of that applicant.
- (3) Except where paragraph 37 applies, where an applicant or the partner of an applicant is 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.

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

- (1) Sub-paragraph (2) applies where it appears to the authority that a non-dependant and an applicant have entered into arrangements in order to take advantage of this scheme and the non-dependant has more income and capital than the applicant.
- (2) Except where—
  - (a) the applicant is a pensioner and is on a guarantee credit, or
  - (b) the applicant is not a pensioner and is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance,

the authority must treat the applicant as possessing income and capital belonging to that non-dependant and, in such a case, any income and capital which the applicant does possess is to be disregarded.

- (3) Where an applicant is treated as possessing income and capital belonging to a non-dependant under sub-paragraph (2) the income and capital of that non-dependant must be calculated in accordance with the following provisions of this Part in like manner as for the applicant and, except where the context otherwise requires, any reference to the "applicant" is to be construed for the purposes of this Part as if it were a reference to that non-dependant.

## **Income and capital: pensioners in receipt of guarantee credit or savings credit**

### **35.0 Applicant in receipt of guarantee credit: pensioners**

In the case of an applicant who is a pensioner and who is in receipt, or whose partner is in receipt, of a guarantee credit, the whole of his capital and income must be disregarded.

### **36.0 Calculation of applicant's income and capital in savings credit only cases: pensioners**

- (1) In determining the income and capital of an applicant who is a pensioner and who has, or whose partner has, an award of state pension credit comprising only the savings credit, subject to the following provisions of this paragraph, the authority must use the calculation or estimate of the applicant's or as the case may be, the applicant's partner's income and capital made by the Secretary of State for the purpose of determining the award of state pension credit.
- (2) Where the calculation or estimate provided by the Secretary of State includes the amount taken into

account in that determination in respect of net income, the authority may only adjust that amount so far as necessary to take into account—

- (a) the amount of any savings credit payable;
- (b) in respect of any dependent children of the applicant, child care charges taken into account under paragraph 57(1)(c) (calculation of income on a weekly basis);
- (c) the higher amount disregarded under this scheme in respect of—
  - (i) lone parent's earnings; or
  - (ii) payments of maintenance, whether under a court order or not, which is made or due to be made by
    - (aa) the applicant's former partner, or the applicant's partner's former partner; or
    - (bb) the parent of a child or young person where that child or young person is a member of the applicant's family except where that parent is the applicant or the applicant's partner;
- (d) any amount to be disregarded by virtue of paragraph 10(1) of Schedule 5 (sums disregarded from applicant's earnings: pensioners);
- (e) the income and capital of any partner of the applicant who is treated as a member of the applicant's household under paragraph 8, to the extent that it is not taken into account in determining the net income of the person claiming state pension credit;
- (f) paragraph 34 (circumstances in which capital and income of a non-dependant is to be treated as applicant's), if the authority determines that that provision applies in the applicant's case;
- (g) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable);
- (h) any amount to be disregarded by virtue of paragraph 6 of Schedule 5 (exempt work).

(3) Paragraphs 39 to 46 (calculation of income: pensioners) and 57 to 61 (calculation of income: pensioners and persons who are not pensioners) do not apply to the amount of the net income to be taken into account under sub-paragraph (1), but do apply (so far as relevant) for the purpose of determining any adjustments to that amount which the authority makes under sub-paragraph (2).

(4) If sub-paragraph (5) applies, the authority must calculate the applicant's capital in accordance with paragraphs 63, 65 to 68 and 70 (calculation of capital: pensioners).

(5) This sub-paragraph applies if:

- (a) the Secretary of State notifies the authority that the applicant's capital has been determined as being £16,000 or less or the authority determines his capital as being £16,000 or less;
- (b) subsequent to that determination the applicant's capital rises to more than £16,000; and
- (c) the increase occurs whilst there is in force an assessed income period within the meaning of sections 6 and 9 of the State Pension Credit Act 2002.

## **Income and capital where there is an award of universal credit<sup>5</sup>**

### **37.0 Calculation of income and capital: persons who are not pensioners who have an award of universal credit**

(1) In determining the income of an applicant:

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

an award of universal credit the authority must, subject to the following provisions of this paragraph, use the calculation or estimate of the amount of the income of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.

(2) The authority must adjust the amount of the income referred to in sub-paragraph (1) by multiplying the amount by 12 and dividing the product by 52.

(3) The authority may only adjust the amount of the income as adjusted in accordance with sub-

paragraph (2) so far as necessary to take into account—

- (a) the amount of the award of universal credit, determined in accordance with sub-paragraph (3);
- (b) paragraph 34 (circumstances in which income and capital of non-dependant is to be treated as applicant's), if the authority determines that the provision applies in the applicant's case;
- (c) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable).

(4) The amount for the award of universal credit to be taken into account for the purposes of sub-paragraph (3)(a) is to be determined by multiplying the amount of the award of universal credit by 12 and dividing the product by 52.

(5) Paragraph 34 (income and capital of non-dependant to be treated as applicant's) applies for the purpose of determining any adjustments which fall to be made to the figure for income under sub-paragraph (3).

(6) In determining the capital of an applicant—

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

## **Income: other pensioners**

### **38.0 Calculation of income and capital where state pension credit is not payable: pensioners**

Where neither paragraph 35 (applicant in receipt of guarantee credit: pensioners) nor 36 (applicant in receipt of savings credit only: pensioners) applies in the applicant's case, his income and capital is to be calculated or estimated in accordance with paragraphs 39 to 46 and 57 to 62 (calculation of income) and Chapter 7 of this Part (calculation of capital).

### **39.0 Meaning of “income”: pensioners**

(1) For the purposes of classes A to C in this scheme, “income” means income of any of the following descriptions:

- (a) earnings;
- (b) working tax credit;
- (c) retirement pension income within the meaning of the State Pension Credit Act 2002;
- (d) income from annuity contracts (other than retirement pension income);
- (e) a war disablement pension or war widow's or widower's pension;
- (f) a foreign war disablement pension or war widow's or widower's pension;
- (g) a guaranteed income payment;
- (h) a payment made under article 29(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, in any case where article 31(2)(c) applies;
- (i) income from capital other than capital disregarded under Part 1 of Schedule 9;
- (j) social security benefits, other than retirement pension income or any of the following benefits:
  - (i) disability living allowance;
  - (ii) personal independence payment;
  - (iii) an AFIP;
  - (iv) attendance allowance payable under section 64 of the SSCBA (entitlement to attendance allowance);
  - (v) an increase of disablement pension under section 104 (increase for constant attendance) or 105 of that Act (increase for exceptionally severe disablement);
  - (vi) child benefit;
  - (vii) any guardian's allowance payable under section 77 of the SSCBA (guardian's allowance);

- (viii) any increase for a dependant, other than the applicant's partner, payable in accordance with Part 4 of that Act (increases for dependants);
- (ix) any:
  - (aa) social fund payment made under Part 8 of the SSCBA (the social fund), or
  - (bb) occasional assistance;
- (x) Christmas bonus payable under Part 10 of that Act (Christmas bonus for pensioners);
- (xi) housing benefit;
- (xii) council tax benefit;
- (xiii) bereavement payment;
- (xiv) statutory sick pay;
- (xv) statutory maternity pay;
- (xvi) ordinary statutory paternity pay payable under Part 12ZA of the SSCBA;
- (xvii) additional statutory paternity pay payable under Part 12ZA of the SSCBA;
- (xviii) statutory adoption pay payable under Part 12ZB of that Act (statutory adoption pay);
- (xix) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland;
- (k) all foreign social security benefits which are similar to the social security benefits mentioned above;
- (l) a payment made:
  - (i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (award for children who have reached the child's age limit), in any case where article 30(1)(b) applies; or
  - (ii) under article 12(8) of that Order (unemployability allowances: children who have reached the child's age limit), in any case where sub-paragraph (b) of that article applies;
- (m) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
- (n) payments under a scheme made under the Pneumoconiosis etc. (Worker's Compensation) Act 1979;
- (o) payments made towards the maintenance of the applicant by his spouse, civil partner, former spouse or former civil partner or towards the maintenance of the applicant's partner by his spouse, civil partner, former spouse or former civil partner, including payments made—
  - (i) under a court order;
  - (ii) under an agreement for maintenance; or
  - (iii) voluntarily;
- (p) payments due from any person in respect of board and lodging accommodation provided by the applicant;
- (q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (r) any payment in respect of any—
  - (i) book registered under the Public Lending Right Scheme 1982; or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;
- (s) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-health or disability;
- (t) any sum payable by way of pension out of money provided under—
  - (i) the Civil List Act 1837,
  - (ii) the Civil List Act 1937,
  - (iii) the Civil List Act 1952,
  - (iv) the Civil List Act 1972, or
  - (v) the Civil List Act 1975;
- (u) any income in lieu of that specified in paragraphs (a) to (r);
- (v) any payment of rent made to an applicant who:
  - (i) owns the freehold or leasehold interest in any property or is a tenant of any property;
  - (ii) occupies part of the property; and
  - (iii) has an agreement with another person allowing that person to occupy that property on

- payment of rent;
- (w) any payment made at regular intervals under an equity release scheme;
- (x) PPF periodic payments within the meaning of section 17(1) of the State Pension Credit Act 2002.

- (2) Where the payment of any social security benefit referred to in sub-paragraph (1) or retirement pension income to which section 16(1)(za) to (e) of the State Pension Credit Act 2002 applies is subject to any deduction (other than an adjustment specified in sub-paragraph (4)) the amount to be taken into account under sub-paragraph (1) is to be the amount before the deduction is made.
- (3) Where an award of any working tax credit or child tax credit is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.
- (4) The adjustments specified in this sub-paragraph are those made in accordance with—
  - (a) the Social Security (Overlapping Benefits) Regulations 1979;
  - (b) the Social Security (Hospital In-Patients) Regulations 1975;
  - (c) section 30DD or section 30E of the SSCBA (reductions in incapacity benefit in respect of pensions and councillor's allowances);
  - (d) section 3 of the Welfare Reform Act 2007 (deductions from contributory employment and support allowance in respect of pensions and councillor's allowances) and regulations made under it;
  - (e) section 14 of the Pensions Act 2014 (pension sharing: reduction in sharer's section 4 pension);
  - (f) section 45B or 55B of the Social Security Contributions and Benefits Act 1992 (reduction in additional pension in Category A retirement pension and shared additional pension: pension sharing).
- (5) In sub-paragraph (1)(w), "equity release scheme" means a loan:
  - (a) made between a person ("the lender") and the applicant;
  - (b) by means of which a sum of money is advanced by the lender to the applicant by way of payments at regular intervals; and
  - (c) which is secured on a dwelling in which the applicant owns an estate or interest and which he occupies as his home.

#### **40.0 Calculation of weekly income: pensioners**

- (1) Except in a case within sub-paragraph (2) or (4), for the purposes of calculating the weekly income of an applicant who is a pensioner, where the period in respect of which a payment is made:
  - (a) does not exceed a week, the whole of that payment is to be included in the applicant's weekly income;
  - (b) exceeds a week, the amount to be included in the applicant's weekly income is to be determined:
    - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
    - (ii) in a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52;
    - (iii) in a case where that period is a year, by dividing the amount of the payment by 52;
    - (iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number of days in the period in respect of which it is made.
- (2) Sub-paragraph (3) applies where:
  - (a) the applicant's regular pattern of work is such that he does not work the same hours every week; or
  - (b) the amount of the applicant's income fluctuates and has changed more than once.
- (3) The weekly amount of that applicant's income is to be determined:

- (a) if, in a case to which sub-paragraph (2)(a) applies, there is a recognised cycle of work, by reference to his average weekly income over the period of the complete cycle (including, where the cycle involves periods in which the applicant does no work, those periods but disregarding any other absences); or
- (b) in any other case, on the basis of:
  - (i) the last two payments if those payments are one month or more apart;
  - (ii) the last four payments if the last two payments are less than one month apart; or
  - (iii) calculating or estimating such other payments as may, in the particular circumstances of the case, enable the applicant's average weekly income to be determined more accurately.
- (4) For the purposes of sub-paragraph (3)(b) the last payments are the last payments before the date the application was made or treated as made.
- (5) If the applicant is entitled to receive a payment to which sub-paragraph (6) applies, the amount of that payment is to be treated as if made in respect of a period of a year.
- (6) This sub-paragraph applies to:
  - (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
  - (b) any payment in respect of any:
    - (i) book registered under the Public Lending Right Scheme 1982; or
    - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982; and
  - (c) any payment which is made on an occasional basis.
- (7) The period under which any benefit under the benefit Acts is to be taken into account is to be the period in respect of which that benefit is payable.
- (8) Where payments are made in a currency other than Sterling, the value of the payment is to be determined by taking the Sterling equivalent on the date the payment is made.
- (9) The sums specified in Schedule 5 are to be disregarded in calculating—
  - (a) the applicant's earnings; and
  - (b) any amount to which sub-paragraph (6) applies where the applicant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work referred to in sub-paragraph (6)(b).
- (10) For the purposes of sub-paragraph (9)(b), and for that purpose only, the amounts specified in sub-paragraph (6) is to be treated as though they were earnings.
- (11) Income specified in Schedule 6 is to be disregarded in the calculation of the applicant's income.
- (12) Schedule 9 (capital disregards: pensioners) has effect so that
  - (a) the capital specified in Part 1 is disregarded for the purpose of determining an applicant's income; and
  - (b) the capital specified in Part 2 is disregarded for the purpose of determining an applicant's income under paragraph 71 (calculation of tariff income from capital: pensioners).
- (13) In the case of any income taken into account for the purpose of calculating a person's income any amount payable by way of tax is disregarded.

#### **41.0 Earnings of employed earners: pensioners**

- (1) Subject to sub-paragraph (2), "earnings", in the case of employment as an employed earner who is a pensioner, means any remuneration or profit derived from that employment and includes
  - (a) any bonus or commission;
  - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account



- of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice;
- (d) any holiday pay;
- (e) any payment by way of a retainer;
- (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
  - (i) travelling expenses incurred by the applicant between his home and place of employment;
  - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
- (g) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001 as amended<sup>6</sup>.
- (h) statutory sick pay and statutory maternity pay payable by the employer under the SSCBA;
- (i) statutory paternity pay payable under Part 12ZA of that Act;
- (j) statutory adoption pay payable under Part 12ZB of that Act;
- (k) any sums payable under a contract of service—
  - (i) for incapacity for work due to sickness or injury; or
  - (ii) by reason of pregnancy or confinement.

(2) Earnings does not include—

- (a) subject to sub-paragraph (3), any payment in kind;
- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- (c) any occupational pension;
- (d) any lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme;
- (e) any payment of compensation made pursuant to an award by an employment tribunal established under the Employment Tribunals Act 1996 in respect of unfair dismissal or unlawful discrimination;
- (f) any payment in respect of expenses arising out of the an applicant participating as a service user.

(3) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub-paragraph (1)(g).

#### **42.0 Calculation of net earnings of employed earners: pensioners**

- (1) For the purposes of paragraph 57 (calculation of income on a weekly basis), the earnings of an applicant who is a pensioner derived or likely to be derived from employment as an employed earner to be taken into account must, subject to paragraph 40(5) and Schedule 5 (sums to be disregarded from earnings: pensioners), be his net earnings.
- (2) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (5) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—
  - (a) any amount deducted from those earnings by way of:
    - (i) income tax;
    - (ii) primary Class 1 contributions under the SSCBA;
  - (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
  - (c) one-half of the amount calculated in accordance with sub-paragraph (4) in respect of any qualifying contribution payable by the applicant; and
  - (d) where those earnings include a payment which is payable under any enactment having effect

<sup>6</sup> Social Security (Contributions)(Amendment) Regulations 2013, Social Security (Contributions)(Amendment No.2) Regulations 2013 and Social Security (Contributions)(Amendment No.2) Regulations 2013

in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the SSCBA.

- (3) In this paragraph “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.
- (4) The amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this paragraph the daily amount of the qualifying contribution is to be determined—
  - (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;
  - (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.
- (5) Where the earnings of an applicant are determined under paragraph 40(2)(b) (calculation of weekly income: pensioners) his net earnings is to be calculated by taking into account those earnings over the assessment period, less:
  - (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 the Income Tax Act 2007 (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
  - (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
  - (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

#### **43.0 Calculation of earnings of self-employed earners: pensioners**

- (1) Where the earnings of an applicant who is a pensioner consist of earnings from employment as a self-employed earner, the weekly amount of his earnings is to be determined by reference to his average weekly earnings from that employment:
  - (a) over a period of one year; or
  - (b) where the applicant has recently become engaged in that employment or there has been a change which is likely to affect the normal pattern of business, over such other period (“computation period”) as may, in the particular case, enable the weekly amount of his earnings to be determined more accurately.
- (2) For the purposes of determining the weekly amount of earnings of an applicant to whom sub-paragraph (1)(b) applies, his earnings over the computation period are to be divided by the number equal to the number of days in that period and the product multiplied by 7.
- (3) The period over which the weekly amount of an applicant's earnings is calculated in accordance with this paragraph is to be his assessment period.

#### **44.0 Earnings of self-employers earners: pensioners**

- (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner who is a pensioner, means the gross income of the employment.

- (2) "Earnings" in the case of employment as a self-employed earner does not include:
- (a) where an applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation for which payment is made, those payments;
  - (b) any payment made by a local authority to an applicant—
    - (i) with whom a person is accommodated by virtue of arrangements made under section 22C or 23(2)(a) of the Children Act 1989 or, as the case may be, section 26 or 26A of the Children (Scotland) Act 1995; or
    - (ii) with whom a local authority fosters a child under the Looked After Children (Scotland) Regulations 2009 or who is a kinship carer under those Regulations;
  - (c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations);
  - (d) any payment made to the applicant or his partner for a person ("the person concerned") who is not normally a member of the applicant's household but is temporarily in his care, by—
    - (i) a local authority but excluding payments of housing benefit made in respect of the person concerned;
    - (ii) a voluntary organisation;
    - (iii) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
    - (iv) the National Health Service Commissioning Board or a clinical commissioning group established under section 14D of the National Health Service Act 2006;
    - (v) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006; or
    - (vi) the persons concerned where the payment is for the provision of accommodation to meet that person's needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (respectively, duty and power to meet care and support needs of an adult);
    - (da) any payment or part of a payment made by a local authority in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care) to a person ("A") which A passes on to the applicant where A—
      - (i) was formerly in the applicant's care;
      - (ii) is aged 16 or over; and
      - (iii) continues to live with the applicant;
    - (db) any payments made to an applicant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance: further provisions)
  - (e) any sports award.

#### 45.0 Notional income: pensioners

- (1) An applicant who is a pensioner is to be treated as possessing:
- (a) subject to sub-paragraph (2), the amount of any retirement pension income—
    - (i) for which no claim has been made; and
    - (ii) to which he might expect to be entitled if a claim for it were made;
  - (b) income from an occupational pension scheme which the applicant elected to defer.
- (2) Sub-paragraph (1)(a) does not apply to the following where entitlement has been deferred—
- (a) a Category A or Category B retirement pension payable under sections 43 to 55 of the SSCBA;
  - (b) a shared additional pension payable under section 55A of the SSCBA;
  - (c) graduated retirement benefit payable under sections 36 and 37 of the National Insurance Act 1965.
- (3) For the purposes of sub-paragraph (2), entitlement has been deferred—
- (a) in the case of a Category A or Category B pension, in the circumstances specified in section 55(3) of the SSCBA;
  - (b) in the case of a shared additional pension, in the circumstances specified in section 55C(3) of the SSCBA; and
  - (c) in the case of graduated retirement benefit, in the circumstances specified in section 36(4) and (4A) of the National Insurance Act 1965.

- (4) This sub-paragraph applies where a person who has attained the qualifying age for state pension credit:
  - (a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme;
  - (b) fails to purchase an annuity with the funds available in that scheme; and
  - (c) either—
    - (i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder, or
    - (ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or
    - (iii) income withdrawal is not available to him under that scheme.
- (5) Where sub-paragraph (4) applies, the amount of any income foregone is to be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.
- (6) The amount of any income foregone in a case where sub-paragraph (4)(c)(i) or (ii) applies is to be the “rate of the annuity which may have been purchased with the fund and must be determined by the authority, taking account of information provided by the pension fund holder.
- (7) The amount of any income foregone in a case where sub-paragraph (4)(c)(iii) applies is to be the income that the applicant could have received without purchasing an annuity had the funds held under the relevant scheme been held under a personal pension scheme or occupational pension scheme where income withdrawal was available and is to be determined in the manner specified in sub-paragraph (6).
- (8) In sub-paragraph (4), “money purchase benefits” has the same meaning as in the Pension Schemes Act 1993.
- (9) Subject to sub-paragraphs (10) and (12), a person is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a reduction under this scheme or increasing the amount of the reduction.
- (10) Sub-paragraph (9) does not apply in respect of the amount of an increase of pension or benefit where a person, having made an election in favour of that increase of pension or benefit under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005, changes that election in accordance with regulations made under Schedule 5 or 5A to that Act in favour of a lump sum.
- (11) In sub-paragraph (10), “lump sum” means a lump sum under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005.
- (12) Sub-paragraph (9) does not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of an applicant participating as a service user.
- (13) Where an applicant is in receipt of any benefit under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the authority must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects to apply, to the date on which the altered rate is to take effect.
- (14) In the case of an applicant who has, or whose partner has, an award of state pension credit comprising only the savings credit, where the authority treats the applicant as possessing any benefit at the altered rate in accordance with sub-paragraph (13), the authority must—
  - (a) determine the income and capital of that applicant in accordance with paragraph 36(1) (calculation of applicant's income in savings credit only cases: pensioners) where the calculation or estimate of that income and capital is altered with effect from a date on or after

1st April in any year but not more than 14 days thereafter; and

- (b) treat that applicant as possessing such income and capital at the altered rate by reference to the date selected by the relevant authority to apply in its area, for the purposes of establishing the period referred to in sub-paragraph (13).

(15) For the purposes of sub-paragraph (9), a person is not to be regarded as depriving himself of income where:

- (a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme, and
- (b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004

(16) In sub-paragraph (15), “registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004.

#### **46.0 Income paid to third parties: pensioners**

(1) Any payment of income, other than a payment specified in sub-paragraph (2) or (3), to a third party in respect of an applicant who is a pensioner is to be treated as possessed by the applicant.

(2) Sub-paragraph (1) does not apply in respect of a payment of income made under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—

- (a) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
- (b) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
- (c) the person referred to in paragraph (a) and his partner does not possess, or is not treated as possessing, any other income apart from that payment.

(3) Sub-paragraph (1) does not apply in respect of any payment of income other than earnings, or earnings derived from employment as an employed earner, arising out of an applicant participating as a service user.

#### **Income: persons who are not pensioners**

#### **47.0 Average weekly earnings of employed earners: persons who are not pensioners**

(1) Where the income of an applicant who is not a pensioner consists of earnings from employment as an employed earner his average weekly earnings must be estimated by reference to his earnings from that employment—

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

(2) Where the applicant has been in his employment for less than the period specified in sub-paragraph (1)(a)(i) or (ii)—

- (a) if he has received any earnings for the period that he has been in that employment and those earnings are likely to represent his average weekly earnings from that employment his average

weekly earnings must be estimated by reference to those earnings;  
(b) in any other case, the authority must estimate the applicant's average weekly earnings.

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

(4) For the purposes of this paragraph the applicant's earnings are to be calculated in accordance with paragraphs 51 and 52 (earnings of employed earners: persons who are not pensioners).

#### **48.0 Average weekly earnings of self-employed earners: persons who are not pensioners**

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

(2) For the purposes of this paragraph the applicant's earnings must be calculated in accordance with paragraphs 53, 61 and 62 (earnings, and net profit, of self-employed earners).

#### **49.0 Average weekly income other than earnings: persons who are not pensioners**

(1) The income of an applicant who is not a pensioner which does not consist of earnings must, except where sub-paragraph (2) applies, be estimated over such period as is appropriate in order that his average weekly income may be estimated accurately but the length of the period must not in any case exceed 52 weeks; and nothing in this paragraph authorises an authority to disregard any such income other than that specified in Schedule 8 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners).

(2) The period over which any benefit under the benefit Acts is to be taken into account is to be the period in respect of which that benefit is payable.

(3) For the purposes of this paragraph income other than earnings is to be calculated in accordance with paragraph 54 (calculation of income other than earnings: persons who are not pensioners).

#### **50.0 Calculation of weekly income of employed earners: persons who are not pensioners**

(1) For the purposes of paragraphs 47 (average weekly earnings of employed earners), 49 (average weekly income other than earnings) and 59 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made—

(a) does not exceed a week, the weekly amount is to be the amount of that payment;

(b) exceeds a week, the weekly amount is to be determined—

(i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;

(ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the product by 7.

(2) For the purposes of paragraph 48 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant is to be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the product by 7.

#### **51.0 Earnings of employed earners: persons who are not pensioners**

(1) Subject to sub-paragraph (2), "earnings", in the case of employment as an employed earner of a person who is not a pensioner, means any remuneration or profit derived from that employment and includes:

- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
- (e) any payment by way of a retainer;
- (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
  - (i) travelling expenses incurred by the applicant between his home and place of employment;
  - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
- (g) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
- (h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
- (i) any such sum as is referred to in section 112 of the SSCBA (certain sums to be earnings for social security purposes);
- (j) any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
- (k) any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;
- (l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001 as amended<sup>7</sup>.

(2) Earnings does not include—

- (a) subject to sub-paragraph (3), any payment in kind;
- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- (c) any occupational pension;
- (d) any payment in respect of expenses arising out of an applicant participating as a service user..

(3) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub-paragraph (1)(l).

## **52.0 Calculation of net earnings of employed earners: persons who are not pensioners**

- (1) For the purposes of paragraph 47 (average weekly earnings of employed earners: persons who are not pensioners), the earnings of an applicant who is not a pensioner derived or likely to be derived from employment as an employed earner to be taken into account must, subject to sub-paragraph (2), be his net earnings.
- (2) There is to be disregarded from an applicant's net earnings, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners).
- (3) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (6) applies,

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<sup>7</sup> Social Security (Contributions)(Amendment) Regulations 2013, Social Security (Contributions)(Amendment No.2) Regulations 2013 and Social Security (Contributions)(Amendment No.2) Regulations 2013



be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—

(a) any amount deducted from those earnings by way of—  
 (i) income tax;

(ii) primary Class 1 contributions under the SSCBA;

(b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;

(c) one-half of the amount calculated in accordance with sub-paragraph (5) in respect of any qualifying contribution payable by the applicant; and

(d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the SSCBA.

(4) In this paragraph “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.

(5) The amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this paragraph the daily amount of the qualifying contribution is to be determined—

(a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 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.

(6) Where the earnings of an applicant are estimated under paragraph 47(2)(b) (average weekly earnings of employed earners: classes D to F), his net earnings is to be calculated by taking into account those earnings over the assessment period, less:

(a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007 (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;

(b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and

(c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

### **53.0 Earnings of self-employed earners: persons who are not pensioners**

(1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner of a person who is not a pensioner, means the gross income of the employment.

(2) “Earnings” does not include any payment to which paragraph 31 or 32 of Schedule 8 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant's care) nor does it include any sports award.

(3) This paragraph applies to:

(a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright,

- design, patent or trade mark; or
- (b) any payment in respect of any—
- (i) book registered under the Public Lending Right Scheme 1982; or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,

where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.

- (4) Where the applicant's earnings consist of any items to which sub-paragraph (3) applies, those earnings must be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction is to be treated as a corresponding fraction of a week) by dividing the earnings by:
- (a) the amount of reduction under this scheme to which the applicant would have been entitled had the payment not been made, plus
  - (b) an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) as appropriate in the applicant's case.

#### **54.0 Calculation of income other than earnings: persons who are not pensioners**

- (1) For the purposes of paragraph 49 (average weekly income other than earnings: persons who are not pensioners), the income of an applicant who is not a pensioner which does not consist of earnings to be taken into account must, subject to sub-paragraphs (2) to (8), be his gross income and any capital treated as income under paragraph 55 (capital treated as income: persons who are not pensioners).
- (2) There is to be disregarded from the calculation of an applicant's gross income under sub-paragraph (1), any sum, where applicable, specified in Schedule 8.
- (3) Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under sub-paragraph (1) must be the gross amount payable.
- (4) Where the applicant or, where he is a member of a couple, his partner is receiving a contributory employment and support allowance and that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations 2008, the amount of that benefit to be taken into account is the amount as if it had not been reduced.
- (5) Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002 is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.
- (6) Sub-paragraphs (7) and (8) apply where—
- (a) a relevant payment has been made to a person in an academic year; and
  - (b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.
- (7) Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of sub-paragraph (1) in respect of a person to whom sub-paragraph (7) applies, is to be calculated by applying the formula—

$$\frac{A - (B \times C)}{D}$$

Where

- (a) A = the total amount of the relevant payment which that person would have received had he

remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under paragraph 81(5) (costs of travel, books and equipment);

- (b) B = the number of 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) C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under paragraph 81(2) (treatment of student loans) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to a reduction under this scheme immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit;
- (d) D = the number of reduction weeks in the assessment period.

(8) Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of sub-paragraph (1) in respect of a person to whom sub-paragraph (7) applies, is to be calculated by applying the formula in sub-paragraph (8) but as if—

A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under paragraph 81(5).

(9) In this paragraph—

“academic year” and “student loan” have the same meanings as in Part 11 (students);

“assessment period” means

- (a) in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;
- (b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes—
  - (i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or
  - (ii) the last day of the last quarter for which an instalment of the relevant payment was payable to that person,

whichever of those dates is earlier;

“quarter” in relation to an assessment period means a period in that year beginning on—

- (c) 1st January and ending on 31st March;
- (d) 1st April and ending on 30th June;
- (e) 1st July and ending on 31st August; or
- (f) 1st September and ending on 31st December;

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in paragraph 76(7) or both.

(10) For the avoidance of doubt there must be included as income to be taken into account under sub-paragraph (1)—

- (a) any payment to which paragraph 41(2) or 51(2) (payments not earnings) applies; or
- (b) in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act 1999 including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act 1999.

## 55.0 Capital treated as income: persons who are not pensioners

- (1) Any capital payable by instalments which are outstanding at the date on which the application is made or treated as made, or, at the date of any subsequent revision or supersession, must, if the aggregate of the instalments outstanding and the amount of the applicant's capital otherwise calculated in accordance with Chapter 7 of this Part exceeds £16,000, be treated as income.
- (2) Any payment received under an annuity is to be treated as income.
- (3) Any earnings to the extent that they are not a payment of income is to be treated as income.
- (4) Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 is to be treated as income.
- (5) Where an agreement or court order provides that payments must be made to the applicant in consequence of any personal injury to the applicant and that such payments are to be made, wholly or partly, by way of periodic payments, any such periodic payments received by the applicant (but not a payment which is treated as capital by virtue of this Part), is to be treated as income.

## **56.0 Notional income: persons who are not pensioners**

- (1) An applicant who is not a pensioner is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a reduction under a council tax reduction scheme or increasing the amount of the reduction.
- (2) Except in the case of—
  - (a) a discretionary trust;
  - (b) a trust derived from a payment made in consequence of a personal injury;
  - (c) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
  - (d) any sum to which paragraph 50(2)(a) of Schedule 10 (capital disregards: persons who are not pensioners) applies which is administered in the way referred to in paragraph 50(1)(a);
  - (e) any sum to which paragraph 51(a) of Schedule 10 refers;
  - (f) rehabilitation allowance made under section 2 of the Employment and Training Act 1973;
  - (g) child tax credit;
  - (h) working tax credit, or
  - (i) any sum to which sub-paragraph (11) applies,  
any income which would become available to the applicant upon application being made, but which has not been acquired by him, is to be treated as possessed by the applicant but only from the date on which it could be expected to be acquired were an application made.
- (3) Any payment of income, other than a payment of income specified in sub-paragraph (4), made—
  - (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
  - (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
  - (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

- (4) Sub-paragraph (3) does not apply in respect of a payment of income made—
- (a) under or by the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);
  - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal);
  - (c) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
    - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996;
    - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
    - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
    - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
    - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
  - (d) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
  - (e) in respect of a person's participation in the Mandatory Work Activity Scheme;
  - (f) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
  - (g) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
    - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
    - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
    - (iii) the person referred to in sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.
- (5) Where an applicant is in receipt of any benefit under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the authority must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects, to the date on which the altered rate is to take effect.
- (6) Subject to sub-paragraph (7), where—
- (a) an applicant performs a service for another person; and
  - (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,  
the authority must treat the applicant as possessing such earnings (if any) as is reasonable for that employment unless the applicant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.
- (7) Sub-paragraph (6) does not apply—
- (a) to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge; or
  - (b) in a case where the service is performed in connection with—
    - (i) the applicant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations 1996, other than where the service is performed in connection with the applicant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations; or
    - (ii) the applicant's or the applicant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme; or

- (c) to an applicant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.
- (8) In sub-paragraph (7)(c) “work placement” means practical work experience which is not undertaken in expectation of payment.
- (9) Where an applicant is treated as possessing any income under any of sub-paragraphs (1) to (8), the foregoing provisions of this Part apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.
- (10) Where an applicant is treated as possessing any earnings under sub-paragraph (6) the foregoing provisions of this Part apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph 42(2) or 52(3) (calculation of net earnings of employed earners: pensioners and persons who are not pensioners, respectively) do not apply and his net earnings are to be calculated by taking into account those earnings which he is treated as possessing, less—
- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007 (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
  - (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
  - (c) one-half of any sum payable by the applicant by way of a contribution towards an occupational or personal pension scheme.
- (11) Sub-paragraphs (1), (2), (3) and (6) do not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of an applicant participating as a service user.

## **Income: further provisions applying to pensioners and persons who are not pensioners**

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

- (1) Subject to paragraph 60 (disregard of changes in tax, etc.), the income of an applicant is to be calculated on a weekly basis—
- (a) by estimating the amount which is likely to be his average weekly income in accordance with this Part;
  - (b) by adding to that amount the weekly income calculated—
    - (i) if the applicant is a pensioner, under paragraph 71 (tariff income: pensioners);
    - (ii) if the applicant is a person who is not a pensioner, under paragraph 72 (tariff income: persons who are not pensioners); and
  - (c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which paragraph 58 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that sub-paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in sub-paragraph (3) applies in his case.
- (2) The conditions of this paragraph are that—
- (a) the applicant's earnings which form part of his average weekly income are less than the lower of either his relevant child care charges or whichever of the deductions specified in sub-paragraph (3) otherwise applies in his case; and

(b) that applicant or, if he is a member of a couple either the applicant or his partner, is in receipt of either working tax credit or child tax credit.

(3) The maximum deduction to which sub-paragraph (1)(c) above refers is to be—

(a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week;

(b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.

## **58.0 Treatment of child care charges**

(1) This paragraph applies where an applicant (within the meaning in this paragraph) is incurring relevant child care charges and—

(a) is a lone parent and is engaged in remunerative work;

(b) is a member of a couple both of whom are engaged in remunerative work; or

(c) is a member of a couple where one member is engaged in remunerative work and the other—

(i) is incapacitated;

(ii) is an in-patient in hospital; or

(iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).

(2) For the purposes of sub-paragraph (1) and subject to sub-paragraph (4), a person to whom sub-paragraph (3) applies must be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he—

(a) is paid statutory sick pay;

(b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the SSCBA;

(c) is paid an employment and support allowance;

(d) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support (General) Regulations 1987; 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.

(3) This sub-paragraph applies to a person who was engaged in remunerative work immediately before—

(a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or

(b) the first day of the period in respect of which earnings are credited, as the case may be.

(4) In a case to which sub-paragraph (2)(d) or (e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.

(5) Relevant child care charges are those charges for care to which sub-paragraphs (6) and (7) apply, and are to be calculated on a weekly basis in accordance with sub-paragraph (10).

(6) The charges are paid by the applicant for care, which is provided—

(a) in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or

(b) in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.

(7) The charges are paid for care which, is provided by one or more of the care providers listed in sub-



paragraph (8) and are not paid—

- (a) in respect of the child's compulsory education;
- (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with paragraph 7 (circumstances in which a person is treated as responsible or not responsible for another); or
- (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.

(8) The care to which sub-paragraph (7) refers may be provided—

- (a) out of school hours, by a school on school premises or by a local authority—
  - (i) for children who are not disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or
  - (ii) for children who are disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday; or
- (b) by a child care provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999; or
- (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or
- (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010; or
- (e) by—
  - (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010; or
  - (ii) local authorities registered under section 83(1) of that Act, where the care provided is child minding or day care of children within the meaning of that Act; or
- (f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002; or
- (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or
- (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
- (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
- (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of “childcare” for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
- (k) by a foster parent or kinship carer under the Fostering Services Regulations 2011, 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 provider of personal care within the meaning of paragraph 1 of Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 and being a regulated activity prescribed by those Regulations; or
- (m) by a person who is not a relative of the child wholly or mainly in the child's home.

(9) In sub-paragraphs (6) and (8)(a), “the first Monday in September” means the Monday which first occurs in the month of September in any year.

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

- (11) For the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where—
- (a) the applicant is a pensioner and the other member of the couple is aged not less than 80;
  - (b) the applicant is a pensioner and the other member of the couple is aged less than 80, and—
    - (i) the additional condition specified in paragraph 10 of Schedule 3 (additional condition for the disability premium) to this scheme is treated as applying in his case; and
    - (ii) he satisfies that conditions or would satisfy it but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
  - (c) the applicant is not a pensioner, the applicant's applicable amount includes a disability premium on account of the other member's incapacity or the support component or the work-related activity component on account of his having limited capability for work;
  - (d) the applicant is not a pensioner, the applicant's applicable amount would include a disability premium on account of the other member's incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
  - (e) the applicant's applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008;
  - (f) he is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;
  - (g) he is, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
  - (h) there is payable in respect of him one or more of the following pensions or allowances—
    - (i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the SSCBA;
    - (ii) attendance allowance under section 64 of the SSCBA;
    - (iii) severe disablement allowance under section 68 of the SSCBA;
    - (iv) disability living allowance under section 71 of the SSCBA;
    - (v) personal independence payment;
    - (vi) an AFIP;
    - (vii) increase of disablement pension under section 104 of the SSCBA;
    - (viii) a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under sub-paragraph (ii), (iv), (v) or (vii) above;
    - (ix) main phase employment and support allowance;
  - (i) a pension or allowance to which sub-paragraph (vii) or (viii) of paragraph (h) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this paragraph means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005;
  - (j) an attendance allowance under section 64 of the SSCBA or disability living allowance would be payable to that person but for—
    - (i) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA;
    - or
    - (ii) an abatement as a consequence of hospitalisation;
  - (k) the daily living component of personal independence payment would be payable to that person but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);

- (l) an AFIP would be payable to that person but for any suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
- (m) paragraph (h), (i), (j) or (k) would apply to him if the legislative provisions referred to in those paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
- (n) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006 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.

(12) For the purposes of sub-paragraph (11), once sub-paragraph (11)(f) applies to the person, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that sub-paragraph is, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter to apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.

(13) For the purposes of sub-paragraph (11), once sub-paragraph (11)(g) applies to the person, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter to apply to him for so long as he has, or is treated as having, limited capability for work.

- (14) For the purposes of sub-paragraphs (6) and (8)(a), a person is disabled if he is a person—
- (a) to whom an attendance allowance or the care component of disability allowance is payable or would be payable but for—
    - (i) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA;
    - or
    - (ii) an abatement as a consequence of hospitalisation;
  - (b) to whom the daily living component of personal independence payment is payable or would be payable but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
  - (c) who is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
  - (d) who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.

- (15) For the purposes of sub-paragraph (1) a person on maternity leave, paternity leave or adoption leave is to be treated as if he is engaged in remunerative work for the period specified in sub-paragraph (16) (“the relevant period”) provided that—
- (a) in the week before the period of maternity leave, paternity leave or adoption leave began he was in remunerative work;
  - (b) the applicant is incurring relevant child care charges within the meaning of sub-paragraph (5); and
  - (c) he is entitled to either statutory maternity pay under section 164 of the SSCBA, ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, additional statutory paternity pay by virtue of section 171ZEA or 171ZEB of that Act, statutory adoption pay by of section 171ZL of that Act, maternity allowance under section 35 of that Act or qualifying support.

- (16) For the purposes of sub-paragraph (15) the relevant period begins on the day on which the person's maternity, paternity leave or adoption leave commences and ends on—
- (a) the date that leave ends;

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

(17) In sub-paragraphs (15) and (16)—

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

(18) In this paragraph “applicant” does not include an applicant

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

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

- (1) This paragraph applies where an applicant receives a tax credit.
- (2) Where this paragraph applies, the period over which a tax credit is to be taken into account is the period set out in sub-paragraph (3).
- (3) Where the instalment in respect of which payment of a tax credit is made is—
  - (a) a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;
  - (b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;
  - (c) a two weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;
  - (d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.
- (4) For the purposes of this paragraph “tax credit” means child tax credit or working tax credit.

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

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

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

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

- (1) For the purposes of paragraphs 48 (average weekly earnings of self-employed earners: persons who

are not pensioners) and 57 (calculation of income on a weekly basis) the earnings of an applicant to be taken into account must be—

(a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;

(b) in the case of a self-employed earner who is a pensioner whose employment is carried on in partnership, his share of the net profit derived from that employment, less—

(i) an amount in respect of income tax and of national insurance contributions payable under the SSCBA calculated in accordance with paragraph 62 (deduction of tax and contributions of self-employed earners); and

(ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium;

(c) in the case of a self-employed earner who is not a pensioner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975, his share of the net profit derived from that employment, less—

(i) an amount in respect of income tax and of national insurance contributions payable under the SSCBA calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and

(ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(2) There must be disregarded from the net profit of an applicant who is not a pensioner, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners).

(3) For the purposes of sub-paragraph (1)(a) the net profit of the employment must, except where sub-paragraph (9) applies, be calculated by taking into account the earnings of the employment over the assessment period less—

(a) subject to sub-paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of that employment;

(b) an amount in respect of—

(i) income tax; and

(ii) social security contributions payable under the SSCBA, calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and

(c) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(4) For the purposes of sub-paragraph (1)(b) the net profit of the employment is to be calculated by taking into account the earnings of the employment over the assessment period less, subject to sub-paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

(5) Subject to sub-paragraph (6), no deduction is to be made under sub-paragraph (3)(a) or (4), in respect of—

(a) any capital expenditure;

(b) the depreciation of any capital asset;

(c) any sum employed or intended to be employed in the setting up or expansion of the employment;

(d) any loss incurred before the beginning of the assessment period;

(e) the repayment of capital on any loan taken out for the purposes of the employment;

(f) any expenses incurred in providing business entertainment; and

(g) in the case of an applicant who is not a pensioner, any debts, except bad debts proved to be such, but this paragraph does not apply to any expenses incurred in the recovery of a debt.

(6) A deduction is to be made under sub-paragraph (3)(a) or (4) in respect of the repayment of capital

on any loan used for—

- (a) the replacement in the course of business of equipment or machinery; or
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

(7) The authority must refuse to make a deduction in respect of any expenses under sub-paragraph (3)(a) or (4) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.

(8) For the avoidance of doubt—

- (a) a deduction must not be made under sub-paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction must be made thereunder in respect of—
  - (i) the excess of any value added tax paid over value added tax received in the assessment period;
  - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
  - (iii) any payment of interest on a loan taken out for the purposes of the employment.

(9) Where an applicant is engaged in employment as a child minder the net profit of the employment is to be one-third of the earnings of that employment, less—

- (a) an amount in respect of—
  - (i) income tax; and
  - (ii) national insurance contributions payable under the SSCBA, calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and
- (b) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium

(10) For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments must not be offset against his earnings in any other of his employments.

(11) The amount in respect of any qualifying premium is to be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this paragraph the daily amount of the qualifying premium must be determined—

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

(12) In this paragraph, “qualifying premium” means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of application.

## **62.0 Calculation of deduction of tax and contributions of self-employed earners**

(1) The amount to be deducted in respect of income tax under paragraph 61(1)(b)(i), (3)(b)(i) or (9)(a)(i) (calculation of net profit of self-employed earners) must be calculated—

- (a) on the basis of the amount of chargeable income, and
- (b) as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007 (personal allowances) as is appropriate to his circumstances.

(2) But, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph must be calculated

on a pro rata basis.

- (3) The amount to be deducted in respect of national insurance contributions under paragraph 60(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) is the total of—
  - (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the SSCBA at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of that Act (small profits threshold) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year must be reduced pro rata; and
  - (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the SSCBA (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits must be reduced pro rata.
- (4) In this paragraph “chargeable income” means
  - (a) except where paragraph (b) applies, the earnings derived from the employment less any expenses deducted under sub-paragraph (3)(a) or, as the case may be, (5) of paragraph 61;
  - (b) in the case of employment as a child minder, one-third of the earnings of that employment.

### **63.0 Calculation of capital**

- (1) The capital of an applicant to be taken into account must be, subject to sub-paragraph (2), the whole of his capital calculated in accordance with this Part and (in the case of persons who are not pensioners) any income treated as capital under paragraph 64 (income treated as capital: persons who are not pensioners).
- (2) There must be disregarded from the calculation of an applicant's capital under sub-paragraph (1), any capital, where applicable, specified in—
  - (a) Schedule 9, in relation to pensioners;
  - (b) Schedule 10, in relation to persons who are not pensioners.
- (3) In the case of an applicant who is a pensioner, his capital is to be treated as including any payment made to him by way of arrears of—
  - (a) child tax credit;
  - (b) working tax credit;
  - (c) state pension credit,if the payment was made in respect of a period for the whole or part of which a reduction under this scheme was allowed before those arrears were paid.
- (4) The capital of a child or young person who is a member of the family of an applicant who is not a pensioner must not be treated as capital of the applicant.

### **64.0 Income treated as capital: persons who are not pensioners**

- (1) This paragraph applies in relation to persons who are not pensioners.
- (2) Any bounty derived from employment to which paragraph 9 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) applies and paid at intervals of at least one year is to be treated as capital.
- (3) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E is to be treated as capital.
- (4) Any holiday pay which is not earnings under paragraph 41(1)(d) or 51(1)(d) (earnings of employed earners) is to be treated as capital.



- (5) Except any income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17, 30 to 33, 50 or 51 of Schedule 10 (capital disregards: persons who are not pensioners), any income derived from capital is to be treated as capital but only from the date it is normally due to be credited to the applicant's account.
- (6) In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer is to be treated as capital.
- (7) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Charitable Relief Fund, is to be treated as capital.
- (8) There is to be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account during the period in which that person was receiving such assistance.
- (9) Any arrears of subsistence allowance which are paid to an applicant as a lump sum must be treated as capital.
- (10) Any arrears of working tax credit or child tax credit must be treated as capital.

