

Public Document Pack

Chief Executive

**THE CIVIC MAYOR, CHAIR OF
COUNCIL BUSINESS AND ALL
MEMBERS OF THE COUNCIL**

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Date	14.1.16

Dear Councillor,

You are hereby summoned to attend an **EXTRAORDINARY MEETING** of the Tameside Metropolitan Borough Council to be held on **Thursday, 21st January, 2016 at 5.00 pm** in the Jubilee Hall, Dukinfield Town Hall, Dukinfield when the undermentioned business is to be transacted.

Yours faithfully,



**Steven Pleasant MBE
Chief Executive**

Item No.	AGENDA	Page No
1.	<p>MINUTES</p> <p>That the Minutes of the proceedings of the Meeting of Council held on 8 December 2015 be approved as a correct record and signed by the Chair of Council Business (or other person presiding) (Minutes attached).</p>	1 - 10
2.	<p>APOLOGIES FOR ABSENCE</p> <p>To receive any apologies for absence from Members of the Council.</p>	
3.	<p>DECLARATIONS OF INTEREST</p> <p>To receive any declarations of interest from Members of the Council.</p>	
4.	<p>COMMUNICATIONS OR ANNOUNCEMENTS</p> <p>To receive any announcements or communications from the Chair of Council Business, the Executive Leader, Members of the Executive Cabinet or the Chief Executive.</p>	
5.	<p>COUNCIL BIG CONVERSATION</p> <p>To consider any questions submitted by Members of the public in accordance with Standing Orders 31.12 and 31.13.</p>	
6.	<p>JOINT MEETING OF EXECUTIVE CABINET AND AUDIT PANEL</p> <p>To receive the minutes of the Meeting of the Joint Meeting of Executive Cabinet and Audit Panel held on 16 December 2015.</p>	11 - 22
7.	<p>DEMOCRATIC PROCESSES WORKING GROUP</p> <p>To receive the minutes of the meeting of the Democratic Processes Working Group held on 16 December 2015.</p>	23 - 26
8.	<p>UPDATE ON CITIES AND DEVOLUTION BILL</p> <p>To consider the attached report of the Executive Leader/Chief Executive.</p>	27 - 28
9.	<p>COUNCIL TAX SUPPORT SCHEME</p> <p>To consider the attached report of the First Deputy (Performance and Finance)/Assistant Executive Director (Exchequer Services).</p>	29 - 184
10.	<p>LICENSING POLICIES</p> <p>To consider the attached report of the Executive Member (Clean and Green)/Assistant Executive Director (Environmental Services).</p> <p>(a) LICENSING ACT 2013 POLICY</p> <p>(b) GAMBLING POLICY</p> <p>(c) SEX ESTABLISHMENT LICENSING POLICY</p>	185 - 284
11.	<p>WASTE POLICY AND ENFORCEMENT STRATEGY</p> <p>To consider the attached report of the Deputy Executive Leader, Executive Member (Clean and Green) and Assistant Executive Director (Environmental Services).</p>	285 - 312

12. GOVERNANCE AND ACCOUNTABILITY FRAMEWORK FOR HEALTH AND CARE INTEGRATION 313 - 370

To consider the attached report of the Executive Member (Adult Social Care and Wellbeing)/Executive Member (Healthy and Working)/Executive Member (Children and Families)/Chief Executive.

13. QUESTIONS

To answer questions (if any) asked under Standing Order 17.2, for which due notice has been given by a Member of the Council.

14. URGENT ITEMS

To consider any other items which the Chair of Council Business (or other person presiding) is of the opinion shall be dealt with as a matter of urgency.

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COUNCIL

8 December 2015

Commenced: 5.00 pm

Terminated: 7.10 pm

Present: Councillors Kitchen (Chair), Ricci (Civic Mayor), Affleck, Bailey, Ballagher, Beeley, Bell, Bowden, Bowerman, Buckley, Cartey, Cooney, Cooper, Dickinson, Downs, Drennan, Fairfoull, JM Fitzpatrick, P Fitzpatrick, Fowler, Glover, Gwynne, A Holland, B Holland, Jackson, Kinsey, D Lane, J Lane, McNally, I Miah, R Miah, Middleton, Pearce, Peet, Piddington, K Quinn, S Quinn, Reid, Reynolds, Robinson, Shember-Critchley, Sidebottom, M Smith, T Smith, Sweeton, Taylor, F Travis, L Travis, Ward, Warrington, White (part meeting) and Whitehead.

Apologies for Absence: Councillors Bray, Patrick, Ryan, Welsh and Wild.

Civic Mayor (Councillor Ricci) in the Chair

14. CIVIC MAYOR'S ANNOUNCEMENTS

The Civic Mayor was pleased to report on the recent marriage of Councillor Claire Francis and Members joined with him in extending sincere congratulations to Claire and her husband Paul and wished them every happiness in their new life together.

He also made reference to his Annual Report sharing some of the highlights from the last six months and briefly outlining his work programme for the remainder of his term of office.

In conclusion, as this was the last Council meeting of the calendar year, the Civic Mayor took the opportunity to wish all those present a very merry Christmas and a happy, healthy and prosperous New Year.

Councillor Kitchen, Chair of Council Business, in the Chair

15. MINUTES

RESOLVED

That the Minutes of the proceedings of the meeting of the Council held on 29 September 2015 be approved as a correct record and signed by the Chair of Council Business.

16. DECLARATIONS OF INTEREST

There were no declarations of interest made by Members at this meeting of the Council.

17. COMMUNICATIONS OR ANNOUNCEMENTS

The Chair of Council Business introduced Chris Bird from Sports Tours International, the organisers of the Tour of Tameside, who presented memorabilia from the 2015 event to the Executive Leader of the Council in recognition of the successful return of the Tour of Tameside after a 14 year absence. The Executive Leader commented on the success of the event and the opportunity it provided to increase health and wellbeing in the borough.

Councillor Taylor was pleased to announce the start of the process towards the launch of the Youth Council and welcomed a number of young people present at the meeting. He congratulated

them for the work they had undertaken so far and looked forward to their future contribution as the Youth Council evolved. Youth Councils were forums that represented the views of young people on a local level. Their role was to give a voice to young people and enable them to make their voices heard in the decision-making process.

Councillor Robinson advised on the recently published interim report for the Trans-Pennine tunnel strategic study outlining the high level case for the Trans-Pennine tunnel road scheme and feasibility of constructing a new road link. He also made reference to the installation of road safety measures on Clarence Street, Dukinfield / Stalybridge crossroads.

18. EXECUTIVE LEADER'S EMERGENCY BUDGET ANNOUNCEMENT

The Chair of Council Business, Councillor Kitchen, called on the Executive Leader, Councillor K Quinn, to deliver his annual keynote address and budget statement.

The Executive Leader outlined the difficult choices facing the Council, explaining that it could expect a further £94 million reduction in its funding over the next four years, despite £104 million cut from the Council's budget since 2010. The inescapable fact was that in the very near future the Council would be struggling to provide anything but the most basic of statutory services. Already, around 75% of the Council's controllable spend was now used to fund adult social care alone.

There would be an emergency savings plan in light of the Comprehensive Spending Review taking into account the new financial pressures the Council will face and also incorporating residents' views from the online budget simulator. This would be presented at the next Full Council meeting in February 2016.

The Council would continue to fight to secure a fair funding settlement for local government; a settlement that accounted for the needs of every area and stopped the creation of a postcode lottery in council services. It was estimated that Tameside would be £14 million better off if government funding truly reflected the demand for council services.

He outlined the work with neighbouring councils and the Greater Manchester Combined Authority to bring forward the devolution agenda ensuring that the social and economic benefits of devolution in health care, in business rate pooling, in investment and in affordable housing were shared for the benefit of all.

He intended that the Council would continue to work with its partners such as Active Tameside, the Citizens Advice Bureau and New Charter to discuss what needed to be done to maintain the services that the most vulnerable residents depended on.

He was pleased to report on the opening of the new Greater Manchester Pension Fund headquarter buildings, Guardsman Tony Downes House, in Droylsden securing the future of the pension fund and the employment and investment it provided for the benefit of Tameside.

This year also saw the opening of the Inspire Academy, the first wholly-new school to be built in Tameside since the formation of the Borough in 1974 and he was looking forward to the opening of a second school, the Discovery Academy, in autumn 2016. In addition, the first phase of the Vision Tameside project had delivered a new state of the art campus on Camp Street, Ashton, and the steel exterior of the new Advanced Technologies Centre in Stamford Street was now a fixture in Ashton's skyline. The facility would be welcoming its first cohort of students in Spring 2016.

He made reference to the announcement by Councillor Taylor on the setting up of a Youth Council, giving young people a platform not only to get their opinions heard, but taken seriously by decision-makers in the Council and other organisations in the Borough. Through initiatives such as the Tameside Jobs Pledge and Vision Tameside Apprenticeships the Council was supporting its partners and local business in giving young people a helping hand into employment.

He concluded by stating that the task ahead for next year had been set and the Council would continue to deliver investment for all residents, protect the vulnerable and those in need and preserve Tameside as a place to live, work and do business in.

In accordance with the Council's Constitution, the Chair of Council Business called upon the Leader of the Main Opposition Group, Councillor Bell, to respond. Councillor Bell stated that he did not intend to respond.

19. COUNCIL BIG CONVERSATION

There had been two questions submitted by members of the public. The first question was from Charlotte Hughes:

"Does the Leader of the Council share the concerns which have been expressed by a significant number of politicians, regarding the lack of information and democratically accountable process, in relation to the so called 'devolution deal for Greater Manchester', which have been most recently reflected in the columns of the Manchester Evening News in relation to the visit of the Communities and Local Government Select Committee to Manchester?"

Does he furthermore recognise that, if politicians are complaining about being kept in the dark about changes which will have a massive impact on our NHS, housing and other vital public services, then the problem is exponentially greater in degree for members of the public?"

And will he take steps to rectify the democratic deficit in the Borough of Tameside by arranging, with due urgency, public meetings designed to drag this issue into the light of day."

The Executive Leader responded that he did not agree that there was a democratic deficit around devolution, which was dealt with by the 10 democratically elected Greater Manchester Leaders at the Association of Greater Manchester meetings held in public and streamed over the internet - the process overall was highly transparent. There were issues related to devolution where he would have welcomed a public vote but unfortunately this was not within his gift. Overall, he felt that devolution, which would see the significant transfer of power from Whitehall to the local communities was a significant step forward for democracy in this country and consultation and engagement had already taken place around key developments.

The second question was from Ram Nathoo, representing Peace Talks Tameside:

"Oldham Council has recently become the first local authority in the UK to become a signatory to the European Parliament's Pledge to Peace.

The Pledge of Peace was established at the European Parliament in Brussels on 28 November 2011. Its purpose is to create a 'culture of peace' in Europe by establishing a network of signatory organisations with a shared vision of value of peace, carrying out tangible projects to help promote peace at every level in their communities.

At its Brussel launch, the initiative's primary sponsor, the Honorable Gianna Pittella, First Vice-President of the European Parliament stated that in his view "peace is not a goal attainable by a few great men, but a task entrusted to the contribution of each one of us".

Becoming a signatory to the Pledge need not cost anything but it does demonstrate that an organisation wants to make a contribution towards creating a culture of peace in Europe.

My question therefore tonight is will the relevant Executive member or members agreed to meet with representatives from Peace Talks Tameside to discuss how the Council can make that contribution by becoming the UK's second local authority to sign up to the Pledge to Peace?"

The Executive Leader responded that arrangements would be made for a meeting to take place with representatives from Peace Talks Tameside in the New Year.

20. MEETING OF EXECUTIVE CABINET

Consideration was given to the Minutes of the meeting of Executive Cabinet held on 21 October 2015. It was moved by Councillor K Quinn, seconded by Councillor Taylor and –

RESOLVED

That the Minutes of the Executive Cabinet held on 21 October 2015 be received.

21. MEETING OF THE SENIOR STAFFING PANEL

Consideration was given to the Minutes of the meeting of the Senior Staffing Panel held on 16 November 2015. It was moved by Councillor K Quinn, seconded by Councillor Taylor and –

RESOLVED

That the Minutes of the meeting of the Senior Staffing Panel held on 16 November 2015 be received and it be agreed that Peter Timmins, Interim Assistant Executive Director, be appointed as the Section 151 Officer from 23 November 2015 for 6 to 12 months to enable the recruitment and successful appointment of a permanent Section 151 Officer.

22. MEETING OF THE DEMOCRATIC PROCESSES WORKING GROUP

Consideration was given to the Minutes of the meeting of the Democratic Processes Working Group held on 26 October 2015. It was moved by Councillor Cooney, seconded by Councillor J Fitzpatrick and –

RESOLVED

That the Minutes of the meeting of the Democratic Processes Working Group held on 26 October 2015 be received.

23. EXECUTIVE MEMBER PORTFOLIOS

Consideration was given to a report of the Executive Leader setting out revised Executive Member portfolios.

It explained that Councils could organise their decision-making processes in different ways although the majority of Councils operated a leader and cabinet model rather than an elected mayor. Under the leader and cabinet model, the full council elected a leader, who in turn appointed the cabinet. Each cabinet member had a specific area of responsibility as determined by the Leader to cover all the executive functions of the Council.

Councils across the country had undergone major changes in the last couple of years to address the budget reductions and this was set to continue for the foreseeable future and at least until 2020. The Executive Cabinet was legally charged with the responsibility to drive the change to deliver a balanced budget in the face of the immediacy of the budget reductions.

The Executive Leader determined the portfolios of the Cabinet and the purpose of the report was to ensure there was transparency as to the areas of responsibility and accountability. He stated that the Cabinet portfolios had remained consistent since 2010 apart from reductions in membership from the statutory maximum of 10 to a current 8 portfolios and this constancy of leadership and purpose had assisted the Council in delivering over £110 million budget reductions

to date. However, given the significant challenges being faced, he felt it was an expedient time to review the portfolios to ensure they reflected the shape of the authority going forward and more importantly to provide fresh eyes and approach. In addition, he made reference to the need to provide leadership in the integration of health and social care and constancy of purpose to progress the Integrated Care Organisation

The revised portfolios were appended to the report together with the Cabinet Members currently holding these posts. It was intended that the new roles would take effect from Monday 11 January 2016 to ensure an effective and efficient handover whilst ensuring appropriate arrangements were in place during the Christmas closure.

It was moved by Councillor K Quinn, seconded by Councillor Taylor and –

RESOLVED

- (i) That the revised Executive Member portfolios, determined by the Executive Leader in accordance with the Local Government Act 2000, to take effect from Monday 11 January 2016, be noted.**
- (ii) That to provide constancy of purpose to progress the Integrated Care Organisation, a Special Council meeting would take place on 21 January 2016 in order that the Council could put in place the necessary governance arrangement for a single commissioning function managed by the Chief Executive with appropriate democratic oversight determined by the Council.**
- (iii) That where appointments to Council and outside bodies were a specific Executive Member, the appointments be amended to reflect the revised portfolios.**

24. MEMBERSHIP OF COUNCIL BODIES

It was moved by Councillor K Quinn, seconded by Councillor Taylor and –

RESOLVED

That Councillor Drennan be removed from the Carbon and Waste Reduction Panel.

25. AMENDMENT TO CONSTITUTION – PROCUREMENT STANDING ORDER

Consideration was given to a report of the Executive Leader informing Members of a review of the Procurement Standing Orders contained within Part 4 (Procedural Rules) of the Constitution and to seek approval to amend the Procurement Standing orders.

The review and subsequent updates to the Procurement Standing Orders had been led by Legal Services in conjunction with the Corporate Procurement Team and other key stakeholders from across the organisation including Audit. Overall, it was felt that the Procurement Standing Orders were working well and that where changes were required, these were minimal and for the purpose of ensuring that the Procurement Standing Orders complied with recent regulation changes and the recent technological advances that had been made in procurement. The key findings of the review and proposed changes were highlighted.

It was moved by Councillor K Quinn, seconded by Councillor Taylor and –

RESOLVED

- (i) That the Council's Procurement Standing Orders be amended as detailed in Appendix 1 to the report.**
- (ii) That the Council adopts the Greater Manchester Combined Authority (GMCA) Social Value Policy and Framework detailed in Appendix 2 to the report and continues to work with colleagues from across the region to fully implement the requirements of the Social Value Act 2012.**

26. NOTICE OF MOTION

Motion A

Consideration was given to the following motion received in accordance with Standing Order 16.1, which was proposed by Councillor L Travis and seconded by Councillor Sidebottom:

“That this Council notes that on 4 November 2015, the Department of Health confirmed that it would be reducing its spending on public health grants to local authorities by £200 million this financial year.

This is part of the further £3 billion of spending cuts to the current financial year announced by the Government in June this year, and follows a consultation in which Tameside Council, AGMA, and national health and social care leaders all appealed against the cut, pointing out the short sightedness of cutting cost effective interventions with clear long term benefits to health and prosperity.

The decision to reduce funding for public health has come as a big disappointment, and confirmation of 6.2% in year reduction so far through the financial year is badly planned, ill-timed and potentially life-threatening.

For Tameside this cut means an in-year reduction in funding for preventive services of approximately £1M, and will inevitably result in greater demand for health and social care services in the future.

NHS commissioned services including Health Visiting and School Nursing will inevitably be hit by these cuts.

These cuts are surprising given the Government’s commitment to the NHS Five Year Forward View, which has prevention as a key element. Drawing back on prevention locally risks jeopardising the realisation of the vision and benefits of the local health and social care programme Care Together. Our aim to achieve sustainable reductions in health inequalities and improvement in life expectancy will be compromised. Rebalancing investment and activity within a sustainable and cost effective model of collaborative working will be slowed down.

This Council firmly believes that it is more important than ever that the distribution of available resources reflects the assessed needs of areas – which means their levels of deprivation - and their ability to raise resources. Unfortunately, the latest announcement follows the same approach as those of the past four years, and will mean that the greatest impact of the cuts will be on the most deprived authorities, such as Tameside.

Given the recent announcement, Tameside Council is extremely concerned about how the Public Health grant will be treated in any future allocation formula.

This Council therefore calls upon the Government to:-

- (i) Abandon its short-sighted and contradictory approach to cuts in public health funding, when in actual fact it should invest more in prevention and health improvement, with allocations based upon need; and*
- (ii) Honour its previous commitments to public health funding as set out in the local government finance settlement in March 2015.”*

Following consideration of the Motion it was:

RESOLVED

“That this Council notes that on 4 November 2015, the Department of Health confirmed that it would be reducing its spending on public health grants to local authorities by £200 million this financial year.

This is part of the further £3 billion of spending cuts to the current financial year announced by the Government in June this year, and follows a consultation in which Tameside Council, AGMA, and national health and social care leaders all appealed against the cut, pointing out the short sightedness of cutting cost effective interventions with clear long term benefits to health and prosperity.

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This Council therefore calls upon the Government to:-

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- (ii) Honour its previous commitments to public health funding as set out in the local government finance settlement in March 2015.”**

Motion B

Consideration was given to the following motion received in accordance with Standing Order 16.1, which was proposed by Councillor B Holland and seconded by Councillor Kinsey:

“That this Council recalls the 2010 pledge by the Prime Minister, David Cameron MP, to lead the ‘Greenest Government Ever’.

This Council is therefore surprised by the proposals put forward by the Department for Energy and Climate Change (DECC) to further cut the feed in tariff (FIT) payable for electricity generated by Solar Photovoltaic (PV) cells.

The DECC is proposing to reduce the rate paid per kilowatt hour of electricity exported to the grid by up to 98%. This will increase the return period for those who choose to invest in solar PV to a point where installation will become financially unviable for many.

Research by the Solar Trade Association has found that, of the 35,000 jobs in the UK solar industry, 27,000 will be under threat as a result of the reduced deployment of solar energy following these cuts. Their research also found that, as costs continue to fall, the government is predicted to be able to phase out subsidies altogether by 2020 and these cuts will set that date back by reducing demand in the short term.

This Council believes that:

- *Solar power is a sustainable form of energy generation that should form part of the UK's energy generation mix.*
- *The solar power industry is an industry that the government should support if it is serious about moving to a low carbon economy.*
- *Cuts to feed in tariffs could kill off an industry that is still in its infancy.*

Council therefore resolves to:

- *Ask the Chief Executive to write to the Secretary of State for Energy and Climate Change, Amber Rudd MP, setting out our opposition to the FIT cuts.*
- *Ask the Chief Executive to write to our three local MPs to notify them of our position and call on them to lobby the government to protect the solar industry."*

Following consideration of the Motion it was:

RESOLVED

That this Council recalls the 2010 pledge by the Prime Minister, David Cameron MP, to lead the 'Greenest Government Ever'.

This Council is therefore surprised by the proposals put forward by the Department for Energy and Climate Change (DECC) to further cut the feed in tariff (FIT) payable for electricity generated by Solar Photovoltaic (PV) cells.

The DECC is proposing to reduce the rate paid per kilowatt hour of electricity exported to the grid by up to 98%. This will increase the return period for those who choose to invest in solar PV to a point where installation will become financially unviable for many.

Research by the Solar Trade Association has found that, of the 35,000 jobs in the UK solar industry, 27,000 will be under threat as a result of the reduced deployment of solar energy following these cuts. Their research also found that, as costs continue to fall, the government is predicted to be able to phase out subsidies altogether by 2020 and these cuts will set that date back by reducing demand in the short term.

This Council believes that:

- **Solar power is a sustainable form of energy generation that should form part of the UK's energy generation mix.**
- **The solar power industry is an industry that the government should support if it is serious about moving to a low carbon economy.**
- **Cuts to feed in tariffs could kill off an industry that is still in its infancy.**

Council therefore resolves to:

- **Ask the Chief Executive to write to the Secretary of State for Energy and Climate Change, Amber Rudd MP, setting out our opposition to the FIT cuts.**
- **Ask the Chief Executive to write to our three local MPs to notify them of our position and call on them to lobby the government to protect the solar industry.”**

Motion C

Consideration was given to the following motion received in accordance with Standing Order 16.1, which was proposed by Councillor Buckley and seconded by Councillor Bell:

“That this Council believes that the heritage of the nine towns of Tameside should be cherished and nurtured, and, where possible, strengthened.

We recognise that Tameside is strongest when it is a borough of nine towns coming together with their individual identities, building on the history of each town.

Granted a Royal Charter in 1414, Ashton-under-Lyne also bares evidence of activity in the area predating the Middle Ages. It is noted with sadness, therefore, that the new bus station in Ashton-under-Lyne should lose the name of the town and be called Tameside Interchange.

In order to preserve the heritage of the town, prevent confusion to visitors and to keep Ashton-under-Lyne on the map, this Council resolves to write to the Chief Executive of Transport for Greater Manchester and state that the Council’s considered view is that the new bus station in the town should be called ‘Ashton-under-Lyne Bus Interchange’.”

In accordance with Standing Order 22 it was proposed by Councillor Taylor and seconded by Councillor Fairfoull that the motion be amended to read:

“That this Council believes that the heritage of the nine towns of Tameside, Ashton-under-Lyne, Denton, Droylsden, Dukinfield, Hyde, Longdendale, Mossley and Stalybridge, should be cherished and nurtured, and, where possible, strengthened.

We recognise that Tameside is strongest when it is a borough of nine towns coming together with their individual identities, building on the history of each town.

This Council believes that the continuing budget cuts imposed on our Borough by the Conservative Government are a threat to the resilience of our communities and to the ability of the Council to celebrate the heritage and individuality of each of our towns.

The Council therefore resolves to ensure that all nine of Tameside’s towns are identified and recognised in a prominent way in all future Council publications and on the new design for our Council website.”

Upon being put to the vote, the amendment was declared carried whereupon the substantive motion was put to the Council and it was:

RESOLVED

That this Council believes that the heritage of the nine towns of Tameside, Ashton-under-Lyne, Denton, Droylsden, Dukinfield, Hyde, Longdendale, Mossley and Stalybridge, should be cherished and nurtured, and, where possible, strengthened.

We recognise that Tameside is strongest when it is a borough of nine towns coming together with their individual identities, building on the history of each town.

This Council believes that the continuing budget cuts imposed on our Borough by the Conservative Government are a threat to the resilience of our communities and to the ability of the Council to celebrate the heritage and individuality of each of our towns.

The Council therefore resolves to ensure that all nine of Tameside's towns are identified and recognised in a prominent way in all future Council publications and on the new design for our Council website.

27. QUESTIONS

The Chair reported no questions had been received in accordance with Standing Order 17.2.

28. URGENT ITEMS

The Chair reported that there were no urgent items of business for consideration at this meeting.

CHAIR

Agenda Item 6

JOINT MEETING OF EXECUTIVE CABINET AND AUDIT PANEL

16 December 2015

Commenced: 2.00 pm

Terminated: 2.50 pm

Present: Councillor K. Quinn (Chair)
Councillors Cooney, J. Fitzpatrick, Gwynne, Kitchen, Robinson, Taylor, L Travis and Warrington

Apology for Absence: Councillor M Smith

27. DECLARATIONS OF INTEREST

Members	Subject Matter	Type of Interest	Nature of Interest
Councillor Kitchen	Item 3(b) – Strategic Planning and Capital Monitoring Panel	Prejudicial	Chair of Hyde United Football Club
Councillor Taylor	Item 9 – Active Tameside	Prejudicial	Chair of the Tameside Sports Trust

*Councillor Kitchen and Councillor Taylor left the room during consideration of this item and took no part in the voting/decision thereof.

28. MINUTES

(a) Executive Cabinet

Consideration was given to the Minutes of the meeting of Executive Cabinet held on 21 October 2015.

RESOLVED

That the Minutes of the meeting of Executive Cabinet held on 21 October 2015 be taken as read and signed by the Chair as a correct record.

(b) *Strategic Planning and Capital Monitoring Panel

Consideration was given to the Minutes of the Strategic Planning and Capital Monitoring Panel held on 30 November 2015.

RESOLVED

That the Minutes of the Strategic Planning and Capital Monitoring Panel held on 30 November 2015 be received and the following recommendations approved:

Vision Tameside Phase 2

- (i) That, subject to confirmation from the TIP that the project represents value for money, the Stage 2 proposal be accepted in principle and authorisation be given to the payment of the Design and Development Fees to bring the project to phase 2 of £1 million, which are in line with the budget for the project, be accepted in principle;
- (ii) That virement be approved as follows:

Expenditure	Projected Expenditure May 2015 £	Projected Expenditure Stage 2 November 2015 £	Virement Requested Stage 2 November 2015 £
Construction and Demolition	35,049,251	36,694,792	1,645,541
TMBC Furniture Budget	1,500,000	1,213,000	-287,000
TMBC construction contingency	941,316	250,000	-691,316
Contingency for inflation	2,642,327	2,294,291	-348,036
Total Construction Costs	40,132,894	40,452,083	319,189
Additional asbestos removal costs in TAC		706,997	706,997
Total	40,132,894	41,159,080	1,026,186
Less SFA grant	-4,000,000	-4,000,000	0
Net construction costs	36,132,894	37,159,080	1,026,186
Additional Costs Confirmed			
Decant / condition works	2,824,452	2,764,452	-60,000
Co-op bank termination of lease	100,000	100,000	0
Programme Management	100,000	100,000	0
Fit out costs of temporary store re Early Lease termination – Wilkos	850,000	832,978	-17,022
Additional Costs to be Confirmed			
College Fixed Furniture and Equipment	300,000	300,000	
Fit out costs re Early Lease termination – Wilkos	859,900	859,900	0
Public Realm	2,631,000	2,631,000	
Document Scanning	500,000	250,000	-250,000
Potential loss of profits Wilkos	550,000	550,000	0
Legal costs of construction works	50,000	50,000	0
IT Enablement	2,194,000	2,194,000	0
Programme Contingency	1,581,548	882,384	-699,164
Total	48,673,794	48,673,794	0

- (iii) That the Executive Director (Place) and the Executive Director (Governance and Resources) be authorised to negotiate and agree a design and build contract for the Vision Tameside Phase 2 building.

Asset Management Update

- (i) That the list of disposals identified in Appendix 1 to the report be approved;
- (ii) That the allocation of £101,600 to undertake building condition replacement/repair projects as detailed within the report, be approved;
- (iii) That an allocation of £849,488 in respect of the CCTV installation at Dukinfield Town Hall is provisionally made subject to a full business case being presented at the Cabinet or the next Strategic Capital Panel with procurement through the ESPO framework as set out in Appendix 2 of the report, be approved; and
- (iv) That the Executive Director (Place), Robin Monk, be appointed as the Alternate Director to Steven Pleasant, Chief Executive, replacing Elaine Todd, the former Assistant Executive Director, Assets and Investment in respect of the inspiredspaces Tameside Limited; inspiredspaces (Project1Co1) Limited, inspiredspaces (ProjectCo2) Limited, inspiredspaces Tameside (Holdings1) Limited, and inspiredspaces Tameside (Holdings2) Limited companies. Noting that any director fees payable were not paid to the officers but used to support the BSF affordability.

Education Capital Update

- (i) That the allocation of £40,420 Capital Maintenance grant funding from 2015/16 to construct tarmacadam ramps and paths at Hurst Knoll, Stalyhill Infants, Bradley Green primary schools for pupils needing additional support with mobility be agreed;
- (ii) That the schemes detailed in recommendation (i) be funded from the previously approved 2015/16 Capital Maintenance grant schemes listed in the table below, as a result of these schemes costing less than originally estimated, and that the schemes below be removed from the existing capital programme:

SCHEME	£
Livingstone Primary – Retaining Wall	3,401
Gorse Hall Primary – Toilet Refurbishment	2,732
Broadoak Primary – Flat Roof Replacement, Main Entrance Modification, Metal Windows Replacement	25,000
Oakdale Primary – Internal Refurbishment	12,000
Buckton Vale Primary – Furniture	5,000
TOTAL	48,133

- (iii) That the provisional allocation of £105,187 to finance the cost of off-site access works in respect of the Discovery Academy. This will be funded from either the confirmed 2016/17 Basic Need grant funding allocation or any additional S106/developer contributions which are received in the 2016/17 financial year; and
- (iv) That in respect of the application by Astley Sports College for a capital grant to fund the development of a 3G football pitch on its grounds, Members, having considered the report and heard the update from the interim Chief Finance Officer felt that they were unable to support the recommendation owing to an absence of a business plan as to how they can fund the match funding of 17% required, together with the maintenance costs arising to create a maintenance fund to replace the artificial turf in year 15 and the lack of necessary assurances from the School. That said the Panel were keen not to lose a significantly grant funded facility for the young people of the Borough and asked that officers work with the school to see if there was an acceptable solution that would enable the Council to support the proposal and make the necessary recommendation to Cabinet.

Hyde Leisure Phase 2 – Options Appraisal and Acquisition of Hyde United Football Club Clubhouse and Stand

- (i) That the Council offer a premium to Hyde United Football Club Limited for the early surrender of the existing 125 year lease in respect of the land and buildings, currently known as Ewen Fields, Grange Road, Hyde, Cheshire. SK14 2SB of £125K and the Borough Solicitor be authorised to grant a 25 year lease at a rental of £6.25K subject to annual RPI, in respect of the same land and buildings, and to reflect the markets terms subject to a rolling annual mutual break, (contracted out of the landlord & Tenant Act 1954), and subject to a condition of the deal, that Hyde United Football Club repays an outstanding loan made to the Club from the premium; and
- (ii) That with regard to the request from Hyde United Football Club, seeking financial and technical support from the Council to utilise the capital funding to convert the current stadium pitch to a synthetic surface in time for the start of the 2016/17 football season at a cost of £0.405 million, that, further to the resolution (i) above, a new bid for support for facilities be submitted be considered at a later date.

(c) Enforcement Co-ordination Panel

Consideration was given to the Minutes of the meeting of the Enforcement Co-ordination Panel held on 28 October 2015.

RESOLVED

That the Minutes of the Enforcement Co-ordination Panel held on 28 October 2015 be received.

(d) Association of Greater Manchester Authorities / Greater Manchester Combined Authority

Consideration was given to a report of the Executive Leader and Chief Executive which informed Members of the issues considered at the AGMA Executive Board and Greater Manchester Combined Authority held on 30 October 2015 and 27 November 2015 and the Forward Plan of Strategic Decisions of the Greater Manchester Combined Authority and AGMA Executive.

RESOLVED

That the report be noted.

29. ANNUAL AUDIT LETTER

Consideration was given to a report of the Executive Leader / Chief Executive detailing Grant Thornton's findings for 2014/15 in respect of the audit of the Council's financial statements and the assessment of the Council's arrangements to achieve value for money in its use of resources. It reported unqualified accounts and concluded that the Council had proper arrangements in place to secure value for money.

Mark Heap, External Auditor, stated that the Council had effective arrangements in place during 2014/15 to secure economy, efficiency and effectiveness and was therefore given an unqualified value for money conclusion. The Annual Audit Letter also covered three areas of value for money:

- Financial Resilience – the Auditor reported that the Council had responded positively to the challenges created by the reduction in central government funding and continued to show strong financial resilience and good financial planning and management arrangements.
- Better Care Fund – the integration plans for Tameside were more ambitious than most local authority areas with ultimate plans for wider aligned budgets between the Council and the Clinical Commissioning Group of c£300m.
- Vision Tameside – the Auditor noted the significant capital project to relocate Tameside College and create a customer-focused, energy efficient building for public services in Tameside on the site of the current Tameside Administrative Centre building.

The key issues and recommendations were also highlighted as follows:

- Plantation Industrial Estate – The Auditor's report recommended that the Council should consider formally the value for money offered by this lease, including any alternative options that may be available.
- Markazi Jamia Mosque – Whilst the Council could demonstrate progress in implementing the prior year recommendations raised, the Auditor reiterated that the Council needed to resolve this matter as soon as possible.

It was noted that this was the last Audit report that Mark Heap and his team would provide in relation to both the Council and the Greater Manchester Pension Fund finances and the Chair took the opportunity to thank them for all their hard work, professionalism and effort over the years.

RESOLVED

That the report and the attached Audit Letter of Grant Thornton, covering the audit of the Council's statement of accounts, the issues raised and the positive conclusion regarding value for money be noted.

30. REVENUE MONITORING – QUARTER 2 2015/16

Consideration was given to a report of the First Deputy (Performance and Finance) and the Interim Assistant Executive Director (Finance) detailing the net projected 2015/16 revenue outturn at Quarter 2. Overall, the net projected revenue outturn position for 2015/16 was £6.390m over budget and this included the recommended budget adjustment for children's services area to align its budget with comparable authorities. Strong budget management was required across the Council to ensure the Council achieved its financial plans and higher than budgeted spending would need to be addressed. This forecast was set in the context of challenging savings requirements: £24m for 2015/16 and a further £14.1m and £15.4m planned for 2016/17 and 2017/18 respectively.

It was explained that the report was presented shortly ahead of the publication of the government's Spending Review. The anticipated adverse impact of that announcement had been provided for, wherever possible, within the current financial plan and was a key factor in the future savings requirement. The financial plan would now be reviewed following the publication of the Spending Review and revised and reported as necessary thereafter.

RESOLVED

- (i) That the projected revenue position be noted and corrective action pursued where necessary;**
- (ii) That the detail for each service area be noted;**
- (iii) That the changes to revenue budgets as outlined be approved;**
- (iv) That the intention to review the overall financial plan further to the publication of the government's special review be noted.**

31. CAPITAL MONITORING

Consideration was given to a report of the First Deputy (Performance and Finance) and the Interim Assistant Executive Director (Finance) summarising the capital monitoring position at 30 September 2015 with a current projected forecast for service areas to spend £52.044m on capital investment by March 2016. At present, the £52.044m of investment was £14.712m less than the current programmed spend.

The report also detailed schemes with an in-year variation in excess of £0.100m and sought approval to re-profile the capital expenditure of the project.

Particular reference was also made to an update on Prudential Indicators; capital receipts, Compulsory Purchase Orders, indemnities and potential liabilities and it was –

RESOLVED

- (i) That the current capital budget monitoring position be noted;**
- (ii) That the resources currently available to fund the capital programme be noted;**
- (iii) That the re-phasing to reflect up-to-date investment profiles be approved;**
- (iv) That the current position with regard to Compulsory Purchase Orders and Indemnities be noted;**
- (v) That the changes to be capital programme be noted;**
- (vi) That the capital receipts position be noted;**
- (vii) That the Prudential Indicator position be noted.**

32. TREASURY MANAGEMENT

Consideration was given to a report of the First Deputy (Performance and Finance) and the Interim Assistant Executive Director (Finance) providing a mid-year review of the Council's Treasury Management activities for 2015/16, including the borrowing strategy and the investment strategy.

RESOLVED

- (i) That the reported treasury activity and performance be noted.**
- (ii) That the proposed changes to the Council's MRP policy from 2015/16 be approved and agreement to a change in the repayment setting aside basis, to generate an annual revenue saving of £2.5m from:**
 - **4% resulting in a reduced balance; to**
 - **2% resulting in repayment over 50 years;****and that the revised MRP Policy be recommended to Council for approval.**
- (iii) That approval be given to adjust the Council's Treasury Management investment list to match that of the Council's treasury advisors, Capita, allowing access to an increased range of counterparties and therefore improved levels of diversification and yield.**

33. TRADED SERVICES

Consideration was given to a report of the Executive Member (Learning, Skills and Economic Growth) and the Assistant Executive Director (Education) updating Executive Board on the delivery of traded and support services to schools and seeking approval to the continuation of the offer of these services from 1 April 2016 to 31 March 2017. Following consultation with Headteachers and the Schools Forum last year, it was agreed that all traded services would be procured on the basis of a two year commitment to enable both schools and the Council to plan with greater certainty. The uptake from schools had continued to be high.

As part of the Local Authority's commitment to schools, quality assurance processes had also been put in place to monitor the delivery of services. A Headteacher Panel had been convened in May this year at which all service managers attended to receive feedback and provide responses to issues which had been raised. Schools now needed to consider which services they wanted to procure for 2016/17 based on the offer the Council was putting forward.

In conclusion, it was stated that there was no doubt that the changing context nationally, regionally and locally as described in the report would require a fundamental review of the way in which support services were delivered. However, whilst these deliberations had begun, they would nevertheless take some time to work through, particularly where shared services with other authorities were being developed.

RESOLVED

- (i) That for the financial year 2016/17, the Council would continue to offer the Council Services listed in Appendix A with the proviso that:**
 - **HR Support Services would be packaged to reflect a more realistic cost of time required on case work;**
 - **Education Welfare and Educational Psychology Support Services reviewed their capacity to deliver support over and above their statutory functions;**
 - **The price of all Council Services were inclusive of all associated expenditure as a minimum as per current arrangements.**
- (ii) That work commences supported by the Interim Assistant Executive Director of Finance and appropriate officers to find an alternative solution to current hosted traded services such alternatives need to consider a wholly owned school solution or partnership approach with colleges / Academies, and or arrangements with other neighbouring authorities.**

34. RESTRUCTURE OF NEIGHBOURHOOD TEAMS / YOUTH SERVICES / INTEGRATED PARTNERSHIP

Consideration was given to a report of the Executive Member (Health and Neighbourhoods) and the Head of Stronger Communities which explained that driven by the imperative to find alternative approaches to public service delivery on a smaller budget, a service redesign of Neighbourhood Services was proposed following consultation. The report provided an overview of the consultation results and recommended the preferred model for the redesign of Neighbourhood Services.

The public consultation focused on four options under consideration and also asked questions about the types of activities that were important at community level. It ran from 25 September 2015 to 23 October 2015 and in parallel a young person specific consultation exercise had commenced on the same date and closed on 28 October 2015. The options proposed were outlined including a summary of potential impact and risk as follows:

- Option 1 – Discontinue Neighbourhood and Youth Service.
- Option 2 – Reduce the service by 50% without integration with partners.
- Option 3 – Discontinue the service and redistribute some of the functions across other Council services.
- Option 4 – Development of an Integrated Hub underpinned by the principles of public service reform.

Option 4 demonstrated how aligned structures had the potential to offer value for money when compared to single organisational models with reduced resources. The public consultation showed support for this approach and a detailed analysis of responses was appended to the report.

The Integrated Community Hub would be another step forward in Tameside's reform agenda. It would work alongside the Complex Families Hub but with a focus on communities and providing early identification and an ongoing support to communities, families and individuals.

In conclusion, it was stated that the report concentrated on the first phase of the development of an Integrated Community Hub to be in place by 1 April 2016. There would be greater resilience in staffing numbers and a commitment to a single focus and single priorities and was felt to be the option that offered best value for money. Phase two would aim to incorporate a broader range of public, community and voluntary sector organisations and would commence in June 2016.

RESOLVED

- (i) That the results of the public consultation in relation to the redesign of Neighbourhood Services be noted.**
- (ii) That in light of the results of Public Consultation, Option 4 - the development of an Integrated Community Hub, be supported.**

35. LED ROLL OUT

Consideration was given to a report of the Executive Member (Transport and Land Use) and the Assistant Executive Director (Environmental Services) providing an update of the work undertaken in the first two quarters (April to September 2015) as part of the Council's 15 for 15 Pledges to invest £5m in a wholesale replacement programme of 17,000 LED lanterns on residential streets, reducing energy costs by approximately £451,000 a year.

The Council had made a commitment to prioritise the installation of the LED lanterns in the areas that undertook the bin swap trials throughout the Borough and these were shown in **Appendix 1** to the report. The programme had been constructed over a 28 month period starting in December 2015 with a completion date of March 2018.

RESOLVED

- (i) That the report be noted.**
- (ii) That the installation programme detailed in Appendix 1 be approved.**

***36. ACTIVE TAMESIDE**

Consideration was given to a report of the First Deputy (Performance and Finance), the Executive Member (Health and Neighbourhoods) and the Director of Public Health which stated that following previous reports to Executive Cabinet on 4 February 2015 and Executive Board on 15 July 2015 it was agreed that a planned reduction in the Active Tameside management fee would be deferred until 2016/17 to enable a strategic review to be undertaken to determine opportunities and options for the development of a financially and operationally sustainable long-term business model.

Alongside this, transformational work had been ongoing to enhance the contribution of Active Tameside to improving health outcomes and reducing health inequalities within Tameside.

This report detailed specific proposed next steps in relation to Active Tameside and the Tameside Sports and Leisure estate. The proposals explored included:

- Rationalisation of the existing estate;
- A programme of Capital investment;
- Increased commercially profitable activity;
- Growth in inward investment; and
- Partnering arrangements.

The proposals identified within the report could potentially enable the Tameside Council Revenue Investment in Active Tameside to be reduced from £1.865m to £0.720m by 2019/20. It was noted, however, that this remained dependent on the final outcome of consultation and the final Key Decision to be taken on 23 March 2016.

RESOLVED

- (i) To consult from 17 December 2015 until 11 February 2016 on the closure of Active Dukinfield, subject to a final key decision on 23 March 2016;**
- (ii) To consult from 17 December 2015 until 11 February 2016 on the closure of Active Ashton, subject to a final key decision on 23 March 2015;**
- (iii) To consult from 17 December 2015 until 11 February 2016 on the closure of Active Denton, subject to a final key decision on 23 March 2016;**
- (iv) To consult on the development of a new Wellness Centre and the feasibility and desirability of potential sites, subject to a final key decision on 23 March 2016;**
- (v) To consult on the addition of a second swimming pool at Active Hyde, subject to a final key decision on 23 March 2016;**
- (vi) That the proposal for a programme of investment detailed in the report be noted;**
- (vii) That the award of a contract for 2016/17 to Active Tameside at a value of £1.775m be approved;**
- (viii) That the proposals for a longer term contract award for a period of time commensurate to the remaining lease, subject to the outcomes of consultations under (i) to (vi) above and a final key decision on 23 March 2016 be noted.**

37. ASTLEY SPORTS COLLEGE – FOOTBALL FOUNDATION GRANT – NEW 3G FLOODLIT PITCH

Consideration was given to a report of the Executive Member (Learning, Skills and Economic Growth) and the Assistant Executive Director (Development, Growth and Investment) which explained that Astley Sports College had been awarded a capital grant from the Football

Foundation for the installation of a new floodlit 3G football pitch. The maximum sum awarded was £487,227 which represented 83% of the total project cost of £587,227.

The Council was required to accept the Football Foundation grant conditions detailed in **Appendix A** to the report on behalf of Staley Sports College. The request had been presented within a report to the Strategic Planning and Capital Monitoring Panel on 30 November 2015. There were a number of assurances required by the Council prior to acceptance of the associated grant terms to ensure the Council was indemnified in the event of any pre or post project completion liabilities (21 year term grant clawback period from date of grant acceptance).

The report provided Executive Cabinet with the details of these assurances to support the recommendations. The Sports College Governing Body would be required to provide a legally binding agreement to support the indemnification of any project related liabilities to the Council. This would be required in advance of acceptance of the grant conditions by the Council and would also bind any successors in title to cover in the event of academisation.

RESOLVED

That following assurances received from the College that the Council would not be subject to any pre or post project completion liabilities, the Football Capital Grant Conditions in relation to the installation of floodlit 3G football pitch at Astley Sports College, Dukinfield, be accepted.

38. SITES OF BIOLOGICAL IMPORTANCE

Consideration was given to a report of the Executive Member (Transport and Land Use) and the Assistant Executive Director (Development, Growth and Investment) providing an update on changes that had occurred to designated Sites of Biological Importance within the Borough. These were sites which had been surveyed by the Greater Manchester Ecology Unit in 2014 and a summary of the outcomes was highlighted.

The Greater Manchester Ecology Unit review process provided consistency in reporting, recording and monitoring across Greater Manchester in supporting existing and forthcoming planning policy and the wider management and protection of nature conservation and countryside assets. It was important, therefore, that revisions to boundaries of Sites of Biological Importance and associated changes were adopted by the Council.

RESOLVED

That the changes to the boundaries and grading of the Borough's Sites of Biological Importance be recommended to the Council for adoption.

39. EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED

That the public and press be excluded from the meeting during consideration of the contents of Appendices A, B and C to Agenda Item 14 – Vision Tameside 2 Update and Approval, as they contained exempt information falling within paragraphs 3 and 5 of Schedule 12A to the Local Government Act 1972. Information relating to the financial or business affairs of the parties (including the Council) had been provided to the Council in commercial confidence and its release into the public domain could result in adverse implications for the parties involved. Disclosure would be likely to prejudice the Council's position in negotiations and this outweighed the public interest in disclosure. Furthermore, the document contained legal advice which the Council might not wish to reveal in Court because to do so could prejudice its position. In conclusion, whilst the public interest in releasing this information was significant in terms of facilitating scrutiny of public

expenditure, the public interest in maintaining the confidentiality of the information outweighed the public interest in releasing it.

40. VISION TAMESIDE 2 – UPDATE AND APPROVAL

Consideration was given to a report of the First Deputy (Finance and Performance) and Assistant Executive Director (Development, Growth and Investment) stating that the Vision Tameside Phase 2 project had now reached the end of Stage 2 and formal governance was required to progress the project to financial close and contract award. January 2016 was the target date for the Council to award the Design and Build contract to the Tameside Investment Partnership to avoid significant adverse impacts on project cost and delivery timescales.

The report provided a further update, following consideration at the meeting of the Strategic Planning and Capital Monitoring Panel on 30 November 2015, on project development, costs, delivery timescales and key risks which required consideration prior to a Council commitment to the project and the programme.

The following additional information had become available which had led to a revision of the recommendations from Strategic Planning and Capital Monitoring Panel:

- Receipt of the final reports of the Stage 2 Cost Plan Review and Strategic Business Case;
- Further progress made with the commercial negotiations with the LEP;
- An updated assessment of the risks to the Council.

The report recommended approval for the necessary steps to progress the project to financial close and contract award. It further recommended approval of programme governance arrangements to provide robust direction and oversight throughout the delivery phase.

RESOLVED

- (i) That the update on design development, the timetable for development and the comments on Value for Money, financial implications, legal implications and key risks as outlined in the report be noted.**
- (ii) That the draft Stage 2 Cost Plan Review report prepared by the Sweett Group detailed in Appendix A to the report confirming that the Stage 2 cost plan price was considered reasonable and provided an acceptable level of value for money but recommending further negotiation in specific areas to achieve better value for money be noted.**
- (iii) That the draft Stage 2 submission by the Tameside Investment Partnership contained in Appendix B to the report in respect of the Vision Tameside Phase 2 building subject to further negotiation be accepted.**
- (iv) That the payment of the costs incurred in reaching Stage 2 of £1m to the Tameside Investment Partnership be approved.**
- (v) That the draft Stage 2 Strategic Business Case prepared by Genecon contained in Appendix C to the report confirming that the project was supported by a compelling case for change, represented best public value, was commercially viable, affordable and achievable, be noted.**
- (vi) That the virements as set out in table 1 of the report be approved.**
- (vii) That authorisation be given to the Executive Director (Place) in consultation with the Executive Director (Governance and Resources) to further negotiate and agree detailed project scope, technical terms and commercial terms set out in the Stage 2 submission prior to financial close and contract award subject to the price not exceeding the budget of £41,196,080.**
- (viii) That authorisation be given to the Executive Director (Place) in consultation with the Executive Director (Governance and Resources) to approve the final Tameside Investment Partnership Stage 2 submission in respect of the Vision Tameside Phase 2 building.**

- (ix) That authorisation be given to the Executive Director (Place) in consultation with the Executive Director (Governance and Resources) to award the Design and Build contract for the construction works of the Vision Tameside Phase 2 building conditional upon the contract sum not exceeding the budget of £41,196,080 and no significant increase in the risk allocation to the Council before financial close.
- (x) That the establishment of the Vision Tameside Project Board and the draft Terms of Reference detailed in Appendix D to the report be approved.

41. URGENT ITEMS

The Chair advised that there were no urgent items for consideration at this meeting.

CHAIR

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DEMOCRATIC PROCESSES WORKING GROUP

16 DECEMBER 2015

Commenced: 1.00pm

Terminated: 2.00pm

Present: Councillors Taylor (In the Chair), K. Quinn, Ward and Warrington

Apology for Councillor Buckley, Cooney, Fairfoull, J Fitzpatrick
Absence:

1. MINUTES OF PREVIOUS MEETING

AGREED:

That the minutes of the meeting held on 26 October 2015 be accepted as a correct record.

2. INDIVIDUAL ELECTORAL REGISTRATION

Consideration was given to a report of the Executive Director (Governance and Resources), which updated Members on the outcome of the annual canvass and the publication of the first electoral register based on Individual Electoral Registration.

Members were reminded that on 31 January 2013, the Electoral Registration and Administration Act, received Royal Assent, paving the way for the introduction of individual electoral registration, whereby each person was responsible for registering to vote individually. The Act also enabled people to register to vote online.

It was explained that the transition to IER had ended on 1 December 2015 with the publication of the new register of electors. The publication of the new register meant that any entries for electors who were not registered individually, that is, those who had not either been confirmed or successfully made individual applications to register to vote were removed from the register.

During the transition to IER there had been speculation about the impact of IER, in particular the number of people who may be removed from the register as a result of not registering individually. In Tameside 4717 unconfirmed electors were eventually removed from the electoral register. This was despite numerous communications and visits to properties as well as a large amount of publicity. Overall the size of the electorate in Tameside had fallen by 1.5% when compared to the register published following the previous canvass, a breakdown of the electorate for each polling district was appended to the report. The appendix showed that the local government electorate had fallen from 169,257 on 1 December 2014 to 166,643 on 1 December 2015, a fall of 2,614 or 1.54% across the borough. With regard to the parliamentary electorate this had fallen from 166,315 to 163,976, a fall of 2,339 or 1.57% across the Borough. It was stated that anybody who was on the electoral but were removed on 1 December could apply at any time to be put back on the register individually.

It was explained that comprehensive household activity had taken place since 1 July 2015. Household Enquiry Forms had been sent to all 100,000 Tameside properties on 14 July 2015. An initial reminder was sent out on 16 September, the reminder was sent to 55,000 properties. Final reminders to the outstanding c43,000 properties were sent out on 6 November 2015.

In addition to the standard required actions outlined above and house to house visits, other steps that have been taken to maintain the accuracy of the register include the following:

- Data matching and analysis to identify low registration levels and target unconfirmed electors; Every non-responding property was checked against Council Tax;

- Personal letters to all unconfirmed electors;
- During the canvass regular press releases were issued;
- Extensive use of social media, large number of posts on Council Facebook and twitter and by partner organisations such as colleges;
- Encouragement to register at all budget consultation events;
- Encouragement to register on Leader's blog;
- Use of the Citizen;
- Internal communications encouraging staff to register to vote;
- Use of publicity material such as poster and banners which will be used across the borough until the end of the canvass;
- Use of bookmarks and business cards at various events;
- Working with Registered Social Landlords, CVAT, Fire Service and Bin Swap staff to target particular areas and groups;
- All callers to customer services were reminded to register and assisted in doing so where possible.

The final response rate for the annual canvass was 90.3%, this represents a high response rate relative to other canvasses. A significant proportion of the response rate was as a result of intense data matching undertaken by Democratic Services, Executive Support and Council Tax staff in the final few weeks of the canvass. This work enabled a significant number of non-responders to remain on the electoral register.

On 1 December 2015, 4,717 unconfirmed local government electors were removed from the electoral register as they had not been confirmed through data matching or registered individually. It was likely that a significant proportion of these could not be confirmed as they no longer lived at the registered address and a number had been replaced by new electors.

The final number of unconfirmed electors was 20,000+ less than the original number of unconfirmed electors in 2014, and the reduction is down to a lot of work undertaken over that period to identify and either confirm or replace the electors. A final breakdown of unconfirmed electors by ward and parliamentary constituency was included in the report as follows:

Ward	No of unconfirmed electors
Droylsden East	268
Droylsden West	221
Hurst	220
St Michaels	363
Waterloo	215
St Peters	542
ASHTON-UNDER-LYNE	1829
Audenshaw	156
Denton North East	197
Denton South	202
Denton West	159
Dukinfield	254
DENTON AND REDDISH	968
Dukinfield Stalybridge	200
Godley	301
Newton	264
Werneth	271
Longdendale	165

Mossley	252
Stalybridge North	283
Stalybridge South	184
STALYBRIDGE AND HYDE	1920
TAMESIDE	4717

AGREED:

That the update be noted and staff involved in conducting the annual canvass and other work on the transition to Individual Electoral Registration be thanked for huge amount of additional work that had been undertaken to minimise the number of people who were removed from the register.

3. 2016 ELECTIONS

Consideration was given to a report of the Executive Director (Governance and Resources) which informed Members of the statutory timetable for the 2016 Local Elections and sought Members views on preparation and the timing of events at the 2016 Election. Members were informed that on 5 May 2016 there will be Borough Council elections only. The previously scheduled Police and Crime Commissioner Election will not now be held in Greater Manchester as the post will be subsumed by the GM Mayor from 2017 and it was intended that legislation would be passed to address this.

With regard to postal votes it was explained that the deadline for withdrawal of nominations would be 4pm on Thursday, 7 April 2016 and, in theory, postal votes could be issued any time after this. However, the printers normally required a week following confirmation of candidates to print and prepare packs for dispatch, therefore the earliest postal vote packs could be dispatched was Thursday 14 April 2016. Previously dispatch day had been Friday, in this case Friday 15 April 2016, and postal votes begin to arrive over the weekend. This would give electors almost three weeks to return postal votes.

Members were reminded that Tameside was part of the Greater Manchester contract for election printing, this contract was managed by the AGMA Elections Co-ordination team who had agreed with the printers, Electoral Reform Services that postal votes would be issued across Greater Manchester on Friday 22 April. The printers confirmed that if Tameside chose to send out postal votes on 15 April they would be able to do the necessary work.

Postal vote verification and opening would be conducted on a Parliamentary Constituency basis i.e. all wards within each constituency being done at the same time. It was intended that verification and opening of postal votes would be undertaken at Dukinfield Town Hall. Attached at **appendix 2** to the report was a draft timetable for Members' endorsement. At the postal vote opening sessions for the last elections access was by pass only and only to the appropriate constituency, not all, it was proposed that this approach should be retained.

Members had previously agreed an approach whereby a number of polling stations were made into double polling stations when there were combined elections and it had previously been agreed that where there was a single local election there would not be double polling stations. It was proposed that this continued to be the case and that there would be no double polling stations for the 2016 Local Elections. Attached at **appendix 3** to the report was a breakdown of the number of electors who could vote at each polling station, the table showed how many electors would vote if 20% of those who could vote at the polling station did so, the highest number would be 589 at Dukinfield Town Hall.

It was suggested that as there was only one election it will be possible to begin the verification and counting of local ballot papers immediately the on the close of poll at 10 pm. With regard to the

venue for the Count Members have previously expressed a preference for conducting the 2016 election count at Unit 7, Plantation Industrial Estate, which had been used to conduct the 2015 Parliamentary and Local Elections. At that time Members also asked that Dukinfield Town Hall should be booked as a contingency venue, this has been done.

AGREED:

- (i) That the timetable for the 2016 Election be noted;
- (ii) That Postal Votes be dispatched on Friday 15 April 2016 and opening sessions be held as follows:

Date	Ashton-under-Lyne	Denton and Reddish	Stalybridge and Hyde
Thursday 21 April	1.00pm	2.00pm	3.00pm
Wednesday 27 April	2.00pm	3.00pm	1.00pm
Friday 29 April	3.00pm	1.00pm	2.00pm
Thursday 5 May	1.00pm	2.00pm	3.00pm

- (iii) That it be agreed that all polling stations will be single polling stations;
- (iv) That the Count begin immediately after the close of poll on 5 May 2016;
- (v) That Unit 7, Plantation Industrial Estate be used as the count venue and Dukinfield Town Hall be the contingency venue.

4. ELECTORAL COMMISSION BULLETINS



Consideration was given to a report of the Executive Director (Governance and Resources) that provided Members with recent copies of the Electoral Commission news bulletin which set out current issues affecting the democratic framework for local government.

AGREED:

That the report be noted.

CHAIR

Agenda Item 8

Report to:	COUNCIL
Date:	21 January 2016
Executive Member / Reporting Officer:	Councillor Kieran Quinn, Executive Leader Steven Pleasant, Chief Executive
Subject:	UPDATE ON CITIES AND DEVOLUTION BILL
Report Summary:	This report provides an update on the Cities and Devolution Bill and seeks delegated authority to consent to Orders required to enable progress to be made.
Recommendations:	The Council is recommended: <ul style="list-style-type: none">(i) To note the progress of the Bill and the next steps required for implementation;(ii) To note the previous delegation granted by Council on the 2.12.2014 to the Chief Executive in consultation with the Executive Leader to consent to the terms of the Order required to establish the role of the GMCA elected Mayor and to provide for the Mayor to exercise the functions of the Police and Crime Commissioner in relation to the Greater Manchester Police area.(iii) To delegate to the Chief Executive in consultation with the Leader of the Council the authority to consent to the terms of orders required to enable GMCA to carry out health related functions from April 2016.
Policy Implications:	In line with legislation
Financial Implications: (Authorised by the Section 151 Officer)	There are no direct financial implications arising from this report.
Legal Implications: (Authorised by the Borough Solicitor)	These will be set out in the legislation.
Risk Management :	These are addressed in the report.
Access to Information :	The background papers relating to this report can be inspected by contacting Robert Landon  Telephone:0161 342 2146  e-mail: robert.landon@tameside.gov.uk

1.0 INTRODUCTION

- 1.1 The Cities and Devolution Bill went through the report stage in the House of Commons on 7 December 2015. The Bill was further considered by the House of Lords on 12 January and it is anticipated that it will receive Royal Assent shortly after. The Bill was discussed extensively at Committee and Report stages in the House of Commons and amended to take in account the Government proposals and respond to amendments made to the Bill in the House of Lords.

2.0 CITIES AND DEVOLUTION BILL

- 2.1 As previously reported to Members the Bill as currently drafted is enabling legislation and the detail of the additional powers to be provided to the Elected Mayor and the Combined Authority (CA) will be set out in Orders confirmed by Parliament through the affirmative process and any subsequent secondary legislation that may be required. The Bill in its current form does therefore meet the requirements of the Greater Manchester (GM) devolution deals.

3.0 NEXT STEPS

First Order

- 3.1 Discussions have taken place with Department for Communities and Local Government on the timetable for implementation of the Orders required. The first Order is that to create the GM Mayor roles, and to provide for the Mayor to exercise the functions of the Police and Crime Commissioner (PCC) for the Greater Manchester police area. It also provides for the election of the Mayor in May 2017 for an initial three year term and removes the requirement for a GM PCC election in May 2016. It is anticipated that the Order will be laid immediately after Royal Assent to meet the timetable required to stop the PCC Election. The Order requires the consent of the Combined Authority and the 10 constituent Councils.

Orders required by April 2016

- 3.2 As Members will be aware under the devolution deals certain powers will be exercisable by the Mayor alone, some Mayoral decisions require the approval of the CA members and other powers will be exercisable by the CA as a body.
- 3.3 GMCA will require the ability to exercise health related function from April 2016 to enable it to play a full part in health and social care devolution. It is proposed that this will be by way of providing for the CA to have the function that all local authorities have under the Health and Social Act 2012 to take appropriate steps to improve the health of people who live in the area. Further work is taking place on other additional powers required to implement devolution from April 2016.

Full Implementation

- 3.4 The totality of powers to be granted to the CA and Elected Mayor will need to be finalised by November 2016. This process will begin in March 2016 with a 3 month period for drafting, CA engagement and Ministerial approval. It is envisaged that the orders will then be laid before Parliament in May/June 2016. There will be a combination of Orders as there are a number of devolution deals across the country. It is likely that there will be one Order with general applicability for all CAs and specific bespoke Orders covering those issues which are not generic to all authorities.
- 3.5 Detailed work has commenced on the precise requirements of the GMCA in relation to those orders which covers financial functions, including borrowing powers; PCC and Fire Authority functions; functions to enable the implementation of the GM Spatial Development Strategy; and housing and development functions.

Report To:	COUNCIL
Date:	21 January 2016
Executive Member/ Reporting Officer:	Cllr Jim Fitzpatrick, First Deputy – Performance and Finance Sandra Stewart - Director of Governance and Resources Ilys Cookson, Assistant Executive Director – Exchequer Services
Subject Matter:	CONSULTATION OUTCOME AND SETTING LOCAL COUNCIL TAX SUPPORT SCHEME 2016/17
Report Summary:	This report sets out the outcome of consultation on three proposed changes to the existing local Council Tax Support scheme and sets out the impact the changes may have on different claimant groups, equality impact assessment, estimated costs of the scheme together with risks, and recommends a revised scheme for approval by Council to make the scheme more affordable within the reducing Council budget.
Recommendations:	That the Council approves and agrees: i) The Council Tax Support Scheme 2016/17, as attached at Appendix 5 , which includes the following four proposed changes to the previous scheme: <ul style="list-style-type: none">• Cap support to a Band A property.• Reduce the maximum CTS award to 75%.• Align deductions for non-dependents of working age to the same level as those in the prescribed scheme for claimants of pensionable age.• Disregard non-dependent deductions for CTS claimants in receipt of a Staying Put payment. ii) That the hardship fund and policy continues to be in place, as set out in Appendix 4 , in order to assist severe cases of hardship funded from existing budgets and administered via the Tameside Resettlement Scheme.
Financial Implications: (Authorised By Section 151 Officer)	As the cost of the Council Tax Support scheme is difficult to predict a number of prudent assumptions relating to demand, inflation and collection rates have been included in the current cost estimates. The changes to the scheme proposed and set out at 10.3 (table 5) could realise a reduction in cost of £0.696m, assuming no other changes, such as caseload and Council tax level as set out in 10.4. This reduction in cost is based on the current estimated costs of the scheme. This will be monitored throughout the year, any savings when realised will be reflected in the Collection Fund.
Legal Implications: (Authorised By Borough Solicitor)	Under Appendix 4 paragraph 5 (2) of the Local Government Finance Act 2012, the Council must agree any changes to its discretionary scheme by 31 January 2016, which must be in accordance with the Council Tax Reduction Scheme (Prescribed Regulations)(England) Regulations 2012 as amended, as must its appeal process. In preparing the amended scheme consultation has been carried

out as has an equality impact assessment in accordance with the public sector equality duty. This is attached to the report at **Appendix 3** and members must ensure that they both read and understand this assessment before making a decision.

Having set a discretionary scheme, the Council must also be mindful of recent case law (including R (Logan) v the London Borough of Havering – 6.11.15) when applying the scheme. In particular, it may not be considered reasonable to refuse hardship funding on the basis that the hardship fund is exhausted (paragraph 8.9 of this report). Any claim for hardship must be considered on its merits only and careful consideration should be given to the impact of any restrictions on those of working age, and or those that have a disability.

Risk Management: As set out in the report.

Links To Community Plan: The administration of the Council Tax Support also links with the corporate governance theme as well as Prosperous Tameside and Supportive Tameside themes.

Access To Information: The background papers relating to this report including consultation questions can be inspected by contacting the report writer Ilys Cookson, Assistant Executive Director – Exchequer Services by:

Telephone: 0161 342 4056

E-mail: ilyc.cookson@tameside.gov.uk

1. BACKGROUND

- 1.1 The Welfare Reform Act 2012, contained provision to abolish Council Tax Benefit and replace it with a power for each local authority to have its own locally set council tax reduction scheme. The necessary primary legislation is included in the Local Government Finance Act 2012, which contained provision that Councils wishing to implement a local scheme must have the scheme approved by 31 January each year.
- 1.2 The Council introduced its own Local Council Tax Reduction Scheme, or Council Tax Support scheme as it is better known, from 1 April 2013. Had it not undertaken to put in place its own scheme the Council would have had to fund the 10% funding reduction by Central Government in respect of Council Tax benefits which, at that time, was estimated to be approximately £3.2 million.
- 1.3 The local scheme was funded in the first year by way of a fixed grant, which the Department of Communities and Local Government (DCLG) had determined as being 90% of the 2011/12 outturn for Council Tax Benefit expenditure. In real terms this reduction in funding equated to 17.3% for Tameside for 2013/14 and a local Council Tax Support scheme was set taking into account the budget available.
- 1.4 Tameside's own local Council Tax Support (CTS) scheme was set at the Council meeting on 21 December 2012. The scheme was adopted in alignment with Universal Credit Regulations.
- 1.5 Tameside's CTS scheme has been in operation from 1 April 2013 and has remained unchanged. The caseload of claimants has reduced steadily since the scheme was introduced from 12,720 working age claimants and 10,996 pensioners in April 2013 to 11,760 working age and 9,753 pensioners as at September 2015.
- 1.6 It is appropriate given the Councils overall financial position that further revisions to the scheme are now considered. The current cost of the CTS scheme is £14.8m. It is clear, given the financial challenges we face, that a local Council Tax Support scheme must be set taking into account the finances that are available, which are reducing.
- 1.7 This report sets out:
 - What the Council is required to do
 - What it has consulted the public and precepting bodies about
 - What the public and precepting bodies said
 - The impact of the proposals on the public.

2 PROCEDURAL REQUIREMENTS

- 2.1 In setting a Council Tax Support scheme the Council must adhere to a number of procedural requirements contained in the Local Government Finance Act 2012, which are detailed as follows:
 - Adopt a Council Tax Support scheme no later than 31 January before the start of the financial year to which the scheme applies.
 - Comply with prescribed requirements which must apply to all schemes
 - Ensure that claimants of state pension credit age continue to receive the same support under the scheme as they receive in council tax benefit.
 - Consider the statutory public sector equality duty in adopting a scheme and the child poverty strategy.
 - Consult all major precepting authorities.
 - Consult generally on changes to the scheme

3 CONSULTATION PROPOSALS

3.1 The Council has consulted on three options detailed at **Appendix 1** and summarised below and as contained in the Executive Decision dated 14 September 2015:

- Cap support to a Band A property.
- Reduce the maximum CTS award to 75%.
- Align deductions for non-dependents of working age to the same level as those in the prescribed scheme for claimants of pensionable age.

PROPOSAL A: cap support to a band a property

3.2 Current CTS support is limited to claimants living in band A and band B properties. Claimants living in band C property and above have to pay difference in full between a band B property and the band of their property for working age claimants. As at 1 September 2015 there were 21,513 working age and pensionable age CTS claimants of which 17,063 live in a band A property, which equates to 79% of the caseload. The Council currently subsidise, via CTS, anyone living in a band B property or below. If implemented this proposal would affect approximately 1,835 claimants and reduce the cost of the scheme by an estimated £234k. If these claimants met certain vulnerability criteria they would be protected elsewhere in the scheme.

PROPOSAL B: Reduce the maximum CTS award to 75%

3.3 The current maximum CTS awarded under the present scheme is 80%. This proposal would affect all 11,760 (as at 1 September 2015) working age claimants equally if implemented. If Council Tax increases then so too does the CTS paid out by the same proportion. Any reduction in cost arising from this proposal would have to be net of any potential increase. Reducing support to a maximum of 75% would mean that all working age claimants would have to pay at least 25% of their Council Tax liability, reducing the cost of the scheme by an estimated £357k.

PROPOSAL C: Align deductions for non-dependents of working age to the same level as those in the prescribed scheme for claimants of pensionable age

3.4 The CTS scheme currently subsidises households where there is a working age adult (other than the claimant's partner). This proposal would affect 617 working age claimants who have a working adult in the household (as at 1 September 2015). Non-dependents living in working age claimant's households would be required to contribute to CTAX liability. If the claimant is receiving Disability Living Allowance care component the non-dependent deduction will not apply. This proposal if implemented would reduce the cost of the scheme by an estimated £104k. The proposed non-dependent deductions which align with the prescribed scheme are detailed in **Appendix 1**.

3.5 There are a number of caveats to be considered in consulting on the three proposals above such as the cost of the scheme and those affected. Working age people only are affected by all of the above because the prescribed scheme protects pensioners. Any reduction in cost arising from the proposals will lead to an increase in Council Tax to be paid for those affected. Collection of Council Tax from lower income claimants may be more difficult. Attachments of benefit/earnings could be limited where attachments are already in place to recover unpaid Council Tax. The caseload changes daily as claimants move on and off benefit depending on their circumstances and changes in income. More than one proposal may be implemented and claimants may be affected by more than one of the above proposals. Government have recently announced a further £12b cuts to welfare benefits and this will inevitably impact on working age claimants in receipt of CTS.

4 CONSULTATION METHOD

4.1 The consultation commenced on 14 September 2015 ending on 30 November 2015. The Councils Big Conversation website detailed the questions raised on the three proposals.