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

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

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

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

Capital which an applicant possesses in a country outside the United Kingdom must be calculated—

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

## **67.0 Notional capital**

- (1) An applicant is to be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to a reduction or increasing the amount of that reduction except to the extent that that capital is reduced in accordance with paragraph 68 (diminishing notional capital rule).
- (2) A person who is a pensioner who disposes of capital for the purpose of—
  - (a) reducing or paying a debt owed by the applicant; or
  - (b) purchasing goods or services if the expenditure was reasonable in the circumstances of the applicant's case,is to be regarded as not depriving himself of it.
- (3) Sub-paragraphs (4) to (6) apply in relation to applicants who are not pensioners.

- (4) Except in the case of—
- (a) a discretionary trust; or
  - (b) a trust derived from a payment made in consequence of a personal injury; or
  - (c) any loan which would be obtained only if secured against capital disregarded under Schedule 9; or
  - (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
  - (e) any sum to which paragraph 50(2)(a) of Schedule 10 (capital disregards: persons who are not pensioners) applies which is administered in the way referred to in paragraph 50(1)(a); or
  - (f) any sum to which paragraph 51(a) of Schedule 10 refers; or
  - (g) child tax credit; or
  - (h) working tax credit,  
any capital which would become available to the applicant upon application being made, but which has not been acquired by him, is to be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.
- (5) Any payment of capital, other than a payment of capital specified in sub-paragraph (6), made—
- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
  - (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
  - (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of the family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.
- (6) Sub-paragraph (5) does not apply in respect of a payment of capital made—
- (a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation, or the London Bombings Relief Charitable Fund;
  - (b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation
    - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996;
    - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
    - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
    - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
    - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
  - (c) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
  - (d) in respect of a person's participation in the Mandatory Work Activity Scheme;
  - (e) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
  - (f) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
    - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;

- (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
- (iii) the person referred to in sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

- (7) Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case—
- (a) the value of his holding in that company must, notwithstanding paragraph 63 (calculation of capital) be disregarded; and
  - (b) he must, subject to sub-paragraph (8), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter apply for the purposes of calculating that amount as if it were actual capital which he does possess.
- (8) For so long as the applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under sub-paragraph (7) is to be disregarded.
- (9) Where an applicant is treated as possessing capital under any of sub-paragraphs (1), (4) or (5) the foregoing provisions of this Chapter apply for the purposes of calculating its amount as if it were actual capital which he does possess.

**68.0 Diminishing notional capital rule: pensioners**

- (1) Where an applicant who is a pensioner is treated as possessing capital under paragraph 67(1) (notional capital), the amount which he is treated as possessing—
- (a) in the case of a week that is subsequent to—
    - (i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or
    - (ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by an amount determined under sub-paragraph (3);
  - (b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—
    - (i) that week is a week subsequent to the relevant week; and
    - (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied, is to be reduced by the amount determined under sub-paragraph (5).
- (2) This sub-paragraph applies to a reduction week where the applicant satisfies the conditions that—
- (a) he is in receipt of a reduction under this scheme; and
  - (b) but for paragraph 67(1), he would have received a greater reduction in council tax under this scheme in that week.
- (3) In a case to which sub-paragraph (2) applies, the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) must be equal to the aggregate of—
- (a) an amount equal to the additional amount of the reduction in council tax to which sub-paragraph (2)(b) refers;
  - (b) where the applicant has also claimed state pension credit, the amount of any state pension credit or any additional amount of state pension credit to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 21(1) of the State Pension Credit Regulations 2002 (notional capital);
  - (c) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of housing benefit to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (notional capital);
  - (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based

jobseeker's allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and

(e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).

(4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b) the condition is that the applicant is a pensioner and would have been entitled to a reduction in council tax under this scheme in the relevant week but for paragraph 67(1).

(5) In such a case the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(b) is equal to the aggregate of—

(a) the amount of the reduction in council tax to which the applicant would have been entitled in the relevant week but for paragraph 67(1);

(b) if the applicant would, but for regulation 21 of the State Pension Credit Regulations 2002, have been entitled to state pension credit in respect of the benefit week, within the meaning of regulation 1(2) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;

(c) if the applicant would, but for regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—

(i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or

(ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled;

(d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled; and

(e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.

(6) But if the amount mentioned in paragraph (a), (b), (c), (d) or (e) of sub-paragraph (5) ("the relevant amount") is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—

(a) dividing the relevant amount by the number equal to the number of days in that part-week, and

(b) multiplying the result of that calculation by 7.

(7) The amount determined under sub-paragraph (5) is to be re-determined under that sub-paragraph if the applicant makes a further application and the conditions in sub-paragraph (8) are satisfied, and in such a case—

(a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words "relevant week" there were substituted the words "relevant subsequent week"; and

(b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.

(8) The conditions are that—

(a) a further application is made 26 or more weeks after—

(i) the date on which the applicant made an application in respect of which he was first treated as possessing the capital in question under paragraph 67(1);

- (ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (11), the date on which he last made an application which resulted in the weekly amount being re-determined, or
  - (iii) the date on which he last ceased to be entitled to a reduction under this scheme, whichever last occurred; and
  - (b) the applicant would have been entitled to a reduction under this scheme but for paragraph 67(1).
- (9) The amount as re-determined pursuant to sub-paragraph (7) must not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.
- (10) For the purposes of this paragraph—
- “part-week”—
- (a) in relation to an amount mentioned in sub-paragraph (5)(a), means a period of less than a week for which a reduction in council tax under this scheme is allowed;
  - (b) in relation to an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;
  - (c) in relation to an amount mentioned in sub-paragraph (5)(c), (d) or (e), means—
    - (i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and
    - (ii) any other period of less than a week for which it is payable;
- “relevant week” means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 67(1)—
- (a) was first taken into account for the purpose of determining his entitlement to a reduction; or
  - (b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to a reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction; and where more than one reduction week is identified by reference to paragraphs (a) and (b) of this definition, the later or latest such reduction week or, as the case may be, the later or latest such part-week is the relevant week;
- “relevant subsequent week” means the reduction week or part-week which includes the day on which the further application or, if more than one further application has been made, the last such application was made.

## **69.0 Diminishing notional capital rule: persons who are not pensioners**

- (1) Where an applicant who is not a pensioner is treated as possessing capital under paragraph 67(1) (notional capital), the amount which he is treated as possessing—
- (a) in the case of a week that is subsequent to—
    - (i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or
    - (ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by an amount determined under sub-paragraph (3);
  - (b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—
    - (i) that week is a week subsequent to the relevant week; and
    - (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied, is to be reduced by the amount determined under sub-paragraph (5).
- (2) This sub-paragraph applies to a reduction week (or, in the case of persons who are not pensioners, part-week) where the applicant satisfies the conditions that—
- (a) he is in receipt of a reduction in council tax under this scheme; and
  - (b) but for paragraph 67(1), he would have received a greater reduction in council tax under this scheme in that week.

- (3) In a case to which sub-paragraph (2) applies, the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) is equal to the aggregate of—
- (a) an amount equal to the additional amount of the reduction in council tax to which sub-paragraph (2)(b) refers;
  - (b) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 49(1) of the Housing Benefit Regulations 2006 (notional capital);
  - (c) where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 51(1) of the Income Support (General) Regulations 1987 (notional capital);
  - (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and
  - (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).
- (4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b) the condition is that the applicant is not a pensioner and would have been entitled to a reduction in council tax in the relevant week but for paragraph 67(1).
- (5) In such a case the amount of the reduction in the amount of capital he is treated as possessing must be equal to the aggregate of—
- (a) the amount of council tax benefit to which the applicant would have been entitled in the relevant week but for paragraph 67(1);
  - (b) if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—
    - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
    - (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled;
  - (c) if the applicant would, but for regulation 51(1) of the Income Support (General) Regulations 1987, have been entitled to income support in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;
  - (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled; and
  - (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.
- (6) But if the amount mentioned in paragraph (a), (b), (c), (d) or (e) of sub-paragraph (5) ("the relevant amount") is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—
- (a) dividing the relevant amount by the number equal to the number of days in that part-week,

and

(b) multiplying the result of that calculation by 7.

(7) The amount determined under sub-paragraph (5) is to be re-determined under the appropriate sub-paragraph if the applicant makes a further application and the conditions in sub-paragraph (8) are satisfied, and in such a case—

(a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words ““relevant week”” there were substituted the words ““relevant subsequent week””; and

(b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.

(8) The conditions are that—

(a) a further application is made 26 or more weeks after—

(i) the date on which the applicant made an application for a reduction under this scheme in respect of which he was first treated as possessing the capital in question under paragraph 67(1);

(ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (7), the date on which he last made an application under this scheme which resulted in the weekly amount being re-determined, or

(iii) the date on which he last ceased to be entitled to a reduction under this scheme, whichever last occurred; and

(b) the applicant would have been entitled to a reduction under this scheme but for paragraph 67(1).

(9) The amount as re-determined pursuant to sub-paragraph (6) must not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.

(10) For the purposes of this paragraph—  
“part-week”

(a) in relation to an amount mentioned in sub-paragraph (5)(a), means a period of less than a week for which a reduction under this scheme is allowed;

(b) in relation to an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;

(c) in relation to an amount mentioned in sub-paragraph (5)(c), (d) or (e), means—

(i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and

(ii) any other period of less than a week for which it is payable;

“relevant week” means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 67(1)—(a) was first taken into account for the purpose of determining his entitlement to a reduction; or

(b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to a reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction,

and where more than one reduction week is identified by reference to paragraphs (a) and (b) of this definition, the later or latest such reduction week or, as the case may be, the later or latest such part-week is the relevant week;

“relevant subsequent week” means the reduction week or part-week which includes the day on which the further application or, if more than one further application has been made, the last such application was made.



## **70.0 Capital jointly held**

Except where an applicant possesses capital which is disregarded under paragraph 67(7) (notional capital), where an applicant and one or more persons are beneficially entitled in possession to any capital asset they must be treated, in the absence of evidence to the contrary, as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter apply for the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital which the applicant does possess.

## **71.0 Calculation of tariff income from capital: pensioners**

The capital of an applicant who is a pensioner, calculated in accordance with this Part, is to be treated as if it were a weekly income of—

- (a) £1 for each £500 in excess of £10,000 but not exceeding £16,000; and
- (b) £1 for any excess which is not a complete £500.

## **72.0 Calculation of tariff income from capital: persons who are not pensioners**

The capital of an applicant who is not a pensioner, calculated in accordance with this Part, is to be treated as if it were a weekly income of—

- (a) £1 for each £250 in excess of £6,000 but not exceeding £16,000;
- (b) £1 for any excess which is not a complete £250.

**STUDENTS**

## 73.0 Interpretation

(1) In this Part—

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

**“access funds”** means

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

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

**“contribution”** means

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

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

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

**“education authority”** means a government department, a local authority as defined in section 579 of the Education Act 1996 (interpretation), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973, an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986, any body which is a research council for the purposes of the Science and Technology Act 1965 or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

**“full-time course of study”** means a full-time course of study which

- (a) is not funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;
- (b) is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—

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

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

**“grant”** (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds or any payment to which paragraph 16 of Schedule 8 or paragraph 55 of Schedule 10 (allowances and payments for courses of study) applies;

**“grant income”** means

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

**“higher education”** means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992;

**“last day of the course”** means

- (a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;
- (b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

**“period of study”** means

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year's start and ending with either—
  - (i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or
  - (ii) in any other case, the day before the start of the normal summer vacation appropriate to his course;
- (c) in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;

**“periods of experience”** means periods of work experience which form part of a sandwich course;

**“qualifying course”** means a qualifying course as defined for the purposes of Parts 2 and 4 of the Jobseeker's Allowance Regulations 1996;

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

**“standard maintenance grant”** means

- (a) except where paragraph (b) or (c) applies, in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time

being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (“the 2003 Regulations”) for such a student;

- (b) except where paragraph (c) applies, in the case of a student residing at his parent's home, the amount specified in paragraph 3 thereof;
- (c) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as “standard maintenance allowance” for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the Student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;
- (d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof;

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

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

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

(2) For the purposes of the definition of **“full-time student”** in sub-paragraph (1), a person must be regarded as attending or, as the case may be, undertaking a full-time course of study or as being on a sandwich course—

- (a) subject to sub-paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending—
  - (i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or
  - (ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;
- (b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

(3) For the purposes of paragraph (a) of sub-paragraph (2), the period referred to in that paragraph includes—

- (a) where a person has failed examinations or has failed successfully to complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
- (b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

(4) In sub-paragraph (2), “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

## 74.0 Treatment of students

This scheme has effect in relation to students who are not pensioners subject to the following provisions of this Part.

## 75.0 Students who are excluded from entitlement to a reduction under this scheme

- (1) The students who are excluded from entitlement to a reduction under this scheme are, subject to

sub-paragraphs (2) and (7)—

- (a) full-time students, and
- (b) students who are persons treated as not being in Great Britain.

(2) Sub-paragraph (1)(b) does not apply to a student—

- (a) who is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance;
- (b) who is a lone parent;
- (c) whose applicable amount would, but for this paragraph, include the disability premium or severe disability premium;
- (d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
- (e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;
- (f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
- (g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;
- (h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989 or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;
- (i) who is—
  - (i) aged under 21 and whose course of study is not a course of higher education,
  - (ii) aged 21 and attained that age during a course of study which is not a course of higher education, or
  - (iii) a qualifying young person or child within the meaning of section 142 of the SSCBA (child and qualifying young person);
- (j) in respect of whom—
  - (i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;
  - (ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;
  - (iii) a payment has been made under or by virtue of regulations made under the Teaching and Higher Education Act 1998;
  - (iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or
  - (v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986, on account of his disability by reason of deafness.

(3) Sub-paragraph (2)(i)(ii) only applies to an applicant until the end of the course during which the applicant attained the age of 21.

(4) For the purposes of sub-paragraph (2), once sub-paragraph (2)(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work,

that sub-paragraph must, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.

- (5) In sub-paragraph (2)(i) the reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.
- (6) A full-time student to whom sub-paragraph (2)(i) applies must be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.
- (7) Sub-paragraph (1)(b) does not apply to a full-time student for the period specified in sub-paragraph (8) if—
  - (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is—
    - (i) engaged in caring for another person; or
    - (ii) ill;
  - (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
  - (c) he is not eligible for a grant or a student loan in respect of the period specified in sub-paragraph (8).
- (8) The period specified for the purposes of sub-paragraph (7) is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before—
  - (a) the day on which he resumes attending or undertaking the course; or
  - (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course, whichever first occurs.

## **76.0 Calculation of grant income**

- (1) The amount of a student's grant income to be taken into account in assessing his income must, subject to sub-paragraphs (2) and (3), be the whole of his grant income.
- (2) There must be excluded from a student's grant income any payment—
  - (a) intended to meet tuition fees or examination fees;
  - (b) in respect of the student's disability;
  - (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
  - (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
  - (e) on account of any other person but only if that person is residing outside the United Kingdom and there is no applicable amount in respect of him;
  - (f) intended to meet the cost of books and equipment;
  - (g) intended to meet travel expenses incurred as a result of his attendance on the course;
  - (h) intended for the child care costs of a child dependant;
  - (i) of higher education bursary for care leavers made under Part 3 of the Children Act 1989.
- (3) Where a student does not have a student loan and is not treated as possessing such a loan, there must be excluded from the student's grant income—
  - (a) the sum of £303 per academic year in respect of travel costs; and
  - (b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any such costs are incurred.
- (4) There must also be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education



(Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.

- (5) Subject to sub-paragraphs (6) and (7), a student's grant income must be apportioned—
- (a) subject to sub-paragraph (8), in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the 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.
- (6) Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 must be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.
- (7) In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither sub-paragraph (6) nor paragraph 80(2) (other amounts to be disregarded) applies, must be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.
- (8) In the case of a student on a sandwich course, any periods of experience within the period of study must be excluded and the student's grant income must be apportioned equally between the weeks in the period beginning with the 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.

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

- (1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following must be the whole amount of the covenant income less, subject to sub-paragraph (3), the amount of the contribution.
- (2) The weekly amount of the student's covenant must be determined—
- (a) by dividing the amount of income which falls to be taken into account under sub-paragraph (1) by 52 or 53, whichever is reasonable in the circumstances; and
  - (b) by disregarding £5 from the resulting amount.
- (3) For the purposes of sub-paragraph (1), the contribution must be treated as increased by the amount (if any) by which the amount excluded under paragraph 76(2)(g) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

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

- (1) Where a student is not in receipt of income by way of a grant the amount of his covenant income must be calculated as follows—
- (a) any sums intended for any expenditure specified in paragraph 76(2)(a) to (e) necessary as a result of his attendance on the course must be disregarded;
  - (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, must be apportioned equally between the weeks of the period of study;

- (c) there must be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 76(2)(f) and (3) had the student been in receipt of the standard maintenance grant; and
- (d) the balance, if any, must be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 must be disregarded.

(2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income must be calculated in accordance with paragraphs (a) to (d) of sub-paragraph (1), except that—

- (a) the value of the standard maintenance grant must be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 76(2)(a) to (e); and
- (b) the amount to be disregarded under sub-paragraph (1)(c) must be abated by an amount equal to the amount of any sums disregarded under paragraph 76(2)(f) and (g) and (3).

## **79.0 Relationship with amounts to be disregarded under Schedule 8**

No part of a student's covenant income or grant income is to be disregarded under paragraph 19 of Schedule 8 (disregard of certain charitable and voluntary, etc., payments).

## **80.0 Other amounts to be disregarded**

- (1) For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with paragraph 81 (treatment of student loans), any amounts intended for any expenditure specified in paragraph 76(2) (calculation of grant income), necessary as a result of his attendance on the course must be disregarded.
- (2) But sub-paragraph (1) applies only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under paragraph 76(2) or (3), 77(3), 78(1)(a) or (c) or 81(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

## **81.0 Treatment of student loans**

- (1) A student loan is to be treated as income.
- (2) In calculating the weekly amount of the loan to be taken into account as income—
  - (a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period is to be apportioned equally between the weeks in the period beginning with—
    - (i) except in a case where sub-paragraph (ii) applies, the 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, the 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 is to be apportioned equally between the weeks in the period—
    - (i) beginning with the reduction week, the first day of which coincides with or immediately follows, the first day of that academic year, and
    - (ii) 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 authority, the longest of any vacation is taken and for the purposes of this paragraph, "quarter" has the same meaning as for the purposes of the Education (Student Support)

Regulations 2005;

(c) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year is to be apportioned equally between the weeks in the period beginning with—

(i) except in a case where sub-paragraph (ii) applies, the 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 is to 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 £10 is to be disregarded.

(3) A student is to be treated as possessing a student loan in respect of an academic year where—

(a) a student loan has been made to him in respect of that year; or

(b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.

(4) Where a student is treated as possessing a student loan under sub-paragraph (3), the amount of the student loan to be taken into account as income must be, subject to sub-paragraph (5)—

(a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to—

(i) the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so; and

(ii) any contribution whether or not it has been paid to him;

(b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—

(i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and

(ii) no deduction in that loan was made by virtue of the application of a means test.

(5) There must be deducted from the amount of income taken into account under sub-paragraph (4)—

(a) the sum of £303 per academic year in respect of travel costs; and

(b) the sum of £390 per academic year towards the cost of books and equipment, whether or not any such costs are incurred.

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

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

(1) This paragraph applies to payments from access funds that are not payments to which paragraph 85(2) or (3) (income treated as capital) applies.

- (2) A payment from access funds, other than a payment to which sub-paragraph (3) applies, must be disregarded as income.
- (3) Subject to sub-paragraph (4) of this paragraph and paragraph 40 of Schedule 8 (disregards in the calculation of income other than earnings: persons who are not pensioners)—
  - (a) any payments from access funds which are intended and used for an item of food, ordinary clothing or footwear, household fuel, or rent of a single applicant or, as the case may be, of the applicant or any other member of his family, and
  - (b) any payments from access funds which are used for any council tax or water charges for which that applicant or member is liable, must be disregarded as income to the extent of £20 per week.
- (4) Where a payment from access funds is made—
  - (a) on or after 1st September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan; or
  - (b) before the first day of the course to a person in anticipation of that person becoming a student, that payment must be disregarded as income.

### **83.0 Disregard of contribution**

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

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

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

### **85.0 Income treated as capital**

- (1) Any amount by way of a refund of tax deducted from a student's covenant income must be treated as capital.
- (2) An amount paid from access funds as a single lump sum must be treated as capital.
- (3) An amount paid from access funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear, household fuel or rent, or which is used for an item other than any council tax or water charges for which that applicant or member is liable, must be disregarded as capital but only for a period of 52 weeks from the date of the payment.

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

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

**EXTENDED REDUCTIONS**

## **Extended reductions: pensioners**

### **87.0 Extended reductions: pensioners**

Paragraphs 88 to 93 apply in relation to applicants who are pensioners.

### **88.0 Extended reductions (qualifying contributory benefits): pensioners**

- (1) Except in the case of an applicant who is in receipt of state pension credit, an applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes A to C is entitled to an extended reduction (qualifying contributory benefits) where—
  - (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
  - (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—
    - (i) commenced employment as an employed or self-employed earner;
    - (ii) increased their earnings from such employment; or
    - (iii) increased the number of hours worked in such employment,
 and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;
  - (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
  - (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.
- (2) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of classes A to C where—
  - (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
  - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
  - (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

### **89.0 Duration of extended reduction period (qualifying contributory benefits): pensioners**

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

### **90.0 Amount of extended reduction (qualifying contributory benefits): pensioners**

- (1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) the applicant is entitled to is the greater of—

- (a) the amount of council tax reduction to which the applicant was entitled by virtue of falling within any of classes A to C in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
- (b) the amount of reduction under this scheme to which the applicant would be entitled under by virtue of falling within any of classes A to C for any reduction week during the extended reduction period, if paragraph 88 (extended reductions (qualifying contributory benefits): pensioners) did not apply to the applicant; or
- (c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes A to C, if paragraph 88 did not apply to the applicant.

(2) Sub-paragraph (1) does not apply in the case of a mover.

(3) Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for a reduction under this scheme, the authority must not award a reduction in pursuance of that application during the extended reduction period.

### **91.0 Extended reductions (qualifying contributory benefits)—movers: pensioners**

(1) This paragraph applies—

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

(2) The amount of the extended reduction (qualifying contributory benefits) awarded from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

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

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

### **92.0 Relationship between extended reduction (qualifying contributory benefits) and entitlement to a reduction by virtue of classes A to C**

(1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 88(1)(b), that reduction does not cease to have effect until the end of the extended reduction period.

(2) Part 13 (when entitlement begins and change of circumstances) does not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 90(1)(a) or paragraph 91(2) (amount of extended reduction — movers: pensioners).

### **93.0 Continuing reductions where state pension credit claimed: pensioners**

(1) This paragraph applies where—

- (a) the applicant is entitled to a reduction under this scheme;
- (b) sub-paragraph (2) is satisfied; and
- (c) either—
  - (i) the applicant has attained the qualifying age for state pension credit or, if his entitlement to income-based jobseeker's allowance;
  - (ii) the applicant's partner has actually claimed state pension credit.

(2) This sub-paragraph is only satisfied if the Secretary of State has certified to the authority that the applicant's partner has actually claimed state pension credit or that—



- (a) the applicant's award of—
  - (i) income support has terminated because the applicant has attained the qualifying age for state pension credit; or
  - (ii) income-based jobseeker's allowance or income-related employment and support allowance has terminated because the applicant has attained the qualifying age for state pension credit; and
- (b) the applicant has claimed or is treated as having claimed or is required to make a claim for state pension credit.

(3) Subject to sub-paragraph (4), in a case to which this paragraph applies, a person continues to be entitled to a reduction under this scheme for the period of 4 weeks beginning on the day following the day the applicant's entitlement to income support or, as the case may be, income-based jobseeker's allowance, income-related employment and support allowance, ceased, if and for so long as the applicant otherwise satisfies the conditions for entitlement to a reduction under this scheme.

(4) Where a reduction under this scheme is awarded for the period of 4 weeks in accordance with sub-paragraph (3) above, and the last day of that period falls on a day other than the last day of a reduction week, then a reduction under this scheme must continue to be awarded until the end of the reduction week in which the last day of that period falls.

(5) Throughout the period of 4 weeks specified in sub-paragraph (3) and any further period specified in sub-paragraph (4)—

- (a) the whole of the income and capital of the applicant is to be disregarded;
- (b) the maximum council tax reduction amount of the applicant is to be that which was applicable in his case immediately before that period commenced.

(6) The maximum reduction is to be calculated in accordance with paragraph 29(1) if, since the date it was last calculated—

- (a) the applicant's council tax liability has increased; or
- (b) a change in the deduction under paragraph 30 falls to be made.

**Extended reductions: persons who are not pensioners**

**94.0 Extended reductions: persons who are not pensioners**

Paragraphs 95 to 104 apply in relation to applicants who are not pensioners.

**95.0 Extended reductions: persons who are not pensioners**

- (1) An applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes D to E is entitled to an extended reduction where—
  - (a) the applicant or the applicant's partner was entitled to a qualifying income-related benefit;
  - (b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner—
    - (i) commenced employment as an employed or self-employed earner;
    - (ii) increased their earnings from such employment; or
    - (iii) increased the number of hours worked in such employment, and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more; and
  - (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.
- (2) For the purpose of sub-paragraph (1)(c), an applicant or an applicant's partner is to be treated as

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

- (3) For the purpose of this paragraph, where an applicant or an applicant's partner is entitled to and in receipt of joint-claim jobseeker's allowance they must be treated as being entitled to and in receipt of jobseeker's allowance.
- (4) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of classes D to E where—
  - (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
  - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and
  - (c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).
- (5) This paragraph does not apply where, on the day before an applicant's entitlement to income support ceased, regulation 6(5) of the Income Support (General) Regulations 1987 (remunerative work: housing costs) applied to that applicant.

#### **96.0 Duration of extended reduction period: persons who are not pensioners**

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

#### **97.0 Amount of extended reduction: persons who are not pensioners**

- (1) For any week during the extended reduction period the amount of the extended reduction to which an applicant is entitled is to be the higher of—
  - (a) the amount of the reduction under this scheme to which the applicant was entitled by virtue of falling within any of classes D to E in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying income-related benefit;
  - (b) the amount of reduction under this scheme to which the applicant would be entitled by virtue of falling within any of classes D to E for any reduction week during the extended reduction period, if paragraph 95 (extended reductions: persons who are not pensioners) did not apply to the applicant; or
  - (c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes D to E, if paragraph 95 did not apply to the applicant.
- (2) Sub-paragraph (1) does not apply in the case of a mover.
- (3) Where an applicant is in receipt of an extended reduction under this paragraph and the applicant's partner makes an application for a reduction under this scheme, no amount of reduction under this scheme is to be awarded by the authority during the extended reduction period.

## **98.0 Extended reductions—movers: persons who are not pensioners**

- (1) This paragraph applies—
  - (a) to a mover; and
  - (b) from the Monday following the day of the move.
- (2) The amount of the extended reduction awarded from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme to which the mover would have been entitled had they, or their partner, not ceased to be entitled to a qualifying income-related benefit.
- (3) Where a mover's liability to pay council tax in respect of the new dwelling is to a second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from this authority to—
  - (a) the second authority; or
  - (b) the mover directly.

## **99.0 Relationship between extended reduction and entitlement to a reduction by virtue of classes D to F**

- (1) Where an applicant's entitlement to a reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in paragraph 95(1)(b), that entitlement does not cease until the end of the extended reduction period.
- (2) Paragraphs 106 and 107 do not apply to any extended reduction payable in accordance with paragraph 95(1)(a) or 98(2) (amount of extended reduction—movers: persons who are not pensioners).

## **100.0 Extended reductions (qualifying contributory benefits): persons who are not pensioners**

- (1) An applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes D to E is entitled to an extended reduction (qualifying contributory benefits) where—
  - (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
  - (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—
    - (i) commenced employment as an employed or self-employed earner;
    - (ii) increased their earnings from such employment; or
    - (iii) increased the number of hours worked in such employment,and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;
  - (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
  - (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.
- (2) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of classes D to E where—
  - (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
  - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
  - (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

## **101.0 Duration of extended reduction period (qualifying contributory benefits): persons who are not pensioners**

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

## **102.0 Amount of extended reduction (qualifying contributory benefits): persons who are not pensioners**

- (1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) payable to an applicant is to be the greater of—
  - (a) the amount of reduction under this scheme to which the applicant was entitled by virtue of falling within any of classes D to E in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
  - (b) the amount of reduction under this scheme to which the applicant would be entitled by virtue of falling within any of classes D to E for any reduction week during the extended reduction period, if paragraph 100 (extended reductions (qualifying contributory benefits): persons who are not pensioners) did not apply to the applicant; or
  - (c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes D to E, if paragraph 100 did not apply to the applicant.
- (2) Sub-paragraph (1) does not apply in the case of a mover.
- (3) Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for a reduction under this scheme, no amount of reduction may be allowed by the appropriate authority during the extended reduction period.

## **103.0 Extended reductions (qualifying contributory benefits)—movers: persons who are not pensioners**

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

## **104.0 Relationship between extended reduction (qualifying contributory benefits) and entitlement to reduction by virtue of classes D to E**

- (1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 100(1)(b), that reduction does not cease until the end of the extended reduction period.
- (2) Paragraphs 106 and 107 (dates on which entitlement begins and change of circumstances take effect) do not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 102(1)(a) or 103(2) (amount of extended reduction—movers: persons who are not pensioners).

### **Extended reductions: movers in the authority's area**

#### **105.0 Extended reductions: applicant moving into the authority's area**

Where—

- (a) an application is made to the authority (“the current authority”) for a reduction under this 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 this scheme by the amount of that extended reduction.

#### **106.0 Date on which entitlement begins**

- (1) Subject to sub-paragraph (2), any person by whom or in respect of whom an application for a reduction under this scheme is made and who is otherwise entitled to that reduction is so entitled from the reduction week following the date on which that application is made or is treated as made.
- (2) Where a person is otherwise entitled to a reduction under this scheme and becomes liable for the first time for the authority's council tax in respect of a dwelling of which he is a resident in the reduction week in which his application is made or is treated as made, he is so entitled from that reduction week.

#### **107.0 Date on which change of circumstances is to take effect**

- (1) Except in cases where paragraph 60 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph and (in the case of applicants who are pensioners) paragraph 108 (change of circumstance where state pension credit in payment), a change of circumstances which affects entitlement to, or the amount of, a reduction under this scheme (“change of circumstances”), takes effect from the first day of the reduction week following the date on which the change actually occurs.
- (2) Where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs is the day immediately following the last day of entitlement to that benefit.
- (3) Subject to sub-paragraph (4), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.
- (4) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under section 11 or 11A of that Act (discounts), it takes effect from the day on which the change in amount has effect.
- (5) Where the change of circumstances is the applicant's acquisition of a partner, the change takes

effect on the day on which the acquisition takes place.

- (6) Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.
- (7) If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with sub-paragraphs (1) to (6) they take effect from the day to which the appropriate sub-paragraph from (3) to (6) above refers, or, where more than one day is concerned, from the earlier day.
- (8) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the SSCBA, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances takes effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.
- (9) Without prejudice to sub-paragraph (8), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.
- (10) Sub-paragraph (11) applies if—
- (a) not used
  - (b) either—
    - (i) a non-dependant took up residence in the applicant's dwelling; or
    - (ii) there has been a change of circumstances in respect of a non-dependant so that the amount of the deduction which falls to be made under paragraph 30 increased.
- (11) Where this sub-paragraph applies, the change of circumstances referred to in sub-paragraph (10)(b) takes effect from the effective date.
- (12) In sub-paragraph (11), but subject to sub-paragraph (13), “the effective date” means
- (a) where more than one change of a kind referred to in sub-paragraph (10)(b) relating to the same non-dependant has occurred since—
    - (i) the date on which the applicant's entitlement to a reduction under this scheme first began; or
    - (ii) the date which was the last effective date in respect of such a change, whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred;
  - (b) where paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in sub-paragraph (10)(b) occurred.
- (13) If in any particular case the date determined under sub-paragraph (12) is not the first day of a reduction week, the effective date in that case is to be the first day of the next reduction week to commence after the date determined under that sub-paragraph.

## **108.0 Change of circumstances where state pension credit in payment**

- (1) Sub-paragraphs (2) and (3) apply where—
- (a) the applicant is in receipt of state pension credit;
  - (b) the amount of state pension credit awarded to him is changed in consequence of a change in the applicant's circumstances or the correction of an official error; and
  - (c) the change in the amount of state pension credit payable to the applicant results in a change

in the amount of a reduction he receives under this scheme.

- (2) Where the change of circumstance is that an increase in the amount of state pension credit payable to the applicant results in—
- (a) an increase in the reduction he receives under this scheme, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the increased rate; or
  - (b) a decrease in the reduction he receives under this scheme, the change takes effect from the first day of the reduction week next following the date on which—
    - (i) the local authority receives notification from the Secretary of State of the increase in the amount of state pension credit; or
    - (ii) state pension credit is increased,whichever is the later.

- (3) Where the change of circumstance (“the relevant change”) is that the applicant's state pension credit has been reduced and in consequence the reduction the applicant receives under this scheme reduces—
- (a) in a case where the applicant's state pension credit has been reduced because the applicant failed to notify the Secretary of State timeously of a change of circumstances, the relevant change takes effect from the first day of the reduction week from which state pension credit was reduced; or
  - (b) in any other case the relevant change takes effect from the first day of the reduction week next following the date on which—
    - (i) the authority receives notification from the Secretary of State of the reduction in the amount of state pension credit; or
    - (ii) state pension credit is reduced,whichever is the later.

- (4) Where the change of circumstance is that state pension credit is reduced and in consequence of the change, the amount of a reduction he receives under this scheme is increased, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the reduced rate.

- (5) Where a change of circumstance occurs in that an award of state pension credit has been made to the applicant or his partner and this would result in a decrease in the amount of reduction he receives under this scheme, the change takes effect from the first day of the reduction week next following the date on which—
- (a) the authority receives notification from the Secretary of State of the award of state pension credit; or
  - (b) entitlement to state pension credit begins,
- whichever is the later.

- (6) Where, in the case of an applicant who, or whose partner, is or has been awarded state pension credit comprising only the savings credit, there is—
- (a) a change of circumstances of a kind described in any of sub-paragraphs (2) to (5) which results from a relevant calculation or estimate; and
  - (b) a change of circumstances which is a relevant determination,

each of which results in a change in the amount of reduction the applicant receives under this scheme, the change of circumstances referred to in sub-paragraph (b) takes effect from the day specified in sub-paragraph (2), (3), (4) or (5) as the case may be, in relation to the change referred to in paragraph (a).

- (7) Where a change of circumstance occurs in that a guarantee credit has been awarded to the applicant or his partner and this would result in an increase in the amount of a reduction the applicant receives under this scheme, the change takes effect from the first day of the reduction week next following the date in respect of which the guarantee credit is first payable.



(8) Where a change of circumstances would, but for this sub-paragraph, take effect under the preceding provisions of this paragraph within the 4 week period specified in paragraph 93 (continuing reductions where state pension credit claimed), that change takes effect on the first day of the first reduction week to commence after the expiry of the 4 week period.

(9) In this paragraph—

“official error” means an error made by

(a) the authority or a person—

(i) authorised to carry out any function of the authority relating to this scheme; or

(ii) providing services relating to this scheme directly or indirectly to the authority; or

(b) an officer of—

(i) the Department for Work and Pensions; or

(ii) the Commissioners of Inland Revenue,

acting as such,

but excludes any error caused wholly or partly by any person or body not specified in paragraph (a) or (b) of this definition and any error of law which is shown to have been an error only by virtue of a subsequent decision of the court;

“relevant calculation or estimate” means the calculation or estimate made by the Secretary of State of the applicant's or, as the case may be, the applicant's partner's income and capital for the purposes of the award of state pension credit;

“relevant determination” means a change in the determination by the authority of the applicant's income and capital using the relevant calculation or estimate, in accordance with paragraph 36(1).

## **109.0 Making an application**

(1) In the case of—

(a) a couple or (subject to paragraph (b)) members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines; or

(b) in the case of members of a polygamous marriage to whom paragraph 37 (income and capital: award of universal credit) applies, an application is to be made by whichever one of the parties to the earliest marriage that still subsists they agree should so apply or, in default of agreement, by such one of them as the authority determines.

(2) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act, and—

(a) a deputy has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or

(b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on his behalf; or

(c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,

that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.

(3) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to him, the authority may, upon written application made to them by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under this scheme and to receive and deal on his behalf with any sums payable to him.

- (4) Where a person who is liable to pay council tax in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on his behalf under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act), the authority may if that person agrees, treat him as if he had been appointed by them under sub-paragraph (3).
- (5) Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4)—
- (a) it may at any time revoke the appointment;
  - (b) the person appointed may resign his office after having given 4 weeks notice in writing to the authority of his intention to do so;
  - (c) any such appointment must terminate when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).
- (6) Anything required by this scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.
- (7) The authority must—
- (a) inform any person making an application of the duty imposed by paragraph 115(1)(a);
  - (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
  - (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

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

- (1) Subject to sub-paragraph (7), the date on which an application is made is—
- (a) in a case where—
    - (i) an award of state pension credit which comprises a guarantee credit has been made to the applicant or his partner, and
    - (ii) the application is made within one month of the date on which the claim for that state pension credit which comprises a guarantee credit was received at the appropriate DWP office,the first day of entitlement to state pension credit which comprises a guarantee credit arising from that claim;
  - (b) in a case where—
    - (i) an applicant or his partner is a person in receipt of a guarantee credit,
    - (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
    - (iii) the application to the authority is received at the designated office within one month of the date of the change,the date on which the change takes place;
  - (c) in a case where—
    - (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and
    - (ii) the application is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received,the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;
  - (d) in a case where—
    - (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,
    - (ii) the applicant becomes liable for the first time to pay council tax in respect of the

- dwelling which he occupies as his home, and
- (iii) the application to the authority is received at the designated office within one month of the date of the change,
- the date on which the change takes place;
- (e) in a case where—
  - (i) the applicant is the former partner of a person who was, at the date of his death or their separation, entitled to a reduction under this scheme, and
  - (ii) where the applicant makes an application for a reduction under this scheme within one month of the date of the death or the separation,
  - the date of the death or separation;
- (f) except where paragraph (a), (b) or (e) is satisfied, in a case where a properly completed application is received within one month (or such longer period as the authority considers reasonable) of the date on which an application form was issued to the applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification;
- (g) in any other case, the date on which the application is received at the designated office.

- (2) For the purposes only of sub-paragraph (1)(c) a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for regulations made under—
- (a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act 1995 (waiting days); or
  - (b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act 2007 (waiting days),
- have been entitled to that allowance.

- (3) Where the defect referred to in paragraph 7 of Schedule 1 to this scheme (application by telephone)—
- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance;
  - (b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide on the application.

- (4) The authority is to treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.

- (5) The conditions are that—
- (a) where paragraph 4(a) of Schedule 1 (incomplete form) applies, the authority receives at its designated office the properly completed application or the information requested to complete it or the evidence within one month of the request, or such longer period as the authority may consider reasonable; or
  - (b) where paragraph 4(b) of Schedule 1 (application not on approved form or further information requested by authority) applies—
    - (i) the approved form sent to the applicant is received at the designated office properly completed within one month of it having been sent to him; or, as the case may be,
    - (ii) the applicant supplies whatever information or evidence was requested under paragraph 4 of that Schedule within one month of the request,
 or, in either case, within such longer period as the authority may consider reasonable; or
  - (c) where the authority has requested further information, the authority receives at its designated office the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.

- (6) Except in the case of an application made by a person treated as not being in Great Britain, where a

person has not become liable for council tax to the authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under this scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority is to treat the application as having been made on the day on which the liability for the tax arises.

- (7) Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under this 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 this scheme for a period beginning not later than—
- (a) in the case of an application made by—
- (i) a pensioner, or
  - (ii) a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit, the seventeenth reduction week following the date on which the application is made, or
- (b) in the case of an application made by a person who is not a pensioner, the thirteenth reduction week following the date on which the application is made, the authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.
- (8) In this paragraph “appropriate DWP office” means an office of the Department for Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of claims for income support, a jobseeker's allowance or an employment and support allowance.

#### **111.0 Back-dating of applications: pensioners**

- (1) Subject to sub-paragraph (2), the time for the making of an application under this scheme by a pensioner is as regards any day on which, apart from satisfying the condition of making an application, the applicant is entitled to such a reduction, that day and the period of three months immediately following it.
- (2) In any case where paragraph 110(1)(a) applies, sub-paragraph (1) does not entitle a person to apply for a reduction under this scheme in respect of any day earlier than three months before the date on which the claim for state pension credit is made (or treated as made by virtue of any provision of the Social Security (Claims and Payments) Regulations 1987).

#### **112.0 Back-dating of applications: persons who are not pensioners**

- (1) Where an applicant who is a person who is not a pensioner—
- (a) makes an application under this scheme which includes (or which he subsequently requests should include) a period before the application is made; and
  - (b) from a day in that period, up to the date he made the application (or subsequently requested that the application should include a past period), the applicant had continuous good cause for failing to make an application (or request that the application should include that period), the application is to be treated as made on the date determined in accordance with sub-paragraph (2).
- (2) That date is the latest of—
- (a) the first day from which the applicant had continuous good cause;
  - (b) the day 1 month before the date the application was made;
  - (c) the day 1 month before the date when the applicant requested that the application should include a past period.

## 113.0 Information and evidence

- (1) Subject to sub-paragraph (3), a person who makes an application for a reduction under this scheme must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.
- (2) This sub-paragraph is satisfied in relation to a person if—
  - (a) the application is accompanied by—
    - (i) a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or
    - (ii) information or evidence enabling the authority to ascertain the national insurance number that has been allocated to the person; or
  - (b) the person has made an application for a national insurance number to be allocated to him and the application for the 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.
- (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.
- (4) Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under this scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by the authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under this scheme and must do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.
- (5) Nothing in this paragraph requires a person to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.
- (6) Where a request is made under sub-paragraph (4), the authority must—
  - (a) inform the applicant or the person to whom a reduction under this scheme has been awarded of his duty under paragraph 115 (duty to notify change of circumstances) to notify the authority of any change of circumstances; and
  - (b) without prejudice to the extent of the duty owed under paragraph 115, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which is to be notified.
- (7) This sub-paragraph applies to any of the following payments—
  - (a) a payment which is—
    - (i) disregarded under paragraph 28 of Schedule 8 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners) or paragraph 38 of Schedule 10 (capital disregards: persons who are not pensioners); or
    - (ii) made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Caxton Foundation" insert ", the London Emergencies Trust, the We Love Manchester Emergency Fund or the London Bombings Relief Charitable Fund;
  - (b) a payment which is disregarded under paragraph 16 of Schedule 9 (payments made under certain trusts and certain other payments), other than a payment under the Independent

Living Fund (2006);

(c) a payment which is disregarded under paragraph 30(9)(b) or (c) (payment made under certain trusts etc.) or paragraph 2(b) or (c) of Schedule 4 (payments made under certain trusts etc.) other than a payment under the Independent Living Fund (2006).

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

(a) the name and address of the pension fund holder;

(b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

#### **114.0 Amendment and withdrawal of application**

(1) A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.

(2) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the amendment may also be made by telephone.

(3) Any application amended in accordance with sub-paragraph (1) or (2) is to be treated as if it had been amended in the first instance.

(4) A person who has made an application may withdraw it by notice to the designated office at any time before a decision has been made on it.

(5) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the withdrawal may also be made by telephone.

(6) Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.

(7) Where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

#### **115.0 Duty to notify changes of circumstances**

(1) Subject to sub-paragraphs (3), (6) and (7), the applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time—

(a) between the making of an application and a decision being made on it, or

(b) after the decision is made (where the decision is that the applicant is entitled to a reduction under this scheme) including at any time while the applicant is in receipt of such a reduction.

(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 this scheme (a “relevant change of circumstances”) by giving notice to the authority—

(a) in writing; or

(b) by telephone—

(i) where the authority has published a telephone number for that purpose or for the purposes of Part 1 of Schedule 1 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.

- (3) The duty imposed on a person by sub-paragraph (1) does not extend to notifying—
- (a) changes in the amount of council tax payable to the authority;
  - (b) changes in the age of the applicant or that of any member of his family;
  - (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under this scheme to which he is entitled, other than the cessation of that entitlement to the benefit.
- (4) For the purposes of sub-paragraph (3)(c) “relevant benefit” means income support, an income-based jobseeker's allowance or an income-related employment and support allowance or universal credit.
- (5) Notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by sub-paragraph (1) to notify the authority of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he has ceased to be a child or young person.
- (6) The duty imposed on a person by sub-paragraph (1) includes—
- (a) in the case of a person falling within class C (pensioners: alternative maximum council tax reduction) giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of state pension credit, the date when this occurs;
- (7) A person who has been awarded a reduction under this scheme who is also on state pension credit must report—
- (a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides;
  - (b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks or where the absence is from Great Britain, which exceeds or is likely to exceed 4 weeks.
- (8) In addition to the changes required to be reported under sub-paragraph (7), a person whose state pension credit comprises only the savings credit must also report—
- (a) changes affecting a child living with him which may result in a change in the amount of reduction under this scheme allowed in his case, but not changes in the age of the child;
  - (b) any change in the amount of the applicant's capital to be taken into account which does or may take the amount of his capital to more than £16,000;
  - (c) any change in the income or capital of—
    - (i) a non-dependant whose income and capital are treated as belonging to the applicant in accordance with paragraph 34 (circumstances in which income of a non-dependant is to be treated as applicant's); or
    - (ii) a person to whom paragraph 36(2)(e) (partner treated as member of the household under paragraph 8) refers, and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.
- (9) A person who is entitled to a reduction under this scheme and on state pension credit need only report to the authority the changes specified in sub-paragraphs (7) and (8).

## **116.0 Decision by authority**

The authority must make a decision on an application for a reduction under this scheme within 14 days of paragraphs 110 and 113 and Part 1 of Schedule 1 being satisfied, or as soon as reasonably practicable thereafter.

## **117.0 Notification of decision**



- (1) The authority must notify in writing any person affected by a decision made by it under this scheme—
  - (a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;
  - (b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.
- (2) Where the decision is to award a reduction the notification under sub-paragraph (1) must include a statement—
  - (a) informing the person affected of the duty imposed by paragraph 115(1)(b);
  - (b) explaining the possible consequences (including prosecution) of failing to comply with that duty; and
  - (c) setting out the circumstances a change in which might affect entitlement to the reduction or its amount.
- (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.
- (4) In any case, the notification under sub-paragraph (1) must inform the person affected of the procedure by which an appeal may be made and must refer the person to the provisions in this scheme relating to the procedure for making an appeal.
- (5) A person affected to whom the authority sends or delivers a notification of decision may, within one month of the date of the notification of that decision request in writing the authority to provide a written statement setting out the reasons for its decision on any matter set out in the notice.
- (6) The written statement referred to in sub-paragraph (5) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.
- (7) For the purposes of this paragraph a person is to be treated as a person affected by a decision of the authority under this scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (8).
- (8) This sub-paragraph applies to—
  - (a) the applicant;
  - (b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act—
    - (i) a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
    - (ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on the person's behalf; or
    - (iii) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,
  - (c) a person appointed by the authority under paragraph 109(3).

## **118.0 Payment where there is joint and several liability**

- (1) Where—
  - (a) a person is entitled to a reduction under this scheme in respect of his liability for the authority's council tax as it has effect in respect of a financial year;
  - (b) the person entitled to the reduction is jointly and severally liable for the council tax; and
  - (c) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement)

Regulations 1992 refers would be inappropriate, it may make a payment to him of the amount of reduction to which he is entitled, rounded where necessary to the nearest penny.

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

(3) Where a person other than the person who is entitled to the reduction under this scheme made the application for the reduction and that first person is a person acting pursuant to an appointment under paragraph 109(3) (persons appointed to act for a person unable to act) or is treated as having been so appointed by virtue of paragraph 109(5), the amount of the reduction may be paid to that person.

## **119.0 Transitional provisions for restrictions on amounts for children and young persons (pensioners)**

(1) This regulation applies where—

(a) on 31st March 2018, a person is liable to pay council tax at a reduced rate by virtue of a council tax reduction under an authority's scheme established under section 13A(2) of the Local Government Finance Act 1992 ("a section 13A(2) scheme"); and

(b) the person is, or the person and the person's partner are between them, responsible for more than two individuals who are either children or young persons and who are members of the same household (each such individual is referred to as a "protected individual").

(2) Where this regulation applies, the amendments made by regulation 7 do not apply to the person entitled to a council tax reduction referred to in paragraph (1) until—

(a) the person makes a new application for a reduction under an authority's section 13A(2) scheme; or

(b) the person or the person's partner (if any) becomes responsible for a new individual, whichever is the first to occur.

(3) Paragraphs (4) to (8) apply where—

(a) the amendments made by regulation 7 apply by virtue of paragraph (2)(b);

(b) the child tax credit provisions do not apply; and

(c) the person has not made a new application for a reduction under an authority's scheme for a reduction under an authority's section 13A(2) scheme.

(4) Notwithstanding the default provisions, a child amount shall be included in the applicable amount in relation to any protected individual, in relation to any time when the person or the person's partner (if any) is responsible for the individual and the individual is a member of the same household.

(5) Paragraph (6) applies where—

(a) the person or the person's partner (if any) is responsible for one or more protected individuals who are members of the same household; and

(b) either of them is responsible for one or more new individuals who are members of the same household.

(6) Where this paragraph applies, any protected individual for whom the person or the person's partner is responsible is to be counted for the purpose of deciding whether, under the default provisions, an additional child amount is to be included in the applicable amount with respect to the new individual or individuals referred to in paragraph (5)(b).

(7) Paragraph (8) applies where—

(a) the number of protected individuals for whom either the person or the person's partner (if any) is responsible, and who are members of the same household, is one;

(b) the number of new individuals for whom either the person or the person's partner is responsible, and who are members of the same household, is two or more; and

(c) a different child amount would apply to different individuals.

(8) Where this paragraph applies, the child amounts to be included in the applicable amount shall be—  
(a) the child amount in relation to the protected individual; and  
(b) a child amount in relation to such one of the new individuals as will result in the greatest possible total amount.

(9) Under paragraph (3), for the purposes of determining whether the child tax credit provisions apply, by virtue of paragraph 6(1B) of Schedule 1 to the 2012 Regulations, where the person or the person's partner is responsible for one or more protected individuals, the total amount that would be included in the applicable amount under the default provisions shall be taken to be the total that would be included under paragraphs (4), (6) and (8).

(10) For the purposes of this regulation—

- (a) "the 2012 Regulations" means the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012;
- (b) "applicable amount", "child", "partner" and "young person" have the same meanings as in the 2012 Regulations;
- (c) "child amount" means the amount determined under paragraph 2 of Schedule 2 to the 2012 Regulations;
- (d) "child tax credit provisions" means the provisions of paragraph 6(1)(b) of Schedule 1 to the 2012 Regulations (as substituted by paragraph 6(1C) of that Schedule);
- (e) "default provisions" means the provisions of paragraph 6(1)(b) of Schedule 1 to the 2012 Regulations (as substituted by paragraph 6(1C) of that Schedule);
- (f) "new individual" means a child or young person who is not a protected individual;
- (g) any reference to an individual being part of the same household means being part of the same household with the person who is entitled to a reduction under an authority's section 13A(2) scheme and the person's partner (if any);
- (h) a person is to be treated as responsible for a child or young person in the circumstances set out in regulation 7 of the 2012 Regulations

**Schedule 1**  
**Procedural matters**

## **Procedure by which a person may apply for a reduction under this scheme**

1. Paragraphs 2 to 7 apply to an application for a reduction under this scheme.

2.

An application may be made—

- (a) in writing, or
- (b) by means of an electronic communication in accordance with Part 4 of this Schedule, or
- (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone, or
- (d) by the receipt of information from the Secretary of State for Work and Pensions where a claim for Universal Credit has been made.

3.

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

4.

- (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 supplied for the purpose and the authority does not accept the application as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence, the authority may, in a case to which sub-paragraph (a) applies, request the applicant to complete the defective application or, in the case to which sub-paragraph (b) applies, supply the applicant with the approved form or request further information and evidence.
- (2) An application made on a form provided by the authority is properly completed if completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.

5.

- (1) If an application made by electronic communication is defective the authority must provide the person making the application with an opportunity to correct the defect.
- (2) An application made by electronic communication is defective if the applicant does not provide all the information the authority requires.

6.

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.

7.

- (1) If an application made by telephone is defective the authority must provide the person making the application with an opportunity to correct the defect.
- (2) An application made by telephone is defective if the applicant does not provide all the information the authority requests during the telephone call.

## **Procedure by which a person may make an appeal against certain decisions of the authority**

8.

A person who is aggrieved by a decision of the authority which affects—

- (a) the person's entitlement to a reduction under this scheme, or
  - (b) the amount of any reduction under this scheme,
- may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.

9.

The authority must—

- (a) consider the matter to which the notice relates;
- (b) notify the aggrieved person in writing—
  - (i) that the ground is not well founded, giving reasons for that belief; or
  - (ii) that steps have been taken to deal with the grievance, stating the steps taken.

**10.**

Where, following notification under paragraph 9(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with paragraph 9(b) within two months of the service of his notice, he may appeal to a valuation tribunal under section 16 of the 1992 Act.

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

**11.**

(1) An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act may be made

- (a) in writing;
- (b) by means of an electronic communication in accordance with Part 4 of this Schedule; or
- (c) where the authority has published a telephone number for the purposes of receiving such applications, by telephone.

(2) Where—

- (a) the authority has made a determination under section 13A(1)(c) in relation to a class of case in which liability is to be reduced; and
- (b) a person in that class would otherwise be entitled to a reduction under this scheme, that person's application for a reduction under this scheme may also be treated as an application for a reduction under section 13A(1)(c).

**Electronic communication**

**12. Interpretation**

In this Part—

**“information”** includes an application, certificate, notice or other evidence;

**“official computer system”** means a computer system maintained by or on behalf of the authority for the sending, receiving, processing or storing of any information.

**13. Conditions for the use of electronic communication**

(1) The authority may use an electronic communication in connection with applications for, and awards of, reductions under this scheme.

(2) A person other than the authority may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions specified in sub-paragraphs (3) to (6) are satisfied.

(3) The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Chief Executive of the authority.

(4) The second condition is that the person uses an approved method of—

- (a) authenticating the identity of the sender of the communication;
- (b) electronic communication;
- (c) authenticating any application or notice delivered by means of an electronic communication; and
- (d) subject to sub-paragraph (7), submitting to the authority any information.

(5) The third condition is that any information sent by means of an electronic communication is in a form supplied for the purposes of this Part of this Schedule.

(6) The fourth condition is that the person maintains such records in written or electronic form as may

be specified in a direction given by the Chief Executive of the authority.

- (7) Where the person uses any method other than the method approved of submitting any information, that information is to be treated as not having been submitted.
- (8) In this paragraph “approved” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this Part of this Schedule.

#### **14. Use of intermediaries**

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.

#### **15.— Effect of delivering information by means of electronic communication**

- (1) Any information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of this scheme, on the day the conditions imposed—
  - (a) by this Part; and
  - (b) by or under an enactment,are satisfied.
- (2) The authority may determine that any information is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).
- (3) Information must not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

#### **16. Proof of identity of sender or recipient of information**

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.

#### **17.— Proof of delivery of information**

- (1) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this must be presumed to have been the case where—
  - (a) any such information has been delivered to the relevant authority, if the delivery of that information has been recorded on an official computer system; or
  - (b) any such information has been delivered by the relevant authority, if the delivery of that information has been recorded on an official computer system.
- (2) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such information, this must be presumed not to be the case, if that information delivered to the relevant authority has not been recorded on an official computer system.
- (3) If it is necessary to prove, for the purpose of any legal proceedings, when any such information sent by means of an electronic communication has been received, the time and date of receipt must be presumed to be that recorded on an official computer system.

#### **18. Proof of content of information**

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

**Schedule 2<sup>8</sup>**  
**Applicable amounts: pensioners**



## 1. Personal allowance

The amount specified in column (2) below in respect of each person or couple specified in column (1) is the amount specified for the purposes of paragraph 25(1)(a) is the amount specified in column (2) of Table 1 below in respect of each person or couple referred to in column (1) of that Table.

**Table 1**

<i>Column (1)</i> <i>Person, couple or polygamous marriage</i>	<i>Column (2)</i> <i>Amount</i>
(1) Single applicant or lone parent who has attained pensionable age	£181.00.
(2) Couple one or both members	£270.60
(3) If the applicant is a member of a polygamous marriage and one or more members of the marriage have attained pensionable age (a) for the applicant and the other party to the marriage; (b) for each additional spouse who is a member of the same household as the applicant.	(a) 270.60; (b) £89.60.

## 2. Child or young person amounts

(1) The amounts specified in column (2) below in respect of each person specified in column (1) are the amounts, for the relevant period specified in column (1), specified for the purposes of paragraph 25(1)(b).

<b>Column (1)</b>	<b>Column (2)</b>
<b>Child or young Person</b>	<b>Amount</b>
Person in respect of the period— (a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday; (b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	(a) £66.90; (b) £66.90

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

## 3. Family premium

The amount for the purposes of paragraph 6(1)(c) of Schedule 1 in respect of a family of which at least one member is a child or young person—

- (a) is £17.45 in respect of a reduction week which begins in the period beginning with 1st April 2016 and ending with 30th April 2016;
- (b) is nil in respect of a reduction week which begins after 1st May 2016.

### Transitional provision.

- (1) The amendment in regulation Part 2-3 (Family Premium) of this policy (or 2(4)(b) for the purposes of SI2041/2015) does not apply to a person who, on 30th April 2016, is liable to pay council tax at a reduced rate by virtue of a council tax reduction under an authority's scheme established under section 13A(2) of the Act and is—
  - (a) a member of a family of which at least one member is a child or young person; or
  - (b) a partner in a polygamous marriage, where he or she, or another partner of the

polygamous marriage, is responsible for a child or young person who is a member of the same household.

- (2) Paragraph (1) does not apply if—
  - (a) sub-paragraph (a) or (b) of that paragraph ceases to apply; or
  - (b) the person makes a new application for a reduction under an authority's scheme under section 13A(2) of the Act.
- (3) For the purposes of this regulation—
  - (a) "the Act" means the Local Government Finance Act 1992;
  - (b) "child", "family", "partner", "polygamous marriage" and "young person" have the meanings given by regulation 2 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

#### 4. Premiums

The premiums specified in Part 4 are, for the purposes of paragraph 25(1)(d), applicable to an applicant who satisfies the condition specified in this Part in respect of that premium.

#### 5.

- (1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—
  - (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provision of those Regulations, he would be in receipt of that benefit; and
  - (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973, or by Skills Development Scotland, Scottish Enterprise or Highland and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.
- (2) For the purposes of the carer premium under paragraph 9, a person is to be treated as being in receipt of a carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012 or an AFIP.

#### 6. Severe disability premium

- (1) The condition is that the applicant is a severely disabled person.
- (2) For the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if, and only if—
  - (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3) —
    - (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP; and
    - (ii) subject to sub-paragraph (6), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
    - (iii) no person is entitled to, and in receipt of, a carer's allowance or an award of universal credit which includes the carer element in respect of caring for him;
  - (b) in the case of an applicant who has a partner—
    - (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate

prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP;

(ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, each other member of that marriage is in receipt of such an allowance; and

(iii) subject to sub-paragraph (6), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing, and either a person is entitled to and in receipt of a carer's allowance or an award of universal credit which includes the carer element in respect of caring for only one of the couple or, if he is a member of a polygamous marriage, for one or more but not all the members of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any of the members of the marriage.

(3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of sub-paragraph (4), that partner is to be treated for the purposes of sub-paragraph (2) as if he were not a partner of the applicant.

(4) For the purposes of sub-paragraph (3), a person is blind if he is registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994.

(5) For the purposes of sub-paragraph (4), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(6) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—

(a) a person receiving attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP; or

(b) a person who is blind or is treated as blind within the meaning of sub-paragraphs (4) and (5).

(7) For the purposes of sub-paragraph (2)(b) a person is to be treated—

(a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;

(b) as being in receipt of the daily living component of personal independence payment paid at the rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012 if he would, but for his being a patient for a period exceeding 28 days, be so in receipt, notwithstanding section 86 of that Act and regulations made thereunder;

(c) as being in receipt of an AFIP if he would be so in receipt but for a suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;

(d) as being entitled to and in receipt of a carer's allowance or an award of universal credit which includes the carer element if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(8) For the purposes of sub-paragraph (2)(a)(iii) and (b) —

(a) no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid; and

(b) references to a person being in receipt of a carer's allowance include reference to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit).

## **7. Enhanced disability premium**

- (1) The condition is that—
  - (a) the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 73(2) of that Act; or
  - (b) (as the case may be) the daily living component of personal independence payment is, or would, but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012, be payable at the enhanced rate prescribed in accordance with section 78(2) of that Act,in respect of a child or young person who is a member of the applicant's family.
- (2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).

## **8. Disabled child premium**

The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—

- (a) is in receipt of disability living allowance, personal independence payment or is no longer in receipt of such allowance or payment because he is a patient, provided that the child or young person continues to be a member of the family; or
- (b) is blind within the meaning of paragraph 6(4) or treated as blind in accordance with paragraph 6(5); or
- (c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

## **9. Carer premium**

- (1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance.
- (2) Where a carer premium has been awarded but—
  - (a) the person in respect of whose care the carer's allowance has been awarded dies; or
  - (b) the person in respect of whom the premium was awarded ceases to be entitled, or ceases to be treated as entitled, to a carer's allowance,this paragraph is to be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).
- (3) The relevant date for the purposes of sub-paragraph (2) is—
  - (a) in a case within sub-paragraph (2)(a), the Sunday following the death of the person in respect of whose care the carer's allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday);
  - (b) in a case within sub-paragraph (2)(b), the date on which that person who was entitled to a carer's allowance ceases to be entitled to it.
- (4) For the purposes of this paragraph, a person is to be treated as being entitled to and in receipt of a carer's allowance for any period not covered by an award but in respect of which a payment is made in lieu of an award.

**10. Persons in receipt of concessionary payments**

For the purpose of determining whether a premium is applicable to a person under paragraphs 6 to 9, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

**11. Person in receipt of benefit**

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

**12. Amounts of premium specified**

(1) Severe Disability Premium—

<i>Provision</i>	<i>Amount</i>
(a) where the applicant satisfies the condition in paragraph 6(2)(a);	(a) £65.85;
(b) where the applicant satisfies the condition in paragraph 6(2)(b)—	(b)
(i) in a case where there is someone in receipt of a carer’s allowance or who has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013, or if he or any partner satisfies that condition only by virtue of paragraph 6(7);	(i) £65.85;
(ii) in a case where there is no-one in receipt of such an allowance or such an award of universal credit.	(ii) £131.70.
(2) Enhanced disability premium	(2) £26.04 in respect of each child or young person in respect of whom the conditions specified in paragraph 7 are satisfied.
(3) Disabled Child Premium.	(3) £64.19 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied
(4) Carer Premium.	(4) £36.85 in respect of each person who satisfies the condition specified in paragraph 9.

### **Schedule 3**

#### **Applicable amounts: persons who are not pensioners**

The following amounts shall be updated annually in line with the amounts specified within the Housing Benefits Regulations 2006 (as amended)

**Personal allowances**

**1.**

The amounts specified in column (2) below in respect of each person or couple specified in column (1) are the amounts specified for the purposes of paragraphs 26(1)(a) and 27(1)(a) and (b)—

Column (1)	Column (2)
Person or couple	Amount
(1) A single applicant who— (a) is entitled to main phase employment and support allowance; (b) is aged not less than 25; (c) is aged not less than 18 but less than 25.	(1) (a) £73.10 (b) £73.10 (c) £57.90
(2) Lone parent.	(2) £73.10
(3) Couple.	(3) £114.85
(4) Polygamous Addition	(4) £41.75

**2.**

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

- (a) paragraph 18 is satisfied in relation to the applicant; or
- (b) the applicant is entitled to a converted employment and support allowance.

**3.**

(1) The amounts specified in column (2) below in respect of each person specified in column (1) are, for the relevant period specified in column (1), the amounts specified for the purposes of paragraphs 26(1)(b) and 27(1)(c)—

Column (1)	Column (2)
Child or Young person	Amount
Person in respect of the period— (a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday; (b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	£66.90 £66.90

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

**4. Family premium**

The amount for the purposes of paragraph 6(1)(c) of Schedule 1 in respect of a family of which at least one member is a child or young person—

- (a) is £17.45 in respect of a reduction week which begins in the period beginning with 1st April 2016 and ending with 31<sup>st</sup> March 2017;
- (b) is nil in respect of a reduction week which begins after 1st April 2017.

## Transitional provision

- (1) The amendment in regulation Part 2-3 (Family Premium) of this policy (or 2(4)(b) for the purposes of SI2041/2015) does not apply to a person who, on 31<sup>st</sup> March 2017, is liable to pay council tax at a reduced rate by virtue of a council tax reduction under an authority's scheme established under section 13A(2) of the Act and is—
  - (a) a member of a family of which at least one member is a child or young person; or
  - (b) a partner in a polygamous marriage, where he or she, or another partner of the polygamous marriage, is responsible for a child or young person who is a member of the same household.
- (2) Paragraph (1) does not apply if—
  - (a) sub-paragraph (a) or (b) of that paragraph ceases to apply; or
  - (b) the person makes a new application for a reduction under an authority's scheme under section 13A(2) of the Act.
- (3) For the purposes of this regulation—
  - (a) "the Act" means the Local Government Finance Act 1992;
  - (b) "child", "family", "partner", "polygamous marriage" and "young person" have the meanings given by regulation 2 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012.

## Premiums

### 5.

Except as provided in paragraph 6, the premiums specified in this scheme are, for the purposes of paragraphs 26(1)(d) and 27(1)(e) (premiums), applicable to an applicant who satisfies the condition specified in paragraphs 9 to 14 in respect of that premium.

### 6.

Subject to paragraph 7, where an applicant satisfies the conditions in respect of more than one premium in this Schedule, only one premium is applicable to him and, if they are different amounts, the higher or highest amount applies.

### 7.

The following premiums, namely—

- (a) a severe disability premium to which paragraph 11 applies;
  - (b) an enhanced disability premium to which paragraph 12 applies;
  - (c) a disabled child premium to which paragraph 13 applies; and
  - (d) a carer premium to which paragraph 14 applies,
- may be applicable in addition to any other premium which may apply under this Schedule.

### 8.

- (1) Subject to sub-paragraph (2), for the purposes of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—
  - (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
  - (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973 or by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 for any period during which he is in receipt of a training allowance.
- (2) For the purposes of the carer premium under paragraph 14, a person is to be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence



payment payable under Part 4 of the Welfare Reform Act 2012.

## **9. Disability premium**

The condition is that—

- (a) where the applicant is a single applicant or a lone parent, he has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10 is satisfied; or
- (b) where the applicant has a partner, either—
  - (i) the applicant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) or (b) is satisfied by him; or
  - (ii) his partner has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) is satisfied by his partner.

## **10. Additional condition for the disability premium**

(1) Subject to sub-paragraph (2) and paragraph 8, the additional condition referred to in paragraph 9 is that either—

(a) the applicant or, as the case may be, his partner—

(i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal independence payment, an AFIP, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 as amended, mobility supplement, long-term incapacity benefit under Part 2 of the SSCBA or severe disablement allowance under Part 3 of that Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of him; or

(ii) was in receipt of long-term incapacity benefit under Part 2 of the SSCBA when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant remained continuously entitled to—

(aa) council tax benefit (in relation to the period prior to 1st April 2013, and

(bb) a reduction under this scheme (in relation to the period commencing on 1st April 2013), and

if the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or

(iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the SSCBA or otherwise abated as a consequence of the applicant or his partner becoming a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges); or

(iv) was in receipt of personal independence payment, but payment of that benefit has been suspended in accordance with section 86 of the Welfare Reform Act 2012 as a consequence of the applicant becoming a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges); or

(v) was in receipt of an AFIP, but payment has been suspended in accordance with any terms of the armed and reserve forces compensation scheme which allow for suspension because a person is undergoing medical treatment in a hospital or similar institution; or

(vi) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006 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; or

(vii) is blind and in consequence registered in a register compiled by a local authority under

section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or

(b) the applicant—

(i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work); and

(ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—

(aa) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the SSCBA, 196 days;

(bb) in any other case, 364 days.

(2) For the purposes of sub-paragraph (1)(a)(vii), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(3) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work he is, on again becoming so incapable of work, immediately thereafter to be treated as satisfying the condition in sub-paragraph (1)(b).

(4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, he is to continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.

(5) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods are to be treated as one continuous period.

(6) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the Act (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.

(7) In the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies, and who again becomes incapable of work for the purposes of Part 12A of the SSCBA)—

(a) the reference to a period of 8 weeks in sub-paragraph (3); and

(b) the reference to a period of 56 days in sub-paragraph (5),

in each case is to be treated as a reference to a period of 104 weeks.

(8) The applicant is not entitled to the disability premium if he has, or is treated as having, limited capability for work.

## **11. Severe disability premium**

(1) The condition is that the applicant is a severely disabled person.

- (2) For the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if, and only if—
- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
    - (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and
    - (ii) subject to sub-paragraph (4), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
    - (iii) no person is entitled to, and in receipt of, a carer's allowance under section 70 of the SSCBA in respect of caring for him;
  - (b) in the case of an applicant who has a partner—
    - (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and
    - (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance; and
    - (iii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,

and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of a couple or, in the case of a polygamous marriage, for one or more but not all the partners of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any partner of a polygamous marriage.
- (3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2), that partner is to be treated for the purposes of sub-paragraph (2)(b)(ii) as if he were not a partner of the applicant.
- (4) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—
- (a) a person receiving attendance allowance, or disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012; or
  - (b) a person who is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2).
- (5) For the purposes of sub-paragraph (2)(b) a person is to be treated—
- (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
  - (b) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid.

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit provisions).

## **12. Enhanced disability premium**

(1) Subject to sub-paragraph (2), the condition is that—

- (a) the Secretary of State has decided that the applicant has, or is to be treated as having, limited capability for work-related activity; or
- (b) the care component of disability living allowance is, or would be payable at the highest rate prescribed under section 72(3) of the SSCBA, but for a suspension of benefit in accordance with regulations made under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation be payable at the highest rate prescribed under section 72(3) of the SSCBA in respect of—
  - (i) the applicant; or
  - (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit; or

- (c) the daily living component of personal independence payment is, or would be payable at either rate under Part 4 of the Welfare Reform Act 2012, but for a suspension of benefit in accordance with section 86 of the Welfare Reform Act 2012 in respect of—
  - (i) the applicant; or
  - (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit.

(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).

(3) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—

- (a) an applicant who—
  - (i) is not a member of a couple or a polygamous marriage; and
  - (ii) is a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges) and has been for a period of more than 52 weeks; or
- (b) a member of a couple or a polygamous marriage where each member is a patient within the meaning of paragraph 58(11)(i) and has been for a period of more than 52 weeks.

## **13. Disabled child premium**

The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—

- (a) is in receipt of disability living allowance or personal independence payment or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
- (b) is blind or treated as blind within the meaning of paragraph 10; or
- (c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable

amount because of that child or young person's death.

**14. Carer premium**

- (1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance under section 70 of the SSCBA.
- (2) Where a carer premium is awarded but—
  - (a) the person in respect of whose care the carer's allowance has been awarded dies; or
  - (b) in any other case the person in respect of whom a carer premium has been awarded ceases to be entitled to a carer's allowance,

the condition for the award of the premium is to be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).
- (3) The relevant date for the purposes of sub-paragraph (2) is—
  - (a) where sub-paragraph (2)(a) applies, the Sunday following the death of the person in respect of whose care a carer's allowance has been awarded or the date of death if the death occurred on a Sunday;
  - (b) in any other case, the date on which the person who has been entitled to a carer's allowance ceases to be entitled to that allowance.
- (4) Where a person who has been entitled to a carer's allowance ceases to be entitled to that allowance and makes an application for a reduction, the condition for the award of the carer premium is to be treated as satisfied for a period of eight weeks from the date on which—
  - (a) the person in respect of whose care the carer's allowance has been awarded dies; or
  - (b) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.

**15. Persons in receipt of concessionary payments**

For the purpose of determining whether a premium is applicable to a person under paragraphs 10 to 14, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

**16. Persons in receipt of benefit for another**

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

**17. Amounts of Premiums Specified**

(1) Disability Premium—

<i>Premium</i>	<i>Amount</i>
(a) where the applicant satisfies the condition in paragraph 9(a); (b) where the applicant satisfies the condition in paragraph 9(b).	(a) £34.35 (b) £48.95
(2) Severe Disability Premium—	(2)

<i>Premium</i>	<i>Amount</i>
(a) where the applicant satisfies the condition in paragraph 11(2)(a); (b) where the applicant satisfies the condition in paragraph 11(2)(b)— (i) in a case where there is someone in receipt of a carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 11(5); (ii) in a case where there is no-one in receipt of such an allowance.	(a) £ 65.85 (b)(i) £65.85 (b)(ii) £131.70
(3) Disabled Child Premium.	(3) £64.19 in respect of each child or young person in respect of whom the condition specified in paragraph 13 is satisfied.
(4) Carer Premium.	(4) £36.85 in respect of each person who satisfies the condition specified in paragraph 14.
(5) Enhanced disability premium	(5) (a) £26.04 in respect of each child or young person in respect of whom the conditions specified in paragraph 12 are satisfied; (b) £16.80 in respect of each person who is neither— (i) a child or young person; nor (ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 12 are satisfied; (c) £24.10 where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 12 are satisfied in respect of a member of that couple or polygamous marriage.

**18. The components**

Subject to paragraph 20 the applicant is entitled to one, but not both, of the components in paragraph 21 or 22 if—

- (a) the applicant or the applicant's partner has made a claim for employment and support allowance;
- (b) the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work or limited capability for work-related activity; and
- (c) either—
  - (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
  - (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 or 2013 as appropriate (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.

**19.**

Subject to paragraph 20, the applicant is entitled to one, but not both, of the components in paragraphs 21 and 22 if the applicant or his partner is entitled to a converted employment and support allowance.

**20.**

- (1) The applicant has no entitlement under paragraph 21 or 22 if the applicant is entitled to the disability premium under paragraphs 9 and 10.
- (2) Where the applicant and the applicant's partner each satisfies paragraph 21 or 22, the component to be included in the applicant's applicable amount is that which relates to the applicant.

**21. The work-related activity component**

The applicant is entitled to the work-related activity component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work.

**22. The support component**

The applicant is entitled to the support component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work-related activity.

**23. Amount of Components**

The amount of the work-related activity component is £29.05

**24.**

The amount of the support component is £38.55

**25. Transitional Addition**

- (1) The applicant is entitled to the transitional addition calculated in accordance with paragraph 28 where the applicant or the applicant's partner ("the relevant person")—
  - (a) is entitled to a converted employment and support allowance; or
  - (b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2008 and—
    - (i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 or 2013 as appropriate as modified by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2008; and
    - (ii) is not in receipt of an income-related employment and support allowance, unless the amount of the transitional addition calculated in accordance with paragraph 28 would be nil.
- (2) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—
  - (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
  - (b) the termination of the applicant's award of reduction under this scheme;
  - (c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;
  - (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
  - (e) 5th April 2020.

**26.**

- (1) This paragraph applies where—
  - (a) the applicant's entitlement to a transitional addition ends, by virtue of the termination of the applicant's award of reduction, under—
    - (i) paragraph 25(2)(b);
    - (ii) sub-paragraph (3)(b); or
    - (iii) paragraph 27(3)(b);
  - (b) within 12 weeks of that termination but before 5th April 2020 the applicant again becomes

entitled to a reduction under this scheme;  
(c) in the reduction week in which the applicant again becomes entitled to a reduction under this scheme the relevant person is entitled to an employment and support allowance which is not income-related; and

(d) at the date on which the applicant again becomes entitled to a reduction under this scheme, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the applicant is entitled, with effect from the day on which the applicant again becomes entitled to a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.

(3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
- (b) the termination of the applicant's award of a reduction under this scheme;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);
- (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

## **27.**

(1) This paragraph applies where—

- (a) the applicant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under—
  - (i) paragraph 25(2)(c);
  - (ii) paragraph 26(3)(c); or
  - (iii) sub-paragraph (3)(c);
- (b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;
- (c) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulations 2008 or 2013 as appropriate applies to the relevant person; and
- (d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the applicant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for the purposes of a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.

(3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
- (b) the termination of the applicant's award of a reduction under this scheme;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);
- (d) the applicant or the applicant's partner becoming entitled to an income-related employment



and support allowance, an income-based jobseeker's allowance or income support;  
(e) 5th April 2020.

## **28. Amount of Transitional Addition**

- (1) Subject to paragraph 29, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.
- (2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”) is made in respect of the relevant person—
  - (a) Amount A is the basic amount that would have applied on the day that decision took effect had that decision not been made; and
  - (b) Amount B is the basic amount that applied on that day as a result of that decision.
- (3) Where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the 2010 Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 or 2013 as appropriate as modified by the 2010 Regulations—
  - (a) Amount A is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated; and
  - (b) Amount B is the basic amount that applied on that day as a result of the relevant person being so treated.
- (4) In this paragraph and paragraph 29, “basic amount” means the aggregate of such amounts as may apply in the applicant's case in accordance with paragraph 26(1)(a) to (e) or paragraph 27(1)(a) to (f) (applicable amounts).

## **29.**

- (1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the applicant's basic amount, the transitional addition that applies immediately before the change of circumstances must be reduced by the amount by which Amount C exceeds Amount D.
- (2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition must be reduced to nil.
- (3) Amount C is the basic amount that applies as a result of the increase.
- (4) Amount D is the basic amount that applied immediately before the increase.

**Schedule 4**  
**Amount of alternative maximum council tax reduction: pensioners**

- (1) Subject to paragraphs 2 and 3, the alternative maximum council tax reduction in respect of a day for the purpose of paragraph 31 (alternative maximum council tax reduction: pensioners) is determined in accordance with the following Table and in this Table—
- (a) “second adult” means any person or persons residing with the applicant to whom paragraph 15(2) (class C) applies; and
  - (b) “persons to whom paragraph 75(1) of this scheme applies” includes any person to whom that paragraph would apply were they, and their partner if they had one, below the qualifying age for state pension credit.
- (2) In this Schedule “council tax due in respect of that day” means the council tax payable under section 10 of the 1992 Act less:
- (a) any reductions made in consequence of any enactment in, or under, the 1992 Act (other than a reduction under this scheme); and
  - (b) in a case to which sub-paragraph (c) in column (1) of the table below applies, the amount of any discount which may be appropriate to the dwelling under the 1992 Act.

(1)	(2)
Second adult	Alternative maximum council tax reduction
(a) Where the second adult or all second adults are in receipt of income support, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker's allowance;	(a) 25 per cent of the council tax due in respect of that day;
(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, an income-related employment and support allowance, state pension credit or an income-based jobseeker's allowance—	(b)
(i) is less than £206.00 per week;	(i) 15 per cent of the council tax due in respect of that day;
(ii) is not less than £206.00 per week but less than £266.00 per week;	(ii) 7.5 per cent of the council tax due in respect of that day;
(c) where the dwelling would be wholly occupied by one or more persons to whom paragraph 75(1) of this scheme applies but for the presence of one or more second adults who are in receipt of income support, state pension credit, an income-related employment and support allowance or are persons on an income-based jobseeker's allowance.	(c) 100 per cent of the council tax due in respect of that day.

**2.**

In determining a second adult's gross income for the purposes of this Schedule, the following must be disregarded from that income—

- (a) any attendance allowance, any disability living allowance, any personal independence payment under Part 4 of the Welfare Reform Act 2012 or an AFIP;
- (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which, had his income fallen to be calculated under paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind); and
- (c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).

**3.**

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

**Schedule 5**  
**Sums disregarded from applicant's earnings: pensioners**

**1.**

Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to—

- (a) £25 in the case of a lone parent;
- (b) £20 in any other case.

**2.**

In a case where an applicant is a lone parent, £25 of earnings.

**3.**

(1) In a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.

(2) This paragraph applies to employment—

- (a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
- (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (c) as an auxiliary coastguard in respect of coast rescue activities;
- (d) in the manning or launching of a lifeboat if the employment is part-time;
- (e) as a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001.

(3) If

- (a) any of the earnings of the applicant or, if he has a partner, his partner, or both of them, are disregarded under sub-paragraph (1); and
- (b) either of them has, or both of them have, other earnings,

so much of those other earnings as would not, in the aggregate with the earnings disregarded under that sub-paragraph, exceed £20.

**4.**

(1) If the applicant or, if he has a partner, his partner is a carer, or both are carers, £20 of any earnings received from his or their employment.

(2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) must not exceed £20 of the aggregated amount.

(3) In this paragraph the applicant or his partner is a carer if paragraph 14 of Part 3 of Schedule 3 (amount applicable for carers) is satisfied in respect of him.

**5.**

(1) £20 is disregarded if the applicant or, if he has a partner, his partner—

- (a) is in receipt of—
  - (i) long-term incapacity benefit under section 30A of the SSCBA;
  - (ii) severe disablement allowance under section 68 of that Act;
  - (iii) attendance allowance under sections 64 of that Act;
  - (iv) disability living allowance;
  - (v) personal independence payment;
  - (vi) an AFIP;
  - (vii) any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries

<p>(Civilians) Scheme 1983;</p> <p>(viii) the disability element or the severe disability element of working tax credit under Schedule 2 to the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002;</p> <p>or</p> <p>(ix) main phase employment and support allowance; or</p> <p>(b) is or are registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or</p> <p>(c) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work), and has been incapable, or has been treated as incapable, of work for a continuous period of not less than—</p> <p>(i) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the Act, 196 days;</p> <p>(ii) in any other case, 364 days; or</p> <p>(d) has, or is treated as having, limited capacity for work within the meaning of section 1(4) of the Welfare Reform Act 1997 or limited capability for work-related activity within the meaning of section 2(5) of that Act and either—</p> <p>(i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or</p> <p>(ii) regulation 7 of the Employment and Support Allowance Regulations 2008 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arising does not apply) applies.</p> <p>(2) Subject to sub-paragraph (3), £20 is disregarded if the applicant or, if he has a partner, his partner has, within a period of 8 weeks ending on the day in respect of which the applicant or his partner attains the qualifying age for state pension credit, had an award of housing benefit or council tax benefit or been in receipt of a reduction under this scheme and—</p> <p>(a) £20 was disregarded in respect of earnings taken into account in that award; and</p> <p>(b) the person whose earnings qualified for the disregard continues in employment after the termination of that award.</p> <p>(3) The disregard of £20 specified in sub-paragraph (2) applies so long as there is no break, other than a break which does not exceed 8 weeks, in a person's—</p> <p>(a) entitlement to housing benefit; or</p> <p>(b) receipt of a reduction under a council tax reduction scheme; or</p> <p>(c) employment,</p> <p>following the first day in respect of which that benefit is awarded under this scheme.</p> <p>(4) £20 is the maximum amount which may be disregarded under this paragraph, notwithstanding that, where the applicant has a partner, both the applicant and his partner satisfy the requirements of this paragraph.</p> <p><b>6.</b></p> <p>(1) Where—</p> <p>(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;</p> <p>(b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and</p> <p>(c) paragraph 35 (applicant in receipt of guarantee credit: pensioners) does not apply,</p> <p>the amount specified in sub-paragraph (7) (“the specified amount”).</p> <p>(2) Where this paragraph applies, paragraphs 1 to 5 and 8 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 2, then paragraph 2 applies instead of this paragraph.</p> <p>(3) Notwithstanding paragraph 33 (calculation of income and capital of members applicant's family and</p>
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of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple (“A”) it does not apply to the other member of that couple (“B”) except to the extent provided in sub-paragraph (4).

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

(5) This sub-paragraph applies to a person who is—

- (a) in receipt of a contributory employment and support allowance;
- (b) in receipt of incapacity benefit;
- (c) in receipt of severe disablement allowance;
- (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.

(6) “Exempt work” means work of the kind described in;

(a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be); or

(b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

**7.**

Any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of Schedule 6 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full amount disregarded thereunder.

**8.**

Except where the applicant or his partner qualifies for a £20 disregard under the preceding provisions of this Schedule—

- (a) £10 is to be disregarded if an applicant who has no partner has earnings;
- (b) £20 is to be disregarded if an applicant who has a partner has earnings.

**9.**

Any earnings, other than earnings referred to in paragraph 40(9)(b), derived from employment which ended before the day in respect of which the applicant first satisfies the conditions for entitlement to a reduction under this scheme.

**10.**

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

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

(a) the applicant, or if he has a partner, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or

(b) the applicant—

(i) is, or any partner of his is, aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) if he is a member of a couple—



- (aa) at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and
- (bb) his applicable amount includes a family premium under paragraph 3 of Schedule 2; or
- (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
- (iv) is, or if he has a partner, one of them is, engaged in remunerative work for on average not less than 16 hours per week and paragraph 5(1) above is satisfied in respect of that person.

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

- (a) any amount disregarded under this Schedule;
- (b) the amount of child care charges calculated as deductible under paragraph 57(1)(c) (deductions from income of certain child care charges); and
- (c) £17.10.

(4) The provisions of paragraph 10 (remunerative work) apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph was a reference to 30 hours.

**11.**

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

**Schedule 6**  
**Amounts to be disregarded in the calculation of income other than earnings: pensioners**

1.<sup>9</sup>

100% of any of the following—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 2 or 3);
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 39(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
- (g) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

2.

The whole of any amount included in a pension to which paragraph 1 relates in respect of—

- (a) the applicant's need for constant attendance;
- (b) the applicant's exceptionally severe disablement.

3.

Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.

4.

Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.

5.

In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

6.

(1) Any payment which is—

- (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
  - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
  - (ii) whose service in such capacity terminated before 31st March 1973; and
- (b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922

(exceptional grants of pay, non-effective pay and allowances).

**7.**

£15 of any widowed parent's allowance to which the applicant is entitled under section 39A of the SSCBA.

**8.**

£15 of any widowed mother's allowance to which the applicant is entitled under section 37 of the SSCBA.

**9.**

Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent. of such payments; or
- (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent. of the excess over £20.

**10.**

If the applicant—

- (a) owns the freehold or leasehold interest in any property or is a tenant of any property; and
- (b) occupies a part of that property; and
- (c) has an agreement with another person allowing that person to occupy another part of that property on payment of rent and—
  - (i) the amount paid by that person is less than £20 per week, the whole of that amount; or
  - (ii) the amount paid is £20 or more per week, £20.

**11.**

Where an applicant receives income under an annuity purchased with a loan, which satisfies the following conditions—

- (a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;
- (b) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
- (c) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling;
- (d) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid; and
- (e) that the interest payable on the loan is paid by the person to whom the loan was made or by one of the annuitants,

the amount, calculated on a weekly basis, equal to—

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;
- (ii) in any other case, the interest which is payable on the loan without deduction of such a sum.

**12.**

- (1) Any payment, other than a payment to which sub-paragraph (2) applies, made to the applicant by Trustees in exercise of a discretion exercisable by them.
- (2) This sub-paragraph applies to payments made to the applicant by Trustees in exercise of a discretion exercisable by them for the purpose of—

- (a) obtaining food, ordinary clothing or footwear or household fuel;
- (b) the payment of rent, council tax or water charges for which that applicant or his partner is liable;
- (c) meeting housing costs of a kind specified in Schedule 2 to the State Pension Credit Regulations 2002.

- (3) In a case to which sub-paragraph (2) applies, £20 or—
- (a) if the payment is less than £20, the whole payment;
  - (b) if, in the applicant's case, £10 is disregarded in accordance with paragraph 1(a) to (g), £10 or the whole payment if it is less than £10; or
  - (c) if, in the applicant's case, £15 is disregarded under paragraph 7 or paragraph 8 and—
    - (i) he has no disregard under paragraph 1(a) to (g), £5 or the whole payment if it is less than £5;
    - (ii) he has a disregard under paragraph 1(a) to (g), nil.

- (4) For the purposes of this paragraph, “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing and footwear used solely for sporting activities.

**13.**

Any increase in pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 paid in respect of a dependent other than the pensioner's partner.

**14.**

Any payment ordered by a court to be made to the applicant or the applicant's partner in consequence of any accident, injury or disease suffered by the person or a child of the person to or in respect of whom the payments are made.

**15.**

Periodic payments made to the applicant or the applicant's partner under an agreement entered into in settlement of a claim made by the applicant or, as the case may be, the applicant's partner for an injury suffered by him.

**16.**

Any income which is payable outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

**17.**

Any banking charges or commission payable in converting to Sterling payments of income made in a currency other than Sterling.

**18.**

Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—

- (a) under, or pursuant to regulations made under powers conferred by, section 22 of the Teaching and Higher Education Act 1998, that student's award;
- (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or
- (c) the student's student loan,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

**19.**

- (1) Where the applicant is the parent of a student aged under 25 in advanced education who either—
- (a) is not in receipt of any award, grant or student loan in respect of that education; or
  - (b) is in receipt of an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 18, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

- (2) For the purposes of sub-paragraph (1), the amount is to be equal to—
- (a) the weekly amount of the payments; or
  - (b) 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.

**20.**

- (1) Where an applicant's applicable amount includes an amount by way of a family premium, £15 of any payment of maintenance, whether under a court order or not, which is made or due to be made by the applicant's spouse, civil partner, former spouse or former civil partner or the applicant's partner's spouse, civil partner, former spouse, or former civil partner.

- (2) For the purposes of sub-paragraph (1), where more than one maintenance payment falls to be taken into account in any week, all such payments must be aggregated and treated as if they were a single payment.

**21.**

Except in a case which falls under paragraph 10 of Schedule 5, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.

**22.**

Where the total value of any capital specified in Part 2 (capital disregarded only for the purposes of determining deemed income) of Schedule 9 does not exceed £10,000, any income actually derived from such capital.

**23.**

Except in the case of income from capital specified in Part 2 of Schedule 9, any actual income from capital.

**24.**

Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999 as in force at that date, the whole of his income.

**Schedule 7**  
**Sums disregarded in the calculation of earnings: persons who are not pensioners**

**1.**

In the case of an applicant who has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged—

(a) where—

- (i) the employment has been terminated because of retirement; and
- (ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions, any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;

(b) where before the first day of entitlement to a reduction under this scheme the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—

(i) any payment of the nature described in—

- (aa) paragraph 51(1)(e) (retainer), or
- (bb) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds); and

(ii) any award, sum or payment of the nature described in—

- (aa) paragraph 51(1)(g) or (i) (compensation etc. relating to employment), or
- (bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),

including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;

(c) where before the first day of entitlement to a reduction under this scheme—

- (i) the employment has not been terminated, but
- (ii) the applicant is not engaged in remunerative work, any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph (b)(i) or (ii)(bb) or paragraph 51(1)(j) (statutory sick pay etc.).

**2.**

In the case of an applicant who, before the first day of entitlement to a reduction under this scheme—

(a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and

(b) has ceased to be engaged in that employment, whether or not that employment has been terminated,

any earnings paid or due to be paid in respect of that employment except—

(i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i) or (ii)(bb);

(ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) or paragraph 51(1)(j) (statutory sick pay etc.).

**3.**

In the case of an applicant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain, would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment, any earnings derived from that employment except earnings to which paragraph 53(3) and (4) (earnings of self-employed earners) apply.

**4.**

(1) In a case to which this paragraph applies and paragraph 5 does not apply, £20; but notwithstanding paragraph 33 (calculation of income and capital of members of an applicant's family and of a polygamous marriage) if this paragraph applies to an applicant it does not apply to his partner except where, and to the extent that, the earnings of the applicant which are to



be disregarded under this paragraph are less than £20.

(2) This paragraph applies where the applicant's applicable amount includes an amount by way of the disability premium, severe disability premium, work-related activity component or support component under Schedule 3 (applicable amounts: persons who are not pensioners).

(3) This paragraph applies where—

- (a) the applicant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 3; and
- (b) he or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.

5.

In a case where the applicant is a lone parent, £25.

6.

(1) In a case to which neither paragraph 4 nor paragraph 5 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium under Schedule 3 (applicable amounts: persons who are not pensioners), £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with paragraph 14(2) of that Schedule as being in receipt of carer's allowance.

(2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) must not exceed £20 of the aggregated amount.

7.

Where the carer premium is awarded in respect of an applicant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—

- (a) specified in paragraph 9(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 6 exceed £20;
- (b) other than one specified in paragraph 9(1), so much of the other member's earnings from such other employment up to £20 as would not when aggregated with the amount disregarded under paragraph 5 exceed £20.

8.

In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant and he is one of a couple and a member of that couple is in employment, £20; but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it must not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £20.

9.

(1) In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant, £20 of earnings derived from one or more employments as—

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

but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's

family and of a polygamous marriage), if this paragraph applies to an applicant it must not apply to his partner except to the extent specified in sub-paragraph (2).

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

**10.**

Where the applicant is engaged in one or more employments specified in paragraph 9(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment, so much of his earnings from that other employment, up to £10 if he is a single applicant, or up to £20 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 9 exceed £20.

**11.**

In a case to which none of the paragraphs 4 to 10 applies, £10.

**12.**

- (1) Where—
- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
  - (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
  - (c) paragraph 14 does not apply,

the amount specified in sub-paragraph (7) ("the specified amount").

- (2) Where this paragraph applies, paragraphs 4 to 11 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 5, then paragraph 5 applies instead of this paragraph.

- (3) Notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ("A") it does not apply to the other member of that couple ("B") except to the extent provided in sub-paragraph (4).

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

- (5) This sub-paragraph applies to a person who is—
- (a) in receipt of a contributory employment and support allowance;
  - (b) in receipt of incapacity benefit;
  - (c) in receipt of severe disablement allowance; or
  - (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.