The consultation was also advertised in local press. Paper copies of the questionnaire were made available on request. Stakeholders and local voluntary organisations were contacted by letter to inform them of the consultation. Notices were sent out to benefit claimants with benefit notification letters and enclosed with Council Tax bills. Notices were also sent with approximately 40,000 electoral registration reminders, making a total notice circulation of 58,000. Fifty posters were displayed in supermarkets, doctor's surgeries and public buildings. Two advertisements have appeared in local press.

4.2 The timeline of consultation exercise and target audience is set out below:

Target Audience	Method of Consultation	Start Date	End Date
Precepting Authorities	Email	14 September 2015	30 November 2015
Working Age Claimants	On line Survey	14 September 2015	30 November 2015
Welfare Rights, Customer Services, Citizens Advice Bureau, Homeless Shelter, Housing options, MiNT, CVAT	On line Survey	14 September 2015	30 November 2015
	Letter to notify	7 October 2015	30 November 2015
Social Landlords	RSL Forum	8 October 2015	30 November 2015
	On line Survey	14 September 2015	30 November 2015
All Interested Parties	On line Survey Posters in Customer Services and Libraries Adverts in newspapers	14 September 2015 October 2015 October & November 2015	30 November 2015
Benefit Claimants and Council Tax Payers	Leaflets in Benefit notification letters and CTAX Bills.	October 2015	20 November 2015

5 ANALYSIS OF CONSULTATION RESULTS

Precepting Bodies

5.1 Consultation took place with the Police Authority and Fire and Rescue Authority by email. One precepting body queried if the potential £696k was Tameside's share of the saving and if risks of non-collection and bad debt had been built in. A response was provided that £696k would result in reduced costs of the scheme if all three of the proposed changes were implemented. The total saving is not only Tameside's share and non-collection would be factored into bad debt calculations undertaken by Resource Management. This change also needs to be considered in terms of overall Council Tax position and estimated resource position.

Public and stakeholder consultation

5.2 A total of 21 responses were received to the survey undertaken via the Big Conversation. All responses were deemed valid, no invalid responses were received. All respondents completed the consultation on the Big Conversation web-site. One paper copy of the consultation was requested and not returned.

5.3 Of the 21 responses, 16 were from members of the public, one was from a partner organisation and two stated they had other interests in the consultation; two did not specify. A total of 9 respondents were male and 9 were female and 3 declined to specify. 15 respondents claimed to be white/English in terms of ethnicity; one was white/Asian and one Asian/Asian British – Pakistani. The remaining 4 declined to specify. 15 claimed their day to day activities were not limited due to a health problem or disability, 2 didn't comment and 2 respondents claimed their day to day activities were limited a lot. 15 respondents stated

that they did not provide support or help to family members or friends or neighbours due to long term physical or mental health problems or problems due to old age; 4 provided some support, and 2 did not specify.

5.4 The age range of the respondents that declared their age is detailed below:

Table 1

Age range	Number of respondents
Aged 18 – 25	1
Aged 26 – 35	4
Aged 36 – 45	1
Aged 46 – 55	7
Aged 56 – 65	2
Aged over 65	0
Did not specify their age	6

5.5 The response headlines arising from the consultation in relation to the three proposals are detailed here:

Table 2

Proposal	Agree	Disagree	Neither Agree/ Disagree	Don't know	Total
Cap CTS to Band A properties	14 (66.67%)	6 (28.57%)	0	1 (4.76%)	21 (100%)
Award a maximum of 75% CTS	10 (47.62%)	9 (42.86%)	1 (4.76%)	1 (4.76%)	21 (100%)
Align non-dependent deductions with prescribed scheme	16 (76.20%)	1 (4.76%)	2 (9.52%)	2 (9.52%)	21 (100%)

5.6 Ten of the respondents chose to make additional comments in the free text box as summarised as follows:

Table 3

Comment	Response
Maintain the current position of a cap on the maximum CTS to that of a band B property.	2
Make cuts elsewhere and not to the CTS scheme	2
Agree with non-dependent deductions	4
Non-dependent deductions don not go far enough	1
Comments regarding current CTS scheme and respondents own circumstances	1

6 CONSULTATION CONCLUSIONS

PROPOSAL A: Cap support to a Band A property

6.1 The majority of respondents 14 (66.67% of the total) agree that CTS should be capped to the maximum equal to a Band A property with 6 respondents (28.57%) disagreeing. One respondent (4.76%) didn't know.

PROPOSAL B: Reduce the maximum CTS award to 75%

6.2 The majority of respondents 10 (47.62% of the total) agree that the maximum CTS award should be 75% and CTS claimants would have to pay at least 25% of their Council Tax

liability. A total of 9 (42.86%) disagreed with this proposal and one respondent (4.76%) neither agreed nor disagreed and one (4.76%) didn't know.

PROPOSAL C: Align deductions for non-dependents of working age to the same level as those in the prescribed scheme for claimants of pensionable age.

- 6.3 The majority 16 (76.20% of total respondents) agreed that deductions of CTS should be made for non-dependents living in working age households to align with the prescribed scheme as set in law for claimants of pensionable age. Only one respondent (4.76%) disagreed and 2 respondents (9.52%) didn't know and 2 respondents neither agreed nor disagreed (9.52%).
- 6.4 The conclusions drawn from the consultation analysis is that, in each proposal, the majority of respondents agreed that each of the three proposals be implemented.

7 IMPACT OF PROPOSALS

- 7.1 In considering implementation of any the three proposals it is appropriate to consider impact on typical claimant groups particularly in light of the limited response to the consultation. Data has been taken from the Council Tax Support system to determine impact on different household compositions and circumstances taking into account differing income levels in the scenarios listed below. Table 4 below details the amount payable if the three proposals were implemented assuming Council Tax remains at current levels. Further information on each scenario can be found at **Appendix 2**.

Table 4

Household composition	CTS 75%	Band A	Band B	Non-dep	Weekly Council Tax Increase	Rationale
Mr and Mrs Z, unemployed, 2 children or with 1 student. Same applies to a couple.	✓	✓			92p inc on £3.68 ctax pw = £4.60 to pay	75% reduction applies. No Band cap. No non-dependents
Mr B single parent unemployed, 1 non-dependent in work	✓	✓		✓	96p inc on £9.28 ctax pw = £10.24 to pay	75% reduction & deduction for 1 non-dep applies. No Band cap.
Mr and Mrs X, working, 1 child, 1 non-dependent working	✓		✓	✓	£3.02 inc on £16.60 pw = £19.61 to pay	75% reduction & deduction 1 non-dep applies. Band cap applies.
Mr and Mrs P, unemployed, 2 children, 1 non-dependent working	✓		✓	✓	£3.43 inc on £9.89 ctax pw = £13.31 to pay	75% reduction & deduction 1 non-dep applies. Band cap applies.
Mr & Mrs W unemployed, 2 children, 1 non-dependent not working	✓		✓	✓	£6.21 inc on £4.29 ctax = £10.47 to pay	75% reduction & deduction 1 non-dep applies for first time. Band cap applies.
Mrs Y single pensioner with 1 non-dependent					Nil increase. £7.52 to be paid	Only non-dep deduction can apply as per the prescribed scheme.

8 EQUALITY IMPACT ASSESSMENT

- 8.1 The Equality Act 2010 makes certain types of discrimination unlawful on the grounds of 8 protected characteristics (1) Age; (2) Gender; (3) Race; (4) Gender reassignment; (5) Disability; (6) Maternity; (7) Sexual orientation; and (8) Religion or belief.
- 8.2 Section 149 of the Equality Act 2010 places the Council and all public bodies under a duty to promote equality. All public bodies are required to have regard to the need to:
- Eliminate unlawful discrimination.
 - Promote equal opportunities between members of different equality groups.
 - Foster good relations between members of different equality groups including by tackling prejudice and promoting understanding.
 - Eliminate harassment on the grounds of membership of an equality group.
 - Remove or minimise disadvantages suffered by members of a particular equality group.
 - Take steps to meet needs of people who are members of a particular equality group.
 - Encourage people who are members of an equality group to participate in public life, or in any other area where participation is low.
 - This specifically includes having regard to the need to take account of disabled people's disabilities.
- 8.3 The Act therefore imposes a duty on the Council, which is separate from the general duty not to discriminate. When a local authority carries out any of its functions, including deciding what Council Tax Support scheme to adopt, the local authority must have due regard to the matters within the section of the Act outlined above. The courts have made it clear that the local authority is expected to rigorously exercise that duty.
- 8.4 The Government has confirmed that people of state pension credit age are to have their current Council Tax Support levels protected and that the prescribed scheme must apply to them.
- 8.5 The anticipated impact on customer groups is outlined in this section. The population of Tameside is estimated at 220,800 based on the 2014 mid-year population. Trends show an ageing population. The number of people aged 65 years and over has increased by 18.7% between 2001 and 2014. The gender split of Tameside's overall population is 49.1% male and 50.9% female. There are an estimated 100,968 households in Tameside as at 2015.
- 8.6 Tameside has approximately 21,513 CTS claimants (as at September 2015), of these 9,753 have reached pension credit age and are therefore fully protected under legislation contained in the prescribed scheme and will not see any change in their benefit entitlement. The remaining 11,760 claimants may be potentially affected by the changes proposed in the CTS consultation. A full equality impact assessment on the proposals is detailed at **Appendix 3** and is in addition to the Equality Impact Assessments in place from the commencement of the CTS scheme in April 2013, as updated in December 2014.
- 8.7 In addition to considering the effects on the key characteristic groups it is important to also consider:
- Economic vulnerability – 90% of the working age claimants (i.e. non-protected people below pension credit age) are out of work. For those with a disability this rises to 99.5% (although this is a function of incapacity / disability benefits being used as a proxy for disability).
 - Carers – 558 (3%) of all claimants receive Carer's Allowance.
 - Maternity – 23 (0.2%) of working age claimants receive Maternity Allowance.
 - War widows – 40 (0.2%) of all claimants are war widows (of which 7 are of working age).

(Data as at September 2015)

- 8.8 The conclusions drawn from the evidence & analysis of the effects on equality on the key characteristic groups are detailed here:

Mitigation and Support:

- 8.9 The Hardship Fund, introduced in 2013/14 when the local Council Tax Support scheme was set, will remain in place to support claimants in exceptional circumstances, who suffer severe financial hardship as a result of the introduction of the scheme and may apply for additional monies to help pay their council tax. A total of two applications were approved from April 2015 to November 2015 totalling £2,237. The Hardship Fund will remain at £5k in 2016/7 however this amount does not exclude approved applications being granted should the maximum allocated funding being exceeded. Hardship Funding will be identified from existing budgets and be administered via Tameside Resettlement Scheme. The Hardship Policy is detailed in **Appendix 4**.
- 8.10 The circumstances of the claims do not suggest that any one protected characteristic has been more adversely affected as one claimant was a single person who was also impacted by other welfare reforms. The other recipient was a disabled claimant with multiple debts and Council Tax Support had not been claimed.
- 8.11 Residents may also obtain advice and assistance on the Hardship Fund and Council Tax Support scheme from the Council's Benefits Service, Citizens Advice Bureau, Tameside Welfare Rights Service and other local advice services such as MiNT.
- 8.12 The proposals do not affect the mitigations, which will continue to be in place to protect the relevant protected characteristics and will continue to comply with Government guidance Localising Support for Council Tax (Vulnerable people) 2014 in the following ways:

Workers on low incomes / or reduced means as a result of a previous period of unemployment are protected by virtue of keeping support for 4 weeks once back in employment after having been out of work for more than 26 continuous weeks.

Disabled claimants of working age are protected by the exclusion of Disability Living Allowance from their income taken into account when calculating CTS, which can be up to £139.75 (2015/16 rates) as the 2016/17 rates will not be known until January 2016 at the earliest. This benefits 282 disabled claimants as at quarter 2, 2015. Claimants (623 in total of which 558 working age) are in receipt of Carer's Allowance are provided with extra support by having an additional element of allowable income in the assessment. Disabled claimants in receipt of war pensions or war widow's pensions are protected as this income is also excluded from the CTS assessment.

Women are affected more by the scheme than men because there are a higher proportion of female claimants. The number of female lone parents has remained static since the scheme was set in 2013 at 93% of all lone parent households. A total of 2,702 female single parent households receive maximum CTS benefit with the remainder being protected by the exclusion of child benefit from the CTS calculation.

Children and Families continue to be protected by disregarding child benefit in full within the CTS calculation and child care costs being disregarded for claimants in work.

War Pensions/war widows continue to be protected as 100% of war pensions and war widows pensions are disregarded for CTS purposes.

There continues to be no specific impacts negative or positive on the following protected characteristic areas – ethnicity, marriage/civil partnership, sexual orientation, religion and belief, gender re-assignment.

- 8.13 The scheme was designed to provide extra support for vulnerable people with disabilities claiming benefit, carers and those in receipt of war pensions and to support as many claimants on low incomes as possible taking into account the requirements of the scheme as determined by the Government and affordability.
- 8.14 The caseload is relatively constant. The scheme will continue to use the annual DWP Housing Benefit upratings and the annual uprated UC elements as applicable. Further equalities analysis will continue to take place in each claimant category at the end of each quarter to enable the scheme to be continually monitored and to identify and investigate any unforeseen negative impacts should they arise.
- 8.15 The Benefits and Council Tax service works closely with the Troubled Families Team and with housing and voluntary sector colleagues who assist claimants in supported accommodation. There are strong links with local DWP Job Centre colleagues to ensure that claimants of Universal Credit also complete a claim for Council Tax Support at the point of becoming unemployed.
- 8.16 As Universal Credit is rolled out in Tameside and in other parts of the country we will, wherever possible, monitor the effects of the CTS scheme in relation to Universal Credit claimants, however as this benefit is administered entirely by the DWP it may not be possible to do so as the Council has little information on which a comparison between entitlement to CTS using Housing Benefit annual uprated amounts and Universal Credit uprated amounts can be made. The law states that Universal Credit annual upratings must be used for claimants in receipt of Universal Credit.

9 EIA CONCLUSION

- 9.1 There will be no anticipated specific impacts negative or positive on the following protected characteristic areas as a result of proposed changes to the CTS scheme – ethnicity, marriage/civil partnership, sexual orientation, religion and belief, gender reassignment.
- 9.2 The changes proposed will have no impact on claimants of pensionable age as they must be protected in accordance with the requirements of the prescribed scheme. The changes will affect all working age claimants.
- 9.3 **Women and families:** Women are likely to be affected by the changes more than men by virtue of the fact that there are more female claimants (50.9% as opposed to 49.1% male claimants). Claimants in receipt of maternity payments will not be more affected by the proposed changes than other working age claimants. Lone parent working age females will not be affected by the proposed changes and continue to be offered some protection by the disregard of child benefit in the scheme. Child care costs for employed claimants will continue to be disregarded in line with Universal Credit principles and child benefit will continue to be disregarded in full.
- 9.4 **Low income claimants** who have previously been unemployed will continue to be supported as in the existing CTS scheme by virtue of keeping support for 4 weeks once back in employment after having been out of work for more than 26 continuous weeks. The proposals to change the scheme do not affect this support.
- 9.5 **Disabled claimants:** In terms of disability the current CTS scheme offers some protection to the most severely disabled. Some protection will be given to claimants in receipt of sickness related benefits such as Incapacity Benefit, Disability Living Allowance (care element) and disabled claimants of working age are offered some protection by the disregard of war pensions and the exclusion of Disability Living Allowance from income.

- 9.6 The original scheme implemented in April 2013 was designed to provide extra support for vulnerable people with disabilities claiming benefit, carers and those in receipt of war pensions and to support as many claimants on low incomes as possible taking into account the requirements of the scheme as determined by the Government and affordability. In considering changes to the scheme the proposals were deemed to be as equitable as possible with regard to all equality groups.
- 9.7 In terms of mitigation and support a Hardship Fund continues to remain in place administered through the Tameside Resettlement Scheme. The Hardship Fund will remain at £5k in 2016/7. However this amount does not exclude approved applications being granted should the maximum allocated funding be exceeded.
- 9.8 As with the existing scheme, support and advice will continue to be provided by Tameside Welfare Rights Team, the DWP and local Job Centres, housing providers and the voluntary sector including CAB and MiNT and the Troubled Families in addition to Tameside's Benefits Team.

10 SCHEME COSTS AND COLLECTION IMPACT

- 10.1 Over the next 5 years the Government will continue to make further cuts to funding. It is expected that this will mean another £90 million less to spend on services. Cuts in funding from Government have a significant impact on how much the Council has to spend on services as this provides the greater proportion of the Council's finance. To meet this challenge a range of proposals across the Council are currently being considered.
- 10.2 The current cost of the CTS scheme is £14.830m as at mid-September 2015. The proposed options are estimated to reduce the scheme costs by approximately £696k if all three proposals were implemented as detailed in Table 5 and the effect on the overall costs of the scheme as detailed in Table 6.

Table 5

Option	Detail	Estimated cost reduction £m
Option A	Cap support to Band A property level	0.234
Option B	Reduce the maximum award to 75%	0.358
Option C	Align non-dependent deductions to same level as those of pensionable age	0.104
Total		0.696

Table 6

	£m
Current cost of scheme	14.830
Savings from implementing 3 options	0.696
Scheme costs If CTAX level remains same	14.134

- 10.3 The caseload for CTS changes continually and the estimated reduction in costs is based on current Council Tax levels. If the Council Tax were to increase by 1.99% from April 2016 the cost to the scheme as it is now, and without implementing the three proposals, is estimated to be an additional £295k. **Table 7** demonstrates the impact on the scheme if Council Tax levels increase by 1.99% from 01 April 2016.

Table 7

	£m
Cost of scheme as at 1 September 2016	14.830
Additional scheme costs to cover increase in Council Tax if this	0.295

increased by 1.99%	
Sub total	15.125
Cost reduction from implementing 3 options	0.696
Scheme costs If CTAX level increased by 1.99%	14.429

- 10.4 Additional income to the Council arising from a potential increase in Council Tax of up to 1.99% is not included in the above; however this is estimated to be £1.4m. If Council Tax increased by a further 2% to cover adult social care charges, as detailed in the Chancellors autumn statement, the effect on the CTS scheme of a 1.99% increase plus the 2% for adult social care (3.99% in total) would be an additional cost of £590k to the CTS scheme, which would be offset against a potential increase in Council Tax collection of £2.8m.
- 10.5 In considering implementing the three proposals, as detailed above, it is important to also consider the effect on the collection of Council Tax. If the maximum support reduced to 75% then all working age claimants would have to pay an additional 5% more towards their Council Tax. For working age claimants living in a band B property or above or who have non-dependents living in the property there will be more than an additional 5% to pay as detailed in the example scenarios in Section 7 of this report.
- 10.6 The Council Tax Service takes prompt recovery action on anyone defaulting on Council Tax payments in accordance with the recovery processes and timescales set in legislation in the Council Tax Administration and Enforcement Regulations 1992. From the issue of a Council Tax bill and Council Tax Support notification letter the Council Tax Service encourage a culture of payment and dialogue with all those who experience difficulties in paying Council Tax. Where non-payment, or continued late payment occurs, recovery documents are issued which can result in a Liability Order being granted and the debt being attached to a claimants DWP benefit and recovered at the rate of £3.70 per week (current rate). It is acknowledged however that this rate of deduction set by Central Government for those that do not pay on time, will take in excess of a year to clear. This means that some Council Tax Support claimants will start each new financial year in arrears.
- 10.7 There are 11,760 working age claimants as at 1 September 2015 and of those an estimated 10,440 are making regular payments either in accordance with their bill or via an agreed arrangement. Appropriate action is being taken in respect of recovery of monies.
- 10.8 An estimated additional 5% Council Tax paid by CTS claimants as a result of reducing CTS to 75% in 2016/17 would be approximately £740k. By way of example, if we estimate the same level of collection as 2014/15 at 78.05%, a total of £557k Council Tax would be paid by CTS claimants in 2016/17 with the remainder being recovered in future years. Overall Council Tax collection for all payers including CTS claimants for 2014/15 was 94.2% and £79.66m.

11 OTHER CONSIDERATIONS

- 11.1 **Staying Put Scheme:** The Council has an obligation to support young people leaving care and in particular where foster carers wish to continue to provide a home for a young person turning 18 years old. It is acknowledged that young people in care have a better start in life if they are supported beyond 18 years old. Funding is received by Children's Services from Central Government in respect of Foster Carers wishing to continue to provide their home to support a young person they have fostered, beyond the age of 18 and up to 21 years old. Foster Care payments cease when the young person becomes 18 years old. Should a Foster Carer want to continue to provide care for the young person and the young person agrees to the arrangement, then a Staying Put payment is put in place to financially support the Foster Carer. It is suggested that the proposal to introduce non-dependant deductions in the CTS scheme may impact on claimants continuing to support a young person beyond the age of 18 and who are in employment. Therefore non-dependent deductions should

not apply in these specific cases. There are currently 7 people in receipt of Staying Put payments however none of these are in receipt of CTS at present.

- 11.2 This is a beneficial change to ensure that the claimant is not financially disadvantaged by continuing to care for a young person up to the age of 21 years old, where the young person is in work and a Staying Put payment is in place to their carer.
- 11.3 Although this specific proposal did not form part of the public consultation it is a beneficial change that is recommended to Council for consideration and approval as part of its statutory duty as a corporate parent role.

12 RISKS

- 12.1 In setting the local Council Tax Support scheme for 2016/17 it is important to consider the risks in doing so. Procedural guidance has been observed, and both precepting bodies and public have been consulted via the Councils Big Conversation web-site. The consultation has been advertised extensively.
- 12.2 A local scheme must be set by 31 January 2016 or the default scheme will apply. The default scheme is the same as the Council Tax Benefit scheme, which ceased to exist on 31 March 2013. Costs associated with the default scheme were estimated to be in excess of £3.2m in 2013/14, and this is likely to increase in 2016/17 depending on demand and the amount of CTS paid.
- 12.3 There is a continued risk that demand for support could increase if the economic picture worsens and we cannot predict the number of people that may claim Council Tax Support in the future.
- 12.4 Implementation of a local scheme will mean that some people are paying Council Tax for the fourth year as all benefit claimants must pay at least 25% of their Council Tax liability. Small debts are difficult to collect and often take years to clear. This is particularly so where an attachment of benefit is in place to recover Council Tax arrears because the DWP hierarchy of attaching a debt to a benefit from source ranks council tax sixth after utility payments and other housing costs. There is a risk that Council Tax arrears may increase as a result.
- 12.5 There is also a continuing risk concerning provision of appropriate and timely communication of the scheme changes to residents and in particular benefit recipients. To mitigate this communication on the scheme will remain in place, as it is important that claimants are clear that they will have some council tax liability which will need to be paid.

13 CONCLUSIONS

- 13.1 The public, interested parties and precepting bodies were consulted on the three proposed changes to the CTS scheme in accordance with procedural requirements.
- 13.2 The consultation was undertaken from 14 September 2015 to 30 November 2015 via the Big Conversation website and was extensively advertised. A total of 21 responses were received with the majority being in agreement with each the three proposals.
- 13.3 The equality impact assessment considered the impact of the three proposals on the scheme by the key characteristic groups, in addition to the equality scheme assessments undertaken at the time the scheme was set in December 2012 to become effective in April 2013 and updated in December 2014. There is no disproportionate impact on any group.

- 13.4 In terms of mitigation and support the Hardship Fund will remain in place at £5k and continued to be administered by Tameside Resettlement Scheme. This amount does not exclude approved applications being granted should the maximum allocated funding being exceeded.
- 13.5 The three proposals will result in an estimated £696k reduction in scheme costs and, if Council Tax remains at the same level in 2016/17 the scheme costs are estimated to be £14.1m. Should the Council Tax increase by 1.99% from April 2016 then the estimated costs are expected to be £14.4m however this does not include the additional overall income, which could be raised as a result of increasing Council Tax.
- 13.6 Claimants in receipt of a Staying Put payment in respect of continuing to care for a young person they have previously fostered, should not be disadvantaged by the introduction of the non-dependent deduction charge.
- 13.7 There is a risk that as CTS claimants have to pay more in Council Tax that small debts are difficult to collect and often take years to clear. This is particularly so where an attachment of benefit is in place to recover Council Tax arrears. There is also a continuing risk concerning provision of appropriate and timely communication of the scheme changes to residents and in particular benefit recipients and it must be clear to claimants that they will have some council tax liability which will need to be paid.

14 RECOMMENDATIONS

- 14.1 As set out at the front of this report.

APPENDIX 1

COUNCIL TAX SUPPORT SCHEME PROPOSALS

Proposed change to scheme	Scheme now	Rationale	Possible savings	Impact	Numbers of claimants affected
PROPOSAL A Cap support to a Band A property	Current CTS support is limited to Band B. Claimants living in Band C property and above have to pay difference in full	Majority of claimants live in Band A properties and Council subsidies those living in higher banded properties by paying more in CTS.	234k	<ul style="list-style-type: none"> Affects only those working age claimants living in Band B properties or above 	1835 cases would be affected i.e. living in Band B or above
PROPOSAL B Reduce maximum award to 75%	Maximum CTS award 80%	Affects all working age claimants equally	357k	<ul style="list-style-type: none"> All working age claimants would have to pay 75% of their CTAX liability Some claimants would cease to qualify for any Council Tax Support Could impact on CTAX collection rates and liabilities may not be collected within one financial year Affects most financially vulnerable residents Attachments of benefit or earnings could be affected 	All working age claimants affected total 11,777 claimants.
PROPOSAL C Align deductions for the non-dependents of working age to those of pensionable age which are prescribed	Only those non-dependents with a weekly net earned income above £189 have a deduction of £7.00 per week made	Aligns with prescribed scheme and all non-dependent income would be taken into account except Disability Living Allowance care component	104k	<ul style="list-style-type: none"> Non-dependents in working age households would be required to contribute to CTAX liability 	617 claimants have non-dependents affected by this proposal

Non-Dependent deductions scale:

Working age non-dependent weekly income	Proposed deduction weekly	Number affected
Up to £188.99	£3.74	454
£189.00 to £327.99	£7.52	95
£328.00 to £407.99	£9.49	23
£408.00 and above	£11.36	45
Total		617

IMPACT SCENARIOS

LOCALISING COUNCIL TAX SUPPORT - SCENARIO MODELS

PROPOSAL A - Cap Council Tax Support to a Band A

PROPOSAL B - Reduce the maximum limit to the amount of Council Tax Support that can be paid to 75%

PROPOSAL C - Changing the amount deducted in respect of non-dependants residing in the household

HOUSEHOLD ONE

Mr and Mrs Z are unemployed on Income Support with two children and no non-dependents or have a non-dependent who is a student and the family in a Band A property.

If all three proposals were implemented they could pay up to 92p a week or £48.10 a year. This is because they live in a Band A property and so are not affected by the Band cap, a non-dependent deduction is not applicable and would have to pay an additional 5% Council Tax if maximum support is reduced from 80% to 75%. This scenario would also apply to a couple without any children.

		CURRENT		PROPOSAL A			PROPOSAL B			PROPOSAL C			ALL PROPOSALS		
		Year	Week	Year	Week	Difference	Year	Week	Difference	Year	Week	Difference	Year	Week	Difference
BAND A	Charge	£ 961.72	£ 18.39	£ 961.72	£ 18.39		£ 961.72	£ 18.39	-	£ 961.72	£ 18.39	-	£ 961.72	£ 18.39	-
	(-) Discount	£ -		£ -			£ -		-	£ -		-	£ -		-
	(-) Benefit	£ 769.12	£ 14.71	£ 769.12	£ 14.71		£ 721.02	£ 13.79		£ 769.12	£ 14.71		£ 721.02	£ 13.79	
	(=) To Pay	£ 192.60	£ 3.68	£ 192.60	£ 3.68	£0.00	£ 240.70	£ 4.60	£ 48.10	£ 192.60	£ 3.68	£0.00	£ 240.70	£ 4.60	£ 48.10
BAND B	Charge	£1,122.02	£ 21.46	£1,122.02	£ 21.46		£ 1,122.02	£ 21.46	-	£ 1,122.02	£ 21.46	-	£1,122.02	£ 21.46	-
	(-) Discount	£ -		£ -			£ -		-	£ -		-	£ -		-
	(-) Benefit	£ 897.75	£ 17.17	£ 769.12	£ 14.71		£ 841.28	£ 16.09		£ 897.75	£ 17.17		£ 721.02	£ 13.79	
	(=) To Pay	£224.27	£4.29	£352.90	£6.75	£128.63	£ 280.74	£ 5.37	£ 56.47	£ 224.27	£4.29	£0.00	£ 401.00	£7.67	£176.73
BAND C	Charge	£1,282.30	£ 24.52	£1,282.30	£ 24.52		£ 1,282.30	£ 24.52	-	£ 1,282.30	£ 24.52	-	£1,282.30	£ 24.52	-
	(-) Discount	£ -		£ -			£ -		-	£ -		-	£ -		-
	(-) Benefit	£ 897.74	£ 17.17	£ 769.12	£ 14.71		£ 841.28	£ 16.09		£ 897.75	£ 17.17		£ 721.02	£ 13.79	
	(=) To Pay	£ 384.56	£ 7.35	£ 513.18	£ 9.81	£128.62	£ 441.02	£ 8.43	£ 56.46	£ 384.56	£ 7.35	£0.00	£ 561.28	£ 10.73	£176.72

HOUSEHOLD TWO

Mr B is a single unemployed parent claimant of working age with a non-dependent living with him. Mr B received £73.10 Job Seekers Allowance and the non-dependent earns £200 per week gross. Mr B lives in a Band A property and he could pay up to £50.19 more each year (£0.96 per week) if all three proposals were implemented. The proposal to place a cap on the maximum Council Tax Support award for claimants living in a Band A property would not affect Mr B because he already lives in a Band A property.

If Mr B lived in a Band B or Band C property he could pay up to £178.82 (£3.43 per week) more in a Band B or higher banded property. This is because the non-dependent would be expected to contribute towards Mr B's Council Tax.

		CURRENT			PROPOSAL A			PROPOSAL B			PROPOSAL C			ALL PROPOSALS		
		Year	Week		Year	Week	Difference	Year	Week	Difference	Year	Week	Difference	Year	Week	Difference
BAND A	Charge	£ 961.72	£ 18.39		£ 961.72	£ 18.39	-	£ 961.72	£ 18.39	-	£ 961.72	£ 18.39	-	£ 961.72	£ 18.39	-
	(-) Discount	£ -			£ -		-	£ -		-	£ -		-	£ -		-
	(-) Benefit	£ 476.32	£ 9.11		£ 476.32	£ 9.11		£ 446.52	£ 8.54		£ 454.89	£ 8.70		£ 426.13	£ 8.15	
	(=) To Pay	£485.40	£9.28		£ 485.40	£ 9.28	£0.00	£ 515.20	£ 9.85	£ 29.80	£ 506.83	£9.69	£ 21.43	£ 535.59	£ 10.24	£50.19
BAND B	Charge	£1,122.02	£ 21.46		£1,122.02	£ 21.46	-	£ 1,122.02	£ 21.46	-	£ 1,122.02	£ 21.46	-	£1,122.02	£ 21.46	-
	(-) Discount	-			£ -		-	£ -		-	£ -		-	£ -		-
	(-) Benefit	£ 604.95	£ 11.57		£ 476.32	£ 9.11		£ 566.78	£ 10.84		£ 582.99	£ 11.15		£ 426.13	£ 8.15	
	(=) To Pay	£517.07	£9.89		£ 645.70	£ 12.35	£ 128.63	£ 555.24	£ 10.62	£ 38.17	£ 539.03	£10.31	£ 21.96	£ 695.89	£13.31	£178.82
BAND C	Charge	£1,282.30	£ 24.52		£1,282.30	£ 24.52	-	£ 1,282.30	£ 24.52	-	£ 1,282.30	£ 24.52	-	£1,282.30	£ 24.52	-
	(-) Discount	£ -			£ -		-	£ -		-	£ -		-	£ -		-
	(-) Benefit	£ 604.95	£ 11.57		£ 476.32	£ 9.11		£ 566.78	£ 10.84		£ 582.99	£ 11.15		£ 426.13	£ 8.15	
	(=) To Pay	£677.35	£12.95		£ 805.98	£ 15.41	£ 128.63	£ 715.52	£ 13.68	£ 38.17	£699.31	£13.37	£ 21.96	£ 856.17	£ 16.37	£178.82

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HOUSEHOLD THREE

Mr and Mrs X have two children and a non-dependant. The household income is £374.40 per week which comprises the claimant's £200.00 net earned income, £140 Tax Credits, £34.40 Child Benefit. A non-dependent also resides in the property with a £200.00 gross earned income.

Mr and Mrs X live in a Band A property and could pay up to £28.76 more each year (0.55p per week) if all three proposals were implemented. The proposal to place a cap on the maximum Council Tax Support award for claimants living in a Band A property would not affect Mr and Mrs X because they already live in a Band A property.

If Mr and Mrs X lived in a Band B or Band C property they could pay up to £157.38 more each year (£3.02 per week) because they are affected by the cap on the maximum Council Tax Support award and would have to pay the difference in Council tax between a band A property and the Band of property they currently live in.

		CURRENT		PROPOSAL A			PROPOSAL B			PROPOSAL C			ALL PROPOSALS		
		Year	Week	Year	Week	Difference	Year	Week	Difference	Year	Week	Difference	Year	Week	Difference
BAND A	Charge	£ 967.33	£ 18.50	£ 967.33	£ 18.50	-	£ 967.33	£ 18.50	-	£ 967.33	£ 18.50	-	£ 967.33	£ 18.50	-
	(-) Discount	£ -		£ -		-	£ -		-	£ -		-	£ -		-
	(-) Benefit	£ 131.76	£ 2.52	£ 131.76	£ 2.52		£ 123.39	£ 2.36		£ 109.80	£ 2.10		£ 103.00	£ 1.97	
	(=) To Pay	£ 835.57	£ 15.98	£ 835.57	£ 15.98	£0.00	£ 843.94	£ 16.14	£ 8.37	£ 857.53	£16.40	£ 21.96	£ 864.33	£ 16.53	£28.76
BAND B	Charge	£1,128.56	£ 21.58	£1,128.56	£ 21.58	-	£ 1,128.56	£ 21.58	-	£ 1,128.56	£ 21.58	-	£1,128.56	£ 21.58	-
	(-) Discount	£ -		£ -		-	£ -		-	£ -		-	£ -		-
	(-) Benefit	£ 260.38	£ 4.98	£ 131.76	£ 2.52		£ 244.17	£ 4.67		£ 238.95	£ 4.57		£ 103.00	£ 1.97	
	(=) To Pay	£ 868.18	£ 16.60	£ 996.80	£ 19.06	£128.62	£ 884.39	£ 16.91	£ 16.21	£ 889.61	£17.01	£ 21.43	£1,025.56	£19.61	£157.38
BAND C	Charge	£1,289.78	£ 24.67	£1,289.78	£ 24.67	-	£ 1,289.78	£ 24.67	-	£ 1,289.78	£ 24.67	-	£1,289.78	£ 24.67	-
	(-) Discount	£ -		£ -		-	£ -		-	£ -		-	£ -		-
	(-) Benefit	£ 260.38	£ 4.98	£ 131.76	£ 2.52		£ 244.17	£ 4.67		£ 238.95	£ 4.57		£ 103.00	£ 1.97	
	(=) To Pay	£1,029.40	£ 19.69	£1,158.02	£ 22.15	£128.62	£ 1,045.61	£ 20.00	£ 16.21	£1,050.83	£20.10	£ 21.43	£1,186.78	£ 22.70	£157.38

HOUSEHOLD FOUR

Mr and Mrs P have 2 children and are unemployed and on Income Support with a non-dependent earning £200 a week gross. Mr and Mrs P live in a Band A property and they could pay up to £50.19 more each year (£0.96 per week) if all three proposals were implemented. The proposal to place a cap on the maximum Council Tax Support award for claimants living in a Band A property would not affect Mr and Mrs P because they already live in a Band A property.

If Mr and Mrs P lived in a Band B or Band C property they could pay up to £178.82 (£3.43 per week) more in a Band B or higher banded property. This is because the non-dependent would be expected to contribute towards Mr and Mrs P's Council Tax.

		CURRENT		PROPOSAL A			PROPOSAL B			PROPOSAL C			ALL PROPOSALS		
		Year	Week	Year	Week	Difference	Year	Week	Difference	Year	Week	Difference	Year	Week	Difference
BAND A	Charge	£ 961.72	£ 18.39	£ 961.72	£ 18.39		£ 961.72	£ 18.39	-	£ 961.72	£ 18.39	-	£ 961.72	£ 18.39	-
	(-) Discount	£ -		£ -			£ -		-	£ -		-	£ -		-
	(-) Benefit	£ 476.32	£ 9.11	£ 476.32	£ 9.11		£ 446.52	£ 8.54		£ 454.89	£ 8.70		£ 426.13	£ 8.15	
	(=) To Pay	£ 485.40	£ 9.28	£ 485.40	£ 9.28	£0.00	£ 515.20	£ 9.85	£ 29.80	£ 506.83	£ 9.69	£ 21.43	£ 535.59	£ 10.24	£50.19
BAND B	Charge	£1,122.02	£ 21.46	£1,122.02	£ 21.46		£ 1,122.02	£ 21.46	-	£ 1,122.02	£ 21.46	-	£1,122.02	£ 21.46	-
	(-) Discount	£ -		£ -			£ -		-	£ -		-	£ -		-
	(-) Benefit	£ 604.95	£ 11.57	£ 476.32	£ 9.11		£ 566.78	£ 10.84		£ 582.99	£ 11.15		£ 426.13	£ 8.15	
	(=) To Pay	£517.07	£9.89	£645.70	£12.35	£128.63	£ 555.24	£ 10.62	£ 38.17	£ 539.03	£10.31	£ 21.96	£ 695.89	£13.31	£178.82
BAND C	Charge	£1,282.30	£ 24.52	£1,282.30	£ 24.52		£ 1,282.30	£ 24.52	-	£ 1,282.30	£ 24.52	-	£1,282.30	£ 24.52	-
	(-) Discount	£ -		£ -			£ -		-	£ -		-	£ -		-
	(-) Benefit	£ 604.95	£ 11.57	£ 476.32	£ 9.11		£ 566.78	£ 10.84		£ 582.99	£ 11.15		£ 426.13	£ 8.15	
	(=) To Pay	£677.35	£12.95	£805.98	£15.41	£128.63	£ 715.52	£ 13.68	£ 38.17	£699.31	£13.37	£ 21.96	£ 856.17	£ 16.37	£178.82

HOUSEHOLD FIVE

Mr and Mrs W have 2 children and are claiming Income Support. They also have a non-dependant claiming Employment Support Allowance (ESA) income related. If they lived in a Band A property they would pay an additional £194.50 per year or £3.74 per week. If the household lived in a Band B or C property or above they could pay up to £323.13 a year (£6.21 a week) as they would have to pay the difference between a Band A property and the property band for where they reside.

		CURRENT			PROPOSAL A			PROPOSAL B			PROPOSAL C			ALL PROPOSALS		
		Year	Week		Year	Week	Difference	Year	Week	Difference	Year	Week	Difference	Year	Week	Difference
BAND A	Charge	£ 961.72	£ 18.39	£ 961.72	£ 18.39		£ 961.72	£ 18.39	-	£ 961.72	£ 18.39	-	£ 961.72	£ 18.39	-	
	(-) Discount	£ -		£ -			£ -		-	£ -		-	£ -		-	
	(-) Benefit	£ 769.12	£ 14.71	£ 769.12	£ 14.71		£ 721.02	£ 13.79		£ 612.79	£ 11.72		£ 574.62	£ 10.99		
	(=) To Pay	£ 192.60	£ 3.68	£ 192.60	£ 3.68	£0.00	£ 240.70	£ 4.60	£ 48.10	£ 349.93	£ 6.67	£ 157.33	£ 387.10	£ 7.40	£194.50	
BAND B	Charge	£1,122.02	£ 21.46	£1,122.02	£ 21.46		£ 1,122.02	£ 21.46	-	£ 1,122.02	£ 21.46	-	£1,122.02	£ 21.46	-	
	(-) Discount	£ -		£ -			£ -		-	£ -		-	£ -		-	
	(-) Benefit	£ 897.75	£ 17.17	£ 769.12	£ 14.71		£ 841.28	£ 16.09		£ 741.41	£ 14.18		£ 574.62	£ 10.99		
	(=) To Pay	£224.27	£4.29	£352.90	£6.75	£128.63	£ 280.74	£ 5.37	£ 56.47	£ 380.61	£7.28	£ 156.34	£ 547.40	£10.47	£323.13	
BAND C	Charge	£1,282.30	£ 24.52	£1,282.30	£ 24.52		£ 1,282.30	£ 24.52	-	£ 1,282.30	£ 24.52	-	£1,282.30	£ 24.52	-	
	(-) Discount	£ -		£ -			£ -		-	£ -		-	£ -		-	
	(-) Benefit	£ 897.74	£ 17.17	£ 769.12	£ 14.71		£ 841.28	£ 16.09		£ 741.41	£ 14.18		£ 574.62	£ 10.99		
	(=) To Pay	£384.56	£7.35	£513.18	£9.81	£128.62	£ 441.02	£ 8.43	£ 56.46	£540.89	£10.34	£ 156.33	£ 707.68	£ 13.53	£323.12	

HOUSEHOLD SIX

Mrs Y is a single person of pension age living with a non-dependent earning £200.00 per week. Mrs Y has weekly income of £97.28 retirement pension and £20.55 Guaranteed Pension Credit.

Regardless as to which Band property Mrs Y lives in, none of the proposals will impact on her as she is a pensioner even though she has a non-dependent living with her and legislation ensures that pensioners must be protected and continue to receive the same amount as if the previous Council Tax Benefit scheme applied.

		CURRENT			PROPOSAL A			PROPOSAL B			PROPOSAL C			ALL PROPOSALS		
		Year	Week		Year	Week	Difference	Year	Week	Difference	Year	Week	Difference	Year	Week	Difference
BAND A	Charge	£ 961.72	£ 18.39	£ 961.72	£ 18.39	-	£ 961.72	£ 18.39	-	£ 961.72	£ 18.39	-	£ 961.72	£ 18.39	-	
	(-) Discount	£ -		£ -		-	£ -		-	£ -		-	£ -		-	
	(-) Benefit	£ 568.53	£ 10.87	£ 568.53	£ 10.87		£ 568.53	£ 10.87		£ 568.53	£ 10.87		£ 568.53	£ 10.87		
	(=) To Pay	£393.19	£7.52	£393.19	£7.52	£0.00	£ 393.19	£ 7.52	£0.00	£ 393.19	£ 7.52	£0.00	£ 393.19	£ 7.52	£0.00	
BAND B	Charge	£1,122.02	£ 21.46	£1,122.02	£ 21.46	-	£ 1,122.02	£ 21.46	-	£ 1,122.02	£ 21.46	-	£1,122.02	£ 21.46	-	
	(-) Discount	£ -		£ -		-	£ -		-	£ -		-	£ -		-	
	(-) Benefit	£ 728.83	£ 13.94	£ 728.83	£ 13.94		£ 728.83	£ 13.94		£ 728.83	£ 13.94		£ 728.83	£ 13.94		
	(=) To Pay	£393.19	£7.52	£393.19	£7.52	£0.00	£ 393.19	£ 7.52	£0.00	£ 393.19	£7.52	£0.00	£ 393.19	£7.52	£0.00	
BAND C	Charge	£1,282.30	£ 24.52	£1,282.30	£ 24.52	-	£ 1,282.30	£ 24.52	-	£ 1,282.30	£ 24.52	-	£1,282.30	£ 24.52	-	
	(-) Discount	£ -		£ -		-	£ -		-	£ -		-	£ -		-	
	(-) Benefit	£ 889.11	£ 17.00	£ 889.11	£ 17.00		£ 889.11	£ 17.00		£ 889.11	£ 17.00		£ 889.11	£ 17.00		
	(=) To Pay	£393.19	£7.52	£393.19	£7.52	£0.00	£ 393.19	£ 7.52	£0.00	£393.19	£7.52	£0.00	£393.19	£7.52	£0.00	

EQUALITY IMPACT ASSESSMENT

DEMOGRAPHIC INFORMATION

EIA Demographic information

Council Tax Support Client Base

The tables below provide data on people by particular household characteristics. The data is based on known characteristics (i.e. those people who reported a particular characteristic). As not all people choose to report a characteristic the total won't be the same as above.

		All		Pensioners (Protected)		Working age (Not Protected)		Working age by Council Tax Bands (Not Protected)					
		Number	% (a)	Number	% (b)	Number	% (b)	Number	% (c)	Number	% (c)	Number	% (c)
								Band A		Band B		Band C and above	
Age		21,513	100%	9,753	45%	11,760	55%	9,915	84%	1,145	10%	700	6%
Gender	Male	8,783	41%	4,182	48%	4,601	52%	4,024	87%	349	8%	228	5%
	Female	12,730	59%	5,571	44%	7,159	56%	5,891	82%	796	11%	472	7%
Disabled (1)	Total	5,224	24%	2,812	54%	2,412	46%	2,004	83%	270	11%	138	6%
	In work	34	0.2%	0	0%	34	100%	23	68%	5	15%	6	17%
Not Disabled	Total	16,289	76%	6,941	43%	9,348	57%	7,911	84%	875	10%	562	6%
Race (2)	White	13,661	90%	5,520	40%	8,141	60%	7,025	86%	706	9%	410	5%
	Non-white	1,480	10%	639	43%	841	57%	611	73%	130	15%	100	12%
Carers (3)		623	3%	65	10%	558	90%	392	70%	91	17%	75	13%
War Pension		40	0.2%	33	82%	7	18%	6	86%	0	0%	1	14%
Single person household		14,640	68%	7,340	50%	7,300	50%	6,362	87%	629	9%	309	4%
Total number of claims that are households with children		5,007	23%	78	2%	4,929	98%	3,876	79%	653	13%	400	8%
Lone parent household		3,357	16%	40	1%	3,317	99%	2,697	81%	400	12%	220	7%
Female lone parent households		3,128	14%	27	1%	3,101	99%	2,512	81%	379	12%	210	7%
Couple with children		1,650	8%	38	2%	1,612	98%	1,179	73%	253	16%	180	11%
Couple with no children		3,185	15%	2,307	72%	878	28%	677	77%	118	13%	83	9%

Sources: Tameside MBC Council Tax and Benefit systems as at September 2015.

Religion and Belief / Sexual Orientation / Gender Re-Assignment / Pregnancy and Maternity / Marriage and Civil Partnership

Specific data is not available on these protected characteristics for the CT client base. It is not anticipated that there will be any disproportionate impact on these protected characteristic groups.

Notes:

- (a) Percentage of total CTS caseload
- (b) Percentage of claims within that characteristic
- (c) Percentage of working age claims within that characteristic
- (1) Disability is based on receipt of disability income or the disability premium
- (2) Race is based on claims where the ethnic origin has been provided.
- Carer is based on a person in receipt of a carer premium.

EQUALITIES IMPACT ASSESSMENT		
Subject	Local Council Tax Support scheme (original changes to scheme agreed in 2013)	
Service / Business Unit	Service Area	Directorate
Benefits	Exchequer	Governance and Resources
EIA Start Date (Actual)	EIA Completion Date (Expected)	
August 2015	December 2015	

Lead Contact / Officer Responsible	Ilys Cookson
Service Unit Manager Responsible	Michelle Bowler

EIA Group (lead contact first)	Job title	Service
Ilys Cookson	Assistant Executive Director	Exchequer
Michelle Bowler	Service Unit Manager	Exchequer
Karen Milner	Operations Manager	Exchequer

SUMMARY BOX
<p>The Welfare Reform Act 2012 abolished Council Tax Benefit from 31 March 2013 and all Local Authorities, including Tameside Council, were required to design and run their own scheme or use the government default national scheme which would have resulted in a short fall in funding in real terms at that time of approximately £4.2 million.</p> <p>The Government stipulated that certain claimants, such as those of pensionable age, must remain protected from any cuts. This means that any reduction in support cannot impact on pensioners and so the full impact falls entirely upon claimants of working age.</p> <p>Tameside's Council Tax Support scheme was introduced, after consultation, from 1 April 2013. The scheme, which is supported by a full Key Decision on 21 December 2012 and Equality Impact Assessment, still provides financial assistance to some Council Tax Charge payers on a low income whether they rent or own their home, or live rent-free. The effect of receiving Council Tax Support is a reduction in the amount of Council Tax they have to pay.</p> <p>Since 2010 the Council has had £104 million less to spend on services due to funding cuts from the Government. Over the next 5 years we know the Government will continue to make further cuts to our funding. We expect that will mean at least another £90 million less to spend on services.</p> <p>Cuts in funding from Government have a significant impact on how much the Council has to spend on services. To meet this challenge a range of proposals across the Council are currently being considered including changing the Council Tax Support scheme for 2016 / 2017 to reduce the cost of the scheme.</p> <p>Tameside Council have considered and consulted on the following proposed changes to the</p>

Council Tax Support scheme;

1. Cap Council Tax Support to a Band A
2. Reduce the maximum of Council Tax Support that can be paid to 75%
3. Changing the amount deducted for working age claimants in respect of non-dependants residing in the household to align with claimants who are pension age.

Section 1 - Background

BACKGROUND

The Welfare Reform Act 2012 abolished Council Tax Benefit from 31 March 2013 and all Local Authorities, including Tameside Council, were required to design and run their own scheme or use the government default national scheme which would have resulted in a short fall in funding in real terms of approximately £4.2 million.

The Council Tax Reduction Schemes (Prescribed Requirements)(England) Regulations 2012 must be included in the Councils own scheme and provide protection to claimants of pensionable age so that they must remain protected from any cuts. This means that any reduction in support cannot impact on pensioners and so the full impact falls entirely upon claimants of working age.

Tameside's Council Tax Support scheme was introduced from 1 April 2013. The scheme still provides financial assistance to some Council Tax Charge payers on a low income whether they rent or own their home, or live rent-free. The effect of receiving Council Tax Support is a reduction in the amount of Council Tax they have to pay. The caseload of claimants is currently 11,760 working age and 9,753 pensioners as at September 2015 and the current cost of the scheme is £14.8 million.

Council Tax Support is accessed by a claim form which is available on-line on the Council's website and a paper form can be provided when necessary. Help is also available to support those who may have difficulty applying.

Cuts in funding from Government have a significant impact on how much the Council has to spend on services.

To meet this challenge a range of proposals across the Council are currently being considered including changing the Council Tax Support scheme for 2016 / 2017 to reduce the cost of the scheme. Tameside Council have considered and consulted on the following proposed changes to the Council Tax Support scheme;

1. Cap Council Tax Support to a Band A
2. Reduce the maximum Council Tax Support that can be paid to 75%
3. Changing the amount deducted for working age claimants in respect of non-dependants residing in the household to align with claimants who are pension age.

Although the changes being proposed will protect approximately 9,753 pensioner claims there are 11,760 working age claims who are currently receiving Council Tax Support who will be affected by the proposed amendments to the new scheme.

The table below shows the Council Tax Support caseload by area.

	Pension age				Working age				
	Band A	Band B	Band C	Total	Band A	Band B	Band C	Total	
Audenshaw	308	84	71	463	339	48	46	433	896

Ashton	1706	232	212	2150	2686	278	164	3128	5278
Denton	1076	158	372	1606	1023	161	94	1278	2884
Droylsden	677	301	96	1074	1414	220	68	1702	2776
Dukinfield	757	81	125	963	869	59	64	992	1955
Hyde	1306	221	213	1740	1828	210	136	2174	3914
Longdendale	212	80	44	336	231	60	36	327	663
Mossley	293	42	51	386	391	36	22	449	835
Stalybridge	803	104	128	1035	1144	76	57	1277	2312
Total	7138	1303	1312	9753	9925	1148	687	11760	21513

Of these 21,513 claimants, 59% are female, and 41% male. Amongst this same 21,513 cohort there are 5,007 claimants with children, of which 4,929 are working age, 3,317 being single parents that are working age claimants. 93% are working age lone parents that are female.

Some protection will continue to be given to the non-passported benefit claims where child benefit is received. This equates to almost 1,017 claims of which 43% are single parents and primarily single mothers.

In addition some protection is also being given to 282 standard working age claims in receipt of Disability Living Allowance income. This would limit the impact of proposal C as claimant's who are in receipt of some elements of Disability Living Allowance income will be protected.

Section 2 – Issues to consider & evidence base

ISSUES TO CONSIDER

Section 149 of the Equality Act 2010 places the Council and all public bodies under a duty to promote equality. All public bodies are required to have regard to the need to:

- Eliminate unlawful discrimination.
- Promote equal opportunities between members of different equality groups.
- Foster good relations between members of different equality groups including by tackling prejudice and promoting understanding.

The Council has also taken into consideration the Welfare Reform Act 2012 and The Council Tax Reduction Schemes (Prescribed Requirements)(England) Regulations 2012.

Financial considerations.

The scheme was designed to provide extra support for vulnerable people with disabilities claiming benefit, carers and those in receipt of war pensions and to support as many claimants on low incomes as possible taking into account the requirements of the scheme as determined by the Government and affordability.

The caseload of claimants is currently 11,760 working age and 9,753 pensioners as at September 2015 and the current cost of the scheme is £14.8 million.

Cuts in funding from Government have a significant impact on how much the Council has to spend on services.

To meet this challenge a range of proposals across the Council are currently being considered and consulted on including changing the Council Tax Support scheme for 2016 / 2017 to reduce the cost of the scheme.

It is estimated that the proposed changes will make the following financial efficiencies:

Proposal A – Cap support to a band A property - Based on the current Council Tax Support caseload, the potential saving would be £234,000.

Proposal B – Reduce the maximum limit of Council Tax Support that can be paid - Based on the current Council Tax Support caseload, the potential saving would be £357,000.

Proposal C - Changing the amount deducted in respect of non-dependants residing in the household - Based on the current Council Tax Support caseload, the potential saving would be £104,000.

Consultation, engagement & feedback

A robust consultation process was undertaken to gain views from the public and stakeholders.

The consultation commenced on 14 September 2015 and ran until 30 November 2015 on the three proposals.

The consultation was conducted as follows:

- Precepting Bodies: Consultation took place with the Police Authority and Fire and Rescue Authority by email.
- Via the Council's online Big Conversation consultation portal
- Two advertisements in local press.
- Paper copies of the questionnaire were made available on request.
- Stakeholders and local voluntary organisations were also contacted by letter to inform them of the consultation, including;
 - CAB
 - Welfare Rights
 - Customer Services
 - Housing Options
 - MiNT
 - CVAT
- Notice was given at a Registered Social Landlord Forum
- Notices of the consultation were also sent out to benefit claimant with benefit notification letters and enclosed with Council Tax bills.
- Notices were also sent with approximately 40,000 electoral registration reminders, making a total notice circulation of 58,000.
- Fifty posters were displayed in supermarkets, doctors surgeries and public buildings
- A message about the consultation was also put on the Benefits and Council Tax telephone lines.
- Awareness messages were put on the benefits and Council Tax Council webpages
- Article was placed in the Tameside staff newsletter "The Wire"
- Promoted via social media channels e.g. Council's Twitter account, Contour Housing Twitter account

The responses to the consultation have been analysed on a weekly basis.

In total, 21 consultation responses were received. All of these were received via the Big Conversation consultation portal.

An analysis of the 21 consultation responses follows:

Proposal	Agree	Disagree	Neither Agree/ Disagree	Don't know	Total
Cap CTS to Band A properties	14	6	0	1	21
Award a maximum of 75% CTS	10	9	1	1	21
Align non-dependent deductions with the prescribed scheme	16	1	2	2	21

Respondent details:

A member of the public	16
A community or voluntary group	0
A partner organisation	1
A business /private organisation	0
Other	3

Gender

Male	9
Female	9

Age

Aged 18 – 25	1
Aged 26 – 35	4
Aged 36 – 45	1
Aged 46 – 55	7
Aged 56 – 65	2
Aged 65 years and over	0

Disability

Where day-to day activities are limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months, including problems related to old age.

Yes, limited a lot	2
Yes, limited a little	2
No	15

Ethnicity

White - English / Welsh / Scottish / Northern Irish / British	15
White - Irish	
White - Gypsy or Irish Traveller	
Other White background	
White & Black Caribbean	
White & Black African	
White & Asian	1

Other Mixed background	
Black/Black British – African	
Black/Black British – Caribbean	
Other Black / African / Caribbean background	
Asian/Asian British - Indian	
Asian/Asian British - Pakistani	1
Asian/Asian British - Bangladeshi	
Asian/Asian British - Chinese	
Other Asian background	
Arab	
Any other ethnic group	

Carers

Where the respondent looks after, or gives any help or support to, family members, friends, neighbours or others because of either:

- Long term physical or mental ill-health / disability
- Problems due to old age

No	15
Yes, 1-19 hours a week	1
Yes, 20-49 hours a week	2
Yes, 50 or more a week	1

LIST OF EVIDENCE SOURCES

- Communities and Local Government Department Guidance – Localising Support for Council Tax - Vulnerable people – key local authority duties
- The Council Tax Reduction Schemes (Prescribed Requirements)(England) Regulations 2012, as amended.
- Big Conversation results analysis
- Capita reporting module
- Quarterly monitor of current Council Tax Support scheme Equality Impact Assessment data

Section 3 – Impact

IMPACT

TAMESIDE POPULATION – COUNCIL TAX SUPPORT CLIENT BASE

The population of Tameside is estimated at 219,324 in the March 2011 Census (Office for National Statistics), of which 176,616 are aged 16 years and over. There are an estimated 100,968 properties in Tameside. The population of Tameside is estimated at 220,800 based on the 2014 mid-year population. Trends show an ageing population. The number of people aged 65 years and

over has increased by 18.7% between 2001 and 2014. The gender split of Tameside's overall population is 49.1% male and 50.9% female. There are an estimated 100,968 households in Tameside as at 2015.

Age (16 and over)

- Population – 16 to 65 / over 65 – 142,415 65% / 34,201 16%
- CTS client base – working age / pension age – 55% / 45%

The age profile of the CTS client base has a greater proportion of older people compared than the Tameside population. The percentage of claimants of pension age has remained consistent since the Council Tax Support scheme came into effect in April 2013.

Gender

- Population – Male / Female – 107,650 49% / 111,674 51%
- CTS client base – Male / Female – 41% / 59%

The gender profile of the CTS client base has a greater proportion of females compared to the Tameside population.

Disability

- Population aged 16 and over – Disabled / Not disabled – 25% / 75%
- CTS client base – Disabled / Not disabled – 24% / 76%

The disability profile of the CTS client base is indicative of the Tameside population aged 16 or over.

Note: receipt of disability related benefits or premiums have been used as a proxy for disabled people within the CTS client base figures.

Ethnicity

- Population aged 16 or over – White / Non-white – 92% / 8%
- CTS client base – White / Non-white – 90% / 10%

The ethnicity profile of the CTS client base is indicative of the Tameside population aged 18 or over.

Religion & belief / sexual orientation / gender re-assignment / pregnancy & maternity / marriage & civil partnership

Specific data is not available on those protected characteristics for the CTS client base.

Single People / Couples / Families

Information within the Council Tax Support system allows us to model data on family make-up. The data below is indicative and looks at family status and the breakdown between pensioners and non-pensioners.

- Single person households – approximately 14,640 (7,340 – pensioners / 7,300 – non-pensioners).
- Lone parent households – 3,357 (40 – pensioners / 3,317 – non-pensioners).
- Couples with children – 1,650 (38 pensioners / 1,612 – non-pensioners).
- Couples with no children – 3,185 (2,307 pensioners / 878 – non-pensioners).

Note: of the 3,317 non-pensioner (i.e. working age) lone parent families, 93% of these are female.

Other considerations

- *Economic vulnerability* – 90% of the working age claimants (i.e. non-protected people below pension credit age) are out of work. For those with a disability this rises to 99.5% (although this is a function of disability benefits being used as a proxy for disability).
- *Carers* – 558 (3%) of all claimants receive Carer's Allowance.

- Maternity – 23 (0.2%) of working age claimants receive Maternity Allowance.
- War widows – 40 (0.2%) of all claimants are war widows (of which 7 are of working age).

IMPACT ON CLIENT BASE – PROPOSALS FOR COUNCIL TAX SUPPORT SCHEME

Tameside has approximately 21,513 claimants of Council Tax Support (CTS). Of these, 9,753 are pensioners (i.e. reached pension credit age) and are therefore fully protected under the legislation and will not see any change in their benefit entitlement.

The remaining 11,760 claimants are all potentially affected by the changes proposed in the LCTSS consultation and proposals. The general impact will be that residents of working age will not receive the same level of CTS as in previous years. This will have economic impacts on a variety of groups of people who will face additional cost pressures due to changes in benefits more generally such as the introduction of Universal Credit and changes to Tax Credits.

Pensioner age – 9,753 (45%) of claimants are fully protected. Almost half of current claimant base will be subject to no impact as a result of the final scheme. Similarly, there will be no change to the 100% war pensions/war widows pension disregard for working age claimants.

Disabled people – 5,224 (24%) of claimants are disabled. Of these, 2,812 (54%) are pensioners so are already covered by the full protection afforded to people who have reached pension credit age. The remaining 2,412 disabled claimants may be affected to varying degrees depending on whether they fall into any of the categories below.

PROPOSAL A - Cap Council Tax Support to a Band A

As at 1 September 2015 the majority of Council Tax Support claimants, over 84%, live in Band A properties

It is proposed to reduce the level of support given to people living in larger properties, by limiting the maximum award of Council Tax Support for people living in a band B property or above to the maximum level of a band A property.

The effect of this restriction means that those claimants living in more expensive properties with have a larger shortfall. This change would affect the following working age groups:

Age

1,835 working age claims reside in a property band B or above, 16% of the working age caseload and 9% of the total caseload.

1,135 (10%) of which reside in a band B property.

Gender

1,268 claims in a band B or above are female, which is 69% of all claims in Band B and above. 43% are female and reside in a band B property.

18% are male and reside in a band C property or above.

Ethnicity

91% of the people affected are white and 9% are Non-white.

Disability

22% of the people affected have a disability.

Carers

166 (9%) of the people affected are carers.

Children

620 (34%) are single people with children, of which 589 (95%) are female.

400 (35%) reside in a band B property.

253 (14%) are couples with children

War Pensioners

There is 1 working age war pensioner who would be affected by this change.

Religion and Belief / Sexual Orientation / Gender Re-Assignment / Pregnancy and Maternity / Marriage and Civil Partnership

Specific data is not available on these protected characteristics for the CT client base. It is not anticipated that there will be any disproportionate impact on these protected characteristic groups.

PROPOSAL B - Reduce the maximum limit to the amount of Council Tax Support that can be paid to 75%

Currently support is limited to a maximum discount of 80% for all working age claimants. It is proposed that the maximum discount would be reduced to a limit of 75%.

All working age households would receive less support, leaving households having to pay at least 25% of their Council Tax.

Age

11,760 (55%) of claims are working age.

Gender

61% of the people affected are female, which is 33% of the total CTS caseload.

Ethnicity

Of those people who have informed the Council of their ethnic origin, 8141 are white and 841 are Non-white.

Disability

There are 2,412 working age claims where it can be determined that there is a disability, which is 21% of the affected claims.

282 of these claims have received some protection as Disability Living Allowance income is not taken into consideration in the calculation of the CTS award.

Carers

558 (5%) of the people affected are carers. 65 carers are pension age.

Children

3,317 (28%) of those affected are single people with children, of which 93% are female.

400 single people with children reside in a band B property.

1,612 (14%) are couples with children

Religion and Belief / Sexual Orientation / Gender Re-Assignment / Pregnancy and Maternity / Marriage and Civil Partnership

Specific data is not available on these protected characteristics for the CT client base. It is not anticipated that there will be any disproportionate impact on these protected characteristic groups.

PROPOSAL C - Changing the amount deducted for working age claimants in respect of non-dependants residing in the household to align with claimants who are pension age.

A non-dependant is a person who normally resides with a claimant on a non-commercial basis, such as an adult family member or friend. A deduction is made from a claimant's Council Tax Support dependant on the non-dependant's income.

Currently only non-dependants with a net weekly earned income of £189.00 or above contribute £7.00 per week towards the household Council Tax liability for working age claimants.

This proposal would align the deduction income levels and amounts to pension age claimants, which are prescribed amounts i.e. set by the Government. The prescribed amounts are not currently set for 2016 / 2017.

The deduction for all non-dependant's aged 18 or over residing with working age claimants would increase.

Non-dependant deductions do not apply to some claimants with entitlement to specific components of Disability Living Allowance and would be protected from the proposed change. The non-dependent deductions may impact on anyone caring for a young person who has previously been a foster child up to the age of 18, and in receipt of a Staying Put Payments. There are no CTS claimants in receipt of Staying Put Payments in respect of a foster child becoming 18 and being cared for up to 21 at present. It is suggested that as the proposal to introduce non-dependant deductions may impact on claimants continuing to support a young person beyond the age of 18 and who are in employment, that the non-dependent deductions should not apply in these specific cases

Age

1015 claims with a non-dependant, of which 617 are working age claims or 5% of the working age caseload and 3% of the total caseload.

Gender

461 claims (75%) of the people affected are female

Ethnicity

63% of the people affected are white and 12% are Non-white. The other 25% of working age claims have not declared their ethnicity.

Disability

139 (22%) of the people affected have a disability.

Carers

64 (10%) of the people affected are carers.

Children

134 (22%) are single people with children.

100 (16%) are couples with children

Religion and Belief / Sexual Orientation / Gender Re-Assignment / Pregnancy and Maternity / Marriage and Civil Partnership

Specific data is not available on these protected characteristics for the CT client base. It is not anticipated that there will be any disproportionate impact on these protected characteristic groups. The Council has a hardship fund to support people suffering severe financial hardship as a result of the changes to the Council Tax Support scheme.

Section 4 – Proposals & Mitigation

PROPOSALS & MITIGATION

PROPOSALS

Tameside Council have considered and consulted on the following proposed changes to the Council Tax Support scheme;

1. Cap Council Tax Support to a Band A
2. Reduce the maximum Council Tax Support that can be paid to 75%
3. Changing the amount deducted for working age claimants in respect of non-dependants residing in the household to align with claimants who are pension age.

MITIGATION

The Hardship Fund introduced in 2013/14 when the local Council Tax Support scheme was set will remain in place to support claimants in exceptional circumstances, who suffer severe financial hardship as a result of the introduction of the scheme and may apply for additional monies to help pay their council tax. The Hardship Fund will remain at £5k in 2016/7 however this amount does not exclude approved applications being granted should the maximum allocated funding being exceeded. Hardship Funding will be identified from existing budgets and be administered via Tameside Resettlement Scheme.

Mitigations will continue to be in place to protect the following equalities groups in the following ways:

Workers on low incomes / or reduced means as a result of a previous period of unemployment are protected by virtue of keeping support for 4 weeks once back in employment after having been out of work for more than 26 continuous weeks.

Disabled claimants of working age are protected by the exclusion of Disability Living Allowance from their income taken into account when calculating CTS. Claimants in receipt of Carer's Allowance are provided with extra support by having an additional element of allowable income in the assessment. Disabled claimants in receipt of war pensions or war widow's pensions are protected as this income is also excluded from the CTS assessment.

Women are affected more by the scheme than men because there are a higher proportion of female claimants. The number of female lone parents has remained static since the scheme was set in 2013 at 93% of all lone parent households. There are 5,571 female pensioners. A total of 2,702 female single parent households receive maximum CTS benefit with the remainder being protected by the exclusion of Child Benefit from the CTS calculation.

Children and Families are protected by disregarding child benefit in full within the CTS calculation and child care costs being disregarded for claimants in work. There is no anticipated impact on the following protected characteristic groups – ethnicity, marriage/civil partnership, sexual orientation, religion and belief, gender re-assignment.

Staying Put claimants The non-dependent deductions may impact on anyone caring for a young person who has previously been a foster child up to the age of 18, and in receipt of a Staying Put Payments. There are no CTS claimants in receipt of Staying Put Payments in respect of a foster child becoming 18 and being cared for up to 21 at present. As the proposal to introduce non-dependant deductions may impact on claimants continuing to support a young person beyond the age of 18 and who are in employment, that the non-dependent deductions should not apply in these specific cases.

Section 5 – Monitoring

MONITORING PROGRESS

Ilys Cookson – Assistant Executive Director / Michelle Bowler – Service Unit Manager

Issue / Action	Lead officer	Timescale
Ensure that changes to the Council Tax Support scheme are communicated appropriately (i.e. different media) and in a timely manner.	Ilys Cookson	On-going
Monitoring (by protected characteristic group where appropriate) those presenting to the Council with concerns over Council Tax Liability, eligibility for Council Tax Support, and access to help / advice.	Ilys Cookson	On-going

NB – The version sent to Corporate Performance should be the version agreed and signed off by the relevant Senior Manager.

Sign off

Signature of Service Unit Manager	Date
Signature of Assistant Executive Director / Assistant Chief Executive	Date
I. Cookson .	04 December 2015

APPENDIX 4

Council Tax Support scheme Hardship Policy

Council Tax Hardship Payments

In accordance with Local Government Finance Act 1992 as amended in 2012 Section 13(a)(2) the Council Tax Support Hardship Fund is an additional payment which has the effect of reducing Council Tax liability for the liable person. The liable person must reside in Tameside and be in receipt of Council Tax Support. Hardship payments are generally paid to people experiencing a short term exceptional finance problem. The Council has a limited amount of money each year for the scheme and we have to decide who the money is paid to and so applicants must not rely on a payment being made.

Who can apply for a Council Tax Hardship Payment

You can apply for a Council Tax Hardship Payment if you are the liable person to pay Council Tax.

How decisions are made on whether a Council Tax Support Hardship payment is made

Each request will be considered independently and no single factor will determine if an award is to be made.

The following will be considered when making the decision:

- Applicant is leaving an institution such as leaving care, prison, young offenders institute, hospital, care home, temporary supported housing or hostel
- Avoidance of going into care
- Council tax hardship being experienced
- Chronic illness, disability including mental health illness
- Experiencing domestic abuse
- Homelessness or living in temporary housing such as 'sofa surfing'
- Substance or alcohol abuse
- Lone parent and / or pregnant
- Applicant has a support worker
- Housing circumstances and rented properties
- Other people living with the applicant
- Sanction placed by the DWP
- Significant debt
- It is reasonable that applicants may be able to manage money better

The amount payable

Each application is considered individually and the amount of payment depends on circumstances. The maximum paid would be no more than the amount of council tax outstanding after any Council Tax Support has been applied. It is likely that such payments are 'one off' payment and will not be repeated.