- (6) "Exempt work" means work of the kind described in
- (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be)
  - (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

**13.**

Any amount or the balance of any amount which would fall to be disregarded under paragraph 23 or 24 of Schedule 8 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.

**14.**

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

**15.**

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

**16.**

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

**17.**

Any earnings of a child or young person.

**18.**

(1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 4 to 12 must be increased by £17.10.

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

(a) the applicant, or if he is a member of a couple, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or

(b) the applicant—

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

(ii) is a member of a couple and—

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

(bb) his applicable amount includes a family premium under paragraph 4 of Schedule 3; or

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

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

(aa) the applicant's applicable amount includes a disability premium under paragraph 9, the work-related activity component under paragraph 21 or the support component under paragraph 22 of Schedule 3 respectively;

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

(c) the applicant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.

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

- (a) the amount calculated as disregardable from the applicant's earnings under paragraphs 4 to 12;
- (b) the amount of child care charges calculated as deductible under paragraph 57(1)(c); and
- (c) £17.10.

(4) The provisions of paragraph 10 (remunerative work) apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph were a reference to 30 hours.

**19.**

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

**Schedule 8**  
**Sums disregarded in the calculation of income other than earnings: persons who are not pensioners**

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Pilot Scheme.
2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.
3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme.
4. Any amount paid by way of tax on income which is to be taken into account under regulation 30 (calculation of income other than earnings).
5. Any payment in respect of any expenses incurred or to be incurred by an applicant who is—
  - (a) engaged by a charitable or voluntary organisation, or
  - (b) a volunteer,if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under paragraph 56(5) (notional income: persons who are not pensioners).
6. Any payment in respect of expenses arising out of an applicant participating as a service user
7. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.
8. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his income.
9. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.
10. Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999 as in force at that date, the whole of his income.
11. Any disability living allowance, personal independence payment or an AFIP.
12. Any concessionary payment made to compensate for the non-payment of—
  - (a) any payment specified in paragraph 11 or 14;
  - (b) income support;
  - (c) an income-based jobseeker's allowance;
  - (d) an income-related employment and support allowance.
13. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
14. Any attendance allowance.
15. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.

**16.**

(1) Any payment

- (a) by way of an education maintenance allowance made pursuant to—
  - (i) regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc.);
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);
  - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
- (b) corresponding to such an education maintenance allowance, made pursuant to—
  - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
  - (ii) regulations made under section 181 of that Act; or
- (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992, in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

**17.**

Any payment made to the applicant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc.) Regulations 2002.

**18.**

(1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment—

- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit, severe disablement allowance or an employment and support allowance;
- (b) of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst an applicant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

**19.**

(1) Subject to sub-paragraph (2), any of the following payments—

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the applicant;
- (d) a payment under an annuity purchased—
  - (i) pursuant to any agreement or court order to make payments to the applicant; or
  - (ii) from funds derived from a payment made, in consequence of any personal injury to the applicant; or

(e) a payment (not falling within paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.

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

**20<sup>10</sup>.**

100% of any of the following, namely

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 13 or 14 );
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (a) to (d) above;
- (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

**21.**

Subject to paragraph 40, £15 of any

- (a) widowed mother's allowance paid pursuant to section 37 of the SSCBA;
- (b) widowed parent's allowance paid pursuant to section 39A of the SSCBA.

**22.**

- (1) Any income derived from capital to which the applicant is or is treated under paragraph 70 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17 or 30 to 33 of Schedule 10.
- (2) Income derived from capital disregarded under paragraphs 5, 7 or 30 to 33 of Schedule 10 but only to the extent of—
  - (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
  - (b) any council tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.
- (3) The definition of ““water charges”” in paragraph 2(1) (interpretation) applies to sub-paragraph (2) of this paragraph with the omission of the words ““in so far as such charges are in respect of the dwelling which a person occupies as his home””.



**23.**

Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—

- (a) under, or pursuant to regulations made under powers conferred by, section 22 of the Teaching and Higher Education Act 1998, that student's award;
  - (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or
  - (c) the student's student loan,
- an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

**24.**

(1) Where the applicant is the parent of a student aged under 25 in advanced education who either—

- (a) is not in receipt of any award, grant or student loan in respect of that education; or
- (b) is in receipt of an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 23, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount must be equal to—

- (a) the weekly amount of the payments; or
- (b) the amount by way of a personal allowance for a single applicant under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),

whichever is less.

**25.**

Any payment made to the applicant by a child or young person or a non-dependant.

**26.**

Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 25 or 27 refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or
- (b) where the aggregate of any such payments is £20 or more per week, £20.

**27.**

Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for which such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent of such payments;
- (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent of the excess over £20.

**28.**

- (1) Any income in kind, except where paragraph 54(10)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act 1999 in the calculation of income other than earnings) applies.
- (2) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

**29.**

Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

**30.**

- (1) Any payment made to the applicant in respect of a person who is a member of his family—
  - (a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978 (schemes for payments of allowances to adopters) or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes);
  - (b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);
  - (c) which is a payment made by an authority, as defined in Article 2 of the Children (Northern Ireland) Order 1995, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);
  - (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services);
- (2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

**31.**

Any payment made to the applicant with whom a person is accommodated by virtue of arrangements made—

- (a) by a local authority under—
  - (i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),
  - (ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or
  - (iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or
- (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).

**32.**

Any payment made to the applicant or his partner for a person (“the person concerned”), who is not normally a member of the applicant's household but is temporarily in his care, by—

- (a) a health authority;
- (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
- (c) a voluntary organisation;
- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
- (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
- (f) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

**33.**

Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or section 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

**34.**

(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A—  
(a) was formerly in the applicant's care, and  
(b) is aged 18 or over, and  
(c) continues to live with the applicant.

**35.**

(1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments—

(a) on a loan which is secured on the dwelling which the applicant occupies as his home; or  
(b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.

(2) A payment referred to in sub-paragraph (1) is only to be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—

(a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (1)(b); and  
(b) meet any amount due by way of premiums on—  
(i) that policy; or  
(ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).

**36.**

Any payment of income which by virtue of paragraph 64 (income treated as capital: persons who are not pensioners) is to be treated as capital.

**37.**

Any  
(a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or  
(b) occasional assistance.

**38.**

Any payment under Part 10 of the SSCBA (Christmas bonus for pensioners).

**39.**

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

**40.**

The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under paragraph 33(3) (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph

77(2)(b) and paragraph 78(1)(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 81(2) (treatment of student loans), paragraph 82(3) (treatment of payments from access funds) and paragraphs 20 and 21 must in no case exceed £20 per week.

**41.**

- (1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
  - (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
  - (a) the person who is suffering from haemophilia or who is a qualifying person;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—
  - (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent, or
    - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his education and has no parent or step-parent, to his guardian,but only for a period from the date of the payment until the end of two years from that person's death.
- (5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—
  - (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent, or
    - (ii) where that person at the relevant date was a child, a young person or a student who

had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.

**42.**

Any housing benefit.

**43.**

Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

**44.**

Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.

**45.**

Any payment in consequence of a reduction of council tax under section 13 of the 1992 Act (reduction of liability for council tax).

**46.**

(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1).

**47.**

Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).

**48.**

Any payment made by either the Secretary of State for Justice or by the Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody.

**49.**

(1) Where an applicant's applicable amount includes an amount by way of family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.

(2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments must be aggregated and treated as if they were a single payment.

(3) A payment made by the Secretary of State in lieu of maintenance must, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

**50.**

(1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.

(2) In sub-paragraph (1) —

“child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under

(a) the Child Support Act 1991;

(b) the Child Support (Northern Ireland) Order 1991;

(c) a court order;

(d) a consent order;

(e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

“liable relative” means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.

**51.**

Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.

**52.**

Any guardian's allowance.

**53.**

(1) If the applicant is in receipt of any benefit under Part 2, 3 or 5 of the SSCBA, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.

(2) If the applicant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.

**54.**

Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.

**55.**

In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

**56.**

- (1) Any payment which is—
- (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
    - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
    - (ii) whose service in such capacity terminated before 31st March 1973; and
  - (b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).

**57.**

Any council tax benefit to which the applicant is entitled.

**58.**

Except in a case which falls under sub-paragraph (1) of paragraph 18 of Schedule 7, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.

**59.**

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

**60.**

- (1) Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person—
- (a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;
  - (b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,
- in respect of which such assistance is or was received.

(2) Sub-paragraph (1) applies only in respect of payments which are paid to that person from the special account.

**61.**

(1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

**62.**

Where the amount of subsistence allowance paid to a person in a 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.

**63.**

In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.

**64.**

Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001.

**65.**

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

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

**66.**

Any payment of child benefit.

**67**

Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)



**Schedule 9**  
**Capital disregards: pensioners**

1. Any premises acquired for occupation by the applicant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
2. Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.
3. Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.
4. Any premises occupied in whole or in part—
  - (a) by a person who is a relative of the applicant or his partner as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
  - (b) by the former partner of the applicant as his home; but this provision does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
5. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
6. Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from his former partner or the dissolution of a civil partnership with his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.
7. Any premises where the applicant is taking reasonable steps to dispose of the whole of his interest in those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.
8. All personal possessions.
9. The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of those assets.
10. The assets of any business owned in whole or in part by the applicant if—
  - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
  - (b) he intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as he recovers or is able to become engaged, or re-engaged, in that business,

for a period of 26 weeks from the date on which the application for a reduction under this scheme is made or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

**11.**

The surrender value of any policy of life insurance.

**12.**

The value of any funeral plan contract; and for this purpose, ““funeral plan contract”” means a contract under which—

- (a) the applicant makes one or more payments to another person (““the provider””);
- (b) the provider undertakes to provide, or secure the provision of, a funeral in the United Kingdom for the applicant on his death; and
- (c) the sole purpose of the plan is to provide or secure the provision of a funeral for the applicant on his death.

**13.**

Where an ex-gratia payment has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—

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

by the Japanese during the Second World War, an amount equal to that payment.

**14.**

(1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or an applicant's partner who is

- (a) a diagnosed person;
- (b) a diagnosed person's partner or was a diagnosed person's partner at the time of the diagnosed person's death; or
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.

(2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending two years after that date.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or an applicant's partner who is—

- (a) the diagnosed person;
- (b) a diagnosed person's partner or was a diagnosed person's partner at the date of the diagnosed person's death; or
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.

(4) Where a payment such as referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the payment is made and ending on the date on which that

person dies;

- (b) a person referred to in sub-paragraph (3)(c), that sub-paragraph applies for the period beginning on the date on which the payment is made and ending two years after that date.

(5) In this paragraph, a reference to a person

- (a) being the diagnosed person's partner;
- (b) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death includes a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home or an independent hospital.

(6) In this paragraph—

**“diagnosed person”** means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeldt-Jakob disease;

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

**“trust payment”** means a payment under a relevant trust.

**15.**

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

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

**16.**

(1) Any payment made under or by—

- (a) the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, or the London Bombings Relief Charitable Fund (collectively referred to in this paragraph as “the Trusts”); or
- (b) the Independent Living Fund (2006).

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of that person's partner or former partner—

- (a) from whom he is not, or where that person has died was not, estranged or divorced, or
- (b) with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of the person who is suffering from haemophilia or who is a qualifying person.

(4) Sub-paragraph (3) does not apply if—

- (a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or
- (b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.

- (5) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child who is or had been a member of that person's household; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent; or
    - (ii) where that person at the date of the payment is a child or a student who has not completed his full-time education and has no parent or step-parent, to any person standing in the place of his parent,  
but only for a period from the date of the payment until the end of two years from that person's death.
- (6) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts, where—
- (a) that person at the date of his death ("the relevant date") had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child who was or had been a member of his household; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent; or
    - (ii) where that person at the relevant date was a child or a student who had not completed his full-time education and had no parent or step-parent, to any person standing in place of his parent,  
but only for a period of two years from the relevant date.
- (7) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

**17.**

- (1) An amount equal to the amount of any payment made in consequence of any personal injury to the applicant or, if the applicant has a partner, to the partner.
- (2) Where the whole or part of the payment is administered—
- (a) by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;
  - (b) in accordance with an order made under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules; or
  - (c) in accordance with the terms of a trust established for the benefit of the applicant or his partner,  
the whole of the amount so administered.

**18.**

Any amount specified in paragraph 19, 20, 21 or 25 for a period of one year beginning with the date of receipt.

**19.**

Amounts paid under a policy of insurance in connection with the loss of or damage to the property occupied by the applicant as his home and to his personal possessions.

**20.**

So much of any amounts paid to the applicant or deposited in the applicant's name for the sole purpose of

- (a) purchasing premises which the applicant intends to occupy as his home; or

- (b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the applicant as his home.

**21.**

- (1) Subject to paragraph 22 any amount paid—
  - (a) by way of arrears of benefit;
  - (b) by way of compensation for the late payment of benefit;
  - (c) in lieu of the payment of benefit;
  - (d) to rectify, or compensate for, an official error, as defined for the purposes of paragraph 22, being an amount to which that paragraph does not apply;
  - (e) by a local authority out of funds provided under either section 93 of the Local Government Act 2000 under a scheme known as “Supporting People” or section 91 of the Housing (Scotland) Act 2001.
  
- (2) In sub-paragraph (1), “benefit” means
  - (a) attendance allowance under section 64 of the Act;
  - (b) disability living allowance;
  - (c) personal independence payment;
  - (d) an AFIP;
  - (e) income support;
  - (f) income-based jobseeker's allowance;
  - (g) state pension credit;
  - (h) housing benefit;
  - (i) council tax benefit;
  - (j) child tax credit;
  - (k) an increase of a disablement pension under section 104 of the SSCBA (increase where constant attendance is needed), and any further increase of such a pension under section 105 of the Act (increase for exceptionally severe disablement);
  - (l) any amount included on account of the applicant's exceptionally severe disablement or need for constant attendance in a war disablement pension or a war widow's or widower's pension;
  - (m) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
  - (n) working tax credit; or
  - (o) income-related employment and support allowance or
  - (p) universal credit

**22.**

- (1) Subject to sub-paragraph (3), any payment of £5,000 or more which has been made to rectify, or to compensate for, an official error or an error on a point of law relating to a relevant benefit and which has been received by the applicant in full on or after the day on which he became entitled to a reduction under this scheme.
  
- (2) Subject to sub-paragraph (3), the total amount of any payments disregarded under—
  - (a) paragraph 7(2) of Schedule 10 to the Income Support (General) Regulations 1987;
  - (b) paragraph 12(2) of Schedule 8 to the Jobseeker's Allowance Regulations 1996;
  - (c) paragraph 9(2) of Schedule 5 to the Council Tax Benefit Regulations 2006;
  - (d) paragraph 20A of Schedule 5 to the State Pension Credit Regulations 2002,
  - (e) paragraph 11(2) of Schedule 9 to the Employment and Support Allowance Regulations 2008,where the award in respect of which the payments last fell to be disregarded under those Regulations either terminated immediately before the relevant date or is still in existence at that date.
  
- (3) Any disregard which applies under sub-paragraph (1) or (2) has effect until the award comes to an end.

(4) In this paragraph—

“the award”, except in sub-paragraph (2), means

- (a) the award of a reduction under the authority's scheme during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received; and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided that, for such further awards, the applicant—
  - (i) is the person who received the relevant sum;
  - (ii) is the partner of that person; or
  - (iii) was the partner of that person at the date of his death;

“official error”

- (a) where the error relates to housing benefit, or council tax benefit (in respect of any period before 1st April 2013), has the meaning given by regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and
- (b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999;

“the relevant date” means the date on which the application for a reduction under this scheme was made;

“relevant benefit” means any benefit specified in paragraph 21(2); and

“the relevant sum” means the total amount referred to in sub-paragraph (1).

**23.**

Where a capital asset is held in a currency other than Sterling, any banking charge or commission payable in converting that capital into Sterling.

**24.**

The value of the right to receive income from an occupational pension scheme or a personal pension scheme.

**25.**

Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 6 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.

**26.**

The dwelling occupied as the home; but only one dwelling is to be disregarded under this paragraph.

**27.**

(1) Subject to sub-paragraph (2), where an applicant falls within class C (alternative maximum council tax reduction: pensioners), the whole of his capital.

(2) Sub-paragraph (1) does not apply where an applicant falls within class B and class C.

**28.**

Where a person elects to be entitled to a lump sum under Schedule 5 or 5A to SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005, or is treated as having made such an election, and a payment has been made pursuant to that election, an amount equal to—

- (a) except where sub-paragraph (b) applies, the amount of any payment or payments made on account of that lump sum;
- (b) the amount of that lump sum,

but only for so long as that person does not change that election in favour of an increase of pension or benefit.

**29.**

Any payments made by virtue of regulations made under—

- (a) section 57 of the Health and Social Care Act 2001 (direct payments);
- (b) section 12B of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services);
- (c) sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care);
- (d) Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 (general social welfare); or
- (e) section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002 (direct payments).

**Capital disregarded only for the purposes of determining deemed income**

**30.**

The value of the right to receive any income under a life interest or from a life rent.

**31.**

The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.

**32.**

The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

**33.**

Where property is held under a trust, other than

- (a) a charitable trust within the meaning of the Charities Act 1993; or
- (b) a trust set up with any payment to which paragraph 16 applies,

and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the applicant or the applicant's partner, or both, that property.

**34**

Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)



**Schedule 10**  
**Capital disregards: persons who are not pensioners**

- 1.**  
Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Scheme but only for 52 weeks beginning with the date of receipt of the payment.
- 2.**  
Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.
- 3.**  
Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme but only for 52 weeks beginning with the date of receipt of the payment.
- 4.**  
The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), only one dwelling is to be disregarded under this paragraph.
- 5.**  
Any premises acquired for occupation by the applicant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
- 6.**  
Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the applicant to complete the purchase.
- 7.**  
Any premises occupied in whole or in part
  - (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
  - (b) by the former partner of the applicant as his home; but this provision does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
- 8.**  
Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his capital.
- 9.**  
Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and his partner is on income-based jobseeker's allowance, the whole of the applicant's capital.
- 10.**  
Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
- 11.**
  - (1) The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as

may be reasonable in the circumstances to allow for disposal of any such asset.

- (2) The assets of any business owned in whole or in part by the applicant where—
- (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
  - (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business,

for a period of 26 weeks from the date on which the application for a reduction under this scheme is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

- (3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

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

## 12.

- (1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—
- (a) any payment specified in paragraphs 11, 13 or 14 of Schedule 8;
  - (b) an income-related benefit under Part 7 of the SSCBA;
  - (c) an income-based jobseeker's allowance;
  - (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
  - (e) working tax credit and child tax credit;
  - (f) an income-related employment and support allowance,

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

- (2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as “the relevant sum”) and is—

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and
- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) has effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the period of an award of a reduction under this scheme, for the remainder of that period if that is a longer period.

- (3) For the purposes of sub-paragraph (2), “the period of an award of a reduction under this scheme” means

- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant—
  - (i) is the person who received the relevant sum; or
  - (ii) is the partner of the person who received the relevant sum, or was that person's partner

at the date of his death.

**13.**

Any sum

- (a) paid to the applicant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or replacement; or
- (b) acquired by the applicant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home,

which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to effect the repairs, replacement or improvement.

**14.**

Any sum

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 as a condition of occupying the home;
- (b) which was so deposited and which is to be used for the purchase of another home, for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the applicant to complete the purchase.

**15.**

Any personal possessions except those which have been acquired by the applicant with the intention of reducing his capital in order to secure entitlement to a reduction under this scheme or to increase the amount of that reduction.

**16.**

The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

**17.**

Where the funds of a trust are derived from a payment made in consequence of any personal injury to the applicant or applicant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.

**18.**

- (1) Any payment made to the applicant or the applicant's partner in consequence of any personal injury to the applicant or, as the case may be, the applicant's partner.
- (2) But sub-paragraph (1)—
  - (a) applies only for the period of 52 weeks beginning with the day on which the applicant first receives any payment in consequence of that personal injury;
  - (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
  - (c) ceases to apply to the payment or any part of the payment from the day on which the applicant no longer possesses it;
  - (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the applicant.
- (3) For the purposes of sub-paragraph (2)(c), the circumstances in which an applicant no longer possesses a payment or a part of it include where the applicant has used a payment or part of it to purchase an asset.
- (4) References in sub-paragraphs (2) and (3) to the applicant are to be construed as including references to his partner (where applicable).

**19.**

The value of the right to receive any income under a life interest or from a life rent.

**20.**

The value of the right to receive any income which is disregarded under paragraph 15 of Schedule 7 or paragraph 29 of Schedule 8.

**21.**

The surrender value of any policy of life insurance.

**22.**

Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

**23.**

Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

**24.**

(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A—

- (a) was formerly in the applicant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the applicant.

**25.**

Any

- (a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or
- (b) occasional assistance.

**26.**

Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

**27.**

Any capital which by virtue of paragraph 55 or 81 (capital treated as income: persons who are not pensioners, treatment of student loans) is to be treated as income.

**28.**

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

**29.**

(1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that

person's death;

- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(4) Sub-paragraph (3) does not apply if—

- (a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or
- (b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.

(5) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either—
  - (i) to that person's parent or step-parent; or
  - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(6) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either—
  - (i) to that person's parent or step-parent; or
  - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(7) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

(8) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, and the London Bombings Relief Charitable Fund.

**30.**

(1) Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph "dwelling" includes any garage, garden and outbuildings, which were formerly occupied by the applicant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.

**31.**

Any premises where the applicant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

**32.**

Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

**33.**

Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.

**34.**

Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

**35.**

The value of the right to receive an occupational or personal pension.

**36.**

The value of any funds held under a personal pension scheme.

**37.**

The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.

**38.**

Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).

**39.**

Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.

**40.**

Any payment in consequence of a reduction of council tax under section 13 of the 1992 Act (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.

**41.**

Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988 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.

**42.**

Any arrears of supplementary pension which is disregarded under paragraph 54 of Schedule 8 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

**43.**

(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

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

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

**44.**

Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.

**45.**

Any payment made under Part 8A of the SSCBA (entitlement to health in pregnancy grant).

**46.**

Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.

**47.**

Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.



**48.**

Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958. to homeworkers assisted under the Blind Homeworkers' Scheme.

**49.**

Not Used

**50.**

(1) Any sum of capital to which sub-paragraph (2) applies and—

- (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;
- (b) which can only be disposed of by order or direction of any such court; or
- (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

(2) This sub-paragraph applies to a sum of capital which is derived from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

**51.**

Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules, where such sum derives from—

- (a) award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

**52.**

Any payment to the applicant as holder of the Victoria Cross or George Cross.

**53.**

In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.

**54.**

(1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) "food" does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

**55.**

(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
  - (i) regulations made under section 518 of the Education Act 1996;
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
  - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under

- section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
- (b) corresponding to such an education maintenance allowance, made pursuant to—
    - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
    - (ii) regulations made under section 181 of that Act; or
  - (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—
  - (a) regulations made under section 518 of the Education Act 1996;
  - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
  - (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

**56.**

In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

**57.**

Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.

**58.**

Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—

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

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

**59.**

- (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is—

- (a) a diagnosed person;
- (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.

- (2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending two years after that date;

(c) a person referred to in sub-paragraph (1)(d), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending—

- (i) two years after that date; or
- (ii) on the day before the day on which that person—
  - (aa) ceases receiving full-time education; or
  - (bb) attains the age of 20,

whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is—

- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment as referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending two years after that date; or
- (c) person referred to in sub-paragraph (3)(c), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending—
  - (i) two years after that date; or
  - (ii) on the day before the day on which that person—
    - (aa) ceases receiving full-time education; or
    - (bb) attains the age of 20,

whichever is the latest.

(5) In this paragraph, a reference to a person—

- (a) being the diagnosed person's partner;
- (b) being a member of a diagnosed person's family;
- (c) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death includes a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld-Jakob disease;

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

“trust payment” means a payment under a relevant trust.

## 60.

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

partner's deceased spouse or deceased civil partner—

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

**61.**

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

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

**62.**

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

**63.**

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

**64.**

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

**Schedule 11**  
**Collection, holding and forwarding of information for Council Tax Reduction purposes**

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

- 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
- 2 Where required by the relevant department and where required by law, the authority will share information obtained for Council Tax Reduction with the DWP or HMRC as appropriate and in accordance with Data Protections requirements<sup>11</sup>.

### **Collection of information**

- 3 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
- 4 The authority may verify relevant information supplied to, or obtained.

### **Recording and holding information**

- 5 The authority may:
  - a. may make a record of such information; and
  - b. may hold that information, whether as supplied or obtained or recorded, for the purpose of forwarding it to the person or authority for the time being administering Council Tax Reduction.

### **Forwarding of information**

- 7 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:
  - a. a local authority;
  - b. a person providing services to a local authority; ora person authorised to exercise any function of a local authority relating to Council Tax Reduction.

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<sup>11</sup> Data Retention and Investigatory Powers Act 2014 and Data Retention Regulations 2014

**Schedule 12  
Provisions for Care Leavers  
CLASS F**

1. From 1<sup>st</sup> April 2019 the Council has determined that special provisions will apply to all persons who are defined as care leavers **and** who reside within the authority's area **and** who are liable for Council Tax.
2. The definition of care leaver is as follows:  
A care leaver is a person who—
  - (a) is at least 18 years of age but not yet 26 years of age;
  - (b) was on that person's sixteenth birthday or at any subsequent time looked after by a local authority;
  - and
  - (c) is no longer looked after by a local authority.
3. Where the care leaver is aged under 21 years of age, they shall receive a reduction of 100% irrespective of their financial circumstances;
4. Where the care leaver is 21 years of age but not yet 26 years of age, their entitlement to Council Tax Reduction shall be in accordance with the scheme for persons who are not pensioners and their entitlement shall be calculated in accordance with the provisions for Class D or Class E of this scheme **however the maximum Council Tax Reduction as specified in section 29A.1 shall be 100%.**
5. The decision as to whether a person meets the definition of care leaver as per paragraph 2 of this schedule shall be solely determined by the authority.



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**Bromsgrove District Council  
Council Tax Reduction Scheme**

S13A and Schedule 1a of the Local Government Finance Act 1992

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## **1.0 Introduction to the Council Tax Reduction Scheme**

- 1.1 The following has been adopted by the Council and details the Council Tax Reduction scheme adopted by the authority for the financial year 2019/20
- 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.
- 1.3 The scheme in respect of pension age applicants is defined by Central Government within the following:
  - Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012;
  - Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (England) (Amendment) Regulations 2012;
  - Council Tax Reduction Schemes (Transitional Provision) (England) Regulations 2013;
  - Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013;
  - Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2013;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) (No. 2) Regulations 2014
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2015;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2016;
  - The Council Tax Reduction Schemes (Amendment) (England) Regulations 2017 ;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2018; and
  - Local Government Finance Act 1992 (as amended by the Local Government Finance Act 2012)



## 2.0 Interpretation

(1) In this scheme—

**“the 1992 Act”** means the Local Government Finance Act 1992;

**“Abbeyfield Home”** means an establishment run by the Abbeyfield Society including all bodies corporate or unincorporated which are affiliated to that society;

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

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

**“applicable amount”** means

(a) in relation to a pensioner, the amount calculated in accordance with paragraph 25 and Schedule 2; and

(b) in relation to a person who is not a pensioner, the amount calculated in accordance with  
(i) paragraph 26 and Schedule 3; or  
(ii) paragraph 28, as the case may be;

**“applicant”** means a person who has made an application;

**“application”** means an application for a reduction under this scheme;

**“approved blood scheme”** means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products

**“assessment period”** means

(a) in relation to pensioners:

(i) in relation to the earnings of a self-employed earner, the period determined in accordance with paragraph 43 for the purpose of calculating the weekly earnings of the applicant; or

(ii) in relation to any other income, the period determined in accordance with paragraph 40 for the purpose of calculating the weekly income of the applicant;

(b) in relation to persons who are not pensioners, such period as is set out in paragraphs 47 to 49 over which income falls to be calculated;

**“attendance allowance”** means

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

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

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

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

**“the authority”** means East Hants District Council in relation to whose area this scheme has effect by virtue of paragraph 4(6) of Schedule 1A to the 1992 Act;

**“basic rate”** has the meaning given by the Income Tax Act 2007;

**“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;

**“the benefit Acts”** means the SSCBA, the Jobseekers Act 1995, the State Pension Credit Act 2002 and the Welfare Reform Act 2007;

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

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

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

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

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

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

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

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

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

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

**“couple”** has the meaning given by paragraph 4;

**“designated office”** means the office of the authority designated by it for the receipt of application;

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

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

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

**“disability living allowance”** means a disability living allowance under section 71 of the SSCBA;

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

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

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

**“employed earner”** is to be construed in accordance with section 2(1)(a) of the SSCBA 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;

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

**employment zone’** means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999 and 2014 and an **‘employment zone programme’** means a programme established for such an area or areas designed to assist applicants for a jobseeker’s allowance to obtain sustainable employment;

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

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

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

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

**“family”** has the meaning given by paragraph 6;

**“the Fund”** means moneys made available from time to time by the Secretary of State for the benefit

of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992;

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

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

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

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

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

**“independent hospital”**

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

(b) in Wales has the meaning given by section 2 of the Care Standards Act 2000; and

(c) in Scotland means an independent health care service as defined by section 10F of the National Health Service (Scotland) Act 1978;

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

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

**“Jobseekers Act”** means the Jobseekers Act 1995; ‘Jobseeker’s Allowance Regulations’ means the Jobseeker’s Allowance Regulations 1996 and Jobseeker’s Allowance Regulations 2013 as appropriate;

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

**“the London Emergencies Trust”** means the company of that name (number 09928465) incorporated on 23rd December 2015 and the registered charity of that name (number 1172307) established on 28th March 2017

**“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 or the applicant is a member of the work-related activity group except in Part 1 of Schedule 3;

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

**“maximum council tax reduction amount”** means the amount determined in accordance with paragraph 29 (pensioners) or 29A (persons who are not pensioners);

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

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

**“mobility supplement”** means

- (a) in relation to pensioners, a supplement to which paragraph 5(1)(a)(vii) of Schedule 5 refers;
- (b) in relation to persons who are not pensioners, a supplement to which paragraph 13 of Schedule 8 refers;

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

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

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

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

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

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

- (a) meeting, or helping to meet an immediate short-term need—
  - (i) arising out of an exceptional event or exceptional circumstances, or
  - (ii) that needs to be met to avoid a risk to the well-being of an individual, and
- (b) enabling qualifying individuals to establish or maintain a settled home, and—
  - (i) **“local authority”** has the meaning given by section 270(1) of the Local Government Act 1972; and
  - (ii) **“qualifying individuals”** means individuals who have been, or without the assistance might otherwise be
    - (aa) in prison, hospital, an establishment providing residential care or other institution, or
    - (bb) homeless or otherwise living an unsettled way of life; and **“local authority”** means a local authority in England within the meaning of the Local Government Act 1972;

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

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

**“partner”**, in relation to a person, means:

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

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

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

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

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

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

**“person treated as not being in Great Britain”** has the meaning given by paragraph 21;

**“person who is not a pensioner”** has the meaning given by paragraph 3(2)(b);

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

**“personal pension scheme”** means:

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993 as amended by the Public Service Pension Act 2013;
- (b) an annuity contract or 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) of that Act which is treated as having become a registered pension scheme by virtue of paragraph

1(1)(f) of Schedule 36 to the Finance Act 2004;

(c) a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;

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

**“polygamous marriage”** means any marriage to which paragraph 5 applies;

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

(a) in the case of a woman, pensionable age; or

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

**“qualifying contributory benefit”** means

(a) severe disablement allowance;

(b) incapacity benefit;

(c) contributory employment and support allowance;

**“qualifying 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 the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency 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 week”**, in relation to any particular day, means the week within which the day in question falls;

**“remunerative work”** has the meaning given by paragraph 10;

**“rent”** means **“eligible rent”** to which regulation 12 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 refer, less any deductions in respect of non-dependants which fall to be made under paragraph 30 (non-dependant deductions);

**“savings credit”** is to be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002;

**“the Scottish Infected Blood Support Scheme”** means the scheme of that name administered by the Common Services Agency (constituted under section 10 of the National Health Service (Scotland) Act 1978

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

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

**‘self-employment route’** means assistance in pursuing self-employed earner’s employment whilst participating in–

(a) an employment zone programme;

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

(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’** references in this scheme to an applicant participating as a service user are to

a. a person who is being consulted by or on behalf of—

(i) the Secretary of State in relation to any of the Secretary of State’s functions in

the field of social security or child support or under section 2 of the Employment and Training Act 1973; or

(ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such functions in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person; or

b. the carer of a person consulted as described in sub-paragraph (a) where the carer is not being consulted as described in that sub-paragraph;

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

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

**“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”** means state pension credit under the State Pension Credit Act 2002;

**“student”** has the meaning given by paragraph 73;

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

**“training allowance”** means an allowance (whether by way of periodical grants or otherwise) payable:

(a) out of public funds by a Government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Chief Executive of Skills Funding or the Welsh Ministers;

(b) to a person for his maintenance or in respect of a member of his family; and

(c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers,

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

**“the Trusts”** (except where the context otherwise requires) means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No. 2) Trust and

**“Trustees”** is to be construed accordingly;

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

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

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

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

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

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

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

**“water charges”** means:

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

(b) as respects Scotland, any water and sewerage charges established by Scottish Water under a

charges scheme made under section 29A of the Water Industry (Scotland) Act 2002,

in so far as such charges are in respect of the dwelling which a person occupies as his home;

**“the We Love Manchester Emergency Fund”** means the registered charity of that name (number 1173260) established on 30th May 2017

**“working tax credit”** means a working tax credit under section 10 of the Tax Credits Act 2002 as amended<sup>1</sup>; and

**“young person”** means a person who falls within the definition of qualifying young person in section 142 of the SSCBA.

- (2) In this scheme, where an amount is to be rounded to the nearest penny, a fraction of a penny must be disregarded if it is less than half a penny and must otherwise be treated as a whole penny.
- (3) For the purpose of this scheme, a person is on an income-based jobseeker's allowance on any day in respect of which an income-based jobseeker's allowance is payable to him and on any day:
  - (a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker's allowance but where the allowance is not paid because of a reduction in accordance with section 19 or 19A or regulations made under section 17A or 19B of the Jobseekers Act 1995 (circumstances in which a jobseeker's allowance is not payable);
  - (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker's allowance is payable to him or would be payable to him but for section 19 or 19A or regulations made under section 17A or 19B of that Act; or
  - (c) in respect of which an income-based jobseeker's allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions).
- (4) For the purposes of this scheme, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day:
  - (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act 2007 (disqualification); or
  - (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act (employment and support allowance: supplementary provisions) and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act.
- (5) For the purposes of this scheme, two persons must be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.
- (6) In this scheme, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002 (small amounts of state pension credit).

### **3.0 Application of scheme: pensioners and persons who are not pensioners**

- (1) This scheme applies to—
  - (a) pensioners who fall within any of classes A to C; and
  - (b) persons who are not pensioners who fall within any of classes D to E.
- (2) In this scheme:
  - (a) a person is a “pensioner” if—
    - (i) he has attained the qualifying age for state pension credit; and
    - (ii) he is not, or, if he has a partner, his partner is not—

<sup>1</sup> The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2013; The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2015

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

#### **4.0 Meaning of "couple"**

- (1) In this scheme "couple" means:
  - (a) a man and woman who are married to each other and are members of the same household;
  - (b) a man and woman who are not married to each other but are living together as husband and wife;
  - (c) two people of the same sex who are civil partners of each other and are members of the same household; or
  - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.
- (2) Two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes. The above includes the Marriage (Same Sex Couples) Act 2013 and The Marriage (Same Sex Couples) Act 2013 (Commencement No. 3) Order 2014

#### **5.0 Polygamous marriages**

- (1) This paragraph applies to any case where—
  - (a) a person is a husband or wife by virtue of a marriage entered into under a law which permits polygamy; and
  - (b) either party to the marriage has for the time being any spouse additional to the other party.
- (2) For the purposes of paragraph 4 (meaning of "couple") neither party to the marriage is to be taken to be a member of a couple.

#### **6.0 Meaning of "family"**

- (1) In this scheme "family" means
  - (a) a couple;
  - (b) a couple and a member of the same household for whom one of them is or both are responsible and who is a child or a young person; or
  - (c) a person who is not a member of a couple and a member of the same household for whom that person is responsible and who is a child or a young person.
- (2) The references to a child or young person in sub-paragraph (1)(b) and (c) include a child or young person in respect of whom section 145A of the SSCBA applies for the purposes of entitlement to child benefit, but only for the period prescribed under section 145A(1).
- (3) The references to a young person in sub-paragraph (1)(b) and (c) do not include a young person who is—
  - (a) on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, or has an award of universal credit; or
  - (b) a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies.



## **7.0 Circumstances in which a person is to be treated as responsible or not responsible for another**

- (1) A person is to be treated as responsible for a child or young person who is normally living with him, including a child or young person to whom paragraph 6(2) applies.
- (2) Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person must be treated for the purposes of sub-paragraph (1) as normally living with—
  - (a) the person who is receiving child benefit in respect of that child or young person, or
  - (b) if there is no such person—
    - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
    - (ii) in any other case the person who has the primary responsibility for him.
- (3) For the purposes of this scheme a child or young person is the responsibility of only one person in any reduction week and any person other than the one treated as responsible for the child or young person under this paragraph is to be treated as not so responsible.

## **8.0 Households**

- (1) Subject to sub-paragraphs (2) and (3), an applicant and any partner and, where the applicant or his partner is treated (by virtue of paragraph 7) as responsible for a child or young person, that child or young person and any child of that child or young person, are to be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.
- (2) A child or young person is not to be treated as a member of the applicant's household where he is—
  - (a) placed with the applicant or his partner by a local authority under section 22C or 23(2)(a) of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of that Act, or section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained)”;  
or in Scotland boarded out with the applicant or his partner under a relevant enactment; or
  - (b) placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
  - (c) placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009 or the Adoption (Northern Ireland) Order 1987.
- (3) Subject to sub-paragraph (4), sub-paragraph (1) does not apply to a child or young person who is not living with the applicant and who—
  - (a) is being looked after by, or in Scotland is in the care of, a local authority under a relevant enactment; or
  - (b) has been placed, or in Scotland boarded out, with a person other than the applicant prior to adoption; or
  - (c) has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009.
- (4) The authority must treat a child or young person to whom sub-paragraph (3)(a) applies as being a member of the applicant's household in any reduction week where—
  - (a) that child or young person lives with the applicant for part or all of that reduction week; and
  - (b) the authority considers that it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.
- (5) In this paragraph “relevant enactment” means:
  - (a) the Army Act 1955;
  - (b) the Air Force Act 1955;

- (c) the Naval Discipline Act 1957;
- (d) the Matrimonial Proceedings (Children) Act 1958;
- (e) the Social Work (Scotland) Act 1968;
- (f) the Family Law Reform Act 1969;
- (g) the Children and Young Persons Act 1969;
- (h) the Matrimonial Causes Act 1973;
- (i) the Children Act 1975;
- (j) the Domestic Proceedings and Magistrates' Courts Act 1978;
- (k) the Adoption and Children (Scotland) Act 2007;
- (l) the Family Law Act 1986;
- (m) the Children Act 1989;
- (n) the Children (Scotland) Act 1995; and
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

## 9.0 Non-dependants

- (1) In this scheme, "non-dependant" means any person, except someone to whom sub-paragraph (2) applies, who normally resides with an applicant or with whom an applicant normally resides.
- (2) This paragraph applies to—
  - (a) any member of the applicant's family;
  - (b) if the applicant is polygamously married—
    - (i) where the applicant has (alone or jointly with his partner) an award of universal credit, any:
      - (aa) party to such a marriage other than the applicant's partner; and
      - (bb) any child or young person who is a member of his household and for whom he or his partner or another party to the polygamous marriage is responsible; or
    - (ii) in any other case, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
  - (c) a child or young person who is living with the applicant but who is not a member of his household by virtue of paragraph 8 (households);
  - (d) subject to sub-paragraph (3), any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under section 6 or 7 of the 1992 Act (persons liable to pay council tax);
  - (e) subject to sub-paragraph (3), any person who is liable to make payments on a commercial basis to the applicant or the applicant's partner in respect of the occupation of the dwelling;
  - (f) a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.
- (3) Excepting persons to whom sub-paragraph (2)(a) to (c) and (f) refer, a person to whom any of the following paragraphs applies is a non-dependant:
  - (a) a person who resides with the person to whom he is liable to make payments in respect of the dwelling and either—
    - (i) that person is a close relative of his or his partner; or
    - (ii) the tenancy or other agreement between them is other than on a commercial basis;
  - (b) a person whose liability to make payments in respect of the dwelling appears to the authority to have been created to take advantage of a council tax reduction scheme except someone who was, for any period within the eight weeks prior to the creation of the agreement giving rise to the liability to make such payments, otherwise liable to make payments of rent in respect of the same dwelling;
  - (c) a person who becomes jointly and severally liable with the applicant for council tax in respect of a dwelling and who was, at any time during the period of eight weeks prior to his becoming so liable, a non-dependant of one or more of the other residents in that dwelling who are so

liable for the tax, unless the change giving rise to the new liability was not made to take advantage of a council tax reduction scheme.

## **10.0 Remunerative work**

- (1) Subject to the following provisions of this paragraph, a person must be treated for the purposes of this scheme as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.
- (2) Subject to sub-paragraph (3), in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard must be had to the average of hours worked over
  - (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
  - (b) in any other case, the period of 5 weeks immediately prior to the date of application, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.
- (3) Where, for the purposes of sub-paragraph (2)(a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work must be disregarded in establishing the average hours for which he is engaged in work.
- (4) Where no recognisable cycle has been established in respect of a person's work, regard must be had to the number of hours or, where those hours will fluctuate, the average of the hours, which he is expected to work in a week.
- (5) A person must be treated as engaged in remunerative work during any period for which he is absent from work referred to in sub-paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.
- (6) A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any reduction week is to be treated as not being in remunerative work in that week.
- (7) A person must not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave, or is absent from work because he is ill.
- (8) A person must not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which—
  - (a) a sports award has been made, or is to be made, to him; and
  - (b) no other payment is made or is expected to be made to him.

## **11.0 Procedure for reduction applications and appeals against reduction decisions**

Schedule 1 contains provisions about the procedure

- (a) by which a person may apply for a reduction under this scheme;
- (b) by which a person may make an appeal against certain decisions of the authority;
- (c) by which a person can apply to the authority for a reduction under section 13A(1)(c) of the 1992 Act.

**CLASSES OF PERSON ENTITLED TO A REDUCTION UNDER THIS SCHEME**

## **12.0 Classes of person entitled to a reduction under this scheme**

- (1) The classes of person described in paragraphs 13 to 18 are entitled to a reduction under this scheme.
- (2) In those paragraphs, references to the applicant's income or capital include, in a case where that income or capital cannot accurately be determined, references to the applicant's estimated income or capital.

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

On any day class A consists of any person who is a pensioner

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) whose income (if any) for the relevant week does not exceed his applicable amount, and
- (f) who has made an application.

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

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

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) whose income for the relevant week is greater than his applicable amount;
- (f) in respect of whom amount A exceeds amount B where—
  - (i) amount A is the maximum council tax reduction in respect of the day in the applicant's case; and
  - (ii) amount B is  $2 \frac{6}{7}$  per cent of the difference between his income for the relevant week and his applicable amount, and
- (g) who has made an application.

## **15.0 Class C: alternative maximum council tax reduction – pensioners**

- (1) On any day class C consists of any person who is a pensioner
  - (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
  - (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax reduction amount can be calculated;
  - (d) who does not fall within a class of person not entitled to a reduction under this scheme;
  - (e) who has made an application; and
  - (f) in relation to whom the condition in sub-paragraph (2) is met.
- (2) The condition referred to in sub-paragraph (1)(f) is that no other resident of the dwelling is liable to pay rent to the applicant in respect of the dwelling and there is an alternative maximum council tax reduction in respect of the day in the case of that person which is derived from the income, or aggregate incomes, of one or more residents to whom this sub-paragraph applies.
- (3) Sub-paragraph (2) applies to any other resident of the dwelling who:
  - (a) is not a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount;
  - (b) is not a person who is liable for council tax solely in consequence of the provisions of section 9 of the 1992 Act (spouse's or civil partner's joint and several liability for tax);

- (c) is not a person who is residing with a couple or with the members of a polygamous marriage where the applicant is a member of that couple or of that marriage and
  - (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the 1992 Act (persons disregarded for the purposes of discount), falls to be disregarded for the purposes of discount; or
  - (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;
- (d) is not a person who jointly with the applicant falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or
- (e) is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

**16.0 Class D: persons who are not pensioners whose income is less than the applicable amount**

On any day class D consists of any person who is not a pensioner:

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19A (periods of absence from a dwelling: persons who are not pensioners), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) whose income (if any) for the relevant week is less than his applicable amount, and
- (f) who has made an application.

**17.0 Class E: persons who are not pensioners whose income is greater than the applicable amount**

On any day class E consists of any person who is not a pensioner:

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19A (periods of absence from a dwelling: persons who are not pensioners), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) whose income for the relevant week is greater than his applicable amount;
- (f) in respect of whom amount A exceeds amount B where—
  - (i) amount A is the maximum council tax reduction in his case; and
  - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount, and
- (f) who has made an application.

**18.0 Class F persons who are not pensioners who are deemed to be Care Leavers in accordance with Schedule. 12 of this scheme.**

On any day Class F consists of any person who is not a pensioner ;

- (a) who is deemed to fall within the definition of 'care leaver' as. Defined within Schedule 12;
- (b) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (c) who, subject to paragraph 19A (periods of absence from a dwelling: persons who are not pensioners), is not absent from the dwelling throughout the day;
- (d) in respect of whom a maximum council tax reduction amount can be calculated;
- (e) who does not fall within a class of person not entitled to a reduction under this scheme;
- (f) whose entitlement can be calculated in accordance with Schedule 12.

**19.0 Periods of absence from a dwelling: Pensioners**

- (1) A person is not absent from a dwelling in relation to any day which falls within a period of temporary absence from that dwelling.
- (2) In sub-paragraph (1), a “period of temporary absence” means:
- (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as:
- (i) the person resides in that accommodation in Great Britain;
  - (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 within Great Britain 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;
  - (iii) that period is unlikely to exceed 13 weeks; and
- (c) a period of absence within Great Britain not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as:
- (i) the person intends to return to the dwelling;
  - (ii) the part of the dwelling in which he usually resided is not let or sub-let;
  - (iii) the person is a person to whom sub-paragraph (3) applies; and
  - (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period and
- (d) subject to sub-paragraphs (2F), (3C), (3E) and (3G) and where sub-paragraph (2E) applies, a period of absence outside Great Britain not exceeding 4 weeks, beginning with the first day of that absence from Great Britain 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 resides is not let or sub-let; and
  - (iii) the period of absence from Great Britain is unlikely to exceed 4 weeks.
- (2A) The period of 13 weeks referred to in sub-paragraph (2)(b) shall run or continue to run during any period of absence from Great Britain.
- (2B) Where:
- (a) a person returns to Great Britain after a period of absence from Great Britain (period A);
  - (b) that person has been absent from the dwelling, including any absence within Great Britain, for less than 13 weeks beginning with the first day of absence from that dwelling; and
  - (c) at the outset of, or during, period A, period A ceased to be treated as a period of temporary absence, then any day that follows period A and precedes the person’s return to the dwelling, shall not be treated as a period of temporary absence under sub-paragraph (2)(b).
- (2C) The period of 52 weeks referred to in sub-paragraph (2)(c) shall run or continue to run during any period of absence from Great Britain.
- (2D) Where:
- (a) a person returns to Great Britain after a period of absence from Great Britain (period A);
  - (b) that person has been absent from the dwelling, including any absence within Great Britain, for less than 52 weeks beginning with the first day of absence from that dwelling; and
  - (c) at the outset of, or during, period A, period A ceased to be treated as a period of temporary absence,

then, any day that follows period A and precedes the person's return to the dwelling, shall not be treated as a period of temporary absence under sub-paragraph (2)(c).

- (2E) This sub-paragraph applies where:
  - (a) a person is temporarily absent from Great Britain;
  - (b) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
  
- (2F) If the temporary absence referred to in sub-paragraph (2)(d) is in connection with the death of:
  - (a) the person's partner or a child or young person for whom the person or the person's partner is responsible;
  - (b) the person's close relative;
  - (c) the close relative of the person's partner; or
  - (d) the close relative of a child or young person for whom the person or the person's partner is responsible,

then the period of 4 weeks in the opening words of sub-paragraph (2)(d) may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return to Great Britain within the first 4 weeks (and the reference in sub-paragraph (iii) of that paragraph to a period of 4 weeks shall, where the period is extended, be taken as referring to the period as so extended).
  
- (3) This sub-paragraph applies to a person who—
  - (a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—
    - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
    - (ii) in premises approved under section 13 of the Offender Management Act 2007, or is detained in custody pending sentence upon conviction;
  - (b) is resident in a hospital or similar institution as a patient;
  - (c) is undergoing, or whose partner or dependent child is undergoing, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
  - (d) is following, a training course;
  - (e) is undertaking medically approved care of a person;
  - (f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
  - (g) is receiving medically approved care provided in accommodation other than residential accommodation;
  - (h) is a student;
  - (i) is receiving care provided in residential accommodation and is not a person to whom sub-paragraph (2)(a) applies; or
  - (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.
  
- (3A) This sub-paragraph applies to a person ("P") who is:
  - (a) detained in custody on remand pending trial;
  - (b) detained pending sentence upon conviction; or
  - (c) as a condition of bail required to reside—
    - (i) in a dwelling, other than a dwelling P occupies as P's home; or
    - (ii) in premises approved under section 13 of the Offender Management Act 2007(7), and who is not also detained in custody following sentence upon conviction.
  
- (3B) This sub-paragraph applies where:
  - (a) a person is temporarily absent from Great Britain;



- (b) the person is a member of Her Majesty's forces posted overseas, a mariner or a continental shelf worker;
  - (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
- (3C) Where sub-paragraph (3B) applies, a period of absence from Great Britain not exceeding 26 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as:
- (a) the person intends to return to the dwelling;
  - (b) the part of the dwelling in which he usually resided is not let or sub-let;
  - (c) the period of absence from Great Britain is unlikely to exceed 26 weeks.
- (3D) This sub-paragraph applies where—
- (a) a person is temporarily absent from Great Britain;
  - (b) the person is a person described in any of paragraphs (b), (c), (g) or (j) of sub-paragraph (3);
  - (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
- (3E) Where sub-paragraph (3D) applies, a period of absence from Great Britain not exceeding 26 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as:
- (a) the person intends to return to the dwelling;
  - (b) the part of the dwelling in which he usually resided is not let or sub-let;
  - (c) the period of absence is unlikely to exceed 26 weeks, or in exceptional circumstances, is unlikely substantially to exceed that period.
- (3F) This sub-paragraph applies where:
- (a) a person is temporarily absent from Great Britain;
  - (b) the person is a person described in any of paragraphs (a), (d), (e), (f), (h) or (i) of sub-paragraph (3);
  - (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
- (3G) Where sub-paragraph (3F) applies, a period of absence from Great Britain not exceeding 4 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as:
- (a) the person intends to return to the dwelling;
  - (b) the part of the dwelling in which he usually resided is not let or sub-let;
  - (c) the period of absence is unlikely to exceed 4 weeks, or in exceptional circumstances, is unlikely substantially to exceed that period.”;
- (4) This sub-paragraph applies to a person who is—
- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, 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.
- (5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—
- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he must be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
  - (b) for the purposes of sub-paragraph (3A), he must be treated as if he remains in detention;
  - (c) if he does not fall within paragraph (a), he is not to be considered to be a person who is liable to pay council tax in respect of a dwelling of which he is a resident.

- (6) In this paragraph—
- “continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any of the activities mentioned in section 11(2) of the Petroleum Act 1998;
- “designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964 as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;
- “mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where—
- (a) the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
  - (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;”;
- “medically approved” means certified by a medical practitioner;
- “member of Her Majesty’s forces posted overseas” means a person who is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006(10)), who is absent from the main dwelling because the person has been posted outside of Great Britain to perform the duties of a member of Her Majesty’s regular forces or reserve forces;
- “patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;
- “prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;”
- “residential accommodation” means accommodation which is provided in:
- (a) a care home;
  - (b) an independent hospital;
  - (c) an Abbeyfield Home; or
  - (d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;
- “training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State

**19A.0 Periods of absence from a dwelling: Persons who are not pensioners**

- (1) A person is not absent from a dwelling in relation to any day which falls within a period of temporary absence from that dwelling.
- (2) In sub-paragraph (1), a “period of temporary absence” means
  - (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as—
    - (i) the person resides in that accommodation;
    - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
    - (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,
 where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;
  - (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as:
    - (i) the person intends to return to the dwelling;
    - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
    - (iii) that period is unlikely to exceed 13 weeks; and
  - (c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that

absence, where and for so long as:

- (i) the person intends to return to the dwelling;
- (ii) the part of the dwelling in which he usually resided is not let or sub-let;
- (iii) the person is a person to whom sub-paragraph (3) applies; and
- (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

(3) This sub-paragraph applies to a person who—

- (a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—
  - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
  - (ii) in premises approved under section 13 of the Offender Management Act 2007,or is detained in custody pending sentence upon conviction;
- (b) is resident in a hospital or similar institution as a patient;
- (c) is undergoing, or whose partner or dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
- (d) is following, in the United Kingdom or elsewhere, a training course;
- (e) is undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
- (f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
- (g) is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
- (h) is a student;
- (i) is receiving care provided in residential accommodation and is not a person to whom sub-paragraph (2)(a) applies; or
- (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.

(4) This sub-paragraph applies to a person who is

- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983 (as amended by the Mental Health (Discrimination) Act 2013), or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995 or, in Northern Ireland, under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986); and
- (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989.

(5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—

- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he must be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
- (b) for the purposes of sub-paragraph (3)(a), he must be treated as if he remains in detention;
- (c) if he does not fall within paragraph (a), he is not to be considered to be a person who is liable to pay council tax in respect of a dwelling of which he is a resident.

(6) In this paragraph—

“medically approved” means certified by a medical practitioner;

“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;

“residential accommodation” means accommodation which is provided in

- (a) a care home;
- (b) an independent hospital;
- (c) an Abbeyfield Home; or
- (d) an establishment managed or provided by a body incorporated by Royal Charter or constituted

by Act of Parliament other than a local social services authority;

“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

**CLASSES OF PERSON EXCLUDED FROM THIS SCHEME**

## **20.0 Classes of person excluded from this scheme**

The classes of person described in paragraphs 21 to 24 are not entitled to a reduction under this scheme.

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

- (1) The class of person described in this paragraph consists of any person treated as not being in Great Britain.
- (2) Except where a person falls within sub-paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.
- (3) A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.
- (4) For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with—
  - (a) regulation 13 of the EEA Regulations or Article 6 of Council Directive 2004/38/EC;
  - (aa) regulation 14 of the EEA Regulations, but only in a case where the right exists under that regulation because the person is—
    - (i) a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of those Regulations, or
    - (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker;
  - (ab) Article 45 of the Treaty on the functioning of the European Union (in a case where the person is seeking work in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland); or
  - (b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen).
- (5) A person falls within this paragraph if the person is—
  - (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
  - (b) a family member of a person referred to in sub-paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
  - (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
  - (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
  - (e) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971 where that leave is—
    - (i) discretionary leave to enter or remain in the United Kingdom,
    - (ii) leave to remain under the Destitution Domestic Violence concession which came into effect on 1st April 2012, or
    - (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005.
  - (f) a person who has humanitarian protection granted under those rules;
  - (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 and who is in the United Kingdom as a result

of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom;

- (h) in receipt of income support, or on an income-related employment and support allowance;
- (ha) in receipt of an income-based jobseeker's allowance and has a right to reside other than a right to reside falling within paragraph (4) or
- (i) a person who is treated as a worker for the purpose of the definition of "qualified person" in regulation 6(1) of the EEA Regulations pursuant to regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an "accession State national subject to worker authorisation").

**Transitional provision**

The above does not apply to a person who, on 31st March 2015—

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

The events are—

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

(In this section "the Act" means the Local Government Finance Act 1992).

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

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

(8) In this paragraph—

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

"EEA Regulations" means the Immigration (European Economic Area) Regulations 2006.

**22.0 Class of person excluded from this scheme: persons subject to immigration control**

(1) Persons subject to immigration control are not entitled to a reduction under this scheme.

(2) "Person subject to immigration control" has the meaning given in section 115(9) of the Immigration and Asylum Act 1999.<sup>2</sup>

**23.0 Class of person excluded from this scheme: capital limit**

(1) The class of person described in this paragraph consists of any person whose capital exceeds £16,000.

(2) Capital for the purposes of sub-paragraph (1) is to be calculated in accordance with Part 10 of this scheme.

**24.0 Class of person excluded from this scheme: students**

The class of person described in this paragraph consists of any student to whom paragraph 75(1) applies (except to the extent that a student may be entitled to an alternative maximum council tax reduction by virtue of paragraph 18).

**APPLICABLE AMOUNTS**



## 25.0 Applicable amounts: pensioners

- (1) The applicable amount for a pensioner for a week is the aggregate of such of the following amounts as apply in his case—
- (a) an amount in respect of his personal allowance, determined in accordance with paragraph 1 of Schedule 2 (personal allowance);
  - (b) an amount determined in accordance with paragraph 2 of that Schedule in respect of up to two individuals who are either children or young persons and who are members of his family
  - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of that Schedule (family premium);
  - (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums).
- (1A) For the purposes of sub-paragraph (1)(b) as it applies apart from sub-paragraph (1C), where the family includes more than two individuals who are either children or young persons and under paragraph 2 of that Schedule a different amount applies to different individuals, the two amounts to be included in the applicable amount shall be those that result in the greatest possible total amount.
- (1B) Sub-paragraph (1C) applies where—
- (a) (whether or not as part of a tax credit couple as defined in section 3(5A) of the Tax Credits Act 2002) the applicant has an award of child tax credit (whether or not any amount is payable by way of such credit) in respect of a child or young person who is a member of his family; and
  - (b) the total amount to be included in the applicable amount under sub-paragraph (1)(b) as substituted by sub-paragraph (1C) would be higher than the total amount that would be included under paragraph (1)(b) apart from sub-paragraph (1C).
- (1C) Where this paragraph applies, for sub-paragraph (1)(b) substitute—
- (b) an amount determined in accordance with paragraph 2 of that Schedule in respect of any child or young person who is a member of his family and in respect of whom the individual element of child tax credit has been included in the determination of the maximum rate of that credit;”.
- (2) In Schedule 2—
- “additional spouse” means a spouse by the party to the marriage who is additional to the party to the marriage;
  - “patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005.

## 26.0 Applicable amounts: persons who are not pensioners<sup>3</sup>

- (1) Subject to paragraphs 27 and 28, the applicable amount for a week for a person who is not a pensioner is the aggregate of such of the following amounts as may apply in his case—
- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 of Schedule 3;
  - (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 3 of that Schedule;
  - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part 2 of that Schedule (family premium);
  - (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums);
  - (e) the amount of either the—
    - (i) work-related activity component; or
    - (ii) support component, which may be applicable to him in accordance with Parts 5 and 6 of that Schedule (the components);
  - (f) the amount of any transitional addition which may be applicable to him in accordance with

<sup>3</sup> The Council has resolved that the Applicable Amounts for persons who are not pensioners will be uprated in line with the Housing Benefit Regulations 2006 as amended by the Social Security Benefits Up-rating Orders.

Parts 7 and 8 of that Schedule (transitional addition).

(2) In Schedule 3—

**“additional spouse”** means a spouse by the party to the marriage who is additional to the party to the marriage;

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

**“patient”** means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005.

## **27.0 Polygamous marriages: persons who are not pensioners**

(1) This paragraph applies where an applicant who is not a pensioner is a member of a polygamous marriage and does not have (alone or jointly with a party to a marriage), an award of universal credit.

(2) The applicable amount for a week of an applicant where this paragraph applies is the aggregate of such of the following amounts as may apply in his case:

(a) the amount applicable to him and one of his partners determined in accordance with paragraph 1(3) of Schedule 3 as if he and that partner were a couple;

(b) an amount equal to the difference between the amounts specified in sub-paragraphs (3) and (1)(b) of paragraph 1 of that Schedule in respect of each of his other partners;

(c) an amount determined in accordance with paragraph 2 of that Schedule (main phase employment and support allowance) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;

(d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part 2 of that Schedule (family premium);

(e) the amount of any premiums which may be applicable to him determined in accordance with Parts 3 and 4 of that Schedule (premiums);

(f) the amount of either the—

(i) work-related activity component; or

(ii) support component,

which may be applicable to him in accordance with Parts 5 and 6 of that Schedule (the components);

(g) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

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

(1) Subject to sub-paragraph (2), in determining the applicable amount for a week of an applicant who is not a pensioner:

(a) who has, or

(b) who (jointly with his partner) has,

an award of universal credit, the authority must use the calculation or estimate of the maximum amount of the applicant, or the applicant and his partner jointly (as the case may be), subject to the adjustment described in sub-paragraph (3).

(2) In determining the applicable amount for a week of an applicant who is a member of a polygamous marriage, the fact that two people are husband and wife is to be disregarded if:

(a) one of them is a party to an earlier marriage that still subsists; and

(b) the other party to that earlier marriage is living in the same household.

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

the product by 52.

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

**MAXIMUM COUNCIL TAX REDUCTION FOR THE PURPOSES OF CALCULATING ELIGIBILITY FOR A REDUCTION  
UNDER THIS SCHEME AND AMOUNT OF REDUCTION**

## **29.0 Maximum council tax reduction amount under this scheme: pensioners**

- (1) Subject to sub-paragraphs (2) to (4), a person's maximum council tax reduction amount in respect of a day is 100 per cent of the amount A/B where:
  - (a) A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
  - (b) B is the number of days in that financial year, less any deductions in respect of non-dependants which fall to be made under paragraph 30 (non-dependant deductions: pensioners and persons who are not pensioners).
- (2) In calculating a person's maximum council tax reduction under this scheme 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 (other than a reduction under this scheme), is to be taken into account.
- (3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum council tax reduction in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.
- (4) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.
- (5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly and severally liable for council tax, where the applicant is a person who is not a pensioner, does not include a student to whom paragraph 75(1) (entitlement of students to a reduction under this scheme) applies.
- (6) In this paragraph "relevant financial year" means, in relation to any particular day, the financial year within which the day in question falls.

## **29A.0 Maximum council tax reduction amount under this scheme: persons who are not pensioners**

- (1) Subject to sub-paragraphs (2) to (4), a person's maximum council tax reduction amount in respect of a day is 80 per cent of amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act,  
  
less any deductions in respect of non-dependants which fall to be made under paragraph 30 (non dependant deductions: pensioners and persons who are not pensioners).
- (2) In calculating a person's maximum council tax reduction under this scheme 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 (other than a reduction under this scheme), is to be taken into account.
- (3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum council tax reduction in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.
- (4) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.
- (5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly and severally liable for council tax, where the applicant is a person who is not a pensioner, does not include a student to whom paragraph 75(1) (entitlement of students to a reduction under this scheme) applies.

(6) In this paragraph “relevant financial year” means, in relation to any particular day, the financial year within which the day in question falls.

### **30.0 Non-dependant deductions: pensioners and persons who are not pensioners<sup>4</sup>**

- (1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 29 are –
- (a) in respect of a non-dependant aged 18 or over in remunerative work, £12.20 x 1/7;
  - (b) in respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, £4.00 x 1/7.
- (2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is—
- (a) less than £207.70, the deduction to be made under this paragraph is that specified in sub-paragraph (1)(b);
  - (b) not less than £207.70 but less than £360.10, the deduction to be made under this paragraph is £8.10 x 1/7;
  - (c) not less than £360.10 but less than £447.40, the deduction to be made under this paragraph is £10.20 x 1/7.
- (3) Only one deduction is to be made under this paragraph in respect of a couple or, as the case may be, members of a polygamous marriage (other than where there is an award of universal credit) and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount is to be deducted.
- (4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of that sub-paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.
- (5) Where in respect of a day—
- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
  - (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of spouses and civil partners); and
  - (c) the person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant must be apportioned equally between those liable persons.
- (6) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is—
- (a) blind or treated as blind by virtue of paragraph 10 of Schedule 3 (additional condition for the disability premium); or
  - (b) receiving in respect of himself—
    - (i) attendance allowance, or would be receiving that allowance but for—
      - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
      - (bb) an abatement as a result of hospitalisation; or
    - (ii) the care component of the disability living allowance, or would be receiving that

<sup>4</sup> The Council has resolved that the amounts in respect of Non Dependant Deductions for persons who are not pensioners will be uprated in line with the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2014. Pensioners will be uprated in line with Central Government requirements.

component but for—

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

(7) No deduction is to be made in respect of a non-dependant if:

- (a) although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or
- (b) he is in receipt of a training allowance paid in connection with youth training established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) he is a full-time student within the meaning of Part 11 (students); or
- (d) he is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
  - (i) “patient” has the meaning given in paragraph 19(6), and
  - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.
- (e) he is not residing with the claimant because he is a member of the armed forces away on operations

(8) No deduction is to be made in respect of a non-dependant:

- (a) who is on income support, state pension credit, an income-based jobseeker's allowance or an income-related employment and support allowance; or
  - (b) to whom Schedule 1 to the 1992 Act applies (persons disregarded for purposes of discount) but this paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers
  - (c) who is entitled to an award of universal credit where the award is calculated on the basis that the person does not have any earned income.”;
- For the purposes of sub-paragraph (c), “earned income” has the meaning given in regulation 52 of the Universal Credit Regulations 2013

(9) In the application of sub-paragraph (2) there is to be disregarded from the non-dependant's weekly gross income:

- (a) any attendance allowance, disability living allowance, personal independence payment or an AFIP received by him;
- (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund or the Independent Living Fund (2006) which, had his income fallen to be calculated under paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind);
- (c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments); and
- (d) any payment made under, or by, a trust which is approved by the Secretary of State and which is established for the purpose of giving relief and assistance to a disabled person whose disability was caused by their mother having taken a preparation containing the drug known as Thalidomide during her pregnancy.

**ALTERNATIVE MAXIMUM COUNCIL TAX REDUCTION FOR THE PURPOSES OF CALCULATING ELIGIBILITY FOR A REDUCTION UNDER THIS SCHEME AND AMOUNT OF REDUCTION: PENSIONERS**



## **31.0 Alternative maximum council tax reduction under this scheme: pensioners**

- (1) Subject to sub-paragraphs (2) and (3), the alternative maximum council tax reduction in respect of a day where the conditions set out in paragraph 15 (alternative maximum council tax reduction: pensioners) are fulfilled, is the amount determined in accordance with Schedule 4 (amount of alternative council tax reduction).
- (2) Subject to sub-paragraph (3), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the alternative maximum council tax reduction in his case, the amount determined in accordance with Schedule 4 must be divided by the number of persons who are jointly and severally liable for that tax.
- (3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, solely by virtue of section 9 of the 1992 Act (liability of spouses and civil partners), sub-paragraph (2) does not apply in his case.

**AMOUNT OF REDUCTION UNDER THIS SCHEME**

## **32.0— Amount of reduction under this scheme: Classes A to F**

- (1) Where a person is entitled to a reduction under this scheme in respect of a day, the amount of the reduction to which he is entitled is as follows.
- (2) Where the person is within class A or D, that amount is the amount, which is the maximum council tax reduction in respect of the day in the applicant's case.
- (3) Where the person is within class B or E, that amount is the amount found by deducting amount B from amount A, where "amount A" and "amount B" have the meanings given in paragraph 14(f) or 17(f), as the case may be.
- (4) Where the person is within class C, that amount is the amount, which is the alternative maximum council tax reduction in respect of the day in the applicant's case.
- (5) Sub-paragraph (6) applies where both:
  - (a) sub-paragraph (2) or sub-paragraph (3), and
  - (b) sub-paragraph (4),apply to a person.
- (6) The amount of the reduction to which the person is entitled is whichever is the greater of:
  - (a) the amount of the reduction given by sub-paragraph (2) or sub-paragraph (3), as the case may be, and
  - (b) the amount of the reduction given by sub-paragraph (4).
- (7) Persons who fall within Class F shall be entitled to reduction in line with the provisions stated in Schedule 12

**INCOME AND CAPITAL FOR THE PURPOSES OF CALCULATING ELIGIBILITY FOR A REDUCTION UNDER THIS  
SCHEME AND AMOUNT OF REDUCTION**

## **Income and capital: general**

### **33.0 Calculation of income and capital: applicant's family and polygamous marriages**

- (1) The income and capital of—
  - (a) an applicant; and
  - (b) any partner of that applicant,is to be calculated in accordance with the provisions of this Part.
- (2) The income and capital of any partner of the applicant is to be treated as income and capital of the applicant, and in this Part any reference to the applicant applies equally to any partner of that applicant.
- (3) Except where paragraph 37 applies, where an applicant or the partner of an applicant is 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.

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

- (1) Sub-paragraph (2) applies where it appears to the authority that a non-dependant and an applicant have entered into arrangements in order to take advantage of this scheme and the non-dependant has more income and capital than the applicant.
- (2) Except where—
  - (a) the applicant is a pensioner and is on a guarantee credit, or
  - (b) the applicant is not a pensioner and is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance,the authority must treat the applicant as possessing income and capital belonging to that non-dependant and, in such a case, any income and capital which the applicant does possess is to be disregarded.
- (3) Where an applicant is treated as possessing income and capital belonging to a non-dependant under sub-paragraph (2) the income and capital of that non-dependant must be calculated in accordance with the following provisions of this Part in like manner as for the applicant and, except where the context otherwise requires, any reference to the "applicant" is to be construed for the purposes of this Part as if it were a reference to that non-dependant.

## **Income and capital: pensioners in receipt of guarantee credit or savings credit**

### **35.0 Applicant in receipt of guarantee credit: pensioners**

In the case of an applicant who is a pensioner and who is in receipt, or whose partner is in receipt, of a guarantee credit, the whole of his capital and income must be disregarded.

### **36.0 Calculation of applicant's income and capital in savings credit only cases: pensioners**

- (1) In determining the income and capital of an applicant who is a pensioner and who has, or whose partner has, an award of state pension credit comprising only the savings credit, subject to the following provisions of this paragraph, the authority must use the calculation or estimate of the applicant's or as the case may be, the applicant's partner's income and capital made by the Secretary of State for the purpose of determining the award of state pension credit.
- (2) Where the calculation or estimate provided by the Secretary of State includes the amount taken into

account in that determination in respect of net income, the authority may only adjust that amount so far as necessary to take into account—

- (a) the amount of any savings credit payable;
- (b) in respect of any dependent children of the applicant, child care charges taken into account under paragraph 57(1)(c) (calculation of income on a weekly basis);
- (c) the higher amount disregarded under this scheme in respect of—
  - (i) lone parent's earnings; or
  - (ii) payments of maintenance, whether under a court order or not, which is made or due to be made by
    - (aa) the applicant's former partner, or the applicant's partner's former partner; or
    - (bb) the parent of a child or young person where that child or young person is a member of the applicant's family except where that parent is the applicant or the applicant's partner;
- (d) any amount to be disregarded by virtue of paragraph 10(1) of Schedule 5 (sums disregarded from applicant's earnings: pensioners);
- (e) the income and capital of any partner of the applicant who is treated as a member of the applicant's household under paragraph 8, to the extent that it is not taken into account in determining the net income of the person claiming state pension credit;
- (f) paragraph 34 (circumstances in which capital and income of a non-dependant is to be treated as applicant's), if the authority determines that that provision applies in the applicant's case;
- (g) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable);
- (h) any amount to be disregarded by virtue of paragraph 6 of Schedule 5 (exempt work).

(3) Paragraphs 39 to 46 (calculation of income: pensioners) and 57 to 61 (calculation of income: pensioners and persons who are not pensioners) do not apply to the amount of the net income to be taken into account under sub-paragraph (1), but do apply (so far as relevant) for the purpose of determining any adjustments to that amount which the authority makes under sub-paragraph (2).

(4) If sub-paragraph (5) applies, the authority must calculate the applicant's capital in accordance with paragraphs 63, 65 to 68 and 70 (calculation of capital: pensioners).

(5) This sub-paragraph applies if:

- (a) the Secretary of State notifies the authority that the applicant's capital has been determined as being £16,000 or less or the authority determines his capital as being £16,000 or less;
- (b) subsequent to that determination the applicant's capital rises to more than £16,000; and
- (c) the increase occurs whilst there is in force an assessed income period within the meaning of sections 6 and 9 of the State Pension Credit Act 2002.

## **Income and capital where there is an award of universal credit<sup>5</sup>**

### **37.0 Calculation of income and capital: persons who are not pensioners who have an award of universal credit**

(1) In determining the income of an applicant:

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

an award of universal credit the authority must, subject to the following provisions of this paragraph, use the calculation or estimate of the amount of the income of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.

(2) The authority must adjust the amount of the income referred to in sub-paragraph (1) by multiplying the amount by 12 and dividing the product by 52.

(3) The authority may only adjust the amount of the income as adjusted in accordance with sub-

paragraph (2) so far as necessary to take into account—

- (a) the amount of the award of universal credit, determined in accordance with sub-paragraph (3);
- (b) paragraph 34 (circumstances in which income and capital of non-dependant is to be treated as applicant's), if the authority determines that the provision applies in the applicant's case;
- (c) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable).

(4) The amount for the award of universal credit to be taken into account for the purposes of sub-paragraph (3)(a) is to be determined by multiplying the amount of the award of universal credit by 12 and dividing the product by 52.

(5) Paragraph 34 (income and capital of non-dependant to be treated as applicant's) applies for the purpose of determining any adjustments which fall to be made to the figure for income under sub-paragraph (3).

(6) In determining the capital of an applicant—

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

#### **Income: other pensioners**

#### **38.0 Calculation of income and capital where state pension credit is not payable: pensioners**

Where neither paragraph 35 (applicant in receipt of guarantee credit: pensioners) nor 36 (applicant in receipt of savings credit only: pensioners) applies in the applicant's case, his income and capital is to be calculated or estimated in accordance with paragraphs 39 to 46 and 57 to 62 (calculation of income) and Chapter 7 of this Part (calculation of capital).

#### **39.0 Meaning of “income”: pensioners**

(1) For the purposes of classes A to C in this scheme, “income” means income of any of the following descriptions:

- (a) earnings;
- (b) working tax credit;
- (c) retirement pension income within the meaning of the State Pension Credit Act 2002;
- (d) income from annuity contracts (other than retirement pension income);
- (e) a war disablement pension or war widow's or widower's pension;
- (f) a foreign war disablement pension or war widow's or widower's pension;
- (g) a guaranteed income payment;
- (h) a payment made under article 29(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, in any case where article 31(2)(c) applies;
- (i) income from capital other than capital disregarded under Part 1 of Schedule 9;
- (j) social security benefits, other than retirement pension income or any of the following benefits:
  - (i) disability living allowance;
  - (ii) personal independence payment;
  - (iii) an AFIP;
  - (iv) attendance allowance payable under section 64 of the SSCBA (entitlement to attendance allowance);
  - (v) an increase of disablement pension under section 104 (increase for constant attendance) or 105 of that Act (increase for exceptionally severe disablement);
  - (vi) child benefit;
  - (vii) any guardian's allowance payable under section 77 of the SSCBA (guardian's allowance);

- (viii) any increase for a dependant, other than the applicant's partner, payable in accordance with Part 4 of that Act (increases for dependants);
- (ix) any:
  - (aa) social fund payment made under Part 8 of the SSCBA (the social fund), or
  - (bb) occasional assistance;
- (x) Christmas bonus payable under Part 10 of that Act (Christmas bonus for pensioners);
- (xi) housing benefit;
- (xii) council tax benefit;
- (xiii) bereavement payment;
- (xiv) statutory sick pay;
- (xv) statutory maternity pay;
- (xvi) ordinary statutory paternity pay payable under Part 12ZA of the SSCBA;
- (xvii) additional statutory paternity pay payable under Part 12ZA of the SSCBA;
- (xviii) statutory adoption pay payable under Part 12ZB of that Act (statutory adoption pay);
- (xix) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland;
- (k) all foreign social security benefits which are similar to the social security benefits mentioned above;
- (l) a payment made:
  - (i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (award for children who have reached the child's age limit), in any case where article 30(1)(b) applies; or
  - (ii) under article 12(8) of that Order (unemployability allowances: children who have reached the child's age limit), in any case where sub-paragraph (b) of that article applies;
- (m) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
- (n) payments under a scheme made under the Pneumoconiosis etc. (Worker's Compensation) Act 1979;
- (o) payments made towards the maintenance of the applicant by his spouse, civil partner, former spouse or former civil partner or towards the maintenance of the applicant's partner by his spouse, civil partner, former spouse or former civil partner, including payments made—
  - (i) under a court order;
  - (ii) under an agreement for maintenance; or
  - (iii) voluntarily;
- (p) payments due from any person in respect of board and lodging accommodation provided by the applicant;
- (q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (r) any payment in respect of any—
  - (i) book registered under the Public Lending Right Scheme 1982; or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;
- (s) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-health or disability;
- (t) any sum payable by way of pension out of money provided under—
  - (i) the Civil List Act 1837,
  - (ii) the Civil List Act 1937,
  - (iii) the Civil List Act 1952,
  - (iv) the Civil List Act 1972, or
  - (v) the Civil List Act 1975;
- (u) any income in lieu of that specified in paragraphs (a) to (r);
- (v) any payment of rent made to an applicant who:
  - (i) owns the freehold or leasehold interest in any property or is a tenant of any property;
  - (ii) occupies part of the property; and
  - (iii) has an agreement with another person allowing that person to occupy that property on



- payment of rent;
- (w) any payment made at regular intervals under an equity release scheme;
- (x) PPF periodic payments within the meaning of section 17(1) of the State Pension Credit Act 2002.

- (2) Where the payment of any social security benefit referred to in sub-paragraph (1) or retirement pension income to which section 16(1)(za) to (e) of the State Pension Credit Act 2002 applies is subject to any deduction (other than an adjustment specified in sub-paragraph (4)) the amount to be taken into account under sub-paragraph (1) is to be the amount before the deduction is made.
- (3) Where an award of any working tax credit or child tax credit is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.
- (4) The adjustments specified in this sub-paragraph are those made in accordance with—
  - (a) the Social Security (Overlapping Benefits) Regulations 1979;
  - (b) the Social Security (Hospital In-Patients) Regulations 1975;
  - (c) section 30DD or section 30E of the SSCBA (reductions in incapacity benefit in respect of pensions and councillor's allowances);
  - (d) section 3 of the Welfare Reform Act 2007 (deductions from contributory employment and support allowance in respect of pensions and councillor's allowances) and regulations made under it;
  - (e) section 14 of the Pensions Act 2014 (pension sharing: reduction in sharer's section 4 pension);
  - (f) section 45B or 55B of the Social Security Contributions and Benefits Act 1992 (reduction in additional pension in Category A retirement pension and shared additional pension: pension sharing).
- (5) In sub-paragraph (1)(w), "equity release scheme" means a loan:
  - (a) made between a person ("the lender") and the applicant;
  - (b) by means of which a sum of money is advanced by the lender to the applicant by way of payments at regular intervals; and
  - (c) which is secured on a dwelling in which the applicant owns an estate or interest and which he occupies as his home.

#### **40.0 Calculation of weekly income: pensioners**

- (1) Except in a case within sub-paragraph (2) or (4), for the purposes of calculating the weekly income of an applicant who is a pensioner, where the period in respect of which a payment is made:
  - (a) does not exceed a week, the whole of that payment is to be included in the applicant's weekly income;
  - (b) exceeds a week, the amount to be included in the applicant's weekly income is to be determined:
    - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
    - (ii) in a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52;
    - (iii) in a case where that period is a year, by dividing the amount of the payment by 52;
    - (iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number of days in the period in respect of which it is made.
- (2) Sub-paragraph (3) applies where:
  - (a) the applicant's regular pattern of work is such that he does not work the same hours every week; or
  - (b) the amount of the applicant's income fluctuates and has changed more than once.
- (3) The weekly amount of that applicant's income is to be determined:

- (a) if, in a case to which sub-paragraph (2)(a) applies, there is a recognised cycle of work, by reference to his average weekly income over the period of the complete cycle (including, where the cycle involves periods in which the applicant does no work, those periods but disregarding any other absences); or
- (b) in any other case, on the basis of:
  - (i) the last two payments if those payments are one month or more apart;
  - (ii) the last four payments if the last two payments are less than one month apart; or
  - (iii) calculating or estimating such other payments as may, in the particular circumstances of the case, enable the applicant's average weekly income to be determined more accurately.
- (4) For the purposes of sub-paragraph (3)(b) the last payments are the last payments before the date the application was made or treated as made.
- (5) If the applicant is entitled to receive a payment to which sub-paragraph (6) applies, the amount of that payment is to be treated as if made in respect of a period of a year.
- (6) This sub-paragraph applies to:
  - (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
  - (b) any payment in respect of any:
    - (i) book registered under the Public Lending Right Scheme 1982; or
    - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982; and
  - (c) any payment which is made on an occasional basis.
- (7) The period under which any benefit under the benefit Acts is to be taken into account is to be the period in respect of which that benefit is payable.
- (8) Where payments are made in a currency other than Sterling, the value of the payment is to be determined by taking the Sterling equivalent on the date the payment is made.
- (9) The sums specified in Schedule 5 are to be disregarded in calculating—
  - (a) the applicant's earnings; and
  - (b) any amount to which sub-paragraph (6) applies where the applicant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work referred to in sub-paragraph (6)(b).
- (10) For the purposes of sub-paragraph (9)(b), and for that purpose only, the amounts specified in sub-paragraph (6) is to be treated as though they were earnings.
- (11) Income specified in Schedule 6 is to be disregarded in the calculation of the applicant's income.
- (12) Schedule 9 (capital disregards: pensioners) has effect so that
  - (a) the capital specified in Part 1 is disregarded for the purpose of determining an applicant's income; and
  - (b) the capital specified in Part 2 is disregarded for the purpose of determining an applicant's income under paragraph 71 (calculation of tariff income from capital: pensioners).
- (13) In the case of any income taken into account for the purpose of calculating a person's income any amount payable by way of tax is disregarded.

#### **41.0 Earnings of employed earners: pensioners**

- (1) Subject to sub-paragraph (2), "earnings", in the case of employment as an employed earner who is a pensioner, means any remuneration or profit derived from that employment and includes
  - (a) any bonus or commission;
  - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account

- of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice;
- (d) any holiday pay;
- (e) any payment by way of a retainer;
- (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
  - (i) travelling expenses incurred by the applicant between his home and place of employment;
  - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
- (g) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001 as amended<sup>6</sup>.
- (h) statutory sick pay and statutory maternity pay payable by the employer under the SSCBA;
- (i) statutory paternity pay payable under Part 12ZA of that Act;
- (j) statutory adoption pay payable under Part 12ZB of that Act;
- (k) any sums payable under a contract of service—
  - (i) for incapacity for work due to sickness or injury; or
  - (ii) by reason of pregnancy or confinement.

(2) Earnings does not include—

- (a) subject to sub-paragraph (3), any payment in kind;
- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- (c) any occupational pension;
- (d) any lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme;
- (e) any payment of compensation made pursuant to an award by an employment tribunal established under the Employment Tribunals Act 1996 in respect of unfair dismissal or unlawful discrimination;
- (f) any payment in respect of expenses arising out of the an applicant participating as a service user.

(3) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub-paragraph (1)(g).

#### **42.0 Calculation of net earnings of employed earners: pensioners**

- (1) For the purposes of paragraph 57 (calculation of income on a weekly basis), the earnings of an applicant who is a pensioner derived or likely to be derived from employment as an employed earner to be taken into account must, subject to paragraph 40(5) and Schedule 5 (sums to be disregarded from earnings: pensioners), be his net earnings.
- (2) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (5) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—
  - (a) any amount deducted from those earnings by way of:
    - (i) income tax;
    - (ii) primary Class 1 contributions under the SSCBA;
  - (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
  - (c) one-half of the amount calculated in accordance with sub-paragraph (4) in respect of any qualifying contribution payable by the applicant; and
  - (d) where those earnings include a payment which is payable under any enactment having effect

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<sup>6</sup> Social Security (Contributions)(Amendment) Regulations 2013, Social Security (Contributions)(Amendment No.2) Regulations 2013 and Social Security (Contributions)(Amendment No.2) Regulations 2013

in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the SSCBA.

- (3) In this paragraph “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.
- (4) The amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this paragraph the daily amount of the qualifying contribution is to be determined—
  - (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;
  - (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.
- (5) Where the earnings of an applicant are determined under paragraph 40(2)(b) (calculation of weekly income: pensioners) his net earnings is to be calculated by taking into account those earnings over the assessment period, less:
  - (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 the Income Tax Act 2007 (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
  - (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
  - (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

#### **43.0 Calculation of earnings of self-employed earners: pensioners**

- (1) Where the earnings of an applicant who is a pensioner consist of earnings from employment as a self-employed earner, the weekly amount of his earnings is to be determined by reference to his average weekly earnings from that employment:
  - (a) over a period of one year; or
  - (b) where the applicant has recently become engaged in that employment or there has been a change which is likely to affect the normal pattern of business, over such other period (“computation period”) as may, in the particular case, enable the weekly amount of his earnings to be determined more accurately.
- (2) For the purposes of determining the weekly amount of earnings of an applicant to whom sub-paragraph (1)(b) applies, his earnings over the computation period are to be divided by the number equal to the number of days in that period and the product multiplied by 7.
- (3) The period over which the weekly amount of an applicant's earnings is calculated in accordance with this paragraph is to be his assessment period.

#### **44.0 Earnings of self-employers earners: pensioners**

- (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner who is a pensioner, means the gross income of the employment.

- (2) "Earnings" in the case of employment as a self-employed earner does not include:
- (a) where an applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation for which payment is made, those payments;
  - (b) any payment made by a local authority to an applicant—
    - (i) with whom a person is accommodated by virtue of arrangements made under section 22C or 23(2)(a) of the Children Act 1989 or, as the case may be, section 26 or 26A of the Children (Scotland) Act 1995; or
    - (ii) with whom a local authority fosters a child under the Looked After Children (Scotland) Regulations 2009 or who is a kinship carer under those Regulations;
  - (c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations);
  - (d) any payment made to the applicant or his partner for a person ("the person concerned") who is not normally a member of the applicant's household but is temporarily in his care, by—
    - (i) a local authority but excluding payments of housing benefit made in respect of the person concerned;
    - (ii) a voluntary organisation;
    - (iii) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
    - (iv) the National Health Service Commissioning Board or a clinical commissioning group established under section 14D of the National Health Service Act 2006;
    - (v) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006; or
    - (vi) the persons concerned where the payment is for the provision of accommodation to meet that person's needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (respectively, duty and power to meet care and support needs of an adult);
    - (da) any payment or part of a payment made by a local authority in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care) to a person ("A") which A passes on to the applicant where A—
      - (i) was formerly in the applicant's care;
      - (ii) is aged 16 or over; and
      - (iii) continues to live with the applicant;
    - (db) any payments made to an applicant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance: further provisions)
  - (e) any sports award.

#### 45.0 Notional income: pensioners

- (1) An applicant who is a pensioner is to be treated as possessing:
- (a) subject to sub-paragraph (2), the amount of any retirement pension income—
    - (i) for which no claim has been made; and
    - (ii) to which he might expect to be entitled if a claim for it were made;
  - (b) income from an occupational pension scheme which the applicant elected to defer.
- (2) Sub-paragraph (1)(a) does not apply to the following where entitlement has been deferred—
- (a) a Category A or Category B retirement pension payable under sections 43 to 55 of the SSCBA;
  - (b) a shared additional pension payable under section 55A of the SSCBA;
  - (c) graduated retirement benefit payable under sections 36 and 37 of the National Insurance Act 1965.
- (3) For the purposes of sub-paragraph (2), entitlement has been deferred—
- (a) in the case of a Category A or Category B pension, in the circumstances specified in section 55(3) of the SSCBA;
  - (b) in the case of a shared additional pension, in the circumstances specified in section 55C(3) of the SSCBA; and
  - (c) in the case of graduated retirement benefit, in the circumstances specified in section 36(4) and (4A) of the National Insurance Act 1965.

- (4) This sub-paragraph applies where a person who has attained the qualifying age for state pension credit:
- (a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme;
  - (b) fails to purchase an annuity with the funds available in that scheme; and
  - (c) either—
    - (i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder, or
    - (ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or
    - (iii) income withdrawal is not available to him under that scheme.
- (5) Where sub-paragraph (4) applies, the amount of any income foregone is to be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.
- (6) The amount of any income foregone in a case where sub-paragraph (4)(c)(i) or (ii) applies is to be the “rate of the annuity which may have been purchased with the fund and must be determined by the authority, taking account of information provided by the pension fund holder.
- (7) The amount of any income foregone in a case where sub-paragraph (4)(c)(iii) applies is to be the income that the applicant could have received without purchasing an annuity had the funds held under the relevant scheme been held under a personal pension scheme or occupational pension scheme where income withdrawal was available and is to be determined in the manner specified in sub-paragraph (6).
- (8) In sub-paragraph (4), “money purchase benefits” has the same meaning as in the Pension Schemes Act 1993.
- (9) Subject to sub-paragraphs (10) and (12), a person is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a reduction under this scheme or increasing the amount of the reduction.
- (10) Sub-paragraph (9) does not apply in respect of the amount of an increase of pension or benefit where a person, having made an election in favour of that increase of pension or benefit under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005, changes that election in accordance with regulations made under Schedule 5 or 5A to that Act in favour of a lump sum.
- (11) In sub-paragraph (10), “lump sum” means a lump sum under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005.
- (12) Sub-paragraph (9) does not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of an applicant participating as a service user.
- (13) Where an applicant is in receipt of any benefit under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the authority must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects to apply, to the date on which the altered rate is to take effect.
- (14) In the case of an applicant who has, or whose partner has, an award of state pension credit comprising only the savings credit, where the authority treats the applicant as possessing any benefit at the altered rate in accordance with sub-paragraph (13), the authority must—
- (a) determine the income and capital of that applicant in accordance with paragraph 36(1) (calculation of applicant's income in savings credit only cases: pensioners) where the calculation or estimate of that income and capital is altered with effect from a date on or after

1st April in any year but not more than 14 days thereafter; and

- (b) treat that applicant as possessing such income and capital at the altered rate by reference to the date selected by the relevant authority to apply in its area, for the purposes of establishing the period referred to in sub-paragraph (13).

(15) For the purposes of sub-paragraph (9), a person is not to be regarded as depriving himself of income where:

- (a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme, and
- (b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004

(16) In sub-paragraph (15), “registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004.

#### **46.0 Income paid to third parties: pensioners**

(1) Any payment of income, other than a payment specified in sub-paragraph (2) or (3), to a third party in respect of an applicant who is a pensioner is to be treated as possessed by the applicant.

(2) Sub-paragraph (1) does not apply in respect of a payment of income made under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—

- (a) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
- (b) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
- (c) the person referred to in paragraph (a) and his partner does not possess, or is not treated as possessing, any other income apart from that payment.

(3) Sub-paragraph (1) does not apply in respect of any payment of income other than earnings, or earnings derived from employment as an employed earner, arising out of an applicant participating as a service user.

#### **Income: persons who are not pensioners**

#### **47.0 Average weekly earnings of employed earners: persons who are not pensioners**

(1) Where the income of an applicant who is not a pensioner consists of earnings from employment as an employed earner his average weekly earnings must be estimated by reference to his earnings from that employment—

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

(2) Where the applicant has been in his employment for less than the period specified in sub-paragraph (1)(a)(i) or (ii)—

- (a) if he has received any earnings for the period that he has been in that employment and those earnings are likely to represent his average weekly earnings from that employment his average

weekly earnings must be estimated by reference to those earnings;  
(b) in any other case, the authority must estimate the applicant's average weekly earnings.

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

(4) For the purposes of this paragraph the applicant's earnings are to be calculated in accordance with paragraphs 51 and 52 (earnings of employed earners: persons who are not pensioners).

#### **48.0 Average weekly earnings of self-employed earners: persons who are not pensioners**

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

(2) For the purposes of this paragraph the applicant's earnings must be calculated in accordance with paragraphs 53, 61 and 62 (earnings, and net profit, of self-employed earners).

#### **49.0 Average weekly income other than earnings: persons who are not pensioners**

(1) The income of an applicant who is not a pensioner which does not consist of earnings must, except where sub-paragraph (2) applies, be estimated over such period as is appropriate in order that his average weekly income may be estimated accurately but the length of the period must not in any case exceed 52 weeks; and nothing in this paragraph authorises an authority to disregard any such income other than that specified in Schedule 8 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners).

(2) The period over which any benefit under the benefit Acts is to be taken into account is to be the period in respect of which that benefit is payable.

(3) For the purposes of this paragraph income other than earnings is to be calculated in accordance with paragraph 54 (calculation of income other than earnings: persons who are not pensioners).

#### **50.0 Calculation of weekly income of employed earners: persons who are not pensioners**

(1) For the purposes of paragraphs 47 (average weekly earnings of employed earners), 49 (average weekly income other than earnings) and 59 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made—

(a) does not exceed a week, the weekly amount is to be the amount of that payment;

(b) exceeds a week, the weekly amount is to be determined—

(i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;

(ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the product by 7.

(2) For the purposes of paragraph 48 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant is to be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the product by 7.

#### **51.0 Earnings of employed earners: persons who are not pensioners**

(1) Subject to sub-paragraph (2), "earnings", in the case of employment as an employed earner of a person who is not a pensioner, means any remuneration or profit derived from that employment and includes:



- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
- (e) any payment by way of a retainer;
- (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
  - (i) travelling expenses incurred by the applicant between his home and place of employment;
  - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
- (g) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
- (h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
- (i) any such sum as is referred to in section 112 of the SSCBA (certain sums to be earnings for social security purposes);
- (j) any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
- (k) any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;
- (l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001 as amended<sup>7</sup>.