How a Council Tax Support Hardship payment is made

If approved a Council Tax Support Hardship payments will reduce the amount of Council Tax outstanding. Applicants will not receive cash or any other type of payment.

Appeals against the decision

If the applicant does not agree with the decision, applicant may request that the decision is looked at again. Council Tax Support Hardship payments are discretionary and after a reconsideration the applicant still does not agree with the decision then an appeal to the Valuation Tribunal Service.

Process by which a person can apply for a Council Tax Support Hardship payment

The application form for Tameside Council Tax Support Hardship scheme can be accessed via the Council's web-site as follows: <http://www.tameside.gov.uk/support/independentliving>.

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Tameside Metropolitan Borough Council Council Tax Support Scheme 2016 - 2017

Introduction and Explanation

The introduction and explanation does not form part of the statutory scheme and is included solely for the purposes of explanation. This should be disregarded when interpreting the scheme.

Foreword

The Government abolished the Council Tax Benefit scheme from 1 April 2013. From that date local authorities had to produce a scheme of council tax support, although the government reduced the funding available by around 20%.

Summary Guide to the Scheme

Pensioners

It is a legislative requirement that those of an age which qualify to receive state pension credits will continue to receive support under the Council Tax Support Scheme on the same terms as would have applied under the old Council Tax Benefit scheme. It is our understanding that any figures set out in this part of the scheme will be subject to an annual review by the government and that in future years the figures may be increased by order of the Secretary of State. The relevant figures will be updated annually and can be found at Appendix 1 of Tameside's Council Tax Support Scheme.

In addition to the statutory scheme, the Council has chosen to disregard any war pensions in full. The Council has always disregarded war pensions in full under the old Council Tax Benefit scheme and continues to do so under the Council Tax Support Scheme.

Working Age

By 'working age' we mean anyone who is not old enough to qualify for state pension credits.

There is a legal requirement that Tameside establish a Council Tax Support Scheme each year for working age people, although the law does not say who should benefit from the scheme or how much support they should get. The Council has discretion to set the contents of the scheme for working age people. However the Council also has to pay for all council tax support it provides. Council Tax Benefit was paid for by central government.

Any figures set out in Schedule 9 of the scheme will be subject to an annual review and in future years the figures may be increased or decreased. The relevant figures will be updated annually to take effect from 1st April of each financial year and can be found at Appendix 2 of Tameside's Council Tax Support Scheme.

Alternative Maximum Support

The national scheme for those of Pension Age includes an Alternative Maximum Support (previously known as Second Adult Rebate) where a resident has an adult on a low income living with them. There is no such support in the Tameside scheme for those of working age.

Working Age War Pensioners

Working age War Pensioners (those in the working age protected group set out above) will continue to have their war pensions disregarded in full under this scheme.

Universal Credit

Universal Credit is a new benefit that will replace most other Welfare Benefits (except Council Tax Support). The Universal Credit Pathfinder commenced in Tameside on 29th April 2013 and will be rolled out throughout the country.

The Universal Credit Regulations 2013 were passed on 25th February 2013.

We have tried to make our Council Tax Support Scheme consistent with that approach proposed for Universal Credit, particularly so far as the treatment of income.

We may change our approach to the way that we treat Universal Credit as income for the purposes of this scheme, and will continue to develop alternative approaches as our understanding develops.

Changes in Circumstances

If someone's circumstances change and they do not tell us straightaway, this will result in either too little or too much support being awarded. It is important that changes are notified immediately.

If it comes to light that a person was entitled to more support than they were awarded and the claimant has paid too much council tax, the Council will offset the amount against future liability or make a payment to the liable person where, for example, the charge payer is no longer liable.

Where a person has paid too little Council Tax, i.e. an over allowance of support has occurred, then the Council will recover any monies they are owed under the same Council Tax processes for recovering unpaid Council Tax which is in accordance with the Council Tax (Administration and Enforcement) Regulations 1992.

General Provisions

The scheme will be reviewed each year and may be changed whenever necessary.

Tameside Metropolitan Borough Council Council Tax Support Scheme 2016-17

THE SCHEME

PART 1 General

1. Citation, commencement and application

(1) This scheme may be cited as the Tameside Council Tax Support Scheme 2016 -17 and comes into force on 1 April 2016.

2. 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;

“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;

“alternative maximum council tax support” means the amount determined in accordance with Part 4 of Schedule 1 and Schedule 3;

“applicable amount” means the amount calculated in accordance with paragraph 6 of Schedule 1 and Schedule 2;

“applicant” means a person who has made an application;

“application” means an application for a reduction under a scheme;

“assessment period” means—

(a) in relation to the earnings of a self-employed earner, the period determined in accordance with paragraph 20 of Schedule 1 for the purpose of calculating the weekly earnings of the applicant; or

(b) in relation to any other income, the period determined in accordance with paragraph 17 of Schedule 1 for the purpose of calculating the weekly income of the applicant;

“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;

“basic rate” has the meaning given by the Income Tax Act 2007;

“the benefit Acts” means the SSCBA, the Jobseekers Act 1995 and the State Pension Credit Act 2002 and the Welfare Reform Act 2007 and the Pensions Act 2014;

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

“child” means a person under the age of 16;

“child benefit” has the meaning given by section 141 of the SSCBA;

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002;

“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 regulation 4 of these Regulations;

“Default Scheme Regulations” means the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012;

“designated office” means the office of the authority designated by it for the receipt of applications—

- (a) by notice upon or with a form supplied by it for the purpose of making an application;
- (b) by reference upon or with such a form to some other document 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 18, 20 or 21 of Schedule 1 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;

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament or the National Assembly for Wales;

“extended reduction” means a reduction under a scheme for which a person is eligible under Part 7 of Schedule 1 or paragraph 2 of Schedule 8;

“extended reduction period” means the period for which a person is in receipt of an extended reduction in accordance with paragraph 39 of Schedule 1;

“extended reduction (qualifying contributory benefits)” means a reduction under Schedule 1 by which a person is eligible pursuant to paragraph 38 or 41 of Schedule 1;

“family” has the meaning given by regulation 6 of these Regulations;

“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 the Secretary of State 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) or 29(1)(a) 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 healthcare 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 Benjamin 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;

“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 7 July 2005;

“lone parent” means a person who has no partner and who is responsible for and a member of the same household as a child or young person;

“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

“the Macfarlane (Special Payments) (No 2) Trust” means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

“the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

“main phase employment and support allowance” means an employment and support allowance where the calculation of the amount payable in respect of the applicant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007;

“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 support amount” means the amount determined in accordance with paragraph 7 of Schedule 1.

“member of a couple” means a member of a married or unmarried couple;

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

“mobility supplement” means a supplement to which paragraph 5(1)(a)(vii) of Schedule 4 for Pensioners and paragraph 10 of Schedule 12 for working age to these Regulations 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 one authority to a dwelling in the area of a second authority;

“net earnings” means such earnings as are calculated in accordance with paragraph 19 of Schedule 1 to these Regulations;

“net profit” means such profit as is calculated in accordance with paragraph 29 of Schedule 1 to these Regulations;

“new dwelling” means, for the purposes of the definition of “second authority” and paragraph 41 of Schedule 1, 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 regulation 9 of Schedule 1;

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

“partner”, in relation to a person, means—

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

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

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

“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;

“pensioner” has the meaning given by regulation 3(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 regulations 12;

“person who is not a pensioner” has the meaning given by regulation 3(b);

“personal independence payment” has the meaning given by Part 4 of the Welfare Reform Act 2012;

“personal pension scheme” means—

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993;
- (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 regulation 5 of these Regulations 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 course” means a qualifying course as defined for the purposes of Parts 2 and 4 of the Job Seeker’s Allowance Regulations 1996;

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

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

“relative” means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece;

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

“remunerative work” has the meaning given by regulation 10 of these Regulations;

“rent” means “eligible rent” to which regulation 12 of the Housing Benefit (Persons who have acquired 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 8 (non-dependant deductions) of Schedule 1;

“savings credit” is to be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002;

“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;

“shared parental leave” means leave under section 75E or 75G of the Employment Rights Act 1996;

“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” 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;

“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 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” has the meaning given by section 1 of the Welfare Reform Act 2012;

“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;

“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002;

“young person” means a person who falls within the definition of qualifying young person in section 142 of the SSCBA.

(2) In these Regulations, 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 these Regulations, 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); or

(b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income based jobseeker’s allowance is payable to him or would be payable to him but section 19 or 19A or regulations made under section 17A or 19B of that Act;

(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 these Regulations, 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 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 these Regulations, two persons shall be taken to be estranged only if their

estrangement constitutes a breakdown of the relationship between them.

(6) In these Regulations, 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).

(7) In these Regulations, references to a person in class A, B or C (as the case may be) is a reference to class A, B or C described in paragraphs 2 to 4 of Schedule 1.

(8) References in these Regulations to an applicant participating as a service user are to-

(a) a person who is being consulted by or on behalf of-

(i) a body which has a statutory duty to provide services in the field of health, social care or social housing; or

(ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,

in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services;

(aa) 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;

(b) the carer of a person consulted as described in sub-paragraph (a) or (aa) where the carer is not being consulted as described in that sub-paragraph.

3. Meaning of “pensioner” and “person who is not a pensioner”

In these Regulations a person is -

(a) a pensioner if—

(i) he has attained the qualifying age for state pension credit; and

(ii) he is not and, if he has a partner, his partner is not -

(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 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 income-based jobseeker's allowance or an income-related employment and support allowance; or

(bb) a person with an award of universal credit.

4. Meaning of “couple”

(1) In these Regulations “couple” means—

(a) a two people who are married to, or civil partners of, each other and are members of the same household; or

(b) two people who are not married to, or civil partners of, each other but are living together as a married couple.

5. Polygamous marriages

(1) This regulation 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 regulation 4 neither party to the marriage is to be taken to be a member of a couple.

6. Meaning of “family”

(1) In these Regulations “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 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;
- (b) a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) Applies; or
- (c) entitled to an award of universal credit.

7. 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 who regulation 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 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 purpose of these Regulations 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 regulation is to be treated as not so responsible.

8. Households

- (1) Subject to paragraphs (2) and (3), an applicant and any partner and, where the applicant or his partner is treated (by virtue of regulation 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 in Scotland boarded out or placed 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, the Adoption Agencies (Scotland) Regulations 2009 or the Adoption (Northern Ireland) Order 1987.
- (3) Subject to paragraph (4), 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 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 regulation "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;
- (na) the Children's Hearings (Scotland) Act 2011; and
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

9. Non-dependants

- (1) In these Regulations, "non-dependant" means any person, except someone to whom 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, 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 regulation 8 (households);
 - (d) subject to 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 sections 6 or 7 of the 1992 Act (persons liable to pay council tax);
 - (e) subject to 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 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 scheme.

10. Remunerative work

- (1) Subject to the following provisions of this regulation, a person must be treated for the purposes of these Regulations 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 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 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-related jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any reduction week must 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, shared parental 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.

PART 2

Prescribed classes of persons

11. Pensioners

(1) subject to paragraph (2), the classes of pensioners described in paragraph 1 of Schedule 1 are classes of person prescribed for the purpose of paragraph (2)(9)(b) of Schedule 1A to the 1992 Act and which must be included in an authority's scheme.

(2) Pensioners whose capital exceeds £16,000

are a class of person prescribed for the purposes of that paragraph and which must not be included in an authority's scheme.

(3) Capital for the purposes of paragraph (2) is to be calculated in accordance with Part 6 of Schedule 1.

12. Persons treated as not being in Great Britain

(1) Persons treated as not being in Great Britain. are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in the authority's scheme.

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

(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 No.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 28 July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31 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")

(6) A person falls within this 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 regulation—

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

"Crown servant" means a person holding an office or employment under the Crown;

"EEA Regulations" means the Immigration (European Economic Area) Regulations 2006; and

"Her Majesty's forces" has the same meaning as in the Armed Forces Act 2006.

12A. Transitional Provision

(1) sub paragraph (ha) of paragraph 12 does not apply to a person who, on 31 March 2015 -

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

(2) The events are –

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

(3) In this paragraph "the Act" means the Local Government Finance Act 1992.

13. Persons subject to immigration control

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

(1A) A person who is a national of a state which has ratified the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953) or a state which has ratified the Council of European Social Charter (signed in Turin on 18th October 1961) and who is lawfully present in the United Kingdom is not a person subject to immigration control for the purpose of paragraph (1).

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

14. Students

(1) A person who is a student to whom paragraph 40(1) of Schedule 9 applies is a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A who is not entitled to support under this scheme.

(2) In this paragraph "student" has the meaning given by paragraph 38 of Schedule 9 of this scheme.

PART 3

15. Entitlement to Support

(1) A pensioner is entitled to receive support under this scheme in accordance with Schedules 1 to 8.

(2) A person who is not a pensioner but who is a member of a couple or a polygamous marriage where the other member is a pensioner is entitled to receive support under this scheme if they qualify for support in accordance with Schedules 1 to 8.

(3) A person who is not a pensioner to whom neither of paragraphs (1) or (2) apply is entitled to receive support under this scheme in accordance with Schedules 7 to 12.

SCHEDULE 1: Pensioners

PART 1

1. Classes of persons entitled to a support under this scheme

- (1) The classes of pensioners described in paragraphs 2 to 4 are entitled to support under this scheme.
- (2) In those paragraphs, references to an 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.

2. Class A: pensioners whose income is no greater than the applicable amount

On any day class A consists of any person who is a pensioner—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who subject to paragraph 5 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax support amount can be calculated;
- (d) who does not fall within a class of persons prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act as a class of person which must not be included in an authority's scheme;
- (e) whose income (if any) for the relevant week does not exceed his applicable amount; and
- (f) who has made an application.

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

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

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 5, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax support amount can be calculated;
- (d) who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act as a class of person which must not be included in an authority's 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.

4. Class C: alternative maximum council tax support

(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 5, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax support amount can be calculated;
- (d) who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act as a class of person which must not be included in an authority's 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, 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.

5. Periods of absence from a dwelling

- (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, 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.

PART 2

Applicable amounts for the purposes of calculating eligibility for support under a scheme and amount of reduction

6. Applicable amounts

(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 to these Regulations;
- (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 2 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 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).

(2) In Schedule 2—

“additional spouse” means a spouse of either party to the marriage who is additional to the other 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.

PART 3

Maximum council tax support for the purposes of calculating eligibility for support under the scheme and amount of support

7. Maximum council tax support amount under a scheme

(1) Subject to sub-paragraphs (2) to (4), the amount of a person’s maximum council tax support in respect of a day shall be 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 8 (non-dependant deductions).

(2) In calculating a person’s maximum council tax support under the authority’s 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 support under that authority’s 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 support 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 does not include a student to whom paragraph 75 (1) of the Schedule to the Default Scheme Regulations 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.

8. Non-dependant deductions

(1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 7 are—

- (a) in respect of a non-dependant aged 18 or over in remunerative work, £- x 1/7;
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £- 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 £-, the deduction to be made under this paragraph is that specified in sub-paragraph (1)(b);
- (b) not less than £- but less than £-, the deduction to be made under this paragraph is £-;
- (c) not less than £- but less than £-, the deduction to be made under this paragraph is £-.

(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 and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.

(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 subparagraph, 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) severely sight-impaired or blind or treated as such by virtue of sub-paragraphs (12) or (13) below; or
- (b) receiving in respect of himself either—
 - (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 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 allow 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 of the Schedule to the Default Scheme Regulations (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 5(6) of this Schedule, 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 applicant because he is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006) who is absent, while on operations, from the dwelling usually occupied as their home.
- (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;
 - (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; or
 - (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.
- (9) In the application of sub-paragraph (2) there is to be disregarded from the non-dependent's weekly gross income—
- (a) any attendance allowance, disability living allowance, personal independence payment or AFIP received by him;
 - (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which are paid as income in kind see sub-paragraph (13); and
 - (c) the payments set out in sub-paragraph (10).
- (10) The payments mentioned in sub-paragraph (9) are—
- (a) 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);
 - (b) 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 paragraph (a) refers and which is made to or for the benefit of—
 - (i) 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;
 - (ii) 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
 - (iii) 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;
 - (c) 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 paragraph (a) refers and which is made to or for the benefit of—
 - (i) the person who is suffering from haemophilia or who is a qualifying person;
 - (ii) 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
 - (iii) 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;
 - (d) 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 paragraph (a) refers, where—
 - (i) 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
 - (ii) the payment is made either—
 - (aa) to that person's parent or step-parent, or
 - (bb) 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;
 - (e) 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 paragraph (a) refers, where—
 - (i) 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
 - (ii) the payment is made either—

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;

(f) in the case of a person to whom or for whose benefit a payment referred to in this sub-paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

(11) An applicant or his partner is severely sight-impaired or blind or treated as such for the purposes of sub-paragraph (6)(a) if the applicant or his partner—

(a) is blind and in consequence registered in a register compiled by a local authority in Wales under section 29 of the National Assistance Act 1948 (welfare services); or

(b) is registered as severely sight-impaired in a register kept by a local authority in England under section 77(1) of the Care Act 2014 (registers of sight-impaired adults); or

(c) 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

(11A) For the purposes of sub-paragraph (8), “earned income” has the meaning given in regulation 52 of the Universal Credit Regulations 2013.

(12) For the purposes of sub-paragraph (11), a person who has ceased to be registered as severely sight-impaired or blind on regaining his eyesight shall nevertheless be treated as such for a period of 28 weeks following the date on which he ceased to be so registered.

(13) The reference in sub-paragraph (9)(b) 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.

8A. Localised scheme regarding non-dependant deductions.

(1) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is in receipt of a Staying Put payment for a young person aged 18 up to 21 years, where –

(a) the applicant or his partner was a Foster Carer; and

(b) they wish to continue to provide their home to support a young person they have fostered, and

(c) the young person agrees to the arrangement.

PART 4

Alternative maximum council tax support for the purposes of calculating eligibility for support under the scheme and amount of support

9. Alternative maximum council tax support under a scheme

(1) Subject to sub-paragraphs (2) and (3), the alternative maximum council tax support in respect of a day where the conditions set out in paragraph 4 (alternative maximum council tax support) are fulfilled, is the amount determined in accordance with Schedule 3 (amount of alternative maximum council tax support).

(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 support in his case, the amount determined in accordance with Schedule 3 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.

PART 5

Amount of support under the scheme

10. Amount of support under a scheme: Classes A to C

(1) Where a person is entitled to support under the authority's scheme in respect of a day, the amount of the support to which he is entitled is as follows.

(2) Where the person is within class A, that amount is the maximum council tax support amount in respect of the day in the applicant's case.

(3) Where the person is within class B, 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 3 (income greater than applicable amount).

(4) Where the person is within class C, that amount is the amount which is the alternative maximum council tax support 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 support to which he is entitled is whichever is the greater of—

- (a) the amount of the support given by sub-paragraph (2) or sub-paragraph (3), as the case may be, and
- (b) the amount of the support given by sub-paragraph (4).

PART 6
Income and capital for the purposes of calculating eligibility for support under the authority's scheme and amount of support.

CHAPTER 1
General

11. 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 the applicant.

(3) Where an applicant or the partner of an applicant is married polygamously to two or more members of his household—

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

12. 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-dependent and an applicant have entered into arrangements in order to take advantage of the authority's scheme and the non-dependant has more income and capital than the applicant.

(2) Except where the applicant is on a guarantee credit 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 will 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.

CHAPTER 2
Income

13. Applicant in receipt of guarantee credit

In the case of an applicant who is in receipt, or whose partner is in receipt, of a guarantee credit, the whole of his capital and income shall be disregarded.

14. Calculation of applicant's income in savings credit only cases

(1) In determining the income and capital of an applicant 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 24(1)(c)(calculation of income on a weekly basis);
- (c) the higher amount disregarded under this Schedule in respect of—
 - (i) lone parent's earnings; or
 - (ii) payments of maintenance, whether under a court order or not, which are 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 4 (sums disregarded from earnings);
 - (e) the income and capital of any partner of the applicant who is treated as a member of the applicant's household under regulation 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 12 (circumstances in which 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;
 - (h) any amount to be disregarded by virtue of paragraph 6 of Schedule 4 to these Regulations.
- (3) Paragraphs 16 to 36 of this Schedule 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 31 to 36 of this Schedule.
- (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;
 - (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.

15. Calculation of income and capital where state pension credit is not payable

Where neither paragraph 13 (applicant in receipt of guarantee credit) nor 14 (calculation of income in savings credit only cases) applies in the applicant's case, his income and capital is to be calculated or estimated in accordance with paragraphs 16 to 21 and 24, 25, 27 to 29 and chapter 3 (capital) of this Part.

16. Meaning of "income"

- (1) For the purposes of classes A to C, "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 6 (capital disregards);
 - (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;
 - (v) an increase of disablement pension under section 104 or 105 of that Act;
 - (vi) child benefit;
 - (vii) any guardian's allowance payable under section 77 of the SSCBA;
 - (viii) any increase for a dependant, other than the applicant's partner, payable in accordance with Part 4 of that Act;
 - (ix) any
 - (aa) social fund payment made under Part 8 of that Act; or
 - (bb) occasional assistance;
 - (x) Christmas bonus payable under Part 10 of that Act;
 - (xi) housing benefit;
 - (xii) council tax benefit;
 - (xiii) bereavement payment;
 - (xiv) statutory sick pay;
 - (xv) statutory maternity pay;
 - (xvi) statutory paternity pay payable under Part 12ZA of the SSCBA;
 - (xvii) statutory shared parental pay under Part 12ZC of that Act;
 - (xviii) statutory adoption pay payable under Part 12ZB of that Act;

- (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, in any case where article 30(1)(b) applies; or
 - (ii) under article 12(8) of that Order, 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) 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) shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.
- (4) The adjustments specified in this 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.
- (5) In sub-paragraph (1)-
- (a) in paragraph (w), an "equity release scheme" means a loan—
 - (i) made between a person ("the lender") and the applicant;
 - (ii) by means of which a sum of money is advanced by the lender to the applicant by way of payments at regular intervals; and
 - (iii) which is secured on a dwelling in which the applicant owns an estate or interest and which he occupies as his home, and - (b) in paragraph (J)(ix) "occasional assistance" means any payment or provision made by a

local authority, the Welsh Ministers or the Scottish Ministers for the purposes of—

- (i) meeting, or helping to meet an immediate short-term need—
 - (aa) arising out of an exceptional event or exceptional circumstances, or
 - (bb) that needs to be met to avoid a risk to the well-being of an individual; and
- (ii) enabling qualifying individuals to establish or maintain a settled home, and “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.

(6) In sub-paragraph (5)(b) “local authority” means a local authority in England within the meaning of the Local Government Act 1972.

17. Calculation of weekly income

(1) Except in a case within sub-paragraph (2), (3A), (4A) or (5), for the purposes of calculating the weekly income of an applicant, where the period in respect of which payment is made—

- (a) does not exceed a week, the whole of that payment must 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.

(3A) Income calculated pursuant to sub-paragraphs (2) and (3) must be taken into account—

- (a) in the case of an application, on the date on which the application was made or treated as made, and the first day of each reduction week thereafter;
- (b) in the case of an application or a reduction under a scheme where the applicant commences employment, the first day of the reduction week following the date the applicant commences that employment, and the first day of each reduction week thereafter; or
- (c) in the case of an application or a reduction under a scheme where the applicant’s average weekly earnings from employment change, the first day of the reduction week following the date the applicant’s earnings from employment change so as to require recalculation under this paragraph, and the first day of each reduction week thereafter,

regardless of whether those earnings were actually received in that reduction week.

(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.

(4A) An applicant’s earnings from employment as an employed earner not calculated pursuant to sub-paragraphs (2) and (3) must be taken into account—

- (a) in the case of an application, on the date on which the application was made or treated as made, and the first day of each reduction week thereafter;
- (b) in the case of an application or a reduction under a scheme where the applicant commences employment, the first day of the reduction week following the date the applicant commences that employment, and the first day of each reduction week thereafter; or
- (c) in the case of an application or a reduction under a scheme where the applicant’s average weekly earnings from employment change, the first day of the reduction week following the date of the change, and the beginning of each reduction week thereafter,

regardless of whether those earnings were actually received in that reduction week.

(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 4 (sums disregarded from earnings) 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) are to be treated as though they were earnings.
- (11) Income specified in Schedule 5 (amount disregarded in calculation of income other than earnings) is to be disregarded in the calculation of the applicant's income.
- (12) Schedule 6 to these Regulations (capital disregards) 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 37 (calculation of tariff income from capital).
- (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.

18. Earnings of employed earners

- (1) Subject to sub-paragraph (2), "earnings" in the case of employment as an employed earner, 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;
 - (h) statutory sick pay payable by the employer under the SSCBA;
 - (i) statutory maternity pay payable by the employer under that Act;
 - (j) statutory paternity pay payable under Part 12ZA of that Act;
 - (k) statutory shared parental pay under Part 12ZC of that Act;
 - (l) statutory adoption pay payable under Part 12ZB of that Act;
 - (m) 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 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).

19. Calculation of net earnings of employed earners

(1) For the purposes of paragraph 24 (calculation of income on a weekly basis), the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account must, subject to paragraph 17(5) and Schedule 4 (sums disregarded from earnings), be his net earnings.

(2) For the purposes of sub-paragraph (1) net earnings must, except where subparagraph (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 in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay, statutory shared parental 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 regulation “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 17(2)(b) (calculation of weekly income) his net earnings are 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 section 35,36 or 37 of the Income Tax Act 2007 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.

20. Calculation of earnings of self-employed earners

(1) Where the earnings of an applicant consist of earnings from employment as a self-employed earner, the weekly amount of his earnings must 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 will be his assessment period.

21. Earnings of self-employed earners

(1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner, 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(1) 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;
- (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 where the payment is for the provision of accommodation in respect of the meeting of that person's needs under section 18 or 19 of the Care Act 2014 (duty and power to meet needs for care and support)
 - (iv) the National Health Service Commissioning Board or a clinical commissioning group established under section 14D of the National Health Service Act 2006; or
 - (v) a Local Health Board established by an order made under section 11 of the National Health Service (Wales) Act 2006;
- (e) any sports award.

22. Notional income

- (1) An applicant 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 or 55AA of the SSCBA;
 - (c) graduated retirement benefit payable under sections 36 and 37 of the National Insurance Act 1965.
 - (d) a state pension under Part 1 of the Pensions Act 2014.
- (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;
 - (c) in the case of graduated retirement benefit, in the circumstances specified in section 36(4) and (4A) of the National Insurance Act 1965.
 - (d) in the case of a state pension under Part 1 of the Pensions Act 2014, in the circumstances specified in section 17(7) and (8) of that Act.
- (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 maximum amount of income which may be withdrawn from 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 Pensions

Scheme Act 1993.

(9) Subject to sub-paragraphs (10), (11A),(11B) and (12), a person will be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to support under the authority's scheme or increasing the amount of the support.

(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.

(11A) Sub-paragraph (9) does not apply in respect of the amount of an increase of pension where a person, having made a choice in favour of that increase of pension under section 8(2) of the Pensions Act 2014, alters that choice in accordance with Regulations made under section 8(7) of that Act in favour of a lump sum.

(11B) Sub-paragraph (9) does not apply in respect of the amount of an increase of pension where a person, having made a choice in favour of that increase of pension in accordance with Regulations made under section 10 of the Pensions Act 2014, which include provision corresponding or similar to section 8(2) of that Act, alters that choice in favour of a lump sum, in accordance with Regulations made under section 10 of that Act, which include provision corresponding or similar to Regulations made under section 8(7) of that Act.

(11C) In sub-paragraph (11A), "lump sum" means a lump sum under section 8 of the Pensions Act 2014.

(11D) In sub-paragraph (11B), "lump sum" means a lump sum under Regulations made under section 10 of the Pensions Act 2014 which include provision corresponding or similar to section 8 of that Act.

(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 the 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 paragraph (13), the authority must—

- (a) determine the income and capital of that applicant in accordance with paragraph 14(1) (calculation of applicant's income in savings credit only cases) 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 that 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.

23. Income paid to third parties

(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 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 do not possess, or are 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 the applicant participating as a service user.

24. Calculation of income on a weekly basis

(1) Subject to paragraph 28 (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 under paragraph 37 (calculation of tariff income from capital); and
 - (c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which paragraph 25 (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 subparagraph 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 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, £- per week;
 - (b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £- per week.

25. Treatment of child care charges

(1) This paragraph applies where an applicant is incurring relevant child care charges and—

- (a) is a lone parent and is engaged in remunerative work;
 - (b) is a member of a couple both of whom are engaged in remunerative work; or
 - (c) is a member of a couple where one member is engaged in remunerative work and the other—
 - (i) is incapacitated;
 - (ii) is an in-patient in hospital; or
 - (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).
- (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
 - (a) 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 subparagraph (9).
- (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 regulation 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 by 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 (England) 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) Relevant child care charges are to 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.

(10) For the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where—

- (a) he is aged not less than 80;
- (b) he is aged less than 80, and—
 - (i) an additional condition specified in paragraph 26 is treated as applying in his case; and
 - (ii) he satisfies that condition 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's applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008 or the Employment and Support Allowance Regulations 2013;
- (d) 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 shall be treated as one continuous period;

- (e) 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 or the Employment and Support Allowance Regulations 2013 for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
- (f) there is payable in respect of him one or more of the following pensions or allowances—
- (i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the SSCBA;
 - (ii) attendance allowance under section 64 of the SSCBA;
 - (iii) severe disablement allowance under section 68 of the SSCBA;
 - (iv) disability living allowance;
 - (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;
- (g) a pension or allowance or payment to which sub-paragraph (v), (vii) or (viii) of paragraph (f) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this 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 inpatient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005;
- (h) 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 made under section 113(2) of the SSCBA; or
 - (ii) an abatement as a consequence of hospitalisation;
- (i) 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);
- (j) an AFIP would be payable to that person 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.
- (k) paragraph (f),(g),(h) or (i) 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
- (l) 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.
- (11) For the purposes of sub-paragraph (10), once sub-paragraph (10)(d) 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 paragraph is to, 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.
- (12) For the purposes of sub-paragraph (10), once sub-paragraph (10)(e) 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 to, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter apply to him for so long as he has, or is treated as having, limited capability for work.
- (13) 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 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 has ceased to be Payable by virtue of 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 as severely sight-impaired in a register kept under section 77(1) of the Care Act 2014 (registers of sight-impaired adults) 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 or severely sight-impaired 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
- (14) For the purposes of sub-paragraph (1) a person on maternity leave, paternity leave, shared parental leave or adoption leave is to be treated as if he is engaged in remunerative work for the period specified in sub-paragraph (15) ("the relevant period") provided that—
- (a) in the week before the period of maternity leave, paternity leave, shared parental 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 SSCBA², statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, statutory adoption pay by virtue of section 171ZL of that Act, maternity allowance under section 35 of that Act, statutory shared parental pay by virtue of section 171ZU or 171ZV of that Act or qualifying support.
- (15) For the purposes of sub-paragraph (14) the relevant period begins on the day on which the person's maternity, paternity leave, shared parental 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, statutory shared 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, statutory shared 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 shall occur first.
- (16) In sub-paragraphs (14) and (15)—
- (a) "qualifying support" means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support (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).
- (17) In sub-paragraphs (6), (8)(a) and (13)(d), "the first Monday in September" means the Monday which first occurs in the month of September in any year.

26. Additional condition referred to in paragraph 28(11)(b)(i): disability

- (1) Subject to sub-paragraph (2), the additional condition referred to in paragraph 25(11)(b)(i) is that either—
- (a) the applicant or, as the case may be, the other member of the couple—
- (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, 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 or a state pension under Part 1 of the Pensions Act 2014 and the applicant has since remained continuously entitled to council tax benefit (for the period prior to 1st April 2013) or support under the authority's scheme (for the period on or after 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 28(10)(g) (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 28(10)(g); or
- (v) was in receipt of an AFIP but its payment has been suspended 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; or

- (vi) is provided by the Secretary of State or a clinical commissioning group with an invalid carriage or other vehicle under paragraph 9 of Schedule 1 to the National Health Service Act 2006 or, in Scotland, under section 46 of the National Health Service (Scotland) Act 1978 (provision of services by Scottish Ministers) or receives payments by way of grant from the Secretary of State under paragraph 10(3) of Schedule 1 to the Act of 2006 or, in Scotland, by Scottish Ministers under section 46 of the Act of 1978; or
- (vii) is blind and in consequence registered in a register compiled by a local authority in Wales under section 29 of the National Assistance Act 1948 (welfare services) or is registered as severely sight-impaired in a register kept by a local authority in England under section 77(1) of the Care Act 2014 (registers of sight-impaired adults) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or in behalf of a council constituted under section 2 of the Government (Scotland) Act 1994; or
- (b) the applicant, or as the case may be, the other member of the couple —
 - (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 or severely sight-impaired on regaining his eyesight is nevertheless to be treated as such 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), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods must be treated as one continuous period.

(4) 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 SSCBA (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.

(5) In the case of a person 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) the reference to a period of 56 days in sub-paragraph (3) must be treated as a reference to a period of 104 weeks.

27. 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.

28. 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.

29. Calculation of net profit of self-employed earners

- (1) For the purposes of paragraph 24 (calculation of income on a weekly basis) the earnings of an applicant to be taken into account are—
- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
 - (b) in the case of a self-employed earner whose employment is carried on in partnership, 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 30 (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;
- (2) For the purposes of sub-paragraph (1)(a) the net profit of the employment must, except where sub-paragraph (8) applies, be calculated by taking into account the earnings of the employment over the assessment period less—
- (a) subject to sub-paragraphs (4) to (7), any expenses wholly and exclusively incurred in that period for the purposes of that employment;
 - (b) an amount in respect of—
 - (i) income tax; and
 - (ii) national insurance contributions payable under the SSCBA, calculated in accordance with paragraph 30; and
 - (c) one-half of the amount calculated in accordance with sub-paragraph (10) in respect of any qualifying premium.
- (3) 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 (4) to (7), any expenses wholly and exclusively incurred in that period for the purposes of the employment.
- (4) Subject to sub-paragraph (5), no deduction is to be made under sub-paragraph (2)(a) or (3), 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; and
 - (f) any expenses incurred in providing business entertainment.
- (5) A deduction must be made under sub-paragraph (2)(a) or (3) in respect of the repayment of capital on any loan used for—
- (a) the replacement in the course of business of equipment or machinery; and
 - (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.
- (6) The authority must refuse to make a deduction in respect of any expenses under sub-paragraph (2)(a) or (3) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.
- (7) For the avoidance of doubt—
- (a) a deduction must not be made under sub-paragraph (2)(a) or (3) 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.
- (8) 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 30 of this Schedule; and
 - (b) one-half of the amount calculated in accordance with sub-paragraph (10) in respect of any qualifying premium.
- (9) 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.

(10) 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 is to 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.

(11) 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 claim.

30. Calculation of deduction of tax and contributions of self-employed earners

(1) The amount to be deducted in respect of income tax under paragraph 29(1)(b)(i), (2)(b)(i) or (8)(a)(i) (calculation of net profit of self-employed earners) is to 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 section 35,36 or 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 29(1)(b)(i), (2)(b)(ii) or (8)(a)(ii) of this Schedule is the total of—

(a) the amount of Class 2 contributions payable under section 11(2) or, as the case may be, 11(8) 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, (3) of paragraph 29;

(b) in the case of employment as a child minder, one-third of the earnings of that employment.

CHAPTER 3

Capital

31. Calculation of capital

(1) The capital of an applicant to be taken into account must, subject to sub-paragraph (2), be the whole of his capital calculated in accordance with this Part.

(2) There must be disregarded from the calculation of an applicant’s capital under sub-paragraph (1), any capital, where applicable, specified in Schedule 6 (capital disregards).

(3) An applicant’s 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 support was allowed before those arrears were paid.

32. 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.

33. Calculation of capital outside the United Kingdom

Capital which an applicant possesses in a country outside the United Kingdom is to 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.

34. 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 support under the authority's scheme or increasing the amount of that support except to the extent that that capital is reduced in accordance with paragraph 35 (diminishing notional capital rule).

(2) A person 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) 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 31 (calculation of capital) be disregarded; and

(b) he must, subject to sub-paragraph (4), 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.

(4) 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 (3) is to be disregarded.

(5) Where an applicant is treated as possessing capital under sub-paragraph (1) the foregoing provisions of this Chapter apply for the purposes of calculating its amount as if it were actual capital which he does possess.

35. Diminishing notional capital rule

Where an applicant is treated as possessing capital under paragraph 34(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 support under the authority's scheme; and

(b) but for paragraph 34(1), he would have received greater support under that 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 to be equal to the aggregate of—

(a) an amount equal to the additional amount of support in council tax to which subparagraph (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 that 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 would have been entitled to support in council tax under the authority's scheme in the relevant week but for paragraph 34(1).
- (5) In such a case the amount of support in the amount of the capital which 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 34(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, within the meaning of regulation 2 of those Regulations (interpretation), 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) must be re-determined under that sub-paragraph if the applicant makes a further application for support in council tax under the authority's scheme 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 34(1) ;
 - (ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (5), 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 council tax support under the authority's scheme, whichever last occurred; and
 - (b) the applicant would have been entitled to support under the authority's scheme but for paragraph 34(1).
- (9) The amount as re-determined pursuant to sub-paragraph (7) does not have effect if it is less than the amount which applied in that case immediately before the redetermination and in such a case the higher amount shall 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 council tax support under the authority's 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) and (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 34(1) -

(a) was first taken into account for the purpose of determining his entitlement to council tax support under the authority's scheme; or

(b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to council tax support on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction in council tax under that authority's scheme;

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 of 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.

36. Capital jointly held

Except where an applicant possesses capital which is disregarded under paragraph 34(4) (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.

37. Calculation of tariff income from capital

The capital of an applicant, 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.

PART 7

Extended reductions [support]

38. Extended reductions [support] (qualifying contributory benefits)

(1) Except in the case of an applicant who is in receipt of state pension credit, an applicant who is entitled to support under a 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, 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 support under the authority's scheme by virtue of falling within any of classes A to C where—

(a) the applicant ceased to be entitled to support under the authority's 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).

39. Duration of extended reduction [support] period (qualifying contributory benefits)

(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.

40. Amount of extended reduction [support] (qualifying contributory benefits)

(1) For any week during the extended reduction period the amount of the extended support (qualifying contributory benefits) the applicant is entitled to is the greater of—

(a) the amount of council tax support under the authority's scheme 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 support under the authority's scheme to which the applicant would be entitled by virtue of falling within any of classes A to C for any reduction week during the extended reduction period, if paragraph 38 (extended reductions [support] (qualifying contributory benefits)) did not apply to the applicant; or

(c) the amount of support under the authority's scheme to which the applicant's partner would be entitled by virtue of falling within any of classes A to C, if paragraph 38 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 extended support (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for support under the authority's scheme, no support is to be awarded during the extended support period.

41. Extended reductions [support] (qualifying contributory benefits): movers

(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 support (qualifying contributory benefit) awarded from the Monday from which this paragraph applies until the end of the extended support period is the amount of support under the authority's ("the first authority") 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 the first authority to—

(a) the second authority; or

(b) the mover directly.

42. Relationship between extended reduction (qualifying contributory benefits) and entitlement to a council tax support by virtue of classes A to C

(1) Where an applicant's support under the authority's scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 38(1)(b) (extended reduction [support](qualifying contributory benefits)), that support does not cease to have effect until the end of the extended support period.

(2) Part 9 (period of entitlement, changes of circumstances) does not apply to any extended support (qualifying contributory benefits) payable in accordance with paragraph 40(1)(a) or paragraph 41(2) (amount of extended reduction: movers).

43. Continuing reductions where state pension credit claimed

(1) This paragraph applies where—

(a) the applicant is entitled to support under the authority's 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 or income-related employment and support allowance continued beyond that age, has attained the age of 65; or

(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 or the age of 65; 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 support under the authority's scheme for the period of 4 weeks beginning on the day following the day on which the applicant's entitlement to income support or, as the case may be, income-based jobseeker's allowance, or income-related employment and support allowance, ceased, if and for so long as the applicant otherwise satisfies the conditions for entitlement to support under the scheme.

(4) Where support under that scheme is awarded for the period of 4 weeks in accordance with sub-paragraph (3), and the last day of that period falls on a day other than the last day of a reduction week, then support under the 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 shall be disregarded;

(b) the maximum council tax support amount of the applicant is to be that which was applicable in his case immediately before that period commenced.

(6) The appropriate maximum council tax support amount is to be calculated in accordance with paragraph 7(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 8 (non-dependant deductions) falls to be made.

44. Extended reductions: movers into the authority's area

Where—

(a) an application is made to the authority ("the current authority") for support under its scheme, and

(b) the applicant, or the partner of the applicant, is in receipt of extended support from—

(i) another billing authority in England; or

(ii) a billing authority in Wales;

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

PART 8

When entitlement begins and change of circumstances

45. Date on which entitlement begins

(1) Subject to sub-paragraph (2), any person by whom or in respect of whom an application for support under the authority's scheme is made and who is otherwise entitled to that support 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 the authority's 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 shall be so entitled from that reduction week.

46. Date on which change of circumstances is to take effect

(1) Except in cases where paragraph 28 (disregard of changes in tax, contributions, etc) applies and subject to the following provisions of this paragraph and paragraph 47 (change of circumstances when state pension credit in payment), a change of circumstances which affects entitlement to, or the amount of, support under the authority's scheme ("change of circumstances"), takes effect from the first day of the reduction week following the date on which the change actually occurs.

(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 sections 11 or 11A (discounts) of that Act, 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 the authority's 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 the authority's scheme.

(10) Sub-paragraph (11) applies if—

(a) the applicant or the applicant's partner has attained the age of 65; and

(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 amount of the deduction which falls to be made under paragraph 8 (non-dependent deductions) 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 support under the authority's 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 the first day of the next reduction week to commence after the date determined under that sub-paragraph.

47. Change of circumstances where state pension credit in payment

(1) Sub-paragraphs (2) and (3) apply where—

(a) an 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 support he receives under the authority's 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 support he receives under that 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 that scheme, the 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 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 support the applicant receives under the authority's 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 support the applicant receives under the authority's 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 the 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 support the applicant receives under the authority's scheme, the change of circumstances referred to in 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 the authority's 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 43 (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 its scheme; or
- (ii) providing services relating to its 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 14(1) (calculation of applicant's income in savings credit only cases).

PART 9

Applications

48. 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 for support is made within one month of the date on which the claim for that state pension credit which comprises a guarantee credit was received at the appropriate DWP

office,

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

(b) in a case where –

(i) an applicant or his partner is a person in receipt of a guarantee credit,

(ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling he occupies as his home, and

(iii) the application is received at the designated office within one month of the date of the change, the date on which the change takes place;

(c) in a case where-

(i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and

(ii) the application for support is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received,

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

(d) in a case where-

(i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,

(ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and

(iii) the application is received at the designated office within one month of the date of the change, the date on which the change takes place;

(e) in a case where-

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

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

(f) except where paragraph (a), (b) or (e) is satisfied, in a case where a properly completed application is received within one month (or such longer period as the authority considers reasonable) of the date on which an application form was issued to an applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification;

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

(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 7 (applications by telephone)—

(a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance;

(b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide the application.

(4) The authority must 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 7 (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 7 (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 support under that authority's scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority must treat the application as having been made on the day on which the liability for the tax arises.

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

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

(i) a pensioner; or

(ii) a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit;

the seventeenth reduction week following the date on which the application is made, or

(b) in the case of an application made by a person who is not a pensioner, the thirteenth reduction week following the date on which the application is made,

the authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.

(8) In this paragraph "appropriate DWP office" means an office of the Department for Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of claims of income support, a job seekers allowance or an employment and support allowance.

49. Back-dating of applications

(1) This paragraph applies only to persons who are pensioners.

(2) Subject to sub-paragraph (3), the time for the making of an application under the authority's scheme is as regards any day on which, apart from satisfying the condition of making an application, the applicant is entitled to such support, that day and the period of three months immediately following it.

(3) In any case where paragraph 48(1)(a) applies (date on which application made; state pension credit comprising guarantee credit), sub-paragraph (2) does not entitle a person to apply for support under the authority's 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).

50. Further provision about applications

Schedule 8 to these Regulations makes further provision about applications for the council tax support scheme.

SCHEDULE 2: Applicable amounts for pensioners

PART 1 Personal allowances

Personal allowance

1. 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 6(1)(a) of Schedule 1.

Column (1)	Column (2)
Person, couple or polygamous marriage	Amount
(1) Single applicant or lone parent – (a) Aged under 65; (b) Aged 65 or over.	(1) (a) £- (b) £-
(2) Couple – (a) Both members aged under 65; (b) One or both members aged 65 or over.	(2) (a) £- (b) £-
(3) If the applicant is a member of a polygamous marriage and none of the members of the marriage has attained the age of 65 – (a) for the applicant and the other partner to the marriage; (b) for each additional spouse who is a member of the same household as the applicant.	(3) (a) £- (b) £-
(4) If the applicant is a member of a polygamous marriage and one or more members of the marriage are aged of 65 or over – (a) for the applicant and the other partner to the marriage; (b) for each additional spouse who is a member of the same household as the applicant.	(4) (a) £- (b) £-

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 6(1)(b) of Schedule 1.

Column (1)	Column (2)
Child or young person	Amount
<i>Person in respect of the period—</i> (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) £- (b) £-

(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.

PART 2 Family premium

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 £- 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. .

(1) Subject to paragraph (2), the amendment in regulation 2(4)(b) 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.

PART 3 Premiums

4. The premiums specified in Part 4 are, for the purposes of paragraph 6(1)(d) of Schedule 1, applicable to an applicant who satisfies the condition specified in this Part in respect of that premium.

5. Subject to sub-paragraph (2), for the purposes of this Part, 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 under section 70 of the SSCBA or has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013 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 has 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 or has such an award of universal credit 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 severely sight-impaired, he is treated as such 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 or severely sight-impaired if he

is registered in a register compiled by a local authority in Wales under section 29 of the National Assistance Act 1948 (welfare services) or is registered as severely sight-impaired in a register kept by a local authority in England under section 77(1) of the Care Act 2014 (registers of sight-impaired adults) 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 or severely sight-impaired on regaining his eyesight is nevertheless to be treated as such 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 subparagraphs (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, 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;

(d) as being entitled to and in receipt of a carer's allowance or having 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 or have such an award of universal credit.

(8) For the purposes of sub-paragraph (2)(a)(iii) and (2)(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) a reference to a person being in receipt of a carer's allowance or having an award of universal credit which includes the carer element is to include reference to a person who would have been in receipt of that allowance or have such an award of universal credit 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) that 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 payment in accordance with regulations under section 86 of the Welfare Reform Act 2012, be payable at the enhanced rate under 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 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 within the meaning of paragraph 6(4) of this Schedule 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 shall 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 of this Schedule, 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, 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.

PART 4

12. Amounts of premium specified in Part 3

Provision	Amount
(1) Severe Disability Premium—	(1)
(a) where the applicant satisfies the condition in paragraph 6(2)(a);	(a) £-;
(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) £-;
(ii) in a case where there is no-one in receipt of such an Allowance or such an award of universal credit.	(ii) £-.
(2) Enhanced disability premium.	(2) £- 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) £- in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied
(4) Carer Premium.	(4) £- in respect of each person who satisfies the condition specified in paragraph 9.

SCHEDULE 3: Amount of alternative maximum council tax reduction for pensioners

1.—(1) Subject to paragraphs 2 and 3, the alternative maximum council tax reduction in respect of a day for the purpose of paragraph 9 of Schedule 1 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 4(2) of Schedule 1 applies (class C); and
- (b) “person to whom paragraph 75(1) of Schedule 1 to the Default Scheme Regulations 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 support under the authority’s 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) <i>Second adult</i>	(2) Alternative maximum council tax reduction
<p>(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;</p> <p>(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—</p> <ul style="list-style-type: none"> (i) is less than £- per week; (ii) is not less than £- per week but less than £- per week; <p>(c) where the dwelling would be wholly occupied by one or more persons to whom paragraph 73(1) of Schedule 1 to the Default Scheme Regulations 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</p>	<p>(a) 25 per cent of the council tax due in respect of that day;</p> <p>(b)</p> <ul style="list-style-type: none"> (i) 15 per cent of the council tax due in respect of that day; (ii) 7.5 per cent of the council tax due in respect of that day; <p>(c) 100 per cent of the council tax due in respect of that day</p>

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, or any disability living allowance or any personal independence payment under Part 4 of the Welfare Reform Act 2012 or an AFIP;
and
- (b) any payment to which paragraph 8(9)(b) or (10) of Schedule 1 to these Regulations refers (and sub-paragraph (13) of paragraph 8 applies to this paragraph as it applies in relation to that paragraph).

3. Where there are two or more second adults residing with the applicant 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 is to 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 4: Sums disregarded from applicant's earnings for 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 subparagraph (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 the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005;
 - (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 9 of Part 3 of Schedule 2 (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 section 64 to 70 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 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 SSCBA, 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 2007 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 2007 has ended; or
 - (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 or regulation 7 of the Employment and Support Allowance Regulations 2013 (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 was in receipt of a reduction under the authority's 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 the authority's (including under another authority's) scheme; or
- (c) employment,

following the first day in respect of which that benefit is awarded or the support given under that 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 13 of Schedule 1 does not apply,

the amount specified in sub-paragraph (7) ("the specified amount").

(2) Where this paragraph applies, paragraphs 1 to 5 and 7 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 11 of Schedule 1 (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 shall not apply to the other member of that couple ("B") except to the extent provided in sub-paragraph (4).

(4) Where A's earnings are less than the specified amount, there 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;
- (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 regulation 39(1)(a), (b) or (c) of the Employment and Support Allowance Regulations 2013 ; 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 subparagraph (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 5 to these Regulations had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.

8. Except where the applicant or his partner qualifies for a £20 disregard under the preceding provisions of this Schedule—

- (a) £5 must be disregarded if an applicant who has no partner has earnings;
- (b) £10 must be disregarded if an applicant who has a partner has earnings.

9. Any earnings, other than earnings referred to in paragraph 17(9)(b) of Schedule 1, derived from employment which ended before the day in respect of which the applicant first satisfies the conditions for entitlement to a reduction under the authority's 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 shall 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 family includes at least one child or young person; or

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

(iv) is, or if he 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 24(1)(c) of Schedule 1 (calculation of income on a weekly basis); and

(c) £17.10.

(4) The provisions of regulation 10 (remunerative work) are to apply in determining whether or not a person works for on average not fewer than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that regulation 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 5: Amounts to be disregarded in the calculation of income other than Earnings for Pensioners

1. In addition to any sum which falls to be disregarded in accordance with paragraphs 2 to 6, £10 of any of the following, namely—

(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 adjusted 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 (including such a pension for 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;
- (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 there under, 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) £57.90

whichever is less.

(3) In this paragraph and paragraph 18 a reference to a "student loan" or a "grant" is a reference to a student loan or a grant within the meaning of Part 11 of the Schedule to the Default Scheme Regulations.

20.—(1) Where an applicant's family includes at least one child or young person,

£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 4, 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 6 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 6 (capital disregards), 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 2003 as in force at that date, the whole of his income.

SCHEDULE 6: Capital disregards for Pensioners

PART 1

Capital to be disregarded

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 the authority's 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 is to apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date.

(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 is to apply 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 stepparent, 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 stepparent, 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 of this Schedule 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;
- (f) by way of occasional assistance including arrears and payments in lieu of occasional assistance (and in this paragraph "occasional assistance" has the same meaning as in paragraph 16 of schedule 1).

(2) In sub-paragraph (1), "benefit" means—

- (a) attendance allowance under section 64 of the SSCBA;
- (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 that 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;
- (o) income-related employment and support allowance;
- (p) social fund payments under Part 8 of the SSCBA; or
- (q) 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 relating to a relevant benefit and has been received by the applicant in full on or after the day on which he became entitled to support under an authority's 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,
 - (f) paragraph 18 of Schedule 10 to the Universal Credit Regulations 2013

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) is to have effect until the award comes to an end.

(4) In this paragraph—

“the award”, except in sub-paragraph (2), means—

- (a) the award of support 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” means—

- (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 an application for support under the authority's scheme was made;

“relevant benefit” means any benefit specified in paragraph 21(2); and

“the relevant sum” means the payment referred to in sub-paragraph (1) or the total amount referred to in sub-paragraph (2).

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 5 (amounts to be disregarded in the calculation of income other than earnings for pensioners) 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 may be disregarded under this paragraph.

27.—(1) Subject to sub-paragraph (2) where an applicant falls within class C (alternative maximum council tax reduction), the whole of his capital.

(2) Sub-paragraph (1) does not apply, where an applicant falls within class B (income greater than applicable amount) and class C.

28. Where a person elects to be entitled to a lump sum under Schedule 5 or 5A to the 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; or

(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); or

(b) sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care);

(c) Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 (general social welfare); or

(d) section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002 (direct payments).

(e) under sections 31 to 33 of the Care Act 2014 (direct payments)

29A. A payment made under the Age-Related Payments Regulations 2013.

29B. Any payments to an applicant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments).

29C. Any payment made as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013

30. Where a person chooses a lump sum under section 8(2) of the Pensions Act 2014 or in accordance with Regulations made under section 10 of that Act which include provision corresponding or similar to section 8(2) of that Act, or fails to make a choice, and a lump sum payment has been made, 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; or

(b) the amount of that lump sum,

but only for so long as that person does not alter that choice in favour of an increase of pension.

PART 2

Capital disregarded only for the purposes of determining deemed income

31. The value of the right to receive any income under a life interest or from a life rent.

32. The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.

33. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

34. 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 of this Schedule 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.

SCHEDULE 7: All applicants: procedural matters

PART 1

Applications

Procedure by which a person may apply for support under the scheme

1. Paragraphs 2 to 7 apply to an application made under this scheme.

2. An application may be made—

(a) in writing,

(b) by means of an electronic communication in accordance with Part 4 of this Schedule, or

(c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.

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. Where an application made in writing is defective because—

(a) it was made on the form supplied for the purpose but that form is not accepted by the authority as being properly completed; or

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

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

(2) An application made on a form provided by the authority is properly completed if it is completed

in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.

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.

PART 2

Appeals

Procedure by which a person may appeal against certain decisions of the authority

8.(1) A person who is aggrieved by a decision of the authority which affects-

(a) the person's entitlement to support under its scheme, or

(b) the amount of any support to which that person is entitled

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

(2) The authority must—

(a) consider the matter to which the notice relates;

(b) notify the aggrieved person in writing—

(i) that the ground is not well founded, giving reasons for that belief; or

(ii) that steps have been taken to deal with the grievance, stating the steps taken.

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

PART 3

Discretionary reductions

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

9.(1) An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act may be made—

(a) in writing,

(b) by means of an electronic communication in accordance with Part 4 of this Schedule; or

(c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.

(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 support under its scheme,

that person's application for support under the authority's scheme may also be treated as an application for a reduction under section 13A(1)(c).

PART 4

Electronic communication

10. Interpretation

In this Part—

“information” includes an application, a certificate, notice or other evidence; and

“official computer system” means a computer system maintained by or on behalf of the authority for sending, receiving, processing or storing of any information;

11. Conditions for the use of electronic communication

(1) The authority may use an electronic communication in connection with applications for, and awards of, support under its 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 approved for the purposes of this Part.

(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.

12. 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.

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

14. 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.

15. 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 is presumed to have been the case where—

- (a) any such information has been delivered to the relevant authority, if the delivery of that information has been recorded on an official computer system; or
- (b) any such information has been delivered by the relevant authority, if the delivery of that information has been recorded on an official computer system.

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

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

16. 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 is presumed to be that recorded on an official computer system.

SCHEDULE 8: All applicants:– other matters

PART 1

1. Extended reductions[support]: persons who are not pensioners

Paragraph 2 applies only in relation to persons who are not pensioners.

2. Extended reductions[support]: movers into the authority's area

Where-

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

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

PART 2

3. Applications

Except for paragraph 6 (which applies to persons who are not pensioners only), paragraphs 4 to 9 apply to persons who are pensioners and persons who are not pensioners.

4. Who may make an application

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

(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 the authority's 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 terminates when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).

(6) Anything required by the authority's scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in subparagraph (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 9(1)(a);
- (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
- (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

5. Change of circumstances: persons who are not pensioners

Paragraph 6 applies only in relation to persons who are not pensioners.

6. Date on which change of circumstances is to take effect

A change of circumstances which affects entitlement to, or the amount of, support under the authority's scheme ("change of circumstances"), takes effect from the first day of the reduction week following the date on which the change actually occurs, and where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs shall be the day immediately following the last day of entitlement to that benefit. Where the change is a nominal amount the authority may decide that the change takes effect from a different date

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

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

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

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

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

(7) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the 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 shall take effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

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

7. Evidence and information

(1) Subject to sub-paragraph (3), a person who makes an application for support under the authority's scheme must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.

(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 support 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 support is made;

(b) to a person who—

(i) is a person treated as not being in Great Britain for the purposes of these Regulations;

(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 support under the authority's scheme has been awarded, must furnish such certificates, documents,

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

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

(6) Where the authority makes a request is made under sub-paragraph (4), it must—

(a) inform the applicant or the person to whom support under its scheme has been awarded of his duty under paragraph 9 (duty to notify change of circumstances) to notify the authority of any change of circumstances; and

(b) without prejudice to the extent of the duty owed under paragraph 9, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which is to be notified.

(7) This sub-paragraph applies to any of the following payments—

(a) a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;

(b) a payment which is disregarded under paragraph 16 of Schedule 6 for Pensioners and paragraph 29 of schedule 11 for working age (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 8(10) of Schedule 1.

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

(a) the name and address of the pension fund holder;

(b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

Amendment and withdrawal of application

8.—(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 7, 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 7, 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.

9. Duty to notify changes of circumstances

(1) Subject to sub-paragraphs (3) and (9) an applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time—

(a) between the making of an application and a decision being made on it, or

(b) after the decision is made (where the decision is that the applicant is entitled to support under the authority's scheme) including at any time while the applicant is in receipt of such support.

(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, support under the authority's scheme (a "relevant change of circumstances") by giving notice to the authority—

(a) in writing; or

(b) by telephone—

(i) where the authority has published a telephone number for that purpose or for the purposes of Part 1 of Schedule 7 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 a 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 support under the authority's 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, an income-related employment and support allowance or universal credit.
- (5) Notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by subparagraph (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 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 support under the authority's scheme who is also on state pension credit must report—
- (a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides;
 - (b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.
- (8) In addition to the changes required to be reported under sub-paragraph (7), a person whose state pension credit comprises only a savings credit must also report—
- (a) changes affecting a child living with him which may result in a change in the amount of support under the authority's scheme allowed in his case, but not changes in the age of the child;
 - (b) any change in the amount of the applicant's capital to be taken into account which does or may take the amount of his capital to more than £16,000;
 - (c) any change in the income or capital of—
 - (i) a non-dependant whose income and capital are treated as belonging to the applicant in accordance with paragraph 12 of Schedule 1 (circumstances in which income of a non-dependant is to be treated as applicant's); or
 - (ii) a person to whom paragraph 14(2)(e) of Schedule 1 refers (partner treated as member of the household under regulation 8),
 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 support under the authority's scheme and on state pension credit need only report to that authority the changes specified in subparagraphs (7) and (8).

PART 3

Decisions by the authority

10. This Part applies to persons who are pensioners and persons who are not pensioners.

11. Decision by authority

The authority must make a decision on an application under its scheme within 14 days of paragraph 48 of Schedule 1 for Pensioners, paragraph 64 of schedule 9 for working age, paragraph 7 of this schedule and Part 1 of Schedule 7 being satisfied, or as soon as reasonably practicable thereafter.

12. Notification of decision

(1) The authority must notify in writing any person affected by a decision made by it under its scheme—

- (a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;
- (b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.

(2) Where the decision is to award a reduction the notification under sub-paragraph (1) must include a statement—

- (a) informing the person affected of the duty imposed by paragraph 9;
- (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 support 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 the authority's 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 its 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,

(d) a person appointed by the authority under paragraph 4(3) of this schedule (persons appointed to act for a person unable to act);

PART 4

13. Circumstances in which a payment may be made

This part applies to persons who are pensioners and persons who are not pensioners.

14. Payment where there is a joint and several liability

(1) Where-

(a) a person is entitled to support under the authority's scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year;

(b) the person entitled to the support is jointly and severally liable for 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 the support 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 support.

(3) Where a person other than a person who is entitled to support under the authority's scheme made the application and that first person is a person acting pursuant to an appointment under paragraph 4(3) or is treated as having been so appointed by virtue of paragraph 4(4), the amount of the reduction may be paid to that person.

SCHEDULE 9 – People who are not pensioners

PART ONE Introduction

1. Additional Interpretation

In this Schedule the following words have the following meanings assigned to them, notwithstanding any definition in other parts of the scheme -

“applicable amount” means— the amount calculated in accordance with paragraphs 4, 5 and 6 of Schedule 9 and Schedule 10;

“assessment period” such period as is set out in paragraphs 13 to 15 of this Schedule over which income falls to be calculated;

“child care costs element” has the meaning given by regulation 31 of the Universal Credit Regulations 2013;

“council tax benefit” means council tax benefit under Part 7 of the SSCBA;

“earnings” has the meaning given by paragraph 16 and 18 of this Schedule.

“employment zone” means an area with Great Britain designated for the purposes of 60 of the Welfare Reform Act 1997 and Pensions Act 1999 and an “employment zone programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;

“extended reduction” means a reduction under this scheme for which a person is eligible pursuant to paragraph 52 of this schedule;

“extended reduction period” means the period for which a person is in receipt of an extended reduction in accordance with paragraph 53 or 58 of this schedule;

“extended reduction (qualifying contributory benefits)” means a reduction under this section of the scheme for which a person is eligible pursuant to paragraph 57 of this schedule;

“housing costs element” has the meaning given by regulation 25 of the Universal Credit Regulations 2012;

“mobility supplement” means a supplement to which paragraph 10 of Schedule 12 refers;

“net earnings” means such earnings as are calculated in accordance with paragraph 17 and 18 of this Schedule, as the case may be;

“rent” means “eligible rent” to which regulation 11 of the Housing Benefit Regulations 2006 refer, less any deductions in respect of non-dependants which fall to be made under paragraph 8 of this schedule;

“self-employment route” means assistance in pursuing self-employed earner’s employment whilst participating in—

(a) an employment zone programme;

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

(c) the Employment, Skills and Enterprise Scheme;

“tax year” means a period beginning with 6th April in one year and ending with 5th April in the next.

2. Classes of persons entitled to Receive Support under this scheme

Any person who is not a pensioner is entitled to support under this Schedule if

(a) they are for that day liable to pay council tax to the Authority in respect of a dwelling in which he is resident;

(b) they are not absent from the dwelling throughout the day;

(c) in respect of whom a maximum council tax support amount can be calculated;

(d) they do not fall within a class of person not entitled to support under this scheme;

(e) their capital on that day does not exceed £16,000, and

(f) they have made an application for support under this scheme.

3. Amount of council tax support

(1) A person entitled to support under this scheme shall be entitled to the maximum council tax support unless their income calculated in accordance with this scheme exceeds their applicable amount.

(2) If paragraph (1) does not apply to a person entitled to support under this scheme they shall be entitled to:

(a) the weekly council tax liability (capped at Band A) less

(b) the amount by which their income calculated in accordance with this scheme exceeds their applicable amount and

(c) the difference between (a) and (b) is reduced by 25%.

(3) If amount of council tax support calculated in accordance with paragraph (2) is less than zero then it shall be deemed to be zero.

PART TWO
Applicable Amounts

4. Applicable amounts for the purposes of calculating eligibility for support under this scheme and the amount of that support

(1) Subject to paragraphs 5 and 6, the applicable amount for a week for a person 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 Schedule 10
- (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with Schedule 10;
- (c) the amount of any elements which may be applicable to him, determined in accordance with that Schedule
- (d) the amount of either the—
 - (i) limited capability for work and work-related activity element; or
 - (ii) limited capability for work element, which may be applicable to him in accordance with that Schedule
- (e) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

(2) In Schedule 10—

“additional spouse” means a spouse of either party to the marriage who is additional to the other 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.

5. Polygamous marriages

Where an applicant is a member of a polygamous marriage, his applicable amount for a week 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 of Schedule 10 as if he and that partner were a couple;
- (b) an amount equal to the difference between the amounts specified in subparagraphs (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 3 of that Schedule (applicable amounts) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;
- (d) the amount of any elements which may be applicable to him determined in accordance with Parts 1 and 2 of that Schedule;
- (e) the amount of either the—
 - (i) limited capability for work and work-related activity element; or
 - (ii) limited capability for work element, which may be applicable to him in accordance with that Schedulewhich may be applicable to him in accordance with Part 2 of that Schedule (the components);
- (f) the amount of any transitional addition which may be applicable to him in accordance with Parts 3 and 4 of that Schedule (transitional addition).

6. Applicable amount: persons who have an award of universal credit

(1) In determining the applicable amount for a week of an applicant—

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

an award of universal credit, the applicable amount will be the calculation or estimate of the maximum amount of the applicant, or the applicant’s partner, or the applicant and his partner jointly (as the case may be), subject to the adjustment described in subparagraph (2).

(2) The adjustment referred to in sub-paragraph (1) is where a housing costs element has been awarded to the applicant, his partner or the applicant and his partner jointly, the amount of that element is to be deducted from the applicable amount.

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

PART THREE
Maximum Council Tax Support under this Scheme

7. Maximum council tax support amount for the purposes of calculating eligibility for support under the authority's scheme

(1) Subject to sub-paragraphs (2) to (4), the amount of a person's maximum council tax support amount in respect of a day is 75 per cent of the amount A/B where—

(a) A is the lower of

(i) 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, reduced by any reduction made in consequence of any enactment in or made under the 1992 Act (other than a reduction under this scheme); and

(ii) the amount that would have been determined as payable under (i) if the property was in valuation band A and

(g) B is the number of days in that financial year less any deduction in respect of non-dependants which fall to be made under paragraph 8.

(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 maximum council tax support 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.

(3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (2) does not apply in his case.

(4) The reference in sub-paragraph (2) to a person with whom an applicant is jointly and severally liable for council tax does not include a student to whom paragraph 40(2) applies.

(5) In this paragraph "relevant financial year" means, in relation to any particular day, the financial year within which the day in question falls.

8. Non-dependant deductions

(1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 7 are—

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

(b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £- 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 £-, the deduction to be made under this paragraph is that specified in sub-paragraph (1)(b);

(b) not less than £- but less than £-, the deduction to be made under this paragraph is £-;

(c) not less than £- but less than £-, the deduction to be made under this paragraph is £-.

(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 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 subparagraph, 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) severely sight-impaired or blind or treated as such by virtue of sub-paragraphs (12) or (13) below; or

(b) receiving in respect of himself either—

(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 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 allow 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 6 (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 5(6) of this Schedule 1, 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 applicant because he is a member of the regular forces or the reserved Forces (within the meaning of section 374 of the Armed Forces Act 2006) who is absent, while on operations, from the dwelling usually occupied as their home.
- (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.
- (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 or personal independence payment or AFIP received by him;
 - (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which, are paid as Income in kind see sub-paragraph (13); and
 - (c) the payments set out in sub-paragraph (10).
- (10) The payments mentioned in sub-paragraph (9) are—
- (a) 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);
 - (b) 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 paragraph (a) refers and which is made to or for the benefit of—
 - (i) 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;
 - (ii) 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
 - (iii) 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;
 - (c) 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 paragraph (a) refers and which is made to or for the benefit of—
 - (i) the person who is suffering from haemophilia or who is a qualifying person;
 - (ii) 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;
 - (iii) 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;

- (d) 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 paragraph (a) refers, where—
- (i) 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
 - (ii) the payment is made either—
 - (aa) to that person's parent or step-parent, or
 - (bb) 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;
- (e) 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 paragraph (a) refers, where—
- (i) 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
 - (ii) the payment is made either—
 - (aa) to that person's parent or step-parent, or
 - (bb) 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;
 - (f) in the case of a person to whom or for whose benefit a payment referred to in this sub-paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.
- (11) An applicant, or his partner is severely sight-impaired or blind or treated as such for the purposes of sub-paragraph (6)(a) if the applicant or his partner -
- (a) is blind and in consequence registered in a register compiled by a local authority in Wales under section 29 of the National Assistance Act 1948 (welfare services) or,
 - (b) is registered as severely sight-impaired in a register kept by a local authority in England under section 77(1) of the Care Act 2014 (registers of sight-impaired adults); or
 - (c) 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.
- (11A) For the purposes of sub-paragraph (8), "earned income" has the meaning given in regulation 52 of the Universal Credit Regulations 2013.
- (12) For the purposes of sub-paragraph (11), a person who has ceased to be registered as severely sight-impaired or blind on regaining his eyesight shall nevertheless be treated as such for a period of 28 weeks following the date on which he ceased to be so registered.
- (13) The reference in sub-paragraph (9)(b) 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.
- (14) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is in receipt of a Staying Put payment for a young person aged 18 up to 21 years, where -
- (a) the applicant or his partner was a Foster Carer; and
 - (b) they wish to continue to provide their home to support a young person they have fostered, and
 - (c) the young person agrees to the arrangement.

PART FOUR

Calculation of Income and Capital: Applicant's Family and polygamous marriages

9. Income and capital for the purposes of calculating eligibility for support under this scheme and amount of support

- (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) 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 must be calculated in accordance with the following provisions of this Part in like manner as for the applicant.

10. 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 must 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.

11. Calculation of income and capital: persons who have an award of universal credit

(1) This paragraph applies to an applicant—

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

an award of universal credit

(2) Where paragraph (1) above applies the authority will, subject to the following provisions of this paragraph, determine the income of the applicant using the calculation or estimate of the income of the applicant, or the applicant's partner, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining that award and accordingly part four does not apply to that applicant except to the extent stated in this paragraph.

(3) Where paragraph (1) applies but the Secretary of State has not made any calculation or estimate as described in paragraph (2) the authority will make its own calculation based on the same rules as the Secretary of State would use and the authority's calculation or estimate shall, for the purposes of this Scheme be deemed to have been calculated or estimated by the Secretary of State.