(2) Earnings does not include—

- (a) subject to sub-paragraph (3), any payment in kind;
- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- (c) any occupational pension;
- (d) any payment in respect of expenses arising out of an applicant participating as a service user..

(3) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub-paragraph (1)(l).

## **52.0 Calculation of net earnings of employed earners: persons who are not pensioners**

- (1) For the purposes of paragraph 47 (average weekly earnings of employed earners: persons who are not pensioners), the earnings of an applicant who is not a pensioner derived or likely to be derived from employment as an employed earner to be taken into account must, subject to sub-paragraph (2), be his net earnings.
- (2) There is to be disregarded from an applicant's net earnings, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners).
- (3) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (6) applies,

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<sup>7</sup> Social Security (Contributions)(Amendment) Regulations 2013, Social Security (Contributions)(Amendment No.2) Regulations 2013 and Social Security (Contributions)(Amendment No.2) Regulations 2013

be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—

(a) any amount deducted from those earnings by way of—  
 (i) income tax;

(ii) primary Class 1 contributions under the SSCBA;

(b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;

(c) one-half of the amount calculated in accordance with sub-paragraph (5) in respect of any qualifying contribution payable by the applicant; and

(d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the SSCBA.

(4) In this paragraph “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.

(5) The amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this paragraph the daily amount of the qualifying contribution is to be determined—

(a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 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.

(6) Where the earnings of an applicant are estimated under paragraph 47(2)(b) (average weekly earnings of employed earners: classes D to F), his net earnings is to be calculated by taking into account those earnings over the assessment period, less:

(a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007 (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;

(b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and

(c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

### **53.0 Earnings of self-employed earners: persons who are not pensioners**

(1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner of a person who is not a pensioner, means the gross income of the employment.

(2) “Earnings” does not include any payment to which paragraph 31 or 32 of Schedule 8 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant's care) nor does it include any sports award.

(3) This paragraph applies to:

(a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright,

- design, patent or trade mark; or
- (b) any payment in respect of any—
- (i) book registered under the Public Lending Right Scheme 1982; or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,

where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.

- (4) Where the applicant's earnings consist of any items to which sub-paragraph (3) applies, those earnings must be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction is to be treated as a corresponding fraction of a week) by dividing the earnings by:
- (a) the amount of reduction under this scheme to which the applicant would have been entitled had the payment not been made, plus
  - (b) an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) as appropriate in the applicant's case.

#### **54.0 Calculation of income other than earnings: persons who are not pensioners**

- (1) For the purposes of paragraph 49 (average weekly income other than earnings: persons who are not pensioners), the income of an applicant who is not a pensioner which does not consist of earnings to be taken into account must, subject to sub-paragraphs (2) to (8), be his gross income and any capital treated as income under paragraph 55 (capital treated as income: persons who are not pensioners).
- (2) There is to be disregarded from the calculation of an applicant's gross income under sub-paragraph (1), any sum, where applicable, specified in Schedule 8.
- (3) Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under sub-paragraph (1) must be the gross amount payable.
- (4) Where the applicant or, where he is a member of a couple, his partner is receiving a contributory employment and support allowance and that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations 2008, the amount of that benefit to be taken into account is the amount as if it had not been reduced.
- (5) Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002 is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.
- (6) Sub-paragraphs (7) and (8) apply where—
- (a) a relevant payment has been made to a person in an academic year; and
  - (b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.
- (7) Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of sub-paragraph (1) in respect of a person to whom sub-paragraph (7) applies, is to be calculated by applying the formula—

$$\frac{A - (B \times C)}{D}$$

Where

- (a) A = the total amount of the relevant payment which that person would have received had he

remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under paragraph 81(5) (costs of travel, books and equipment);

- (b) B = the number of 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) C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under paragraph 81(2) (treatment of student loans) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to a reduction under this scheme immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit;
- (d) D = the number of reduction weeks in the assessment period.

(8) Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of sub-paragraph (1) in respect of a person to whom sub-paragraph (7) applies, is to be calculated by applying the formula in sub-paragraph (8) but as if—

A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under paragraph 81(5).

(9) In this paragraph—

“academic year” and “student loan” have the same meanings as in Part 11 (students);

“assessment period” means

- (a) in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;
- (b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes—
  - (i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or
  - (ii) the last day of the last quarter for which an instalment of the relevant payment was payable to that person,

whichever of those dates is earlier;

“quarter” in relation to an assessment period means a period in that year beginning on—

- (c) 1st January and ending on 31st March;
- (d) 1st April and ending on 30th June;
- (e) 1st July and ending on 31st August; or
- (f) 1st September and ending on 31st December;

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in paragraph 76(7) or both.

(10) For the avoidance of doubt there must be included as income to be taken into account under sub-paragraph (1)—

- (a) any payment to which paragraph 41(2) or 51(2) (payments not earnings) applies; or
- (b) in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act 1999 including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act 1999.

## 55.0 Capital treated as income: persons who are not pensioners

- (1) Any capital payable by instalments which are outstanding at the date on which the application is made or treated as made, or, at the date of any subsequent revision or supersession, must, if the aggregate of the instalments outstanding and the amount of the applicant's capital otherwise calculated in accordance with Chapter 7 of this Part exceeds £16,000, be treated as income.
- (2) Any payment received under an annuity is to be treated as income.
- (3) Any earnings to the extent that they are not a payment of income is to be treated as income.
- (4) Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 is to be treated as income.
- (5) Where an agreement or court order provides that payments must be made to the applicant in consequence of any personal injury to the applicant and that such payments are to be made, wholly or partly, by way of periodic payments, any such periodic payments received by the applicant (but not a payment which is treated as capital by virtue of this Part), is to be treated as income.

## **56.0 Notional income: persons who are not pensioners**

- (1) An applicant who is not a pensioner is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a reduction under a council tax reduction scheme or increasing the amount of the reduction.
- (2) Except in the case of—
  - (a) a discretionary trust;
  - (b) a trust derived from a payment made in consequence of a personal injury;
  - (c) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
  - (d) any sum to which paragraph 50(2)(a) of Schedule 10 (capital disregards: persons who are not pensioners) applies which is administered in the way referred to in paragraph 50(1)(a);
  - (e) any sum to which paragraph 51(a) of Schedule 10 refers;
  - (f) rehabilitation allowance made under section 2 of the Employment and Training Act 1973;
  - (g) child tax credit;
  - (h) working tax credit, or
  - (i) any sum to which sub-paragraph (11) applies,  
any income which would become available to the applicant upon application being made, but which has not been acquired by him, is to be treated as possessed by the applicant but only from the date on which it could be expected to be acquired were an application made.
- (3) Any payment of income, other than a payment of income specified in sub-paragraph (4), made—
  - (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
  - (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
  - (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

- (4) Sub-paragraph (3) does not apply in respect of a payment of income made—
- (a) under or by the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);
  - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal);
  - (c) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
    - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996;
    - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
    - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
    - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
    - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
  - (d) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
  - (e) in respect of a person's participation in the Mandatory Work Activity Scheme;
  - (f) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
  - (g) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
    - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
    - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
    - (iii) the person referred to in sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.
- (5) Where an applicant is in receipt of any benefit under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the authority must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects, to the date on which the altered rate is to take effect.
- (6) Subject to sub-paragraph (7), where—
- (a) an applicant performs a service for another person; and
  - (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,  
the authority must treat the applicant as possessing such earnings (if any) as is reasonable for that employment unless the applicant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.
- (7) Sub-paragraph (6) does not apply—
- (a) to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge; or
  - (b) in a case where the service is performed in connection with—
    - (i) the applicant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations 1996, other than where the service is performed in connection with the applicant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations; or
    - (ii) the applicant's or the applicant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme; or

- (c) to an applicant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.
- (8) In sub-paragraph (7)(c) “work placement” means practical work experience which is not undertaken in expectation of payment.
- (9) Where an applicant is treated as possessing any income under any of sub-paragraphs (1) to (8), the foregoing provisions of this Part apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.
- (10) Where an applicant is treated as possessing any earnings under sub-paragraph (6) the foregoing provisions of this Part apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph 42(2) or 52(3) (calculation of net earnings of employed earners: pensioners and persons who are not pensioners, respectively) do not apply and his net earnings are to be calculated by taking into account those earnings which he is treated as possessing, less—
- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007 (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
  - (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
  - (c) one-half of any sum payable by the applicant by way of a contribution towards an occupational or personal pension scheme.
- (11) Sub-paragraphs (1), (2), (3) and (6) do not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of an applicant participating as a service user.

## **Income: further provisions applying to pensioners and persons who are not pensioners**

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

- (1) Subject to paragraph 60 (disregard of changes in tax, etc.), the income of an applicant is to be calculated on a weekly basis—
- (a) by estimating the amount which is likely to be his average weekly income in accordance with this Part;
  - (b) by adding to that amount the weekly income calculated—
    - (i) if the applicant is a pensioner, under paragraph 71 (tariff income: pensioners);
    - (ii) if the applicant is a person who is not a pensioner, under paragraph 72 (tariff income: persons who are not pensioners); and
  - (c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which paragraph 58 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that sub-paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in sub-paragraph (3) applies in his case.
- (2) The conditions of this paragraph are that—
- (a) the applicant's earnings which form part of his average weekly income are less than the lower of either his relevant child care charges or whichever of the deductions specified in sub-paragraph (3) otherwise applies in his case; and

(b) that applicant or, if he is a member of a couple either the applicant or his partner, is in receipt of either working tax credit or child tax credit.

(3) The maximum deduction to which sub-paragraph (1)(c) above refers is to be—

- (a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week;
- (b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.

## **58.0 Treatment of child care charges**

(1) This paragraph applies where an applicant (within the meaning in this paragraph) is incurring relevant child care charges and—

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

(2) For the purposes of sub-paragraph (1) and subject to sub-paragraph (4), a person to whom sub-paragraph (3) applies must be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he—

- (a) is paid statutory sick pay;
- (b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the SSCBA;
- (c) is paid an employment and support allowance;
- (d) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support (General) Regulations 1987; 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.

(3) This sub-paragraph applies to a person who was engaged in remunerative work immediately before—

- (a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
- (b) the first day of the period in respect of which earnings are credited, as the case may be.

(4) In a case to which sub-paragraph (2)(d) or (e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.

(5) Relevant child care charges are those charges for care to which sub-paragraphs (6) and (7) apply, and are to be calculated on a weekly basis in accordance with sub-paragraph (10).

(6) The charges are paid by the applicant for care, which is provided—

- (a) in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or
- (b) in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.

(7) The charges are paid for care which, is provided by one or more of the care providers listed in sub-



paragraph (8) and are not paid—

- (a) in respect of the child's compulsory education;
- (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with paragraph 7 (circumstances in which a person is treated as responsible or not responsible for another); or
- (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.

(8) The care to which sub-paragraph (7) refers may be provided—

- (a) out of school hours, by a school on school premises or by a local authority—
  - (i) for children who are not disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or
  - (ii) for children who are disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday; or
- (b) by a child care provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999; or
- (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or
- (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010; or
- (e) by—
  - (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010; or
  - (ii) local authorities registered under section 83(1) of that Act, where the care provided is child minding or day care of children within the meaning of that Act; or
- (f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002; or
- (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or
- (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
- (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
- (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of “childcare” for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
- (k) by a foster parent or kinship carer under the Fostering Services Regulations 2011, 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 provider of personal care within the meaning of paragraph 1 of Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 and being a regulated activity prescribed by those Regulations; or
- (m) by a person who is not a relative of the child wholly or mainly in the child's home.

(9) In sub-paragraphs (6) and (8)(a), “the first Monday in September” means the Monday which first occurs in the month of September in any year.

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

- (11) For the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where—
- (a) the applicant is a pensioner and the other member of the couple is aged not less than 80;
  - (b) the applicant is a pensioner and the other member of the couple is aged less than 80, and—
    - (i) the additional condition specified in paragraph 10 of Schedule 3 (additional condition for the disability premium) to this scheme is treated as applying in his case; and
    - (ii) he satisfies that conditions or would satisfy it but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
  - (c) the applicant is not a pensioner, the applicant's applicable amount includes a disability premium on account of the other member's incapacity or the support component or the work-related activity component on account of his having limited capability for work;
  - (d) the applicant is not a pensioner, the applicant's applicable amount would include a disability premium on account of the other member's incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
  - (e) the applicant's applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008;
  - (f) he is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;
  - (g) he is, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
  - (h) there is payable in respect of him one or more of the following pensions or allowances—
    - (i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the SSCBA;
    - (ii) attendance allowance under section 64 of the SSCBA;
    - (iii) severe disablement allowance under section 68 of the SSCBA;
    - (iv) disability living allowance under section 71 of the SSCBA;
    - (v) personal independence payment;
    - (vi) an AFIP;
    - (vii) increase of disablement pension under section 104 of the SSCBA;
    - (viii) a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under sub-paragraph (ii), (iv), (v) or (vii) above;
    - (ix) main phase employment and support allowance;
  - (i) a pension or allowance to which sub-paragraph (vii) or (viii) of paragraph (h) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this paragraph means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005;
  - (j) an attendance allowance under section 64 of the SSCBA or disability living allowance would be payable to that person but for—
    - (i) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA;
    - or
    - (ii) an abatement as a consequence of hospitalisation;
  - (k) the daily living component of personal independence payment would be payable to that person but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);

- (l) an AFIP would be payable to that person but for any suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
- (m) paragraph (h), (i), (j) or (k) would apply to him if the legislative provisions referred to in those paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
- (n) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006 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.

(12) For the purposes of sub-paragraph (11), once sub-paragraph (11)(f) applies to the person, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that sub-paragraph is, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter to apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.

(13) For the purposes of sub-paragraph (11), once sub-paragraph (11)(g) applies to the person, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter to apply to him for so long as he has, or is treated as having, limited capability for work.

- (14) For the purposes of sub-paragraphs (6) and (8)(a), a person is disabled if he is a person—
- (a) to whom an attendance allowance or the care component of disability allowance is payable or would be payable but for—
    - (i) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
    - (ii) an abatement as a consequence of hospitalisation;
  - (b) to whom the daily living component of personal independence payment is payable or would be payable but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
  - (c) who is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
  - (d) who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.

- (15) For the purposes of sub-paragraph (1) a person on maternity leave, paternity leave or adoption leave is to be treated as if he is engaged in remunerative work for the period specified in sub-paragraph (16) (“the relevant period”) provided that—
- (a) in the week before the period of maternity leave, paternity leave or adoption leave began he was in remunerative work;
  - (b) the applicant is incurring relevant child care charges within the meaning of sub-paragraph (5); and
  - (c) he is entitled to either statutory maternity pay under section 164 of the SSCBA, ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, additional statutory paternity pay by virtue of section 171ZEA or 171ZEB of that Act, statutory adoption pay by of section 171ZL of that Act, maternity allowance under section 35 of that Act or qualifying support.

- (16) For the purposes of sub-paragraph (15) the relevant period begins on the day on which the person's maternity, paternity leave or adoption leave commences and ends on—
- (a) the date that leave ends;

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

(17) In sub-paragraphs (15) and (16)—

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

(18) In this paragraph “applicant” does not include an applicant

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

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

- (1) This paragraph applies where an applicant receives a tax credit.
- (2) Where this paragraph applies, the period over which a tax credit is to be taken into account is the period set out in sub-paragraph (3).
- (3) Where the instalment in respect of which payment of a tax credit is made is—
  - (a) a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;
  - (b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;
  - (c) a two weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;
  - (d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.
- (4) For the purposes of this paragraph “tax credit” means child tax credit or working tax credit.

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

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

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

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

- (1) For the purposes of paragraphs 48 (average weekly earnings of self-employed earners: persons who

are not pensioners) and 57 (calculation of income on a weekly basis) the earnings of an applicant to be taken into account must be—

(a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;

(b) in the case of a self-employed earner who is a pensioner whose employment is carried on in partnership, his share of the net profit derived from that employment, less—

(i) an amount in respect of income tax and of national insurance contributions payable under the SSCBA calculated in accordance with paragraph 62 (deduction of tax and contributions of self-employed earners); and

(ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium;

(c) in the case of a self-employed earner who is not a pensioner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975, his share of the net profit derived from that employment, less—

(i) an amount in respect of income tax and of national insurance contributions payable under the SSCBA calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and

(ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(2) There must be disregarded from the net profit of an applicant who is not a pensioner, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners).

(3) For the purposes of sub-paragraph (1)(a) the net profit of the employment must, except where sub-paragraph (9) applies, be calculated by taking into account the earnings of the employment over the assessment period less—

(a) subject to sub-paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of that employment;

(b) an amount in respect of—

(i) income tax; and

(ii) social security contributions payable under the SSCBA, calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and

(c) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(4) For the purposes of sub-paragraph (1)(b) the net profit of the employment is to be calculated by taking into account the earnings of the employment over the assessment period less, subject to sub-paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

(5) Subject to sub-paragraph (6), no deduction is to be made under sub-paragraph (3)(a) or (4), in respect of—

(a) any capital expenditure;

(b) the depreciation of any capital asset;

(c) any sum employed or intended to be employed in the setting up or expansion of the employment;

(d) any loss incurred before the beginning of the assessment period;

(e) the repayment of capital on any loan taken out for the purposes of the employment;

(f) any expenses incurred in providing business entertainment; and

(g) in the case of an applicant who is not a pensioner, any debts, except bad debts proved to be such, but this paragraph does not apply to any expenses incurred in the recovery of a debt.

(6) A deduction is to be made under sub-paragraph (3)(a) or (4) in respect of the repayment of capital

on any loan used for—

- (a) the replacement in the course of business of equipment or machinery; or
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

(7) The authority must refuse to make a deduction in respect of any expenses under sub-paragraph (3)(a) or (4) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.

(8) For the avoidance of doubt—

- (a) a deduction must not be made under sub-paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction must be made thereunder in respect of—
  - (i) the excess of any value added tax paid over value added tax received in the assessment period;
  - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
  - (iii) any payment of interest on a loan taken out for the purposes of the employment.

(9) Where an applicant is engaged in employment as a child minder the net profit of the employment is to be one-third of the earnings of that employment, less—

- (a) an amount in respect of—
  - (i) income tax; and
  - (ii) national insurance contributions payable under the SSCBA, calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and
- (b) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium

(10) For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments must not be offset against his earnings in any other of his employments.

(11) The amount in respect of any qualifying premium is to be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this paragraph the daily amount of the qualifying premium must be determined—

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

(12) In this paragraph, “qualifying premium” means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of application.

## **62.0 Calculation of deduction of tax and contributions of self-employed earners**

(1) The amount to be deducted in respect of income tax under paragraph 61(1)(b)(i), (3)(b)(i) or (9)(a)(i) (calculation of net profit of self-employed earners) must be calculated—

- (a) on the basis of the amount of chargeable income, and
- (b) as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007 (personal allowances) as is appropriate to his circumstances.

(2) But, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph must be calculated

on a pro rata basis.

- (3) The amount to be deducted in respect of national insurance contributions under paragraph 60(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) is the total of—
  - (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the SSCBA at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of that Act (small profits threshold) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year must be reduced pro rata; and
  - (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the SSCBA (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits must be reduced pro rata.
- (4) In this paragraph "chargeable income" means
  - (a) except where paragraph (b) applies, the earnings derived from the employment less any expenses deducted under sub-paragraph (3)(a) or, as the case may be, (5) of paragraph 61;
  - (b) in the case of employment as a child minder, one-third of the earnings of that employment.

### **63.0 Calculation of capital**

- (1) The capital of an applicant to be taken into account must be, subject to sub-paragraph (2), the whole of his capital calculated in accordance with this Part and (in the case of persons who are not pensioners) any income treated as capital under paragraph 64 (income treated as capital: persons who are not pensioners).
- (2) There must be disregarded from the calculation of an applicant's capital under sub-paragraph (1), any capital, where applicable, specified in—
  - (a) Schedule 9, in relation to pensioners;
  - (b) Schedule 10, in relation to persons who are not pensioners.
- (3) In the case of an applicant who is a pensioner, his capital is to be treated as including any payment made to him by way of arrears of—
  - (a) child tax credit;
  - (b) working tax credit;
  - (c) state pension credit,if the payment was made in respect of a period for the whole or part of which a reduction under this scheme was allowed before those arrears were paid.
- (4) The capital of a child or young person who is a member of the family of an applicant who is not a pensioner must not be treated as capital of the applicant.

### **64.0 Income treated as capital: persons who are not pensioners**

- (1) This paragraph applies in relation to persons who are not pensioners.
- (2) Any bounty derived from employment to which paragraph 9 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) applies and paid at intervals of at least one year is to be treated as capital.
- (3) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E is to be treated as capital.
- (4) Any holiday pay which is not earnings under paragraph 41(1)(d) or 51(1)(d) (earnings of employed earners) is to be treated as capital.

- (5) Except any income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17, 30 to 33, 50 or 51 of Schedule 10 (capital disregards: persons who are not pensioners), any income derived from capital is to be treated as capital but only from the date it is normally due to be credited to the applicant's account.
- (6) In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer is to be treated as capital.
- (7) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Charitable Relief Fund, is to be treated as capital.
- (8) There is to be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account during the period in which that person was receiving such assistance.
- (9) Any arrears of subsistence allowance which are paid to an applicant as a lump sum must be treated as capital.
- (10) Any arrears of working tax credit or child tax credit must be treated as capital.

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

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

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

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

Capital which an applicant possesses in a country outside the United Kingdom must be calculated—

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

## **67.0 Notional capital**

- (1) An applicant is to be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to a reduction or increasing the amount of that reduction except to the extent that that capital is reduced in accordance with paragraph 68 (diminishing notional capital rule).
- (2) A person who is a pensioner who disposes of capital for the purpose of—
  - (a) reducing or paying a debt owed by the applicant; or
  - (b) purchasing goods or services if the expenditure was reasonable in the circumstances of the applicant's case,is to be regarded as not depriving himself of it.
- (3) Sub-paragraphs (4) to (6) apply in relation to applicants who are not pensioners.



- (4) Except in the case of—
- (a) a discretionary trust; or
  - (b) a trust derived from a payment made in consequence of a personal injury; or
  - (c) any loan which would be obtained only if secured against capital disregarded under Schedule 9; or
  - (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
  - (e) any sum to which paragraph 50(2)(a) of Schedule 10 (capital disregards: persons who are not pensioners) applies which is administered in the way referred to in paragraph 50(1)(a); or
  - (f) any sum to which paragraph 51(a) of Schedule 10 refers; or
  - (g) child tax credit; or
  - (h) working tax credit,  
any capital which would become available to the applicant upon application being made, but which has not been acquired by him, is to be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.
- (5) Any payment of capital, other than a payment of capital specified in sub-paragraph (6), made—
- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
  - (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
  - (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of the family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.
- (6) Sub-paragraph (5) does not apply in respect of a payment of capital made—
- (a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation, or the London Bombings Relief Charitable Fund;
  - (b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation
    - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996;
    - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
    - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
    - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
    - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
  - (c) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
  - (d) in respect of a person's participation in the Mandatory Work Activity Scheme;
  - (e) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
  - (f) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
    - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;

- (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
- (iii) the person referred to in sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

- (7) Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case—
- (a) the value of his holding in that company must, notwithstanding paragraph 63 (calculation of capital) be disregarded; and
  - (b) he must, subject to sub-paragraph (8), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter apply for the purposes of calculating that amount as if it were actual capital which he does possess.
- (8) For so long as the applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under sub-paragraph (7) is to be disregarded.
- (9) Where an applicant is treated as possessing capital under any of sub-paragraphs (1), (4) or (5) the foregoing provisions of this Chapter apply for the purposes of calculating its amount as if it were actual capital which he does possess.

#### **68.0 Diminishing notional capital rule: pensioners**

- (1) Where an applicant who is a pensioner is treated as possessing capital under paragraph 67(1) (notional capital), the amount which he is treated as possessing—
- (a) in the case of a week that is subsequent to—
    - (i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or
    - (ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by an amount determined under sub-paragraph (3);
  - (b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—
    - (i) that week is a week subsequent to the relevant week; and
    - (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied, is to be reduced by the amount determined under sub-paragraph (5).
- (2) This sub-paragraph applies to a reduction week where the applicant satisfies the conditions that—
- (a) he is in receipt of a reduction under this scheme; and
  - (b) but for paragraph 67(1), he would have received a greater reduction in council tax under this scheme in that week.
- (3) In a case to which sub-paragraph (2) applies, the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) must be equal to the aggregate of—
- (a) an amount equal to the additional amount of the reduction in council tax to which sub-paragraph (2)(b) refers;
  - (b) where the applicant has also claimed state pension credit, the amount of any state pension credit or any additional amount of state pension credit to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 21(1) of the State Pension Credit Regulations 2002 (notional capital);
  - (c) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of housing benefit to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (notional capital);
  - (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based

jobseeker's allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and

(e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).

(4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b) the condition is that the applicant is a pensioner and would have been entitled to a reduction in council tax under this scheme in the relevant week but for paragraph 67(1).

(5) In such a case the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(b) is equal to the aggregate of—

(a) the amount of the reduction in council tax to which the applicant would have been entitled in the relevant week but for paragraph 67(1);

(b) if the applicant would, but for regulation 21 of the State Pension Credit Regulations 2002, have been entitled to state pension credit in respect of the benefit week, within the meaning of regulation 1(2) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;

(c) if the applicant would, but for regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—

(i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or

(ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled;

(d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled; and

(e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.

(6) But if the amount mentioned in paragraph (a), (b), (c), (d) or (e) of sub-paragraph (5) ("the relevant amount") is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—

(a) dividing the relevant amount by the number equal to the number of days in that part-week, and

(b) multiplying the result of that calculation by 7.

(7) The amount determined under sub-paragraph (5) is to be re-determined under that sub-paragraph if the applicant makes a further application and the conditions in sub-paragraph (8) are satisfied, and in such a case—

(a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words "relevant week" there were substituted the words "relevant subsequent week"; and

(b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.

(8) The conditions are that—

(a) a further application is made 26 or more weeks after—

(i) the date on which the applicant made an application in respect of which he was first treated as possessing the capital in question under paragraph 67(1);

- (ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (11), the date on which he last made an application which resulted in the weekly amount being re-determined, or
  - (iii) the date on which he last ceased to be entitled to a reduction under this scheme, whichever last occurred; and
  - (b) the applicant would have been entitled to a reduction under this scheme but for paragraph 67(1).
- (9) The amount as re-determined pursuant to sub-paragraph (7) must not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.
- (10) For the purposes of this paragraph—
- “part-week”—
- (a) in relation to an amount mentioned in sub-paragraph (5)(a), means a period of less than a week for which a reduction in council tax under this scheme is allowed;
  - (b) in relation to an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;
  - (c) in relation to an amount mentioned in sub-paragraph (5)(c), (d) or (e), means—
    - (i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and
    - (ii) any other period of less than a week for which it is payable;
- “relevant week” means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 67(1)—
- (a) was first taken into account for the purpose of determining his entitlement to a reduction; or
  - (b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to a reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction; and where more than one reduction week is identified by reference to paragraphs (a) and (b) of this definition, the later or latest such reduction week or, as the case may be, the later or latest such part-week is the relevant week;
- “relevant subsequent week” means the reduction week or part-week which includes the day on which the further application or, if more than one further application has been made, the last such application was made.

## **69.0 Diminishing notional capital rule: persons who are not pensioners**

- (1) Where an applicant who is not a pensioner is treated as possessing capital under paragraph 67(1) (notional capital), the amount which he is treated as possessing—
- (a) in the case of a week that is subsequent to—
    - (i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or
    - (ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by an amount determined under sub-paragraph (3);
  - (b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—
    - (i) that week is a week subsequent to the relevant week; and
    - (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied, is to be reduced by the amount determined under sub-paragraph (5).
- (2) This sub-paragraph applies to a reduction week (or, in the case of persons who are not pensioners, part-week) where the applicant satisfies the conditions that—
- (a) he is in receipt of a reduction in council tax under this scheme; and
  - (b) but for paragraph 67(1), he would have received a greater reduction in council tax under this scheme in that week.

- (3) In a case to which sub-paragraph (2) applies, the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) is equal to the aggregate of—
- (a) an amount equal to the additional amount of the reduction in council tax to which sub-paragraph (2)(b) refers;
  - (b) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 49(1) of the Housing Benefit Regulations 2006 (notional capital);
  - (c) where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 51(1) of the Income Support (General) Regulations 1987 (notional capital);
  - (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and
  - (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).
- (4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b) the condition is that the applicant is not a pensioner and would have been entitled to a reduction in council tax in the relevant week but for paragraph 67(1).
- (5) In such a case the amount of the reduction in the amount of capital he is treated as possessing must be equal to the aggregate of—
- (a) the amount of council tax benefit to which the applicant would have been entitled in the relevant week but for paragraph 67(1);
  - (b) if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—
    - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
    - (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled;
  - (c) if the applicant would, but for regulation 51(1) of the Income Support (General) Regulations 1987, have been entitled to income support in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;
  - (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled; and
  - (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.
- (6) But if the amount mentioned in paragraph (a), (b), (c), (d) or (e) of sub-paragraph (5) ("the relevant amount") is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—
- (a) dividing the relevant amount by the number equal to the number of days in that part-week,

and

(b) multiplying the result of that calculation by 7.

(7) The amount determined under sub-paragraph (5) is to be re-determined under the appropriate sub-paragraph if the applicant makes a further application and the conditions in sub-paragraph (8) are satisfied, and in such a case—

(a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words ““relevant week”” there were substituted the words ““relevant subsequent week””; and

(b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.

(8) The conditions are that—

(a) a further application is made 26 or more weeks after—

(i) the date on which the applicant made an application for a reduction under this scheme in respect of which he was first treated as possessing the capital in question under paragraph 67(1);

(ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (7), the date on which he last made an application under this scheme which resulted in the weekly amount being re-determined, or

(iii) the date on which he last ceased to be entitled to a reduction under this scheme, whichever last occurred; and

(b) the applicant would have been entitled to a reduction under this scheme but for paragraph 67(1).

(9) The amount as re-determined pursuant to sub-paragraph (6) must not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.

(10) For the purposes of this paragraph—  
“part-week”

(a) in relation to an amount mentioned in sub-paragraph (5)(a), means a period of less than a week for which a reduction under this scheme is allowed;

(b) in relation to an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;

(c) in relation to an amount mentioned in sub-paragraph (5)(c), (d) or (e), means—

(i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and

(ii) any other period of less than a week for which it is payable;

“relevant week” means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 67(1)—(a) was first taken into account for the purpose of determining his entitlement to a reduction; or

(b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to a reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction,

and where more than one reduction week is identified by reference to paragraphs (a) and (b) of this definition, the later or latest such reduction week or, as the case may be, the later or latest such part-week is the relevant week;

“relevant subsequent week” means the reduction week or part-week which includes the day on which the further application or, if more than one further application has been made, the last such application was made.

## **70.0 Capital jointly held**

Except where an applicant possesses capital which is disregarded under paragraph 67(7) (notional capital), where an applicant and one or more persons are beneficially entitled in possession to any capital asset they must be treated, in the absence of evidence to the contrary, as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter apply for the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital which the applicant does possess.

## **71.0 Calculation of tariff income from capital: pensioners**

The capital of an applicant who is a pensioner, calculated in accordance with this Part, is to be treated as if it were a weekly income of—

- (a) £1 for each £500 in excess of £10,000 but not exceeding £16,000; and
- (b) £1 for any excess which is not a complete £500.

## **72.0 Calculation of tariff income from capital: persons who are not pensioners**

The capital of an applicant who is not a pensioner, calculated in accordance with this Part, is to be treated as if it were a weekly income of—

- (a) £1 for each £250 in excess of £6,000 but not exceeding £16,000;
- (b) £1 for any excess which is not a complete £250.

**STUDENTS**



## 73.0 Interpretation

(1) In this Part—

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

**“access funds”** means

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

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

**“contribution”** means

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

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

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

**“education authority”** means a government department, a local authority as defined in section 579 of the Education Act 1996 (interpretation), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973, an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986, any body which is a research council for the purposes of the Science and Technology Act 1965 or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

**“full-time course of study”** means a full-time course of study which

- (a) is not funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;
- (b) is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—

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

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

**“grant”** (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds or any payment to which paragraph 16 of Schedule 8 or paragraph 55 of Schedule 10 (allowances and payments for courses of study) applies;

**“grant income”** means

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

**“higher education”** means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992;

**“last day of the course”** means

- (a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;
- (b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

**“period of study”** means

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year's start and ending with either—
  - (i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or
  - (ii) in any other case, the day before the start of the normal summer vacation appropriate to his course;
- (c) in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;

**“periods of experience”** means periods of work experience which form part of a sandwich course;

**“qualifying course”** means a qualifying course as defined for the purposes of Parts 2 and 4 of the Jobseeker's Allowance Regulations 1996;

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

**“standard maintenance grant”** means

- (a) except where paragraph (b) or (c) applies, in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time

being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (“the 2003 Regulations”) for such a student;

(b) except where paragraph (c) applies, in the case of a student residing at his parent's home, the amount specified in paragraph 3 thereof;

(c) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as “standard maintenance allowance” for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the Student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;

(d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof;

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

(a) a course of study at an educational establishment; or

(b) a qualifying course;

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

(2) For the purposes of the definition of **“full-time student”** in sub-paragraph (1), a person must be regarded as attending or, as the case may be, undertaking a full-time course of study or as being on a sandwich course—

(a) subject to sub-paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending—

(i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or

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

(b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

(3) For the purposes of paragraph (a) of sub-paragraph (2), the period referred to in that paragraph includes—

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

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

(4) In sub-paragraph (2), “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

## 74.0 Treatment of students

This scheme has effect in relation to students who are not pensioners subject to the following provisions of this Part.

## 75.0 Students who are excluded from entitlement to a reduction under this scheme

(1) The students who are excluded from entitlement to a reduction under this scheme are, subject to

sub-paragraphs (2) and (7)—

- (a) full-time students, and
- (b) students who are persons treated as not being in Great Britain.

(2) Sub-paragraph (1)(b) does not apply to a student—

- (a) who is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance;
- (b) who is a lone parent;
- (c) whose applicable amount would, but for this paragraph, include the disability premium or severe disability premium;
- (d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
- (e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;
- (f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
- (g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;
- (h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989 or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;
- (i) who is—
  - (i) aged under 21 and whose course of study is not a course of higher education,
  - (ii) aged 21 and attained that age during a course of study which is not a course of higher education, or
  - (iii) a qualifying young person or child within the meaning of section 142 of the SSCBA (child and qualifying young person);
- (j) in respect of whom—
  - (i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;
  - (ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;
  - (iii) a payment has been made under or by virtue of regulations made under the Teaching and Higher Education Act 1998;
  - (iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or
  - (v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986, on account of his disability by reason of deafness.

(3) Sub-paragraph (2)(i)(ii) only applies to an applicant until the end of the course during which the applicant attained the age of 21.

(4) For the purposes of sub-paragraph (2), once sub-paragraph (2)(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work,

that sub-paragraph must, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.

- (5) In sub-paragraph (2)(i) the reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.
- (6) A full-time student to whom sub-paragraph (2)(i) applies must be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.
- (7) Sub-paragraph (1)(b) does not apply to a full-time student for the period specified in sub-paragraph (8) if—
  - (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is—
    - (i) engaged in caring for another person; or
    - (ii) ill;
  - (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
  - (c) he is not eligible for a grant or a student loan in respect of the period specified in sub-paragraph (8).
- (8) The period specified for the purposes of sub-paragraph (7) is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before—
  - (a) the day on which he resumes attending or undertaking the course; or
  - (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course, whichever first occurs.

## **76.0 Calculation of grant income**

- (1) The amount of a student's grant income to be taken into account in assessing his income must, subject to sub-paragraphs (2) and (3), be the whole of his grant income.
- (2) There must be excluded from a student's grant income any payment—
  - (a) intended to meet tuition fees or examination fees;
  - (b) in respect of the student's disability;
  - (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
  - (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
  - (e) on account of any other person but only if that person is residing outside the United Kingdom and there is no applicable amount in respect of him;
  - (f) intended to meet the cost of books and equipment;
  - (g) intended to meet travel expenses incurred as a result of his attendance on the course;
  - (h) intended for the child care costs of a child dependant;
  - (i) of higher education bursary for care leavers made under Part 3 of the Children Act 1989.
- (3) Where a student does not have a student loan and is not treated as possessing such a loan, there must be excluded from the student's grant income—
  - (a) the sum of £303 per academic year in respect of travel costs; and
  - (b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any such costs are incurred.
- (4) There must also be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education

(Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.

- (5) Subject to sub-paragraphs (6) and (7), a student's grant income must be apportioned—
- (a) subject to sub-paragraph (8), in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the 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.
- (6) Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 must be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.
- (7) In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither sub-paragraph (6) nor paragraph 80(2) (other amounts to be disregarded) applies, must be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.
- (8) In the case of a student on a sandwich course, any periods of experience within the period of study must be excluded and the student's grant income must be apportioned equally between the weeks in the period beginning with the 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.

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

- (1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following must be the whole amount of the covenant income less, subject to sub-paragraph (3), the amount of the contribution.
- (2) The weekly amount of the student's covenant must be determined—
- (a) by dividing the amount of income which falls to be taken into account under sub-paragraph (1) by 52 or 53, whichever is reasonable in the circumstances; and
  - (b) by disregarding £5 from the resulting amount.
- (3) For the purposes of sub-paragraph (1), the contribution must be treated as increased by the amount (if any) by which the amount excluded under paragraph 76(2)(g) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

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

- (1) Where a student is not in receipt of income by way of a grant the amount of his covenant income must be calculated as follows—
- (a) any sums intended for any expenditure specified in paragraph 76(2)(a) to (e) necessary as a result of his attendance on the course must be disregarded;
  - (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, must be apportioned equally between the weeks of the period of study;

- (c) there must be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 76(2)(f) and (3) had the student been in receipt of the standard maintenance grant; and
- (d) the balance, if any, must be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 must be disregarded.

(2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income must be calculated in accordance with paragraphs (a) to (d) of sub-paragraph (1), except that—

- (a) the value of the standard maintenance grant must be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 76(2)(a) to (e); and
- (b) the amount to be disregarded under sub-paragraph (1)(c) must be abated by an amount equal to the amount of any sums disregarded under paragraph 76(2)(f) and (g) and (3).

## **79.0 Relationship with amounts to be disregarded under Schedule 8**

No part of a student's covenant income or grant income is to be disregarded under paragraph 19 of Schedule 8 (disregard of certain charitable and voluntary, etc., payments).

## **80.0 Other amounts to be disregarded**

- (1) For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with paragraph 81 (treatment of student loans), any amounts intended for any expenditure specified in paragraph 76(2) (calculation of grant income), necessary as a result of his attendance on the course must be disregarded.
- (2) But sub-paragraph (1) applies only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under paragraph 76(2) or (3), 77(3), 78(1)(a) or (c) or 81(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

## **81.0 Treatment of student loans**

- (1) A student loan is to be treated as income.
- (2) In calculating the weekly amount of the loan to be taken into account as income—
  - (a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period is to be apportioned equally between the weeks in the period beginning with—
    - (i) except in a case where sub-paragraph (ii) applies, the 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, the 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 is to be apportioned equally between the weeks in the period—
    - (i) beginning with the reduction week, the first day of which coincides with or immediately follows, the first day of that academic year, and
    - (ii) 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 authority, the longest of any vacation is taken and for the purposes of this paragraph, "quarter" has the same meaning as for the purposes of the Education (Student Support)

Regulations 2005;

(c) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year is to be apportioned equally between the weeks in the period beginning with—

(i) except in a case where sub-paragraph (ii) applies, the 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 is to 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 £10 is to be disregarded.

(3) A student is to be treated as possessing a student loan in respect of an academic year where—

(a) a student loan has been made to him in respect of that year; or

(b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.

(4) Where a student is treated as possessing a student loan under sub-paragraph (3), the amount of the student loan to be taken into account as income must be, subject to sub-paragraph (5)—

(a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to—

(i) the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so; and

(ii) any contribution whether or not it has been paid to him;

(b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—

(i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and

(ii) no deduction in that loan was made by virtue of the application of a means test.

(5) There must be deducted from the amount of income taken into account under sub-paragraph (4)—

(a) the sum of £303 per academic year in respect of travel costs; and

(b) the sum of £390 per academic year towards the cost of books and equipment, whether or not any such costs are incurred.

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

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

(1) This paragraph applies to payments from access funds that are not payments to which paragraph 85(2) or (3) (income treated as capital) applies.



- (2) A payment from access funds, other than a payment to which sub-paragraph (3) applies, must be disregarded as income.
- (3) Subject to sub-paragraph (4) of this paragraph and paragraph 40 of Schedule 8 (disregards in the calculation of income other than earnings: persons who are not pensioners)—
  - (a) any payments from access funds which are intended and used for an item of food, ordinary clothing or footwear, household fuel, or rent of a single applicant or, as the case may be, of the applicant or any other member of his family, and
  - (b) any payments from access funds which are used for any council tax or water charges for which that applicant or member is liable, must be disregarded as income to the extent of £20 per week.
- (4) Where a payment from access funds is made—
  - (a) on or after 1st September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan; or
  - (b) before the first day of the course to a person in anticipation of that person becoming a student, that payment must be disregarded as income.

### **83.0 Disregard of contribution**

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

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

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

### **85.0 Income treated as capital**

- (1) Any amount by way of a refund of tax deducted from a student's covenant income must be treated as capital.
- (2) An amount paid from access funds as a single lump sum must be treated as capital.
- (3) An amount paid from access funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear, household fuel or rent, or which is used for an item other than any council tax or water charges for which that applicant or member is liable, must be disregarded as capital but only for a period of 52 weeks from the date of the payment.

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

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

**EXTENDED REDUCTIONS**

## **Extended reductions: pensioners**

### **87.0 Extended reductions: pensioners**

Paragraphs 88 to 93 apply in relation to applicants who are pensioners.

### **88.0 Extended reductions (qualifying contributory benefits): pensioners**

- (1) Except in the case of an applicant who is in receipt of state pension credit, an applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes A to C is entitled to an extended reduction (qualifying contributory benefits) where—
  - (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
  - (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—
    - (i) commenced employment as an employed or self-employed earner;
    - (ii) increased their earnings from such employment; or
    - (iii) increased the number of hours worked in such employment,and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;
  - (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
  - (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.
- (2) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of classes A to C where—
  - (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
  - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
  - (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

### **89.0 Duration of extended reduction period (qualifying contributory benefits): pensioners**

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

### **90.0 Amount of extended reduction (qualifying contributory benefits): pensioners**

- (1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) the applicant is entitled to is the greater of—

- (a) the amount of council tax reduction to which the applicant was entitled by virtue of falling within any of classes A to C in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
- (b) the amount of reduction under this scheme to which the applicant would be entitled under by virtue of falling within any of classes A to C for any reduction week during the extended reduction period, if paragraph 88 (extended reductions (qualifying contributory benefits): pensioners) did not apply to the applicant; or
- (c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes A to C, if paragraph 88 did not apply to the applicant.

(2) Sub-paragraph (1) does not apply in the case of a mover.

(3) Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for a reduction under this scheme, the authority must not award a reduction in pursuance of that application during the extended reduction period.

### **91.0 Extended reductions (qualifying contributory benefits)—movers: pensioners**

(1) This paragraph applies—

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

(2) The amount of the extended reduction (qualifying contributory benefits) awarded from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

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

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

### **92.0 Relationship between extended reduction (qualifying contributory benefits) and entitlement to a reduction by virtue of classes A to C**

(1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 88(1)(b), that reduction does not cease to have effect until the end of the extended reduction period.

(2) Part 13 (when entitlement begins and change of circumstances) does not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 90(1)(a) or paragraph 91(2) (amount of extended reduction — movers: pensioners).

### **93.0 Continuing reductions where state pension credit claimed: pensioners**

(1) This paragraph applies where—

- (a) the applicant is entitled to a reduction under this scheme;
- (b) sub-paragraph (2) is satisfied; and
- (c) either—
  - (i) the applicant has attained the qualifying age for state pension credit or, if his entitlement to income-based jobseeker's allowance;
  - (ii) the applicant's partner has actually claimed state pension credit.

(2) This sub-paragraph is only satisfied if the Secretary of State has certified to the authority that the applicant's partner has actually claimed state pension credit or that—

- (a) the applicant's award of—
  - (i) income support has terminated because the applicant has attained the qualifying age for state pension credit; or
  - (ii) income-based jobseeker's allowance or income-related employment and support allowance has terminated because the applicant has attained the qualifying age for state pension credit; and
- (b) the applicant has claimed or is treated as having claimed or is required to make a claim for state pension credit.

(3) Subject to sub-paragraph (4), in a case to which this paragraph applies, a person continues to be entitled to a reduction under this scheme for the period of 4 weeks beginning on the day following the day the applicant's entitlement to income support or, as the case may be, income-based jobseeker's allowance, income-related employment and support allowance, ceased, if and for so long as the applicant otherwise satisfies the conditions for entitlement to a reduction under this scheme.

(4) Where a reduction under this scheme is awarded for the period of 4 weeks in accordance with sub-paragraph (3) above, and the last day of that period falls on a day other than the last day of a reduction week, then a reduction under this scheme must continue to be awarded until the end of the reduction week in which the last day of that period falls.

(5) Throughout the period of 4 weeks specified in sub-paragraph (3) and any further period specified in sub-paragraph (4)—

- (a) the whole of the income and capital of the applicant is to be disregarded;
- (b) the maximum council tax reduction amount of the applicant is to be that which was applicable in his case immediately before that period commenced.

(6) The maximum reduction is to be calculated in accordance with paragraph 29(1) if, since the date it was last calculated—

- (a) the applicant's council tax liability has increased; or
- (b) a change in the deduction under paragraph 30 falls to be made.

#### **Extended reductions: persons who are not pensioners**

#### **94.0 Extended reductions: persons who are not pensioners**

Paragraphs 95 to 104 apply in relation to applicants who are not pensioners.

#### **95.0 Extended reductions: persons who are not pensioners**

- (1) An applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes D to E is entitled to an extended reduction where—
  - (a) the applicant or the applicant's partner was entitled to a qualifying income-related benefit;
  - (b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner—
    - (i) commenced employment as an employed or self-employed earner;
    - (ii) increased their earnings from such employment; or
    - (iii) increased the number of hours worked in such employment, and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more; and
  - (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.
- (2) For the purpose of sub-paragraph (1)(c), an applicant or an applicant's partner is to be treated as

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

- (3) For the purpose of this paragraph, where an applicant or an applicant's partner is entitled to and in receipt of joint-claim jobseeker's allowance they must be treated as being entitled to and in receipt of jobseeker's allowance.
- (4) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of classes D to E where—
  - (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
  - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and
  - (c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).
- (5) This paragraph does not apply where, on the day before an applicant's entitlement to income support ceased, regulation 6(5) of the Income Support (General) Regulations 1987 (remunerative work: housing costs) applied to that applicant.