(4) The authority will change the figure for income calculated or estimated by the Secretary of State as follows—

- (a) the figure will be increased by the amount of any universal credit payable net of the child care costs element and housing costs element;
- (b) the figure will be decreased by the amount of any sum to be disregarded under Schedule 12 of this scheme (sums to be disregarded in the calculation of income other than earnings);
- (c) the figure will be increased by the amount of the income and capital of the applicant or any partner of the applicant who is a member of the applicant's household, to the extent that it is not taken into account in determining the net income of the person claiming universal credit;
- (d) paragraph 10 (circumstances in which income of non-dependant is to be treated as applicant's), if the authority determines that the provision applies in the applicant's case;
- (e) by multiplying the monthly amount of the payment by 12, dividing the product by the number of days in the financial year and multiplying the product by 7.

(5) Paragraphs 9, 10, 23 to 29 and 31 (calculation of income) apply only for the purpose of determining any modifications which fall to be made to the figure for earned income under sub-paragraph (4).

(6) In determining the capital of an applicant—

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

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

(7) Where paragraph (6) applies but the Secretary of State has not made any calculation or estimate as described in paragraph (6) the authority will make its own calculation based on the same rules as the Secretary of State would use and the authority's calculation or estimate shall, for the purposes of this

12. Average weekly earnings of employed earners

(1) Where the income of an applicant 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 claim is made or treated as made and being a period of—

- (i) 5 weeks, if he is paid weekly; or
- (ii) 2 months, if he is paid monthly; or

(b) whether or not paragraph (a)(i) or (ii) applies, where an applicant's earnings fluctuate, over such other period preceding the reduction week in which the claim is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.

(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.

(4) For the purposes of this paragraph the applicant's earnings are to be calculated in accordance with paragraphs 16 and 17.

13. Average weekly earnings of self-employed earners

(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 18 to 24.

14. Average weekly income other than earnings

(1) The income of an applicant 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; and nothing in this paragraph authorises the authority to disregard any such income other than that specified in Schedule 12.

(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 26 of this part.

15. Calculation of weekly income

(1) For the purposes of paragraphs 12 (average weekly earnings of employed earners), 14 (average weekly income other than earnings) and 31 (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 13 (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.

16. Earnings of employed earners

(1) Subject to sub-paragraph (2), "earnings", in the case of employment as an employed earner of a person who is not a pensioner, 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, statutory shared parental pay or statutory adoption pay payable under the SSCBA, 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.
- (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 the 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).

17. Calculation of net earnings of employed earners

- (1) For the purposes of paragraph 12 (average weekly earnings of employed earners), the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account 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 13 of Schedule 12.
- (3) For the purposes of sub-paragraph (1) net earnings must 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) 100% of any contributions made in that period to an occupational or personal pension scheme
- (4) In the case of an applicant who has been employed as an employed earner the following sums shall be disregarded:
- (i) 35% of the applicant's earned income; and
 - (ii) a sum equal to 2 hours gross pay at the highest rate National Minimum Wage which applies to any person in England.

18. Earnings of self-employed earners

- (1) This paragraph applies for the purpose of calculating earned income that is not employed earnings ("self-employed earnings").
- (2) A person's self-employed earnings in respect of an assessment period are to be calculated by taking the amount of the gross profits (or, in the case of a partnership, the person's share of those profits) of the self-employed earner and deducting from that amount—
- (a) any payment made to HMRC in the assessment period in respect of the self-employed earner by way of—
 - (i) Class 2 contributions payable under section 11(1) or (3) of the SSCBA or any Class 4 contributions payable under section 15 of that Act; or
 - (ii) income tax; and

- (b) 100% of any contributions made by the person in the assessment period to a personal pension scheme (unless a deduction has been made in respect of those contributions in calculating a person's employed earnings).
 - (c) a sum equal to 2 hours gross pay at the highest rate National Minimum Wage which applies to any person in England.
- (3) The gross profits of the self-employed earner in respect of an assessment period are the actual receipts in that period less any deductions for expenses specified in paragraph 19 of this schedule.
- (4) The receipts referred to in paragraph (3) include receipts in kind and any refund or repayment of income tax, value added tax or national insurance contributions relating to the self-employed earner.

19. Permitted expenses

- (1) The deductions allowed in the calculation of self-employed earnings are amounts paid in the assessment period in respect of-
- (a) expenses that have been wholly and exclusively incurred for purposes of that self-employment; or
 - (b) in the case of expenses that have been incurred for more than one purpose, an identifiable part or proportion that has been wholly and exclusively incurred for the purposes of the self-employment, excluding any expenses that were incurred unreasonably.
- (2) Expenses deducted in accordance with paragraph (1) may include value added tax.
- (3) No deduction may be made for—
- (a) expenditure on non-depreciating assets (including property, shares or other assets to be held for investment purposes);
 - (b) any loss incurred in respect of a previous assessment period;
 - (c) repayment of capital or payment of interest in relation to a loan taken out for the purposes of the self-employment;
 - (d) expenses for business entertainment.
- (4) This paragraph is subject to paragraph 20 of this Schedule.

20. Flat rate deductions for mileage and use of home and adjustment for personal use of business premises

- (1) This paragraph provides for alternatives to the deductions that would otherwise be allowed under paragraph 19 of this Schedule.
- (2) Instead of a deduction in respect of the actual expenses incurred in relation to the acquisition or use of a motor vehicle, the following deductions are allowed according to the mileage covered on journeys undertaken in the assessment period for the purposes of the self-employment—
- (a) in a car, van or other motor vehicle (apart from a motorcycle), £- pence per mile for the first 833 miles and £- pence per mile thereafter; and
 - (b) on a motorcycle, £- pence per mile,
- and, if the motor vehicle is a car or motor cycle, the only deduction allowed for the acquisition or use of that vehicle is a deduction under this paragraph.
- (3) Where a person whilst trading as a self-employed earner incurs expenses in relation to the use of accommodation occupied as their home, instead of a deduction in respect of the actual expenses, a deduction is allowed according to the number of hours spent in the assessment period on income generating activities related to the self-employment as follows—
- (a) for at least 25 hours but no more than 50 hours, £-;
 - (b) for more than 50 hours but no more than 100 hours, £-;
 - (c) for more than 100 hours, £-.
- (4) Where premises which are used by a person mainly for the purposes of self-employment are also occupied by that person for their personal use, whether alone or with other persons, the deduction allowed for expenses in relation to those premises is the amount that would be allowed under regulation 19(1) if the premises were used wholly and exclusively for purposes of the self-employment, but reduced by the following amount according to the number of persons occupying the premise for their personal use—
- (a) £- for one person;
 - (b) £- for two persons;
 - (c) £- for three or more persons.

21. Information for calculating earned income

- (1) Where—
- (a) a person has employed earnings in respect of which deductions or repayments of income tax are required to be made under the PAYE Regulations; and
 - (b) the person required to make those deductions or repayments is a Real Time Information employer,

(2) Where paragraph (1) does not apply or where a Real Time Information employer fails to report information to HMRC, the person must provide such information for the purposes of calculating the person's earned income at such times as the Local Authority may require.

(3) Where, by virtue of paragraph (1), the calculation of employed earnings is to be based on information reported under the PAYE regulations, those employed earnings are to be treated as if they had been received by the person in the assessment period in which the Secretary of State receives that information, unless the Local Authority has made a determination in accordance with regulation 54(2)(b) of the Universal Credit Regulations 2013 (estimate where information not reported) in relation to a previous assessment period.

(4) In this regulation "Real Time Information employer" has the meaning in regulation 2A(1) of the PAYE Regulations.

22. Meaning of "gainful self-employment"

(1) A claimant is in gainful self-employment where the Authority has determined that—

- (a) the claimant is carrying on a trade, profession or vocation as their main employment;
- (b) their earnings from that trade, profession or vocation are self-employed earnings;
- (c) the trade, profession or vocation is organised, developed, regular and carried out in expectation of profit;

23. Minimum income floor

(1) Where a claimant is in gainful self-employment and their earned income in respect of a period is less than the minimum income floor which is 16 hours at the National Minimum Wage, the claimant is to be treated as having earned income equal to the minimum income floor.

(2) Paragraph (1) does not apply within the start-up period.

24. Start-up period

(1) A "start-up period" is a period of 365 days (366 in any leap year) and applies from the date on which a claimant is in gainful self-employment.

(2) Where the gainful self-employment commenced prior to the start date of a claim, the start-up period will begin from the date on which the claimant began gainful self-employment, and not the date of the claim, in accordance with sub-section (1).

(3) But no start-up period may apply in relation to a claimant where a start-up period has previously applied in relation to that claimant, whether in relation to the current award or any previous award, of council tax support, unless that previous start-up period-

- (a) began more than 5 years before the beginning of the period referred to in paragraph (1); and
- (b) applied in relation to a different trade, profession or vocation.

(4) A start-up period may be terminated at any time if the person is no longer in gainful self-employment or is not taking active steps to increase their earnings from that employment to the level of the minimum income floor.

25. Evidence and information

For the purposes of determining whether a claimant is in gainful self-employment or meets the conditions in paragraph 24 (start-up period), the Authority may require the claimant to provide such evidence or information as is reasonably required to determine those questions and to attend at such office or place on such days and at such times as the Secretary of State may direct for that purpose.

26. Calculation of income other than earnings:

(1) For the purposes of paragraph 14 (average weekly income other than earnings), the income of an applicant 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 27 (capital treated as income).

(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 12.

(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 subparagraph (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) In sub-paragraph (5), “tax year” means a period beginning with 6th April in one year and ending with 5th April in the next.

(7) Sub-paragraphs (8) and (9) 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.

(8) Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of sub-paragraph (1) in respect of a person to whom sub-paragraph (8) applies, is to be calculated by applying the formula—

$(A - (B \times C)) / D$

where—

A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under paragraph 46(5);

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

C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under paragraph 46(5) 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 = the number of reduction weeks in the assessment period.

(9) Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of 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 46(5).

(10) In this paragraph—

“academic year” and “student loan” have the same meanings as in Part 7;

“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 41(7) or both.

(11) For the avoidance of doubt there must be included as income to be taken into account under paragraph (1)—

- (a) any payment to which paragraph 16(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.

27. Capital treated as income

(1) Any payment received under an annuity is to be treated as income.

(2) Any earnings to the extent that they are not a payment of income is to be treated as income.

(3) 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.

28. Notional income:

- (1) An applicant 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.
- (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) any sum to which paragraph 37(2)(a) of Schedule 11 (capital to be disregarded) applies which is administered in the way referred to in paragraph 37(1)(a);
 - (d) any sum to which paragraph 26(a) of Schedule 11 refers;
 - (e) 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 on the date of the application under this scheme or, if later, on the first date that such an application could have been made.
- (3) Any payment of income, other than a payment of income specified in subparagraph (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 subparagraphs (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 17(3) (calculation of net earnings of employed earners) 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 section 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstance; 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 subparagraph 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 Act in respect of those earnings if such contributions were payable; and
- (c) 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 the applicant participating as a service user.

29. Calculation of income on a weekly basis

(1) 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) deducting from the sum of paragraph (a) any relevant child care charges to which paragraph 30 (treatment of child care charges) applies from any earnings which form part of the average weekly income, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in sub-paragraph (2) applies in his case.

(2) The maximum deduction to which paragraph (1)(b) 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, £- per week;
- (b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £- per week.

(3) For the purposes of paragraph (1) "income" includes capital treated as income under paragraph 27 (capital treated as income) and income which the applicant is treated as possessing under paragraph 28 (notional income).

30. Treatment of child care charges

- (1) This paragraph applies where an applicant is incurring relevant child care charges and—
 - (a) is a lone parent and is engaged in remunerative work;
 - (b) is a member of a couple both of whom are engaged in remunerative work; or
 - (c) is a member of a couple where one member is engaged in remunerative work and the other—
 - (i) is incapacitated;
 - (ii) is an in-patient in hospital; or
 - (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).
- (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 is to be calculated on a weekly basis in accordance with sub-paragraph (9).
- (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 Section 1 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 (England) 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) 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.
- (10) For the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where—
- (a) the applicant’s applicable amount includes a disability premium on account of the other member’s incapacity or the support component or the work-related activity component on account of his having limited capability for work;
 - (b) the applicant’s applicable amount would include a disability premium on account of the other member’s incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
 - (c) the applicant’s applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008 or the Employment and Support Allowance Regulations 2013;
 - (d) the applicant 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 treated as one continuous period;
 - (e) the applicant 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 or the Employment and Support Allowance Regulations 2013 for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
 - (f) there is payable in respect of him one or more of the following pensions or allowances—
 - (i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the SSCBA;
 - (ii) attendance allowance under section 64 of the SSCBA;
 - (iii) severe disablement allowance under section 68 of the SSCBA;
 - (iv) disability living allowance;
 - (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 (vi) above;
 - (ix) main phase employment and support allowance;
 - (g) a pension or allowance or payment to which sub-paragraph (v), (vii) or (viii) of paragraph (f) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this 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;
 - (h) 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 made under section 113(2) of the SSCBA; or
 - (ii) an abatement as a consequence of hospitalisation;
- (i) 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);
- (j) an AFIP would be payable to that person 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.
- (k) paragraph (f),(g),(h) or (i) 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
- (l) 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.
- (11) For the purposes of sub-paragraph (10), once sub-paragraph (10)(d) 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 paragraph is to, 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.
- (12) For the purposes of sub-paragraph (10), once sub-paragraph (10)(e) 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 to, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter apply to him for so long as he has, or is treated as having, limited capability for work.
- (13) 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 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 has ceased to be payable by virtue of 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 as severely sight-impaired in a register kept under section 77(1) of the Care Act 2014 (registers of sight-impaired adults) 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 or severely sight-impaired 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.
- (14) For the purposes of sub-paragraph (1) a person on maternity leave, paternity leave, shared parental leave or adoption leave is to be treated as if he is engaged in remunerative work for the period specified in sub-paragraph (15) ("the relevant period") provided that—
- (a) in the week before the period of maternity leave, paternity leave, shared parental 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, statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, statutory adoption pay by virtue of section 171ZL of that Act, maternity allowance under section 35 of that Act, statutory shared parental pay by virtue of section 171ZU or 171ZV of that Act or qualifying support.
- (15) For the purposes of sub-paragraph (14) the relevant period begins on the day on which the person's maternity, paternity leave, shared parental 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, statutory shared paternity pay or statutory adoption pay ends, the date that entitlement ends; or
 - (c) if a6 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, statutory shared 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.

(16) In sub-paragraphs (14) and (15)—

(a) “qualifying support” means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support (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).

(17) In sub-paragraphs (6), (8)(a) and (13)(d), “the first Monday in September” means the Monday which first occurs in the month of September in any year.

31. 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.

PART FIVE Capital

32. 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 any income treated as capital under paragraph 33 (income treated as capital).

(2) There must be disregarded from the calculation of an applicant’s capital under subparagraph (1), any capital, where applicable, specified in Schedule 11.

(3) The capital of a child or young person who is a member of the family of an applicant must not be treated as capital of the applicant.

(4) Capital Jointly Held – except where an applicant possesses capital which is disregarded under paragraph 36(5) (notional capital), where an applicant and one or more persons are beneficially entitled in possession to any capital asset they must be treated as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the other provisions of this Part 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.

(5) Calculation of tariff income from capital

(a) Where the capital of an applicant calculated in accordance with this Part exceeds £6,000, it must be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £6,000 but not exceeding £16,000.

(b) Notwithstanding sub-paragraph (a) where any part of the excess is not a complete £250 that part must be treated as equivalent to a weekly tariff income of £1.

(c) For the purposes of sub-paragraph (a), capital includes any income treated as capital under paragraph 33 (income treated as capital).

33. Income treated as capital

(1) Any bounty derived from employment which is paid at intervals of at least one year is to be treated as capital.

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

(3) Any holiday pay which is not earnings under paragraph 16(1)(d) (earnings of employed earners) is to be treated as capital.

(4) Except any income derived from capital disregarded under paragraphs 2 to 5, 9, 14 and 19 of Schedule 12, 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.

(5) 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.

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

(8) Any arrears of subsistence allowance which are paid to an applicant as a lump sum must be treated as capital.

(9) Any arrears of working tax credit or child tax credit must be treated as capital.

34. 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.

35. Calculation of capital outside the United Kingdom

Capital which an applicant possesses in a country outside the United Kingdom will 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.

36. 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 under this scheme or increasing the amount of that reduction

(2) Except in the case of—

- (a) a discretionary trust; or
- (b) a trust derived from a payment made in consequence of a personal injury; or

(3) Any payment of capital, other than a payment of capital specified in sub-paragraph (4), made—

- (a) 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 sub-paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
- (b) 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.

(4) Paragraph (3) 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) 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;
 - (i) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (ii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

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

- (a) the value of his holding in that company must, notwithstanding paragraph 32 (calculation of capital) be disregarded; and

(b) he must, subject to sub-paragraph (6), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(6) For so long as the applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under sub-paragraph (5) is to be disregarded.

(7) 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.

37. Diminishing notional capital rule

(1) Where an applicant is treated as possessing capital under paragraph 36(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 subparagraph (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) or (4);

(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) or (7) is satisfied,

is to be reduced by the amount determined under sub-paragraph (5) or (9).

(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 council tax support under this scheme; and

(b) but for paragraph 36(1), he would have received a greater amount of council tax support 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 council tax support 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 subparagraph (2) refers but for the application of regulation 49(1) of the Housing Benefit Regulations (notional capital);

(c) where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the reduction week to which subparagraph (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 subparagraph (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 subparagraph (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 paragraph (1)(b) the condition is that the applicant would have been entitled to council tax support in the relevant week but for paragraph 36(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 support to which the applicant would have been entitled in the relevant week but for paragraph 36(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 claim for council tax support 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 claim is made 26 or more weeks after—

(i) the date on which the applicant made a claim in respect of which he was first treated as possessing the capital in question under paragraph 36(1);

(ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (5), the date on which he last made a claim for council tax support which resulted in the weekly amount being re-determined, or

(iii) the date on which he last ceased to be entitled to council tax support, whichever last occurred; and

(b) the applicant would have been entitled to council tax support under this scheme but for paragraph 36(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 redetermination 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 council tax support 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 36(1)—

(a) was first taken into account for the purpose of determining his entitlement to council tax support; or

(b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to council tax support on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, council tax support;

and where more than one reduction week is identified by reference to 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 claim or, if more than one further claim has been made, the last such claim was made.

38. 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 Young People’s Learning Agency for England under sections 61 and 62 of the Apprenticeships, Skills, Children and Learning Act 2009 or the Chief Executive of Skills Funding under sections 100 and 101 of that Act; 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 Young People’s Learning Agency for England, 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 Young People’s Learning Agency for England, 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 Young People’s Learning Agency for England 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 bodies 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;

“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 sub-paragraph (a) of sub-paragraph (2), the period referred to in that sub-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.

39. Treatment of students

This scheme has effect in relation to students subject the following provisions of this Part.

40. Students who are excluded from entitlement to a council tax reduction under this scheme

(1) Subject to sub-paragraphs (2) and (6), this paragraph applies to full-time students and students who are persons treated as not being in Great Britain.

(2) Sub-paragraph (1) 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 regulation, include the limited capability for work support element or disability element;
- (d) whose applicable amount would include the disability element 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, or
 - (ii) 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 section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education Act 1998;
 - (iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or
 - (v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986, on account of his disability by reason of deafness.
 - (k) who has been made an award of universal credit based on the following qualifying conditions-
 - (i) are a lone parent
 - (ii) have a partner who is also a student and one or both are responsible for a child
 - (iii) have a disability and qualify for the disabled element
- (3) For the purposes of sub-paragraph (2)(i)(i) the student must have begun, or been enrolled or accepted onto, the course before attaining the age of 19.
- (4) For the purposes of sub-paragraph (2), once sub-paragraph (2)(e) applies to a fulltime 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 paragraph (i) of sub-paragraph (2) 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) 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 shall first occur.

41. Calculation of grant income

- (1) The amount of a student's grant income to be taken into account 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 £- per academic year in respect of travel costs; and
 - (b) the sum of £- 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 54(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.

42. 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 41(2)(g) (calculation of grant income) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

43. 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 41(2)(a) to (e) (calculation of grant income) 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 41(2)(f) and (3) (calculation of grant income) 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 sub-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 41(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 41(2)(f) and (g) and (3).

44. Relationship with amounts to be disregarded under Schedule 12

No part of a student's covenant income or grant income shall be disregarded under paragraph 34 of Schedule 12.

45. 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 46 (treatment of student loans), any amounts intended for any expenditure specified in paragraph 41(2) (calculation of grant income), necessary as a result of his attendance on the course shall 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 41(2) or (3), 42(3), 43(1)(a) or (c) or 46(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

46. 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" shall have the same meaning as for the purposes of the Education (Student Support) Regulations 2005;
- (c) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year 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 there shall 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 subparagraph (4)—
- (a) the sum of £- per academic year in respect of travel costs; and
 - (b) the sum of £- per academic year towards the cost of books and equipment, whether or not any such costs are incurred.

47. Treatment of payments from access funds

- (1) This paragraph applies to payments from access funds that are not payments to which paragraph 50(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 34 of Schedule 12—
- (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.

48. 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.

49. 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.

50. 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.

51. 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.

PART SEVEN Extended Reductions [Support]

52. Extended reductions [Support]

- (1) An applicant who is entitled to a reduction under this scheme (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction where—
- (a) the applicant or the applicant's partner was entitled to a qualifying income related benefit;
 - (b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner—

- (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or
 - (iii) increased the number of hours worked in such employment,
- and that employment is or, as the case may be, 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 shall be treated as being entitled to and in receipt of jobseeker's allowance.
- (4) An applicant must be treated as entitled to support under this scheme by virtue of the general conditions of entitlement where—
- (a) the applicant ceased to be entitled to support 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.

53. Duration of extended reduction[support] period

- (1) Where an applicant is entitled to extended support, the extended support 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 support 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 support is payable has no liability for council tax, if that occurs first.

54. Amount of extended reduction [support]

- (1) For any week during the extended support period the amount of the extended support to which an applicant is entitled is to be the higher of—
- (a) the amount of the support under the authority's scheme to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying income-related benefit;
 - (b) the amount of support under this scheme to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended support period, if paragraph 61 (extended reductions) did not apply to the applicant; or
 - (c) the amount of support under this scheme to which the applicant's partner would be entitled under the general conditions of entitlement, if paragraph 61 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 extended support under this paragraph and the applicant's partner makes an application for support under this scheme, no amount of support under this scheme is to be awarded by the authority during the extended support period.

55. Extended reductions [support]—movers

- (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 support **Page 156** the Monday from which this paragraph applies until the end of the extended support period is to be the amount of support under this scheme to which the mover was eligible for the last reduction week before the mover, or the mover's partner, 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 billing authority other than this one, the extended support (qualifying contributory benefits) may take the form of a payment from this authority to—

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

(4) In this paragraph—

“the new dwelling” means the dwelling to which an applicant has moved, or is about to move, in which the applicant is or will be resident;

“the second authority” means the authority to which a mover is liable to make payments for the new dwelling.

56. Relationship between extended reduction [support] and entitlement to reduction [support] under the general conditions of entitlement

(1) Where support 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 61(1)(b), that entitlement does not cease until the end of the extended reduction period.

(2) Paragraphs 63 of this schedule and Paragraph 4 of Schedule 8 do not apply to any extended reduction payable in accordance with paragraph 52(1)(a) or 55(2).

57. Extended reductions [support] (qualifying contributory benefits)

(1) An applicant who is entitled to support under this scheme (by virtue of the general conditions of entitlement) shall be entitled to extended support (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 support under this scheme by virtue of the general conditions of entitlement where—

- (a) the applicant ceased to be entitled to support 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).

58. Duration of extended reduction [support] period (qualifying contributory benefits)

(1) Where an applicant is entitled to extended support (qualifying contributory benefits), the extended support 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 support 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 support (qualifying contributory benefits) has no liability for council tax, if that occurs first.

59. Amount of extended reduction [support] (qualifying contributory benefits)

(1) For any week during the extended support period the amount of the extended support (qualifying contributory benefits) payable to an applicant is to be the greater of—

- (a) the amount of support under this scheme to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;

- (b) the amount of support under this scheme to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended support period, if paragraph 57 (extended reductions qualifying contributory benefits) did not apply to the applicant; or
 - (c) the amount of support under this scheme to which the applicant's partner would be entitled under the general conditions of entitlement, if paragraph 57 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 extended support (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for support under this scheme, no amount of support shall be allowed by the appropriate authority during the extended support period.

60. Extended reductions [support] (qualifying contributory benefits) - movers

- (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 support (qualifying contributory benefit) payable from the Monday from which this paragraph applies until the end of the extended support period is to be the amount of support 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 another authority, the extended support (qualifying contributory benefits) may take the form of a reduction from this authority to—
- (a) that other authority; or
 - (b) the mover directly.

61. Relationship between extended reduction [support] (qualifying contributory benefits) and entitlement to reduction [support] under the general conditions of entitlement

- (1) Where an applicant's support under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 57(1)(b), that support does not cease until the end of the extended support period.
- (2) Paragraph 63 of this Schedule and Paragraph 4 of Schedule 8 do not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 54(1)(a) or 55(2) (amount of extended reduction—movers).

62. Extended reductions [support]: movers into the authority's area

Where—

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

the current billing authority must reduce any support to which the applicant is entitled under this scheme by the amount of that extended support.

PART EIGHT

When entitlement begins and changes of circumstances

63. Date on which entitlement begins

- (1) Subject to sub-paragraph (2), any person by whom or in respect of whom an application for support under this scheme is made and who is otherwise entitled to that support is so entitled from the reduction week following the date on which that application is made or is treated as made under paragraph 64.
- (2) Where a person is otherwise entitled to support 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 shall be so entitled from that reduction week.

PART NINE Applications

64. 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 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 for a reduction under this scheme is made within three months of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received,

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

(b) in a case where—

- (i) an applicant or his partner is a person on income support, an income based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,
 - (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
 - (iii) the application 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) the applicant is the former partner of a person who was, at the date of his death or their separation, entitled to support under this scheme, and
 - (ii) where the applicant makes an application within one month of the date of the death or the separation,
- the date of the death or separation;

(d) except where paragraph (a), (b) or (c) is satisfied, in a case where a properly completed application is received within one month 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;

(e) 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)(a) 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 7 to this scheme (applications by telephone)—

(a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance;

(b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide the application.

(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 7 (incomplete form) applies, the authority receives at the offices of the authority 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 7 (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 support 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 support under this scheme for a period beginning not later than-

(a) In the case of an application made by 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 of income support, a job seekers allowance or an employment and support allowance.

65. Periods of absence from a dwelling

(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 (4) applies; and

(iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

(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 child 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, 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 shall 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 shall 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 inpatient in any 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.

PART TEN

In Year changes to the Council Tax Support Scheme

66. In year changes

- (1) The Executive Leader of the Authority may by at any time make a determination that as from a date specified in the determination (or immediately if no such date is specified) the scheme shall have effect as if:
- (a) the applicable amount (or any element of any applicable amount) for any person claiming support under this Schedule was replaced by an amount set out in the determination.
 - (b) the figure of 75 per cent in paragraph 7(1) was replaced by a percentage set out in the determination amended as set out in the determination.
 - (e) the reference to valuation band A in paragraph 7(1)(a)(ii) was replaced with a different valuation set out in the determination.
 - (d) the scheme schedule 11 or schedule 12 being amended as set out in the determination.

SCHEDULE 10: Applicable Amounts: Persons who are not pensioners

Column (1)	Column (2)
Element	Amount
Standard allowance single claimant under 25 single claimant 25 or over joint claimants both under 25 joint claimants where either is 25 or over	£- £- £- £-
Child element first child or qualifying young person second and each subsequent child or qualifying young person Additional amount for disabled child or qualifying young person: lower level higher level	£- £- £- £-
LCW and LCWRA Elements limited capability for work (includes Support component and Disability premium) limited capability for work and work related activity (includes Work Related Activity component)	£- £-
Carer Element	£-
Child care costs disregard maximum amount for one child maximum amount two or more children	Amount variable £- £-

PART 1 Elements

1. The amounts specified for standard allowance elements in column (2) in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes of paragraphs 4(1)(a) and 5(a) and (b) of Schedule 9—
2. For the purposes of paragraph 1 of this Schedule an applicant is entitled to main phase employment and support allowance if—
 - (a) paragraph 10 of this Schedule 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 for child elements in column (2) in respect of each person specified in column (1) shall, for the relevant period specified below, be the amounts specified for the purposes of paragraphs 4(1)(b) and 5(c) of Schedule 9—

PART 2 Additional Elements

4. Except as provided in paragraph 5 of this Schedule, the elements specified in the above table shall, for the purposes of paragraphs 4(1)(d) and 5(e) of Schedule 9, be applicable to an applicant who satisfies the condition specified in paragraphs 8 to 17 of this Schedule in respect of that element.
5. Where an applicant or his partner satisfies the conditions in respect of both the Limited Capability for Work element and the Limited Capability for Work and Work Related Activity element, only one element shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.
6. The following premiums, namely—
 - (a) a disabled child premium to which paragraph 15 and 16 of this Schedule applies; and
 - (b) a carer premium to which paragraph 17 of this Schedule applies,
 may be applicable in addition to any other element which may apply under this Schedule.

7.(1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once an element is applicable to an applicant under this Part, a person shall be treated as being in receipt of any benefit for—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the 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 element under paragraph 17 of this Schedule, a person shall be treated as being in receipt of carer's allowance by virtue of subparagraph (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.

Limited Capability for Work Element

8. 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 9 of this Schedule 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 9(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 9(1)(a) is satisfied by his partner.

Additional condition for the Limited Capability for Work Element

9.(1) Subject to sub-paragraph (2) and paragraph 7 of this Schedule, the additional condition referred to in paragraph 8 of this Schedule is that either—

- (a) the applicant or, as the case may be, the other member of the couple—
 - (i) is in receipt of one or more of the following benefits: 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, 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 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 30(10)(g) (treatment of child care charges); or
 - (iii) 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 30(10)(g) (treatment of child care charges); or
 - (iv) was in receipt of an AFIP but its payment has been suspended 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; or
 - (v) is provided by the Secretary of State or a clinical commissioning group with an invalid carriage or other vehicle under paragraph 9 of Schedule 1 to the National Health Service Act 2006 or, in Scotland, under section 46 of the National Health Service (Scotland) Act 1978 (provision of services by Scottish Ministers) or receives payments by way of grant from the Secretary of State under paragraph 10(3) of Schedule 1 to the Act of 2006 or, in Scotland, by Scottish Ministers under section 46 of the Act of 1978; or
 - (vi) is blind and in consequence registered in a register compiled by a local authority in Wales under section 29 of the National Assistance Act 1948 (welfare services) or, is registered as severely sight-impaired in a register kept by a local authority in England under section 77(1) of the Care Act 2014 (registers of sight-impaired adults) 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 Government (Scotland) Act 1994; or
- (b) the applicant or, as the case may be, the other member of the couple—
 - (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)(v), a person who has ceased to be registered as blind or severely sight-impaired on regaining his eyesight shall nevertheless be treated as such 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 Limited Capability for Work element 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 shall, on again becoming so incapable of work, immediately thereafter be treated as satisfying the condition in sub-paragraph (1)(b).

(4) For the purposes of sub-paragraph (1)(b), once the Limited Capability for Work element is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, he shall 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 shall 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),

shall in each case be treated as a reference to a period of 104 weeks.

10. The applicant is entitled to one, but not both, of the components in paragraph 13 or 14 of this Schedule 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 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.

11. The applicant is entitled to one, but not both, of the components in paragraphs 13 and 14 if the applicant or his partner is entitled to a converted employment and support allowance.

12. Where the applicant and the applicant's partner each satisfies paragraph 13 or 14, the component to be included is the element that relates to both the applicant and the applicant's partner.

The work-related activity component

13. 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.

The support component

14. 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.

15. Disabled child element

An amount as shown in that table is payable in addition to the child element in respect of each child or qualifying young person who is disabled and that amount is—

- (a) the lower rate where the child or young person is entitled to a disability living allowance or a personal independence payment (unless the higher rate applies); and
- (b) the higher rate where the child or qualifying young person is—
 - (i) entitled to the care component of a disability living allowance at the highest rate or the daily living component of a personal independence payment at the enhanced rate; or
 - (ii) registered as blind under section 29 of the National Assistance Act 1948 or section 2 of the Local Government etc (Scotland) Act 1994(b) in consequence of having been certified as blind.

16. The disabled child element shall be applied where 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 no longer in receipt of disability living allowance or personal independence payment because he is a patient, provided that the child or young person continues to be a member of the family; or
- (b) 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 element 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.

17. Carer element

(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 element 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 element has been awarded ceases to be entitled to a carer's allowance, the condition for the award of the element shall 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) shall be—

- (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 shall 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;
- (b) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.

18. Persons in receipt of concessionary payments

For the purpose of determining whether an element is applicable to a person under paragraphs 9 to 17 of this Schedule, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.

19. Persons in receipt of benefit for another

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

PART 3

Transitional Addition

20.(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 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 23 of this Schedule 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 24 of this Schedule;
- (b) the termination of the applicant's award of support 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.

21.(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 support, under—
 - (i) paragraph 20(2)(b) of this Schedule;
 - (ii) sub-paragraph (3)(b) of this paragraph; or
 - (iii) paragraph 22(3)(b) of this Schedule;
- (b) within 104 weeks of that termination but before 5th April 2020 the applicant again becomes entitled to support under this scheme;
- (c) in the reduction week in which the applicant again becomes entitled to support under this scheme the relevant person is entitled to an employment and support allowance which is not income-related;
- (d) if the period between the events mentioned in paragraphs (a) and (b) is more than 12 weeks, the intervening period is one to which regulation 145(2) (linking period where applicant is a work or training beneficiary) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
- (e) at the date on which the applicant again becomes entitled to support 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 support 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 24, 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 24 of this Schedule;
- (b) the termination of the applicant's award of support 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;
- (f) 5th April 2020.

22.(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 20(2)(c) of this Schedule;
 - (ii) paragraph 21(3)(c) of this Schedule; or
 - (iii) sub-paragraph (3)(c) of this paragraph;
- (b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;
- (c) either—
 - (i) 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 applies to the relevant person; or
 - (ii) the period between the events mentioned in paragraphs (a) and (b) is one to which regulation 145(2) of the Employment and Support Allowance Regulations applies in respect of 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 support 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 24 of this Schedule), 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 24 of this Schedule;
- (b) the termination of the applicant's award of support 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.

PART 4

Amount of Transitional Addition

23.(1) Subject to paragraph 24 of this Schedule, 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 (Existing Awards) 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 Employment and Support Allowance (Existing Awards) Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) 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 24, "basic amount" means the aggregate of such amounts as may apply in the applicant's case in accordance with paragraph 4(1)(a) to (d) or paragraph 5(a) to (b) of this scheme.

24. (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 shall 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 shall 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 11: 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 9 of this Schedule 9 (Income and capital for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction), only one dwelling shall be disregarded under this paragraph.
5. (1) Premises that a person intends to occupy as their home where —
 - (a) the person has acquired the premises within the past 6 months but not yet taken up occupation; or
 - (b) the person is taking steps to obtain possession and has commenced those steps with the past 6 months; or
 - (c) the person is carrying out essential repairs or alterations required to render the premises fit for occupation and these have been commenced within the past 6 months.(2) A person is to be taken to have commenced steps to obtain possession of premises on the date that legal advice is first sought or proceedings are commenced, whichever is earlier.
6. Premises that a person has ceased to occupy as their home following an estrangement from their former partner where—
 - (a) the person has ceased to occupy the premises within the past 6 months; or
 - (b) the person's former partner is a lone parent and occupies the premises as their home.
7. Premises that a person is taking reasonable steps to dispose of where those steps have been commenced within the past 6 months.
8. An amount deposited with a housing association as a condition of the person occupying premises as their home.
9. An amount received within the past 6 months which is to be used for the purchase of premises that the person intends to occupy as their home where that amount—
 - (a) is attributable to the proceeds of the sale of premises formerly occupied by the person as their home; or
 - (b) has been deposited with a housing association as mentioned in paragraph 8;
 - (c) is a grant made to the person for the sole purpose of the purchase of a home.
10. An amount received within the past 6 months that is to be used for making essential repairs or alterations to premises occupied or intended to be occupied as the person's home where that amount has been acquired by the person (whether by grant or loan or otherwise) on condition that it is used for that purpose.

- 11.** An amount received under an insurance policy with the past 6 months in connection with the loss or damage to the premises occupied by the person as their home or to their personal possessions.
- 12.** Premises occupied by a close relative of a person as their home where that close relative has limited capability for work or has reached the qualifying age for state pension credit.
- 13.** Premises occupied by a person's former partner as their home where the person and their former partner are not estranged, but living apart by force of circumstances, for example where the person is in residential care.
- 14.** 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.
- 15.** 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.
- 16.** 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.
- 17** Assets which were used wholly or mainly for the purpose of a trade, profession or vocation that the person has ceased to carry on within the past 6 months if-
- (a) the person is taking reasonable steps to dispose of those assets; or
 - (b) the person ceased to be engaged in carrying out the trade, profession or vocation because of incapacity and can reasonably expect to be reengaged on recovery.
- 18.** Assets which are used wholly or mainly for the purpose of a trade, profession or vocation which the person is carrying on.
- 19.** Any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—
- (a) any payment specified in paragraphs 7, 9 or 10 of Schedule 4;
 - (b) an income-related benefit under Part 7 of the Act;
 - (c) an income-based jobseeker's allowance;
 - (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
 - (e) working tax credit and child tax credit;
 - (f) an income-related employment and support allowance
 - (g) Universal Credit
- 20.** 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.
- 21.** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 22.** 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.
- 23.—**(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.
- 24.** The value of the right to receive any income under a life interest or from a life rent.
- 25.** 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).

26.—(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.

27. Any social fund payment or payment made by an Authority under any hardship scheme.

28. Any capital which by virtue of regulation 27 or 42 (capital treated as income, treatment of student loans) is to be treated as income.

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 shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, and the London Bombings Relief Charitable Fund.

30. The value of the right to receive an occupational or personal pension.

31. The value of any funds held under a personal pension scheme.

32. 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).

33. Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 6 months beginning on the date of receipt of the payment.

34. Any payment made under Part 8A of the SSCBA (entitlement to health in pregnancy grant).

35. 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.

36. 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.

37.—(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.

38. 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.

39. Any payment to the applicant as holder of the Victoria Cross or George Cross.

40. 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 6 months from the date on which that sum was acquired.

41. Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or interment of—

(a) the applicant;

(b) the applicant's partner;

(c) the applicant's deceased spouse or deceased civil partner; or

(d) the applicant's partner's deceased spouse or deceased civil partner,

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

42.—(1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's partner 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 is to apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
- (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending—
 - (i) two years after that date; or
 - (ii) on the day before the day on which that person—
 - (aa) ceases receiving full-time education; or
 - (bb) attains the age of 20,whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is—

- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death, but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment as referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph is to apply for the period beginning on the date on which that payment is made and ending two years after that date; or
- (c) person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending—
 - (i) two years after that date; or
 - (ii) on the day before the day on which that person—
 - (aa) ceases receiving full-time education; or
 - (bb) attains the age of 20,whichever is the latest.

(5) In this paragraph, a reference to a person—

- (a) being the diagnosed person's partner;
- (b) being a member of a diagnosed person's family;
- (c) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld-Jakob disease;

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

“trust payment” means a payment under a relevant trust.

43. 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.

44.—(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.

(3) For the purposes of sub-paragraph (1) "local authority" includes in England a county council.

45. Any payment made under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments) or under sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care), or Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 (general social welfare); or section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002 (direct payments) or under sections 31 to 33 of the Care Act 2014 (direct payments).

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

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

48. Any payment made under the Age-Related Payments Regulations 2013.

49. Any payments made as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support)(Scotland) Act 2013.

50. Any payments to an applicant under section 49 of the Children and Families Act 2014 (personal budgets and direct payments).

SCHEDULE 12 – Sums Disregarded in the calculation of Income other than Earnings

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred.

2. Any amount paid by way of tax on income which is to be taken into account under paragraph 26 of Schedule 9 (calculation of income other than earnings).

3. 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 28(5) of Schedule 9 (notional income).

4. Any payment in respect of expenses arising out of the applicant's participation in a service user group.

5. 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.

6. 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.

7. 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.

8. Any disability living allowance or personal independence payment.

9. Any concessionary payment made to compensate for the non-payment of—

- (a) any payment specified in paragraph 8;
- (b) income support;
- (c) an income-based jobseeker's allowance;
- (d) an income-related employment and support allowance.

10. 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.

11. Any attendance allowance.

12. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.

13.—(1) Any payment—

(a) by way of an education maintenance allowance made pursuant to—

(i) regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc);

(ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);

(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;

(b) corresponding to such an education maintenance allowance, made pursuant to—

(i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or

(ii) regulations made under section 181 of that Act; or

(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).

14. 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.

15.—(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.

16.—(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) shall not apply to a payment which is made or due to be made by—
- (a) a former partner of the applicant, or a former partner of any member of the applicant's family; or
 - (b) the parent of a child or young person where that child or young person is a member of the applicant's family.
- 17.** Subject to paragraph 34, the total of any of the following, namely—
- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 10 or 11);
 - (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 adjusted 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 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.
- 18.** Subject to paragraph 34, £15 of any—
- (a) widowed mother's allowance paid pursuant to section 37 of the Act;
 - (b) widowed parent's allowance paid pursuant to section 39A of the Act.
- 19.**—(1) Any income derived from capital but not income derived from capital disregarded under paragraphs 2 to 5, 9, 14 and 19 of Schedule 11
- (2) Income derived from capital disregarded under paragraphs 2 to 5, 9 or 14 or 30 to 33 (as above) of Schedule 11 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 Section 1 regulation 2(1) of this scheme 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".
- 20.** 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.
- 21.**—(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 of this Schedule, an amount specified in sub-paragraph (2) in respect of each week during the student's term.
- (2) For the purposes of sub-paragraph (1), the amount shall be equal to—
- (a) the weekly amount of the payments; or
 - (b) £57.90,

whichever is less.

(3) In this paragraph and paragraph 18 a reference to a “student loan” or a “grant” is a reference to a student loan or a grant within the meaning of Part 11 of the Schedule to the Default Scheme Regulations.

22. Any payment made to the applicant by a child or young person or a non-dependant.

23.—(1) Any income in kind, except where paragraph 26(11)(b) of this scheme (provision of support under section 95 or 98 of the Immigration and Asylum Act in the calculation of income other than earnings) applies.

(2) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

24. 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.

25.—(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 the authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by the 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.

26. 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).

27. Any payment made to the applicant or his partner for a person (“the person concerned”), who is not normally a member of the applicant’s household but is temporarily in his care, by—

(a) a health authority;

(b) a local authority but excluding payments of housing benefit made in respect of the person concerned;

(c) a voluntary organisation;

(d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;

(e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or

(f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006.

28. 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).

29.—(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.

30.—(1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments—
(a) on a loan which is secured on the dwelling which the applicant occupies as his home; or
(b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.

(2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—
(a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (b); and
(b) meet any amount due by way of premiums on—
(i) that policy; or
(ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).

31. Any payment of income which by virtue of paragraph 33 of this scheme (income treated as capital) is to be treated as capital.

32. Any payment made pursuant to the authority's scheme that replaces the Social Fund as provided for under part 8 of the SSCBA.

33. Any payment under Part 10 of the SSCBA (Christmas bonus for pensioners).

34. 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 9(2) (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph 42(2)(b) and paragraph 43(1)(d) of this scheme (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 46(2) of this scheme (treatment of student loans), paragraph 47(3) of this scheme (treatment of payments from access funds) and paragraph 18 of this schedule shall in no case exceed £20 per week.

35.—(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 subparagraph (1) refers, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
 - (b) the payment is made either—
 - (i) to that person's parent or step-parent, or
 - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian, but only for a period from the date of the payment until the end of two years from that person's death.
- (5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which subparagraph (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 shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.

36. Any housing benefit.

37. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

38. 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.

39. 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.

40. Any guardian's allowance.

41.—(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.

42. 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.

43. 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.

- 44.**—(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).
- 45.** Any council tax benefit to which the applicant is entitled for any period prior to 1st April 2013.
- 46.** 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).
- 47.**—(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.
- 48.** 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.
- 49.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001.
- 50.**—(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.
- 51.** Any payment of child benefit.

Appendices

The following are to be up-rated each year with the changes in amounts to be used in the calculation of the Council Tax Support Scheme in line with the annual DWP updates.

Appendix 1

Schedule 1: Pensioners

These amounts are prescribed.

Part 3

8. Non-dependant deductions

- (1)(a) £11.45
- (b) £3.77
- (2) (a) less than £195.00.
- (b) not less than £195.00 but less than £338.00, deduction £7.58;
- (c) not less than £338.00 but less than £420.00, deduction £9.56.

Part 6

24. Calculation of income on a weekly basis

- (3)(a) £175.00
- (b) £300.00

Schedule 2: Applicable Amounts for Pensioners

These amounts are prescribed.

Part 1 – Personal Allowances

1. Personal Allowances

Column (1)	Column (2)
Person, couple or polygamous marriage	Amount
(1) Single applicant or lone parent –	(1)
(a) Aged under 65;	(a) £155.60
(b) Aged 65 or over.	(b) £168.70
(2) Couple –	(2)
(a) Both members aged under 65;	(a) £237.55
(b) One or both members aged 65 or over.	(b) £252.30
(3) If the applicant is a member of a polygamous marriage and none of the members of the marriage has attained the age of 65 –	(3)
(a) for the applicant and the other partner to the marriage;	(a) £237.55
(b) for each additional spouse who is a member of the same household as the applicant.	(b) £81.95
(4) If the applicant is a member of a polygamous marriage and one or more members of the marriage are aged of 65 or over –	(4)
(a) for the applicant and the other partner to the marriage;	(a) £252.30
(b) for each additional spouse who is a member of the same household as the applicant.	(b) £83.60

2. Child or young person amounts

Column (1)	Column (2)
Child or young person	Amount
<i>Person in respect of the period—</i>	
(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;	(a) £66.90
(b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	(b) £66.90

Part 2
3. Family premium
 £17.45

Part 4
12. Amounts of premium specified in Part 3

Provision	Amount
(1) Severe Disability Premium— (a) where the applicant satisfies the condition in paragraph 6(2)(a); (b) where the applicant satisfies the condition in paragraph 6(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 6(7); (ii) in a case where there is no-one in receipt of such an allowance.	(1) (a) £61.85; (b) (i) £61.85; (ii) £123.70.
(2) Enhanced disability premium.	(2) £24.43 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) £60.06 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied
(4) Carer Premium.	(4) £34.60 in respect of each person who satisfies the condition specified in paragraph 9.

Schedule 3: Amount of Alternative Maximum Council Tax Reduction for Pensioners
 These amounts are prescribed.

1. In column (1) of the table,
 - (b)(i) less than £193.00
 - (ii) not less than £193.00 per week but less than £250.00 per week

Appendix 2

Schedule 9: People who are not Pensioners

Part 3
8. Non-dependant deductions

- (1)(a) £11.45
- (b) £3.77
- (2) (a) less than £195.00.
- (b) not less than £195.00 but less than £338.00, deduction £7.58;
- (c) not less than £338.00 but less than £420.00, deduction £9.56.

Part 4**20. Permitted expenses**

- (2)(a) 45 pence per mile for the first 833 miles and 25 pence per mile thereafter;
 (b) 24 pence per mile
- (3)(a) £10.00
 (b) £18.00
 (c) £26.00
- (4)(a) £350.00
 (b) £500.00
 (c) £650.00

29. Calculation of income on a weekly basis

- (2)(a) £175.00
 (b) £300.00

Part 6**41. Calculation of grant income**

- (3)(a) £303.00
 (b) £390.00

46. Treatment of Student Loans

- (2)(d)(ii) £10.00
- (5)(a) £303.00
 (b) £390.00

Schedule 10: Applicable Amounts for Persons who are not Pensioners**(In relation to Schedule 9, Part 2, paragraph 4 – Personal Allowances)**



Column (1)	Column (2)
Element	Amount
Standard allowance	
single claimant under 25	£57.90
single claimant 25 or over	£73.10
joint claimants both under 25	£114.85
joint claimants where either is 25 or over	£114.85
Child element	
first child or qualifying young person	£66.90
second and each subsequent child or qualifying young person	£66.90
Additional amount for disabled child or qualifying young person:	
lower level	£60.06
higher level	£84.49
LCW and LCWRA Elements	
limited capability for work (includes Support component and Disability premium)	£36.20
limited capability for work and work related activity (includes Work Related Activity component)	£29.05
Carer Element	£34.60
Child care costs disregard	Amount variable
maximum amount for one child	£175.00
maximum amount two or more children	£300.00

Appendix 3

(In relation to Schedule 9, Part 2, paragraph 6 – Applicable amount for Persons who have an award of Universal Credit)

Column (1)	Column (2)
Element	Amount (monthly)
Standard allowance	
single claimant under 25	£251.77
single claimant 25 or over	£317.82
joint claimants both under 25	£395.20
joint claimants where either is 25 or over	£498.89
Child element	
first child or qualifying young person	£277.08
second and each subsequent child or qualifying young person	£231.67
Additional amount for disabled child or qualifying young person:	
lower level	£126.11
higher level	£367.92
LCW and LCWRA Elements	
limited capability for work	£126.11
limited capability for work and work related activity	£315.60
Carer Element	£150.39

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Report To:	COUNCIL
Date:	21 January 2016
Executive Reporting Officer:	Member/ Councillor Gwynne – Executive Member (Clean and Green) Ian Saxon – Assistant Executive Director (Environmental Services)
Subject:	REVIEW OF LICENSING POLICIES (a) LICENSING ACT 2003 POLICY (b) GAMBLING POLICY (c) SEX ESTABLISHMENT LICENSING POLICY
Report Summary:	Licensing Authorities are obliged to review and revise their licensing policies on a regular basis. Regular reviews ensure that policies are kept up-to-date with any changes to legislation and that policies accurately reflect the aims, ambitions and working practices currently employed by the Authority.
Recommendations:	To consider and adopt the proposed licensing policies as set out at Appendices 1 (licensing policy); 2 (gambling policy) and 4 (sex establishment licensing policy).
Links To Community Strategy:	The licensing of licensed premises, gambling premises, bookmakers and sexual entertainment venues contributes towards the Community Strategy theme of providing a safe environment
Policy Implications:	The draft policies would replace the existing statement of licensing policy and gambling policy statement of principles and would introduce a new policy for the licensing of sexual entertainment venues.
Financial Implications: (Authorised By The Section 151 Officer)	There are no direct financial implications resulting from the proposed adoption of the new Licensing Policies outlined in the report and attached appendices.
Legal Implications: (Authorised By The Borough Solicitor)	The Adopted Policies will be material considerations when the Council is considering applications and reviewing licenses under these statutory codes. Any amendments to the Cumulative Impact Policy will need to be the subject of a separate report as a special policy under Part 13 of the Statutory Guidance.
Risk Management:	Failure to adopt a licensing policy would leave the Authority vulnerable to challenge and would prohibit the Licensing committee making any decisions. The Authority would also have failed to comply with the duty imposed on it by Section 5 of the Licensing Act 2003.
Access To Information:	The author of the report is Ian Saxon, Assistant Executive Director  Telephone - 0161 342 3647  E-mail ian.saxon@tameside.gov.uk

1. INTRODUCTION

- 1.1 Licensing Authorities are obliged to review and revise their licensing policies on a regular basis. Regular reviews ensure that policies are kept up-to-date with any changes to legislation and that policies accurately reflect the aims, ambitions and working practices currently employed by the Authority.
- 1.2 The Licensing Act 2003 requires Licensing Authorities to publish a revised “Statement of Licensing Policy” at least every five years. The Gambling Act 2005 requires Licensing Authorities to publish a revised “Statement of Gambling Policy” at least every three years.
- 1.3 In addition, Tameside Council recently adopted an amendment to the Local Government (Miscellaneous Provisions) Act 1982, which had been introduced under Section 27 of the Policing and Crime Act 2009. This amendment allows the Council to regulate and licence sex establishments – specifically sex shops, sex cinemas and sex entertainment venues. Following adoption of this amendment, it is recommended best practice for Licensing Authorities to adopt a policy in respect of the licensing of Sexual Entertainment Venues.
- 1.4 Consultations on the draft policies began on Thursday 10 September 2015 and ended on Friday 4 December 2015.

2. STATEMENT OF LICENSING POLICY – LICENSING ACT 2003

- 2.1 The Licensing Act 2003 is the primary legislation whereby Licensing Authorities issue licences to, and regulate licensed premises which are used for the sale or supply of alcohol, to provide regulated entertainment, or to provide late night refreshment.
- 2.2 When it was first enacted, the Licensing Act required Licensing Authorities to publish a “Statement of Licensing Policy” every three years. The statement must outline the Authority’s policy in respect of the grant of premises licences, how the Licensing Authority will promote the four licensing objectives, and on the Authority’s expectations of licence holders in promoting the licensing objectives:
 - *The prevention of crime and disorder;*
 - *Public safety;*
 - *The prevention of public nuisance and;*
 - *The protection of Children from harm.*
- 2.3 Tameside Council’s statement of licensing policy was last revised in February 2011, which, under the three year rule, would have required the Council to publish a revised statement no later than February 2014. The introduction of the Police Reform and Social Responsibility Act 2011, however, extended the maximum “shelf life” of statements of licensing policy from 3 years to 5 years.
- 2.4 The existing statement of licensing policy will therefore expire on 22 February 2016, and the intention is for a new policy to be agreed and adopted by the full Council to meet that requirement.
- 2.5 The draft new statement of licensing policy is attached at **Appendix 1**.
- 2.6 The revised policy reflects recent changes to legislation and changes to working practices within the licensing service. It also includes an innovative approach to promoting public health, which, although not currently included as a licensing objective, has been included within the policy to address some of the serious alcohol-related health problems which exist within Tameside. In addition, the draft policy outlines the Council’s expectations in relation to a number of emerging issues such as child sexual exploitation and legal highs.

2.7 A full public consultation took place for a period of 12 weeks between 10 September 2015 and 4 December 2015. In addition, as per the requirements of the Licensing Act, all responsible authorities were supplied with a copy of the draft policy and asked for their comments, and all holders of premises licences and designated premises supervisors in the Tameside area were written to and directed to the draft policy and online consultation.

Consultation Responses

2.8 Three responses were received from members of the public and three from responsible authorities.

Public Responses

2.9 One respondent wrote to state that they were unhappy with the proposed cumulative impact policy. It is important to note that the cumulative impact policy has, for the purposes of this draft new policy, been copied directly across from the existing policy without any amendments. There is an intention to separately consult on a new cumulative impact policy in 2016 and this respondent’s comments will be considered as part of that further review. The other two public respondents made general comments about the potential for earlier closing hours in Stalybridge and the fact that the Council has not adopted the late night levy. These responses are set out below:

Public Representation1 – received 10/9/2015 12:07 PM
The Cumulative Impact Policy (CIP) should be removed from the Licensing Policy. While I can appreciate the reasoning behind its initial implementation, it is clear that both Stalybridge and Ashton town centres are no longer the ‘hedonistic capitals’ of yesterday. If I focus specifically on Stalybridge; a walk down Market Street and Melbourne Street will highlight the desperate need for investment to rejuvenate this area. My own personal plan to take on a high street shop and transform it into a Micro Pub and bottle shop, focusing on real ale and supporting the area’s many Micro Breweries, has now been put on hold in view of the Council’s restrictive policy for this area. After much personal and financial sacrifice I now have to have a serious rethink about the best location for my project. I am saddened that this will not be in my own home town. I must note that the CIP is not very obvious for anyone thinking of applying for a premises licence. Despite having gone through the process of gaining a personal licence and preparing the documentation for premises, I was unaware of the CIP. Even after being told of its presence, it still took me some time to find on the licensing website
Public Representation 2 – received 10/2/2015 12:50 PM
There is not much to shut down in Stalybridge and implementing this report with finish the rest of the pubs and bars in Stalybridge due to costs. the best solution would be to stop selling alcohol before 12 o clock mid-day and after 12 o clock midnight also this should apply to shops, supermarkets and off licences
Public Representation 3 - received 9/23/2015 5:15 PM
pleased that the late night levy is not being enforced and common sense has prevailed

Responsible Authority Responses

2.10 Greater Manchester Police responded to the consultation with a request that the Licensing Authority considers including a section covering alcohol home delivery services. As a result, four new paragraphs have been included in the draft statement of licensing policy from 1.30 to 1.33, covering alcohol home delivery services.

Greater Manchester Fire & Rescue Service responded with a short email supporting the contents of the draft policy.

Tameside Public Health responded with a letter fully supporting the draft policy – in particular the provisions of the new policy relating to public health and the Authorities

expectations of licence holders in promoting public health across the borough. These responses are set out below.

Greater Manchester Police
In response to your consultation for TMBC Licensing Policy 2016, please can you give consideration to applications for online delivery services in Tameside.
Greater Manchester Fire & Rescue Service
Just a quick email to confirm that I endorse the guidance in paragraphs 3.1 to 3.5 (Public Safety).
Public Health
<p>I am writing as the strategic lead for Alcohol within the Public Health team at Tameside Council, in response to the Tameside Council consultation on the proposed Statement of Licensing Policy.</p> <p>I would like to start by thanking yourself and your team for proactively involving the Public Health Team in the Licensing process over the past 18 months. It has become evident to me that this is not the case in all areas, and that we are something of a leader in this regard.</p> <p>I feel that the new proposed policy builds upon this solid platform and sets Tameside Council apart from many other areas of Greater Manchester and England.</p> <p>As you are aware, the scale of Alcohol-related harm in Tameside is considerable and has a direct impact upon the low Healthy life Expectancy experienced by local residents, and upon the local environment and economy. The harm experienced in Tameside, especially amongst our most vulnerable groups is disproportionately high and inter-generational in nature.</p> <p>There is clear and unequivocal evidence that a robust and wide-ranging approach to the licencing of alcohol is one feature of a comprehensive strategy to reduce harm.</p> <p>I welcome the strong health focus within the Policy and the suggested health-related approaches to supporting the Licensing process. The continued involvement of Public Health as a responsible body, playing an active and purposeful role, is welcomed.</p> <p>I also welcome the clear partnership ethos that underpins the policy, as this is a challenge that we will only address through collaboration.</p> <p>Clearly, there is much work to be done and this Policy provides a start. However, as an area we should endeavour to do more and I continue to advocate the findings of the Health First report (http://www.cph.org.uk/wp-content/uploads/2013/03/Health-First-An-evidence-based-alcohol-strategy-for-the-UK-1.pdf), and the evidence base surrounding the need for a Minimum Unit Process for Alcohol and the formalisation of Health as a 5th Licensing Objective. It is through these further steps that we might truly make a difference.</p>

3. STATEMENT OF GAMBLING POLICY – GAMBLING ACT 2005

- 3.1 The Gambling Act 2005 is the primary legislation whereby Licensing Authorities issue licences to, and regulate licensed premises which are used for gambling activities, such as bookmakers, bingo premises, adult gaming centres etc.
- 3.2 The Gambling Act requires Licensing Authorities to publish a “Statement of Gambling Policy” every three years. The statement must outline the Authority’s policy in respect of the grant of licences, how the Licensing Authority will promote the three gambling licensing

objectives, and on the Authority's expectations of licence holders in promoting the licensing objectives:

- *Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;*
- *Ensuring that gambling is conducted in a fair and open way, and;*
- *Protecting children and other vulnerable persons from being harmed or exploited by gambling.*

3.3 The existing Statement of Gambling Policy will expire in February 2016 and the intention is for a new policy to be agreed and adopted by the full Council before that date on 21 January 2016.

3.4 The draft new statement of gambling policy is attached at **Appendix 2**.

3.5 As with the Licensing Policy, a full public consultation took place for a period of 12 weeks between 10 September 2015 and 4 December 2015.

Consultation Responses

3.6 No responses were received from members of the public and two responses were received from the gambling trade.

3.7 Coral Bingo responded with a letter which was broadly supportive of the draft statement of gambling policy. They expressed some concern about the considerations listed in the policy relating to the location of gambling premises, but acknowledged that the licensing Panel has flexibility when making licensing decisions.

3.8 Goschalks Solicitors submitted a response on behalf of the Association of British Bookmakers. This response is much more detailed and contains some suggested amendments in its final paragraphs. The first four pages of the response give a general outline of gambling policy nationally, but the section entitled "Specific Policy Comments" gives some suggested amendments to the policy which is detailed below:

3.9 Goschalks raise an issue with paragraph 8.14 in which they suggest that the draft policy is indicating that a policy may be introduced to designate areas within the borough where gambling premises would not be allowed. They have asked for this section of the policy to be removed.

3.10 Their observations about this section, however, do not take into account the fact that the draft policy very clearly states that such a limitation policy does not currently exist in the borough and would require a re-write (and further consultation) of the statement of Gambling Policy. It also states clearly that every application will always be determined on its own merits.

3.11 The second suggested amendment by Goschalks is a request for further information to be added within paragraphs 8.27 to 8.34 in relation to the imposition of licence conditions. Their suggested amendments, however, is simply a reproduction of the requirements of the Gambling Act 2005, and there would not be any need to include the direct requirements of the Gambling Act (which is primary legislation and must be adhered to), within the contents of a local authority gambling policy.

3.12 Goschalks' third suggested amendment is a request to redraft the contents of paragraph 25.3, which is a list of matters which the Council would expect operators to take into account when making a risk assessment. Goschalks suggest that two specific matters – "gaming trends that reflect benefit payments" and "street drinking, youths participating in anti-social (behaviour) and drug dealing activities" – should be taken out of the list, because, in their opinion, these matters "*can have no bearings on the licensing objectives*".

- 3.13 The three licensing objectives contained in the licensing Act are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by Gambling

It is clear that the link between gambling and benefit payments has a strong bearing on the licensing objective of *Protecting children and other vulnerable persons from being harmed or exploited by gambling*, and as such, there is a strong argument that operators should, in fact, include this consideration when drafting a risk assessment.

In addition, street drinking, anti-social behaviour and drug dealing are also activities which are covered within the first licensing objective, so there is also a strong argument that these are definitely things which a good operator should take into account when drafting a risk assessment.

- 3.14 Goschalks' final request relates to paragraph 25.5 of the draft policy which states that matters of faith may be considered by operators when drafting a risk assessment.
- 3.15 It is suggested by Goschalks that this paragraph should be removed because "*moral or ethical objections to gambling are not a valid reason to reject applications for premises licences*".
- 3.16 In fact, there is no suggestion within that section of the draft policy that the Authority will reject applications on moral or ethical grounds. The section refers specifically to the requirement for operators to draft risk assessments – not to the application or grant processes – and is merely a suggestion for other matters which may be taken into account *by the operator – NOT by the Local Authority*.
- 3.17 However, to ensure that the policy is as clear and unambiguous as possible, paragraph 25.5 has been removed from the draft policy, and paragraph 25.4 has been amended to allow operators the opportunity to consider the proximity of churches, mosques etc., but only on a practical – rather than a faith – basis,
- 3.18 The full trade responses to the consultation are attached at **Appendix 3**.

4. SEX ESTABLISHMENT LICENSING POLICY

- 4.1 On 22 July 2014, Tameside Council adopted an amendment to the Local Government (Miscellaneous Provisions) Act 1982, which had been introduced under Section 27 of the Policing and Crime Act 2009. This amendment allows the Council to regulate and licence sex establishments – specifically sex shops, sex cinemas and sex entertainment venues.
- 4.2 Following the adoption of this amendment, it is recommended best practice for the Council to introduce a policy, which gives detailed guidance on how it will consider and determine applications for sex establishment licences and the process for making an application.
- 4.3 It is important to note that Tameside does not currently have any premises, which fall into the categories covered by this policy. However, without the introduction of a policy, such premises could, in theory, open and operate within Tameside without making any application to the Council, so it is important that the Council adopts a policy which balances the conflicting needs of commercial interests, patrons, employees, residents and communities.
- 4.4 The draft Sex Establishment Licensing Policy is attached at **Appendix 4**.

4.5 A full public consultation took place for a period of 12 weeks between 10 September 2015 and 4 December 2015.

4.6 **Consultation Responses**

No responses were submitted in relation to the consultation.

5. EQUALITY IMPACT

5.1 A full equality impact assessment has been carried out in respect of all three draft policies. The assessment is attached at **Appendix 5**.

6. RECOMMENDATION

6.1 As set out at the front of the report.

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**TAMESIDE
METROPOLITAN
BOROUGH COUNCIL**

**Statement of Licensing Policy 2016
- 2021**

Cllr Allison Gwynne, Clean & Green (Waste Environment & Engineering)



This is the Council's fourth statement of licensing policy and covers the period from February 2016 to February 2021. It provides an opportunity to develop the Council's approach to administering the Licensing Act 2003, taking into account other related policies and strategies.

The policy reflects the increasingly innovative approach taken by Tameside Council in addressing issues related to licensable activities and in particular the sale, supply and consumption of alcohol.

The council recognises that Tameside is nationally ranked very highly as an area which suffers from alcohol related harm, especially health-related harms and crime & disorder. This policy reflects the work already being carried out by the council in building partnerships with other agencies and working collectively to tackle alcohol-related harms.

It also demonstrates that the council is willing to work creatively and innovatively by making full use of all available powers and legislation in its approach to administering licences and licensed premises within the borough.

In addition, the policy is also designed to encourage operators and licence holders to remain compliant and to run businesses which make a positive contribution to the local area and towards improving the lives of Tameside residents.

This statement of licensing policy not only outlines how the Licensing Authority will act to promote the four current licensing objectives, but it also demonstrates how it will promote the protection and improvement of public health across the borough, as well as supporting Tameside Council's vision:

To maximise the wellbeing of the people of the borough by:

- Supporting economic growth and opportunity
- Increasing self-sufficiency and resilience of individuals and families
- Protecting the most vulnerable.

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Background to this Statement of Licensing Policy

- 1.1 Section 5 of the Licensing Act 2003 requires each licensing authority to publish a statement of its licensing policy at least every five years. The previous statement of licensing policy was approved by Tameside Council on 22 February 2011. This statement is a completely new policy designed to reflect the significant changes which have taken place in the last five years in respect of the Licensing Act 2003 and the way in which Tameside Council undertakes its licensing functions. It is also designed to set out the council's ambitions, strategies and policies relating to licensing for the next five years.
- 1.2 The previous statement of licensing policy set out the procedures in which the council would consider applications for licences. This new statement of licensing policy also covers applications for licences, but in addition, sets out the council's requirements and expectations for existing licence holders and licensed businesses and the actions it expects such businesses to take in order to promote the licensing objectives. It also sets out the council's approaches to ensuring such businesses remain compliant with their licences and the action it will take – in partnership with other organisations and responsible authorities – when licensing and other legislation is breached.
- 1.3 The policy also recognises that public health – and the effect of alcohol consumption on public health – is of serious concern and that Tameside is ranked very highly, both regionally and nationally, in terms of alcohol-related health harms. Although public health is not currently a licensing objective, the policy recognises the recent introduction of public health bodies as a responsible authority, and outlines the positive steps it expects the holders of premises licences to undertake in order to promote public health.

1.4 Licensable Activities

For the purpose of the 2003 Act, and therefore for the purposes of this statement of licensing policy, the following are licensable activities:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- The provision of regulated entertainment; and
- The provision of late night refreshment.

1.5 Authorisations or permissions

The 2003 Act provides for four different types of authorisation or permission, to which this statement of licensing policy also relates, as follows:

- Premises licence – to use premises for licensable activities;
- Club premises certificate – to allow a qualifying club to engage in qualifying club activities as set out in section 1 of the Act;
- Temporary event notice – to carry out licensable activities at a temporary event; and

- Personal licence – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

1.6 In addition, two further permissions are to be introduced following the commencement of the licensing provisions of the Deregulation Act 2014. These two new permissions are:

- Community event notice; and
- Ancillary business sales notice

Once these new provisions have been enacted, this policy will relate to these notices in the same way it relates to all current licences and notices.

1.7 **Licensing Objectives**

In exercising its functions, the licensing authority will have regard to the licensing objectives as set out in section 4 of the Act, and will carry out its functions under the Act with a view to promoting these objectives. The licensing objectives are:

The prevention of crime and disorder

Public safety

The prevention of public nuisance

The protection of children from harm

1.8 In addition to these four existing licensing objectives, the licensing authority also expects holders of premises licences or other permissions which allow the sale or supply of alcohol for consumption on or off the premises to carry out their activities with a view to promoting:

The Protection and Improvement of Public Health

1.9 **Home Office Guidance**

The statement of licensing policy takes into account guidelines issued under section 182 of the Licensing Act 2003.

1.10 **Corporate Objectives**

The statement of licensing policy is designed to support Tameside Council's vision, as described in the corporate plan:

To maximise the wellbeing of the people of the borough by:

- *Supporting economic growth and opportunity*
- *Increasing self-sufficiency and resilience of individuals and families*

- ***Protecting the most vulnerable.***

1.11 Functions within the Council

The Council has a number of different functions under the Act, including acting as both the Licensing Authority and as a number of different responsible bodies. For this reason, the Licensing Policy refers to the Council as the Licensing Authority and individual responsible bodies by their departmental names, notwithstanding they are also part of the same Council.

1.12 A summary of the scheme of delegation is attached at **Appendix 1** on page 28.

1.13 Limitations of the Statement of Licensing Policy

This statement of policy does not undermine the right of any person to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its individual merits.

1.14 In addition, the statement of policy does not override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act.

1.15 The council is clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from a licensed premise and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town centres.

1.16 Conditions

The council accepts that licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act; and conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.

1.17 Planning etc.

Planning permission, building control approval and licensing regimes are properly separated to avoid duplication and inefficiency. Planning and licensing regimes involve consideration of different (albeit related) matters. The council's Speaker's panel (Liquor Licensing) is not bound by decisions made by the Speaker's panel (Planning), and vice versa.

1.18 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant or licence holder must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. The council's planning function is, however, a responsible authority under the Licensing Act and by working in partnership with officers from the Licensing Department, the council will aim to ensure that the planning and licensing regimes avoid any possible conflict between the two regulatory regimes.

1.19 **Promotion of Equality**

It is recognised that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics.

1.20 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

1.21 In order to ensure compliance with this legislation, an equality impact assessment will be conducted.

1.22 **Partnership Working**

The Council is keen to work closely with existing partner agencies and to build working relationships with new partners with a view to promoting the licensing objectives.