#### **96.0 Duration of extended reduction period: persons who are not pensioners**

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

#### **97.0 Amount of extended reduction: persons who are not pensioners**

- (1) For any week during the extended reduction period the amount of the extended reduction to which an applicant is entitled is to be the higher of—
  - (a) the amount of the reduction under this scheme to which the applicant was entitled by virtue of falling within any of classes D to E in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying income-related benefit;
  - (b) the amount of reduction under this scheme to which the applicant would be entitled by virtue of falling within any of classes D to E for any reduction week during the extended reduction period, if paragraph 95 (extended reductions: persons who are not pensioners) did not apply to the applicant; or
  - (c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes D to E, if paragraph 95 did not apply to the applicant.
- (2) Sub-paragraph (1) does not apply in the case of a mover.
- (3) Where an applicant is in receipt of an extended reduction under this paragraph and the applicant's partner makes an application for a reduction under this scheme, no amount of reduction under this scheme is to be awarded by the authority during the extended reduction period.

## **98.0 Extended reductions—movers: persons who are not pensioners**

- (1) This paragraph applies—
  - (a) to a mover; and
  - (b) from the Monday following the day of the move.
- (2) The amount of the extended reduction awarded from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme to which the mover would have been entitled had they, or their partner, not ceased to be entitled to a qualifying income-related benefit.
- (3) Where a mover's liability to pay council tax in respect of the new dwelling is to a second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from this authority to—
  - (a) the second authority; or
  - (b) the mover directly.

## **99.0 Relationship between extended reduction and entitlement to a reduction by virtue of classes D to F**

- (1) Where an applicant's entitlement to a reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in paragraph 95(1)(b), that entitlement does not cease until the end of the extended reduction period.
- (2) Paragraphs 106 and 107 do not apply to any extended reduction payable in accordance with paragraph 95(1)(a) or 98(2) (amount of extended reduction—movers: persons who are not pensioners).

## **100.0 Extended reductions (qualifying contributory benefits): persons who are not pensioners**

- (1) An applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes D to E is entitled to an extended reduction (qualifying contributory benefits) where—
  - (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
  - (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—
    - (i) commenced employment as an employed or self-employed earner;
    - (ii) increased their earnings from such employment; or
    - (iii) increased the number of hours worked in such employment,and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;
  - (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
  - (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.
- (2) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of classes D to E where—
  - (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
  - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
  - (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

## **101.0 Duration of extended reduction period (qualifying contributory benefits): persons who are not pensioners**

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

## **102.0 Amount of extended reduction (qualifying contributory benefits): persons who are not pensioners**

- (1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) payable to an applicant is to be the greater of—
  - (a) the amount of reduction under this scheme to which the applicant was entitled by virtue of falling within any of classes D to E in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
  - (b) the amount of reduction under this scheme to which the applicant would be entitled by virtue of falling within any of classes D to E for any reduction week during the extended reduction period, if paragraph 100 (extended reductions (qualifying contributory benefits): persons who are not pensioners) did not apply to the applicant; or
  - (c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes D to E, if paragraph 100 did not apply to the applicant.
- (2) Sub-paragraph (1) does not apply in the case of a mover.
- (3) Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for a reduction under this scheme, no amount of reduction may be allowed by the appropriate authority during the extended reduction period.

## **103.0 Extended reductions (qualifying contributory benefits)—movers: persons who are not pensioners**

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



## **104.0 Relationship between extended reduction (qualifying contributory benefits) and entitlement to reduction by virtue of classes D to E**

- (1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 100(1)(b), that reduction does not cease until the end of the extended reduction period.
- (2) Paragraphs 106 and 107 (dates on which entitlement begins and change of circumstances take effect) do not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 102(1)(a) or 103(2) (amount of extended reduction—movers: persons who are not pensioners).

### **Extended reductions: movers in the authority's area**

#### **105.0 Extended reductions: applicant moving into the authority's area**

Where—

- (a) an application is made to the authority (“the current authority”) for a reduction under this 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 this scheme by the amount of that extended reduction.

#### **106.0 Date on which entitlement begins**

- (1) Subject to sub-paragraph (2), any person by whom or in respect of whom an application for a reduction under this scheme is made and who is otherwise entitled to that reduction is so entitled from the reduction week following the date on which that application is made or is treated as made.
- (2) Where a person is otherwise entitled to a reduction under this scheme and becomes liable for the first time for the authority's council tax in respect of a dwelling of which he is a resident in the reduction week in which his application is made or is treated as made, he is so entitled from that reduction week.

#### **107.0 Date on which change of circumstances is to take effect**

- (1) Except in cases where paragraph 60 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph and (in the case of applicants who are pensioners) paragraph 108 (change of circumstance where state pension credit in payment), a change of circumstances which affects entitlement to, or the amount of, a reduction under this scheme (“change of circumstances”), takes effect from the first day of the reduction week following the date on which the change actually occurs.
- (2) Where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs is the day immediately following the last day of entitlement to that benefit.
- (3) Subject to sub-paragraph (4), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.
- (4) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under section 11 or 11A of that Act (discounts), it takes effect from the day on which the change in amount has effect.
- (5) Where the change of circumstances is the applicant's acquisition of a partner, the change takes

effect on the day on which the acquisition takes place.

- (6) Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.
- (7) If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with sub-paragraphs (1) to (6) they take effect from the day to which the appropriate sub-paragraph from (3) to (6) above refers, or, where more than one day is concerned, from the earlier day.
- (8) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the SSCBA, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances takes effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.
- (9) Without prejudice to sub-paragraph (8), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.
- (10) Sub-paragraph (11) applies if—
- (a) not used
  - (b) either—
    - (i) a non-dependant took up residence in the applicant's dwelling; or
    - (ii) there has been a change of circumstances in respect of a non-dependant so that the amount of the deduction which falls to be made under paragraph 30 increased.
- (11) Where this sub-paragraph applies, the change of circumstances referred to in sub-paragraph (10)(b) takes effect from the effective date.
- (12) In sub-paragraph (11), but subject to sub-paragraph (13), “the effective date” means
- (a) where more than one change of a kind referred to in sub-paragraph (10)(b) relating to the same non-dependant has occurred since—
    - (i) the date on which the applicant's entitlement to a reduction under this scheme first began; or
    - (ii) the date which was the last effective date in respect of such a change, whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred;
  - (b) where paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in sub-paragraph (10)(b) occurred.
- (13) If in any particular case the date determined under sub-paragraph (12) is not the first day of a reduction week, the effective date in that case is to be the first day of the next reduction week to commence after the date determined under that sub-paragraph.

## **108.0 Change of circumstances where state pension credit in payment**

- (1) Sub-paragraphs (2) and (3) apply where—
- (a) the applicant is in receipt of state pension credit;
  - (b) the amount of state pension credit awarded to him is changed in consequence of a change in the applicant's circumstances or the correction of an official error; and
  - (c) the change in the amount of state pension credit payable to the applicant results in a change

in the amount of a reduction he receives under this scheme.

- (2) Where the change of circumstance is that an increase in the amount of state pension credit payable to the applicant results in—
  - (a) an increase in the reduction he receives under this scheme, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the increased rate; or
  - (b) a decrease in the reduction he receives under this scheme, the change takes effect from the first day of the reduction week next following the date on which—
    - (i) the local authority receives notification from the Secretary of State of the increase in the amount of state pension credit; or
    - (ii) state pension credit is increased,whichever is the later.
- (3) Where the change of circumstance (“the relevant change”) is that the applicant's state pension credit has been reduced and in consequence the reduction the applicant receives under this scheme reduces—
  - (a) in a case where the applicant's state pension credit has been reduced because the applicant failed to notify the Secretary of State timeously of a change of circumstances, the relevant change takes effect from the first day of the reduction week from which state pension credit was reduced; or
  - (b) in any other case the relevant change takes effect from the first day of the reduction week next following the date on which—
    - (i) the authority receives notification from the Secretary of State of the reduction in the amount of state pension credit; or
    - (ii) state pension credit is reduced,whichever is the later.
- (4) Where the change of circumstance is that state pension credit is reduced and in consequence of the change, the amount of a reduction he receives under this scheme is increased, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the reduced rate.
- (5) Where a change of circumstance occurs in that an award of state pension credit has been made to the applicant or his partner and this would result in a decrease in the amount of reduction he receives under this scheme, the change takes effect from the first day of the reduction week next following the date on which—
  - (a) the authority receives notification from the Secretary of State of the award of state pension credit; or
  - (b) entitlement to state pension credit begins,whichever is the later.
- (6) Where, in the case of an applicant who, or whose partner, is or has been awarded state pension credit comprising only the savings credit, there is—
  - (a) a change of circumstances of a kind described in any of sub-paragraphs (2) to (5) which results from a relevant calculation or estimate; and
  - (b) a change of circumstances which is a relevant determination,

each of which results in a change in the amount of reduction the applicant receives under this scheme, the change of circumstances referred to in sub-paragraph (b) takes effect from the day specified in sub-paragraph (2), (3), (4) or (5) as the case may be, in relation to the change referred to in paragraph (a).

- (7) Where a change of circumstance occurs in that a guarantee credit has been awarded to the applicant or his partner and this would result in an increase in the amount of a reduction the applicant receives under this scheme, the change takes effect from the first day of the reduction week next following the date in respect of which the guarantee credit is first payable.

(8) Where a change of circumstances would, but for this sub-paragraph, take effect under the preceding provisions of this paragraph within the 4 week period specified in paragraph 93 (continuing reductions where state pension credit claimed), that change takes effect on the first day of the first reduction week to commence after the expiry of the 4 week period.

(9) In this paragraph—

“official error” means an error made by

(a) the authority or a person—

(i) authorised to carry out any function of the authority relating to this scheme; or

(ii) providing services relating to this scheme directly or indirectly to the authority; or

(b) an officer of—

(i) the Department for Work and Pensions; or

(ii) the Commissioners of Inland Revenue,

acting as such,

but excludes any error caused wholly or partly by any person or body not specified in paragraph (a) or (b) of this definition and any error of law which is shown to have been an error only by virtue of a subsequent decision of the court;

“relevant calculation or estimate” means the calculation or estimate made by the Secretary of State of the applicant's or, as the case may be, the applicant's partner's income and capital for the purposes of the award of state pension credit;

“relevant determination” means a change in the determination by the authority of the applicant's income and capital using the relevant calculation or estimate, in accordance with paragraph 36(1).

## **109.0 Making an application**

(1) In the case of—

(a) a couple or (subject to paragraph (b)) members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines; or

(b) in the case of members of a polygamous marriage to whom paragraph 37 (income and capital: award of universal credit) applies, an application is to be made by whichever one of the parties to the earliest marriage that still subsists they agree should so apply or, in default of agreement, by such one of them as the authority determines.

(2) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act, and—

(a) a deputy has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or

(b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on his behalf; or

(c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,

that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.

(3) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to him, the authority may, upon written application made to them by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under this scheme and to receive and deal on his behalf with any sums payable to him.

- (4) Where a person who is liable to pay council tax in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on his behalf under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act), the authority may if that person agrees, treat him as if he had been appointed by them under sub-paragraph (3).
- (5) Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4)—
- (a) it may at any time revoke the appointment;
  - (b) the person appointed may resign his office after having given 4 weeks notice in writing to the authority of his intention to do so;
  - (c) any such appointment must terminate when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).
- (6) Anything required by this scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.
- (7) The authority must—
- (a) inform any person making an application of the duty imposed by paragraph 115(1)(a);
  - (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
  - (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

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

- (1) Subject to sub-paragraph (7), the date on which an application is made is—
- (a) in a case where—
    - (i) an award of state pension credit which comprises a guarantee credit has been made to the applicant or his partner, and
    - (ii) the application is made within one month of the date on which the claim for that state pension credit which comprises a guarantee credit was received at the appropriate DWP office,the first day of entitlement to state pension credit which comprises a guarantee credit arising from that claim;
  - (b) in a case where—
    - (i) an applicant or his partner is a person in receipt of a guarantee credit,
    - (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
    - (iii) the application to the authority is received at the designated office within one month of the date of the change,the date on which the change takes place;
  - (c) in a case where—
    - (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and
    - (ii) the application is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received,the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;
  - (d) in a case where—
    - (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,
    - (ii) the applicant becomes liable for the first time to pay council tax in respect of the

- dwelling which he occupies as his home, and
- (iii) the application to the authority is received at the designated office within one month of the date of the change,
- the date on which the change takes place;
- (e) in a case where—
- (i) the applicant is the former partner of a person who was, at the date of his death or their separation, entitled to a reduction under this scheme, and
- (ii) where the applicant makes an application for a reduction under this scheme within one month of the date of the death or the separation,
- the date of the death or separation;
- (f) except where paragraph (a), (b) or (e) is satisfied, in a case where a properly completed application is received within one month (or such longer period as the authority considers reasonable) of the date on which an application form was issued to the applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification;
- (g) in any other case, the date on which the application is received at the designated office.

- (2) For the purposes only of sub-paragraph (1)(c) a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for regulations made under—
- (a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act 1995 (waiting days); or
- (b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act 2007 (waiting days),
- have been entitled to that allowance.

- (3) Where the defect referred to in paragraph 7 of Schedule 1 to this scheme (application by telephone)—
- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance;
- (b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide on the application.

- (4) The authority is to treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.

- (5) The conditions are that—
- (a) where paragraph 4(a) of Schedule 1 (incomplete form) applies, the authority receives at its designated office the properly completed application or the information requested to complete it or the evidence within one month of the request, or such longer period as the authority may consider reasonable; or
- (b) where paragraph 4(b) of Schedule 1 (application not on approved form or further information requested by authority) applies—
- (i) the approved form sent to the applicant is received at the designated office properly completed within one month of it having been sent to him; or, as the case may be,
- (ii) the applicant supplies whatever information or evidence was requested under paragraph 4 of that Schedule within one month of the request,
- or, in either case, within such longer period as the authority may consider reasonable; or
- (c) where the authority has requested further information, the authority receives at its designated office the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.

- (6) Except in the case of an application made by a person treated as not being in Great Britain, where a

person has not become liable for council tax to the authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under this scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority is to treat the application as having been made on the day on which the liability for the tax arises.

(7) Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under this 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 this scheme for a period beginning not later than—

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

(i) a pensioner, or

(ii) a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit, the seventeenth reduction week following the date on which the application is made, or

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

(8) In this paragraph “appropriate DWP office” means an office of the Department for Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of claims for income support, a jobseeker's allowance or an employment and support allowance.

#### **111.0 Back-dating of applications: pensioners**

(1) Subject to sub-paragraph (2), the time for the making of an application under this scheme by a pensioner is as regards any day on which, apart from satisfying the condition of making an application, the applicant is entitled to such a reduction, that day and the period of three months immediately following it.

(2) In any case where paragraph 110(1)(a) applies, sub-paragraph (1) does not entitle a person to apply for a reduction under this scheme in respect of any day earlier than three months before the date on which the claim for state pension credit is made (or treated as made by virtue of any provision of the Social Security (Claims and Payments) Regulations 1987).

#### **112.0 Back-dating of applications: persons who are not pensioners**

(1) Where an applicant who is a person who is not a pensioner—

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

(b) from a day in that period, up to the date he made the application (or subsequently requested that the application should include a past period), the applicant had continuous good cause for failing to make an application (or request that the application should include that period), the application is to be treated as made on the date determined in accordance with sub-paragraph (2).

(2) That date is the latest of—

(a) the first day from which the applicant had continuous good cause;

(b) the day 1 month before the date the application was made;

(c) the day 1 month before the date when the applicant requested that the application should include a past period.

## 113.0 Information and evidence

- (1) Subject to sub-paragraph (3), a person who makes an application for a reduction under this scheme must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.
- (2) This sub-paragraph is satisfied in relation to a person if—
  - (a) the application is accompanied by—
    - (i) a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or
    - (ii) information or evidence enabling the authority to ascertain the national insurance number that has been allocated to the person; or
  - (b) the person has made an application for a national insurance number to be allocated to him and the application for the 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.
- (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.
- (4) Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under this scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by the authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under this scheme and must do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.
- (5) Nothing in this paragraph requires a person to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.
- (6) Where a request is made under sub-paragraph (4), the authority must—
  - (a) inform the applicant or the person to whom a reduction under this scheme has been awarded of his duty under paragraph 115 (duty to notify change of circumstances) to notify the authority of any change of circumstances; and
  - (b) without prejudice to the extent of the duty owed under paragraph 115, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which is to be notified.
- (7) This sub-paragraph applies to any of the following payments—
  - (a) a payment which is—
    - (i) disregarded under paragraph 28 of Schedule 8 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners) or paragraph 38 of Schedule 10 (capital disregards: persons who are not pensioners); or
    - (ii) made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Caxton Foundation" insert ", the London Emergencies Trust, the We Love Manchester Emergency Fund  
or the London Bombings Relief Charitable Fund;
  - (b) a payment which is disregarded under paragraph 16 of Schedule 9 (payments made under certain trusts and certain other payments), other than a payment under the Independent



Living Fund (2006);

(c) a payment which is disregarded under paragraph 30(9)(b) or (c) (payment made under certain trusts etc.) or paragraph 2(b) or (c) of Schedule 4 (payments made under certain trusts etc.) other than a payment under the Independent Living Fund (2006).

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

(a) the name and address of the pension fund holder;

(b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

#### **114.0 Amendment and withdrawal of application**

(1) A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.

(2) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the amendment may also be made by telephone.

(3) Any application amended in accordance with sub-paragraph (1) or (2) is to be treated as if it had been amended in the first instance.

(4) A person who has made an application may withdraw it by notice to the designated office at any time before a decision has been made on it.

(5) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the withdrawal may also be made by telephone.

(6) Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.

(7) Where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

#### **115.0 Duty to notify changes of circumstances**

(1) Subject to sub-paragraphs (3), (6) and (7), the applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time—

(a) between the making of an application and a decision being made on it, or

(b) after the decision is made (where the decision is that the applicant is entitled to a reduction under this scheme) including at any time while the applicant is in receipt of such a reduction.

(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 this scheme (a “relevant change of circumstances”) by giving notice to the authority—

(a) in writing; or

(b) by telephone—

(i) where the authority has published a telephone number for that purpose or for the purposes of Part 1 of Schedule 1 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.

- (3) The duty imposed on a person by sub-paragraph (1) does not extend to notifying—
- (a) changes in the amount of council tax payable to the authority;
  - (b) changes in the age of the applicant or that of any member of his family;
  - (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under this scheme to which he is entitled, other than the cessation of that entitlement to the benefit.
- (4) For the purposes of sub-paragraph (3)(c) “relevant benefit” means income support, an income-based jobseeker's allowance or an income-related employment and support allowance or universal credit.
- (5) Notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by sub-paragraph (1) to notify the authority of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he has ceased to be a child or young person.
- (6) The duty imposed on a person by sub-paragraph (1) includes—
- (a) in the case of a person falling within class C (pensioners: alternative maximum council tax reduction) giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of state pension credit, the date when this occurs;
- (7) A person who has been awarded a reduction under this scheme who is also on state pension credit must report—
- (a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides;
  - (b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks or where the absence is from Great Britain, which exceeds or is likely to exceed 4 weeks.
- (8) In addition to the changes required to be reported under sub-paragraph (7), a person whose state pension credit comprises only the savings credit must also report—
- (a) changes affecting a child living with him which may result in a change in the amount of reduction under this scheme allowed in his case, but not changes in the age of the child;
  - (b) any change in the amount of the applicant's capital to be taken into account which does or may take the amount of his capital to more than £16,000;
  - (c) any change in the income or capital of—
    - (i) a non-dependant whose income and capital are treated as belonging to the applicant in accordance with paragraph 34 (circumstances in which income of a non-dependant is to be treated as applicant's); or
    - (ii) a person to whom paragraph 36(2)(e) (partner treated as member of the household under paragraph 8) refers, and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.
- (9) A person who is entitled to a reduction under this scheme and on state pension credit need only report to the authority the changes specified in sub-paragraphs (7) and (8).

## **116.0 Decision by authority**

The authority must make a decision on an application for a reduction under this scheme within 14 days of paragraphs 110 and 113 and Part 1 of Schedule 1 being satisfied, or as soon as reasonably practicable thereafter.

## **117.0 Notification of decision**

- (1) The authority must notify in writing any person affected by a decision made by it under this scheme—
  - (a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;
  - (b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.
- (2) Where the decision is to award a reduction the notification under sub-paragraph (1) must include a statement—
  - (a) informing the person affected of the duty imposed by paragraph 115(1)(b);
  - (b) explaining the possible consequences (including prosecution) of failing to comply with that duty; and
  - (c) setting out the circumstances a change in which might affect entitlement to the reduction or its amount.
- (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.
- (4) In any case, the notification under sub-paragraph (1) must inform the person affected of the procedure by which an appeal may be made and must refer the person to the provisions in this scheme relating to the procedure for making an appeal.
- (5) A person affected to whom the authority sends or delivers a notification of decision may, within one month of the date of the notification of that decision request in writing the authority to provide a written statement setting out the reasons for its decision on any matter set out in the notice.
- (6) The written statement referred to in sub-paragraph (5) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.
- (7) For the purposes of this paragraph a person is to be treated as a person affected by a decision of the authority under this scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (8).
- (8) This sub-paragraph applies to—
  - (a) the applicant;
  - (b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act—
    - (i) a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
    - (ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on the person's behalf; or
    - (iii) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,
  - (c) a person appointed by the authority under paragraph 109(3).

## **118.0 Payment where there is joint and several liability**

- (1) Where—
  - (a) a person is entitled to a reduction under this scheme in respect of his liability for the authority's council tax as it has effect in respect of a financial year;
  - (b) the person entitled to the reduction is jointly and severally liable for the council tax; and
  - (c) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement)

Regulations 1992 refers would be inappropriate, it may make a payment to him of the amount of reduction to which he is entitled, rounded where necessary to the nearest penny.

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

(3) Where a person other than the person who is entitled to the reduction under this scheme made the application for the reduction and that first person is a person acting pursuant to an appointment under paragraph 109(3) (persons appointed to act for a person unable to act) or is treated as having been so appointed by virtue of paragraph 109(5), the amount of the reduction may be paid to that person.

## **119.0 Transitional provisions for restrictions on amounts for children and young persons (pensioners)**

(1) This regulation applies where—

(a) on 31st March 2018, a person is liable to pay council tax at a reduced rate by virtue of a council tax reduction under an authority's scheme established under section 13A(2) of the Local Government Finance Act 1992 ("a section 13A(2) scheme"); and

(b) the person is, or the person and the person's partner are between them, responsible for more than two individuals who are either children or young persons and who are members of the same household (each such individual is referred to as a "protected individual").

(2) Where this regulation applies, the amendments made by regulation 7 do not apply to the person entitled to a council tax reduction referred to in paragraph (1) until—

(a) the person makes a new application for a reduction under an authority's section 13A(2) scheme; or

(b) the person or the person's partner (if any) becomes responsible for a new individual, whichever is the first to occur.

(3) Paragraphs (4) to (8) apply where—

(a) the amendments made by regulation 7 apply by virtue of paragraph (2)(b);

(b) the child tax credit provisions do not apply; and

(c) the person has not made a new application for a reduction under an authority's scheme for a reduction under an authority's section 13A(2) scheme.

(4) Notwithstanding the default provisions, a child amount shall be included in the applicable amount in relation to any protected individual, in relation to any time when the person or the person's partner (if any) is responsible for the individual and the individual is a member of the same household.

(5) Paragraph (6) applies where—

(a) the person or the person's partner (if any) is responsible for one or more protected individuals who are members of the same household; and

(b) either of them is responsible for one or more new individuals who are members of the same household.

(6) Where this paragraph applies, any protected individual for whom the person or the person's partner is responsible is to be counted for the purpose of deciding whether, under the default provisions, an additional child amount is to be included in the applicable amount with respect to the new individual or individuals referred to in paragraph (5)(b).

(7) Paragraph (8) applies where—

(a) the number of protected individuals for whom either the person or the person's partner (if any) is responsible, and who are members of the same household, is one;

(b) the number of new individuals for whom either the person or the person's partner is responsible, and who are members of the same household, is two or more; and

(c) a different child amount would apply to different individuals.

- (8) Where this paragraph applies, the child amounts to be included in the applicable amount shall be—
- (a) the child amount in relation to the protected individual; and
  - (b) a child amount in relation to such one of the new individuals as will result in the greatest possible total amount.

(9) Under paragraph (3), for the purposes of determining whether the child tax credit provisions apply, by virtue of paragraph 6(1B) of Schedule 1 to the 2012 Regulations, where the person or the person's partner is responsible for one or more protected individuals, the total amount that would be included in the applicable amount under the default provisions shall be taken to be the total that would be included under paragraphs (4), (6) and (8).

(10) For the purposes of this regulation—

- (a) "the 2012 Regulations" means the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012;
- (b) "applicable amount", "child", "partner" and "young person" have the same meanings as in the 2012 Regulations;
- (c) "child amount" means the amount determined under paragraph 2 of Schedule 2 to the 2012 Regulations;
- (d) "child tax credit provisions" means the provisions of paragraph 6(1)(b) of Schedule 1 to the 2012 Regulations (as substituted by paragraph 6(1C) of that Schedule);
- (e) "default provisions" means the provisions of paragraph 6(1)(b) of Schedule 1 to the 2012 Regulations (as substituted by paragraph 6(1C) of that Schedule);
- (f) "new individual" means a child or young person who is not a protected individual;
- (g) any reference to an individual being part of the same household means being part of the same household with the person who is entitled to a reduction under an authority's section 13A(2) scheme and the person's partner (if any);
- (h) a person is to be treated as responsible for a child or young person in the circumstances set out in regulation 7 of the 2012 Regulations

**Schedule 1**  
**Procedural matters**

## **Procedure by which a person may apply for a reduction under this scheme**

1. Paragraphs 2 to 7 apply to an application for a reduction under this scheme.

2.

An application may be made—

- (a) in writing, or
- (b) by means of an electronic communication in accordance with Part 4 of this Schedule, or
- (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone, or
- (d) by the receipt of information from the Secretary of State for Work and Pensions where a claim for Universal Credit has been made.

3.

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

4.

- (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 supplied for the purpose and the authority does not accept the application as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence, the authority may, in a case to which sub-paragraph (a) applies, request the applicant to complete the defective application or, in the case to which sub-paragraph (b) applies, supply the applicant with the approved form or request further information and evidence.
- (2) An application made on a form provided by the authority is properly completed if completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.

5.

- (1) If an application made by electronic communication is defective the authority must provide the person making the application with an opportunity to correct the defect.
- (2) An application made by electronic communication is defective if the applicant does not provide all the information the authority requires.

6.

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.

7.

- (1) If an application made by telephone is defective the authority must provide the person making the application with an opportunity to correct the defect.
- (2) An application made by telephone is defective if the applicant does not provide all the information the authority requests during the telephone call.

## **Procedure by which a person may make an appeal against certain decisions of the authority**

8.

A person who is aggrieved by a decision of the authority which affects—

- (a) the person's entitlement to a reduction under this scheme, or
  - (b) the amount of any reduction under this scheme,
- may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.

9.

The authority must—

- (a) consider the matter to which the notice relates;
- (b) notify the aggrieved person in writing—
  - (i) that the ground is not well founded, giving reasons for that belief; or
  - (ii) that steps have been taken to deal with the grievance, stating the steps taken.

**10.**

Where, following notification under paragraph 9(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with paragraph 9(b) within two months of the service of his notice, he may appeal to a valuation tribunal under section 16 of the 1992 Act.

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

**11.**

(1) An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act may be made

- (a) in writing;
- (b) by means of an electronic communication in accordance with Part 4 of this Schedule; or
- (c) where the authority has published a telephone number for the purposes of receiving such applications, by telephone.

(2) Where—

- (a) the authority has made a determination under section 13A(1)(c) in relation to a class of case in which liability is to be reduced; and
- (b) a person in that class would otherwise be entitled to a reduction under this scheme, that person's application for a reduction under this scheme may also be treated as an application for a reduction under section 13A(1)(c).

**Electronic communication**

**12. Interpretation**

In this Part—

**“information”** includes an application, certificate, notice or other evidence;

**“official computer system”** means a computer system maintained by or on behalf of the authority for the sending, receiving, processing or storing of any information.

**13. Conditions for the use of electronic communication**

- (1) The authority may use an electronic communication in connection with applications for, and awards of, reductions under this scheme.
- (2) A person other than the authority may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions specified in sub-paragraphs (3) to (6) are satisfied.
- (3) The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Chief Executive of the authority.
- (4) The second condition is that the person uses an approved method of—
  - (a) authenticating the identity of the sender of the communication;
  - (b) electronic communication;
  - (c) authenticating any application or notice delivered by means of an electronic communication; and
  - (d) subject to sub-paragraph (7), submitting to the authority any information.
- (5) The third condition is that any information sent by means of an electronic communication is in a form supplied for the purposes of this Part of this Schedule.
- (6) The fourth condition is that the person maintains such records in written or electronic form as may



be specified in a direction given by the Chief Executive of the authority.

- (7) Where the person uses any method other than the method approved of submitting any information, that information is to be treated as not having been submitted.
- (8) In this paragraph “approved” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this Part of this Schedule.

#### **14. Use of intermediaries**

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.

#### **15.— Effect of delivering information by means of electronic communication**

- (1) Any information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of this scheme, on the day the conditions imposed—
  - (a) by this Part; and
  - (b) by or under an enactment,are satisfied.
- (2) The authority may determine that any information is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).
- (3) Information must not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

#### **16. Proof of identity of sender or recipient of information**

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.

#### **17.— Proof of delivery of information**

- (1) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this must be presumed to have been the case where—
  - (a) any such information has been delivered to the relevant authority, if the delivery of that information has been recorded on an official computer system; or
  - (b) any such information has been delivered by the relevant authority, if the delivery of that information has been recorded on an official computer system.
- (2) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such information, this must be presumed not to be the case, if that information delivered to the relevant authority has not been recorded on an official computer system.
- (3) If it is necessary to prove, for the purpose of any legal proceedings, when any such information sent by means of an electronic communication has been received, the time and date of receipt must be presumed to be that recorded on an official computer system.

#### **18. Proof of content of information**

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

**Schedule 2<sup>8</sup>**  
**Applicable amounts: pensioners**

## 1. Personal allowance

The amount specified in column (2) below in respect of each person or couple specified in column (1) is the amount specified for the purposes of paragraph 25(1)(a) is the amount specified in column (2) of Table 1 below in respect of each person or couple referred to in column (1) of that Table.

**Table 1**

<i>Column (1)</i> <i>Person, couple or polygamous marriage</i>	<i>Column (2)</i> <i>Amount</i>
(1) Single applicant or lone parent who has attained pensionable age	£181.00.
(2) Couple one or both members	£270.60
(3) If the applicant is a member of a polygamous marriage and one or more members of the marriage have attained pensionable age (a) for the applicant and the other party to the marriage; (b) for each additional spouse who is a member of the same household as the applicant.	(a) 270.60; (b) £89.60.

## 2. Child or young person amounts

(1) The amounts specified in column (2) below in respect of each person specified in column (1) are the amounts, for the relevant period specified in column (1), specified for the purposes of paragraph 25(1)(b).

<b>Column (1)</b>	<b>Column (2)</b>
<b>Child or young Person</b>	<b>Amount</b>
Person in respect of the period— (a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday; (b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	(a) £66.90; (b) £66.90

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

## 3. Family premium

The amount for the purposes of paragraph 6(1)(c) of Schedule 1 in respect of a family of which at least one member is a child or young person—

- (a) is £17.45 in respect of a reduction week which begins in the period beginning with 1st April 2016 and ending with 30th April 2016;
- (b) is nil in respect of a reduction week which begins after 1st May 2016.

### Transitional provision.

- (1) The amendment in regulation Part 2-3 (Family Premium) of this policy (or 2(4)(b) for the purposes of SI2041/2015) does not apply to a person who, on 30th April 2016, is liable to pay council tax at a reduced rate by virtue of a council tax reduction under an authority's scheme established under section 13A(2) of the Act and is—
  - (a) a member of a family of which at least one member is a child or young person; or
  - (b) a partner in a polygamous marriage, where he or she, or another partner of the

polygamous marriage, is responsible for a child or young person who is a member of the same household.

- (2) Paragraph (1) does not apply if—
  - (a) sub-paragraph (a) or (b) of that paragraph ceases to apply; or
  - (b) the person makes a new application for a reduction under an authority's scheme under section 13A(2) of the Act.
- (3) For the purposes of this regulation—
  - (a) "the Act" means the Local Government Finance Act 1992;
  - (b) "child", "family", "partner", "polygamous marriage" and "young person" have the meanings given by regulation 2 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

#### 4. Premiums

The premiums specified in Part 4 are, for the purposes of paragraph 25(1)(d), applicable to an applicant who satisfies the condition specified in this Part in respect of that premium.

#### 5.

- (1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—
  - (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provision of those Regulations, he would be in receipt of that benefit; and
  - (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973, or by Skills Development Scotland, Scottish Enterprise or Highland and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.
- (2) For the purposes of the carer premium under paragraph 9, a person is to be treated as being in receipt of a carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012 or an AFIP.

#### 6. Severe disability premium

- (1) The condition is that the applicant is a severely disabled person.
- (2) For the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if, and only if—
  - (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3) —
    - (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP; and
    - (ii) subject to sub-paragraph (6), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
    - (iii) no person is entitled to, and in receipt of, a carer's allowance or an award of universal credit which includes the carer element in respect of caring for him;
  - (b) in the case of an applicant who has a partner—
    - (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate

- prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP;
- (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, each other member of that marriage is in receipt of such an allowance; and
- (iii) subject to sub-paragraph (6), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing, and either a person is entitled to and in receipt of a carer's allowance or an award of universal credit which includes the carer element in respect of caring for only one of the couple or, if he is a member of a polygamous marriage, for one or more but not all the members of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any of the members of the marriage.
- (3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of sub-paragraph (4), that partner is to be treated for the purposes of sub-paragraph (2) as if he were not a partner of the applicant.
- (4) For the purposes of sub-paragraph (3), a person is blind if he is registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994.
- (5) For the purposes of sub-paragraph (4), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.
- (6) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—
- (a) a person receiving attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP; or
- (b) a person who is blind or is treated as blind within the meaning of sub-paragraphs (4) and (5).
- (7) For the purposes of sub-paragraph (2)(b) a person is to be treated—
- (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) as being in receipt of the daily living component of personal independence payment paid at the rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012 if he would, but for his being a patient for a period exceeding 28 days, be so in receipt, notwithstanding section 86 of that Act and regulations made thereunder;
- (c) as being in receipt of an AFIP if he would be so in receipt but for a suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
- (d) as being entitled to and in receipt of a carer's allowance or an award of universal credit which includes the carer element if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.
- (8) For the purposes of sub-paragraph (2)(a)(iii) and (b) —
- (a) no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid; and
- (b) references to a person being in receipt of a carer's allowance include reference to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit).

## **7. Enhanced disability premium**

- (1) The condition is that—
  - (a) the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 73(2) of that Act; or
  - (b) (as the case may be) the daily living component of personal independence payment is, or would, but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012, be payable at the enhanced rate prescribed in accordance with section 78(2) of that Act,in respect of a child or young person who is a member of the applicant's family.
- (2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).

## **8. Disabled child premium**

The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—

- (a) is in receipt of disability living allowance, personal independence payment or is no longer in receipt of such allowance or payment because he is a patient, provided that the child or young person continues to be a member of the family; or
- (b) is blind within the meaning of paragraph 6(4) or treated as blind in accordance with paragraph 6(5); or
- (c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

## **9. Carer premium**

- (1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance.
- (2) Where a carer premium has been awarded but—
  - (a) the person in respect of whose care the carer's allowance has been awarded dies; or
  - (b) the person in respect of whom the premium was awarded ceases to be entitled, or ceases to be treated as entitled, to a carer's allowance,this paragraph is to be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).
- (3) The relevant date for the purposes of sub-paragraph (2) is—
  - (a) in a case within sub-paragraph (2)(a), the Sunday following the death of the person in respect of whose care the carer's allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday);
  - (b) in a case within sub-paragraph (2)(b), the date on which that person who was entitled to a carer's allowance ceases to be entitled to it.
- (4) For the purposes of this paragraph, a person is to be treated as being entitled to and in receipt of a carer's allowance for any period not covered by an award but in respect of which a payment is made in lieu of an award.

**10. Persons in receipt of concessionary payments**

For the purpose of determining whether a premium is applicable to a person under paragraphs 6 to 9, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

**11. Person in receipt of benefit**

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

**12. Amounts of premium specified**

(1) Severe Disability Premium—

<i>Provision</i>	<i>Amount</i>
(a) where the applicant satisfies the condition in paragraph 6(2)(a);	(a) £65.85;
(b) where the applicant satisfies the condition in paragraph 6(2)(b)—	(b)
(i) in a case where there is someone in receipt of a carer’s allowance or who has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013, or if he or any partner satisfies that condition only by virtue of paragraph 6(7);	(i) £65.85;
(ii) in a case where there is no-one in receipt of such an allowance or such an award of universal credit.	(ii) £131.70.
(2) Enhanced disability premium	(2) £26.04 in respect of each child or young person in respect of whom the conditions specified in paragraph 7 are satisfied.
(3) Disabled Child Premium.	(3) £64.19 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied
(4) Carer Premium.	(4) £36.85 in respect of each person who satisfies the condition specified in paragraph 9.

### **Schedule 3**

#### **Applicable amounts: persons who are not pensioners**

The following amounts shall be updated annually in line with the amounts specified within the Housing Benefits Regulations 2006 (as amended)



**Personal allowances**

**1.**

The amounts specified in column (2) below in respect of each person or couple specified in column (1) are the amounts specified for the purposes of paragraphs 26(1)(a) and 27(1)(a) and (b)—

Column (1)	Column (2)
Person or couple	Amount
(1) A single applicant who— (a) is entitled to main phase employment and support allowance; (b) is aged not less than 25; (c) is aged not less than 18 but less than 25.	(1) (a) £73.10 (b) £73.10 (c) £57.90
(2) Lone parent.	(2) £73.10
(3) Couple.	(3) £114.85
(4) Polygamous Addition	(4) £41.75

**2.**

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

- (a) paragraph 18 is satisfied in relation to the applicant; or
- (b) the applicant is entitled to a converted employment and support allowance.

**3.**

(1) The amounts specified in column (2) below in respect of each person specified in column (1) are, for the relevant period specified in column (1), the amounts specified for the purposes of paragraphs 26(1)(b) and 27(1)(c)—

Column (1)	Column (2)
Child or Young person	Amount
Person in respect of the period— (a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday; (b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	£66.90 £66.90

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

**4. Family premium**

The amount for the purposes of paragraph 6(1)(c) of Schedule 1 in respect of a family of which at least one member is a child or young person—

- (a) is £17.45 in respect of a reduction week which begins in the period beginning with 1st April 2016 and ending with 31<sup>st</sup> March 2017;
- (b) is nil in respect of a reduction week which begins after 1st April 2017.

**Transitional provision**

- (1) The amendment in regulation Part 2-3 (Family Premium) of this policy (or 2(4)(b) for the purposes of SI2041/2015) does not apply to a person who, on 31<sup>st</sup> March 2017, is liable to pay council tax at a reduced rate by virtue of a council tax reduction under an authority's scheme established under section 13A(2) of the Act and is—
  - (a) a member of a family of which at least one member is a child or young person; or
  - (b) a partner in a polygamous marriage, where he or she, or another partner of the polygamous marriage, is responsible for a child or young person who is a member of the same household.
  
- (2) Paragraph (1) does not apply if—
  - (a) sub-paragraph (a) or (b) of that paragraph ceases to apply; or
  - (b) the person makes a new application for a reduction under an authority's scheme under section 13A(2) of the Act.
  
- (3) For the purposes of this regulation—
  - (a) "the Act" means the Local Government Finance Act 1992;
  - (b) "child", "family", "partner", "polygamous marriage" and "young person" have the meanings given by regulation 2 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012.

**Premiums**

5. Except as provided in paragraph 6, the premiums specified in this scheme are, for the purposes of paragraphs 26(1)(d) and 27(1)(e) (premiums), applicable to an applicant who satisfies the condition specified in paragraphs 9 to 14 in respect of that premium.
  
6. Subject to paragraph 7, where an applicant satisfies the conditions in respect of more than one premium in this Schedule, only one premium is applicable to him and, if they are different amounts, the higher or highest amount applies.
  
7. The following premiums, namely—
  - (a) a severe disability premium to which paragraph 11 applies;
  - (b) an enhanced disability premium to which paragraph 12 applies;
  - (c) a disabled child premium to which paragraph 13 applies; and
  - (d) a carer premium to which paragraph 14 applies,
 may be applicable in addition to any other premium which may apply under this Schedule.
  
8.
  - (1) Subject to sub-paragraph (2), for the purposes of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—
    - (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
    - (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973 or by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 for any period during which he is in receipt of a training allowance.
  
  - (2) For the purposes of the carer premium under paragraph 14, a person is to be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence

payment payable under Part 4 of the Welfare Reform Act 2012.

## **9. Disability premium**

The condition is that—

- (a) where the applicant is a single applicant or a lone parent, he has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10 is satisfied; or
- (b) where the applicant has a partner, either—
  - (i) the applicant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) or (b) is satisfied by him; or
  - (ii) his partner has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) is satisfied by his partner.

## **10. Additional condition for the disability premium**

(1) Subject to sub-paragraph (2) and paragraph 8, the additional condition referred to in paragraph 9 is that either—

(a) the applicant or, as the case may be, his partner—

(i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal independence payment, an AFIP, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 as amended, mobility supplement, long-term incapacity benefit under Part 2 of the SSCBA or severe disablement allowance under Part 3 of that Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of him; or

(ii) was in receipt of long-term incapacity benefit under Part 2 of the SSCBA when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant remained continuously entitled to—

(aa) council tax benefit (in relation to the period prior to 1st April 2013, and

(bb) a reduction under this scheme (in relation to the period commencing on 1st April 2013), and

if the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or

(iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the SSCBA or otherwise abated as a consequence of the applicant or his partner becoming a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges); or

(iv) was in receipt of personal independence payment, but payment of that benefit has been suspended in accordance with section 86 of the Welfare Reform Act 2012 as a consequence of the applicant becoming a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges); or

(v) was in receipt of an AFIP, but payment has been suspended in accordance with any terms of the armed and reserve forces compensation scheme which allow for suspension because a person is undergoing medical treatment in a hospital or similar institution; or

(vi) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006 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; or

(vii) is blind and in consequence registered in a register compiled by a local authority under

section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or

(b) the applicant—

(i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work); and

(ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—

(aa) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the SSCBA, 196 days;

(bb) in any other case, 364 days.

(2) For the purposes of sub-paragraph (1)(a)(vii), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(3) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work he is, on again becoming so incapable of work, immediately thereafter to be treated as satisfying the condition in sub-paragraph (1)(b).

(4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, he is to continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.

(5) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods are to be treated as one continuous period.

(6) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the Act (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.

(7) In the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies, and who again becomes incapable of work for the purposes of Part 12A of the SSCBA)—

(a) the reference to a period of 8 weeks in sub-paragraph (3); and

(b) the reference to a period of 56 days in sub-paragraph (5),

in each case is to be treated as a reference to a period of 104 weeks.

(8) The applicant is not entitled to the disability premium if he has, or is treated as having, limited capability for work.

## **11. Severe disability premium**

(1) The condition is that the applicant is a severely disabled person.

- (2) For the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if, and only if—
- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
- (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and
- (ii) subject to sub-paragraph (4), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
- (iii) no person is entitled to, and in receipt of, a carer's allowance under section 70 of the SSCBA in respect of caring for him;
- (b) in the case of an applicant who has a partner—
- (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and
- (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance; and
- (iii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,
- and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of a couple or, in the case of a polygamous marriage, for one or more but not all the partners of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any partner of a polygamous marriage.
- (3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2), that partner is to be treated for the purposes of sub-paragraph (2)(b)(ii) as if he were not a partner of the applicant.
- (4) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—
- (a) a person receiving attendance allowance, or disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012; or
- (b) a person who is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2).
- (5) For the purposes of sub-paragraph (2)(b) a person is to be treated—
- (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid.

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit provisions).

## **12. Enhanced disability premium**

(1) Subject to sub-paragraph (2), the condition is that—

- (a) the Secretary of State has decided that the applicant has, or is to be treated as having, limited capability for work-related activity; or
- (b) the care component of disability living allowance is, or would be payable at the highest rate prescribed under section 72(3) of the SSCBA, but for a suspension of benefit in accordance with regulations made under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation be payable at the highest rate prescribed under section 72(3) of the SSCBA in respect of—
  - (i) the applicant; or
  - (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit; or

- (c) the daily living component of personal independence payment is, or would be payable at either rate under Part 4 of the Welfare Reform Act 2012, but for a suspension of benefit in accordance with section 86 of the Welfare Reform Act 2012 in respect of—
  - (i) the applicant; or
  - (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit.

(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).

(3) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—

- (a) an applicant who—
  - (i) is not a member of a couple or a polygamous marriage; and
  - (ii) is a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges) and has been for a period of more than 52 weeks; or
- (b) a member of a couple or a polygamous marriage where each member is a patient within the meaning of paragraph 58(11)(i) and has been for a period of more than 52 weeks.

## **13. Disabled child premium**

The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—

- (a) is in receipt of disability living allowance or personal independence payment or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
- (b) is blind or treated as blind within the meaning of paragraph 10; or
- (c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount.

amount because of that child or young person's death.

**14. Carer premium**

- (1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance under section 70 of the SSCBA.
- (2) Where a carer premium is awarded but—
  - (a) the person in respect of whose care the carer's allowance has been awarded dies; or
  - (b) in any other case the person in respect of whom a carer premium has been awarded ceases to be entitled to a carer's allowance,

the condition for the award of the premium is to be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).
- (3) The relevant date for the purposes of sub-paragraph (2) is—
  - (a) where sub-paragraph (2)(a) applies, the Sunday following the death of the person in respect of whose care a carer's allowance has been awarded or the date of death if the death occurred on a Sunday;
  - (b) in any other case, the date on which the person who has been entitled to a carer's allowance ceases to be entitled to that allowance.
- (4) Where a person who has been entitled to a carer's allowance ceases to be entitled to that allowance and makes an application for a reduction, the condition for the award of the carer premium is to be treated as satisfied for a period of eight weeks from the date on which—
  - (a) the person in respect of whose care the carer's allowance has been awarded dies; or
  - (b) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.