1.23 Regular meetings are held with partners to ensure that any problem premises or other emerging issues are identified early and to enable strategies to be implemented quickly to prevent issues from developing.

1.24 **Enforcement & Compliance**

The Council is working closely with all 9 other Greater Manchester authorities to develop a joint enforcement and compliance guide. This guide will outline all available enforcement and compliance options available to local authorities and will ensure a consistent approach to these issues across Greater Manchester.

1.25 As such, this statement of licensing policy does not outline in detail the council's approach to enforcement and compliance issues. When the joint guide is complete, it will be included as an appendix to this policy.

1.26 **Late Night Levy / Early Morning Restriction Orders**

In April 2012, the Licensing Act 2003 was amended by the Police reform and Social Responsibility Act 2011. There were a number of changes included in the amendments, including the opportunity for Local Authorities to introduce Early Morning Restriction Orders (EMROs) and a Late Night Levy.

1.27 Both of these options were considered by the council and although it was felt that an EMROs were not currently suitable for Tameside, the Council took the decision to consult on the question of introducing a Late Night Levy.

1.28 The Levy is a financial contribution towards policing the night-time economy from those alcohol licensed premises which are licensed until the early hours of the morning. The amount paid depends on the rateable value of the premise. Those paying the lowest level of business rates would pay £299 per year, whereas the largest businesses would pay around £1500 per year.

1.29 Following a full public consultation, the question as to whether the Council should introduce a levy was put to the full Council on 16 September 2014. The decision of the Council was that it would not introduce a Late Night Levy in Tameside at that time, but the Council did resolve that:

“The Council would introduce a late night levy if the legislation allowed us to confine it to town centres rather than having to have a blanket policy across the whole borough”

1.30 **Alcohol Delivery Services**

There are considerable risks associated with the provision of “to the door” alcohol delivery services and these types of businesses are particularly difficult to regulate.

- 1.31 The Licensing Authority recognises that alcohol can be delivered safely and appropriately to households as part of a wider grocery delivery or similar service. Equally, however, the Authority also recognises that businesses which operate solely with the intention of delivering alcohol to home addresses, often at unsocial hours or at times when other alcohol retail outlets are closed, bring with them a significant risk of undermining the licensing objectives.
- 1.32 As such, any applications for premises licences which would allow the home delivery of alcohol will be scrutinised very closely by the licensing authority and must contain sufficient measures within the operating schedule to satisfy the authority that the business will operate fully within the conditions of their licence, and in a way which promotes the licensing objectives.
- 1.33 In particular, the policy of the council will be to refuse any applications for “alcohol only” delivery services (and services whereby a limited supply of other goods is available alongside alcohol). Such businesses are extremely difficult to regulate and the authority takes the view that – unless the applicant can demonstrate to a very high degree that their business will actively promote the licensing objectives – the general policy will be to refuse such applications.

Prevention of Crime & Disorder

2.1 Introduction & Partnership Working

The licensing authority looks to the police as the main source of advice on crime and disorder, but where appropriate, we will also seek to involve the local Community Safety Partnership (CSP). Tameside Licensing Department has built close links with Greater Manchester Police and other partner organisations such as HMRC and the Home Office Immigration Authority. We will continue to build on these existing partnerships, and to forge new partnerships in order to ensure that all available compliance and enforcement powers are used where appropriate, and to ensure that all relevant information from partner organisations and responsible authorities are taken into account when making licensing decisions.

2.2 The Security Industry Authority

In the exercise of its functions, the licensing authority seeks to co-operate with the Security Industry Authority (“SIA”) as far as possible and will consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

2.3 Conditions

Conditions will be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that crime or disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

2.4 When addressing crime and disorder, an applicant for a premise licence should initially identify any particular issues (having regard to their particular type of premises and/or activities), which are likely to adversely affect the promotion of the crime and disorder objective. Such steps, as are required to deal with these identified issues, should be included within the applicant’s Operating Schedule, and will be translated into appropriate, enforceable conditions by the licensing officer.

2.5 A comprehensive list of potential conditions is attached at **Appendix 2**.

2.6 CCTV

In partnership with Greater Manchester Police, Tameside Council has developed a comprehensive and detailed CCTV condition which will ensure, where appropriate, that any CCTV system installed at a licensed premise will provide sufficient coverage and provide

images of a suitable quality. The condition also ensures that footage is stored for an appropriate time period, that the CCTV system is regularly tested and that footage can be provided – immediately if necessary – to police and other responsible authorities on request. This CCTV condition can be viewed at **Appendix 2** on page 30.

2.7 Although it is not the policy of the Council to impose blanket conditions on all licensed premises, the benefits of good CCTV systems in licensed premises are clear and such systems have proved invaluable in both preventing crime and disorder, and in helping to detect crimes, ranging from minor shoplifting through to murder. All applicants for new premises licences to allow the sale or supply of alcohol by retail for consumption on or off the premises are therefore encouraged to consider installing a CCTV system and where appropriate, such applicants will be encouraged to add the Council's CCTV condition to their licence.

2.8 In addition, where incidents of crime and/or disorder have occurred at licensed premises, the Licensing Department, together with Greater Manchester Police and other partners, may request a premises licence holder to amend their premises licence by way of a minor variation to add the CCTV condition if it is felt it is appropriate. The use of minor variation as an alternative to a review of a premises licence will be offered in some circumstances where officers from responsible authorities have sufficient evidence to apply for a review of the premises licence, but the premises licence holder is willing to negotiate an appropriate outcome such as the addition of conditions to the licence, reduction of licensed hours etc.

2.9 **Door Supervision**

Conditions relating to the provision of door supervisors and security teams are valuable in town centre locations and premises operating after 9.00pm in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out excluded individuals (subject to court bans or imposed by the licence holder or local Pubwatch scheme);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside of venues prone to such queuing.

2.10 Where door supervisors conducting security activities are to be a condition of a licence, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety.

2.11 **Glass Control**

Glass can be a major factor in disturbances around licensed premises and the Council may impose special conditions on certain types of venue in relation to glass control both within the premises, at disposal points and through unauthorised removal of glass from the premises.

2.12 In particular, the Authority may consider it appropriate to ensure licensed premises have regular glass collection services in certain types of venue and keep control of waste bottles & glasses.

2.13 It should be noted that the use of plastic, polycarbonate or paper drinks containers and toughened glass may also be relevant as measures appropriate to promote the reduction of crime and disorder and public safety.

2.14 **Pubwatch**

Tameside Council recognises that voluntary schemes can be an effective alternative method of reducing crime and disorder and improving the collective licensed trade within particular localities.

2.15 Pubwatch schemes have been introduced in several Tameside towns and they continue to grow in popularity and attendance. The licensed trade in Droylsden in particular have developed an extremely well-attended and effective Pubwatch scheme which has helped to dramatically reduce crime and disorder, helped to effectively tackle organised crime groups and drug dealing and generally improve the image of the licensed trade within Droylsden.

2.16 The Council will continue to actively encourage holders of premises licences and designated premises supervisors to attend their local Pubwatch groups, and to set up such groups where they do not currently exist. Members are encouraged to take a “barred from one, barred from all” approach in dealing with disruptive customers. Pubwatch members will also be encouraged to subscribe to the Pubwatch online service which allows members to share photographs and information about barred members whilst remaining compliant with data protection legislation.

2.17 **Drugs**

All Licensed premises within Tameside are expected to adopt a “zero tolerance” policy in respect of the sale, supply and use of illegal drugs. Operators of premises which are licensed to sell or supply alcohol for consumption on the premise are expected to be aware of any drug activity which may be taking place within their premises and to take appropriate action to stop such activity, and prevent it from taking place.

2.18 Steps which licensees are expected to take include regular checks of the toilet areas, monitoring of suspicious behaviour and the display signage which makes clear that drug use will not be tolerated within the premises.

2.19 Operators of premises which are licensed to sell or supply alcohol for consumption off the premises must also adopt a zero tolerance approach towards the sale, supply and use of illegal drugs. In particular, the Council does not expect any licensed premises to sell, supply or advertise any drug-related paraphernalia such as bong pipes, grinders and small plastic “snap” bags commonly used for the supply of drugs.

2.20 Premises licence holders, designated premises supervisors and any other staff employed at licensed premises within Tameside are expected to report any instances of drug supply or use within or in the vicinity of their premise to the police or the local authority as soon as practicable.

2.21 **New Psychoactive Substances (Legal Highs)**

Section 10.25 of the guidance issued under s182 of the Licensing Act 2003 states:

New psychoactive substances (NPS) mimic the effects of illegal drugs (like cocaine, cannabis and ecstasy) while being designed to evade controls. The sale of new psychoactive substances (NPS) – so called “legal highs” – is not regulated under the 2003 Act. However, licensing authorities may wish to consider whether conditions are appropriate to prevent the sale of such products alongside the sale of alcohol at a licensed premises, including at off-licences, or, for example, for on-trade premises to impose a door policy. Some NPS products may contain controlled drugs, and therefore be illegal, in which case the licensing authority should involve the police and consider applying for a review of the premises licence on crime and disorder grounds. But some NPS are not illegal. There is evidence that such NPS products can cause harms, particularly if taken in combination with alcohol.

2.22 Although the Government is in the process of developing new legislation to ban all new psychoactive substances, the Council’s policy is that no licensed premises will be allowed to sell, supply, advertise or keep as stock any type of “new psychoactive substances” (NPS) commonly known as “legal highs”. This includes any substance which mimics the effects of illegal drugs, irrespective of whether the substance is labelled as “not for human consumption” and also includes nitrous oxide in any form.

2.23 In addition, any other substance, item or other thing which may, from time-to-time be identified as having an intoxicating effect by the police or local authority must not be sold, supplied, advertised or kept in stock at any licensed premise. Where appropriate, conditions in respect of NPS will be attached to premises licences.

2.24 **Supply of Illegal, Illicit, Smuggled or Counterfeit Alcohol**

The supply of illegal, illicit, smuggled and counterfeit alcohol puts the public at risk of serious harm and is linked to serious and organised criminal gangs. The Council expects the holders of premises licences which permit the sale and supply of alcohol by retail to have strong policies and procedures in place to prevent such activity.

2.25 In particular, premises licence holders, designated premises supervisors and anyone else employed at licensed premises must ensure that alcohol sold or supplied to the public has only been obtained from legitimate sources.

2.26 As a minimum, the council expects such stock to only be purchased from legitimate and recognised suppliers, and for premises to keep a record of where they have obtained the stock and to retain all receipts for such stock and produce them for inspection by any responsible authority on request.

2.27 Stock must not be purchased from any unidentified individuals travelling from premise-to-premise selling alcohol from a vehicle.

2.28 Where appropriate, conditions in respect of such activity will be attached to premises licences.

2.29 **Employment of illegal immigrants**

The Council expects holders of premises licences, designated premises supervisors and anyone else associated with the management of licensed premises to have sufficient policies and procedures in place to ensure that no person who is unlawfully in the UK, or

who cannot lawfully be employed as a result of a condition on their leave to enter, is employed at a licensed premise.

Public Safety

3.1 Fire Safety

Fire precautions and means of escape from licensed premises are particularly important. Large numbers of people, some of whom may be under the influence of alcohol, must be safely contained, managed and, if necessary, evacuated from premises. The attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform Fire Safety Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks.

3.2 Consideration should be given to conditions which deal with Living accommodation attached to or accessed via Licensed Premises, such as:

- ensuring that sufficient fire safety arrangements are in place to detect and warn occupants and all other relevant persons
- ensuring adequate fire separation and means of escape is provided between the mixed use premises.

3.3 Risk Assessments

When addressing public safety, an applicant or licence holder should initially identify any particular issues (having regard to their particular type of premises and/or activities), which are likely to adversely affect the promotion of the public safety objective. Such steps as are required to deal with these identified issues should be included within the applicant's Operating Schedule.

3.4 It is also recognised that special issues may arise in connection with outdoor and large scale events. Risk assessment must be used to assess whether any measures are necessary in the individual circumstances of any premises.

3.5 Disability

Consideration should be given to conditions that ensure that:

- when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- disabled people on the premises are made aware of those arrangements.

3.6 Special Effects

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff. Special effects which should be considered include:

- dry ice machines and cryogenic fog;

- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flames;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products), and;
- explosives and highly flammable substances.

3.7 It may be appropriate to require that certain special effects are only used with the prior notification of the licensing authority or the fire authority.

3.8 **Transport**

Consideration should be given to conditions that deal with:

- the adequacy of transportation arrangements to ensure customers are able to travel safely to and from the premises (including procedures for preventing people from consuming excess alcohol and driving);
- ensuring that any arrangements or advertising of taxis and private hire vehicles only relate to such vehicles licensed by the Authority;

3.9 **Hypnotism**

If an applicant or licence holder wishes to host any performance of stage hypnotism at any time this should be detailed in the Operating Schedule. In the event of any performance of stage hypnotism the council will normally require written request for consent in accordance with section 1 of the Hypnotism Act 1952. Where consent is given for this type of entertainment the council will impose specific licence conditions.

The Prevention of Public Nuisance

4.1 Introduction

The Licensing Act 2003 covers a wide variety of premises which require licences, including cinemas, concert halls, theatres, nightclubs, public houses, cafes, restaurants, fast food outlets and takeaways. Each of these premises presents a mixture of risks, with many common to most premises and others unique to specific operations. It is important that premises are constructed or adapted and maintained so as to acknowledge and safeguard occupants and neighbours against these risks as far as is practicable.

4.2 When addressing public nuisance an applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities), which are likely to adversely affect the promotion of the public nuisance objective. Such steps as are required to deal with these identified issues should be included within the applicant's Operating Schedule.

4.3 If relevant representations are received, the Authority may impose conditions to prevent nuisance, noise, disturbance, light pollution, noxious smells, vermin and pest infestations and accumulations of rubbish and litter.

4.4 A comprehensive list of potential conditions is attached at **Appendix 2**

4.5 The following options should be considered as measures which, if appropriate, would promote the prevention of public nuisance.

4.6 Noise or vibration should not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises.

4.7 Prominent, clear and legible notices should be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

4.8 The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted (particularly ensuring that firework parties are not managed by persons consuming alcohol), that adequate safety precautions are in place, that fireworks are not set off between 2300hrs and 0700hrs (except on 31st December/1st January).

4.9 Conditions may include restrictions on the times when music or other licensable activities may take place and may include technical restrictions on sound levels at the premises.

4.10 The council is particularly keen to encourage responsible business owners to deal with waste and litter effectively and responsibly. In particular, it expects that the responsible person ensures that the areas outside of premises are kept clean, tidy and free from litter and the premise provides sufficient litter/cigarette bins.

4.11 In addition, holders of premises licences and club premise certificates are expected to fully comply with all legal requirements in relation to the disposal of their trade waste and to ensure they have an appropriate trade waste contract with an approved disposal company.

Protection of Children from Harm

5.1 Introduction

The protection of children from harm is a key licensing objective and one which Tameside Council seeks to promote rigorously. Holders of premises licences, club premises certificates and other permissions under the licensing act are expected to ensure that their activities are always carried out with the intention of protecting children from harm.

5.2 The council particularly expects licensed businesses to work actively to prevent:

- Child sexual exploitation;
- The sale or supply of alcohol to persons under the age of 18;
- The sale or supply of alcohol to adults seeking to purchase on behalf of persons under the age of 18;
- The sale or supply of any other age restricted products to underage persons;
- Access by children to gambling activities;
- Access by children to any entertainment of a sexual nature.

5.3 Child Sexual Exploitation

Child sexual exploitation involves children being groomed and then sexually abused. Tameside Council recognises that child sexual exploitation is a major child protection issue both locally and across the UK.

5.4 The council takes a strict “zero tolerance” approach in respect of child sexual exploitation and expects licensed businesses to do the same. Applicants for premises licences and other permissions are expected to make reference to child sexual exploitation in their operating schedules and to adopt licence conditions protect children from abuse and grooming.

5.5 Measures designed to prevent underage sales and other harmful activities will have the secondary effect of preventing child sexual exploitation by reducing or removing opportunities for abusers to groom children for sexual purposes.

5.6 Underage Sales & Age Verification

The council expects licenced businesses to work rigorously to prevent the sale or supply of alcohol to children. The mandatory licence conditions include a condition which requires all premises which are licensed to sell or supply alcohol to adopt an age verification policy whereby those who appear to be under 18 will be asked to provide photographic i.d. to prove their age before selling or supplying them with alcohol.

5.7 The council requires licensed businesses to go further than the requirements of the mandatory conditions and expects premises which are licensed for the sale or supply of alcohol to adopt the voluntary “challenge 25” scheme. This scheme requires members of staff who carry out sales of alcohol to request photographic i.d. from anyone who appears

to be under the age of 25 years. This does not preclude anyone over the age of 18 from purchasing alcohol, but does provide a much clearer framework for staff members in deciding when to ask for i.d.

5.8 Applicants for premises licences or other permissions to sell or supply alcohol are expected to include the challenge 25 scheme within their operating schedules and it will be included as a condition where appropriate.

5.9 Holders of premises licences and other permissions to sell or supply alcohol and their designated premises supervisors must ensure that all staff employed at their premises receive regular training. Training must include child protection issues and the prevention of underage sales and proxy sales. Where appropriate this policy will be added as a condition to premises licences or other permissions.

5.10 When asking for photographic i.d. the council expects licensed businesses and their staff to only accept the following forms of identification:

- Passport;
- Photocard driving licence, or;
- PASS accreditation system, which aims to approve and accredit various 'proof of age' schemes which are in existence

5.11 **Access to Premises by Children**

Under the Licensing Act, a wide variety of licensable activities can take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, the council will consider a range of conditions which can be tailored to a particular premises where appropriate. These could include:

- The times during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- Types of event or activity in respect of which no age restrictions may be needed, for example family entertainment or non-alcohol events for young age groups, such as under 18s dances;
- Similarly, types of event or activity, which give rise to a more acute need for age restrictions than normal, for example; during "Happy Hours" or on drinks promotion nights.

5.12 **Display of Films etc.**

In the case of premises giving film exhibitions, the licensing authority expects the holders of premises licences or other permissions to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the licensing authority itself.

The Protection and Improvement of Public Health

6.1 Introduction

Tameside Council recognises that the instances of alcohol-related health harms across the borough are disproportionately high and that Tameside ranks very highly both regionally and nationally in respect of alcohol-related health harms.

6.2 Since the adoption of the previous statement of licensing policy, the Police Reform and Social Responsibility Act 2011 amended the Licensing Act by adding local directors of public health to the list of responsible authorities, meaning that local public health bodies are now consulted in respect of every licensing application processed by the local authority.

6.3 Although the Government did not go as far as introducing a 5th licensing objective of “promoting public health”, the introduction of public health as a responsible authority went some way towards starting to reduce alcohol-related health harms through use of licensing legislation.

6.4 Promotion of Public health

In view of the extremely high levels of alcohol-related health harms across the borough, Tameside Council expects applicants for premises licences (and other permissions which allow the sale or supply of alcohol) to include statements in their operating schedules as to how they will actively promote the protection and improvement of public health.

6.5 Current holders of premises licences and other permissions which allow the sale or supply of alcohol are also expected to promote the protection and improvement of public health.

6.6 Possible Measures

Some of the possible measures which licensed businesses should consider are listed below:

6.7 Reducing the Strength or Responsible Retailing of High Strength Products

The council recognises the significant harm caused by the sale of very cheap, very strong alcoholic drinks – specifically high strength lagers and ciders with an abv (alcohol by volume) over 6.5%.

6.8 Holders of premises licences and other permissions which allow the sale or supply of alcohol are asked to consider implementing the principles of the “reduce the strength” campaign by removing from sale lagers and ciders with an abv of 6.5% and above, and stopping selling these products.

6.9 Where licence holders choose to continue selling such products, the council encourages them to take a responsible approach to how these items are displayed and sold. For example, they should consider reducing the size of their display for these items and possibly place them out of reach to the general public, so that they can only be purchased by asking a member of staff.

6.10 Intervention and Brief Advice

Applicants and Licensed businesses should consider obtaining training for their staff in “intervention and brief advice”. This training – usually available free of charge from local

public health bodies – teaches staff members how to recognise when people may have a drinking problem, and how to give them brief advice.

6.11 **Voluntary Self Exclusion**

Where a voluntary self-exclusion scheme is in operation, licensed businesses are encouraged to participate in accordance with any advice or instructions given to them by the local authority or police.

Cumulative Impact

7.1 Introduction

Cumulative impact is a term used to describe the potential impact on the promotion of the licensing objectives where there are significant numbers of licensed premises concentrated in one area.

7.2 Licensing Authorities can adopt special policies in relation to cumulative impact where evidence is produced by one or more responsible authorities that the impact of a number of licensed premises in a specific geographical area is having an adverse effect on the promotion of the licensing objectives.

7.3 The effect of a special policy is to reverse the rebuttable presumption that the licensing authority will grant a premises licence or other permission for the sale or supply of alcohol. If a responsible authority submits a representation in which they provide evidence that the granting of a licence or permission (or an application to vary a licence or permission to allow longer hours for the sale/supply of alcohol) is likely to add to the existing cumulative impact of licensed premises, then the Licensing Authority will refuse that application unless the applicant can demonstrate that they will not add to the cumulative impact.

7.4 In simple terms, applicants must submit applications to a very high standard with sufficient measures in place to demonstrate that their premise will not add to the existing problems in that area.

7.5 Existing Cumulative Impact Policies

In its previous statement of licensing policy, Tameside Council adopted two cumulative impact policies in Stalybridge town centre and Ashton-under-Lyne town centre.

7.6 For the purposes of this statement of licensing policy, these existing cumulative impact policies will remain as per the previous policy.

7.7 Tameside Council is committed to ensuring that the issue of cumulative impact is addressed appropriately in accordance with up-to-date statistics, particularly in relation to crime and disorder and public health. As such, the existing cumulative impact policies will be reviewed to ensure that they remain fit for purpose and relevant to the local area. The review of these policies will be carried out separately and the statement of licensing policy will be updated once this separate review has been carried out.

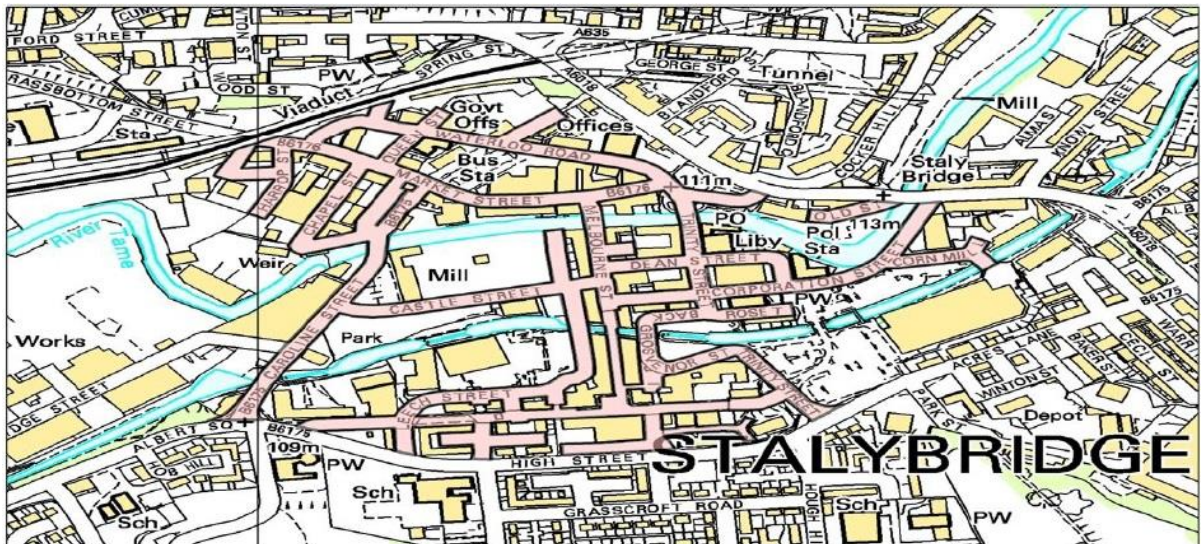
7.8 The existing special policies in relation to cumulative impact are reproduced below:

4.51 CUMULATIVE IMPACT

4.52 Background information

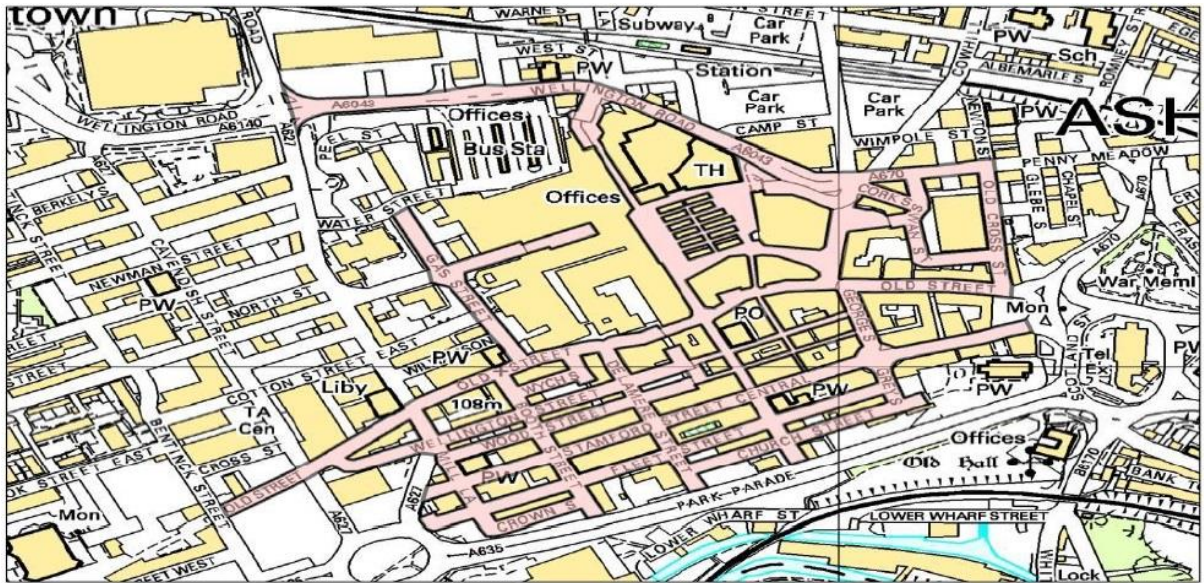
- 4.53 *Cumulative impact statement or saturation policy is a term used to describe the potential impact on the promotion of the four licensing objectives where there are significant numbers of licensed premises concentrated in one area. If there are large numbers of premises in an area then disorder and nuisance may arise when customers leave licensed premises either to go onto a venue with later licensing hours, or to congregate at takeaways or taxi ranks or walk home past residential properties. The impact of their behaviour is likely to be greater than when in the individual premises particularly as they may not be as aware of how loud or rowdy their behaviour is.*
- 4.54 *Paragraph 13.33 of the statutory guidance advises it would not be normally be justifiable to adopt a special policy on the basis of concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. Section 4 of the Licensing Act provides that ‘a licensing authority should have regard to guidance issued by the Secretary of State under S182 guidance’ however the guidance states in section 1 it is permissible for the ‘licensing authority to depart from the guidance provided they have reason to do so and are able to provide full reasons’.*
- 4.55 *The process of introducing a statement of cumulative impact begins with receiving representations from a responsible authority or an interested party accompanied with evidence that the addition of premises would produce the suggested negative impacts on the licensing objectives. This approach has been made by Greater Manchester Police G Division to look at the feasibility of introducing a cumulative impact policy for licensed premises in Stalybridge and Ashton Town Centres. .*
- 4.56 *The following steps must be taken when considering the adoption of a special policy on cumulative impact;*
- 4.56.1 *Identification of concerns about crime and disorder and public nuisance.*
- 4.56.2 *Consideration whether there is good evidence that crime and disorder or impact is imminent*
- 4.56.3 *Identification of the boundaries of the area where problems are occurring*
- 4.56.4 *Consult with those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation*
- 4.57.5 *Amend licensing policy statement to include details of special policy*
- 4.57 Policy – On Licence premises**
- 4.58 *The cumulative impact policy adopted is to refuse applications for new premises licences, club premises certificates or variations which increase late night opening [for the supply of alcohol] in the centre of Stalybridge or the centre of Ashton-under-Lyne where a representation against granting the application has been made on the grounds granting it will or is likely to add to the existing cumulative impact. This policy will be strictly applied, but all cases will be considered on their merits. If the application can be granted in such a way so that the application would have demonstrable positive or neutral impact on the four licensing objectives then it will be granted,*

- 4.59 The Council has a duty to consider section 17 of the Crime and Disorder Act and the impact on Crime and Disorder of each application.
- 4.60 The Council recognises that a minority of consumers behave badly. The Licensing Policy is not the only tool that can be used to address anti-social behaviour; it is part of a framework of measures listed in paragraph 1.39 of statutory guidance.
LICENSING POLICY 2011 26
- 4.61 Examples of circumstances where it may be appropriate to grant an exemption include an application from a restaurant with reduced hours for sale of alcohol or an application which seeks to bring family entertainment or a type of entertainment with broad appeal to the area. This list is not exhaustive and there will be other examples.
- 4.62 The Council consider it is necessary for the cumulative impact policy to apply to streets in Stalybridge town centre as shown in the map below highlighted in pink;



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- 4.63 For the purposes of this policy, premises are in Central Stalybridge if they have a frontage onto the parts of Caroline St, Castle St, Leech street, Trinity St, Back Grosvenor St, Melbourne St, Melbourne St, Dean St, Corporation St, Chapel St, Market St, Queen St, Waterloo Rd, Queen St and Harrop St as shown in the area marked on the plan.
- 4.64 This cumulative impact policy will also apply to Ashton Town Centre as shown in the map below:



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4.65 For the avoidance of doubt the premises which have a frontage to the parts of the roads/streets listed below and highlighted in pink on the map. These are Stamford Street Central, Old Street, George St, Cork St, Swan St, Old Cross St, Grey St, Church St, Crown St, Bow St, Mill Lane, Penny Meadow, Delamere St, Crown St, Fleet Street, Booth St, Warrington St, Wych St, Wood Street, Gas Street and Wellington Rd.

4.66 Reason

4.67 The Council are of the view the concentration of licensed premises in Stalybridge town centre particularly those licensed to trade beyond 2am contribute to an unacceptable level of crime and disorder and public nuisance in and around the Market Street area. The pattern of customers arriving into Stalybridge town centre has stretched later and later into the night with the effect the town does not get busy until after 23:00 or later. People appear to arrive into the town showing signs of intoxication. As the larger venues do not close until 3am – 4am it appears people are content to pre-load and then come out much later. The area is under stress because of the cumulative impact of the concentration licensed premises with late trading hours leading to crime and disorder and public nuisance.

4.68 The majority of licensed premises in Stalybridge offer the same type of entertainment which is predominately recorded music. They compete for the same clientele with the added pressure of declining footfall at night. A large number of the premises do not open during the day and do little to attract people into this part of the town during the day.

4.69 Evidence for this special policy has been obtained from Analysis of crime reports using the Simple2Start methodology and also analytical reports commissioned from GMAC (Greater Manchester against Crime) analysts. The analysis shows a trend of incidents of crime and disorder occurring later and later into the night and early morning particularly in and around the Market Street area. Premises in the town centre are located in close proximity to each other and the cumulative impact of the

premises does put the area under stress. Residents suffer from the alcohol related ASB, criminal damage etc from people leaving the area at the same time.

- 4.70 *The late night economy in Ashton town centre has suffered from a range of incidents of crime and disorder. Three premises have been subject to review proceedings leading to 2 revocations and one modification of the premises licence. This policy will support the aims stated in the Ashton town centre strategy supplementary planning document.*
- 4.71 *In Ashton under Lyne a large number of premises have ceased trading in the last 4-5 years but these premises have mainly retained their premises licence. There are many reasons why the late night economy declined with rapid haste. The important point to focus on is there is now an opportunity to rebuild the night time economy by setting out the expectations of council and partners to operators. The experience of the council is that whilst in theory granting late hours to premises may stagger closing times and encourage gradual dispersal, the experience in Tameside has been that once one premises applies for a post 2am terminal hour competitors do the same. This leads to people consuming alcohol over a longer period of time leading to an increase in alcohol related ASB, criminal damage, assaults etc. So the police and local residents continue to experience the effects of everyone leaving at the same time but this happens later on.*
- 4.72 *The 'cumulative impact' of the granting of a new premises licence or variation to an existing licence on the promotion of the Licensing Objective to prevent crime and disorder is a proper matter for the Council to consider under this policy.*
- 4.73 *It is hoped introducing this policy will encourage operators to provide a different style of premises that will appeal to a broader market.*

Delegation of Functions		
Application	Speakers Panel (Liquor Licensing) Sub-Committee	Officers
Application for personal licence	If objection notice submitted	If no objection notice submitted
Application for personal licence with relevant unspent convictions	All cases	
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If police objection submitted	If no police objection submitted
Application for new premises licence or club premises certificate	If relevant representation(s) submitted	If no relevant representations submitted
Application for a provisional statement	If relevant representation(s) submitted	If no relevant representations submitted
Application for a full variation of a premises licence or club premises certificate	If relevant representation(s) submitted	If no relevant representations submitted
Application to change a designated premises supervisor	If police objection submitted	If no police objection submitted
Application for an interim authority notice	If police objection submitted	If no police objection submitted
Application for a review of a premises licence or club premises certificate	All cases	
Decisions on the relevance and validity of representations or applications for review		All cases
Determination of a representation in relation to a standard temporary event notice	All cases	
Determination of a representation in relation to a late temporary event notice		All cases
Application for a minor variation of a premises licence or club premises certificate		All cases
Application for a community event notice*	If relevant representation(s) submitted	If no relevant representations submitted
Application for an ancillary business sales notice*	If relevant representation(s) submitted	If no relevant representations submitted

List of Potential Conditions to be Considered by Applicants for Premises Licences and Other Permissions Associated With the Licensing Act 2003

1. Crime & Disorder

1. CCTV

A tamper-proof digital colour CCTV system must be installed and maintained at the premises to the satisfaction of Greater Manchester Police.

The system must run and record continuously for 24 hours a day, 7 days per week and recorded footage must be stored for a minimum of 28 days.

The system must provide a clear head and shoulders view to an evidential quality on every entry/exit route and within any other vulnerable areas as identified by Greater Manchester Police.

Recorded footage must be provided to a representative of any responsible authority on request. Such footage must be provided in an immediately viewable format and must include any software etc. which is required to view the footage. Any discs, portable drives or other storage media onto which footage is transferred must be provided by the premises and sufficient stock of such storage media must be kept on the premises at all times.

A member of staff who is trained to operate the system and supply footage must be present at the premises at all times when licensable activities are taking place.

The Designated Premises Supervisor must ensure that the CCTV system is checked at least once every week by a suitably trained member of staff. This check must include the operation of the cameras, the recording facilities, the facilities for providing footage and the accuracy of the time & date. A written record of these checks must be kept, including a signature of the person carrying out the check. This written record must be kept on the premises at all times and made available to a representative of any responsible authority on request.

Suitable signage informing customers that a CCTV system is in operation must be placed in prominent positions within the premises, including information on the Data Protection Act and the Human Rights act.

2. Door Staff

A minimum of 2 SIA registered door supervisors shall be employed at the premises on Friday and Saturday nights and also New Years Eve from 9.00 pm until 20 minutes after the premises closes. Door supervisors will wear high visibility armbands.

3. Door Staff Policy

The management shall produce and implement a Door Supervisor Policy which includes details of disciplinary procedures, and the management's expectations as to the behaviour and professionalism of the door staff. This policy will be submitted to GMP and the Licensing Manager on first implementation and following any subsequent changes to the policy.

4. Door Staff Log

A Door Supervisor Log shall be correctly maintained at the premises. This will include the following details:

- (i) The door staff names, dates of birth and home addresses;
- (ii) Full details, name, address and contact number of employment agency used

And for each individual period of trading:

- (iii) The name of the individual member of door staff
- (iv) His/Her Security Industry Authority licence number
- (v) The time and date He/She starts and finishes duty
- (vi) The time of any breaks taken whilst on duty
- (vii) Each entry shall be signed by the door supervisor, DPS or nominated person

5. Incident Book

An incident book (with the pages numbered sequentially) must be kept on the premises and be made available for inspection by responsible authorities. The incident book must be used to record the following:

- (i) Any incident of violence or disorder on or immediately outside the premises
- (ii) Any incident involving controlled drugs (supply/possession/influence) on the premises
- (iii) Any other crime or criminal activity on the premises
- (iv) Any refusal to serve alcohol to persons who are drunk (On sale and off sale premises only)
- (v) Any refusal to serve alcohol to under 18's or anyone who appears to be under 18
- (vi) Any call for police assistance to the premises
- (vii) Any ejection from the premises
- (viii) Any first aid/other care given to a customer

6. Drug Policy

The management of the premises must introduce a strict "zero tolerance" policy in respect of the use and/or supply of illegal drugs on the premises. The policy to include checks of the toilet areas

every half-hour whilst the premises are open and suitable signage to be placed in prominent areas within the premises.

7. Use of Polycarbonate Glassware

All glassware used in the premises must be of Polycarbonate type. Any drinks served in bottles must be in plastic bottles only. All drinks from glass bottles to be decanted into polycarbonate containers.

8. Nitenet Radio

Where available, the premises must subscribe to the Nitenet Radio Service.

9. Last Entry to Premise

There shall be no new entries to the premises by members of the public between 3am and 11am daily.

10. Legal Highs

The premise must not sell, supply, advertise or keep as stock any type of “new psychoactive substances” (NPS) commonly known as “legal highs”. This includes any substance which mimics the effects of illegal drugs, irrespective of whether the substance is labelled as “not for human consumption” and also includes nitrous oxide in any form.

In addition, any other substance, item or other thing which may, from time-to-time be identified as having an intoxicating effect by the police or local authority must not be sold, supplied, advertised or kept in stock.

11. Paraphernalia

The premise must not sell, supply, advertise or keep as stock any drug or NPS paraphernalia, including grinders, bong pipes, pipes, or any other item which is designed to assist with the use, consumption or production of illegal drugs or NPS.

2. Public Safety

1. Occupancy Limit

The total occupancy of the premises must not exceed *** persons, including staff.

2. Event Management Plan

An Event Management Plan must be produced and forwarded to the Licensing Office for circulation to the responsible authorities a minimum of 21 days before the date of the activity.

3. Use of Polycarbonate Glassware

All glassware used in the premises must be of Polycarbonate type. Any drinks served in bottles must be in plastic bottles only. All drinks from glass bottles to be decanted into polycarbonate containers.

4. Glass Collection

In order to minimise the risk of persons becoming injured by broken glass, the designated premises supervisor must ensure that empty glasses, bottles and other containers are collected and disposed of regularly and at least every half-hour whilst the premise is open.

3. Prevention of Public Nuisance

1. Noise Limiter

A noise limiting device must be installed, fitted and maintained in such a manner as to control all sources of amplified music at the premises. The noise limiting device must be set and maintained at a level to be agreed with Tameside MBC.

2. Doors & Windows

To prevent noise nuisance, all windows and doors at the premise must be kept closed at any time when regulated entertainment, live music (amplified or unamplified), recorded music or any other type of entertainment (amplified or unamplified) is being performed at the premise, except to allow people to enter or exit.

3. Entertainment to be Inaudible

Noise generated by regulated entertainment, live music (amplified or unamplified), recorded music or any other type of entertainment (amplified or unamplified) must be inaudible at the nearest noise sensitive location.

4. Perimeter Inspections

The Designated Premises Supervisor must ensure that perimeter inspections are undertaken every hour when regulated entertainment, live music (amplified or unamplified), recorded music or any other type of entertainment (amplified or unamplified) is taking place. These inspections must be recorded in a book which must be made available for inspection to Local Authority Officers and Greater Manchester Police on request.

5. Notices to Customers

Notices requesting customers to leave quietly must be displayed in a prominent position next to each entrance/exit. The Designated Premises Supervisor must ensure that customers are encouraged to keep noise to a minimum when leaving the premise.

6. Litter Control

The Designated Premises Supervisor must ensure that a member of staff collects all litter from the curtilage of the premises every day at the conclusion of trading. A written log must be kept of the areas checked and made available to responsible authorities for inspection on request.

7. No Drinks Outside

The Designated Premises Supervisor must ensure that no drinks are taken or consumed outside the premises nor glasses/bottles removed from the premises by patrons when leaving.

4. Protection of Children from Harm

1. Challenge 25

The premises must operate a "Challenge 25" scheme at the premise in relation to age verification for alcohol sales and other age-restricted products. Signs and/or posters must be displayed in prominent positions inside the premise to inform customers of this condition.

2. Refusals Book

A refusals book must be kept at the premises and must be used to record all refusals to sell alcohol for any reason. Where other age restricted products are sold at the premise, any refusals to sell such items to underage persons or persons who appear underage must be recorded. The details to be recorded must be as follows:

- (i) Time, day & date of refusal
- (ii) Item refused
- (iii) Name & address of customer (if given)
- (iv) Description of customer
- (v) Details of i.d. offered (if shown)

The refusals book must be made available for inspection by responsible authorities on request.

3. List of Agreed Products

A list of all items not to be offered for sale will be agreed with the Premises Licence Holder and the responsible authorities, including Trading Standards, and Greater Manchester Police. This list can be subject to further amendment and agreement between the parties. Once the list is agreed, items on the list must not be sold or supplied by the premises.

4. Proxy Notices

The premise must display, in a prominent position, a notice or notices explaining that it is an offence for adults to purchase alcohol and then supply it to persons under 18.

5. Door Age Policy

No persons under the age of 18/21/25 to be allowed entry to the premises at any time when it is open and operating/after **: **hrs.

5. All 4 Licensing Objectives

1. Staff Training

Any staff employed at the premises will receive training by the Designated Premises Supervisor on first appointment and at least every three months thereafter. Training will include input on preventing underage sales, sales of alcohol to people who are drunk, application of the drugs policy and any other relevant matters. A written record will be kept of all training carried out. This record must be kept on the premises and made available for inspection by any responsible authority.

2. Personal Licence Holder to be on Premise at All Times

A Personal Licence Holder must be present at the premises at all times licensable activities, live music (amplified or unamplified), recorded music or any other types of entertainment (amplified or unamplified) are taking place.

3. List of Authorised Persons

The Designated Premises Supervisor must maintain a written record of all members of staff who are authorised to sell alcohol. This record must include a photograph of the relevant members of staff to be kept on the premises at all times and be made available to a representative of any responsible authority on request.

4. Pubwatch

Where such a scheme is in operation, the Designated Premises Supervisor must be an active member of a local Pubwatch scheme or equivalent.

5. Purchasing policy

A purchasing of alcohol and tobacco policy must be implemented at the premises by the designated premises supervisor.

6. Purchasing records to be kept.

All purchases of alcohol and tobacco products must be made from reputable wholesalers and all purchases must be recorded. These records must be made available on request to the police or authorised officer



Statement of Principles

2016-2019

Gambling Act 2005

Tameside Metropolitan Borough Council

POLICY STATEMENT

Under Section 349 of the Gambling Act 2005

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PART A

POLICY STATEMENT

1. The Licensing Objectives

- 1.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by Gambling
- 1.2 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.
- 1.3 This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonably consistent with the licensing objectives and
 - in accordance with the authority’s statement of licensing policy

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.

It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

2. Declaration

- 2.1 In producing the final statement, this licensing authority will have regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.

3. Responsible Authorities

- 3.1 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is

competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

3.2 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Local Safeguarding Children Board for this purpose.

3.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available at Appendix A.

4. Interested parties

4.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)"

4.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

4.3 Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities at 8.11 to 8.18. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices. If in the particular circumstances of the application the licensing authority departs from the guidance it will explain its reasons for doing so.

4.4 Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

4.5 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Panel dealing with the licence

application. If there are any doubts then please contact the licensing section at the Licensing Office, Ash Road, Droylsden phone 0161 301 3021.

5. Exchange of Information

- 5.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 5.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 5.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

6. Enforcement

- 6.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 6.2 This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance for local authorities and will endeavor to be:

- Proportionate: regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

- 6.3 As per the Gambling Commission's Guidance for local authorities this licensing authority will endeavor to avoid duplication with other regulatory regimes so far as possible.
- 6.4 This licensing authority has adopted and implemented a risk-based inspection program, based on;
- The licensing objectives

- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

6.5 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licenses and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licenses. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but should be notified to the Gambling Commission.

6.6 This licensing authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

6.7 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements will be available upon request to the licensing section at the Licensing Office, Ash Road, Droylsden, M43 6QU or e-mail: licensing@tameside.gov.uk

Our risk methodology is also available upon request.

6.8 Reference will also be made to the Councils Enforcement Policy when considering enforcement action.

7. Licensing Authority functions

7.1 As a Licensing Authority we are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licenses
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permit
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centre's
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits

- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licenses issued (see section above on 'information exchange')
- Maintain registers of the permits and licenses that are issued under these functions

7.2 These functions will be carried out in accordance with the Scheme of Delegation.

7.3 It should be noted that local licensing authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licenses.

PART B

PREMISES LICENCES

8. General Principles

- 8.1 Premises licenses are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

Decision-making

- 8.2 This licensing authority is aware that in making decisions about premises licenses it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

- 8.3 It is appreciated that as per the Gambling Commission's Guidance for local authorities, moral objections to gambling are not a valid reason to reject applications for premises licenses and also that unmet demand is not a criterion for a licensing authority.

- 8.4 The Licence Conditions and Code of Practice (LCCP) issued by the Gambling Commission places further onus on premises to complete a risk assessment based on code 8, the social responsibility code which will come into force on 6 April 2016. The council will have regard to this code when considering applications. This is covered in detail in Part 4 of this statement.

- 8.5 **Definition of premises** - In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

- 8.6 The Gambling Commission states in the fourth edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."

8.7 This licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

8.8 The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

8.9 This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

8.10 The Gambling Commission's relevant access provisions for each premises type are reproduced below:

8.10.1:

Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.24 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

Adult Gaming Centre

- No customer must be able to access the premises directly from any other licensed gambling premises

Betting Shops

- Access must be from a street (as per paragraph 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a

shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

- No customer should be able to access the premises directly from:
 - a casino
 - an adult gaming centre

Bingo Premises

- No customer must be able to access the premise directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track

Family Entertainment Centre

- No customer must be able to access the premises directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track

8.11 Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

8.12 Premises "ready for gambling"

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied is going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

More detailed examples of circumstances in which such a licence may not be granted can be found at paragraphs 7.60 – 7.67 of the Guidance.

8.13 It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling is constructed. The Gambling Commission has advised that reference to “the premises” is to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to a premise which is ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

8.14 **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives is relevant to its decision making. As per the Gambling Commission’s Guidance to local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

8.15 **Planning:**

The Gambling Commission’s Guidance to Licensing Authorities states:

– In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

- When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

8.16 **Duplication with other regulatory regimes** - This licensing authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning and the fire service. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

8.17 When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or

buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

8.18 **Licensing objectives** - Premises licenses granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.

8.19 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective.

Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behavior was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.

8.20 **Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licenses. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section.

8.21 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

8.22 This licensing authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.

8.23 Section 7 of the Gambling Commission Guidance to Local Authorities sets out considerations that an operator must make in order to protect children and young people from accessing gambling premises. The Licence Conditions and Codes of Practice (LCCP) issued in 2015 prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed.

In particular operators must ensure that;

- all staff are trained,
- that all customers are supervised when on gambling premises

- they have procedures for identifying customers who are at risk of gambling related harm.

8.24 The Council will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records.

8.25 Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The council will take all conditions and codes into account when considering applications or performing enforcement activities. See Part 4 of this policy statement for further details and on the council's requirements in relation to the LCCP.

8.26 As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

8.27 **Conditions** - Any conditions attached to licenses will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

8.28 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc.

There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

8.29 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licenses. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

8.30 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;

- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- physical barriers to segregate areas should not impede the escape routes from that or other areas

8.31 These considerations will apply to premises including buildings where multiple premises licenses are applicable.

8.32 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

8.33 It is noted that there are conditions which the licensing authority cannot attach to premises licenses which is:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winning or prizes.

8.34 **Door Supervisors** - The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

9. Adult Gaming Centres

9.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

9.2 Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls, the council will expect the gambling area to be clearly defined to ensure that customers are fully aware that

they are making a choice to enter into the gambling premises and that the premises is adequately supervised at all times.

9.3 This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes.
- CCTV.
- Supervision of entrances / machine areas.
- Physical separation of areas.
- Location of entry.
- Notices / signage.
- Specific opening hours.
- Self-barring schemes.
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

10. (Licensed) Family Entertainment Centres

10.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

10.2 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- CCTV.
- Supervision of entrances / machine areas.
- Physical separation of areas.
- Location of entry.
- Notices / signage.
- Specific opening hours.
- Self-barring schemes.
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the Premises.

10.3 This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

10.4 This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licenses covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licenses, when they have been published.

11. Bingo premises

11.1 This licensing authority notes that the Gambling Commission's Guidance states:

Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where

the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

This authority also notes the Guidance at paragraph 18.5 regarding the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate eight categories B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use, these must be separated from areas where children and young people are allowed.

12. Betting premises

- 12.1 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

13. Tracks

- 13.1 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 13.2 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 13.3 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives; however appropriate measures / licence conditions may cover issues such as:
- Proof of age schemes.
 - CCTV.
 - Supervision of entrances / machine areas.
 - Physical separation of areas.
 - Location of entry.
 - Notices / signage.
 - Specific opening hours.
 - Self-barring schemes.
 - Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 13.4 *Gaming machines* - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.
- 13.5 *Betting machines* - This licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.
- 13.6 *Applications and plans* - The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, paragraph 20.28).
- 13.7 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, paragraph 20.29).
- 13.8 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities, paragraph 20.31).
- 13.9 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined. (See Guidance to Licensing Authorities, paragraph 20.32).
- 13.10 This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, paragraph 20.33).

14. Travelling Fairs

- 14.1 This licensing authority is responsible for deciding whether, where category D machines and /or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 14.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

14.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighboring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded. In any event neighboring authorities will be consulted to ensure best practice and consistency is applied.

15. Provisional Statements

15.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

15.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

15.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

15.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

15.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

15.6 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premise has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

16. Reviews

- 16.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the authority's statement of principles.
- 16.2 The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence or whether it is substantially the same as previous representations or requests for review.
- 16.3 The licensing authority can also initiate a review of a particular premises licence on the basis of any reason which it thinks is appropriate.
- 16.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 16.5 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 16.6 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
- (a) add, remove or amend a licence condition imposed by the licensing authority;
 - (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
 - (c) suspend the premises licence for a period not exceeding three months; and
 - (d) revoke the premises licence.
- 16.7 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 16.8 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 16.9 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
- the licence holder.
 - the applicant for review (if any)
 - the Commission.

- any person who made representations.
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs.

PART C

PERMITS/TEMPORARY & OCCASIONAL USE NOTICES

17. **Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**

17.1 Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

17.2 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance for local authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits....., licensing authorities will want to give weight to child protection issues." (24.6)

17.3 Guidance also states..."An application for a permit may be granted only if the licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief of police has been consulted on the application..... Licensing authorities might wish to consider asking applicants to demonstrate:

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- That the applicant has no relevant convictions (those set out in schedule 7 of the Act; and
- That staff are trained to have a full understanding of the maximum stakes and prizes (24.7)

It should be noted that a licensing authority cannot attach conditions to this type of permit.

17.4 **Statement of Principles** this licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

18. **(Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))** **Automatic entitlement: 2 machines**

- 18.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority and pay the prescribed fee. The licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
 - the premises are mainly used for gaming; or
 - an offence under the Gambling Act has been committed on the premises.

Permit 3 or more machines

- 18.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and *“such matters as they think relevant.”*
- 18.3 This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only, gaming machines. Measures which will satisfy the authority that there will be no access, may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 18.4 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 18.5 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 18.6 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

19. Prize Gaming Permits

- 19.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 19.2 This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations;

- that the gaming offered is within the law.
 - Clear policies that outline the steps to be taken to protect children from harm.
- 19.3 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance (Gambling Act 2005, Schedule 14 paragraph 8(3)).
- 19.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
 - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
 - participation in the gaming must not entitle the player to take part in any other gambling.

20. Club Gaming and Club Machines Permits

- 20.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D)

Commercial clubs may not site category B3A gaming machines offering lottery games in their clubs

- 20.2 Members Clubs and Miner's welfare institutes (But not commercial clubs) may apply for a Club Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). Equal chance gaming and games of chance as set out in forthcoming regulations.

This licensing authority notes that the Gambling Commission's Guidance states:

- 25.46 The LA has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account a number of matters as outlined in sections 25.47-25.49 of the Gambling Commission's Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.

The club must be conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

- 20.3 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfill the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police.
- 20.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure. As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:
- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 20.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

21. Temporary Use Notices

- 21.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 21.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 21.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 21.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

- 21.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 21.6 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

22. Occasional Use Notices

- 22.1 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice. This licensing authority will also ensure that no more than 8 OUNs are issued in one calendar year in respect of any venue.

23. Small Society Lotteries

- 23.1 This licensing authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes.
- to enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact this Licensing Authority on 0161 342 4262 within working hours to seek further advice.

PART 4
Licence Conditions & Codes of Practice (LCCP)

24. The Code

24.1 The Gambling Commission released an LCCP in February 2015 with a commencement date of May 2015. The code strengthened the social responsibility code (SR) requirements. Details regarding the LCCP and SR code can be accessed via the Gambling Commission website at www.gamblingcommission.gov.uk

24.2 The code requires operators;

- To supervise customers effectively on gambling premises and identify customers who are at risk of gambling related harm.
- With effect from April 2016 to have in place schemes to allow customers to self-exclude themselves from all operators of a similar type in the area where they live and work.
- To have a range of measures with regard to marketing to ensure social responsibility that are transparent and not misleading.
- With effect from April 2016 to produce a risk assessment on individual premises, and have policies and procedures and control measures in place to mitigate local risks to the licensing objectives.

25. Risk Assessments

25.1 Such risk assessments are required from new applicants, and from existing premises licensees seeking to vary a licence and are to be presented to the licensing authority upon application. The code requires all operators of; Casino's, AGC's, Bingo Premises, FEC's, Betting shops and remote betting intermediaries to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.

25.2 Operators are required by the SR code to make the risk assessment available to licensing authorities when an application is submitted either for new premises licence or variation of a premises licence, or otherwise on request, and this will form part of the council's inspection regime and may be requested when officers are investigating complaints.

25.3 The code requires the Council to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this council expects the following matters to be considered by operators when making their risk assessment:

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Gaming trends that may reflect benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Urban setting such as proximity to schools, commercial environment, factors affecting footfall,
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.

25.4 The council expects the following matters to be considered by operators when making their risk assessment:

Matters relating to children and young persons, including;

- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds, places of worship and entertainment venues such as bowling allies, cinemas etc.
- Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted,
- Areas which are prone to issues of youths participating in anti-social behaviour, including such activities as graffiti/tagging, underage drinking, etc.
- Recorded incidents of attempted underage gambling

Matters relating to vulnerable adults, including;

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.

This list is not exhaustive and other factors not in this list that are identified can be taken into consideration.

26. Local Area Profile

- 26.1 The Council has considered the local area profile and feels the main issues will be covered by the risk assessments required under the LCCP.

**APPENDIX A
RESPONSIBLE AUTHORITIES**

Any application must be sent to:

**Licensing Department
Tameside MBC
Licensing Office
Tame St Depot
Tame St
Stalybridge
SK15 1ST**

Copies of the application must also be sent to the following responsible authorities:

**Watch Commander Fire Protection
Tameside Borough HQ
Hyde Fire Station
Railway Street
Hyde
SK14 1DF**

**HM Customs and Revenue
National Registration Unit
21 India Street
Glasgow G2 4PZ**

**Social Services
Conference and Review Section
QA Unit
Hyde Town Hall
Hyde
SK14 1AL**

**Environmental Health (Environmental Protection)
Tame St Depot
Tame St
Stalybridge
SK15 1ST**

**Chief Superintendent
Greater Manchester Police
Tameside Partnership Team (Licensing)
Manchester Road
Ashton-under-Lyne
OL7 0BG**

**Planning and Building Control
Clarence Arcade
Stamford Street
Ashton-under-Lyne
Tameside
OL6 7PT**

**Gambling Commission
Victoria Square House
Victoria Square,
Birmingham B2 4BP**

APPENDIX B
TAMESIDE METROPOLITAN BOROUGH COUNCIL SCHEME OF DELEGATION

Matter to be dealt with	Full Council	Sub-committee of licensing committee	Officers
Final approval of three year licensing policy	x		
Policy not to permit casinos	x		
Fee setting (when appropriate)			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Review of a premises licence		x	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		x	
Application for other permits			x
Cancellation of licensed premises gaming machine permits			x
Consideration of temporary use notice			x
Decision to give a counter notice to a temporary use notice		x	

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Tameside Metropolitan Borough Council
Licensing Office
Tame Street Depot
Tame Street
Stalybridge
SK15 1ST

4th December 2015

Dear Sir,

Consultation on Tameside Metropolitan Borough Council's Statement of Principles – Gambling Act 2005

Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator.

Coral Racing Limited are broadly supportive of the document. Your statement correctly notes that the Board when considering applications are still required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives', additionally noting that it should not take into account of any moral objections to gambling.

Coral Racing Limited recognise the requirement to supply risk assessments with future applications and variations (requirement is from 6th April 2016) and we are pleased to see this information included and referenced with the relevant sections.

Coral's experience is that, through all it does, it achieves an exemplary degree of compliance, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced with future premises licence applications, Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed.

We note that your statement includes a wide range of locations which should be considered within the risk assessment. Whilst the statement is intended to cover all styles of premises which offer gambling, it should be recognised that for example, a supermarket opening near to an established betting shop, does not change the marketplace dynamics. As far as we are aware, there is no evidence that the location of a betting shop alone and changes to the footfall nearby, causes any risk of a breach of the gambling objectives. We do recognise that councils are in the main following guidance they have received from the Gambling Commission however through studying over 200 different council approaches; it does appear that there are ways to adhere to the new regulations without creating bureaucratic lists etc. As a responsible national operator, we will of course do our utmost to ensure that our risk assessments are of the standard you require.



Coral Racing Limited
One Stratford Place, Montfichet Road, London E20 1EJ
Registered Office: New Castle House, Castle Boulevard, Nottingham NG7 1FT
Registered in England No. 541600
Tel: 020 3288 7000 Fax: 020 3288 7050

a  company



1700+ shops



mobile



coral.co.uk



0800 242 232

We do wish to politely highlight that Coral knows of no evidence that the location of a licensed betting office within the proximity of schools causes harm to the licensing objectives (mentioned in section 25.3 of your statement).

Coral's general experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that under-age gambling does not occur in their premises. There are very many examples of betting offices sited immediately next to schools and colleges as well as being close to the various other locations you have listed within your Statement and no evidence whatsoever that they cause problems. We do appreciate that the licensing board have flexibility in this regard when granting licences but caution against any inference of a link between schools, locational proximity and problem gambling.

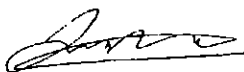
The reason for Coral's caution against making such perceptions is that it already operates systems which ensure that the licensing objectives are strongly promoted across its estate.

For example:

- Coral benefits from an operating licence granted by the national regulator, the Gambling Commission. Therefore, its corporate systems for the promotion of the licensing objectives have been approved by the Commission, which continues to exercise vigilance in this regard through inspections and examination of regulatory returns.
- Coral is subject to the Licence Conditions and Codes of Practice, which are effectively the national code of operation to ensure that the licensing objectives are promoted.
- It carries out health and safety risk assessments pursuant to its legal obligations. These assessments are shortly to be extended so that formal compliance assessments are conducted.
- It conducts risk assessments in relation to Exposure to Violence, Aggression and Conflict (EVAC assessments).
- It operates the assessment principles of the Safe Bet Alliance, the national code for safe premises. It was one of the architects of the code.
- It operates the ABB's Code for Responsible Gambling, and again was one of the architects of that code.
- It operates an extensive compliance manual, upon which all staff members are trained. Copies are available for your inspection if required.
- It contributes to the Responsible Gambling Trust, which seems to promote responsible gambling who in-turn contribute to GamCare, the national problem gambling charity.

If we can provide any further information, we would be pleased to do so.

Yours faithfully,

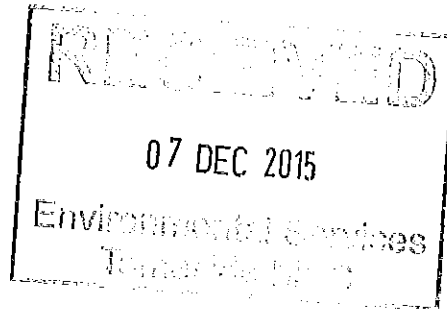


John Liddle
Director of Development – Coral Retail



Licensing Office
Tameside Metropolitan Borough Council
Tame Street Depot
Tame Street
Stalybridge
SK15 1ST

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / SDS / 097505.00004
GS499588
Your ref:
Date: 30 November 2015



Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The ABB represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.

The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.

The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.

It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.

Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and we welcome the opportunity to respond to this consultation.

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

LGA – ABB Betting Partnership Framework

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA). This was developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms and established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"...desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said: *"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."*

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."

Primary Authority Partnerships in place between the ABB and local authorities

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

Local area risk assessments

With effect from 6th April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review

should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

Local Area Profiles – Need for an evidence based approach

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the "aim to permit" principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

We would also request that where a local area profile is produced by the licensing authority that this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

Concerns around increases in the regulatory burden on operators

Any increase in the regulatory burden would severely impact on our members at a time when overall shop numbers are in decline, and operators are continuing to respond to and absorb significant recent regulatory change. This includes the increase to 25% of MGD, changes to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put

into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

Employing additional licence conditions

The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

Specific Policy Comments

The final two sentences of paragraph 8.14 (Location) causes the ABB significant concern. The penultimate sentence seems to indicate that the Licensing Authority may designate areas where gambling premises should not be located. Any such designation may be unlawful and is contrary to the overriding principles of "aim to permit" contained within Section 153 Gambling Act 2005. Similarly, the reversal of the burden of proof in the final sentence that requires the applicants to demonstrate why an application should be granted is contrary to that principle. These two sentences should be removed and replaced with the reiteration of the simple principle that each case will be determined on its own merits.

Paragraphs 8.27 to 8.34 explain the Licensing Authority's approach to the imposition of conditions. The statement of principles would be assisted if these paragraphs were expanded. The statement of principles should indicate that the starting point for consideration of any application is that it will be granted subject only to the mandatory and default conditions as these are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. The statement of principles should make it clear that additional conditions will only be imposed where there is evidence of a risk to the licensing objectives that requires that the mandatory and default conditions be supplemented and not where there is a simple "perceived need" (paragraph 8.28) or where there are concerns (paragraph 8.34).

Part 4 of the statement of principles explains the LCCP with paragraph 25 explaining the Licensing Authority's approach to risk assessments. Paragraph 25.3 contains a list of matters that the Council would expect an operator to take into account in its risk assessment. This list needs to be redrafted in order to remove matters that can have no bearing on the licensing objectives. The requirement is to assess the risks to the licensing objectives. Issues such as "gaming trends that reflect benefit payments" have no bearing upon the licensing objectives and nor do external problems such as

street drinking, youths participating in anti-social and drug dealing activities. These factors should all be removed from the list in paragraph 25.3.

Similarly, issues such as anti-social behaviour including activities such as graffiti/tagging and underage drinking cannot be relevant as far as Gambling Act 2005 licensing objectives are concerned.

Finally, paragraph 25.5 indicates that matters of faith could be considered. The Gambling Commission Guidance is clear. Paragraph 5.34 of the 5th Edition of the Guidance to Licensing Authorities indicates "*Licensing Authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences.*" It is impossible to see how the proximity of a place of worship could pose a risk to the licensing objectives. This should therefore be removed from the draft statement of principles.

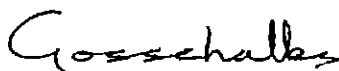
Conclusion

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,



GOSSCHALKS



TAMESIDE METROPOLITAN BOROUGH COUNCIL

Sex Establishment

Licensing Policy

1. Introduction

- 1.1 This document sets out Tameside Council's policy (the 'Policy') in relation to the regulation and licensing of sex establishments and the council's procedures relating to applications for sex establishment licences.
- 1.2 This document relates to applications for sex establishment licences relating to:
 - sex shops
 - sex cinemas
 - sexual entertainment venues

as per the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009.
- 1.3 The Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 on 29 September 1982. The amendment under Section 27 of the Policing and Crime Act 2009 was adopted by the Council on 22 July 2014.
- 1.4 The Council is mindful of possible concerns of the local community and that there can be conflict between applicants and objectors. The Policy will guide the Council when considering applications for licences in balancing the conflicting needs of commercial interests, patrons, employees, residents and communities.
- 1.5 The policy sets out:
 - the process the Council will follow in considering and determining an application for a sex establishment licence; and
 - the process for making an application.

2. Definitions

- 2.1 **The Act**
This refers to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009).
- 2.2 **The Policy**
This refers to Tameside Council's sex establishment licensing policy.
- 2.3 **Relevant locality**
This is the locality where premises are situated or where the vehicle, vessel or stall is going to be used. The locality and the area that this covers is a matter for the local authority to

decide. The Council has determined that relevant locality will be determined on a case by case basis for the purpose of decision making.

2.4 Character of the relevant locality

The character or characteristics of the locality where the premises are situated will be instrumental in determining whether or not the grant of a licence will be appropriate.

The Council has not defined what type of area would or would not be acceptable in terms of character. The Council will consider the character of the area on a case by case basis and will take into account such factors as: the uses and users of the area; how the area is perceived; the vision/plan for the area and the views of the planning authority.

2.5 The Council

This means Tameside Metropolitan Borough Council.

2.6 Display of Nudity

This means in the case of a woman: exposure of her nipples, pubic area, genitals or anus; and in the case of men: exposure of his pubic area, genitals or anus.

2.7 The Licensed Premises

This is the premises, vessel, vehicle or stall which is subject to a sex establishment licence. The premises will be in possession of all appropriate consents and permissions to operate. Note that licences are not required for the sale, supply or demonstration of birth control items.

2.8 The Organiser

This is any person who is responsible for the organisation or management of the relevant entertainment or the premises.

2.9 Permitted Hours

These are the hours of activity and operation that have been authorised under a sex establishment licence.

2.10 Sex Article

A sex article is anything for use in connection with or for stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.

2.11 Sex Shop

A sex shop is any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with or for stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.

2.12 Sex Cinema

A sex cinema is any premises, vessel, vehicle or stall used to a significant degree for the exhibition of moving pictures, however produced, which are concerned primarily with the portrayal of, or primarily deal with or relate to or are intended to stimulate or encourage sexual activity or genital organs or urinary or excretory functions.

2.13 Sexual Entertainment Venue

A sexual entertainment venue is any premises where any live performance or any live display of nudity is of such a nature, regardless of financial gain, it must reasonably be assumed to have been provided solely or mainly for the purpose of sexually stimulating any member of the audience.

2.14 Relevant Entertainment

Relevant entertainment is "any live performance or live display of nudity which is of such nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or

principally for the purposes of sexually stimulating any member of an audience (whether by verbal or other means).” An audience can consist of just one person (e.g., where the entertainment takes place in private booths).

The Council considers that the definition of relevant entertainment applies, although not exclusively, to the following forms of entertainment:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows

2.15 **Premises that are not sexual entertainment venues**

Paragraph 2A(3) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 sets out those premises that are not sexual entertainment venues. These are:

- Sex shops and sex cinemas
- Premises which provide relevant entertainment on an infrequent basis. These are defined as premises where –
 - a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period.
 - b) no such occasion has begun within a period of one month beginning with the end of the previous occasion; and
 - c) no such occasion has lasted longer than 24 hours.
- Other premises or types of performances or displays exempted by an order of the Secretary of State.

3. General Policy

Principles to be applied

3.1 Specific mandatory grounds for refusal of a licence are set out in the Act.

3.2 A licence cannot be granted:

- a) To anyone under 18 years of age
- b) To someone who has held a licence that was revoked in the last 12 months (from the date of revocation)
- c) To someone who has been refused a new licence or renewal of a licence within the last 12 months (from the date of making the application)
- d) To an individual who is not resident in the United Kingdom or has not been resident for six months prior to making an application
- e) To a company not incorporated in the United Kingdom.

3.3 The Council has not set a limit on the number of sex establishments that it thinks is appropriate for any relevant locality. The Council will treat each application for the grant, refusal, renewal, transfer or variation of a licence on its merits on a case by case basis.

Other considerations - General

3.4 Relevant entertainment provided at the premises must not be visible to people outside the premises or passers-by.

3.5 The Council shall have regard to all relevant considerations, including any representations received and comments made by:

- Ward Councillors
- Greater Manchester Police Partnership / Licensing Team

- Greater Manchester Police Child Sexual Exploitation Unit
- Greater Manchester Police Organised Crime Unit
- Greater Manchester Fire & Rescue Service
- Tameside Council Planning Department
- Tameside Council Environmental Protection
- Tameside Council Licensing Department
- Tameside Council Children's Safeguarding
- Tameside Council Public Health
- Interested Parties (local residents/businesses/organisations)
- Any representations made by the applicant

3.6 The Council may refuse a licence if:

- a) the applicant is unsuitable to hold a licence because they have been convicted of an offence or for any other reason;
- b) were the licence to be granted, renewed or transferred, the business to which it relates would be managed or carried on for the benefit of a person other than the applicant, who would have been refused a licence if they had applied themselves;
- c) the number of sex establishments or sex establishments of a particular kind in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) the grant or renewal of licence would be inappropriate having regard to:
 - i) the character of the relevant locality;
 - ii) the use to which any premises in the vicinity are put; or
 - iii) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Disability Access

3.7 It is the policy of the Council that there should be access and facilities for disabled people at sex establishments. Licensees are therefore required to provide such facilities so as to enable the admission of disabled people and are reminded of the duties imposed by the Disability Discrimination Act 1995, as amended by the Equality Act 2010.

Character of the Area

3.8 The Council will not normally grant a licence to operate as a sex establishment if the character of the surrounding area to the proposed licensed premises is such that granting a licence is considered inappropriate.

3.9 The Council, when considering whether or not the character of the surrounding area is appropriate, may have regard to the following factors:

- the proximity of residential premises, including any sheltered housing and accommodation of vulnerable people;
- the proximity of educational establishments to the premises;
- the proximity of places of worship to the premises;
- access routes to and from schools, educational establishments, play areas, nurseries, children's centres or similar premises;
- the proximity to shopping centres;
- the proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs (this list is not exhaustive);
- the potential impact of the licensed activity on crime and disorder and public nuisance;
- the nature and concerns of any objections received from residents, businesses or other establishments;
- any evidence of complaints about noise and/or disturbance caused by the premises;
- any current planning considerations;
- the proximity of other sex establishments;
- whether there is planned regeneration of the area.

Suitability of the Applicant

- 3.10 The Council will also have regard to the suitability and fitness of an applicant to hold a licence. In determining suitability, the Council will normally take into account:
- any convictions, cautions or any other orders relating to the applicant
 - previous knowledge and experience of the applicant;
 - any evidence of the operation of any existing/previous licence held by the applicant, including any licence held in any other local authority area;
 - any report about the applicant and management of the premises received from objectors or the Police and any criminal convictions or cautions of the applicant;
 - any other relevant reason.
- 3.11 The above factors are not an exhaustive list of considerations but are merely indicative of the types of factors which may be considered in dealing with an application.
- 3.12 All applications for new licences for sex establishments, as described in the Act shall be referred to the Council's Speaker's Panel (Liquor Licensing) for a decision.

Renewal Applications

- 3.13 Where a licence was in existence before the introduction of this policy, this policy will become a consideration when the licence is due for renewal.
- 3.14 When considering a renewal application the Council may take into account the criteria set out at paragraphs 3.9 and 3.10 above and:
- the type of activity to which the application relates;
 - the duration of the proposed licence;
 - the days and hours of operation of the activity;
 - the layout and condition of the premises;
 - the use to which other premises in the vicinity are put;
 - the levels of crime and disorder in the area;
 - past demonstrable adverse impact from the activity;
 - whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse impacts.
- 3.15 It should be noted that the Council, in applying its decision-making discretion, may consider it appropriate to refuse the renewal of the licence even where there has been no change in the character of the relevant locality or in the use to which any premises in the locality are put.
- 3.16 If a renewal application is not opposed, it shall be approved under authority delegated to relevant officer(s). All contested applications for renewal, as described in the Act shall be referred to the Speaker's Panel (Liquor Licensing) for a decision.

Variation Applications

- 3.17 Where an application is made to vary any terms and conditions of an existing licence, whether on renewal or not, the Council will take into account the criteria as set out in paragraphs 3.9, 3.10 and 3.14 above.

4. The Application Process

Making an Application

- 4.1 An application should be made in writing to:
- Licensing Department
 - Tameside MBC
 - Licensing Office
 - Tame St Depot
 - Tame St

Stalybridge
SK15 1ST
Telephone: 0161 342 4262.

- 4.2 Applicants for a licence must complete the application form and submit to the Licensing Office together with:
- A detailed operating schedule for the premise, outlining exactly the type of entertainment to be offered at the premise.
 - Two sets of floor plans, drawn to scale and showing all means of entry and exit, any parts used in common with any other building and indicating how the premises lie in relation to the street;
 - Two sets of plans showing the existing and front elevation of the premises depicting all signage;
 - Two sets of plans (scale 1:500) showing the sex establishment in relation to other premises within 100 metres;
 - Two sets of plans (scale 1:50) showing the layout of the sex establishment;
 - The correct fee as set by the Council.
 - Evidence that the appropriate planning permission has been granted in respect of the premises.
- 4.3 Note: The above requirements regarding the submission of plans do not apply to renewal applications unless there has been a material change in the layout, structure or appearance of the premises.
- 4.4 As part of the application process, applicants are required to post an A4 notice at the proposed site for 28 days, from the date the application is lodged with the Council, setting out the application details. A specimen notice is available from the Licensing Office. The notice must be posted in a prominent position for the whole of that time and be easily read by passers-by.
- 4.5 Applicants are also required to place a public notice in a local newspaper giving details of the application. A specimen notice is available from the Licensing Office. The newspaper notice should appear in the publication within 7 days of the application being lodged.
- 4.6 Officers from the Licensing Authority, Greater Manchester Police and Greater Manchester Fire & Rescue Service will inspect the premises to ensure that the required technical standards and licence conditions are being complied with. If works are required to bring the building up to standard, the applicant will be notified. Licences will not be issued until all required works are satisfactorily completed.
- 4.7 As part of the process the Licensing Authority will also consult the Environmental Protection Department of the Council. If there is the possibility of noise nuisance, for example, from amplified music, an inspection may be carried out and noise insulation work recommended.
- 4.8 Comments on applications will also be sought from all departments and individuals listed at section 3.5, together with any other relevant person as deemed appropriate by the Council.
- 4.9 Applicants are warned that any person who, in connection with an application for the grant, renewal or transfer of a licence, makes a statement which he / she knows to be false in any material respect, or which he / she does not believe to be true, is guilty of an offence and liable to summary conviction to a fine not exceeding £20,000.
- 4.10 The Council will not determine an application for the grant of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the premises.

- 4.11 Any licence approved does not constitute any approval under any other acts. The applicant must ensure that all necessary consents and approvals are obtained prior to operation.

Renewal of Licence

- 4.12 An application to renew the licence must be made prior to the expiry of the existing licence.
- 4.13 The Council will not determine an application for the renewal of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the premises.
- 4.14 Where, before the expiry of a licence, an application has been made for its renewal, it shall remain in force even though the expiry date has passed, until the withdrawal of the application or its determination by the Council.

Variation of Licence

- 4.15 The application form, together with relevant plans and the fee should be sent to the Licensing Office. Please note that applications for variation of licence are also subject to the site and newspaper notice requirements set out in paragraphs 4.4 and 4.5 above.
- 4.16 Variation applications relate only to proposed changes to such matters as the hours and area of the premises covered by the licence. Any changes in licensee must be the subject of a transfer application.
- 4.17 All variation applications for sex establishment licences will be referred to the Council's Speaker's Panel (Liquor Licensing) for a decision. Applicants must not operate any revised or varied arrangements until such an application has been approved and any revised or varied licence has been issued.

Transfer of Licence

- 4.18 When determining an application for the transfer of a licence the Council will have regard to the points set out in paragraphs 3.2 (a) to (e) and 3.6 (a) and (b) in respect of the suitability of the applicant.
- 4.19 The Council will not determine an application for the transfer of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the sex establishment and to make such examination and enquiries as may be necessary to determine the suitability of the applicant.
- 4.20 Where, before the date of expiry of a licence, an application has been made to transfer, it shall be deemed in force with any necessary modifications until the withdrawal of the application or its determination, notwithstanding that the expiry date has passed or that the person to whom the licence is to be transferred is carrying on the business of the sex establishment.

Representations on an Application

- 4.21 Any person wishing to make comment on an application must submit a written representation within the specified 28 day consultation period, setting out the grounds of objection.
- 4.22 The Council will balance the interests of the applicant with those of the local community in reaching a decision on a licence application. Valid representations must be made within 28 days of the application being submitted. Representations made before the application is submitted can be taken into account. The Council also has discretion to consider representations made after the 28 day consultation period although this will be assessed on a case by case basis.

- 4.23 Unless the person making a representation consents, their name and address shall not be revealed to the applicant.
- 4.24 However, the grounds of any objection must be provided to the applicant prior to the determination of the application. The report to the Speaker's panel (Liquor Licensing) may have full details of the objections, including any actions/undertakings proposed by the applicant to address matters raised.
- 4.25 Additionally, the applicant and any persons who made representations and who wish to attend the hearing will have the opportunity to address the Regulation Committee before the application is determined.
- 4.26 The Council shall give an opportunity of appearing before and of being heard by the Council's Speaker's Panel (Liquor Licensing);
- a) before refusing to grant a licence, to the applicant;
 - b) before refusing to renew a licence, to the holder; and
 - c) before refusing to transfer a licence, to the holder and to the person to whom he /she desires that it shall be transferred.
- 4.27 Where the Council refuse to grant, renew or transfer a licence, it shall, if required to do so by the applicant or the holder of the licence, give a statement in writing of the reasons for its decision within 7 days of his request.

Revocation of licence

- 4.28 The Council may seek to revoke a licence on the grounds stated in paragraph 3.1 and 3.6 (a) and (b).
- 4.29 Before a licence is revoked the licensee will be given the opportunity to appear before and be heard by the Council's Speaker's Panel (Liquor Licensing).
- 4.30 If a licence is revoked the holder of that licence will be disqualified from obtaining or holding a licence in the Borough of Tameside for a period of twelve months from the date of the revocation.

Duration of Licence

- 4.31 Sex establishment licences will normally expire on an annual basis, but may be issued for a shorter period if deemed appropriate.

Standard conditions for annual licences for sexual entertainment venues and sex cinemas.

Tameside Metropolitan Borough Council, in exercise of the powers conferred upon them by paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended) makes the following standard conditions in relation to sexual entertainment venues and sex cinemas.

Separate conditions cover sex shops.

Notes:

- (i) Except where the context demands otherwise the singular includes the plural and masculine includes the feminine.
- (ii) Nothing in these conditions shall be construed as interfering with (i) the discretion of the licensee or his representative regarding the admission of any person or (ii) the need to strictly comply with all relevant statutory requirements.
- (iii) These rules are divided into two sections as follows:

Part 1 Conditions which apply to sexual entertainment venues and sex cinemas

Part 2 Conditions which apply to sex cinemas only

Part 1 Sexual Entertainment Venues

1. Definitions

In these rules, unless the context otherwise requires:

'Approval of the Council' or 'Consent of the Council' means the approval or consent of the Council in writing.

'Approved', 'accepted', or 'permitted' means approved, accepted or permitted by the Council in writing.

'Approved arrangements' means the arrangement of the premises, fittings, installations and all other things in connection therewith as approved by the Council.

'Council' means Tameside Metropolitan Borough Council.

'Escape lighting' (safety lighting) means lighting, obtained from a source independent of the general supply for the building, provided to assist the public and staff to leave the premises without the aid of normal lighting.

'Licensee' means the holder of a sex establishment licence.

'Officer' means any person authorised in writing by the Council.

'Premises' means any premises within the Council's area licensed as a sex establishment and includes all installations, fittings and things in connection therewith.

'Sex Establishment', 'Sex Cinema', 'Sex Shop', 'Sex Encounter Establishment' and 'Sex Article' shall have the meanings ascribed to them in the Third Schedule to the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Police and Crime Act 2009.

2. Dispensation or modification of conditions

- (a) These conditions may be dispensed with or modified by the Council in any special case.
- (b) Where in these conditions there is any reference to the consent of the Council being required, such consent may be given on such terms and conditions and subject to such restrictions as may be so specified.
- (c) If the licensee wishes any of the terms of the licence to be varied an application must be made to the Council.

3. Exhibition of Licence

The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.

4. Hours of Opening and Closing

The premises shall not be open to the public outside the hours permitted by the licence.

5. Persons in charge of Licensed Premises

- (a) The licensee or a responsible person over 18 years of age nominated by him in writing for the purpose shall be in charge of, and upon, the licensed premises during the whole time that they are open to the public. Such written nomination shall be continuously available for inspection by a police officer or an officer authorised in writing by the Council.
- (b) Full details of any person nominated by the licensee as a "person in charge" must be forwarded to the Council in writing for approval. The council will not approve such a person if they are deemed to be unsuitable because they have been convicted of an offence or for any other reason.
- (c) The licensee or person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge should be conversant with these conditions, a copy of which should be held on the premises.
- (d) A notice showing the name of the person in charge of the premises at the time they are open under the licence shall be conspicuously exhibited in a position where it can be easily seen by customers.
- (e) All members of staff shall be easily identifiable as such. If required by the Council in writing the licensee shall ensure that during the hours the premises are open for business every employee or person (apart from, where employed, performers, hostesses or other companions) working in the licensed premises wears a badge indicating his name and that he is an employee or person working in the premises.

6. Conduct of Premises

- (a) The licensee or person in charge of the premises shall maintain good order on the premises and in particular shall ensure that none of the following shall take place:
 - (i) Unlawful possession and/or supply of controlled drugs;
 - (ii) Indecent behaviour, including sexual intercourse;
 - (iii) The offer of any sexual or other indecent service for reward;
 - (iv) Acts of violence against persons or property and/or the attempt or threat of such acts.
- (b) The licensee or person in charge of the premises shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
- (c) The licensee or person in charge of the premises or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises, immediately outside the premises or in the vicinity of the premises, nor allow the premises to be used by prostitutes. Soliciting shall include the distribution of leaflets unless authorised by a consent of the Council.
- (d) No person under the age of 18 shall be admitted to any part of the premises which is used as a sex establishment or be employed in the business of the sex establishment. The premises must operate a "Challenge 25" scheme in relation to age verification at all public entrances to the premises for admission to the premises by members of the public. The only forms of identification to be accepted as proof of age will be a valid passport, photocard driving licence or "PASS" scheme identification card.
- (e) No poster, advertisement, photograph, sketch, synopsis or programme shall be displayed by or on behalf of the licensee at the licensed premises or at any other public place except in accordance with the Town and Country Planning (Control of Advertisements) Regulations 2007 or any Order amending or replacing the same.
- (f) No poster, photograph, sketch, painting or any form of advertisement or display shall be displayed by or on behalf of the licensee outside or within the premises in a position where it is visible to the public if the Council regards it as unsuitable for exhibition to the public. If the licensee is notified in writing that the Council objects under this rule to a poster, photograph, sketch, painting, and advertisement or display, such material shall be removed or completely obscured from sight.
- (g) The premises may not be used under the terms of the licence unless and until any necessary permission and/or consents have been obtained pursuant to the Town and Country Planning Act 1990 and the Building Act 1984 or any legislation amending or replacing the same.

7. Entrances & Windows

The licensed premises shall be so arranged by screening or obscuring windows, doors and other openings so that the interior of the licensed premises shall not be visible to persons outside the building.

8. Change of Use

No change of use of any portion of the premises from that approved by the Council shall be made until all necessary consents have been obtained from the Council. For the avoidance of doubt this includes a change from one class of sex establishment (e.g. a sex shop) to a different class of sex establishment (e.g. a sexual entertainment venue).

9. Alterations

No alterations (including temporary alterations) shall be made to the premises, without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works.

10. Sanitation

The licensee shall ensure that adequate sanitary accommodation is available in the premises for the free use of both staff and members of the public and in particular shall:

- (a) Maintain each sanitary convenience in clean and efficient order;

- (b) Ensure that any room which contains a sanitary convenience is suitably and sufficiently lighted and ventilated and is kept clean.
- (c) Ensure that in the sanitary accommodation provided there are installed and maintained suitable and sufficient wash-hand basins and that each basin is provided with an adequate supply of hot and cold water or of hot water at a suitably controlled temperature, together with an adequate supply of soap and suitable hand drying facilities.
- (d) The premises are so constructed with the adequate provision of efficient drains, suitable wall, floor and ceiling finishes etc. so that satisfactory sanitation can be maintained.

11. Lighting

All lighting (including escape lighting) shall be maintained in full working order.

12. Noise and Vibration

- (a) The licensee shall ensure that no noise emanates from the licensed premises or vibration be transmitted through the structure of the licensed premises which gives rise to a nuisance to the occupiers of premises in the vicinity of the licensed premises.
- (b) Without prejudice to the generality of this condition the licensee shall ensure that no form of loudspeaker or sound amplification equipment is sited on or near the exterior of the licensed premises or in or near any foyer, doorway, window or opening to those premises.

Note: The licensee must ensure that appropriate measures are taken to prevent any nuisance which may be caused by the operation or use of ventilation or other equipment.

13. Display of Tariff of Charges

There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.

14. Special Risks and Special Effects

Any activity which involves special risks or special effects, (e.g. real flame, pyrotechnics etc.), or the bringing onto the premises of any explosive or flammable substance may only be permitted or used with the Council's prior consent in writing. At least seven days' notice shall be given for an application for consent under this rule. Full details of what is proposed shall be given including the date and time of any proposed rehearsal.

15. Conditions Relating to Permitted Activities

- (a) Only those activities previously agreed in writing by the Council shall take place.
- (b) Performers shall be aged not less than 18 years.
- (c) The agreed activities will take place only in designated areas approved by the Council and the approved arrangements for access to the dressing room shall be maintained at all times whilst lap dancing/striptease entertainment is taking place and immediately thereafter.
- (d) The performers only shall give lap dancing/striptease entertainment. No audience participation shall be permitted.
- (e) Whilst lap dancing/striptease entertainment is taking place, no person under the age of 18 shall be on the licensed premises and a clear notice to this effect shall be displayed at each entrance to the premises in a prominent position. The notice shall read:
"NO PERSONS UNDER 18 SHALL BE ADMITTED"
- (f) Notices to the effect of the above condition number 30(e) shall be clearly displayed at every table, be on display at the entrance of the premises and each bar area.
- (g) The premises must operate a "Challenge 25" scheme in relation to age verification at all public entrances to the premises for admission to the premises by members of the public. The only forms of identification to be accepted as proof of age will be a valid passport, photocard driving licence or "PASS" scheme identification card.
- (h) The Licensee or person in charge will ensure that performers will never be alone in the company of a customer except in an area open to the public within the premises, or in the supervised dance areas.

- (i) The performers shall at all times wear a G-String which shall not be removed as part of the performance, and they shall not expose at any time, wholly or partly, their genitalia or anus.
- (j) Dancers shall only perform on the stage area or to seated customers within supervised dance areas.
- (k) The Licensee shall not permit the display outside the premises of photographs or other images which indicate and suggest that lap dancing/striptease or similar dancing takes place on the premises.

16. Behaviour of performers

The Licensee or person in charge must ensure that during performances to which this licence relates:

- (a) Performers do not perform any sexual activity or sex show or any act that clearly simulates any sexual act.
- (b) There is no physical contact between the customer and performer before, during or after the performance.
- (c) Performers do not use inappropriate, suggestive or sexually graphic language at any time.
- (d) Performers do not intentionally touch the genitals or breasts of another dancer or knowingly permit another dancer to touch their genitals or breasts.
- (e) Performers do not engage in communications that could be deemed as acts of prostitution or solicitation, even if the performer has no intention of carrying out the act.
- (f) Performers only perform semi-nude dancing (of any description) within areas specified by the Council when the licence is granted.
- (g) That performers do not accept any telephone number, email address, address, or contact information of any other type from any customer.

17. Safety of performers

The Licensee shall submit a policy to the Council for approval at the time of the application, to ensure the safety of the performers when they perform and when they leave the premises after a period of work. This policy is to be implemented when the premises are operating.

18. Responsibility towards performers

The Licensee or person in charge must ensure that adequate measures are in place at the premises to prevent the employment of performers who may be under the age of 18, or who may have been illegally trafficked into the UK.

The Licensee or person in charge must:

- (a) Ensure that all appropriate checks are carried out to ensure that performers are eligible to work in the UK. All relevant documentation must be checked prior to offering employment to any performer and photocopies of all relevant documents must be kept on the premises and made available for inspection by the police or authorised officer on request.
- (b) Ensure that all appropriate checks are carried out to ensure that performers are over the age of 18 years. Two forms of I.D must be checked, one of which must be photographic I.D. – passport or driving licence. Photocopies of these documents must be kept on the premises and made available for inspection by the police or authorised officer on request.
- (c) Maintain a register of the names and addresses of all performers and, if appropriate, the details of the agencies who supply the performers and such records shall be maintained for no less than 6 months and shall be made available to the Council or police upon request.

19. Supervision of premises

- (a) Suitable numbers of SIA licensed door supervisors (numbers to be subject to approval of police and licensing authority) will be on duty at the premises at all times during the performance of relevant entertainment.
- (b) Any door staff at the premises must be supplied by a company which has “Approved Contractor Status” with the Security Industry Authority.
- (c) At least one member of door staff must be present at every entrance to the premises through which the public can gain entry.

- (d) The Licensee must ensure that a sufficient number of security staff are employed inside the premises whilst sexual entertainment is provided to supervise the performers and customers.

20. CCTV

- (a) A tamper-proof digital colour CCTV system must be installed and maintained at the premises to the satisfaction of Greater Manchester Police.
- (b) The system must run and record continuously for 24 hours a day, 7 days per week and recorded footage must be stored for a minimum of 28 days.
- (c) The system must provide a clear head and shoulders view to an evidential quality on every entry/exit route and within any other vulnerable areas as identified by Greater Manchester Police.
- (d) Recorded footage must be provided to a representative of any responsible authority on request. Such footage must be provided in an immediately viewable format and must include any software etc. which is required to view the footage. Any discs, portable drives or other storage media onto which footage is transferred must be provided by the premises and sufficient stock of such storage media must be kept on the premises at all times.
- (e) A member of staff who is trained to operate the system and supply footage must be present at the premises at all times when licensable activities are taking place.
- (f) The Licensee CCTV system is checked at least once every week by a suitably trained member of staff. This check must include the operation of the cameras, the recording facilities, the facilities for providing footage and the accuracy of the time & date. A written record of these checks must be kept, including a signature of the person carrying out the check. This written record must be kept on the premises at all times and made available to a representative of any responsible authority on request.

Part 2 - Sex Cinemas

21. Minimum lighting

The level of normal lighting in the auditorium shall be as great as possible consistent with the effective presentation or exhibition of the pictures.

22. Film Categories

The categories U, PG, 12, 15 and 18 have the following effect:-

U Universal - suitable for all

PG Parental Guidance. Some scenes may be unsuitable for young children.

12/12A Passed only for persons of 12 years and over.

15 Passed only for persons of 15 years and over.

18 Passed only for persons of 18 years and over.

Restricted (18) Passed only for persons of 18 to be shown only in specially licensed cinemas or supplied only in licensed sex shops.

The addition of (Tameside) after the category means that the film has been passed by the Council for exhibition in Tameside in the category shown.

23. Exhibition of films

No film shall be exhibited at the premises unless:

- (a) It has been passed by the British Board of Film Classification as a U, PG, 12A/12, 15, 18 or RESTRICTED (18) film and no notice of objection to its exhibition has been given by the Council; or
- (b) It has been passed by the Council as a U, PG, 12A/12, 15, 18 (Tameside) or RESTRICTED (18) (Tameside) film.

24. Restricted (18) Films - Council's Consent

Films in the RESTRICTED (18) category may be shown at the premises only with the Council's prior written consent and in accordance with the terms of any such consent.

25. Age Restriction Notice

When the programme includes a film in the 12, 15 or 18 category no person appearing to be under the age of 12, 15 or 18 as appropriate shall be admitted to any part of the programme. The licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:-

“PERSONS UNDER THE AGE OF *(insert 12, 15 or 18 as appropriate)* CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME.”

Note: Where films of different categories are shown the notice shall refer to the oldest age restriction.

26. Category Notices

Immediately before each exhibition at the premises of a film there shall be exhibited on the screen for at least 10 seconds in such a manner as to be easily read by all persons in the auditorium:-

- (a) For a film passed by the British Board of Film Classification - a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board;
- (b) For a film passed by the Council - a notice in the following form without the addition of any other words:-

TAMESIDE COUNCIL *Insert title of film* has been passed by Tameside Council *insert the definition of category and the category assigned.*

Provided that as regards a trailer advertising a film the notice shall be in the following terms:-

TAMESIDE COUNCIL *(Insert the title and category of the trailer)* advertising *(insert title and category of the film).*

27. Objection to Exhibition of a Film

No film shall be exhibited at the premises:-

- (1) Which is likely:-
 - (a) to encourage or to incite to crime; or
 - (b) to lead to disorder; or
 - (c) to stir up hatred against any section of the public in Great Britain on grounds of colour, race or ethnic or national origins, sexual orientation or sex; or
 - (d) to promote sexual humiliation or degradation of or violence towards women.
- (2) The effect of which is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely to see it; or
- (3) Which contains a grossly indecent performance thereby outraging the standards of public decency.

If the licensee is notified by the Council in writing that it objects to the exhibition of a film on any ground, such film shall not be exhibited.

28. Posters, Advertisements, etc.

Every poster, advertisement, photograph, sketch, synopsis or programme of, or relating to a film exhibited or to be exhibited at the premises, which is displayed, sold or supplied anywhere by or on behalf of the licensee shall indicate clearly the category in which the film has been passed for exhibition.

29. Flammable Films

No flammable films may be upon the premises without the prior consent of the Council in writing.

30. Attendants - Numbers in Other Premises

Unless the Council otherwise requires or agrees in writing in any case:

- (a) There shall be a minimum of two attendants on duty on each floor or tier of the auditorium where the public, up to a number not exceeding 500, are present on that floor or tier and thereafter one additional attendant shall be on duty for each additional 250 persons or part thereof present on that floor or tier;
- (b) If an auditorium has only one floor or tier and seats 250 persons or less the number of attendants on duty in that auditorium shall be not less than one.

Note: Only one attendant is required to be on duty on any floor or tier of an auditorium when the number of persons present on that floor or tier does not exceed 100 and for the avoidance of doubt in the case of an auditorium which has only one floor or tier and which seats 250 persons or less there shall be not less than one attendant on duty in that auditorium.

Rules relating to television exhibitions

31. Entertainments Unsuitable for some Audiences

When any television entertainment or part of such entertainment is described by the broadcasting authority in advance of the day on which it is to be broadcast as unsuitable for viewing by any particular group of persons, a notice to that effect, indicating the group of persons concerned, shall be displayed in a conspicuous position to the satisfaction of the Council at each entrance to the premises.

Section D - Restricted 18 Category

32. Additional Conditions for 'Club' Cinemas (Showing Films in the Restricted 18 Classification)

- (a) No club showing films in the 'restricted 18' category may operate in a multi-screen complex whilst persons under 18 are being admitted to any performance in the complex unless the Council's written consent has first been obtained.
- (b) When the programme includes a film in 'restricted 18' category the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:-
"CINEMA CLUB – MEMBERS AND GUESTS ONLY. PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME".
(In case of a multi-screen complex where consent has been granted the notice shall specify the particular part of the premises in which films in the 'restricted 18' category are being exhibited).
- (c) All registers of members and all visitors' books of their guests shall be available for immediate inspection by the Council's Officers during any performance, or at any other reasonable time.
- (d) Tickets shall in no circumstances be sold to persons other than members.
- (e) No persons under 18 years of age shall be employed in any capacity at licensed premises which are operating as cinema clubs.
- (f) Subject to prior written consent by the Council, a subscription may entitle the club member to attend other clubs under the same management.
- (g) Membership rules for these club cinemas shall include the matters set out in Appendix A, be submitted to the Council 14 days before the club commences operation and notice of all rule changes shall be given to the Council within 14 days of the change.

Appendix A

Membership Rules For Club Cinemas

The membership rules for club cinemas where restricted 18 films are to be shown should include the following:

- (a) The club rules must be submitted to the Council 14 days before the club commences operations and notice of all rule changes shall be given to the Council within 14 days of the change.
- (b) Only members and their guests shall attend exhibitions of moving pictures classified in the restricted (18) classification.
- (c) Membership shall be open to persons of both sexes of not less than 18 years of age. Applications for membership, including both name and address, shall be in writing, signed by the applicant, and if deemed necessary such applicants shall provide satisfactory references and proof of age.
- (d) No person shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the licensed proprietors.

- (e) New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.
- (f) An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the licensed proprietors may refuse to renew any membership without assigning reason for such refusal.
- (g) Members shall be entitled on any day to bring not more than one guest to accompany the member, and the name of the guest shall be entered in the visitors' book and counter-signed by the member.
- (h) On admission a member and his guest shall be bound by the rules of the club and by any by-laws and regulations made there under.
- (i) Tickets shall be sold only to members on the production of a membership card, and members shall, if required, sign an acknowledgement for the ticket or tickets issued.
- (j) Membership cards shall be personal to the member and shall not be transferable to any other person.
- (k) Neither membership tickets nor guest tickets shall be transferable.
- (l) No member shall introduce as a guest any persons under the age of 18 or any persons whose application for membership has been refused. The licensed proprietors will reserve the right to refuse admission to any person.
- (m) Proof of identify, or of age, or of any particulars of any guest shall be produced by any member or guest if demanded by the licensed proprietors.
- (n) Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.

Standard Conditions relating to Sex Shops

Tameside Council, in exercise of the powers conferred upon them by paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 makes the following standard conditions in relation to sex shops.

Separate conditions cover sexual entertainment venues and sex cinemas.

Where there is a conflict between these standard conditions and special conditions attached to a licence, the special conditions will prevail.

The Council reserves the right to amend, delete or add to these conditions as and when appropriate.

Definitions:-

- (a) 'Sex Establishment', 'sex cinema', 'sex shop' and 'sex article' shall have the same meanings ascribed to them in schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- (b) 'Premises' means a building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a sex shop granted under the said schedule 3.
- (c) 'The Council' means Tameside Council.
- (d) 'Authorised Officer' means any person authorised in writing by the Council.

Conditions:-

1. Premises licensed as a Sex Shop under the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act, 1982, shall be used only for the purposes of a Sex Shop as defined in Paragraph 4 of said Schedule 3 and shall not be used, wholly or in part, for any other purposes during the period the premises are licensed as a Sex Shop.
2. Except with the previous consent of the Council, a sex shop shall not be open to the public before the hours of 9.00am and shall not be kept open after 6.00pm.
3. Over each entrance to the premises, in a position approved by the Council, the Licensee shall affix and maintain in a permanent form a notice stating that the premises are licensed

as a Sex Shop under the provisions of the Local Government (Miscellaneous Provisions) Act, 1982. Such a notice shall also carry the full name of the licensee.

4. At each entrance there shall be prominently displayed so as to be visible at all times to persons approaching the premises a notice prohibiting entry to all persons under 18 years of age. Such a notice shall be in letters at least 50mm high and 6.25mm thick and shall be in dark letters on a light background.
5. The Licensee of every premises licensed as a Sex Shop shall ensure that all persons employed on the premises are aware of the age restriction on clients and that they exclude or remove from the premises any person attempting to evade the restriction.
6. The Licensee shall not display outside, near to, or within the premises any advertising material, sign or pictorial display referring to the licensed premises or the goods, articles or services provided at the premises, in such a position or manner that it is visible to any person using adjacent highways, streets, foot paths or forecourts except any notice displaying the name or trading title of the Licensee, any notice indicating the times of opening of the premises for business, any notice required by any statute, regulation or bylaw applicable to the premises or business carried thereon or any notice prescribed by these conditions. Provided that nothing in this condition shall prevent the display of items which are not sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982 in the shop window or otherwise in public view from outside of the shop.
7. The licensed premises shall be so arranged by screening or obscuring windows, doors and other openings so that the interior of the licensed premises and the displays of articles sold at the premises shall not be visible to persons outside the building.
8. The Licensee shall not at any time keep or allow to be used on the premises any gaming or amusement machine whether for prizes or not.
9. All refuse produced on the premises and materials, goods or articles discarded for any reason shall be securely stored within the premises and delivered in sealed containers to the refuse collection service.
10. The Licensee shall make such provision for the reception of goods and articles for sale, hire or display on the premises so that they are received directly into the premises and not subject to storage for any period of time on any pavement, footpath, forecourt or yard.
11. The Licensee or some responsible person nominated by him in writing for the purpose shall be in charge of and upon the licensed premises during the whole time they are open to the public. Such written nominations shall be continuously available for inspection by authorised officers of the council or police.
12. Where the Licensee is a body corporate or an unincorporated body, any change of Director, Company Secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days and such written details as the Council may require in respect of any new Director, Secretary and Manager are to be furnished within 14 days of a request in writing from the Council.
13. The licensee shall inform the Council in writing within 14 days if he/she or an employee is convicted or cautioned for a criminal offence

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APPENDIX 5

Tameside Council Equality Impact Assessment Form

Subject / Title	Adoption of 3 X revised/new licensing policies
------------------------	------------------------------------------------

Service Unit	Service Area	Directorate
Licensing	Environmental Services	Place

Start Date	Completion Date
15 August 2015	23 February 2016

Lead Officer	John Gregory
Service Unit Manager	Sharon Smith
Assistant Executive Director	Ian Saxon

EIA Group (lead contact first)	Job title	Service
Ian Saxon	Assistant Executive Director	Environmental Service
Sharon Smith	Service Unit Manager	Public Protection
John Gregory	Environmental Services Manager	Licensing

PART 1 – INITIAL SCREENING

An Equality Impact Assessment (EIA) is required for all Key Decisions that involve changes to service delivery. All other changes, whether a Key Decision or not, require consideration for the necessity of an EIA.

The Initial Screening is a quick and easy process which aims to identify:

- *those projects, policies, and proposals which require a full EIA by looking at the potential impact on any of the equality groups*
- *prioritise if and when a full EIA should be completed*
- *explain and record the reasons why it is deemed a full EIA is not required*

A full EIA should always be undertaken if the project, policy or proposal is likely to have an impact upon people with a protected characteristic. This should be undertaken irrespective of whether the impact is major or minor, or on a large or small group of people. If the initial screening concludes a full EIA is not required, please fully explain the reasons for this at 1e and ensure this form is signed off by the relevant Service Unit Manager and Assistant Executive Director.

1a.	What is the project, policy or proposal?	Three amended / new licensing policies, in respect of the Licensing Act 2003, the Gambling Act 2005 and the licensing of sexual entertainment venues.
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APPENDIX 5

Tameside Council Equality Impact Assessment Form

1b.	What are the main aims of the project, policy or proposal?	<p>In the case of the Licensing Act and the Gambling Act, to update the existing statements of licensing policy as required by the relevant legislation and in order to keep the policies relevant and up-to-date.</p> <p>In respect of sexual entertainment venues, to introduce a policy and standard licence conditions following the adoption of new legislation which allows the council to licence such venues.</p>
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1c. Will the project, policy or proposal have either a direct or indirect impact on any groups of people with protected equality characteristics?

Where a direct or indirect impact will occur as a result of the policy, project or proposal, please explain why and how that group of people will be affected.

Protected Characteristic	Direct Impact	Indirect Impact	Little / No Impact	Explanation
Age			✓	
Disability			✓	
Race			✓	
Sex / Gender			✓	
Religion or Belief			✓	
Sexual Orientation			✓	
Gender Reassignment			✓	
Pregnancy & Maternity			✓	
Marriage & Civil Partnership			✓	

Are there any other groups who you feel may be impacted, directly or indirectly, by this project, policy or proposal? (e.g. carers, vulnerable residents, isolated residents)

Group (please state)	Direct Impact	Indirect Impact	Little / No Impact	Explanation

Wherever a direct or indirect impact has been identified you should consider undertaking a full EIA or be able to adequately explain your reasoning for not doing so. Where little / no impact is anticipated, this can be explored in more detail when undertaking a full EIA.

1d.	Does the project, policy or proposal require a full EIA?	Yes	No
		✓	

1e.	<p>What are your reasons for the decision made at 1d?</p>	<p>Although the assessment of these policies resulted in a decision that a full EIA was not necessary, a decision was made to submit a full EIA in order to ensure that all equality issues have been fully considered and that no potential equality issues have been missed.</p>
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If a full EIA is required please progress to Part 2.

PART 2 – FULL EQUALITY IMPACT ASSESSMENT

<p>2a. Summary</p>
<p>The Licensing Act and Gambling policies are being renewed because it is a legal requirement for local authorities to revise these policies every 5 years (Licensing Act) and 3 years (Gambling Act) The Sexual entertainment Policy is being introduced because the Authority has recently adopted the legislation which allows such premises to be licensed and a policy is now required. The draft policies have all been subject to a full 12 week public consultation and all responses to the consultation have been considered and included in the final decision report.</p>

<p>2b. Issues to Consider</p>
<p>With reference to the Licensing Act and Gambling Act policies, these are updates to existing policies. The policies affect existing licensed premises and gambling premises and anyone who wishes to apply for a new licence. As such, the policies are designed to provide opportunities for all applicants and licence holders so that no group of people (protected or otherwise) will be adversely affected by the contents of the policies.</p> <p>The policies are designed to encourage licence holders and applicants to promote clear and unambiguous licensing objectives which are intended to protect all members of the public from the potential adverse effects of licensed premises or gambling premises.</p> <p>The primary legislation for both of these policies (The Licensing Act 2003 and the Gambling Act 2005) have both been subject to comprehensive equality impact assessments and there is only limited scope within the statements of licensing policy to add additional local requirements.</p> <p>Following the consultation on the Gambling Act policy, a representation was submitted by a firm of solicitors acting on behalf of the Association of British Bookmakers (ABB). In their representation, they drew attention to an entry in the policy which required operators to make risk assessments for their premises and suggested that, as part of this process, they may wish to take into account the proximity of places of worship. It was suggested that matters of faith were not a relevant consideration in the licensing of gambling premises and this should be removed.</p> <p>As a result, the relevant section has been removed, and no reference is now made to matters of faith.</p> <p>Taking all the above points into consideration, although the Licensing and Gambling policies do not require a full EIA, one has been completed to ensure that no equality issues have been missed.</p> <p>With reference to the sexual entertainment premises policy & conditions, the first key point is that there are none of these types of businesses currently operating within Tameside, and a low likelihood that any will look to apply to open in the foreseeable future. The policy supplements an amendment to the Local Government (Miscellaneous Provisions) Act 1980 in allowing local authorities to licence such premises and as such, a policy on how to apply for a licence and standard conditions for such premises is desirable.</p> <p>The policy lays out the councils very stringent expectations of operators and applicants and these expectations are consistent and do not discriminate against any group (protected or otherwise).</p>

APPENDIX 5

Tameside Council Equality Impact Assessment Form

As such, the sexual entertainment venue licensing policy and conditions do not require a full EIA, but again, a full EIA has been submitted to ensure that no equality issues have been missed.

2c. Impact

The evidence suggests that there will be little or no disproportionate adverse impact on any of the identified groups.

2d. Mitigations (Where you have identified an impact, what can be done to reduce or mitigate the impact?)

N/A

2e. Evidence Sources


The relevant legislation for these draft policies is:
The Licensing Act 2003
The Gambling Act 2005
The Local Government (Miscellaneous Provisions Act) 1980

In addition, full 12 week public consultations were carried out in relation to all three licensing policies and all responses were fully considered and included in the final decision report.

2f. Monitoring progress

Issue / Action	Lead officer	Timescale
As per section 2b, a small amendment has been made to the draft gambling policy to reflect a representation to the trade. The applications of the policies will be regularly monitored to ensure no unexpected equality issues are allowed to develop.	John Gregory	Ongoing

Report To:	COUNCIL
Date:	21 January 2015
Executive Reporting Officer:	Member/ Councillor Taylor – Deputy Executive Leader Councillor Gwynne – Executive Member (Clean and Green) Ian Saxon – Assistant Executive Director (Environmental Services)
Subject:	WASTE POLICY AND ENFORCEMENT STRATEGY
Report Summary:	Following a period of consultation, the Enforcement Coordination Panel recommend adopting a Waste Policy and Enforcement Strategy set out at Appendix 1 together with the communication and engagement plan detailed at Appendix 2 .
Recommendations:	The Waste Policy and Enforcement Strategy at Appendix 1 is adopted and the communication and engagement plan at Appendix 2 . is approved.
Links To Community Strategy:	A Safe Environment; A Learning Community; and Supportive Communities
Policy Implications:	If adopted the Waste Policy and Enforcement Strategy detailed in Appendix 1 will become Council Policy
Financial Implications: (Authorised By Section 151 Officer)	There are no financial implications arising directly from this report. Enforcement activity is funded through Environmental Services revenue budgets.
Legal Implications: (Authorised By The Borough Solicitor)	Relevant legislation is referred to in paragraph 4.5 of the policy at Appendix 1. In adopting and implementing the policy and strategy, the Council must comply with its equalities duties.
Risk Management:	Activities are carried out in line with current risk assessments and are recorded in the core performance system. The publicity around recycling and bins days will be crucial to the success of the Council's waste and recycling strategy in reducing costs and improving the environment. The reality is that most people comply with rules if they know and understand them. It will also be necessary to any successful enforcement against those who do not comply to demonstrate.
Access To Information:	The background papers relating to this report can be inspected by contacting the report writer, by: Ian Saxon, Assistant Executive Director

 Telephone - 0161 342 3647

 E-mail ian.saxon@tameside.gov.uk

1. INTRODUCTION

- 1.1 The purpose of this report is to consider the draft Waste Policy and Enforcement Strategy at **Appendix 1**, together with the consultation responses received, and recommends that the policy is adopted by the Council.
- 1.2 It is important to have a clear policy regarding waste collection, recycling and enforcement. The policy confirms what Tameside residents and key stakeholders can expect from the waste and recycling service and also outlines what residents can do to help deliver the service.
- 1.3 The policy also outlines the Councils approach to enforcement, where it is necessary in occurrences of non-compliance. The council needs to be transparent about the approach it takes.
- 1.4 All avenues of education and support will be exhausted before enforcement is undertaken. A communication plan has been developed and can be found at **Appendix 2**. Enforcement action is always a last resort and any action taken will be reasonable and proportionate.

2. CONSULTATION

- 2.1 The consultation commenced on the 26 October 2015 and ran for 4 weeks, ending on the 27 November.
- 2.2 A questionnaire was developed and published on the Council's "Big Conversation" website where anyone could answer a series of questions and leave their comments.
- 2.3 The consultation exercise was widely publicised on social media.

3. CONSULTATION RESPONSE SUMMARY

- 3.1 Seven responses were received from members of the public.
- 3.2 85.71% of respondents agreed that residents should recycle as much waste as possible.
- 3.3 85.71% of respondents agreed that residents should dispose of their waste in the correct manner
- 3.4 85.71% of respondents agreed that the council should take enforcement action against those that do not dispose of their waste in the correct manner.
- 3.5 The following table summarises the general comments made:
 - Encourage residents to report people who do not recycle. TMBC must take Enforcement action and publish names + addresses of those who are found guilty.
 - All Enforcement should be self-funded through fines.
 - No follow up to reporting of people burning rubbish on public open ground. Some people have more bins than they should.
 - I would like to see more items being taken for recycling such as bottle tops both steel and plastic and also blister packs and yogurt pots. This can only be done if investment is put into recycling plants
 - I agree fully with recycling but when blue and brown bins are not emptied by the council it makes a mockery out of recycling. Blue bins should have been emptied last Friday but there was no collection even though bins were left on road outside alleyway. I found mine had been filled with bricks which I had to empty. When I

rang Tameside they said not a lot the can do. At the moment there is a fridge on the road I presume awaiting collection don't know who it belongs

- Each case should be dealt with on its own merit. It should not be a blanket rule for all without taking into account personal circumstances.

4. EQUALITY IMPACT

- 4.1 A full equality impact assessment has been carried out in respect of this policy. The assessment is attached at **Appendix 3**.

5. RECOMMENDATION

- 5.1 As set out on the front of the report.

Tameside Metropolitan Borough Council

Waste Policy and Enforcement Strategy

1. Introduction
2. Waste and Recycling Collections
3. Expectation from Residents
4. Enforcement Framework

1. INTRODUCTION

- 1.1 This policy has been developed to inform residents of the services that the Council provide and also outlines what residents can do to help deliver the waste and recycling service.
- 1.2 The Council aims to work with the local community to help residents recycle as much as possible and to manage their waste in the most cost effective and efficient way.
- 1.3 There is also a framework of enforcement action that will be applied in a reasonable and proportionate way.

2. WASTE AND RECYCLING COLLECTIONS

- 2.1 Residents in all properties will receive waste and recycling collections at a time and schedule determined by the Council.
- 2.2 The Council will make all reasonable effort to empty bins presented by residents in accordance with this policy. If however, the Council is unable to empty bins on the scheduled day of collection, residents are requested to leave bins out for collection and the crew will return to collect the waste or recycling the following day.
- 2.3 The Council provides a recycling led service and all residents are expected to recycle waste in accordance with the services provided.
- 2.4 For properties determined by the Council as having adequate storage and access for wheeled bins:

Colour	Capacity	Material	Frequency collected	Provision of Extra Receptacles
Black	180L	Glass, Plastic bottle, Cans, Aluminium Foil	Fortnightly	Additional 180L bins provided on request
Blue	140L	Paper, Cardboard, Tetra Paks	Three Weekly	Additional 140L bins available on request
Brown	240L or 23L lidded Food waste container issued to properties without a garden	Food and Garden Waste	Weekly	Additional 240L bins or 23L food waste containers available on request
Green	140L	Landfill Waste	Fortnightly	Additional or larger green bins will only be provided in

				circumstances outlined in section 2.9 of this policy
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2.5 Properties determined by the Council as not having adequate storage and access for wheeled bins, will be provided with a fortnightly collection of 3 black domestic waste sacks. Upon each collection the waste collection crew will replace the 3 sacks removed.

2.6 The Council may be able to provide a recycling service to these properties in certain circumstances. The recycling waste will be collected using recycling boxes provided to the properties.

Service for Multi Occupied Properties/Flats

2.7 Waste and recycling from residents living in flats is collected via communal bins which are regularly emptied.

2.8 Landlords or the developers are required to purchase bins for general waste. The Council will specify the type and number of bins required. The Council will provide the necessary recycling bins free of charge.

2.9 Landlords who choose to purchase their own approved containers should note that all repairs and maintenance are their responsibility. The Council will not accept liability for any damage sustained to containers during collection.

2.10 Bin store areas are the responsibility of the landlord who should ensure that bins can be accessed on the day of the scheduled collection.

2.11 It is the responsibility of the landlord/management company to ensure bin stores are kept clean and tidy. Where access to a bin is blocked by loose rubbish or bulky items it will not be emptied until this has been removed. The bin will then be emptied on the next scheduled collection day; charges will be applied if an expedited collection is required.

Service for Rural Properties

2.12 There are some locations within the Borough that are difficult to access due to the condition of the road surface where there are difficulties in using a normal size waste collection vehicle.

2.13 In these circumstances where determined appropriate by waste services the Council will use a smaller collection vehicle to collect landfill and recycling waste. Unfortunately, the Council is currently unable to operate food and garden waste collections for rural properties; therefore, rural properties will receive a 180 litre bin for non-recyclable (landfill) waste.

Missed Collections

2.14 When bins are presented correctly, the Council will make every reasonable attempt to collect recycling and landfill waste from households.

2.15 If the access to the property is obstructed the crew will make three attempts on the scheduled day of collection to collect the container. The crew will report any containers presented incorrectly and any access issues encountered.

2.16 Where landfill waste or recycling containers have not been presented correctly, they will not be collected until the next scheduled collection. In these circumstances residents will be required to return their bin to their property until the next collection.

Collection Points

- 2.17 In situations where collections cannot be made from adjacent to edge of the householder's property then the Council will identify a central point of collection.
- 2.18 In determining collection points for those affected properties, consultation will take place with the householders concerned.
- 2.19 Householders will be required to place their recycling or landfill bin at the specified collection point on their scheduled day and then retrieve their bin from the collection point at the end of the day once emptied.

Waste and Recycling Collections at Christmas

- 2.20 No collections will take place on Christmas Day, Boxing Day and New Year's Day. All other collections will remain the same.
- 2.21 Changes to the waste collection schedule will be advertised in the local paper and also on the Council website and social media feeds.

Additional Capacity

- 2.22 The waste collection services the Council provides to residents are sufficient and adequate to manage the households' waste needs. In the majority of cases the Council provides a collection of 477 litres of waste every week.
- 2.23 To encourage waste minimisation and recycling, the Council will only collect 140 litres of non-recyclable (landfill) waste per household. The Council does recognise however, that some large households or residents with certain medical conditions may produce more than 140 litres of landfill waste at each collection despite fully participating in the recycling service
- 2.24 Where residents feel that they do not have sufficient landfill waste capacity they can make an application for additional capacity this will include keeping a waste diary to record all waste disposed of from the property in a two week period. The Council will assess the application and arrange for an Officer to visit and carry out a waste audit and determine if additional landfill waste capacity is required.
- 2.25 There are exceptional circumstances where, due to clinical waste needs or larger households (6 persons or more) more landfill waste is created than normal. In these circumstances residents will not be required to complete a waste diary or undertake a waste audit, but will be asked to apply for an additional landfill waste bin.
- 2.26 The householder's use of the additional bin will be subject to review. The additional bin may be removed should residents be found to have obtained the additional bin under false circumstances or have changed circumstances affecting their entitlement to additional capacity since the bin was issued.

Assisted Collections

- 2.27 The Council offers assisted collections to residents who are infirm or who cannot put their waste out on the collection day due to a qualifying health condition or disability. This means that waste and recycling crews will pull out the bins from an accessible location so that they can be emptied and then returned.
- 2.28 This service is subject to no other able bodied person living at the property.
- 2.29 Residents will be required to make an application for this service. In order to reduce abuse of this service the Council will require all applicants to return a medical assessment form signed by their general practitioner with their application form

2.30 Provision of waste and recycling bins

Replacing bins for the collection of waste presents a significant ongoing cost to the Council.

2.31 Residents are required to purchase a landfill bin when moving into a new property. Initial recycling bins will be provided free of charge.

2.32 Residents in new and existing properties are required to pay for replacement containers. The only exceptions to this are if;

- It is no longer serviceable and poses a health and safety risk to the operatives/residents.
- It has been crushed during collection. In this case the crew will report to waste services and a new bin will be provided free of charge

2.33 Residents are advised to clearly and neatly mark the front of the bin with their address.

2.34 The provision of waste and recycling wheeled bins for new multi occupancy (flats) developments will be the responsibility of the developer.

Bulky Household Waste Collections

2.35 The Council provides a separate collection of bulky household waste items. A standard charge per collection will be made and the scale of charges for the collection of bulky items will be publicised by the Council and reviewed annually.

2.36 The Council do not collect bulky waste items such as; beds, washing machines and furniture, free of charge. These should not be left out for the domestic waste collection

2.37 The bulky household collection service covers the removal of up to five items.

2.38 Bulky waste items may also be taken to the Household Waste Recycling Centre or donated to a local reuse charity.

2.39 The collection of white goods is provided free of charge to pensioners.

2.40 Information regarding the cost of this service, what items can be presented for collection and arrangements for collection can be found on the Council's website.

Trade Waste

2.41 The Environmental Protection Act 1990 requires all businesses which produce controlled waste have a duty to ensure that their waste is adequately stored and disposed of. Businesses are required to keep documents relating to the disposal of waste for a period of two years and are required to have these available for inspection when required by the Council.

2.42 Individual businesses are responsible for the presentation and management of their trade waste. They can contract with either the Council or any commercial waste collection service who will provide storage containers and uplift of waste.

2.43 Trade or commercial waste should not be placed in household bins, litter bins, or taken to the household waste recycling centre.

2.44 The Council offers local businesses a weekly trade waste collection service. Customers sign up on a rolling contract basis.

The following sizes of waste containers are available;

- 240 Litre
- 500Litre
- 1100 Litre

2.45 Customers pay all charges in advance, either monthly or annually by Direct Debit. These charges include the container hire, collection and disposal charges for recycling and non-recycling collections and all administrative costs, including duty of care documentation.

2.46 Any business found to be not complying with their responsibilities regarding waste may face enforcement action under section 4.34 of this policy.

3. EXPECTATIONS OF RESIDENTS

3.1 All householders have a legal responsibility to ensure that all of their rubbish and waste is disposed of properly.

Presentation of bins for collection

3.2 All bins or sacks should be made available for collection 7am on the morning of the scheduled collection. Bins or sacks should not be presented for collection and earlier than 5pm on the evening before the scheduled collection.

3.3 Wheeled bins and sacks should be placed where the public highway begins and private land ends (the edge of the property).

Excess Landfill Waste – Side Waste

3.4 Side waste is excess bags from the household, which are presented for collection at the side of the bin. The Council will not remove waste presented for collection alongside, or on top of, landfill waste bins.

3.5 The Council encourages residents to recycle as much as possible and will allow residents to have additional recycling bins to ensure individual households have sufficient capacity to meet their requirements.

3.6 All landfill waste should be contained within the green bin, any excess waste will be treated as illegally dumped waste and enforcement action may be taken in accordance with section 4.22 of this policy.

Excess Landfill Waste – Closed Lids

Where wheeled bins are presented with waste that does not fit comfortably within the container and the lid is ajar, the crew will empty the bin and place the excess waste back into the bin. A notice will be left on the bin explaining why the excess waste has not been collected.

Excess Recycling Waste

3.8 Residents may request additional recycling bins free of charge. Alternatively, residents may place additional recycling materials for collection so long as it is identifiable in a clear bag.

Bins on Pavements

3.9 Collection crews are instructed to return bins to the area they were collected from. It is the responsibility of residents to take bins back to their property by the end of the day on which they are collected.

3.10 If residents fail to return the bins back to their property without reasonable excuse, enforcement action may be taken under section 4.27ff of this policy.

Contamination of Bins

- 3.11 Contamination occurs when the wrong waste is placed in the wrong bin. It is important that the Council collects good quality materials for recycling. Putting items that cannot be recycled in recycling bins reduces the quality of our recycling and may mean that the entire load is rejected when tipped off. This means that the waste is sent to landfill, a single contaminated load costs the Council over £3000.
- 3.12 Where it is established that recycling containers are repeatedly not being used correctly, enforcement action outlined in 4.27ff will commence.

Householder Duty of Care

- 3.13 Some people pose as legitimate waste carriers and then fly tip rubbish which they have been paid to dispose of properly. If any fly tipped waste is traced back to the household it came from, the householder could be fined.
- 3.14 Under the Household Waste Duty of Care Regulations 2005, householders are required to take reasonable measures to ensure that household waste produced on their property is passed on to an authorised person.
- 3.15 If a waste carrier other than the Council is used householders must carry out the following check;
- Ask the contractor if they are a registered waste carrier and ask for their waste carrier number.
 - If they claim to be registered telephone the Environment Agency on 08708 506506 and ask for an instant Waste Carrier Validation Check, or visit the Environment Agency website to check online.
 - Ask for a receipt detailing the work they have carried out.

4. ENFORCEMENT FRAMEWORK

- 4.1 This policy specifies Tameside Council's methods for dealing with the enforcement approach in tackling waste issues.
- 4.2 The Council aims to educate local residents and businesses to understand their role with regard to responsible waste management.
- 4.3 Enforcement action includes verbal warnings and advice, written advice, warning letters, statutory notices, formal warnings, the issue of fixed penalty notices, formal cautions and prosecution. Action taken will be proportionate to the scale of the identified problem.
- 4.4 The Council will follow a staged approach to enforcement. Although the Council will take an incremental approach to education and non-compliance, the level of enforcement may be escalated depending on the nature and severity of the case.
- 4.5 **Relevant Legislation**
- Accumulations of Waste – s4 Prevention of Damage by Pests Act 1949; s79 & 80 Environmental Protection Act 1990; s78 Public Health Act 1936;
 - Illegal dumping/fly tipping – s33, s34 & s59 Environmental Protection Act 1990;
 - Trade waste & duty of care – s34 & s47 Environmental Protection Act 1990
 - Household waste bin enforcement – s46 Environmental Protection Act 1990

- Litter – s87 & s88 Environmental Protection Act 1990
- Community Protection Notices - Anti-Social Behaviour Crime and Policing Act 2014

Enforcement Options Available

4.6 There are a large number of potential enforcement options. The level of the action taken varies from informal advice through to proceedings in Court. Examples of the main types of action that may be considered are shown below:

- Informal action, education and advice
- Statutory Notices
- Fixed Penalty Notices
- Simple Caution
- Prosecution

Informal Action

4.7 Minor incidents are frequently dealt with by means of informal action and would involve the officer drawing the matter to the attention of the individual and giving appropriate guidance.

- Verbal advice. To be given where the offender shows an understanding and willingness to remedy contraventions of a minor nature.
- Written advice. To be used where there is no imminent risk to health and the officer believes the offender will co-operate in remedying the offence. Written advice may also be given where it is felt necessary for the offender to consider their liabilities under law.

4.8 Failure to comply could result in an escalation of enforcement action.

Statutory Notices

4.9 Many Acts of Parliament enforced by the Council provide for the service of statutory notices which require a person, business or organisation to comply with specific legal requirements. Where a formal notice is served, the method of appealing against the notice will be provided in writing at the same time. The notice will explain what is wrong, how to put it right and what will happen if the notice is not complied with.

4.10 In many circumstances the legislation will allow the cost of any necessary work carried out in default to be recovered from the offender. Where legislation permits a charge will be placed on the property to ensure the payment is made.

4.11 In general, failure to comply with a statutory notice (including a fixed penalty notice of the type where payment is required to discharge liability) makes the recipient liable for prosecution. In some circumstances, it is possible to prosecute as well as serve notice. Failure to comply with the notice would be an additional offence.

Community Protection Notices

4.12 The purpose of a Community Protection Notice (CPN) is to stop individuals over the age of 16, businesses or organisations committing anti-social behaviour which has a detriment on the community's quality of life.

4.13 A CPN can be served by the Council and partner agencies such as the Police and Registered Social Landlords. They may be used to deal with particular ongoing problems or nuisances which negatively affect the community, by targeting those responsible. They can cover a wide range of anti-social behaviours including littering and waste related offences.

- 4.14 A CPN can be issued once an officer is satisfied that the conduct of the individual, business or organisation:
- Is having a detrimental effect on the quality of life of those in the locality
 - Is of a persistent or continuing nature, and
 - Is unreasonable
- 4.15 Once an issue has been identified and the above tests are met, a written warning will be given to the alleged perpetrator requesting that they stop their anti-social behaviour. The warning letter will also advise of the consequences should they fail to comply with the warning.
- 4.16 A CPN may include a requirement to stop doing something, to start doing something or to take reasonable steps to avoid further anti-social behaviour.
- 4.17 If the CPN is breached the Council will give consideration to the appropriate action from a range of options available:
- Fixed Penalty Notice
 - Remedial Action
 - Prosecution

Fixed Penalty Notices

- 4.18 In certain circumstances it may be appropriate to issue a fixed penalty notice for the relevant offence. The fixed penalty will allow the offender to discharge liability for the offence and avoid action through the Magistrates' Court.
- 4.19 FPNs must only be issued where there is sufficient evidence to prosecute. If the FPN is not paid within a specified time the case should proceed to prosecution.

Formal Caution

- 4.20 Officers can recommend that offenders receive a formal caution in accordance with Home Office guidance. This is one step below prosecution; however, offenders must admit the offence and accept the caution.
- 4.21 Failure to accept the formal caution could result in prosecution, as would further similar breaches after the caution has been issued.
- 4.22 A formal caution will only be used where there is evidence of guilt sufficient to give realistic prospects of conviction.

Prosecution

- 4.23 When considering prosecution, officers must follow the guidance in the Code of Practice for Crown Prosecutors
- 4.24 The decision to prosecute will be made by a Senior Manager in conjunction with Legal Services taking account these criteria;
- Firstly, an evidential test to ensure that there is enough evidence to provide a 'realistic prospect of conviction'. If this is lacking, then no prosecution or alternative means of disposal of criminal offences will be taken.
 - Secondly, a public interest test, which will determine whether it is in the public interest for a prosecution to be taken.
- 4.25 Prosecution shall be initiated when one or more of the following are met:

- There is a history of similar offences and/or written warnings have been ignored.
- Non-compliance with a statutory notice.
- Failure to pay a fixed penalty notice.
- Refusal to accept a simple caution.
- Serious breach of the law leading to a risk to the health of residents and/or the environment.
- There is enough admissible and reliable evidence to show an offence has been committed by an identifiable individual/business.

Offences

4.26 The majority of waste related offences fall into six categories;

- Littering
- Large scale illegal dumping
- Complaints related to waste collections
- Accumulations of waste in communal areas
- Accumulations of waste on private land
- Trade waste

Enforcement – Littering

4.27 Litter is unsightly and illegal. Under Section 87 of the Environmental Protection Act 1990 it is an offence to drop litter on any open land.

4.28 There is no statutory definition of “litter and refuse” under the Environmental Protection Act 1990. However, the code of practice issued in respect of dealing with litter and refuse states that the definition is wide. In some circumstances excess waste left next to bins can be defined as litter and where it is clear who has left out the excess waste which is littering the neighbourhood a FPN may be issued on that person. Should the fixed penalty not be paid or further incidents of non-compliance occur then the Council will consider legal action at the magistrates’ court to prosecute the alleged offender and recover full costs.

Enforcement – Large Scale illegal dumping

4.29 It is an offence under Section 33 of the Environmental Protection Act 1990 for any person to dump waste without it being in accordance with a waste management licence. This is often known as fly tipping.

4.30 Fly tipping is an offence which carries a maximum penalty of up to £50,000, or for very serious offences, an unlimited fine and up to five years in prison.

4.31 Where evidence of fly-tipping is obtained an investigation will begin and in the absence of any evidence of extenuating circumstances the Council will always initiate legal proceedings to prosecute the alleged offender and recover full costs.

4.32 Waste which has been illegally dumped will be stickered and placed in an enforcement bag, which is red in colour, to indicate that the illegal dumping is under investigation.

Enforcement – Waste Collections

4.33 Section 46 of the Environmental Protection Act 1990 enables the Council to specify the following:

- Day of collection
- Frequency of collection
- Number, size and type of bins provided
- The waste streams allowed in each type of waste container.

4.34 The waste collection requirements are set out in section 2 of this policy.

- 4.35 Enforcement may commence where there is evidence of non-compliance and where the household recycling and refuse is presented incorrectly either by the position of the container, time of presenting for collection or content.
- 4.36 The enforcement process will normally only take effect where attempts to improve resident behaviour through education are unsuccessful.
- 4.37 Before considering taking formal enforcement action against a householder, the Council will adopt a phased approach to securing compliance with its waste collection policies as set out below. The process of issuing written warnings and the imposition of fixed penalties in cases of failing to comply with such warnings has recently been put on a statutory basis under section 46A -D of the Environmental Protection Act 1990;

a) Stage One

Householders who are identified as failing to act in accordance with the Council's policies and procedures will be advised of the details of their non-compliance as well as what action/behaviour the Council requires of them.

Officers will where possible advise householders verbally, a warning hanger will be left on the container explaining why the waste has not been collected. Written advice will be provided informing them of the correct method of presenting the container and the contents.

If necessary, the Council will endeavour to remove recycling and/or refuse presented in the containers (i.e. not excess) on this first occasion if there is no significant risk to the health and safety of the collection crews.

b) Stage Two

On the second occasion householders will receive an informal written warning from the Council, which will set out what action/behaviour the Council requires of the particular householder(s) and the consequences of continued non-compliance.

If possible the Officer will contact the resident in person and advise them of the issue and seek to determine the resident's reasons for failing to present their refuse correctly.

c) Stage Three

On the third occasion a formal written warning under Section 46A of the Environmental Protection Act 1990 will be served on the householders.

d) Stage Four

Any further breach will result in a Fixed Penalty Notice (FPN) being served on the householder.

If the householder continues to present their refuse incorrectly or fails to discharge their liability by payment of the FPN, then further FPNs can be issued and enforced.

Enforcement - Accumulations of Waste in Communal Areas

- 4.38 The Council has a statutory duty to take action on waste accumulations which become prejudicial to health and may support or harbour vermin. The process for dealing with such accumulations is, firstly, to ascertain who the land belongs to.
- 4.39 Where the land is communally owned all occupiers of properties which abut the passageway, have a joint responsibility to maintain it and this includes keeping the land free from rubbish.

4.40 Once land ownership is confirmed the Council will then write to residents to inform them of the accumulations, to remind them of their responsibilities under Section 78 of the Public Health Act 1936 and to request removal of the waste. If the waste is not removed within a reasonable time frame, a Statutory Notice will be served to enforce removal.

4.41 If the waste remains in situ after 7 days after the Notice has been served then the Council will arrange for removal of the waste and recharge residents for any costs incurred.

Enforcement - Accumulations of Waste on Private Land

4.42 Waste accumulated on private land can be unsightly, or may cause a nuisance for example a smell. It can also be a public health risk by attracting rats, or even cause further dumping.

4.43 In such cases the owner and occupier of the land is responsible for removing any rubbish. If there has been a complaint, the Council will visit the land and try to work together with the owner and occupier to get the rubbish removed.

4.44 If this is not successful, the owner or occupier of the land can be served with a legal notice requiring them to remove the rubbish within a certain period of time. If they do not comply, the Council can make arrangements for the rubbish to be removed and the costs incurred recovered from the person on whom the notice is served.

4.45 The Council may place a charge on the property until the costs are paid.

Enforcement – Non-Compliance of Trade Waste Legislation

4.46 Under the Environmental Protection Act 1990 every business has responsibility to manage their waste arrangements within duty of care guidelines and regulations so as not to be detrimental to the local amenity.

Enforcement where Trade Refuse is presented

4.47 Where evidence is obtained that trade recycling or refuse has been unlawfully placed in the household collection containers, the Council will in the first instance advise the trader that this is not acceptable and explain what the business must do to comply with trade waste regulation.

4.48 If there is no improvement then the Officer will issue a Section 34 notice in accordance with the Environmental Protection Act 1990. The notice will require documentary evidence that a business has suitable arrangements for waste collection and disposal. If the correct documents are not produced then a FPN will be issued.

4.49 Should the fixed penalty not be paid or further incidents of non-compliance occur then the Council will consider legal action at the magistrates' court to prosecute the alleged offender and recover full costs.

Enforcement Regarding Duty of Care

4.50 When a trader is asked to provide a proper Duty of Care (DOC) Waste Transfer Note with regard to their arrangements for the collection and disposal of their trade waste and the necessary documentation cannot be immediately produced, then the trader will be given between seven and twenty one days to produce the necessary documentation.

4.51 If after twenty one days the trader has not produced the necessary documentation, the Council will issue an FPN.

4.52 If there is a second such incident of failure to immediately produce the DOC or non-payment of the fixed penalty then the Council will consider legal action at the Magistrates' Court to prosecute the alleged offender and recover full costs.

Report To:	COUNCIL
Date:	21 January 2015
Executive Reporting Officer:	<p>Member/ Councillor Taylor – Deputy Executive Leader</p> <p>Councillor Gwynne – Executive Member (Clean and Green)</p> <p>Ian Saxon – Assistant Executive Director (Environmental Services)</p>
Subject:	WASTE POLICY AND ENFORCEMENT STRATEGY
Report Summary:	Following a period of consultation, the Enforcement Coordination Panel recommend adopting a Waste Policy and Enforcement Strategy set out at Appendix 1 together with the communication and engagement plan detailed at Appendix 2 .
Recommendations:	The Waste Policy and Enforcement Strategy at Appendix 1 is adopted and the communication and engagement plan at Appendix 2 . is approved.
Links To Community Strategy:	A Safe Environment; A Learning Community; and Supportive Communities
Policy Implications:	If adopted the Waste Policy and Enforcement Strategy detailed in Appendix 1 will become Council Policy
Financial Implications: (Authorised By Section 151 Officer)	There are no financial implications arising directly from this report. Enforcement activity is funded through Environmental Services revenue budgets.
Legal Implications: (Authorised By The Borough Solicitor)	Relevant legislation is referred to in paragraph 4.5 of the policy at Appendix 1. In adopting and implementing the policy and strategy, the Council must comply with its equalities duties.
Risk Management:	Activities are carried out in line with current risk assessments and are recorded in the core performance system. The publicity around recycling and bins days will be crucial to the success of the Council's waste and recycling strategy in reducing costs and improving the environment. The reality is that most people comply with rules if they know and understand them. It will also be necessary to any successful enforcement against those who do not comply to demonstrate.
Access To Information:	The background papers relating to this report can be inspected by contacting the report writer, by: Ian Saxon, Assistant Executive Director

 Telephone - 0161 342 3647

 E-mail ian.saxon@tameside.gov.uk

1. INTRODUCTION

- 1.1 The purpose of this report is to consider the draft Waste Policy and Enforcement Strategy at **Appendix 1**, together with the consultation responses received, and recommends that the policy is adopted by the Council.
- 1.2 It is important to have a clear policy regarding waste collection, recycling and enforcement. The policy confirms what Tameside residents and key stakeholders can expect from the waste and recycling service and also outlines what residents can do to help deliver the service.
- 1.3 The policy also outlines the Councils approach to enforcement, where it is necessary in occurrences of non-compliance. The council needs to be transparent about the approach it takes.
- 1.4 All avenues of education and support will be exhausted before enforcement is undertaken. A communication plan has been developed and can be found at **Appendix 2**. Enforcement action is always a last resort and any action taken will be reasonable and proportionate.

2. CONSULTATION

- 2.1 The consultation commenced on the 26 October 2015 and ran for 4 weeks, ending on the 27 November.
- 2.2 A questionnaire was developed and published on the Council's "Big Conversation" website where anyone could answer a series of questions and leave their comments.
- 2.3 The consultation exercise was widely publicised on social media.

3. CONSULTATION RESPONSE SUMMARY

- 3.1 Seven responses were received from members of the public.
- 3.2 85.71% of respondents agreed that residents should recycle as much waste as possible.
- 3.3 85.71% of respondents agreed that residents should dispose of their waste in the correct manner
- 3.4 85.71% of respondents agreed that the council should take enforcement action against those that do not dispose of their waste in the correct manner.
- 3.5 The following table summarises the general comments made:
 - Encourage residents to report people who do not recycle. TMBC must take Enforcement action and publish names + addresses of those who are found guilty.
 - All Enforcement should be self-funded through fines.
 - No follow up to reporting of people burning rubbish on public open ground. Some people have more bins than they should.
 - I would like to see more items being taken for recycling such as bottle tops both steel and plastic and also blister packs and yogurt pots. This can only be done if investment is put into recycling plants
 - I agree fully with recycling but when blue and brown bins are not emptied by the council it makes a mockery out of recycling. Blue bins should have been emptied last Friday but there was no collection even though bins were left on road outside alleyway. I found mine had been filled with bricks which I had to empty. When I

rang Tameside they said not a lot the can do. At the moment there is a fridge on the road I presume awaiting collection don't know who it belongs

- Each case should be dealt with on its own merit. It should not be a blanket rule for all without taking into account personal circumstances.

4. EQUALITY IMPACT

- 4.1 A full equality impact assessment has been carried out in respect of this policy. The assessment is attached at **Appendix 3**.

5. RECOMMENDATION

- 5.1 As set out on the front of the report.