**15. Persons in receipt of concessionary payments**

For the purpose of determining whether a premium is applicable to a person under paragraphs 10 to 14, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

**16. Persons in receipt of benefit for another**

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

**17. Amounts of Premiums Specified**

(1) Disability Premium—

<i>Premium</i>	<i>Amount</i>
(a) where the applicant satisfies the condition in paragraph 9(a); (b) where the applicant satisfies the condition in paragraph 9(b).	(a) £34.35 (b) £48.95
(2) Severe Disability Premium—	(2)

<i>Premium</i>	<i>Amount</i>
(a) where the applicant satisfies the condition in paragraph 11(2)(a); (b) where the applicant satisfies the condition in paragraph 11(2)(b)— (i) in a case where there is someone in receipt of a carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 11(5); (ii) in a case where there is no-one in receipt of such an allowance.	(a) £ 65.85 (b)(i) £65.85 (b)(ii) £131.70
(3) Disabled Child Premium.	(3) £64.19 in respect of each child or young person in respect of whom the condition specified in paragraph 13 is satisfied.
(4) Carer Premium.	(4) £36.85 in respect of each person who satisfies the condition specified in paragraph 14.
(5) Enhanced disability premium	(5) (a) £26.04 in respect of each child or young person in respect of whom the conditions specified in paragraph 12 are satisfied; (b) £16.80 in respect of each person who is neither— (i) a child or young person; nor (ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 12 are satisfied; (c) £24.10 where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 12 are satisfied in respect of a member of that couple or polygamous marriage.

**18. The components**

Subject to paragraph 20 the applicant is entitled to one, but not both, of the components in paragraph 21 or 22 if—

- (a) the applicant or the applicant's partner has made a claim for employment and support allowance;
- (b) the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work or limited capability for work-related activity; and
- (c) either—
  - (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
  - (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 or 2013 as appropriate (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.



**19.**

Subject to paragraph 20, the applicant is entitled to one, but not both, of the components in paragraphs 21 and 22 if the applicant or his partner is entitled to a converted employment and support allowance.

**20.**

- (1) The applicant has no entitlement under paragraph 21 or 22 if the applicant is entitled to the disability premium under paragraphs 9 and 10.
- (2) Where the applicant and the applicant's partner each satisfies paragraph 21 or 22, the component to be included in the applicant's applicable amount is that which relates to the applicant.

**21. The work-related activity component**

The applicant is entitled to the work-related activity component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work.

**22. The support component**

The applicant is entitled to the support component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work-related activity.

**23. Amount of Components**

The amount of the work-related activity component is £29.05

**24.**

The amount of the support component is £38.55

**25. Transitional Addition**

- (1) The applicant is entitled to the transitional addition calculated in accordance with paragraph 28 where the applicant or the applicant's partner ("the relevant person")—
  - (a) is entitled to a converted employment and support allowance; or
  - (b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2008 and—
    - (i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 or 2013 as appropriate as modified by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2008; and
    - (ii) is not in receipt of an income-related employment and support allowance, unless the amount of the transitional addition calculated in accordance with paragraph 28 would be nil.
- (2) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—
  - (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
  - (b) the termination of the applicant's award of reduction under this scheme;
  - (c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;
  - (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
  - (e) 5th April 2020.

**26.**

- (1) This paragraph applies where—
  - (a) the applicant's entitlement to a transitional addition ends, by virtue of the termination of the applicant's award of reduction, under—
    - (i) paragraph 25(2)(b);
    - (ii) sub-paragraph (3)(b); or
    - (iii) paragraph 27(3)(b);
  - (b) within 12 weeks of that termination but before 5th April 2020 the applicant again becomes

- entitled to a reduction under this scheme;
  - (c) in the reduction week in which the applicant again becomes entitled to a reduction under this scheme the relevant person is entitled to an employment and support allowance which is not income-related; and
  - (d) at the date on which the applicant again becomes entitled to a reduction under this scheme, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.
- (2) Where this paragraph applies, the applicant is entitled, with effect from the day on which the applicant again becomes entitled to a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.
- (3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—
- (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
  - (b) the termination of the applicant's award of a reduction under this scheme;
  - (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);
  - (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
  - (e) 5th April 2020.

## **27.**

- (1) This paragraph applies where—
- (a) the applicant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under—
    - (i) paragraph 25(2)(c);
    - (ii) paragraph 26(3)(c); or
    - (iii) sub-paragraph (3)(c);
  - (b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;
  - (c) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulations 2008 or 2013 as appropriate applies to the relevant person; and
  - (d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.
- (2) Where this paragraph applies, the applicant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for the purposes of a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.
- (3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—
- (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
  - (b) the termination of the applicant's award of a reduction under this scheme;
  - (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);
  - (d) the applicant or the applicant's partner becoming entitled to an income-related employment

and support allowance, an income-based jobseeker's allowance or income support;  
(e) 5th April 2020.

## **28. Amount of Transitional Addition**

- (1) Subject to paragraph 29, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.
- (2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”) is made in respect of the relevant person—
  - (a) Amount A is the basic amount that would have applied on the day that decision took effect had that decision not been made; and
  - (b) Amount B is the basic amount that applied on that day as a result of that decision.
- (3) Where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the 2010 Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 or 2013 as appropriate as modified by the 2010 Regulations—
  - (a) Amount A is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated; and
  - (b) Amount B is the basic amount that applied on that day as a result of the relevant person being so treated.
- (4) In this paragraph and paragraph 29, “basic amount” means the aggregate of such amounts as may apply in the applicant's case in accordance with paragraph 26(1)(a) to (e) or paragraph 27(1)(a) to (f) (applicable amounts).

## **29.**

- (1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the applicant's basic amount, the transitional addition that applies immediately before the change of circumstances must be reduced by the amount by which Amount C exceeds Amount D.
- (2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition must be reduced to nil.
- (3) Amount C is the basic amount that applies as a result of the increase.
- (4) Amount D is the basic amount that applied immediately before the increase.

**Schedule 4**  
**Amount of alternative maximum council tax reduction: pensioners**

- (1) Subject to paragraphs 2 and 3, the alternative maximum council tax reduction in respect of a day for the purpose of paragraph 31 (alternative maximum council tax reduction: pensioners) is determined in accordance with the following Table and in this Table—
- (a) “second adult” means any person or persons residing with the applicant to whom paragraph 15(2) (class C) applies; and
  - (b) “persons to whom paragraph 75(1) of this scheme applies” includes any person to whom that paragraph would apply were they, and their partner if they had one, below the qualifying age for state pension credit.
- (2) In this Schedule “council tax due in respect of that day” means the council tax payable under section 10 of the 1992 Act less:
- (a) any reductions made in consequence of any enactment in, or under, the 1992 Act (other than a reduction under this scheme); and
  - (b) in a case to which sub-paragraph (c) in column (1) of the table below applies, the amount of any discount which may be appropriate to the dwelling under the 1992 Act.

(1)	(2)
<b>Second adult</b>	<b>Alternative maximum council tax reduction</b>
(a) Where the second adult or all second adults are in receipt of income support, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker's allowance;	(a) 25 per cent of the council tax due in respect of that day;
(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, an income-related employment and support allowance, state pension credit or an income-based jobseeker's allowance—	(b)
(i) is less than £206.00 per week;	(i) 15 per cent of the council tax due in respect of that day;
(ii) is not less than £206.00 per week but less than £266.00 per week;	(ii) 7.5 per cent of the council tax due in respect of that day;
(c) where the dwelling would be wholly occupied by one or more persons to whom paragraph 75(1) of this scheme applies but for the presence of one or more second adults who are in receipt of income support, state pension credit, an income-related employment and support allowance or are persons on an income-based jobseeker's allowance.	(c) 100 per cent of the council tax due in respect of that day.

**2.**

In determining a second adult's gross income for the purposes of this Schedule, the following must be disregarded from that income—

- (a) any attendance allowance, any disability living allowance, any personal independence payment under Part 4 of the Welfare Reform Act 2012 or an AFIP;
- (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which, had his income fallen to be calculated under paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind); and
- (c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).

**3.**

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

**Schedule 5**  
**Sums disregarded from applicant's earnings: pensioners**

**1.**

Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to—

- (a) £25 in the case of a lone parent;
- (b) £20 in any other case.

**2.**

In a case where an applicant is a lone parent, £25 of earnings.

**3.**

(1) In a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.

(2) This paragraph applies to employment—

- (a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
- (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (c) as an auxiliary coastguard in respect of coast rescue activities;
- (d) in the manning or launching of a lifeboat if the employment is part-time;
- (e) as a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001.

(3) If

- (a) any of the earnings of the applicant or, if he has a partner, his partner, or both of them, are disregarded under sub-paragraph (1); and
- (b) either of them has, or both of them have, other earnings,

so much of those other earnings as would not, in the aggregate with the earnings disregarded under that sub-paragraph, exceed £20.

**4.**

(1) If the applicant or, if he has a partner, his partner is a carer, or both are carers, £20 of any earnings received from his or their employment.

(2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) must not exceed £20 of the aggregated amount.

(3) In this paragraph the applicant or his partner is a carer if paragraph 14 of Part 3 of Schedule 3 (amount applicable for carers) is satisfied in respect of him.

**5.**

(1) £20 is disregarded if the applicant or, if he has a partner, his partner—

- (a) is in receipt of—
  - (i) long-term incapacity benefit under section 30A of the SSCBA;
  - (ii) severe disablement allowance under section 68 of that Act;
  - (iii) attendance allowance under sections 64 of that Act;
  - (iv) disability living allowance;
  - (v) personal independence payment;
  - (vi) an AFIP;
  - (vii) any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries



- (Civilians) Scheme 1983;
- (viii) the disability element or the severe disability element of working tax credit under Schedule 2 to the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002; or
- (ix) main phase employment and support allowance; or
- (b) is or are registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
- (c) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work), and has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
- (i) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the Act, 196 days;
- (ii) in any other case, 364 days; or
- (d) has, or is treated as having, limited capacity for work within the meaning of section 1(4) of the Welfare Reform Act 1997 or limited capability for work-related activity within the meaning of section 2(5) of that Act and either—
- (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
- (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arising does not apply) applies.
- (2) Subject to sub-paragraph (3), £20 is disregarded if the applicant or, if he has a partner, his partner has, within a period of 8 weeks ending on the day in respect of which the applicant or his partner attains the qualifying age for state pension credit, had an award of housing benefit or council tax benefit or been in receipt of a reduction under this scheme and—
- (a) £20 was disregarded in respect of earnings taken into account in that award; and
- (b) the person whose earnings qualified for the disregard continues in employment after the termination of that award.
- (3) The disregard of £20 specified in sub-paragraph (2) applies so long as there is no break, other than a break which does not exceed 8 weeks, in a person's—
- (a) entitlement to housing benefit; or
- (b) receipt of a reduction under a council tax reduction scheme; or
- (c) employment,
- following the first day in respect of which that benefit is awarded under this scheme.
- (4) £20 is the maximum amount which may be disregarded under this paragraph, notwithstanding that, where the applicant has a partner, both the applicant and his partner satisfy the requirements of this paragraph.
- 6.**
- (1) Where—
- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 35 (applicant in receipt of guarantee credit: pensioners) does not apply,
- the amount specified in sub-paragraph (7) (“the specified amount”).
- (2) Where this paragraph applies, paragraphs 1 to 5 and 8 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 2, then paragraph 2 applies instead of this paragraph.
- (3) Notwithstanding paragraph 33 (calculation of income and capital of members applicant's family and

of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple (“A”) it does not apply to the other member of that couple (“B”) except to the extent provided in sub-paragraph (4).

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

(5) This sub-paragraph applies to a person who is—

- (a) in receipt of a contributory employment and support allowance;
- (b) in receipt of incapacity benefit;
- (c) in receipt of severe disablement allowance;
- (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.

(6) “Exempt work” means work of the kind described in;

(a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be); or

(b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

**7.**

Any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of Schedule 6 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full amount disregarded thereunder.

**8.**

Except where the applicant or his partner qualifies for a £20 disregard under the preceding provisions of this Schedule—

- (a) £10 is to be disregarded if an applicant who has no partner has earnings;
- (b) £20 is to be disregarded if an applicant who has a partner has earnings.

**9.**

Any earnings, other than earnings referred to in paragraph 40(9)(b), derived from employment which ended before the day in respect of which the applicant first satisfies the conditions for entitlement to a reduction under this scheme.

**10.**

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

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

(a) the applicant, or if he has a partner, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or

(b) the applicant—

(i) is, or any partner of his is, aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) if he is a member of a couple—

- (aa) at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and
- (bb) his applicable amount includes a family premium under paragraph 3 of Schedule 2; or
- (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
- (iv) is, or if he has a partner, one of them is, engaged in remunerative work for on average not less than 16 hours per week and paragraph 5(1) above is satisfied in respect of that person.

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

- (a) any amount disregarded under this Schedule;
- (b) the amount of child care charges calculated as deductible under paragraph 57(1)(c) (deductions from income of certain child care charges); and
- (c) £17.10.

(4) The provisions of paragraph 10 (remunerative work) apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph was a reference to 30 hours.

**11.**

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

**Schedule 6**  
**Amounts to be disregarded in the calculation of income other than earnings: pensioners**

1.<sup>9</sup>

100% of any of the following—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 2 or 3);
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 39(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
- (g) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

2.

The whole of any amount included in a pension to which paragraph 1 relates in respect of—

- (a) the applicant's need for constant attendance;
- (b) the applicant's exceptionally severe disablement.

3.

Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.

4.

Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.

5.

In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

6.

(1) Any payment which is—

- (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
  - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
  - (ii) whose service in such capacity terminated before 31st March 1973; and
- (b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922

(exceptional grants of pay, non-effective pay and allowances).

**7.**

£15 of any widowed parent's allowance to which the applicant is entitled under section 39A of the SSCBA.

**8.**

£15 of any widowed mother's allowance to which the applicant is entitled under section 37 of the SSCBA.

**9.**

Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent. of such payments; or
- (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent. of the excess over £20.

**10.**

If the applicant—

- (a) owns the freehold or leasehold interest in any property or is a tenant of any property; and
- (b) occupies a part of that property; and
- (c) has an agreement with another person allowing that person to occupy another part of that property on payment of rent and—
  - (i) the amount paid by that person is less than £20 per week, the whole of that amount; or
  - (ii) the amount paid is £20 or more per week, £20.

**11.**

Where an applicant receives income under an annuity purchased with a loan, which satisfies the following conditions—

- (a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;
- (b) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
- (c) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling;
- (d) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid; and
- (e) that the interest payable on the loan is paid by the person to whom the loan was made or by one of the annuitants,

the amount, calculated on a weekly basis, equal to—

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;
- (ii) in any other case, the interest which is payable on the loan without deduction of such a sum.

**12.**

- (1) Any payment, other than a payment to which sub-paragraph (2) applies, made to the applicant by Trustees in exercise of a discretion exercisable by them.
- (2) This sub-paragraph applies to payments made to the applicant by Trustees in exercise of a discretion exercisable by them for the purpose of—

- (a) obtaining food, ordinary clothing or footwear or household fuel;
- (b) the payment of rent, council tax or water charges for which that applicant or his partner is liable;
- (c) meeting housing costs of a kind specified in Schedule 2 to the State Pension Credit Regulations 2002.

(3) In a case to which sub-paragraph (2) applies, £20 or—

- (a) if the payment is less than £20, the whole payment;
- (b) if, in the applicant's case, £10 is disregarded in accordance with paragraph 1(a) to (g), £10 or the whole payment if it is less than £10; or
- (c) if, in the applicant's case, £15 is disregarded under paragraph 7 or paragraph 8 and—
  - (i) he has no disregard under paragraph 1(a) to (g), £5 or the whole payment if it is less than £5;
  - (ii) he has a disregard under paragraph 1(a) to (g), nil.

(4) For the purposes of this paragraph, “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing and footwear used solely for sporting activities.

**13.**

Any increase in pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 paid in respect of a dependent other than the pensioner's partner.

**14.**

Any payment ordered by a court to be made to the applicant or the applicant's partner in consequence of any accident, injury or disease suffered by the person or a child of the person to or in respect of whom the payments are made.

**15.**

Periodic payments made to the applicant or the applicant's partner under an agreement entered into in settlement of a claim made by the applicant or, as the case may be, the applicant's partner for an injury suffered by him.

**16.**

Any income which is payable outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

**17.**

Any banking charges or commission payable in converting to Sterling payments of income made in a currency other than Sterling.

**18.**

Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—

- (a) under, or pursuant to regulations made under powers conferred by, section 22 of the Teaching and Higher Education Act 1998, that student's award;
- (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or
- (c) the student's student loan,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

**19.**

- (1) Where the applicant is the parent of a student aged under 25 in advanced education who either—
- (a) is not in receipt of any award, grant or student loan in respect of that education; or
  - (b) is in receipt of an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 18, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

- (2) For the purposes of sub-paragraph (1), the amount is to be equal to—
- (a) the weekly amount of the payments; or
  - (b) 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.

**20.**

- (1) Where an applicant's applicable amount includes an amount by way of a family premium, £15 of any payment of maintenance, whether under a court order or not, which is made or due to be made by the applicant's spouse, civil partner, former spouse or former civil partner or the applicant's partner's spouse, civil partner, former spouse, or former civil partner.

- (2) For the purposes of sub-paragraph (1), where more than one maintenance payment falls to be taken into account in any week, all such payments must be aggregated and treated as if they were a single payment.

**21.**

Except in a case which falls under paragraph 10 of Schedule 5, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.

**22.**

Where the total value of any capital specified in Part 2 (capital disregarded only for the purposes of determining deemed income) of Schedule 9 does not exceed £10,000, any income actually derived from such capital.

**23.**

Except in the case of income from capital specified in Part 2 of Schedule 9, any actual income from capital.

**24.**

Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999 as in force at that date, the whole of his income.



**Schedule 7**  
**Sums disregarded in the calculation of earnings: persons who are not pensioners**

**1.**

In the case of an applicant who has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged—

(a) where—

- (i) the employment has been terminated because of retirement; and
- (ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions, any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;

(b) where before the first day of entitlement to a reduction under this scheme the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—

(i) any payment of the nature described in—

- (aa) paragraph 51(1)(e) (retainer), or
- (bb) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds); and

(ii) any award, sum or payment of the nature described in—

- (aa) paragraph 51(1)(g) or (i) (compensation etc. relating to employment), or
- (bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),

including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;

(c) where before the first day of entitlement to a reduction under this scheme—

- (i) the employment has not been terminated, but
- (ii) the applicant is not engaged in remunerative work, any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph (b)(i) or (ii)(bb) or paragraph 51(1)(j) (statutory sick pay etc.).

**2.**

In the case of an applicant who, before the first day of entitlement to a reduction under this scheme—

(a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and

(b) has ceased to be engaged in that employment, whether or not that employment has been terminated,

any earnings paid or due to be paid in respect of that employment except—

(i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i) or (ii)(bb);

(ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) or paragraph 51(1)(j) (statutory sick pay etc.).

**3.**

In the case of an applicant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain, would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment, any earnings derived from that employment except earnings to which paragraph 53(3) and (4) (earnings of self-employed earners) apply.

**4.**

(1) In a case to which this paragraph applies and paragraph 5 does not apply, £20; but notwithstanding paragraph 33 (calculation of income and capital of members of an applicant's family and of a polygamous marriage) if this paragraph applies to an applicant it does not apply to his partner except where, and to the extent that, the earnings of the applicant which are to

be disregarded under this paragraph are less than £20.

(2) This paragraph applies where the applicant's applicable amount includes an amount by way of the disability premium, severe disability premium, work-related activity component or support component under Schedule 3 (applicable amounts: persons who are not pensioners).

(3) This paragraph applies where—

- (a) the applicant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 3; and
- (b) he or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.

5.

In a case where the applicant is a lone parent, £25.

6.

(1) In a case to which neither paragraph 4 nor paragraph 5 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium under Schedule 3 (applicable amounts: persons who are not pensioners), £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with paragraph 14(2) of that Schedule as being in receipt of carer's allowance.

(2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) must not exceed £20 of the aggregated amount.

7.

Where the carer premium is awarded in respect of an applicant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—

- (a) specified in paragraph 9(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 6 exceed £20;
- (b) other than one specified in paragraph 9(1), so much of the other member's earnings from such other employment up to £20 as would not when aggregated with the amount disregarded under paragraph 5 exceed £20.

8.

In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant and he is one of a couple and a member of that couple is in employment, £20; but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it must not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £20.

9.

(1) In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant, £20 of earnings derived from one or more employments as—

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

but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's

family and of a polygamous marriage), if this paragraph applies to an applicant it must not apply to his partner except to the extent specified in sub-paragraph (2).

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

**10.**

Where the applicant is engaged in one or more employments specified in paragraph 9(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment, so much of his earnings from that other employment, up to £10 if he is a single applicant, or up to £20 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 9 exceed £20.

**11.**

In a case to which none of the paragraphs 4 to 10 applies, £10.

**12.**

- (1) Where—
- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
  - (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
  - (c) paragraph 14 does not apply,

the amount specified in sub-paragraph (7) (“the specified amount”).

- (2) Where this paragraph applies, paragraphs 4 to 11 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 5, then paragraph 5 applies instead of this paragraph.

- (3) Notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple (“A”) it does not apply to the other member of that couple (“B”) except to the extent provided in sub-paragraph (4).

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

- (5) This sub-paragraph applies to a person who is—
- (a) in receipt of a contributory employment and support allowance;
  - (b) in receipt of incapacity benefit;
  - (c) in receipt of severe disablement allowance; or
  - (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.

- (6) “Exempt work” means work of the kind described in
- (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be)
  - (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

**13.**

Any amount or the balance of any amount which would fall to be disregarded under paragraph 23 or 24 of Schedule 8 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.

**14.**

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

**15.**

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

**16.**

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

**17.**

Any earnings of a child or young person.

**18.**

(1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 4 to 12 must be increased by £17.10.

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

(a) the applicant, or if he is a member of a couple, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or

(b) the applicant—

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

(ii) is a member of a couple and—

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

(bb) his applicable amount includes a family premium under paragraph 4 of Schedule 3; or

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

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

(aa) the applicant's applicable amount includes a disability premium under paragraph 9, the work-related activity component under paragraph 21 or the support component under paragraph 22 of Schedule 3 respectively;

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

(c) the applicant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.

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

- (a) the amount calculated as disregardable from the applicant's earnings under paragraphs 4 to 12;
- (b) the amount of child care charges calculated as deductible under paragraph 57(1)(c); and
- (c) £17.10.

(4) The provisions of paragraph 10 (remunerative work) apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph were a reference to 30 hours.

**19.**

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

**Schedule 8**  
**Sums disregarded in the calculation of income other than earnings: persons who are not pensioners**

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Pilot Scheme.
2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.
3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme.
4. Any amount paid by way of tax on income which is to be taken into account under regulation 30 (calculation of income other than earnings).
5. Any payment in respect of any expenses incurred or to be incurred by an applicant who is—
  - (a) engaged by a charitable or voluntary organisation, or
  - (b) a volunteer,if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under paragraph 56(5) (notional income: persons who are not pensioners).
6. Any payment in respect of expenses arising out of an applicant participating as a service user
7. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.
8. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his income.
9. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.
10. Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999 as in force at that date, the whole of his income.
11. Any disability living allowance, personal independence payment or an AFIP.
12. Any concessionary payment made to compensate for the non-payment of—
  - (a) any payment specified in paragraph 11 or 14;
  - (b) income support;
  - (c) an income-based jobseeker's allowance;
  - (d) an income-related employment and support allowance.
13. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
14. Any attendance allowance.
15. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.



**16.**

(1) Any payment

- (a) by way of an education maintenance allowance made pursuant to—
  - (i) regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc.);
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);
  - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
- (b) corresponding to such an education maintenance allowance, made pursuant to—
  - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
  - (ii) regulations made under section 181 of that Act; or
- (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992, in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

**17.**

Any payment made to the applicant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc.) Regulations 2002.

**18.**

(1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment—

- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit, severe disablement allowance or an employment and support allowance;
- (b) of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst an applicant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

**19.**

(1) Subject to sub-paragraph (2), any of the following payments—

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the applicant;
- (d) a payment under an annuity purchased—
  - (i) pursuant to any agreement or court order to make payments to the applicant; or
  - (ii) from funds derived from a payment made, in consequence of any personal injury to the applicant; or

(e) a payment (not falling within paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.

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

**20<sup>10</sup>.**

100% of any of the following, namely

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 13 or 14 );
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (a) to (d) above;
- (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

**21.**

Subject to paragraph 40, £15 of any

- (a) widowed mother's allowance paid pursuant to section 37 of the SSCBA;
- (b) widowed parent's allowance paid pursuant to section 39A of the SSCBA.

**22.**

- (1) Any income derived from capital to which the applicant is or is treated under paragraph 70 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17 or 30 to 33 of Schedule 10.
- (2) Income derived from capital disregarded under paragraphs 5, 7 or 30 to 33 of Schedule 10 but only to the extent of—
  - (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
  - (b) any council tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.
- (3) The definition of ““water charges”” in paragraph 2(1) (interpretation) applies to sub-paragraph (2) of this paragraph with the omission of the words ““in so far as such charges are in respect of the dwelling which a person occupies as his home””.

**23.**

Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—

(a) under, or pursuant to regulations made under powers conferred by, section 22 of the Teaching and Higher Education Act 1998, that student's award;

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

(c) the student's student loan,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

**24.**

(1) Where the applicant is the parent of a student aged under 25 in advanced education who either—

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

(b) is in receipt of an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 23, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount must be equal to—

(a) the weekly amount of the payments; or

(b) the amount by way of a personal allowance for a single applicant under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),

whichever is less.

**25.**

Any payment made to the applicant by a child or young person or a non-dependant.

**26.**

Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 25 or 27 refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family—

(a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or

(b) where the aggregate of any such payments is £20 or more per week, £20.

**27.**

Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for which such accommodation is provided for the whole or any part of a week, equal to—

(a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent of such payments;

(b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent of the excess over £20.

**28.**

- (1) Any income in kind, except where paragraph 54(10)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act 1999 in the calculation of income other than earnings) applies.
- (2) The reference in sub-paragraph (1) to ““income in kind”” does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

**29.**

Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

**30.**

- (1) Any payment made to the applicant in respect of a person who is a member of his family—
  - (a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978 (schemes for payments of allowances to adopters) or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes);
  - (b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);
  - (c) which is a payment made by an authority, as defined in Article 2 of the Children (Northern Ireland) Order 1995, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);
  - (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services);
- (2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

**31.**

Any payment made to the applicant with whom a person is accommodated by virtue of arrangements made—

- (a) by a local authority under—
  - (i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),
  - (ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or
  - (iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or
- (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).

**32.**

Any payment made to the applicant or his partner for a person (“the person concerned”), who is not normally a member of the applicant's household but is temporarily in his care, by—

- (a) a health authority;
- (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
- (c) a voluntary organisation;
- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
- (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
- (f) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

**33.**

Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or section 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

**34.**

(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A—  
(a) was formerly in the applicant's care, and  
(b) is aged 18 or over, and  
(c) continues to live with the applicant.

**35.**

(1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments—

(a) on a loan which is secured on the dwelling which the applicant occupies as his home; or  
(b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.

(2) A payment referred to in sub-paragraph (1) is only to be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—

(a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (1)(b); and  
(b) meet any amount due by way of premiums on—  
(i) that policy; or  
(ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).

**36.**

Any payment of income which by virtue of paragraph 64 (income treated as capital: persons who are not pensioners) is to be treated as capital.

**37.**

Any  
(a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or  
(b) occasional assistance.

**38.**

Any payment under Part 10 of the SSCBA (Christmas bonus for pensioners).

**39.**

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

**40.**

The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under paragraph 33(3) (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph

77(2)(b) and paragraph 78(1)(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 81(2) (treatment of student loans), paragraph 82(3) (treatment of payments from access funds) and paragraphs 20 and 21 must in no case exceed £20 per week.

#### 41.

- (1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
  - (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
  - (a) the person who is suffering from haemophilia or who is a qualifying person;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—
  - (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent, or
    - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his education and has no parent or step-parent, to his guardian,but only for a period from the date of the payment until the end of two years from that person's death.
- (5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—
  - (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent, or
    - (ii) where that person at the relevant date was a child, a young person or a student who

had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.

**42.**

Any housing benefit.

**43.**

Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

**44.**

Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.

**45.**

Any payment in consequence of a reduction of council tax under section 13 of the 1992 Act (reduction of liability for council tax).

**46.**

(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1).

**47.**

Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).

**48.**

Any payment made by either the Secretary of State for Justice or by the Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody.

**49.**

(1) Where an applicant's applicable amount includes an amount by way of family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.

(2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments must be aggregated and treated as if they were a single payment.

(3) A payment made by the Secretary of State in lieu of maintenance must, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

**50.**

(1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.

(2) In sub-paragraph (1) —

“child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under

(a) the Child Support Act 1991;

(b) the Child Support (Northern Ireland) Order 1991;

(c) a court order;

(d) a consent order;

(e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

“liable relative” means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.

**51.**

Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.

**52.**

Any guardian's allowance.

**53.**

(1) If the applicant is in receipt of any benefit under Part 2, 3 or 5 of the SSCBA, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.

(2) If the applicant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.

**54.**

Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.

**55.**

In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

**56.**



- (1) Any payment which is—
- (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
    - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
    - (ii) whose service in such capacity terminated before 31st March 1973; and
  - (b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).

**57.**

Any council tax benefit to which the applicant is entitled.

**58.**

Except in a case which falls under sub-paragraph (1) of paragraph 18 of Schedule 7, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.

**59.**

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

**60.**

- (1) Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person—
- (a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;
  - (b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,
- in respect of which such assistance is or was received.

(2) Sub-paragraph (1) applies only in respect of payments which are paid to that person from the special account.

**61.**

(1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

**62.**

Where the amount of subsistence allowance paid to a person in a 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.

**63.**

In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.

**64.**

Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001.

**65.**

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

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

**66.**

Any payment of child benefit.

**67**

Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)

**Schedule 9**  
**Capital disregards: pensioners**

1. Any premises acquired for occupation by the applicant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
2. Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.
3. Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.
4. Any premises occupied in whole or in part—
  - (a) by a person who is a relative of the applicant or his partner as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
  - (b) by the former partner of the applicant as his home; but this provision does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
5. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
6. Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from his former partner or the dissolution of a civil partnership with his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.
7. Any premises where the applicant is taking reasonable steps to dispose of the whole of his interest in those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.
8. All personal possessions.
9. The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of those assets.
10. The assets of any business owned in whole or in part by the applicant if—
  - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
  - (b) he intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as he recovers or is able to become engaged, or re-engaged, in that business,

for a period of 26 weeks from the date on which the application for a reduction under this scheme is made or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

**11.**

The surrender value of any policy of life insurance.

**12.**

The value of any funeral plan contract; and for this purpose, ““funeral plan contract”” means a contract under which—

- (a) the applicant makes one or more payments to another person (““the provider””);
- (b) the provider undertakes to provide, or secure the provision of, a funeral in the United Kingdom for the applicant on his death; and
- (c) the sole purpose of the plan is to provide or secure the provision of a funeral for the applicant on his death.

**13.**

Where an ex-gratia payment has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—

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

by the Japanese during the Second World War, an amount equal to that payment.

**14.**

(1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or an applicant's partner who is

- (a) a diagnosed person;
- (b) a diagnosed person's partner or was a diagnosed person's partner at the time of the diagnosed person's death; or
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.

(2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending two years after that date.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or an applicant's partner who is—

- (a) the diagnosed person;
- (b) a diagnosed person's partner or was a diagnosed person's partner at the date of the diagnosed person's death; or
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.

(4) Where a payment such as referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the payment is made and ending on the date on which that

person dies;

- (b) a person referred to in sub-paragraph (3)(c), that sub-paragraph applies for the period beginning on the date on which the payment is made and ending two years after that date.

(5) In this paragraph, a reference to a person

- (a) being the diagnosed person's partner;

- (b) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death includes a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home or an independent hospital.

(6) In this paragraph—

**“diagnosed person”** means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeldt-Jakob disease;

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

**“trust payment”** means a payment under a relevant trust.

## 15.

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

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

## 16.

(1) Any payment made under or by—

- (a) the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, or the London Bombings Relief Charitable Fund (collectively referred to in this paragraph as “the Trusts”); or
- (b) the Independent Living Fund (2006).

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of that person's partner or former partner—

- (a) from whom he is not, or where that person has died was not, estranged or divorced, or
- (b) with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of the person who is suffering from haemophilia or who is a qualifying person.

(4) Sub-paragraph (3) does not apply if—

- (a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or
- (b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.

- (5) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child who is or had been a member of that person's household; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent; or
    - (ii) where that person at the date of the payment is a child or a student who has not completed his full-time education and has no parent or step-parent, to any person standing in the place of his parent,
      - but only for a period from the date of the payment until the end of two years from that person's death.
- (6) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts, where—
- (a) that person at the date of his death ("the relevant date") had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child who was or had been a member of his household; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent; or
    - (ii) where that person at the relevant date was a child or a student who had not completed his full-time education and had no parent or step-parent, to any person standing in place of his parent,
      - but only for a period of two years from the relevant date.
- (7) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

**17.**

- (1) An amount equal to the amount of any payment made in consequence of any personal injury to the applicant or, if the applicant has a partner, to the partner.
- (2) Where the whole or part of the payment is administered—
- (a) by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;
  - (b) in accordance with an order made under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules; or
  - (c) in accordance with the terms of a trust established for the benefit of the applicant or his partner,
    - the whole of the amount so administered.

**18.**

Any amount specified in paragraph 19, 20, 21 or 25 for a period of one year beginning with the date of receipt.

**19.**

Amounts paid under a policy of insurance in connection with the loss of or damage to the property occupied by the applicant as his home and to his personal possessions.

**20.**

So much of any amounts paid to the applicant or deposited in the applicant's name for the sole purpose of

- (a) purchasing premises which the applicant intends to occupy as his home; or

(b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the applicant as his home.

## **21.**

(1) Subject to paragraph 22 any amount paid—

- (a) by way of arrears of benefit;
- (b) by way of compensation for the late payment of benefit;
- (c) in lieu of the payment of benefit;
- (d) to rectify, or compensate for, an official error, as defined for the purposes of paragraph 22, being an amount to which that paragraph does not apply;
- (e) by a local authority out of funds provided under either section 93 of the Local Government Act 2000 under a scheme known as “Supporting People” or section 91 of the Housing (Scotland) Act 2001.

(2) In sub-paragraph (1), “benefit” means

- (a) attendance allowance under section 64 of the Act;
- (b) disability living allowance;
- (c) personal independence payment;
- (d) an AFIP;
- (e) income support;
- (f) income-based jobseeker's allowance;
- (g) state pension credit;
- (h) housing benefit;
- (i) council tax benefit;
- (j) child tax credit;
- (k) an increase of a disablement pension under section 104 of the SSCBA (increase where constant attendance is needed), and any further increase of such a pension under section 105 of the Act (increase for exceptionally severe disablement);
- (l) any amount included on account of the applicant's exceptionally severe disablement or need for constant attendance in a war disablement pension or a war widow's or widower's pension;
- (m) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
- (n) working tax credit; or
- (o) income-related employment and support allowance or
- (p) universal credit

## **22.**

(1) Subject to sub-paragraph (3), any payment of £5,000 or more which has been made to rectify, or to compensate for, an official error or an error on a point of law relating to a relevant benefit and which has been received by the applicant in full on or after the day on which he became entitled to a reduction under this scheme.

(2) Subject to sub-paragraph (3), the total amount of any payments disregarded under—

- (a) paragraph 7(2) of Schedule 10 to the Income Support (General) Regulations 1987;
- (b) paragraph 12(2) of Schedule 8 to the Jobseeker's Allowance Regulations 1996;
- (c) paragraph 9(2) of Schedule 5 to the Council Tax Benefit Regulations 2006;
- (d) paragraph 20A of Schedule 5 to the State Pension Credit Regulations 2002,
- (e) paragraph 11(2) of Schedule 9 to the Employment and Support Allowance Regulations 2008,

where the award in respect of which the payments last fell to be disregarded under those Regulations either terminated immediately before the relevant date or is still in existence at that date.

(3) Any disregard which applies under sub-paragraph (1) or (2) has effect until the award comes to an end.



(4) In this paragraph—

“the award”, except in sub-paragraph (2), means

- (a) the award of a reduction under the authority's scheme during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received; and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided that, for such further awards, the applicant—
  - (i) is the person who received the relevant sum;
  - (ii) is the partner of that person; or
  - (iii) was the partner of that person at the date of his death;

“official error”

- (a) where the error relates to housing benefit, or council tax benefit (in respect of any period before 1st April 2013), has the meaning given by regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and
- (b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999;

“the relevant date” means the date on which the application for a reduction under this scheme was made;

“relevant benefit” means any benefit specified in paragraph 21(2); and

“the relevant sum” means the total amount referred to in sub-paragraph (1).

**23.**

Where a capital asset is held in a currency other than Sterling, any banking charge or commission payable in converting that capital into Sterling.

**24.**

The value of the right to receive income from an occupational pension scheme or a personal pension scheme.

**25.**

Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 6 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.

**26.**

The dwelling occupied as the home; but only one dwelling is to be disregarded under this paragraph.

**27.**

(1) Subject to sub-paragraph (2), where an applicant falls within class C (alternative maximum council tax reduction: pensioners), the whole of his capital.

(2) Sub-paragraph (1) does not apply where an applicant falls within class B and class C.

**28.**

Where a person elects to be entitled to a lump sum under Schedule 5 or 5A to SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005, or is treated as having made such an election, and a payment has been made pursuant to that election, an amount equal to—

- (a) except where sub-paragraph (b) applies, the amount of any payment or payments made on account of that lump sum;
- (b) the amount of that lump sum,

but only for so long as that person does not change that election in favour of an increase of pension or benefit.

**29.**

Any payments made by virtue of regulations made under—

- (a) section 57 of the Health and Social Care Act 2001 (direct payments);
- (b) section 12B of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services);
- (c) sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care);
- (d) Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 (general social welfare); or
- (e) section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002 (direct payments).

**Capital disregarded only for the purposes of determining deemed income**

**30.**

The value of the right to receive any income under a life interest or from a life rent.

**31.**

The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.

**32.**

The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

**33.**

Where property is held under a trust, other than

- (a) a charitable trust within the meaning of the Charities Act 1993; or
- (b) a trust set up with any payment to which paragraph 16 applies,

and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the applicant or the applicant's partner, or both, that property.

**34**

Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)

**Schedule 10**  
**Capital disregards: persons who are not pensioners**

- 1.**  
Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Scheme but only for 52 weeks beginning with the date of receipt of the payment.
- 2.**  
Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.
- 3.**  
Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme but only for 52 weeks beginning with the date of receipt of the payment.
- 4.**  
The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), only one dwelling is to be disregarded under this paragraph.
- 5.**  
Any premises acquired for occupation by the applicant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
- 6.**  
Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the applicant to complete the purchase.
- 7.**  
Any premises occupied in whole or in part
  - (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
  - (b) by the former partner of the applicant as his home; but this provision does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
- 8.**  
Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his capital.
- 9.**  
Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and his partner is on income-based jobseeker's allowance, the whole of the applicant's capital.
- 10.**  
Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
- 11.**
  - (1) The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as

may be reasonable in the circumstances to allow for disposal of any such asset.

- (2) The assets of any business owned in whole or in part by the applicant where—
- (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
  - (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business,

for a period of 26 weeks from the date on which the application for a reduction under this scheme is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

- (3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

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

## 12.

- (1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—
- (a) any payment specified in paragraphs 11, 13 or 14 of Schedule 8;
  - (b) an income-related benefit under Part 7 of the SSCBA;
  - (c) an income-based jobseeker's allowance;
  - (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
  - (e) working tax credit and child tax credit;
  - (f) an income-related employment and support allowance,

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

- (2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as “the relevant sum”) and is—

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and
- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) has effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the period of an award of a reduction under this scheme, for the remainder of that period if that is a longer period.

- (3) For the purposes of sub-paragraph (2), “the period of an award of a reduction under this scheme” means

- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant—
  - (i) is the person who received the relevant sum; or
  - (ii) is the partner of the person who received the relevant sum, or was that person's partner

at the date of his death.

**13.**

Any sum

- (a) paid to the applicant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or replacement; or
- (b) acquired by the applicant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home,

which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to effect the repairs, replacement or improvement.

**14.**

Any sum

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 as a condition of occupying the home;
- (b) which was so deposited and which is to be used for the purchase of another home, for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the applicant to complete the purchase.

**15.**

Any personal possessions except those which have been acquired by the applicant with the intention of reducing his capital in order to secure entitlement to a reduction under this scheme or to increase the amount of that reduction.

**16.**

The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

**17.**

Where the funds of a trust are derived from a payment made in consequence of any personal injury to the applicant or applicant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.

**18.**

- (1) Any payment made to the applicant or the applicant's partner in consequence of any personal injury to the applicant or, as the case may be, the applicant's partner.
- (2) But sub-paragraph (1)—
  - (a) applies only for the period of 52 weeks beginning with the day on which the applicant first receives any payment in consequence of that personal injury;
  - (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
  - (c) ceases to apply to the payment or any part of the payment from the day on which the applicant no longer possesses it;
  - (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the applicant.
- (3) For the purposes of sub-paragraph (2)(c), the circumstances in which an applicant no longer possesses a payment or a part of it include where the applicant has used a payment or part of it to purchase an asset.
- (4) References in sub-paragraphs (2) and (3) to the applicant are to be construed as including references to his partner (where applicable).

**19.**

The value of the right to receive any income under a life interest or from a life rent.

**20.**

The value of the right to receive any income which is disregarded under paragraph 15 of Schedule 7 or paragraph 29 of Schedule 8.

**21.**

The surrender value of any policy of life insurance.

**22.**

Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

**23.**

Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

**24.**

(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A—

- (a) was formerly in the applicant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the applicant.

**25.**

Any

- (a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or
- (b) occasional assistance.

**26.**

Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

**27.**

Any capital which by virtue of paragraph 55 or 81 (capital treated as income: persons who are not pensioners, treatment of student loans) is to be treated as income.

**28.**

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

**29.**

(1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that

- person's death;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) the person who is suffering from haemophilia or who is a qualifying person;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (4) Sub-paragraph (3) does not apply if—
- (a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or
  - (b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.
- (5) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent; or
    - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,but only for a period from the date of the payment until the end of two years from that person's death.
- (6) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—
- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent; or
    - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,but only for a period of two years from the relevant date.
- (7) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.
- (8) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, and the London Bombings Relief Charitable Fund.



**30.**

(1) Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph "dwelling" includes any garage, garden and outbuildings, which were formerly occupied by the applicant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.

**31.**

Any premises where the applicant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

**32.**

Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

**33.**

Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.

**34.**

Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

**35.**

The value of the right to receive an occupational or personal pension.

**36.**

The value of any funds held under a personal pension scheme.

**37.**

The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.

**38.**

Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).

**39.**

Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.

**40.**

Any payment in consequence of a reduction of council tax under section 13 of the 1992 Act (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.

**41.**

Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988 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.

**42.**

Any arrears of supplementary pension which is disregarded under paragraph 54 of Schedule 8 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

**43.**

(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

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

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

**44.**

Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.

**45.**

Any payment made under Part 8A of the SSCBA (entitlement to health in pregnancy grant).

**46.**

Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.

**47.**

Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.

**48.**

Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958. to homeworkers assisted under the Blind Homeworkers' Scheme.

**49.**

Not Used

**50.**

(1) Any sum of capital to which sub-paragraph (2) applies and—

- (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;
- (b) which can only be disposed of by order or direction of any such court; or
- (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

(2) This sub-paragraph applies to a sum of capital which is derived from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

**51.**

Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules, where such sum derives from—

- (a) award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

**52.**

Any payment to the applicant as holder of the Victoria Cross or George Cross.

**53.**

In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.

**54.**

(1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) "food" does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

**55.**

(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
  - (i) regulations made under section 518 of the Education Act 1996;
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
  - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under

- section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
- (b) corresponding to such an education maintenance allowance, made pursuant to—
    - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
    - (ii) regulations made under section 181 of that Act; or
  - (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—
  - (a) regulations made under section 518 of the Education Act 1996;
  - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
  - (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

**56.**

In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

**57.**

Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.

**58.**

Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—

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

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

**59.**

- (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is—

- (a) a diagnosed person;
- (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.

- (2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending two years after that date;

(c) a person referred to in sub-paragraph (1)(d), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending—

- (i) two years after that date; or
- (ii) on the day before the day on which that person—
  - (aa) ceases receiving full-time education; or
  - (bb) attains the age of 20,

whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is—

- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment as referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending two years after that date; or
- (c) person referred to in sub-paragraph (3)(c), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending—
  - (i) two years after that date; or
  - (ii) on the day before the day on which that person—
    - (aa) ceases receiving full-time education; or
    - (bb) attains the age of 20,

whichever is the latest.

(5) In this paragraph, a reference to a person—

- (a) being the diagnosed person's partner;
- (b) being a member of a diagnosed person's family;
- (c) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death includes a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld-Jakob disease;

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

“trust payment” means a payment under a relevant trust.

## 60.

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

partner's deceased spouse or deceased civil partner—

(a) was a slave labourer or a forced labourer;

(b) had suffered property loss or had suffered personal injury; or

(c) was a parent of a child who had died,

during the Second World War.

**61.**

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

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

**62.**

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

**63.**

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

**64.**

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

**Schedule 11**  
**Collection, holding and forwarding of information for Council Tax Reduction purposes**

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

- 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
- 2 Where required by the relevant department and where required by law, the authority will share information obtained for Council Tax Reduction with the DWP or HMRC as appropriate and in accordance with Data Protections requirements<sup>11</sup>.

### **Collection of information**

- 3 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
- 4 The authority may verify relevant information supplied to, or obtained.

### **Recording and holding information**

- 5 The authority may:
  - a. may make a record of such information; and
  - b. may hold that information, whether as supplied or obtained or recorded, for the purpose of forwarding it to the person or authority for the time being administering Council Tax Reduction.

### **Forwarding of information**

- 7 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:
  - a. a local authority;
  - b. a person providing services to a local authority; ora person authorised to exercise any function of a local authority relating to Council Tax Reduction.

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<sup>11</sup> Data Retention and Investigatory Powers Act 2014 and Data Retention Regulations 2014



**Schedule 12  
Provisions for Care Leavers  
CLASS F**

1. From 1<sup>st</sup> April 2019 the Council has determined that special provisions will apply to all persons who are defined as care leavers **and** who reside within the authority's area **and** who are liable for Council Tax.
2. The definition of care leaver is as follows:  
A care leaver is a person who—
  - (a) is at least 18 years of age but not yet 26 years of age;
  - (b) was on that person's sixteenth birthday or at any subsequent time looked after by a local authority;
  - and
  - (c) is no longer looked after by a local authority.
3. Where the care leaver is aged under 21 years of age, they shall receive a reduction of 100% irrespective of their financial circumstances;
4. Where the care leaver is 21 years of age but not yet 26 years of age, their entitlement to Council Tax Reduction shall be in accordance with the scheme for persons who are not pensioners and their entitlement shall be calculated in accordance with the provisions for Class D or Class E of this scheme **however the maximum Council Tax Reduction as specified in section 29A.1 shall be 100%.**
5. The decision as to whether a person meets the definition of care leaver as per paragraph 2 of this schedule shall be solely determined by the authority.

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