Tameside Metropolitan Borough Council

Waste Policy and Enforcement Strategy

1. Introduction
2. Waste and Recycling Collections
3. Expectation from Residents
4. Enforcement Framework

1. INTRODUCTION

- 1.1 This policy has been developed to inform residents of the services that the Council provide and also outlines what residents can do to help deliver the waste and recycling service.
- 1.2 The Council aims to work with the local community to help residents recycle as much as possible and to manage their waste in the most cost effective and efficient way.
- 1.3 There is also a framework of enforcement action that will be applied in a reasonable and proportionate way.

2. WASTE AND RECYCLING COLLECTIONS

- 2.1 Residents in all properties will receive waste and recycling collections at a time and schedule determined by the Council.
- 2.2 The Council will make all reasonable effort to empty bins presented by residents in accordance with this policy. If however, the Council is unable to empty bins on the scheduled day of collection, residents are requested to leave bins out for collection and the crew will return to collect the waste or recycling the following day.
- 2.3 The Council provides a recycling led service and all residents are expected to recycle waste in accordance with the services provided.
- 2.4 For properties determined by the Council as having adequate storage and access for wheeled bins:

Colour	Capacity	Material	Frequency collected	Provision of Extra Receptacles
Black	180L	Glass, Plastic bottle, Cans, Aluminium Foil	Fortnightly	Additional 180L bins provided on request
Blue	140L	Paper, Cardboard, Tetra Paks	Three Weekly	Additional 140L bins available on request
Brown	240L or 23L lidded Food waste container issued to properties without a garden	Food and Garden Waste	Weekly	Additional 240L bins or 23L food waste containers available on request
Green	140L	Landfill Waste	Fortnightly	Additional or larger green bins will only be provided in

				circumstances outlined in section 2.9 of this policy
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2.5 Properties determined by the Council as not having adequate storage and access for wheeled bins, will be provided with a fortnightly collection of 3 black domestic waste sacks. Upon each collection the waste collection crew will replace the 3 sacks removed.

2.6 The Council may be able to provide a recycling service to these properties in certain circumstances. The recycling waste will be collected using recycling boxes provided to the properties.

Service for Multi Occupied Properties/Flats

2.7 Waste and recycling from residents living in flats is collected via communal bins which are regularly emptied.

2.8 Landlords or the developers are required to purchase bins for general waste. The Council will specify the type and number of bins required. The Council will provide the necessary recycling bins free of charge.

2.9 Landlords who choose to purchase their own approved containers should note that all repairs and maintenance are their responsibility. The Council will not accept liability for any damage sustained to containers during collection.

2.10 Bin store areas are the responsibility of the landlord who should ensure that bins can be accessed on the day of the scheduled collection.

2.11 It is the responsibility of the landlord/management company to ensure bin stores are kept clean and tidy. Where access to a bin is blocked by loose rubbish or bulky items it will not be emptied until this has been removed. The bin will then be emptied on the next scheduled collection day; charges will be applied if an expedited collection is required.

Service for Rural Properties

2.12 There are some locations within the Borough that are difficult to access due to the condition of the road surface where there are difficulties in using a normal size waste collection vehicle.

2.13 In these circumstances where determined appropriate by waste services the Council will use a smaller collection vehicle to collect landfill and recycling waste. Unfortunately, the Council is currently unable to operate food and garden waste collections for rural properties; therefore, rural properties will receive a 180 litre bin for non-recyclable (landfill) waste.

Missed Collections

2.14 When bins are presented correctly, the Council will make every reasonable attempt to collect recycling and landfill waste from households.

2.15 If the access to the property is obstructed the crew will make three attempts on the scheduled day of collection to collect the container. The crew will report any containers presented incorrectly and any access issues encountered.

2.16 Where landfill waste or recycling containers have not been presented correctly, they will not be collected until the next scheduled collection. In these circumstances residents will be required to return their bin to their property until the next collection.

Collection Points

- 2.17 In situations where collections cannot be made from adjacent to edge of the householder's property then the Council will identify a central point of collection.
- 2.18 In determining collection points for those affected properties, consultation will take place with the householders concerned.
- 2.19 Householders will be required to place their recycling or landfill bin at the specified collection point on their scheduled day and then retrieve their bin from the collection point at the end of the day once emptied.

Waste and Recycling Collections at Christmas

- 2.20 No collections will take place on Christmas Day, Boxing Day and New Year's Day. All other collections will remain the same.
- 2.21 Changes to the waste collection schedule will be advertised in the local paper and also on the Council website and social media feeds.

Additional Capacity

- 2.22 The waste collection services the Council provides to residents are sufficient and adequate to manage the households' waste needs. In the majority of cases the Council provides a collection of 477 litres of waste every week.
- 2.23 To encourage waste minimisation and recycling, the Council will only collect 140 litres of non-recyclable (landfill) waste per household. The Council does recognise however, that some large households or residents with certain medical conditions may produce more than 140 litres of landfill waste at each collection despite fully participating in the recycling service
- 2.24 Where residents feel that they do not have sufficient landfill waste capacity they can make an application for additional capacity this will include keeping a waste diary to record all waste disposed of from the property in a two week period. The Council will assess the application and arrange for an Officer to visit and carry out a waste audit and determine if additional landfill waste capacity is required.
- 2.25 There are exceptional circumstances where, due to clinical waste needs or larger households (6 persons or more) more landfill waste is created than normal. In these circumstances residents will not be required to complete a waste diary or undertake a waste audit, but will be asked to apply for an additional landfill waste bin.
- 2.26 The householder's use of the additional bin will be subject to review. The additional bin may be removed should residents be found to have obtained the additional bin under false circumstances or have changed circumstances affecting their entitlement to additional capacity since the bin was issued.

Assisted Collections

- 2.27 The Council offers assisted collections to residents who are infirm or who cannot put their waste out on the collection day due to a qualifying health condition or disability. This means that waste and recycling crews will pull out the bins from an accessible location so that they can be emptied and then returned.
- 2.28 This service is subject to no other able bodied person living at the property.
- 2.29 Residents will be required to make an application for this service. In order to reduce abuse of this service the Council will require all applicants to return a medical assessment form signed by their general practitioner with their application form

2.30 Provision of waste and recycling bins

Replacing bins for the collection of waste presents a significant ongoing cost to the Council.

2.31 Residents are required to purchase a landfill bin when moving into a new property. Initial recycling bins will be provided free of charge.

2.32 Residents in new and existing properties are required to pay for replacement containers. The only exceptions to this are if;

- It is no longer serviceable and poses a health and safety risk to the operatives/residents.
- It has been crushed during collection. In this case the crew will report to waste services and a new bin will be provided free of charge

2.33 Residents are advised to clearly and neatly mark the front of the bin with their address.

2.34 The provision of waste and recycling wheeled bins for new multi occupancy (flats) developments will be the responsibility of the developer.

Bulky Household Waste Collections

2.35 The Council provides a separate collection of bulky household waste items. A standard charge per collection will be made and the scale of charges for the collection of bulky items will be publicised by the Council and reviewed annually.

2.36 The Council do not collect bulky waste items such as; beds, washing machines and furniture, free of charge. These should not be left out for the domestic waste collection

2.37 The bulky household collection service covers the removal of up to five items.

2.38 Bulky waste items may also be taken to the Household Waste Recycling Centre or donated to a local reuse charity.

2.39 The collection of white goods is provided free of charge to pensioners.

2.40 Information regarding the cost of this service, what items can be presented for collection and arrangements for collection can be found on the Council's website.

Trade Waste

2.41 The Environmental Protection Act 1990 requires all businesses which produce controlled waste have a duty to ensure that their waste is adequately stored and disposed of. Businesses are required to keep documents relating to the disposal of waste for a period of two years and are required to have these available for inspection when required by the Council.

2.42 Individual businesses are responsible for the presentation and management of their trade waste. They can contract with either the Council or any commercial waste collection service who will provide storage containers and uplift of waste.

2.43 Trade or commercial waste should not be placed in household bins, litter bins, or taken to the household waste recycling centre.

2.44 The Council offers local businesses a weekly trade waste collection service. Customers sign up on a rolling contract basis.

The following sizes of waste containers are available;

- 240 Litre
- 500Litre
- 1100 Litre

2.45 Customers pay all charges in advance, either monthly or annually by Direct Debit. These charges include the container hire, collection and disposal charges for recycling and non-recycling collections and all administrative costs, including duty of care documentation.

2.46 Any business found to be not complying with their responsibilities regarding waste may face enforcement action under section 4.34 of this policy.

3. EXPECTATIONS OF RESIDENTS

3.1 All householders have a legal responsibility to ensure that all of their rubbish and waste is disposed of properly.

Presentation of bins for collection

3.2 All bins or sacks should be made available for collection 7am on the morning of the scheduled collection. Bins or sacks should not be presented for collection and earlier than 5pm on the evening before the scheduled collection.

3.3 Wheeled bins and sacks should be placed where the public highway begins and private land ends (the edge of the property).

Excess Landfill Waste – Side Waste

3.4 Side waste is excess bags from the household, which are presented for collection at the side of the bin. The Council will not remove waste presented for collection alongside, or on top of, landfill waste bins.

3.5 The Council encourages residents to recycle as much as possible and will allow residents to have additional recycling bins to ensure individual households have sufficient capacity to meet their requirements.

3.6 All landfill waste should be contained within the green bin, any excess waste will be treated as illegally dumped waste and enforcement action may be taken in accordance with section 4.22 of this policy.

Excess Landfill Waste – Closed Lids

Where wheeled bins are presented with waste that does not fit comfortably within the container and the lid is ajar, the crew will empty the bin and place the excess waste back into the bin. A notice will be left on the bin explaining why the excess waste has not been collected.

Excess Recycling Waste

3.8 Residents may request additional recycling bins free of charge. Alternatively, residents may place additional recycling materials for collection so long as it is identifiable in a clear bag.

Bins on Pavements

3.9 Collection crews are instructed to return bins to the area they were collected from. It is the responsibility of residents to take bins back to their property by the end of the day on which they are collected.

3.10 If residents fail to return the bins back to their property without reasonable excuse, enforcement action may be taken under section 4.27ff of this policy.

Contamination of Bins

- 3.11 Contamination occurs when the wrong waste is placed in the wrong bin. It is important that the Council collects good quality materials for recycling. Putting items that cannot be recycled in recycling bins reduces the quality of our recycling and may mean that the entire load is rejected when tipped off. This means that the waste is sent to landfill, a single contaminated load costs the Council over £3000.
- 3.12 Where it is established that recycling containers are repeatedly not being used correctly, enforcement action outlined in 4.27ff will commence.

Householder Duty of Care

- 3.13 Some people pose as legitimate waste carriers and then fly tip rubbish which they have been paid to dispose of properly. If any fly tipped waste is traced back to the household it came from, the householder could be fined.
- 3.14 Under the Household Waste Duty of Care Regulations 2005, householders are required to take reasonable measures to ensure that household waste produced on their property is passed on to an authorised person.
- 3.15 If a waste carrier other than the Council is used householders must carry out the following check;
- Ask the contractor if they are a registered waste carrier and ask for their waste carrier number.
 - If they claim to be registered telephone the Environment Agency on 08708 506506 and ask for an instant Waste Carrier Validation Check, or visit the Environment Agency website to check online.
 - Ask for a receipt detailing the work they have carried out.

4. ENFORCEMENT FRAMEWORK

- 4.1 This policy specifies Tameside Council's methods for dealing with the enforcement approach in tackling waste issues.
- 4.2 The Council aims to educate local residents and businesses to understand their role with regard to responsible waste management.
- 4.3 Enforcement action includes verbal warnings and advice, written advice, warning letters, statutory notices, formal warnings, the issue of fixed penalty notices, formal cautions and prosecution. Action taken will be proportionate to the scale of the identified problem.
- 4.4 The Council will follow a staged approach to enforcement. Although the Council will take an incremental approach to education and non-compliance, the level of enforcement may be escalated depending on the nature and severity of the case.
- 4.5 **Relevant Legislation**
- Accumulations of Waste – s4 Prevention of Damage by Pests Act 1949; s79 & 80 Environmental Protection Act 1990; s78 Public Health Act 1936;
 - Illegal dumping/fly tipping – s33, s34 & s59 Environmental Protection Act 1990;
 - Trade waste & duty of care – s34 & s47 Environmental Protection Act 1990
 - Household waste bin enforcement – s46 Environmental Protection Act 1990

- Litter – s87 & s88 Environmental Protection Act 1990
- Community Protection Notices - Anti-Social Behaviour Crime and Policing Act 2014

Enforcement Options Available

4.6 There are a large number of potential enforcement options. The level of the action taken varies from informal advice through to proceedings in Court. Examples of the main types of action that may be considered are shown below:

- Informal action, education and advice
- Statutory Notices
- Fixed Penalty Notices
- Simple Caution
- Prosecution

Informal Action

4.7 Minor incidents are frequently dealt with by means of informal action and would involve the officer drawing the matter to the attention of the individual and giving appropriate guidance.

- Verbal advice. To be given where the offender shows an understanding and willingness to remedy contraventions of a minor nature.
- Written advice. To be used where there is no imminent risk to health and the officer believes the offender will co-operate in remedying the offence. Written advice may also be given where it is felt necessary for the offender to consider their liabilities under law.

4.8 Failure to comply could result in an escalation of enforcement action.

Statutory Notices

4.9 Many Acts of Parliament enforced by the Council provide for the service of statutory notices which require a person, business or organisation to comply with specific legal requirements. Where a formal notice is served, the method of appealing against the notice will be provided in writing at the same time. The notice will explain what is wrong, how to put it right and what will happen if the notice is not complied with.

4.10 In many circumstances the legislation will allow the cost of any necessary work carried out in default to be recovered from the offender. Where legislation permits a charge will be placed on the property to ensure the payment is made.

4.11 In general, failure to comply with a statutory notice (including a fixed penalty notice of the type where payment is required to discharge liability) makes the recipient liable for prosecution. In some circumstances, it is possible to prosecute as well as serve notice. Failure to comply with the notice would be an additional offence.

Community Protection Notices

4.12 The purpose of a Community Protection Notice (CPN) is to stop individuals over the age of 16, businesses or organisations committing anti-social behaviour which has a detriment on the community's quality of life.

4.13 A CPN can be served by the Council and partner agencies such as the Police and Registered Social Landlords. They may be used to deal with particular ongoing problems or nuisances which negatively affect the community, by targeting those responsible. They can cover a wide range of anti-social behaviours including littering and waste related offences.

- 4.14 A CPN can be issued once an officer is satisfied that the conduct of the individual, business or organisation:
- Is having a detrimental effect on the quality of life of those in the locality
 - Is of a persistent or continuing nature, and
 - Is unreasonable
- 4.15 Once an issue has been identified and the above tests are met, a written warning will be given to the alleged perpetrator requesting that they stop their anti-social behaviour. The warning letter will also advise of the consequences should they fail to comply with the warning.
- 4.16 A CPN may include a requirement to stop doing something, to start doing something or to take reasonable steps to avoid further anti-social behaviour.
- 4.17 If the CPN is breached the Council will give consideration to the appropriate action from a range of options available:
- Fixed Penalty Notice
 - Remedial Action
 - Prosecution

Fixed Penalty Notices

- 4.18 In certain circumstances it may be appropriate to issue a fixed penalty notice for the relevant offence. The fixed penalty will allow the offender to discharge liability for the offence and avoid action through the Magistrates' Court.
- 4.19 FPNs must only be issued where there is sufficient evidence to prosecute. If the FPN is not paid within a specified time the case should proceed to prosecution.

Formal Caution

- 4.20 Officers can recommend that offenders receive a formal caution in accordance with Home Office guidance. This is one step below prosecution; however, offenders must admit the offence and accept the caution.
- 4.21 Failure to accept the formal caution could result in prosecution, as would further similar breaches after the caution has been issued.
- 4.22 A formal caution will only be used where there is evidence of guilt sufficient to give realistic prospects of conviction.

Prosecution

- 4.23 When considering prosecution, officers must follow the guidance in the Code of Practice for Crown Prosecutors
- 4.24 The decision to prosecute will be made by a Senior Manager in conjunction with Legal Services taking account these criteria;
- Firstly, an evidential test to ensure that there is enough evidence to provide a 'realistic prospect of conviction'. If this is lacking, then no prosecution or alternative means of disposal of criminal offences will be taken.
 - Secondly, a public interest test, which will determine whether it is in the public interest for a prosecution to be taken.

- 4.25 Prosecution shall be initiated when one or more of the following are met:

- There is a history of similar offences and/or written warnings have been ignored.
- Non-compliance with a statutory notice.
- Failure to pay a fixed penalty notice.
- Refusal to accept a simple caution.
- Serious breach of the law leading to a risk to the health of residents and/or the environment.
- There is enough admissible and reliable evidence to show an offence has been committed by an identifiable individual/business.

Offences

4.26 The majority of waste related offences fall into six categories;

- Littering
- Large scale illegal dumping
- Complaints related to waste collections
- Accumulations of waste in communal areas
- Accumulations of waste on private land
- Trade waste

Enforcement – Littering

4.27 Litter is unsightly and illegal. Under Section 87 of the Environmental Protection Act 1990 it is an offence to drop litter on any open land.

4.28 There is no statutory definition of “litter and refuse” under the Environmental Protection Act 1990. However, the code of practice issued in respect of dealing with litter and refuse states that the definition is wide. In some circumstances excess waste left next to bins can be defined as litter and where it is clear who has left out the excess waste which is littering the neighbourhood a FPN may be issued on that person. Should the fixed penalty not be paid or further incidents of non-compliance occur then the Council will consider legal action at the magistrates’ court to prosecute the alleged offender and recover full costs.

Enforcement – Large Scale illegal dumping

4.29 It is an offence under Section 33 of the Environmental Protection Act 1990 for any person to dump waste without it being in accordance with a waste management licence. This is often known as fly tipping.

4.30 Fly tipping is an offence which carries a maximum penalty of up to £50,000, or for very serious offences, an unlimited fine and up to five years in prison.

4.31 Where evidence of fly-tipping is obtained an investigation will begin and in the absence of any evidence of extenuating circumstances the Council will always initiate legal proceedings to prosecute the alleged offender and recover full costs.

4.32 Waste which has been illegally dumped will be stickered and placed in an enforcement bag, which is red in colour, to indicate that the illegal dumping is under investigation.

Enforcement – Waste Collections

4.33 Section 46 of the Environmental Protection Act 1990 enables the Council to specify the following:

- Day of collection
- Frequency of collection
- Number, size and type of bins provided
- The waste streams allowed in each type of waste container.

4.34 The waste collection requirements are set out in section 2 of this policy.

- 4.35 Enforcement may commence where there is evidence of non-compliance and where the household recycling and refuse is presented incorrectly either by the position of the container, time of presenting for collection or content.
- 4.36 The enforcement process will normally only take effect where attempts to improve resident behaviour through education are unsuccessful.
- 4.37 Before considering taking formal enforcement action against a householder, the Council will adopt a phased approach to securing compliance with its waste collection policies as set out below. The process of issuing written warnings and the imposition of fixed penalties in cases of failing to comply with such warnings has recently been put on a statutory basis under section 46A -D of the Environmental Protection Act 1990;

a) Stage One

Householders who are identified as failing to act in accordance with the Council's policies and procedures will be advised of the details of their non-compliance as well as what action/behaviour the Council requires of them.

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- 4.38 The Council has a statutory duty to take action on waste accumulations which become prejudicial to health and may support or harbour vermin. The process for dealing with such accumulations is, firstly, to ascertain who the land belongs to.
- 4.39 Where the land is communally owned all occupiers of properties which abut the passageway, have a joint responsibility to maintain it and this includes keeping the land free from rubbish.

4.40 Once land ownership is confirmed the Council will then write to residents to inform them of the accumulations, to remind them of their responsibilities under Section 78 of the Public Health Act 1936 and to request removal of the waste. If the waste is not removed within a reasonable time frame, a Statutory Notice will be served to enforce removal.

4.41 If the waste remains in situ after 7 days after the Notice has been served then the Council will arrange for removal of the waste and recharge residents for any costs incurred.

Enforcement - Accumulations of Waste on Private Land

4.42 Waste accumulated on private land can be unsightly, or may cause a nuisance for example a smell. It can also be a public health risk by attracting rats, or even cause further dumping.

4.43 In such cases the owner and occupier of the land is responsible for removing any rubbish. If there has been a complaint, the Council will visit the land and try to work together with the owner and occupier to get the rubbish removed.

4.44 If this is not successful, the owner or occupier of the land can be served with a legal notice requiring them to remove the rubbish within a certain period of time. If they do not comply, the Council can make arrangements for the rubbish to be removed and the costs incurred recovered from the person on whom the notice is served.

4.45 The Council may place a charge on the property until the costs are paid.

Enforcement – Non-Compliance of Trade Waste Legislation

4.46 Under the Environmental Protection Act 1990 every business has responsibility to manage their waste arrangements within duty of care guidelines and regulations so as not to be detrimental to the local amenity.

Enforcement where Trade Refuse is presented

4.47 Where evidence is obtained that trade recycling or refuse has been unlawfully placed in the household collection containers, the Council will in the first instance advise the trader that this is not acceptable and explain what the business must do to comply with trade waste regulation.

4.48 If there is no improvement then the Officer will issue a Section 34 notice in accordance with the Environmental Protection Act 1990. The notice will require documentary evidence that a business has suitable arrangements for waste collection and disposal. If the correct documents are not produced then a FPN will be issued.

4.49 Should the fixed penalty not be paid or further incidents of non-compliance occur then the Council will consider legal action at the magistrates' court to prosecute the alleged offender and recover full costs.

Enforcement Regarding Duty of Care

4.50 When a trader is asked to provide a proper Duty of Care (DOC) Waste Transfer Note with regard to their arrangements for the collection and disposal of their trade waste and the necessary documentation cannot be immediately produced, then the trader will be given between seven and twenty one days to produce the necessary documentation.

4.51 If after twenty one days the trader has not produced the necessary documentation, the Council will issue an FPN.

4.52 If there is a second such incident of failure to immediately produce the DOC or non-payment of the fixed penalty then the Council will consider legal action at the Magistrates' Court to prosecute the alleged offender and recover full costs.

Report to :	COUNCIL
Date :	21 January 2016
Executive Member / Reporting Officer:	Steven Pleasant, Chief Executive Tameside Council Cllr Brenda Warrington – Executive Member Social Care & Wellbeing (Lead) Cllr Gerald P. Cooney – Executive Member Healthy & Working Cllr Peter Robinson Children & Families
Subject :	GOVERNANCE AND ACCOUNTABILITY FRAMEWORK FOR HEALTH AND CARE INTEGRATION
Report Summary :	The purpose of this report is to seek approval to establish a governance and accountability framework to support the development and implementation of an integrated health and care system in Tameside whilst reflecting the wider Greater Manchester position.
Recommendations :	The Council is asked to support the proposals contained in this report: <ol style="list-style-type: none">1) Note the GM Devolution position.2) Endorse the role of the Health & Wellbeing Board and keep under review;3) Endorse the proposal to establish the governance arrangements in shadow form and the establishment in shadow form of the interim Single Commissioning Board and the terms of reference set out at Appendix 1;4) Endorse the proposal to establish the governance arrangements in shadow form subject to review and individual engagement with partner organisations, including any necessary changes to constitutional arrangements, provisionally support formal introduction from 1 April 2016.
Links to Health and Wellbeing Strategy :	Integration has been identified as one of the six principles that have been agreed locally that will help to achieve the priorities identified in the Health and Wellbeing Strategy.
Policy Implications :	One of the main functions of the Health and Wellbeing Board is to promote greater integration and partnership, including joint commissioning, integrated provision, and pooled budgets where appropriate. This meets the requirements of the NHS Constitution.
Financial Implications: (Authorised by the Section 151 Officer)	Section 5 of the Locality Plan provides details of the financial challenge to the Tameside Economy during the next five year period together with the associated proposals to finance the estimated £69 million gap. It is recognised that there is an estimated sum of £53 million transition funding (revenue £27m and capital £26m) required (phased over the five year period) to support the implementation of a financially sustainable integrated health and social care provision within the borough.

A supporting business case to request the transition funding is currently in development in advance of submission to Greater Manchester Devolution prior to the end of this calendar year. It is essential this sum is received over the timeline requested to ensure the projected financial gap is addressed.

In addition the Tameside Hospital Foundation Trust will require £71 million PDC funding over the five year period. This sum is being requested via the Department of Health.

Legal Implications:

These are set out in the report.

(Authorised by the Borough Solicitor)

Risk Management:


There are a number of key risks associated with this work. These are summarised as follows:-

- Management of organisational change is difficult and can be disruptive to delivery of work programmes.
- Cultural differences between organisations.
- Difference of working practices between organisations
- Lack of local focus and connection with stakeholders.
- Differing accountabilities and regulatory frameworks.

These risks will be mitigated through leadership of the change via senior officers of both organisations as well as bringing in additional organisational development to implement the change.

Access to Information:

The background papers relating to this report can be inspected by contacting Sandra Stewart, Executive Director for Governance & Resources by:

 Telephone: 0161 342 3028

 e-mail: sandra.stewart@tameside.gov.uk

1. INTRODUCTION

- 1.1 The purpose of this report is to set out proposals relating to governance arrangements for health and care integration in Tameside.
- 1.2 Across Greater Manchester and within Tameside, health and social care partners are working together to reform health and care services to support the shared ambition of improving health outcomes for residents as quickly as possible. At the local level revised governance arrangements are required to enable the ambition and vision contained in the Tameside and Glossop Locality Plan to be realised.
- 1.3 This paper sets out the proposals for governance in shadow form with immediate effect and subject to review formally from 1 April 2016.
- 1.4 The proposals are set within the framework of the Memorandum of Understanding and the governance and accountability arrangements agreed at Greater Manchester level where responsibility for the Greater Manchester Strategic Plan and Greater Manchester wide commissioning arrangements resides.
- 1.5 Additionally these proposals must take account of and interface with the governance arrangements of individual partner organisations. Over forthcoming months changes may be required to the constitutional arrangements of statutory organisations before these arrangements 'go live' in April 2016.
- 1.6 Finally it remains imperative that robust safeguarding arrangements remain at the fore. Strong links to both of the safeguarding boards for children and adults must be cemented in these new governance proposals with oversight by relevant scrutiny and audit/regulatory arrangements.

2. BACKGROUND

- 2.1 With the advent of health and social care devolution, the context within which Tameside & Glossop's Health and Wellbeing Board operates has changed significantly.
- 2.2 The Care Together Programme over the past couple of years has focussed on designing and testing models for improving health and social care services across Tameside and Glossop. This work culminated in the hospital regulator, Monitor, approving a plan for an Integrated Care Organisation (ICO) in September 2015 to bring together health and social care services to improve how these work collectively for the benefit of our population.
- 2.3 At a joint Board meeting between Tameside Hospital Foundation Trust, NHS Tameside and Glossop Clinical Commissioning Group (CCG) and Tameside Metropolitan Borough Council on 23 September 2015, all parties unanimously agreed to work together within the Care Together programme structure to implement the plan and agreed the following principles:
 - i. *We agree that an integrated system of health and social care is the best way to ensure optimum health and care outcomes for our population and to ensure collective financial sustainability.*
 - ii. *We welcome the Contingency Planning Team's ('CPT') final report of 28 July 2015 and the assurances it provides as to the new model of care that the Tameside and Glossop Clinical Commissioning Group ('the CCG'), Tameside Metropolitan Borough Council ('TMBC') and Tameside Hospital Foundation Trust ('THFT') have jointly agreed to develop and operate to create a new integrated system of health and social care in Tameside and Glossop.*

- iii. *We acknowledge that creating a ICO will not resolve the significant budget challenges facing all organisations but it goes some way to reducing it and it will be necessary to continue to work closely together with all stakeholders to manage the deficit set out in the CPT report.*
- iv. *We agree that a Tameside & Glossop Locality Plan setting out our vision to work together to reform health and social care services to improve the health outcomes of our residents and reduce health inequalities as quickly as possible, be considered and approved in due course at the statutory Health and Wellbeing Board, and that the model of care, which is as outlined in the CPT creating a new integrated system of health and social care in Tameside and Glossop report is a key component of that Plan.*
- v. *We agree that THFT represents the best legal delivery vehicle for the integrated care system subject to an amended foundation trust licence and constitution to enable a new legal entity of an Integrated Care Foundation Trust to be constituted by the 1 April 2017. Such an organisation will need to be appropriately representative of all three bodies and other stakeholders including primary care and the voluntary sector, which will be reflected in its constitution. We agree to work together to support the THFT in this transformation with a view to be in the ICFT shadow form from the 1 April 2016.*
- vi. *We agree that in working together to reform health and social care services to improve health outcomes for residents as quickly as possible and enable system wide change to take place transparently and clearly, robust and inclusive governance structures need to be developed and agreed. The key principles of any governance arrangements include:*
- vii. *The objective of providing governance arrangements which aim to provide streamlined decision making; excellent co-ordination of services for the residents of Tameside & Glossop; mutual co-operation; partnering arrangements, and added value in the provision of shared services.*
 - *an acknowledgement that the arrangement does not affect the sovereignty of any party and the exercise and accountability for their statutory functions.*
 - *A commitment to open and transparent working and proper scrutiny and challenge of the work of the Programme Board and any party to the joint working arrangements.*
 - *A commitment to ensure that any decisions, proposals, actions whether agreed or considered at the Programme Board carry with them an obligation for the representative at the Programme Board to report these to their own constituent bodies.*
- viii. *We agree to delegating our decision making power, regarding the implementation of the recommendations of the CPT report, to the Programme Board.*
- ix. *We agree to develop a Memorandum of Understanding, the Programme Board Terms of Reference, and a detailed Scheme of Delegation for consideration and ratification at a future meeting.*
- x. *To provide mutual assurance to the constituent bodies, we agree that there will be regular reports from the Programme Board to the Boards of the constituent bodies.*
- xi. *We agree to the formation of a Programme Management Office to manage the implementation of the new Model of Care and will jointly look to resource this as appropriate.*
- xii. *The Commissioners agree to deliver a joint commissioning function, to be in place by 1 January 2016.*

xiii. We agree that the governance arrangements will be kept under regular review and be revised from time to time to reflect the changing status of the integrated care delivery vehicle.

- 2.4 An important initial step in the development of an Integrated Care Organisation is the transfer of the Tameside and Glossop community staff who are currently hosted by Stockport Foundation Trust into Tameside Hospital Foundation Trust. This process is now underway and will be completed on 1 April 2016.
- 2.5 Later this year, GM Devolution is submitting a five year comprehensive Strategic Sustainability Plan for health and social care in partnership with NHS England and other national partners. Each of the GM areas was required to submit a Locality Plan to provide a “bottom up” approach to the development of the GM Plan. The GM Strategic Sustainability Plan will be based on the following objectives to:
- a) improve health and wellbeing of all residents of Greater Manchester, with a focus on prevention and public health, and providing care closer to home;
 - b) make fast progress on addressing health inequalities;
 - c) promote integration of health and social care as a key component of public sector reform;
 - d) contribute to growth, in particular through support employment and early years services;
 - e) build partnerships between health, social care, universities, science and knowledge sectors for the benefit of the population.
- 2.6 As such, the Tameside and Glossop Locality Plan addresses how we locally will meet these objectives and on the 12 November 2015, the Health and Wellbeing Board endorsed the Tameside and Glossop Locality Plan set out at **Appendix 1**
- 2.7 The Tameside and Glossop Locality Plan is based on the following objectives to:
- improve health and wellbeing of residents with a focus on prevention and public health, and providing care closer to home;
 - make fast progress on addressing health inequalities;
 - promote integration of health and social care as a key component of public sector reform;
 - contribute to growth, in particular through support employment and early years services;
 - build partnerships between health, social care, and knowledge sectors for the benefit of the population.
- 2.8 Additionally, there needs to be a strengthened interface with the emerging governance arrangements within Greater Manchester, and furthermore it is imperative that the right governance and accountability mechanisms are in place to effectively drive and own implementation of Tameside & Glossop’s Locality Plan.
- 2.9 On 18 December 2015, updated governance proposals were considered and approved by the Joint Meeting of The Greater Manchester Combined Authority and AGMA Executive Board, attached as **Appendix 2**.
- 2.10 At the local level we need to ensure that we have the right leadership for the pace of change required to deliver health and social care integration and that governance arrangements need to be ‘strategically designed’ to ensure fitness for purpose in the context of health and care integration and devolution; and the fast changing strategic environment associated with devolution and the need to be prepared to ‘learn and adapt’ within this context.
- 2.11 Such governance needs to:
- Ensure a strong clinical voice is secured in the governance arrangements
 - Ensure commissioner/provider engagement
 - Alignment to the pooled budget arrangements

- Securing appropriate primary care engagement within the governance structure, acknowledging the breadth and range of primary care including pharmacies, general practice, dental and optometry practices. Locally good engagement is developing across the wider primary care partners who are keen to play a full role in this transforming agenda.

2.12 Finally, the Governance and Accountability Framework will be subject to further refinement and review throughout Spring 2016 with a further report to be considered by the HWBB in March to inform 'go live' arrangements from April.

3. PROPOSED ARRANGEMENTS

3.1 The proposed structure is set out in more detail below and has 2 requirements. Firstly, it must enable the Health and Wellbeing Board to fulfil its statutory duties. Secondly, it has to enable better lives for residents by ensuring implementation of the health and wellbeing strategy and, in particular the Locality Plan.

3.2 Tameside & Glossop's Locality Plan is the whole system plan outlining the partners (commissioner and providers) approach to improving the health outcomes of residents while also moving towards financial and clinical sustainability of health and care services.

3.3 Currently it remains a working draft with a final version to be considered by March 2016. Within this report it is proposed that the responsibility for finalising the Plan and for the delivery of the Plan will rest with the Health and Wellbeing Board, supported by an Executive, with implementation delivered through a Programme Board.

4. HEALTH AND WELLBEING BOARD

4.1 It is proposed that the Health and Wellbeing Board fulfills the functions of a strategic partnership board in relation to Tameside & Glossop's Locality Plan. The Health and Social Care Act 2012 introduced Health and Wellbeing Boards with the following responsibilities:

- To promote the integration of health, social care and public health;
- To promote joint commissioning;
- To lead on public health by aligning the various activities of the Local Authority behind an integrated health improvement approach;
- To Lead on the production of the Joint Strategic Needs Assessment (JSNA) – an analysis of local health and wellbeing needs across health, social care and public health; and
- To produce a Joint Health and Wellbeing Strategy based on the JSNA.

4.2 These functions align to the requirements of the Locality Plan which require representatives on the Board, and the Board as an entity to:

- Agree the health and social care priorities for Tameside;
- Approve the content of the Plan;
- Ensure that there remains ongoing and significant organisational commitment across the health and care economy of Tameside & Glossop to the ambition and priorities contained in the Plan;
- To be responsible to residents and to each other for the financial and clinical sustainability of the health and care economy through the agreement and delivery of the Locality Plan;
- To provide a mutual assurance function over the outcomes linked to the commissioning decisions taken by members to deliver the Locality Plan.

- 4.3 Additionally it is expected that the Board will ensure that organisational interests of participating organisations, align with the ambition and vision agreed, and that there is a visible commitment from all agencies to authorising shared decisions made by the Board, and that these decisions are visible to regulatory bodies.
- 4.4 Functions to be undertaken by the Board will include:
- Receiving regular update reports from the Executive on the ongoing progress and delivery of the Locality Plan;
 - Receiving regular reports from the Executive about the commissioning decisions of the Single Commissioning Board, and the performance linked to those decisions;
 - Receiving regular reports from the Executive with respect to progression towards fiscal neutrality;
 - To work within the assurance framework, developed jointly with regulators, that reflects the outcomes required by Greater Manchester and the Locality because the formal assurance that each individual party is delivering on their commitments to the Locality Plan will be provided in the usual way by the relevant statutory body.
 - Receiving regular reports of Tameside & Glossop's performance against agreed assurance metrics;
 - Receiving regular reports as appropriate on key quality surveillance issues as they relate to Tameside & Glossop.
- 4.5 The terms of reference and membership of the Board will be kept under review to ensure that it is able to deliver in the way required in the interests of residents.

5. JOINT COMMISSIONING ARRANGEMENTS

Greater Manchester Joint Commissioning Board

- 5.1 Within Greater Manchester there will be Greater Manchester Joint Commissioning Board, which will also be a joint committee where each participant makes joint decisions which are binding on each other. It is important that there is clarity regarding the joint commissioning decisions to be taken at the local level and Greater Manchester level respectively.
- 5.2 Specialised Services Commissioning will take place at Greater Manchester level. As these services cannot be dealt with by way of s75 arrangements without a change in the s75 regulations, any joint commissioning of specialised services will need to be undertaken through a joint committee made up of NHSE, CCGs, GMCA, and local authorities.
- 5.3 The Greater Manchester Joint Commissioning Board will have significant commissioning decision making responsibility as the largest single commissioning vehicle in Greater Manchester.
- 5.4 In order to comply with regulatory requirements the Greater Manchester Joint Commissioning Board will function independently of providers.
- 5.5 Importantly, the key functions of the Greater Manchester Joint Commissioning Board are as follows:
- To develop a commissioning strategy based upon the Greater Manchester Strategic Plan;
 - Be responsible for the commissioning of health and social care services on a Greater Manchester footprint;
 - Have strategic responsibility for commissioning across Greater Manchester;
 - Be responsible for the delivery of the pan Greater Manchester strategy via its commissioning decisions (local commissioning will remain a local responsibility)

- To operate within existing commissioning guidelines following key principles of co-design, transparency and broad engagement.

5.6 The Greater Manchester Joint Commissioning Board will only take on Greater Manchester wide commissioning decisions. Any decision that currently sits with the commissioning responsibilities of LAs and CCGs will stay with these organisations.

5.7 While the core principle of the Greater Manchester Joint Commissioning Board will be that those commissioning decisions which are currently made in localities will remain in localities, there will be mechanisms developed to ensure that the remit of Greater Manchester Joint Commissioning Board can be broadened should localities agree that it is in their best interests to do so.

5.8 It should be noted that Steven Pleasant, Tameside Council's Chief Executive has been appointed by The Greater Manchester Combined Authority and AGMA Executive Board as the co-chair of the Greater Manchester Health and Social Care Commissioning Board.

Criteria for Commissioning at a Greater Manchester Level

5.9 Work is currently underway to identify which services can be more effectively and efficiently commissioned on Greater Manchester footprint and therefore delegated to Greater Manchester. It will be for the Greater Manchester Health and Social Care Commissioning Board and local stakeholders to formally approve and agree what services these are.

5.10 Consideration is also currently being given to whether the commissioning of primary care should be undertaken at a Greater Manchester level, with the exception of General Practice which will be commissioned by CCGs. However, the Greater Manchester Health and Social Care Commissioning Board will have a significant role to play in developing and implementing a Greater Manchester wide framework within which general practice is commissioned.

5.11 The criteria by which existing activity would be commissioned at a Greater Manchester level will focus upon whether decisions taken on a broader footprint achieved a greater benefit for the population, e.g. increased value for money; greater levels of efficiency; or increased clinical sustainability.

Tameside & Glossop Care Together Single Commissioning Board

5.12 Across the Tameside & Glossop locality there will be single place based commissioning body comprising the Tameside & Glossop locality Clinical Commissioning Group and the Local Authority known as the Tameside & Glossop Care Together Single Commissioning Board. The proposals within this report have been developed by the Tameside & Glossop CCG and the Council as a means of effectively commissioning for the transformation programmes within the locality plan as well as gaining benefits from jointly commissioning existing services.

5.13 As part of previous work undertaken between the CCG and the Council we have defined the role of commissioning as follows:-

- To define the desired outcomes and service model led by a clear vision and strategy
- To create the environment for change
 - Soft factors e.g. culture, relationship management, values and behaviours.
 - Hard factors e.g. estates, IMT, finance, contracting, market management etc.
- To ensure standards are met and improvements are made

5.14 This approach fits with the emergence of an Integrated Care Organisation. The benefits we seek to gain from a single commissioning function are:-

- Common strategic and operational/business plans
- To make best use of our collective resources
- To have an effective means of jointly commissioning services

- To ensure effective governance within our organisations whilst generating stronger cross system governance arrangements.
 - To retain key strengths of the CCG and the Council approaches to commissioning and local connections.
- 5.15 The aim of this work is not in the short term to merge organisations, formally restructure or transfer employment of staff from one organisation to another. It is aimed to formalise our working arrangements and organise our resources around key work programmes and work effectively together.
- 5.16 There are a number of key recommendations which will be taken through the formal governance processes of the CCGs and the council. The two organisations will establish a Single Commissioning Board as set out as follows:
- 5.17 There will be a single leadership team, which will be established as a committee of the two organisations with delegated decision making powers and resources. This will create a unifying group within both the statutory and collaborative governance arrangements for the first time. The key role of this Board will be:-
- To provide executive leadership for the locality plan from a commissioning perspective.
 - Oversee the management of any delegated commissioning functions and pooled budgets.
 - Lead the development of commissioning as part of statutory and HWB governance arrangements.
- 5.18 The Locality plan will be adopted as a shared commissioning strategy and should supersede the relevant parts of existing organisational strategies.
- 5.19 Together both organisations working with the hospital will develop a common operational/business plan for 2016/17. Led by the priorities for 2016/17 we will organise our teams around programmes of work with suitable operational leadership. These will include commissioning for the transformation programmes and also areas of operational commissioning where this adds value.
- 5.20 We will also develop and adopt a form of matrix working which will allow us to mobilise our workforce around work programmes in a way which makes best use of our resources, is suitably flexible but also retains a line of sight between commissioning activities and organisational accountabilities.
- 5.21 The Tameside & Glossop Care Together Single Commissioning Board is not a separate legal body but a Board where each participant makes joint decisions which are binding on each other.
- 5.22 It will be a Joint Committee and will be required to be formally constituted. This will require changes to the CCG's constitution to reflect powers to be delegated to the new Board. In the interim it is proposed that the Tameside & Glossop Care Together Single Commissioning board will operate on the basis of the terms of reference set out at **Appendix 3** to enable a period of further shaping and refining of these governance arrangements. Subject to review and appropriate engagement on changes to constitutional matters by individual partner organisations it is proposed that these arrangements are formally introduced from 1 April 2016.
- 5.23 The key role of the Tameside & Glossop Care Together Single Commissioning Board will be:
- to have regard to the Locality Plan and the recommendations of the HWBB;
 - to act under the delegated authority on behalf of commissioning bodies.

- 5.24 The bodies delegating functions to the Tameside & Glossop Care Together Single Commissioning Board will remain accountable for meeting the full range of their statutory duties and together will:
- commission integrated health and social care services for community based locality teams; and
 - commission services from the Integrated Care Organisation.
- 5.25 Key principles will include:
- a joint committee where decisions are binding on all parties;
 - Members must have delegated authority;
 - Must function independently of providers;
 - Makes decisions to support the locality;
 - Will develop a commissioning strategy based upon the agreed Locality Plan;
 - There must be patient engagement on commissioning plans and all decisions must be transparent, reasonable, rational, defensible from Judicial Review challenge;
 - Any decision currently within the commissioning responsibility of the Local Authority/CCG stays with those organisations with oversight by the shadow JCB;
 - From April 2016 the JCB will hold a Tameside & Glossop locality wide pooled budget.
- 5.26 A scheme of delegation will need to be developed and agreed for the joint committee for the 1 April 2016.

6. POOLED BUDGET

- 6.1 The Tameside & Glossop Care Together Single Commissioning Board will be supported by appropriate financial governance arrangements. These will specify authorising officers to act on behalf of the CCG and Council with the appropriate financial scheme of delegation within defined permitted expenditure.
- 6.2 The Tameside & Glossop Care Together Single Commissioning Board will subject to Council and CCG approval need to
- Prepare a joint financial plan for the totality of the health and care resources including the pooled budget;
 - Agree a joint approach to prioritisation and development of business cases to access transformation funding;
 - Develop an appropriate and more progressive approach towards risk share arrangements, which make joint prioritisation of resources and spending decisions a necessity;
 - Develop commissioner skills in readiness for the magnitude of the pooled budget envisaged;
 - Sets tolerances to take amount of demand variations and agrees appropriate risk reserves; and
 - Agrees the principles by which the financial savings and the impact of investment schemes will be tracked across partners and the whole resource quantum using cost benefit analysis (CBA) methodology and benefits sharing arrangements.

7. PROGRESS TO DATE

- 7.1 The Council and the CCG have made significant progress already in regard to the actions above. These include:-
- Development of the Tameside & Glossop Locality plan.
 - Development of a single commissioning team drawn from the both organisations to take forward commissioning.
 - Appointment of an Independent Programme Chair and Programme Director

- transfer of the Tameside and Glossop community staff who are currently hosted by Stockport Foundation Trust into Tameside Hospital Foundation Trust. This process is now underway and will be completed on 1 April 2016.
- Pooled budgets and associated financial plans relating to the Better Care Fund.
- Working groups in place to develop contractual arrangements for Single Commissioning and extended pooled budget arrangements.
- Organisational development work relating to commissioning with a focus upon movement towards outcome based commissioning.

7.2 By April we will have completed a first step towards the new commissioning system. We will continue the work programmes and seek to make this way of working more mainstream and more systematic.

7.3 In undertaking this work, we foresee will be able to engage better with the public, patients, communities and community group in our commissioning activities.

7.4 Commissioning across health and social care will allow benefits to identifying risks relating to quality and safety across providers and also to flag risks such as safeguarding incidents or other people in vulnerable positions and work across the public sector to achieve better outcomes efficiently and effectively.

8. RECOMMENDATIONS

8.1 As set out on the front of the report.

APPENDIX 1

Interim Care Together Single Commissioning Board

Terms of Reference

Context

- 1 On 23 September 2015 the three Care Together partner organisation Boards met together to establish a set of principles for the development of the Integrated Care Foundation Trust and for the establishment of a single commissioning function. It was agreed that the Integrated Care Foundation Trust would be established from 1 April 2017, and that the Single Commissioning Board would be established from 1 April 2016 with interim arrangements in place from 1 January 2016.
- 2 The following document sets out the Terms of Reference for the Interim Care Together Commissioning Board to cover the period 1 January until 31 March 2016.

Statutory Framework

- 3 The Interim Care Together Commissioning Board is not a statutory body. It is not intended to replace any of the existing statutory bodies in the locality; instead it is to be an advisory group making recommendations to the two statutory organisations (Tameside Metropolitan Borough Council and NHS Tameside and Glossop Clinical Commissioning Group)

Role of the Interim Care Together Board

- 4 The Interim Care Together Commissioning Board has been established to enable members to make recommendations on the design, on the commissioning, and on the overall delivery of health and care services including the oversight of their quality and performance.
- 5 In performing its role the Interim Care Together Commissioning Board will exercise its functions in accordance with the Tameside and Glossop Locality Plan.

Geographical Coverage

- 6 The responsibilities for the Interim Care Together Commissioning Board will cover the same geographical area as of NHS Tameside and Glossop CCG (that is fully coterminous with Tameside Metropolitan Borough Council and the Glossop locality Tameside & Glossop Care Together of Derbyshire County Council).

Membership

- 7 The Interim Care Together Commissioning Board shall consist of the following members:
 - The Chair of the CCG (Chair)
 - The CCG Governing Body GP Lead for Urgent Care
 - The Council's Executive Member for Healthy and Working
 - The CCG Governing Body Lay Member with responsibility for Governance
 - The CCG Governing Body GP Lead for Integration (Clinical Vice-Chair)
 - The Chief Executive of the local authority
 - The Council's Executive Member for Children and Families
 - The Council's Executive Member for Adult Social Care and Wellbeing (Deputy Chair).

In the event of the Chair being unavailable for a meeting the Clinical Vice-Chair will assume the chairing of the Board meeting to maintain the meeting being clinically-led. In the event that both the Chair and the Clinical Vice-Chair are conflicted regarding an agenda item and leave the meeting then the Deputy Chair will assume the chairing of the meeting.

The following will have a standing invitation to attend the meetings of the Interim Care Together Commissioning Board:

- The Management team of the Care Together Commissioning function
- The Independent Chair and Programme Director of the Care Together Programme
- A representative of Derbyshire County Council or of High Peak Borough Council.

Meetings and Voting

8. The Interim Board will give no less than five working days' notice of its meetings. This will be accompanied by an agenda and supporting papers and sent to each member no later than five days before the date of the meeting. When the Chair of the Interim Board deems it necessary in light of urgent circumstances to call a meeting at short notice this notice period shall be such as s/he shall specify.
9. Each member of the Interim Board shall have one vote. The aim of the Interim Board will be to achieve consensus decision-making wherever possible. However, should a vote be required it will be by a simple majority of members present but, if necessary, the Chair has a second and deciding vote. Tameside & Glossop Care Together
10. The Chair of the Interim Board shall manage all conflict of interest matters. The members of the Interim Board will be asked at each meeting to declare any new actual or perceived conflicts. In addition each member will be expected to declare any new or existing conflicts for any items of business for that meeting. The Chair will ensure that a Register of Interests for the members of the Interim Care Together Commissioning Board is established and maintained.

Quorum

11. The quorum will be five of the eight members to include both a member from the CCG and a member from the Council. There is always to be a statutory legal representative from each of the organisations.

Frequency of meetings

12. It is anticipated that the Interim Care Together Commissioning Board will routinely meet at monthly or six-weekly intervals.
13. The meetings of the Interim Care Together Commissioning Board shall not be held in public.
14. It is intended that, from 1 April 2016, the meetings of the Care Together Commissioning Board will:
 - a) be held in public, subject to any exemption provided by law as set out under 14(b)
 - b) from 1 April 2016 the Care Together Commissioning Board may resolve to exclude the public from a meeting that is open to the public (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings or for any other reason permitted by both the Public Bodies (Admission to Meetings) Act 1960 (as amended or succeeded from time to time) and the Local Government Act 1972.

Additional requirements

15. The members of the Interim Board have a collective responsibility for the operation of the Interim Board. They will participate in discussion, review evidence, and provide objective expert input to the best of their knowledge and ability, and endeavour to reach a collective view.
16. The Interim Board may delegate tasks to such individuals or committees as it shall see fit, provided that any such delegations are consistent with each Tameside & Glossop Care Together parties' relevant governance arrangements, are recorded in a scheme of delegation, are governed by terms of reference as appropriate, and reflect appropriate arrangements for the management of any actual or perceived conflicts of interest.
17. The Interim Board may call additional experts to attend meetings on an ad hoc basis to inform discussions.
18. The members and attendees of the Interim Board shall respect the confidentiality requirements of the two statutory bodies.
19. The Interim Board will present its recommendations to the two statutory bodies for ratification.
20. These Terms of Reference will be reviewed by 1st April 2016 and reflect the desired change from an Interim Board to a substantive Board and the need to fulfil its functions.

Version 2 (draft) 8 January 2016

A Place-Based Approach to Better Prosperity, Health and Wellbeing

Tameside and Glossop Locality Plan November 2015

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1. EXECUTIVE SUMMARY

We believe everyone living in Tameside and Glossop should be supported to live a long, healthy and fulfilling life. We are committed to changing the way we organise, provide and fund public services to ensure we achieve this aim.

It is a sad reality that people living in Tameside and Glossop have some of the worst health outcomes in the country. Not only does our population have a lower than average life expectancy, but the healthy life expectancy (HLE), the age at which one can expect to live healthily is also well below the England and North West average. For the period 2011-13, the England average for men was 63.3 years, the North West average was 61.2 years. Male Tameside residents on average have a healthy life expectancy of 57.9 years; the situation is similar in Glossop, a shocking statistic. Statistics for women also show healthy life expectancy as worse than the England and North West average. Obviously, this has a profoundly negative impact on the ability of residents to engage in work, support themselves and their families, and ultimately on the healthy and fulfilling lives they expect.

In Tameside and Glossop, we have set ourselves the bold ambition of raising healthy life years to the North West average by 2020. We then will continue to drive our ambition to ensure we achieve the England average over the next five years. This is a significant task especially considering we are a financially challenged economy, but it is an ambition behind which we can all unite.

This Locality Plan outlines how we will reorganise and energise our health and care services to contribute more effectively towards better prosperity, health and wellbeing. This starts by recognising and building on the strong voluntary, community and faith sector presence in our locality and ensures we continually hear the voice of our communities. We will strive to empower local residents, build community resilience by developing and delivering place based services and early intervention and prevention to keep people healthy and independent. When people do require health or social services, our single care provider which provides a fully integrated model of care, will ensure high quality locally based care including an enhanced integrated urgent care service. This aspect of our initiative was outlined in the recent Contingency Planning Team (CPT) report commissioned, published and endorsed by Monitor.

Tameside and Glossop have a significant financial challenge as evidenced by the estimated £69m gap in funding across the health and social care economy by 2020. Continuing with our current systems is not an option; we would run out of money long before the end of each financial year. Our proposals for a single health and care provider have been analysed and subjected to external financial scrutiny and once fully implemented, will reduce expenditure by £28m. Additionally, we have other key plans described within this Locality Plan to show how by leading together and pooling our resources, we can reach financial sustainability within five years. We require assistance to achieve this, both in terms of regulator support for the radical reform of our local health and social care system but also being able to access transitional funds to support a phased release of savings as we move from the present to new arrangements.

A clear vision and strong partnership in conjunction with the opportunities provided within Greater Manchester Devolution, provides us with the platform to drive forward our shared objectives. Working with local people across the statutory, private, voluntary, and community sectors will enable us all to achieve our ambition of prosperity, health and wellbeing for Tameside and Glossop into the future.

2. STRATEGIC CONTEXT

2.1 Tameside and Glossop

Tameside and Glossop have a residential population density of approximately 21 persons per hectare and covers 40 square miles with a mix of urban and rural landscape. The area includes historic market towns, a canal network and industrial heritage areas as well as modern fast transport links (rail, motorway and tram). It is bordered by the metropolitan boroughs of Stockport to the south, Oldham to the north, Manchester to the west and Derbyshire to the east. Some parts of our locality are sparsely populated whilst areas of the main towns are highly populated (e.g. Ashton, Droylsden and Hyde).

Tameside and Glossop's local economy is interconnected with that of Greater Manchester. The workforce is well placed, particularly in the west of the borough, to benefit from the geographic concentration of economic activity and newly improved transport links. 6.2% of all jobs in Greater Manchester are in Tameside and the Tameside and Glossop share of Greater Manchester working age (16-64) population is circa 8.5%, which means that there is a net outflow of workers to other areas including to the regional centre, Manchester, itself.

A number of key challenges over the next decade are likely to impact on the lives of our residents and our communities. These include some significant social issues including continuing high levels of relative deprivation as well as the impact of being a financially challenged economy. As described by this Locality Plan, we intend to take positive action in favour of both deprived places and deprived people and achieve a financially sustainable economy within five years.

Given that the prevalence of many diseases is age-sensitive, changes in the population and age distribution within Tameside and Glossop will have important implications for the burden of disease and the demand for health services. Compared to England as a whole, we have a slightly lower proportion of people aged 20-39 and a slightly higher proportion of people aged 40-69. In addition, an increasingly ageing population is likely to increase the overall prevalence of limiting long term illness or disability and increase demand for health services and social service interventions.

2.2 Population and Public Health

Statistics relating to our population are stark. Healthy Life Expectancy (HLE) is significantly lower than the North West and England average for both men and women, this is shown for Tameside in Table 1 below and Glossop broadly mirrors this.

Table 1 - Healthy Life Expectancy in Tameside

	Men	Women
England	63.3	63.9
North West (NW)	61.2	61.9
Tameside	57.9	58.6
To achieve NW average need to increase HLE by (years)	3.3	3.2
To achieve England average need to increase HLE by (years)	5.4	5.3
To get to the England average, Tameside need to prevent the following number of premature deaths each year	105	71
To get to the Northwest average, Tameside need to prevent the following premature deaths each year	59	47

Source; PHE 2011/13

Analysis; Tameside Public Health Intelligence

From the Tameside and Derbyshire Joint Strategic Needs Assessments (JSNA), it is clear approximately two thirds of the life expectancy gap between our average and that of England as a whole is due to three broad causes of death; circulatory diseases, cancers and respiratory diseases. Data also shows that across the whole life course there are problematic rates of obesity, alcohol misuse and smoking related conditions.

Poor mental health and wellbeing also has a significant impact on individuals, families and communities. Low mental wellbeing is associated with employment status, poor general health and a higher prevalence of diagnosed medical conditions. A summary of key health challenges for Tameside can be found at **Appendix A** and Glossop (Derbyshire) at **Appendix B**. A full description of health needs can be found at:

[Tameside JSNA](#)
[Derbyshire JSNA](#)

2.3 Public Service Reform

The Greater Manchester Devolution Agreement (Devolution) brings opportunities, innovation and enthusiasm for changing current public sector policy and services for the rapid benefit of the Greater Manchester population. Tameside and Glossop is determined to work effectively within the Devolution construct to create the conditions for economic growth, connect more of our residents to the opportunities of that growth and create attractive places for people to live and work. We also will ensure this is underpinned by good quality, universal services including health and social care.

In line with the aspirations of Devolution, our public service reform principles are:

- using evidence-based interventions to improve outcomes
- integration and co-ordination of public services
- whole family / whole person approach to changing behaviour
- developing new approaches to investing and aligning resources from a range of partners on joint priorities
- robust evaluation of what works to reduce demand on public services

Devolution offers the opportunity to overcome many of the barriers to integrating public services, particularly for those residents and communities who will most benefit from an integrated response from public services.

2.4 Contingency Planning Team

In November 2014, Monitor appointed Price Waterhouse Cooper (PwC) as a Contingency Planning Team (CPT) to test the financial and clinical sustainability of Tameside Hospital NHS Foundation Trust (THFT) following a number of critical reports. The CPT report was supported and published by Monitor on the 17th September 2015 (**See Appendix C**).

The publication of the CPT report feeds directly into the work which has been on-going for the past two years to develop integrated health and social care across Tameside and Glossop. The CPT process provided considerable assurance on our plans for a new model of integrated care and gives us access to levers of national significance in terms of creating an Integrated Care Organisation (ICO). We have an opportunity to be at the forefront of the national drive to integrate health and social care, allowing us to collectively deliver better outcomes for local residents.

The CPT report concluded that THFT should become the delivery vehicle for the integrated health and social care system. As a locality, we have agreed with this recommendation and will be supporting THFT as they transition into a representative integrated care organisation. The CPT estimates that by implementing the proposed model of care, we will save £28 million a year across health and social care by 2020. Although this is significant, it does not solve the whole financial gap. The detail of how we will meet this gap is contained within Chapter 5.

However, financial reasons are not the main reason why we believe health and social care services in Tameside and Glossop will need to look very different in the future. Integrating preventative and proactive care, GPs, social care and the services provided in the hospital will deliver better health and social care service for local people. Those in need of support will receive it in a more co-ordinated way, without having to work their way through a complex system of multiple organisations and teams. Care will, wherever possible, be provided closer to home (preferably in people's homes) and we will do all we can to keep people out of hospital and where effective, provide early support to prevent a stay in hospital.

Two important aspects of the new model of care are the creation of Locality Community Care Teams (LCCTs) in five localities and the Urgent Integrated Care Service (UICS). The LCCTs will bring together health and social care delivery and dramatically improve coordination of care through individual care plans and the sharing of expertise. The UICS will have responsibility for looking after local people who are in social crisis, or who are seriously unwell. There will be a range of services sitting under the UICS including A&E, a rapid response team, a discharge team and intermediate care.

The CPT report proposes Tameside Hospital will continue to provide planned surgery and A&E care (as part of the UICS) but will have a reduction in beds for patients needing medical care of 18% due to the positive impact of integrated care providing services in the community.

The report represents a significant step forward but does not provide us with all of the answers. The proposals are unfunded and discussions are taking place around how the required transformation funds can be obtained in the economy to drive forward our plans for an integrated health and social care system at scale and pace. The CPT report is available at **Appendix C**.

3. OUR AMBITION

3.1 Our focus

Our ambition for the public sector across Tameside and Glossop is bold. We aim to raise healthy life expectancy to the North West average within five years. By 2020, a male in Tameside and Glossop can expect to have an additional 3.3 years of healthy life expectancy and women an additional 3.2 years. We then will continue to drive our ambition to achieve the England average within the subsequent five years.

We do not underestimate this challenge and the significant changes this will require in the planning and delivery of services across the public sector to deliver this. This Locality Plan describes how health and social care services will contribute towards our ambition by creating a fully integrated health and social care system which:

- creates resilient and empowered residents and communities as well
- improves health and wellbeing outcomes with a focus on early intervention and prevention
- provides high quality, safe, clinically effective and local services meeting NHS constitutional standards
- delivers long term financial sustainability.

3.2 Our principles and values

We will ensure that the way in which we take forward this Locality Plan is based on a number of important principles and values. We are committed to:

- ensuring the interests of the people of Tameside and Glossop are at the heart of everything we do
- valuing and building upon the skills and assets we already have in our local communities
- tackling inequality in our community wherever we can, particularly if this means some people get a better health and social care service than others
- creating a person-centred culture where the care delivery system is designed around the individual and not the system
- ensuring that local people and staff working in our organisations have the opportunity to participate as equal partners in taking forward this plan
- promoting social value in all our work, meaning we will look to invest in local businesses, not for profit businesses and community organisations to provide the services we need
- providing the best quality care that we can, within the available resources
- supporting healthy behaviours across our communities both through a focus on high risk behaviour and longer term lifestyle changes
- supporting people with long term conditions or on-going care needs, and their carers, to self-care more effectively and engage proactively in their own health and care
- providing an integrated health and social care service that is based on supporting people to live healthy, independent lives in their own homes wherever possible, with the support they need close at hand. Where people need to travel for more specialised care or treatment we will ensure that services are in the most appropriate location to deliver good quality care.
- develop strong working relationships with Devolution to ensure our plans compliment the work for the wider conurbation and that Tameside and Glossop residents benefit from the wider work across Greater Manchester.

3.3 Our determinants of success

By 2020, the people of Tameside & Glossop will be living longer, healthier and more fulfilled lives. Healthy life expectancy will be increasing, health and social care will be delivering services in a different way including a significant shift towards prevention of illness and a focus on wellness, and the economy will have a robust financial platform.

The population of Tameside and Glossop will feel and understand the transformed system and will be engaging with services differently. This change will be described as:

- Tameside and Glossop being a place where people choose to live as it is safe, provides the opportunity to work, gives access to affordable housing and leisure and offers a wealth of opportunities to enjoy a good quality of life
- the lives people have, the employment they are in and the skills they have developed give them a real sense of purpose and the confidence and aspiration to achieve and believe in themselves
- regardless of age or ability, people feel they are making a positive contribution to their family and community, have a sense of belonging and take a pride in their community
- people are using information, advice and taking the opportunities to help them make the best choices about how they live their lives and stay fit for work and recreation
- people can see the benefit of being independent with less focus on public services but the knowledge that, when needed, they will be supported
- people understand what to expect from public services and are using them in a responsible way
- people have trust and confidence in the services provided, knowing that they are accessible and right for them and their families as they have been engaged by services and involved in their co-design
- their symptoms and problems are diagnosed early and they receive the best interventions from the right people, in the right place, at the right time
- children in the very earliest stages of their lives are getting off to a good start because their parents have the right skills, knowledge and support
- children and young people are making the most of opportunities that education, training and leisure offer them and are already adding value to their community with their skills and experience
- older people are treated with dignity and respect, are able to live safely and independently and continue to add value to their community with the skills and experience they have
- good mental health is valued equally as much as good physical health by our communities and by our services.

Tameside and Glossop example of current best practice - Charmaine

Charmaine is 14 years old. She had poor attendance at school and high levels of behavioural problems and incidents with staff and other young people. The school was very concerned about her declining academic performance and the impact of her risky social activities outside of school. She was putting herself in situations where she was at high risk of child sexual exploitation, including going missing from home.

Through mentoring support from a voluntary sector 'Achievement Coaching' programme, Charmaine was helped to improve her relationship with school, both physically and emotionally. She was also supported to access drugs and alcohol services and 'keeping safe work' was completed with her to improve her understanding of the risks she was putting herself in, and the potential consequences.

Charmaine engaged with the project for six months and in that time she progressed well during the programme. Her attendance improved and her behaviour incidents reduced by 70%. She submitted her course work on time, received a better grade than she was expecting and she plans to attend College. She has met several times with her Branching Out, drugs and alcohol worker (another voluntary sector provider) and her attitude towards risky behaviour has changed. Her assessments show that her knowledge on substance misuse has increased and her attitude towards legal highs is changing. School feels that she is less likely to be excluded due to the intervention.

Using the Troubled Families Cost Saving Calculator it has been calculated that an investment of £1000 for this intervention has saved the Public Sector £13256.

3.4 Partnership and participation

In line with our principles and values, we will ensure local people who use services and the staff who provide them are actively involved in further developing and delivering this plan. In order to ensure we design services that meet the needs and expectations of local people, we will invite people as individuals and part of community groups to be involved and help us shape our plans for how integrated health and care services will be delivered. In doing so, it will be important for us to hear the voice of all parts of our community so we develop services and community support networks that are attractive and accessible for all residents.

To help us take forward the co-design of this plan, and co-production of new care and support models and services, we will build strong working partnerships with a wide range of organisations that represent the interests of different parts of our local community, as well as those who provide support and services. We will develop the concept of relevant local organisations coming together to create community based consortiums to shape and deliver services. This will include organisations providing health and care services, but it will go much wider to include areas such as housing, education, transport, leisure facilities, employment and welfare. We also will develop our partnership approach to include local community organisations, charities, social enterprises, businesses and other parts of the public sector. We are committed to being open and clear in our communications, so that people know how and where they can get involved. We are not just looking to run a one-off exercise to take people's current views on integrated health and care, but to establish processes that will enable on-going participation and partnership working which stands the test of time.

Tameside and Glossop example of current best practice - Engagement

Community and Voluntary Action Tameside (CVAT) and their counterparts in Derbyshire, High Peak CVS and Glossop Volunteer Centre carried out engagement activities on behalf of the partners involved in developing the Care Together Programme.

Learning from previous engagement events, an asset based approach to engagement was developed. This meant working with existing 'assets,' in this case Voluntary, Community and Faith Sector (VCFS) groups already working with people from protected characteristic groups alongside traditional deliberative events. Through the in-reach, skills (e.g. interpretation support) and enthusiasm (in getting their member's voices heard) of these groups and the trust that they have from their members, it was possible to see additional opportunities to engage with over 220 local people, many of whom were from potentially marginalised communities. The approach has subsequently been used to engage with approximately 70 Children and young people around the re-design of Emotional Wellbeing services.

4. OUR APPROACH

The future health and social care system we are striving to develop for Tameside and Glossop is one where people are supported to be well, independent and connected to their communities. When people do need to access health and care services, they will be delivered locally in a joined up way with an emphasis on addressing the wider factors of the individual's health and wellbeing, including work, housing and access to leisure. We know this requires fundamental change in the way we work together and also in how services are delivered.

Delivering our ambition will be enabled through six priority transformation programme areas. Together these six areas will create a fully integrated, person-centered system of health and care support and treatment. The aim of each is to provide the care and support people need so they do not have to escalate to the next stage unless absolutely necessary. This chapter explains these six programme stages of the model of care in detail.

- **Healthy Lives (early intervention and prevention):** a focus on education, skills and support for people to avoid ill-health, including lifestyle factors but also employment, housing, education and income inequalities.
- **Community development:** this will strengthen and sustain community groups and voluntary sector organisations' work to provide the necessary support in the community.
- **Enabling self-care:** improving skills, knowledge and confidence of people with long-term conditions or with on-going support needs to self-care and self-manage.
- **Locality based services;** for people who need regular access to health and social services, these will be fully integrated in localities, offering services close to, or in, people's homes. They will be supported by multi-disciplinary teams (MDT) with a named care co-ordinator, based on a personalised care plan which focuses on the individual's life goals and aspirations, not just health and care needs. This will involve identifying upfront those people most in need of this care co-ordination.
- **Urgent integrated care services:** for people in crisis or who need urgent medical attention, other health or care support, and a single urgent care hub will align a range of urgent and out of hours care services around A&E to make it easier for people to access the most appropriate service.
- **Planned care services:** to ensure the provision of planned (elective) care in line with the Devolution and Healthier Together programmes.

4.1 Healthy Lives (early intervention and prevention)

Our ambition for our population is to be independent and in control of their lives. The Marmot Review into health inequalities "Fair Society, Healthy Lives" 2010 is very clear about how to improve health and wellbeing for all; employment, planning, transport, housing, education, leisure, social care are all interlinked and have an impact on physical and mental health. Further detail can be found via the link below:

http://www.local.gov.uk/health/-/journal_content/56/10180/3510094/ARTICLE

Delivery requires a greater focus on prevention, early intervention, shared decision making, supported self-management and self-care. Our Health and Wellbeing Strategy, which we are currently implementing, aims to deliver this as well as tackling unfair disadvantage and inequality through early intervention and prevention across the life course. This is described below.

4.1.1 Starting & Developing Well

Encouraging healthy lifestyles and behaviour and thereby enabling all children and young people to maximise their capabilities is at the heart of our transformation work. We will achieve this through the continuing development of high quality services encouraging and promoting healthy habits. This includes preventing/reducing harmful alcohol consumption, substance misuse, obesity, physical inactivity, smoking and improving sexual health, so that individuals and communities are equipped and empowered to make healthy choices and live healthy lives.

Focusing healthy lifestyle messages on young people is likely to also have a long term effect on our Healthy Life Expectancy (HLE). A new generation can more easily break the unhealthy lifestyle choices that their family has traditionally made and thus reduce their risk of developing life limiting long term conditions later in life. There is also evidence that children can influence the behaviours of their parents, if they understand from an early age that they can encourage and support their parents to change their lifestyles.

We will intervene early where our children, young people and families need help and we will strengthen the support provided during pregnancy and the first five years of a child's life to ensure every child is given the best start in life, is fit to learn and able to fully develop their potential, communication, language and literacy skills. A key priority is to increase the proportion of children who are 'school ready' by continuing the implementation of the Greater Manchester Early Years new delivery model to improve early intervention and prevention for children and families in need.

- **Healthy Schools Programme**

The Healthy Schools Programme ceased in 2011. Our aim going forward is to develop a Health and Well Being offer for Children and Young People (CYP) to improve health outcomes for children, young people and their families. This will be achieved by working in partnership with the School Health Service and others organisations to tackle health inequalities and contribute to key public health priorities for the 5-25 year old age range.

The core public health offer for school-aged children, which encompasses the Healthy Child Programme (5-19), includes:

- Health promotion and prevention by the multi-disciplinary team;
- Defined support for children with additional and complex health needs;
- Additional or targeted school nursing support as identified in the JSNA

We are taking a whole school approach i.e. one that goes beyond the learning and teaching in the classroom to pervade all aspects of the life of a school. Key to this will be to work collaboratively with schools to help their children and young people to grow healthily, safely and responsibly and to become active citizens who proactively contribute to society and the environment.

Tameside and Glossop example of current best practice - Jade

Jade started experiencing difficulties after the birth of her second child. Her family was experiencing significant stress which was linked to domestic abuse, substance misuse, mental health needs and financial difficulties. These, combined with isolation and lack of support networks began to affect the children's development and attachment. Jade was reluctant to work with social care and support services due to her own childhood experiences, so for a short time the children were taken into care.

Different organisations came together in partnership with Jade and her family to work through their issues. They made sure the children were at the centre of the picture. A Family Intervention Worker from Jade's local children's centre supported the family to manage debt and access benefits. Jade was supported to allow her older child to access a free 2 year old place and speech and language therapy at a local nursery. She built good relationships with the Health Visitor and Early Attachment Specialist who supported Jade with parenting, and enabled the family to get back on track. Both parents accepted the help and support they needed to make changes and the children were returned to the family. They continue to make significant progress. Jade is very proud of her children and is keen they have a positive childhood experience. Jade no longer needs a Family Intervention Worker but often pops into the children's centre to attend the groups where she has built confidence and made new friends.

- **Child and Adolescent Mental Health Services (CAMHS)**

The early detection of mental health problems through all stages of a child's life is crucial. Intervention making a difference both for individuals and populations at this time can help avoid social and health problems in later years. The antenatal period and early years represent vital development stages when emotional wellbeing issues and problems with child development, speech and behaviour can arise. We are improving emotional and mental health services for children and their parents by delivering an integrated parent infant mental health pathway.

As one of only eight pilot sites nationally, NHS Tameside and Glossop Clinical Commissioning Group (CCG) is devising and implementing a transformational approach to CAMHS to better integrate care and support for our children and young people. The Children and Young People's Emotional and Mental Well-being Transformation Plan 2015-2020 sets out our partnership plans to improve prevention, early intervention and increase access to specialist CAMHS practitioners.

4.1.2 Living & Working Well

- **Stronger families**

Strengthening all generations of the family, leading to active residents with responsibility for their own health and wellbeing needs will be delivered by our Stronger Families programme, an integrated approach to working with families with complex needs. A central aim is to ensure we champion early intervention to prevent issues escalating downstream and later in the life course. In addition, this model ensures that we take a 'whole-family' approach when working with families rather than a simple single child, single adult response.

This model has proved to be one of the most successful nationally with some of the best outcomes for families ranging from reductions in anti-social behaviour, improvement in school attendance and some of the highest rates of moving adults into employment. As the model works closely with the multi-agency Public Service Hub, families and services have been able to pull on a range of agencies and voluntary sector provision to address the whole needs of the family, this has included better management of adult mental health and substance misuse, better coordination with Health Visiting teams and reductions in domestic violence.

Our plans include providing all children and adults with a learning disability with support from an integrated all age learning disability service, proactively managing a programme budget to meet the needs of those with complex needs, those within the Transforming Care cohort and those, including children and young people, at risk of requiring out of area packages of support.

- **Housing**

Using an approach that builds on existing community strengths, we aim to increase opportunities for residents in Tameside and Glossop to live in a safe and healthy home and community.

We know that the area where people live and the quality of their housing can have a major impact on their health and well-being and that poor housing and environment cause ill health. We welcome the mandate set out in the "Memorandum of Understanding to Support Joint Action on Improving Health Through the Home", December 2014 and will be working at pace and scale to create communities and neighbourhoods as well as the identification and management of housing related issues using the local community asset base. We will be training and developing our collective workforce to work in partnership to increase community resilience as well as provide a preventative approach in areas such as fuel poverty, accident prevention, financial resilience, homelessness, adaptations and assistive technology, to ensure residents have a home which promotes wellbeing.

- **Physical inactivity**

Investment in encouraging and enabling participation in physical activity is a cost effective method of increasing population health and reducing avoidable demand and expenditure. Physical inactivity is directly correlated to deprivation levels, meaning that it is a significant factor in maintaining health inequalities.

Increasing the level of physical activity amongst our local population is a fundamental aspect of our transformational work to improve overall health and wellbeing, enable economic growth, and to reducing demand for health and social care services.

- **Mental health and wellbeing**

Creating parity of esteem between mental and physical health is pivotal to our overall well-being. Within Tameside and Glossop, this concept is embedded across health, social care and wellbeing work streams such as health improvement, skills and employment, early help and substance misuse. Our strategic approach is being refreshed to maximise the new opportunities approaching with the NHS England Access and Waiting Times' standards, the Greater Manchester Mental Health Partnership and the forthcoming NHS England Task Force work.

Access, integration and recovery models underpin our transformational work. This work will ensure our mental health services are effective, efficient, based on 'best practice' and outcome focused to ensure services are sustainable and are provided as close to the users' community as possible. This will include integration with targeted and broader based voluntary, community and faith sector services to build on community assets.

- **Work and Health**

Improving the economic prosperity of local residents is another key driver for our reform work with specific outcomes focused on reducing worklessness, improving adult skills and improving household income. Our collaborative multi agency approach is tackling the multiple and complex barriers which can prevent people from accessing and progressing in work e.g.: mental and physical health, skills, addiction, housing, lack of affordable child care and debt. We are exploring a local "Fit to Work" pilot for out of work benefit claimants, which could establish GP referral routes into a work/health management service and increase activation of patients in self-management. Additionally, we will focus on prevention programmes to improve physical health and reduce our high rates of vascular dementia.

- **Transport and Health**

To sustain and improve our economy and enable our communities to flourish and prosper, good transport provision is crucial. This enables access to employment, healthcare, education and link with the benefits associated with tourism and leisure. Transport is a catalyst in underpinning investment opportunities in developing run down areas and improving housing provision in our local area.

Our public health approach to transport is to move away from cars and towards walking, cycling and public transport. This reduces the harms of the road transport system, enhances benefits to individuals, society and the environment by helping carbon reduction. To achieve this shift, our services will be restructured so that more of our population find, and are supported to see, the most convenient, pleasant and affordable option for short journey stages to be walking and cycling, and for longer journey stages to be cycling and public transport. We will be encouraging this via our plans to ensure people can easily access local services on foot or bicycle, and ensure new developments prioritise physically active lives, including walking and cycling.

4.1.3 Ageing & Dying Well

Our work to reduce loneliness and social isolation, particularly amongst older people, has been recognised nationally as best practice. Our approach aims to reduce chronic emotional loneliness which otherwise can lead to people leading lifestyles that result in poor health and premature death.

With a focus on promoting independence and by making Tameside and Glossop a good place to grow old, older people are helped to participate fully in community life. In our commitment to ensuring we provide high quality care to all that need it; we will ensure sources of support are joined up. We will build on the capacity of services and communities to know how to help and access this.

- **Increased Life Expectancy**

Improving the healthy life expectancy of our local population is key to improving the experiences of people in older age. Our whole sector proactive and preventative approach will connect people with their local communities, work with people to manage their health and will encourage and support people to access local community groups and resources. Along with the emotional impact on people and their families, dementia has a huge financial impact and reflects one of the biggest public health, NHS and social care challenges.

There are approximately 3,483 people with dementia living in Tameside and Glossop and the estimated total cost to the economy is £112m with long term institutional social care costs making up the majority of this. Our ambition locally is to ensure individuals and their carers have an early diagnosis of their dementia and quality post diagnostic support which meets their needs and is integrated within our Local Community Care Teams. As we have an above average rate of preventable dementia, caused predominantly by unhealthy lifestyle behaviours (the local rate of vascular dementia is 42%, more than double the national rate of 20%), we will build on keeping brains healthy within our Wellness Offer.

Our local strategy and action plan is ambitious. We want to ensure local people and their carers are able to live well with dementia, at home wherever possible, with resources available to support them throughout their journey, including in crisis situations. This supports the overarching aim of the Greater Manchester Strategic Plan for Dementia, which is to improve the lived experience for people living with dementia and their carers, whilst determining how to reduce dependence on health and care services. In line with this our local strategy will be refreshed against the five domains identified:-

- **Preventing Well:** reducing the risk of dementia in the local population, particularly vascular dementia
- **Diagnosing Well:** developing a robust seek and treat system that offers early, comprehensive, evidence based assessment for all
- **Living Well:** establishing dementia friendly communities, networks and support and ensuring that every person has access to tailored post diagnostic advice/support
- **Supporting Well:** regular access to health and social care services which reduce the number and duration of emergency admissions, re-admissions and care home placements. Ensuring care continuity, irrespective of the location of the individual.
- **Dying Well:** Focusing on understanding where people living with dementia are dying and striving to ensure the place of death is aligned with the person and family preference.

- **Housing**

Working with local partners – care homes, registered social landlords and private landlords, we will ensure that the quality of housing for older people is aspirational and supports good health. Assistive technology, telecare and telehealth are key factors in people remaining safely at home. Over 4,000 people are supported by our Community Response Service which offers a physical response within 20 minutes where necessary, in the majority of cases. Our Housing Strategy is being refreshed, with a greater emphasis on the needs of older people to ensure locally there is sufficient appropriate housing.

- **Urgent Integrated Care Services**

The vast majority of hospital attendances and admissions locally are older people. It is critical that we ensure we deliver a responsive community based integrated intervention that supports an individual to remain at home. Our ambition, as described in our Care Together programme, is to ensure we offer a professional response within one hour, where this is appropriate, with professional triage and support to offer a short term intervention to stabilize and refer on where required. Considerable benefits will be derived from this approach, not least that the individual remains in the comfort of their own home, wherever possible, and timely, appropriate interventions manage and minimize the acuity.

- **Palliative and End of Life Care Services**

The vision for palliative and end of life care services is to ensure the wishes of those in the final months of their life are met and also to improve the percentage of deaths occurring in the usual place of residence. Patients perceived to be in their last 12 months of life are already proactively monitored using the Gold Standards Framework and end of life care information is appropriately shared to improve co-ordination. We will be working through our locality teams to develop improved links with voluntary and community services and thereby further support patients and their families to self-care and prevent crises.

Tameside and Glossop example of current best practice - Grace

Grace is a recently retired French teacher who had surgery for bowel cancer five years ago. She is very private person, but after reading several newspaper articles and watching a documentary on-line, decided to be as open with family, friends and work colleagues as she could. She found many of them very supportive and encouraged by their response became a volunteer with a local cancer awareness programme and helped with community events encouraging people to take up screening for bowel cancer. She also gave several talks to patients at her GP practice about the importance of screening.

A year ago her cancer recurred, treatment was unsuccessful, and she started to find she had a lot less energy and lost weight. Her daughter who lives locally asked to stay with her as often as she could, and friends and family made sure that she had visitors every day. She continued to walk her dog three times a day and pick up her newspaper from the local shops.

Grace is currently in bed at home, receiving daily visits from the local Macmillan Community Palliative Care Team, District Nursing Team and overnight support from Marie Curie Cancer Care. She has indicated that she would like to spend her final days at home, and made a plan for her funeral with her sister. Her daughter and two of her friends visit every day. An Advanced Care Plan has been agreed, and her GP has visited three times in the past week.

4.2 Community Development

Our local communities have a vital role in delivering our ambitious plans as social connections and having a voice in local decisions are all factors that underpin good health. Understanding, building upon and utilising the rich and diverse assets within our community can provide a significant impact on health and wellbeing. This approach is known as Asset Based Community Development (ABCD) and has been summarised by Alex Fox, CEO of Shared Lives Plus in this way: "If all you look for in an individual, family or community, is need, that is all you will find and you will always conclude that an outside agency or expert is needed to fix them. It suggests that anyone offering support should always look first for what someone can or could do and should think about how to support them to maximize their capabilities and potential, drawing on their natural support networks."

Our intention is to examine how local assets, including the community itself, can be used to meet identified needs and enable local residents to achieve and maintain a sense of wellbeing by leading healthy lifestyles, supported by resilient communities. Our approach is based on enabling the many strengths that already exist in our communities to thrive and as such will focus on supporting communities to develop and use their own assets to tackle the issues that affect their lives.

Tameside Council is currently developing and testing out approaches to working with local communities who want to contribute to the development of community asset based approaches. These pilot programmes will form the basis for developing future approaches and commissioning strategies and the focus has been to understand the specific facilities, activities and assets that are used and valued by communities and residents. This has involved working closely with our third sector support and development agency, Community and Voluntary Action Tameside (CVAT), to develop a strategic approach to ABCD and includes working with Manchester Metropolitan University to strengthen our understanding. The learning from this programme has formed the foundation of our Asset Based approach going forward.

A large part of this programme has been learning from and supporting our assets in terms of those already delivering community development work and providing opportunities for them to share learning and best practice, support one another and identify opportunities to work together. We created a 'Community Development Workers Network' for employees and volunteers from any organisation which has a community development aspect to their work. These bi-monthly network meetings include the key element of peer learning; Community Development workers have led sessions with their peers on several topics including monitoring and evaluation. We also have provided a three day practice based course on Appreciative Inquiry for frontline workers, some of whom are using this approach to facilitate community gatherings in their area.

The benefits of Asset Based Community Development include enhanced community and individual resilience, reduced isolation, and associated reductions in the demand for crisis care, such as for: dementia, falls, mental health crises, self-harm, substance misuse, CVD, cancer and end of life care. The type of approaches promoted through ABCD are usually based on social and community support for individuals who need it, and include approaches such as peer-to-peer support networks, befriending services, advocacy and sign-posting people to the most appropriate places for help. These approaches can include community based activities focusing on improving exercise, better diet, talking therapies for people suffering from depression or anxiety, social activities for people who are lonely or isolated, advice and support with understanding healthcare information and conditions, activities such as creative and performing arts which help build self-esteem and many more.

Tameside and Glossop example of current best practice – Jill

Jill is 79 and lives alone following the death of her husband, Harry 12 months ago. He was her main carer as Jill was diagnosed with vascular dementia whilst Harry was with her. Since his death Jill has been lonely and frightened, in spite of her daughter Ruth's help. She often calls her GP Surgery worried about her health.

The GP informed Jill and Ruth about "The Storybox Project". This provides participatory performing arts activities for older people with memory problems, providing opportunities for expression through alternative means of communication. The approach is participant-led, valuing each person's contribution equally, and fosters the development of personal relationships through engaging in a shared expressive activity. It has seen good outcomes, including improved relationships between participants and carers, who are invited along too. Jill's GP and Ruth have noticed an improvement in Jill's wellbeing since she started to attend Storybox. Jill loves it. She's sleeping better and is making new friends. She is realising that there is still much to enjoy in life and is talking with Ruth about attending a swimming session for people with memory problems and their carers too. Jill's GP has embraced an asset based approach to their practice and this is only one of many projects/schemes that they encourage their patients to enjoy and develop.

4.3 Enabling self care

We want to empower people to stay healthy. We also want to support those people with long term conditions to develop confidence, knowledge and skills to manage their condition and to make informed decisions and choices about their treatment and care. We will promote local self-care courses for anyone diagnosed with a long term condition to improve understanding on how their condition impacts on their life, job and relationships and thereby enable them to know more about and improve their health outcomes. This is an essential element of our plans if we are to reduce the demand for health and social care resources and thereby move to a financially sustainable position.

The internet and other technology improvements mean that people who have traditionally needed regular contact with health and care professionals are now in a much stronger position to manage long term conditions safely themselves. Tameside and Glossop has a long history of using assistive technology on social care provision and developing empowerment tools to enhance the skills and confidence of people to care for themselves. We also have one of the UK's leading GP practices in terms of empowering patients to access their own medical records and use this knowledge to research and manage their long term health conditions. In our GP practices, we have professionals keen to test out new ways of supporting patients where a face to face consultation is not necessary. We will build on the experiences and enthusiasm to develop new ways across our integrated care system to ensure people are empowered by information and can effectively judge when they can manage their own health and when they need a specific intervention or support.

As part of our work within Devolution, we will work in partnership to support the development of a social movement for change which promotes people making informed lifestyle choices and based on "bottom up" community leadership. This will create a fundamentally different relationship between public services, residents and local communities and support a shift towards people being empowered around responsibility for their own health, proactively supporting people to strengthen connections with their communities and enabling a focus on community and service user generated outcomes which shape local services. This will link to work on social value based commissioning and evaluation models and include targeted work on areas such as Social Impact Bonds.

4.4 Locality Based Services

Our vision for integrated health and social care services, and tested via the CPT process, is to provide an effective and efficient care system. To do this, we are developing a single integrated care provider, using the Foundation Trust delivery model to provide improved access to services, dramatically reduce artificial organisational boundaries, and greatly enhance the experience of using services.

The introduction of five Local Community Care Teams (LCCTs) will support residents in choosing healthy lifestyles, encouraging them to take more control and responsibility for their own health. They will also enable care to be given in the community, where possible in the persons' home and people will get a named staff member to co-ordinate their support. The LCCTs will have unequivocal responsibility for the health and wellbeing of the populations which they serve. This will be achieved through a co-ordinated approach with primary care, mental health including dementia services, social care services and voluntary, community and faith sector services. These teams will use the risk stratification tools currently available to identify those people most at risk of needing services in each locality with a view to using earlier intervention techniques to manage demand for longer term services. People with long term conditions will be supported by a named care coordinator.

We have invested in the core infrastructure and in primary care services to provide support and built additional capacity and capability into our practices to meet future challenges. We have co-designed and implemented a new local Quality and Performance Framework, complementary to the GM standards, which has standardised and stretched the contracted quality indicators. Practices are incentivised to achieve these outcomes and are supported through investment in a team of quality improvement and data quality experts to improve systems, processes and bring capacity into practice management and GPs.

We have already implemented coordinated CQUINS across our local community and acute providers to ensure quality and outcomes are aligned across clinical pathways. This includes general practice, primary care services, e.g. GP Out of Hours, Ashton Walk in Centre and extended access arrangements to ensure services are aligned and not operating as stand-alone providers. We are further developing this work to review how QoF (Quality Outcomes Framework) could be re-designed and negotiated into our local model of quality for primary care. We will include GPs in this via the 2016/17 contract negotiations as we continue to engage practices in the design of the future model of care.

The current funding and make-up of the GMS and PMS contractual models are being reviewed as Phase 3 of our GP investment plan. All GP commissioned services are being reviewed to ensure they remain relevant and contribute to the wider system challenges. We will ensure the GP budgetary allocation are place based and locally discretionary, including nationally commissioned services for GPs. We will listen to Healthwatch feedback from detailed local survey work to help design the specification to meet the needs of these populations and ensure we build on the assets in communities. We are also researching models used nationally and internationally to understand and develop the most effective ways of encouraging GPs to work in an aligned and ever increasingly integrated way with, and/or as part of, the future Integrated Care Organisation (ICO).

Primary Care based around the role of the GP service will be at the heart of the new LCCTs. Our new primary care strategy will invest in general practice to:

- strengthen Primary Care Infrastructure
- develop models of care that are meaningful to patients and practices, including access
- develop relevant and meaningful outcomes and quality indicators
- develop our membership and their relationship with the public.

We are looking at an outcomes based commissioning and contracting model to align incentives across pathways, contracts and providers. We will be working with Greater Manchester to ensure our plans complement those of Devolution. We are keen to test opportunities and be an early adopter of new models of primary care delivery and form. We also are keen to work with Devolution to develop transformational opportunities with pharmacies, dentists and optometrists.

4.5 Urgent Integrated Care Services

When people need support in the event of a crisis, this will be managed by one cross Tameside and Glossop wide urgent integrated care service (UICS). It will have clear responsibility for looking after local people who are in social crisis, or who are seriously unwell. The UICS will act as a single point of access and will be able to mobilize all relevant assets and resources across the health and care system to help get people well and back in the most appropriate care setting as quickly as possible. There will be clear accountability between the LCCTs and the UICS.

The UICS will provide one seamless service that supports people from the moment they have an urgent need, irrespective of whether this need is met in their home, by a short-term placement or in hospital to the point they are ready to resume independent living. We envisage the UICS will comprise:

- a single point of access for people and their carers
- one single assessment process to ensure people only need to tell their story once
- care co-ordination
- an urgent response team

- co-ordination of all hospital discharges, including discharge planning to ensure no-one is discharged without the necessary community health and social care support in place, ensure no-one is in hospital longer than necessary and help improve the flow of individuals in and out of hospital
- bed and home-based intermediate care
- on-going support by a multi-disciplinary team until a person is stabilised and ready to return to independent living, or living with support from LCCTs.

Our integrated urgent care service will reduce demand for acute services and crisis care. We have already developed a new Urgent Integrated Care Service discharge and admission avoidance team which co-ordinates the intermediate tier of services in hospital, social and community health to manage patients home as quickly and safely as possible. Our approach to urgent care is to ensure patients are not confined to a waiting room, chair or bed in an acute setting any longer than they need to be. People should get care in the most appropriate setting for their needs – often this will not be a hospital based urgent care service.

Attendances and admissions to hospital will reduce as individuals, and professionals access the right care, interventions and support at the right time, in the right place. This will also allow the hospital to operate effectively and safely. Where appropriate, the Urgent Integrated Care service will ensure discharge from hospital is safe and prompt, with an appropriate level of support to ensure recovery is maximised and the individual maintains their independence. This may involve community based intermediate care services which will aim to achieve maximum potential and recovery.

We will create an integrated urgent care front door/hub from where A&E is currently located. This will relocate the Walk in Centre, GP Out of Hours and the GP (registered list) from Ashton Primary Care Centre and provide wrap around advice and care from integrated acute, mental health, social and community health services all to be located at the urgent care hub. This will ensure the new discharge and admissions avoidance service and the acute/urgent support through the LCCTs is co-ordinated in one place.

4.6 Planned Care Services

Our ambition for planned care is for when people need pre-arranged treatment, they will have access to care that delivers the best health outcomes and returns them to independence as quickly as possible.

In line with the recent Healthier Together consultation and Greater Manchester Devolution plans, we will ensure our patients have access to the very best clinical support. This will be through ensuring our local hospital works with other hospitals to provide consistently high quality treatment and care which meets best practice standards and provides the best outcomes and experience for patients. We will share services across a number of hospitals and ensure concentrated expertise in clinical teams delivering the “once-in-a-lifetime” specialist care. This may mean that for some services, people will have to travel further for particular types of treatment but we will continue to develop opportunities for day case treatment by reducing overnight stays in hospital and increasing the amount of outpatient care in our communities.

5. DELIVERING OUR AMBITION

5.1 Leading the change

Tameside and Glossop health and social care leaders are determined to improve healthy life expectancy and also create an affordable health and social care system. Chapter 4 describes the detailed approach to our challenges and this chapter will focus on how we will achieve this.

The Care Together Programme is a joint programme between Tameside Metropolitan Borough Council (TMBC), Tameside Hospital NHS Foundation Trust (THFT) and NHS Tameside and Glossop Clinical Commissioning Group (CCG) and has a clear governance structure, led by an Independent Chair. The programme also has a Programme Director, a small Programme Support Office and a dedicated budget in 2015/16 to start our transformation plans. Transitional funding from 2016/17 needs to be secured to continue the process of transformation.

From the 1st January 2016, Tameside will have a single commissioning function operating under a single leadership and supported by one cohesive management team. The current pooled commissioning budget will be considerably expanded to provide a single pooled budget of circa £360m from 1st April 2016 which will include all health and social care expenditure. Once this is embedded and if desirable/appropriate, the remaining elements of public sector expenditure may also be incorporated. We are developing a single commissioning strategy to result in an outcomes based contract for implementation in April 2016.

Comprehensive engagement continues with Derbyshire County Council regarding how to ensure parity of service provision for Glossop residents. Although there are no plans to fully integrate social care and health services formally, discussions are on-going regarding how closer working can be achieved to ensure improved health outcomes and financial efficiencies where possible. Glossop will therefore continue current arrangements for the time being.

There will also be a single integrated provider progressively from 1st April 2016 delivered by the current THFT on its transition to becoming an Integrated Care Foundation Trust. As part of this journey, the Tameside and Glossop Community Services currently hosted by Stockport Foundation Trust will be transferred to THFT from 1st April 2016. The development of local primary and community care services will commence in earnest once the transaction is safely completed.

The Care Together programme expects to deliver the new legally constituted and representative Integrated Care Foundation Trust by 1st April 2017. The Care Together Programme Board will then cease as it hands over accountability for further development of the organisational culture and model of care to the ICO. There may, in time, be opportunities to identify further system wide benefits in Accountable Care Organisational models.

In order to achieve this ambition and to ensure that local people and staff working in our organisations have the opportunity to participate as equal partners in taking forward this plan, we will develop robust, consistent and effective channels for local people to inform and direct the services they receive through timely consultation, and meaningful engagement. We will do this by developing our existing best practice as individual organisations and committing to meaningful and timely engagement with system and organisation leaders, clinicians, staff, voluntary/community organisations and the public. This will be resourced and supported throughout our development to ensure that we meet our ambition of the interests of the people of Tameside and Glossop being at the heart of everything we do.

5.2 The financial challenge

Under a “Do Nothing” scenario, our financial gap is projected to be £69m across health and social care by 2020. Table 2 demonstrates the total deficit growing from £23m in FY15 to £69m by FY20.

Table 2 - System-wide position in the “Do Nothing” scenario¹

Source: PwC Contingency Planning Team Report: 28 July 2015

Health and social care system £'m	Do nothing					
	FY15	FY16	FY17	FY18	FY19	FY20
System income						
T&G CCG allocation	332	343	341	346	352	358
Trust income from other CCGs	23	23	23	23	24	24
Other Trust income	13	11	11	11	11	11
Social care allocation	66	60	52	47	41	41
Total income	433	436	427	427	427	434
Cost of provision						
Trust expenditure	-173	-179	-180	-182	-184	-185
Commissioning of other services	-210	-223	-219	-223	-227	-231
Social care expenditure	-74	-79	-82	-84	-87	-87
Total expenditure	-456	-481	-481	-489	-497	-503
System deficit	-23	-45	-54	-62	-69	-69

Following two years of intense analysis, review and planning across the health and social care economy, we have identified the appropriate strategies to close the financial gap and deliver a balanced economy over the course of the next five years. However, there are four critical and fundamental conditions to achieving successful delivery of our plans. These conditions are:

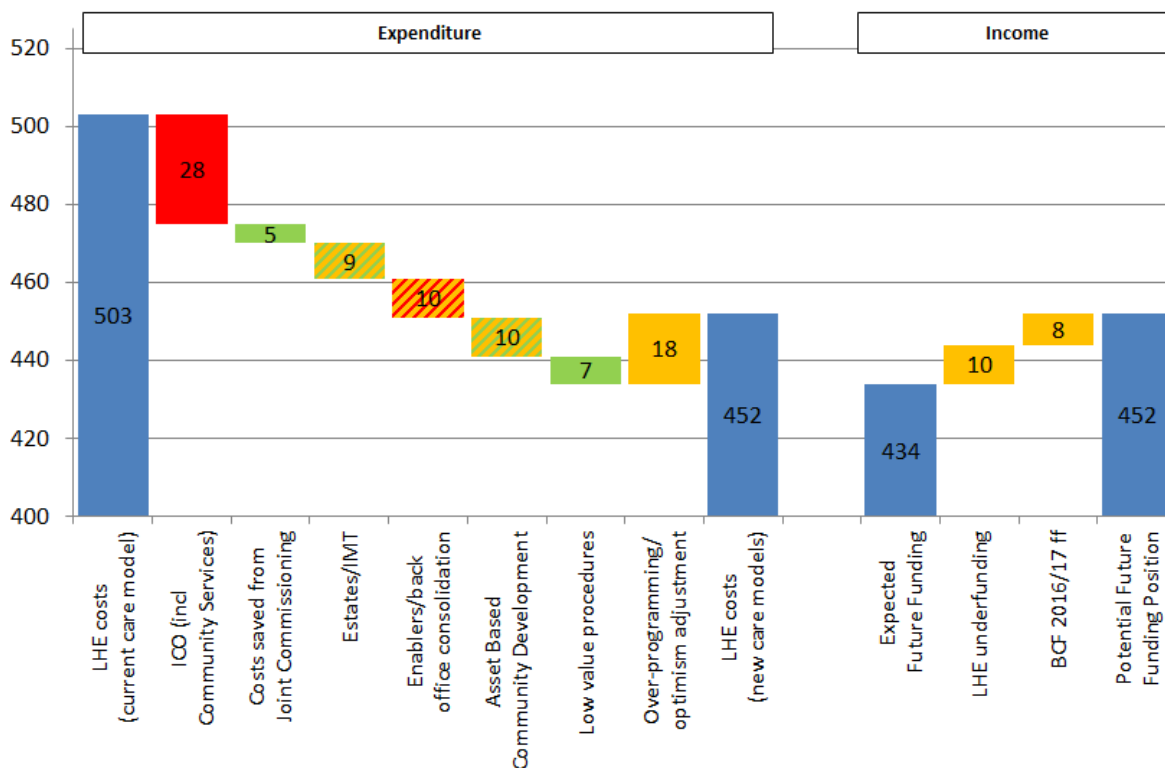
- The economy receives the required revenue and capital transitional funding to deliver the ambition. A robust coherent business case is currently being prepared outlining the request to Devolution
- Department of Health financial support (i.e. public dividend capital), for THFT continues to be received over the course of the next five years
- Social care funding is protected at 2015/16 levels to ensure stability and;
- The CCG is able to drawdown all its £6.746m cumulative carried forward surplus in 2016-17 from NHS England.

5.3 Closing the financial gap

Our plan to close the £69m financial gap is summarised in Table 3 below. The table shows the projected balanced economy in 2020 with the reduced level of expenditure and increased income across the different areas. Each of the components are risk rated to highlight those areas where transitional support is fundamental to delivery, (i.e. Red risk), to those areas where plans are already in an advanced stage of implementation using existing non-recurrent funding streams, therefore minimal risk (i.e. Green).

¹ The system deficit position in FY15 is being addressed through Public Dividend Capital (PDC) funding and therefore reporting a balanced cash position across the health and social care economy.

Table 3 - Closing the financial gap by 2020



The different components of the above table and the way in which they contribute to the balanced Local Health Economy (LHE) by 2020 are as follows:

5.3.1 Expenditure Components

£503m – Cost of the local health and social care economy

This represents the total value of the current cost of delivery of our health and social care model.

£28m – Integrated Care Organisation (including Community Services)

This is the reduction in annual costs identified by the CPT's recommendations for THFT through adopting a fully integrated model of care including the provision of community services. These cost reductions arise mainly from a reduction in demand for expensive inpatient services, a resulting reduction in estate use at Tameside Hospital and managing the demand increase with the same financial envelope of community care, social care and mental health services in a new integrated model.

The recommendations were published by Monitor in September 2015 and we are keen to drive through the implementation of these recommendations at pace and scale. The finance and activity modelling underpinning the CPT's recommendations is both sophisticated and thorough. The modelling uses granular level data to inform the proposals, correlate with activity projections within Healthier Together and also support the Locality Specific Services (LSS) analysis undertaken as part of the CPT's strategic review of a financially distressed FT.

The prevalence of various long term conditions have been considered and the numbers of hospital admissions these have historically caused. This has enabled an estimate of the impact of integrated care on a specialty and points of delivery basis which can be performance measured and provide critical success factors for delivery of our vision.

The modelling also demonstrates how general practice is at the heart of our plans for integrating care across primary, community, social and secondary care services for Tameside & Glossop. As described in Section 4.4 of this Locality Plan, general practice is the cornerstone of plans to reform local health services and improve health and outcomes for local people.

Our new models of care are focused on delivering as much care as is safe and appropriate in primary and community care and our aspiration for level 3 co-commissioning of primary care budgets from the 1st April 2016 is testimony to this. Benchmarking data suggests Tameside & Glossop are below average in investing funds in primary care and we recognise the urgent need to address this historic imbalance. We have already launched the first two phases of our Primary Care strategy by investing substantial recurrent and non-recurrent monies in primary care to get these programmes underway.

£5m - Costs saved from joint commissioning

As referenced previously, there will be one single commissioning function from 1st January 2016 by one cohesive management team. This will realise efficiencies and synergies which could not be achieved if operating as two independent commissioning teams. This fully integrated approach will ensure a cohesive function intent on securing the best possible outcomes for the residents of Tameside and Glossop. To this end, the pooled budget established in 2015-16 will be extended to include the full scope of health and social care expenditure and an aligned budget totalling circa £360m.

Further evidence of our vision is demonstrated within our commissioning intentions for 2016-17 contracts. We will work with partners to develop a model of contracting which reflects the changes in service provision and provides a methodology for funding to enable a long term development and a sustainable financial position. We are working towards a fully inclusive contract with our providers with pre-determined outcome based measures. We acknowledge a lead time is required in developing an outcome based contract model and therefore provider income will be relatively guaranteed in year 1 with minimal exposure to risk. However, this income guarantee will reduce incrementally year on year whilst exposure to risk will incrementally increase until such a time as a true outcomes based contract is in place which we would expect to be no later than 2020-21.

£9m – Estates, Information Management and Technology (IM&T) and Shared Intelligence

Estates: Rationalisation of the public sector estate in Tameside and Glossop will improve efficiency and reduce running costs. It is also hoped that, through Devolution, capital receipts can be retained within Greater Manchester to support the capital costs of transforming from the current health economy to one fit for the future, optimising running costs and securing transformation. We are also reviewing opportunities to increase business rates receipts to help contribute to closing the financial gap for social care.

IMT: We are developing an economy wide IM&T strategy and implementation plan to underpin the Shared Intelligence Service. Subject to receiving the required transitional funding, this work stream will achieve:

- One data set to move towards an outcome based contract
- Shared care record, ultimately to be owned and managed by the individual
- Procurement discounts due to increased purchasing volumes
- Improved efficiency as a result of the co-location of health and social care functions
- Reduced complexity of processes to increase quality and reduce costs
- Standardised desktop infrastructure, support and remote access, thereby improving quality and reducing costs and;
- Provide economies of scale in the application of IM&T.

£10m - Enablers/back office consolidation

Across our health and social care system, there are a number of services and functions required to support any type of organisation and economies of scale can become available by combining these services/ functions. We will be looking to consolidate these to maximise this opportunity whilst recognising there may be further opportunity by collaborating with other partners across Greater Manchester. We believe that shared services at scale provide the best opportunity to drive efficiencies and reduce corporate costs. The scope of transactional type services to be included has not yet been finalised but potentially include Procurement, Payroll, Finance, Transactional HR, IT and Estate Management.

Whilst we have agreed a £10m savings target across the economy, we will develop a gain share agreement to ensure all organisations benefit from the proposals and that quality of service is at least maintained. We recognise that automation of processes and reduction in transactions are what will drive the reduction in costs and will focus on these to achieve our savings.

£10m - Asset Based Community Development

As specified previously, we are committed to providing an integrated health and social care service based on supporting people to live healthy, independent lives in their own homes wherever possible, with the support they need close at hand. We value the skills and assets we already have in our local communities and will build on these. We want to build strong working partnerships with a wide range of organisations which represent the interests of different parts of our local community, as well as those who provide support and services. This will include organisations that provide health and care services, but it will go wider to include issues such as housing, education, transport, leisure facilities, employment and welfare. This extended collaboration will reduce costs and drive longer-term benefits by improving the health and wellbeing of our citizens.

A number of recent national pieces of work by leading experts have demonstrated the benefits of the kind of approach outlined in this initiative. Nesta's People Powered Health report and business case, published in 2013 estimated a national saving of £4.4billion could be achieved by taking community based "more than medicine" approaches. This would typically involve savings of 20% of spend for people with long-term conditions, who themselves account for 70% of the NHS budget – a saving of 14% of our total NHS spend. Earlier this year Public Health England and NHS England published a study by Professor Jane South of Leeds Metropolitan University, A Guide to Community Centred Approaches to Health and Wellbeing, which brought together all the key evidence of the effectiveness of community based approaches and mapped a "family of interventions" to demonstrate the range of approaches possible. The Kings Fund 2013 report Volunteering in Health and Care presents a compelling argument about the untapped potential in our communities and how that can work effectively with healthcare services. So, making greater use of the assets, skills and capabilities people in our communities already have will both save money and improve people's health and wellbeing. An efficiency saving of £10m for Tameside and Glossop by 2020 is a conservative estimate given the evidence presented in the research cited above.

£7m - Low Clinical Value Procedures

Low clinical value procedures are those deemed to be clinically ineffective, not cost effective or only meeting cosmetic rather than a clinical need. In line with our principle of using evidence-based interventions and not wasting tax payers' money, we will continue to review our "Effective Use of Resources" policies against national evidence to identify procedures which should not be carried out at all or only for the specific cohorts of patients who will derive sufficient clinical benefit. We will work with local residents, GPs and providers to ensure that only patients who meet the necessary criteria for these procedures receive them and others are supported in a more cost effective way.

£18m - Over-programming/optimism adjustment

Our plans are bold, show significant ambition but are also challenging. To mitigate the risk of any delays in delivery and/or additional costs from new emerging risks, we have incorporated an adjustment of circa 4% of the future expected funding which equates to £18m.

£452m – Cost of the New Care Models

This represents the £452m revised cost of providing the new care models, a reduction of £51m from the opening cost as a result of deploying the above strategies.

5.3.2 Income Components

£434m - Expected Allocations

As projected as at October 2015.

£10m - LHE Underfunding

Government data for CCG distance from target and Local Government financial settlement figures highlights that Tameside and Glossop is underfunded by approximately £14m. Therefore, if fair shares were applied, we should receive circa £14m more than we do currently. However, being conservative, we have assumed a material value of £10m which would reduce the overall financial gap requiring addressing in this Locality Plan.

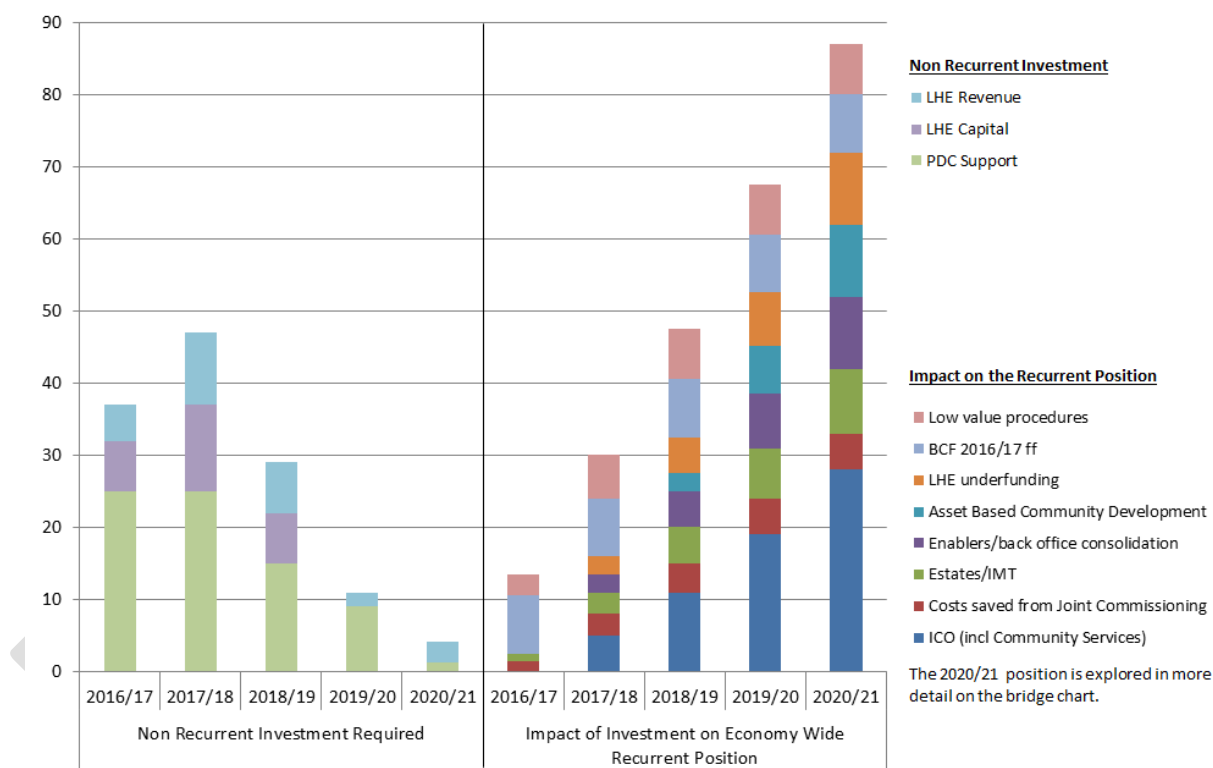
£8m - BCF 2016-17 funding

This funding has now been confirmed nationally. This represents a financial benefit to the future economy closes the financial gap by matching income with expenditure.

5.4 Profile of Implementation

The implementation of the different strategies will be phased to ensure each of the actions are in line with the strategic vision of delivery being clinically safe, financially sustainable and integrated. The estimated phasing of the income and expenditure across the five year period until 2020 is shown in Table 4 below:

Table 4 - Phased implementation of strategies to deliver a balanced LHE



5.5 Costs of Implementation

The implementation/transition costs for delivering a financially balanced health and social care system are estimated to be in the region of £53m, combining capital and revenue requirements. These transition costs are vital to fund double running and pump priming of services whilst the transformation is being undertaken. There is also a requirement for continued public dividend capital to THFT to provide the essential working capital to run the hospital until efficiencies are released to fund the fully integrated, clinically safe and financially sustainable ICO. Although a significant level of transitional funding is necessary, the CPT report demonstrates that this would provide a good return on investment (Appendix C).

Implementation costs are summarised in Table 5. It is expected that the majority of these costs will be incurred in the first three years of implementation. It is imperative that external funding is made available to allow time for efficiencies to be released and facilitate the transition to the financially sustainable economy.

Table 5 - Transition/Implementation Costs

Area	Description	Capital £ m	Revenue £ m	Implementation/ Transition £ m
Public sector estate re-design	Reconfiguration of the Trust's estate as per the CPT's report comprising: - assessment, planning and design of the new estates, - moving services within the estate, - development of premises for LCCTs, - building work around the new front end of the hospital and demolition costs associated with the Charlesworth building.	6.5		6.5
Workforce costs/organisational leadership development	Requirements for cultural and associated workforce changes to support the new ICO and the development of the ICO leadership team.		6.3	6.3
Implementation management and professional costs	External/temporary support for: - Implementation support, programme management, communications/engagement, contracting; and - Due diligence, actuarial advice, legal advice and other transaction costs.		5.5	5.5
Double running costs	Where services are to be replaced with services in alternative settings, or where facilities are closed to new patients but need to retain staffing for a period while existing bedded patients are cared for until discharge/transfer, there will be some need for overlap of services.		4.3	4.3
Investment in integrated IT and communication systems	Set up cost and capital investment in new IT including community migration, equipment to support community diagnostics, gap modelling, and infrastructure investment.	19.5		19.5
Contract terminations	Transfers of services between organisations or changes to where and how services are delivered may mean that some support contracts need to be terminated, modified or transferred. There could be financial costs and penalties associated with this.		5.8	5.8
Contingency	In developing a model which is a first of its type in the UK, it is important to ensure there is a contingency to mitigate risk.		5	5
TOTAL TRANSITION/IMPLEMENTATION FUNDING REQUIRED:		26	26.9	52.9

The above values are taken directly from the CPT report and are uplifted by 10% to cover contract termination costs which had not been adequately reflected. However, these values are being further reviewed and developed as part of the preparation of the business case and the composition is likely to change and the values revised downwards.

5.6 Profile of transition costs

The profile of the above transitional investment over the course of the next five years is shown in Table 6 below. These are currently being tested through the development of the robust and comprehensive business case for transitional funding and hence may change.

Table 6 – Profile of transition costs²

Transitional investment:	Yr 1 £m	Yr 2 £m	Yr 3 £m	Yr 4 £m	Yr 5 £m	Total £m
Capital	7	12	7	0	0	26
Revenue	5	10	7	2	2.9	26.9
PDC support	25	25	10	10	1	71

The majority of transitional funds are required to take forward change in the system at scale and pace. It should be noted that these figures do not include the full £6.746m cumulative carried forward surplus in 2016-17 from NHS England which we will be requesting in Year 1. Should these not be forthcoming, the revenue ask from Devolution will rise accordingly.

² The Department of Health have recently informed THFT that only £20m PDC support can be made available in 2016/17. The ramifications of this are currently being worked through.

5.7 Moving forwards

New financial pressures and risk will always emerge and financial plans will be continually reviewed and updated. We have therefore factored in some contingency for such items and recent examples worthy of consideration comprise:

- Transfer of specialist services back to CCGs will inevitably represent some financial risk to the economy
- The impact of the living wage following the Chancellor's 2015 budget statement, which will impact on the social care costs, and;
- The financial contributions required to support Greater Manchester wide early implementation priorities as outlined in the Programme approach to the Health and Social Care Devolution Programme.

We believe our plans are significantly advanced based on our vision for providing integrated health and social care at pace and scale to deliver our ambition of dramatically improving healthy life expectancy. Our plans have been scrutinised by external parties in depth and have now been endorsed by Monitor as being an absolute necessity for the future of Tameside Hospital and the population we serve, some of the most deprived in the country. We will ensure that wherever possible, the people of Tameside and Glossop receive the very best start in life with the best possible outcomes for health and care by investing funds wisely and ensuring effective stewardship of the public purse.

DRAFT 30.10.15

APPENDIX A

Summary of Tameside Health and Well Being

Within Tameside there are significant inequalities in health outcomes. Whilst the wards of St. Peters, Ashton Hurst, Ashton St. Michael's and Hyde Godley have the worst outcomes in the Borough, the overall Tameside position for health and social care outcomes is poor.

Key statistics (compared to the England average)

- Highest premature death rate for heart disease in England
- For premature deaths from heart disease and stroke, Tameside is ranked 148th out of 150 Local Authorities in England
- For overall premature deaths, Tameside is ranked 142nd out of 150 Local Authorities in England (<75 years)
- For premature deaths from cancer, Tameside is ranked 133rd out of 150 Local Authorities in England
- Life expectancy at birth for both males and females is lower than the England average (76.9 years males, 80.3 years females)
- Life expectancy locally is 8.7 years lower for men and 7.4 years lower for women in the most deprived areas of Tameside compared to the least deprived areas.
- Healthy life expectancy at birth is currently 57.9 years for males in Tameside and 58.6 years for females in Tameside. This is significantly lower than the England averages.
- In year 6, 33.3% of children are classified as being overweight or obese, under 18 alcohol specific hospital admissions, breast feeding initiation and at 6 to 8 weeks and smoking in pregnancy are all worse than the England average.
- In adults the recorded diabetes prevalence, excess weight and drug and alcohol misuse are significantly worse than the England average
- Rates of smoking related deaths and hospital admissions for alcohol harm are significantly higher than the England average and many of our statistical neighbours
- Life expectancy with Males in Tameside living 3 years less than the England average and nearly 7 years less than the England best.
- Females live on average just over 2 years less than the England average and 6 years less than the England best.
- Healthy life expectancy for women is nearly a year less than for men, and close to the worst in England.
- Premature mortality for women has not improved as fast as the NW and England.
- Circulatory diseases including heart disease are the commonest cause of early death and rates are 55% higher than the national average.
- Disability free life expectancy at 65 years is significantly worse than the England average (6.8 years compared to 10.2 years in England (males)) and 7.1 years compared to 10.9 years (females))
- Nearly 20% of Tameside residents are living in fuel poverty compared to the 16% England average
- Significantly higher emergency admissions for both males and females
- People returning to their own homes after a stroke is significantly worse than the England average, 28% less people return to their own homes after a stroke compared to the England average.

Source; Tameside JNSA 2015-16

APPENDIX B

Summary of Glossop Health and Well Being

The High Peak is a Borough Council area in the North of Derbyshire. It has a population of about 91,000 distributed across 208 square miles. The largest town is Glossop (population 33,000) and the second largest is Buxton (population 25,000).

Key statistics (compared to the England average)

- Two lower super output areas (LSOA) in Glossop (Gamesley and Hadfield North) fall within the 10% most deprived in England and are the third and fourth most deprived LSOAs in Derbyshire (IMD 2010)
- Male life expectancy in these areas is 69 and 73 compared with 78 for both Derbyshire and England (ONS). For females the figures are 72 and 78 respectively compared with 82 for both Derbyshire and England.
- The most recent ONS figures for Jobseekers allowance claimants (Nov 2013) show that Gamesley in Glossop has the highest level in Derbyshire with a rate of 6.6%. Whitfield ranked 15th worst (4.3%). The comparable figures for High Peak are 2.1% Derbyshire 2.1% and England 2.9%.
- In the High Peak, a higher percentage of Jobseekers allowance claimants are long term unemployed (over 12 months) compared to county or national rates (34.5% in High Peak equating to 430 people compared to 31.8% in Derbyshire and 31.2% England).
- Derbyshire had a significantly smaller proportion of children living in poverty.
- The rate of low birth weight births is significantly lower.
- Population vaccination coverage in childhood immunisations is significantly higher and, in the case of most vaccinations, rising.
- A smaller proportion of children are achieving a good level of development at the end of reception, and this is even lower in those entitled to free school meals.
- A smaller percentage of mothers are initiating breastfeeding of their babies and this appears to be falling.
- By 6-8 weeks the percentage of breastfeeding mothers is even smaller and again appears to be falling.
- A higher proportion of mothers are smoking at the time of delivery of their child.
- The percentage of young people who are not in education, employment or training is significantly lower and falling.
- The proportions of teenage girls conceiving, both under the age of 18 and under the age of 16, are significantly lower.
- The proportions of children recorded as carrying excess weight, in both reception (4-5 years) and Year 6 (10-11 years) are significantly lower.
- The rates of hospital admissions caused by unintentional and deliberate injuries in children, aged 0-4 years and aged 0-14 years, are significantly lower and falling.
- Cancer screening coverage – both breast and cervical – is significantly higher, though falling.
- The proportion of adults in Derbyshire who are overweight or obese is significantly higher.
- The percentage of people recorded as having diabetes is significantly higher and is increasing.
- The proportion of households living in fuel poverty is significantly higher, but falling.
- The hospital admission rate for injuries due to falls for 80+ year olds is significantly higher.
- Premature mortality from cardiovascular disease considered preventable is significantly higher.

APPENDIX C

Contingency Planning Report -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/461261/Final_CPT_report.pdf

DRAFT 30.10.15 - V.10

JOINT GREATER MANCHESTER COMBINED AUTHORITY & AGMA EXECUTIVE BOARD MEETING

Date: 18th December 2015

Subject: Updated Governance Proposals

Report of: Councillor Peter Smith, Portfolio Lead for Health & Social Care and
Liz Treacy, Monitoring Officer

PURPOSE OF REPORT:

This paper builds upon the governance principles that were agreed by Greater Manchester in September 2015 and sets out proposals and recommendations from the governance focus session held with representatives of all stakeholders on 17th November. In particular it sets out a role for primary care providers in the governance structure, it confirms the process for agreement of the Strategic Plan and it sets out progress on GM wide joint commissioning arrangements.

The paper was taken to the Strategic Partnership Board on Friday 27th November, where its contents and recommendations were agreed.

RECOMMENDATIONS:

1. Members are asked to agree the GMCA and AGMA representation on the Strategic Partnership Board Executive. AGMA have four seats, these are currently occupied by members from Cllr Peter Smith (Wigan), Cllr Cliff Morris (Bolton), and Cllr Sue Murphy (Manchester). Members are asked to appoint one further representative.
2. The AGMA Executive Board is also requested to endorse the recommendations agreed by the Strategic Partnership Board on 27th November. As follows:
 - i. To agree that primary care providers will receive four seats on the Strategic Partnership Board, and have one seat at the Strategic Partnership Board Executive.

- ii. To agree that voting arrangements for the Strategic Partnership Board and Strategic Partnership Board Executive are revised to reflect those set out in the report.
- iii. To agree that the Terms of Reference for the Strategic Partnership Board and Strategic Partnership Board Executive are amended to reflect (1) and (2).
- iv. To agree that the Governance Sub Group work with Primary Care partners to develop their governance arrangements.
- v. To agree the Strategic Plan approval process.
- vi. To agree the role of the Strategic Partnership Board in respect of the Transformation Fund, and to instruct the Strategic Partnership Board to develop the criteria by which such funding will be accessed.
- vii. To agree the role of the Strategic Partnership Board in shadow form.
- viii. To agree the principles of the conflict resolution process for the Strategic Partnership Board, and instruct the Governance Sub Group and Strategic Partnership Board Executive to further develop.
- ix. To agree the functions and form of the GM Joint Commissioning Board.
- x. To instruct the Governance Sub Group to develop terms of reference for the Joint Commissioning Board.
- xi. To agree that a GM Commissioning Strategy is developed aligned with the Strategic Plan.
- xii. To instruct the Governance Sub Group to develop the criteria by which NHSE could exercise its ability to request that decisions are not considered at the Joint Commissioning Board.
- xiii. To agree that the Joint Commissioning Board be supported by smaller Executive Group.
- xiv. To agree that the GMJCB establish a research and innovation board to inform its decisions.
- xv. To agree that existing scrutiny arrangements are reviewed, and request that a report be brought to a future meeting.

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1. INTRODUCTION

- 1.1 Across Greater Manchester, we are working together to reform health and social care services. To support Greater Manchester achieve its ambition of improving health outcomes for its residents as quickly as is possible, robust and inclusive governance structures need to be developed and put in place.
- 1.2 This paper builds upon the governance principles that were agreed by Greater Manchester in September 2015 and sets out proposals and recommendations from the governance focus session held with representatives of all stakeholders on 17th November. In particular it sets out a role for primary care providers in the governance structure, it confirms the process for agreement of the Strategic Plan and it sets out progress on GM wide joint commissioning arrangements.
- 1.3 The principles that were agreed in September 2015 were set within the context of the MoU signed in February. This update is provided within the context of those principles:
- GM NHS will remain within the NHS and subject to the NHS Constitution and Mandate;
 - Clinical Commissioning Groups and local authorities will retain their statutory functions and their existing accountabilities for current funding flows;
 - Clear agreements will be in place between CCGs and local authorities to underpin the governance arrangements;
 - GM commissioners, providers, patients and public will shape the future of GM health and social care together;
 - All decisions about GM health and social care to be taken with GM as soon as possible;
 - Accountability for resources currently directly held by NHS England during 2015/16 will be as now, but with joint decision making with NHSE in relevant areas to reflect the principle of “all decisions about GM will be taken with GM.

2. FUNCTIONS OF STRATEGIC PARTNERSHIP BOARD (SPB)

- 2.1 GM has agreed that the SPB will be responsible for setting the overarching strategic vision for the Greater Manchester Health and Social Care economy.
- 2.2 As it is not a legal body, its decisions are not binding decisions of its members, but it will make recommendations for its members to formally adopt following their own governance procedures.

- 2.3 Its primary responsibilities were set out in the report of 25th September and include:
- To set the framework within which the Strategic Partnership Executive will operate.
 - To agree the GM Health and Social Care Strategic priorities in accordance with the NHS five year forward view.
 - To endorse the content of the GM Strategic Plan for financial and clinical sustainability.
 - To agree the criteria that determine access to the Transformation fund.
 - To ensure that there remains ongoing and significant organisational commitment across the GM health economy to both the devolution agenda and a devolved health system.
 - To agree an assurance framework, developed jointly with regulators where required, that reflects the outcomes required by Greater Manchester.
 - To provide leadership across the GM health economy to ensure that the key strategic priorities for a GM health system are achieved.

3. SPB MEMBERSHIP AND VOTING

- 3.1 As previously agreed the membership of the will include:
- Independent Chair
 - GMCA (The Chair of the GMCA)
 - 10 AGMA authorities (Leaders or Lead Members)
 - 12 Clinical Commissioning Groups (Chairs or Chief Officers)
 - 15 providers - all acute NHS Trusts and Foundation Trusts, mental health and community providers and NWAS (Chairs or Chief Officers)
 - NHS England (as they determine).
- 3.2 Monitor/TDA (NHS Improvement), CQC, Public Health England, Health Education England, Greater Manchester Fire and Rescue Service (Chair), and Greater Manchester Police and Crime Commissioner will also be invited to attend as non voting members of the Board.
- 3.3 In shadow form, the voluntary and community sector will be represented by GMCVO. This is an interim solution which recognises further work will be undertaken to ensure that Greater Manchester is able to appropriately engage the VCS within the new governance structures; across both the Strategic Partnership Board and as part of the Provider Forum.
- 3.4 In shadow form patient voice representation in the governance structures will be through an agreed Greater Manchester Healthwatch representative. Further work is being developed to ensure that the patient voice is appropriately represented within the new governance structures, and as part of the public's engagement on the Strategic Plan

- 3.5 There is a report elsewhere on this agenda recommending that primary care providers have four representatives on the SPB, one for each of the principal disciplines: General Dental Practice; General Medical Practice; Optometry; and, Pharmacy. This is reliant on primary care providers developing governance structures that will support representation in this way.
- 3.6 It is proposed that a Greater Manchester Health and Social Care Workforce Engagement Forum is developed as a joint Greater Manchester wide forum for employers and trade unions to discuss at City Region level matters arising from the planning and implementation of devolution in health and social care across Greater Manchester.
- 3.7 Over the coming weeks discussions with Trade Union Representatives and Employers will take place to identify the role and remit of such a Greater Manchester Health and Social Care Workforce Engagement Forum. The forum would seek to ensure that the principles of meaningful partnership working operate effectively throughout Greater Manchester and will promote good practice in all areas of staff engagement, development and management.
- 3.8 The SPB will be supported by an SPB Executive. The SPB Executive will have membership that is representative of the key stakeholder groups, and will work within a framework that is set by the SPB. The form and function of the SPB Executive was agreed by the SPB in September 2015 and consists of 4 representatives of CCGs, Providers, and local authorities. It is proposed that primary care have one place on the Executive.
- 3.9 The SPB and the SPB Executive will have the same independent Chair. The process for recruiting the Chair will begin in January 2015. As interim measure the SPB and SPB Executive will be chaired by the AGMA/GMCA Portfolio Leader with responsibility for Health and Social Care. The Chair of Association of Greater Manchester CCGs will deputise.

VOTING ARRANGEMENTS

- 3.10 It was previously agreed that the voting arrangements for the SPB would be the with the four principal stakeholder groups: CCGs; Providers; NHSE; and, AGMA/GMCA. For any vote to carry, it was agreed that 75% of the four membership groups eligible to vote must vote in favour of the proposal, with each of the four membership groups holding one vote apiece, and the person with that vote being accountable to their constituent stakeholder group.

- 3.11 However, due to primary care accounting for approximately 90% of contact across the health and social care system; and having agreed, in principle, to put in place accountable governance arrangements, the voting arrangements will be revised. As such it is proposed that primary care will receive one vote, and therefore become the fifth stakeholder group with voting rights.
- 3.12 The amendment in voting rights is reliant on primary care partners developing the necessary governance structures to support representational aggregated voting.
- 3.13 As a result of the amendment to voting rights, it is proposed that for any vote to carry at the partnership Board 80% of those eligible to vote, must vote in favour of a proposal.
- 3.14 As a result of the amendments to the membership and voting arrangements for the SPB, the voting arrangements for the SPB Executive will also be revised to replicate those set out above. Primary Care will continue to have one place on the Executive. These amendments are conditional on Primary Care developing governance arrangements to support representation in this way.
- 3.15 Meetings of the SPB will be quorate if each of the vote holding stakeholder groups are represented. Attendees with voting rights will be expected to attend with the authority to vote on behalf of the stakeholder grouping they represent.

4. APPROVAL OF GREATER MANCHESTER STRATEGIC PLAN

- 4.1 The GM Strategic Plan will be recommended to the Board by the Executive in December.
- 4.2 The role of the SPB is not to agree the plan, but to provide endorsement at a Greater Manchester level, and recommend that it be taken for approval by CCG governing bodies, Council cabinets, and NHS Trust Boards.

5. DECISION MAKING CAPABILITY – TRANSFORMATION FUND

- 5.1 It is likely that any transformation funding received by Greater Manchester will be channelled from Treasury to NHSE and, it is anticipated, delegated to the commissioners to allocate in line with recommendations from the SPB Executive which will ensure that GM is able to direct and agree its usage.
- 5.2 The SPB will determine the criteria for access to the fund, and will receive assurance from both the Chief Officer and SPB Executive on the

application of transformation funding, and delivery of expected outcomes from investments made.

5.3 The SPB Executive will review proposals received against the criteria agreed by the SPB, and will recommend the distribution of transformation fund to commissioners.

5.4 The SPB Executive will receive assurance on the outcomes relating to the activities commissioned by commissioners from the transformation fund.

6. ROLE OF THE SPB IN SHADOW FORM AND NEXT STEPS

6.1 In shadow form, the SPB has the following functions:

- To endorse the Strategic Plan, and recommend it for approval by the 37 organisations in Greater Manchester.
- To endorse the ten locality plans as part of the Strategic Plan
- To agree the criteria that determines access to the transformation fund and request that these be developed by the SPB Executive.
- To agree the criteria for judging whether organisational reform or reconfiguration needs Greater Manchester sign off
- To endorse the Greater Manchester joint commissioning strategy, which will be constructed in line with the Strategic Plan.

6.3 The SPB will also hold a system management function. That is, it will be responsible for ensuring that the Strategic Plan is delivered, and that the component parts of the Greater Manchester health and social care economy i.e. the ten localities; and 38 organisations (including NHS England), continue to work within the parameters set by the Plan, and continue to work toward the aims objectives of the Plan.

6.4 The SPB will have clear regard for Vanguard applications both on a Greater Manchester basis, but also at a locality level. The SPB will also provide assurance of the Greater Manchester health and social care system, ensuring that the Plan is delivered. Work is required to further develop the assurance framework for Greater Manchester.

6.5 It is proposed that the SPB will be informed of any applications by organisations and localities in Greater Manchester for additional funding outwith that already in Greater Manchester. It is proposed that such applications will meet the requirements of the Strategic Plan. Any GM wide applications for additional funding will be agreed by the Board.

7. CONFLICT RESOLUTION

7.1 In the event of dispute at Board or Executive level; or in the event that one or more organisations do not approve the plan, a dispute resolution process will be implemented. The focus of this process will be three fold:

- to understand why dispute has occurred; to determine/understand the potential implications of the dispute; and to resolve where possible.
- 7.2 A key principle of the dispute resolution procedure is that disputes will be resolved at the most appropriate place level, i.e. for organisation with a singular district footprint the issue will be resolved at a locality level following consideration by the Chairs and Leaders of all of the stakeholders in the locality.
- 7.3 Where disputes cannot be resolved at place level, a group comprised of an agreed number of Chairs and Leaders from each stakeholder group outside of the locality representing each of the stakeholder groups will be formed to arbitrate and make recommendations to the parties in dispute. It is intended that the recommendations made by the dispute resolution group are binding on those parties in dispute, however work is ongoing with regulators to confirm the detail of how this could be made to operate.
- 7.4 A detailed procedure will be drafted through the Governance Sub Group and SPB Executive based on these principles and referred back to the Board for endorsement.

8. JOINT COMMISSIONING BOARD

- 8.1 The GM Joint Commissioning Board will be a Joint Committee where each participant makes joint decisions which are binding on each other.
- 8.2 As Specialised Services Commissioning cannot be dealt with by way of s75 arrangements without a change in the s75 regulations, any joint commissioning of specialised services will need to be undertaken through a joint committee made up of NHSE, CCGs, GMCA, and local authorities.
- 8.4 The GMJCB will have significant commissioning decision making responsibility as the largest single commissioning vehicle in GM.
- 8.5 In order to comply with regulatory requirements the GMJCB will function independently of providers.
- 8.6 The key functions of the GMJCB are as follows:
- To develop a commissioning strategy based upon the agreed Strategic Plan.
 - Be responsible for the commissioning of health and social care services on GM footprint
 - Have strategic responsibility for commissioning across GM
 - Be responsible for the delivery of the pan GM strategy via its commissioning decisions (local commissioning will remain a local responsibility).

- To operate within existing commissioning guidelines following key principles of co-design, transparency, and broad engagement.
- 8.7 The GMJCB will only take GM wide commissioning decisions; any decision that currently sits with the commissioning responsibilities of LAs and CCGs will stay with these organisations (or at a locality level where new commissioning arrangements are being developed)
- 8.8 Whilst the core principle of the GMJCB will be that those commissioning decisions which are currently made in localities will remain in localities, there will be a mechanisms developed to ensure that remit of the GMJCB can be broadened should localities agree that it is in their best interests to do so.
- 8.9 It is accepted that there are certain specialised services that would be impractical to commission on a Greater Manchester footprint. However, NHSE will work collaboratively with the GMJCB to ensure that these services are not commissioned in isolation of Greater Manchester.
- 8.10 The GMJCB will be required to produce a clear Commissioning Strategy that is aligned with aims and objectives of the Strategic Plan. The Commissioning Strategy will be reviewed periodically, or at times when the priorities for the Greater Manchester health and social care economy change; thus necessitating a shift in commissioning priorities. Any changes to the Commissioning Strategy would require agreement by the GMJCB in line with voting arrangements set out below (see 9.5).

9. JOINT COMMISSIONING BOARD: MEMBERSHIP AND VOTING

- 9.1 The membership of the GMJCB will be comprised of the 23 commissioning organisations in Greater Manchester, and the Greater Manchester Combined Authority:
- CA x 1
 - NHSE x 1
 - The CCGs x 12
 - The LAs x 10

Total 24 representatives

- 9.2 It is anticipated that CCGs will be represented on the GMJCB by their accountable officer, NHSE will be represented by the GM H&SC Chief Officer, the Greater Manchester Combined Authority will be represented by the lead Chief Executive for Health and Wellbeing and local authorities will be represented by their Chief Executive.
- 9.3 However, organisations may nominate whomever they see fit to represent them. The representative must however attend with a delegated authority

and have an ability to participate fully in the decision making process. The seniority of the membership of the GMJCB should reflect both the size of the budget and the significance of the decisions taken.

- 9.4 The GMJCB will be supported by specialised officer groups such as the Cancer Board, Specialised Service Commissioning Oversight Group, and in recognition of the need for innovation a health research and innovation group will be formed to support the commissioning process.
- 9.5 The GMJCB will be jointly chaired by local authorities and CCGs. The GMCA, NHSE, CCGs and LAs will each have one vote (i.e. four votes in total). Decisions will require a 75% majority of the participant organisations.
- 9.6 NHSE will be represented on the GMJCB by the GM H&SC Chief Officer, however there may be circumstances where NHSE has no present interest in a particular matter e.g. where the matter relates to a function that NHSE has delegated to GMCA and/or CCGs. In such circumstances the Chief Office, who would cast the vote on behalf of NHSE, will pass the NHSE vote to CCGs or align their vote to that of CCGs. This will ensure parity across GM commissioning agencies
- 9.7 Due to the fact that NHSE commissions many services on a national basis, notably some very specialised services, there will be a proportionate ability for NHSE to notify the GMJCB where an item due for consideration could have significant ramifications for NHSE, eg proposed spending beyond existing budget(s); or potential and significant adverse implications for communities beyond GM.
- 9.8 The exact circumstances, in which these arrangements apply, have yet to be determined and further is required to develop such criteria. This will be taken forward by the Governance Sub Group. In these instances, any decision will need to be taken with the consent of NHSE.
- 9.9 NHSE also reserve a right of veto over certain commissioning decisions relating to specialised services. However this right of veto is not absolute, for it to be exercised it would need to satisfy clear and agreed criteria e.g. where the commissioning of services would give rise to a significant financial risk for NHSE. The exact circumstances, in which this would apply, have yet to be determined and further is required to develop such criteria.

10. CRITERIA FOR COMMISSIONING AT A GREATER MANCHESTER LEVEL

- 10.1 Greater Manchester will need to consider whether it is beneficial for certain services to be commissioned on a Greater Manchester footprint

and therefore by the GMJCB. Work is now underway to identify which services can be more effectively and efficiently commissioned on Greater Manchester footprint and therefore delegated to Greater Manchester. It will be for the GMJCB and local stakeholders to formally approve and agree what services these are.

- 10.2 It is also proposed that the GMJCB consider the commissioning of primary care at a Greater Manchester level; with the exception of general practice which will be commissioned by CCGs. However, the GMJCB will have a significant role to play in developing and implementing a Greater Manchester wide framework within which general practice is commissioned.
- 10.3 Greater Manchester has already agreed that those services currently commissioned at a local level, will continue to be done so (albeit under potentially significantly differing commissioning arrangements). However, GM will need to develop a clear mechanism to ensure that it is able to commission at both a cluster and GM level.
- 10.4 The criteria by which existing activity would be commissioned at Greater Manchester level will focus upon whether decisions taken on a broader footprint achieved a greater benefit for the population, e.g. increased value for money; greater levels of efficiency; or increased clinical sustainability.
- 10.4 The criteria will be designed by commissioners (the GMJCB), and kept under constant review to ensure that commissioning in Greater Manchester can be as efficient and effective as is possible.
- 10.5 It is acknowledged and recognised that commissioning organisations cannot be compelled to delegate a commissioning function up to the GMJCB against it wishes, as such each organisation currently responsible for commissioning a service/function will have to approve the proposal that is being identified to potentially fall within the scope of the GMJCB.
- 10.6 It is proposed that any health and social care commissioning activity currently undertaken on a GM footprint, whether it be by AGMA/GMCA, GM CCGs, or NHSE (subject to the general exclusion set out above) will now be commissioned by the GMJCB.
- 10.7 The GMJCB will need to agree a clear decision making process to ensure that it is able to take decisions about shifting commissioning activity into the GMJCB from localities.
- 10.8 Where agreement cannot be reached a dispute resolution process would be enacted, following the principles of that set out in section 7. Where the dispute related to the potential commissioning of services on a GM

footprint, the GMJCB will reserve the right to proceed and commission on a smaller footprint should it be beneficial (and agreed) to do so. However, the GMJCB can also draw upon the dispute resolution process which will broadly replicate that set out for the SPB (see section 7).

- 10.9 The dispute resolution procedure will be clearly set out in the written agreement that will be required to support the proposed joint commissioning arrangements; this will either be in the form of a s.75 agreement or follow the structure of such an agreement.

11. JOINT COMMISSIONING BOARD SPECIALISED SERVICE COMMISSIONING

- 11.1 The key principle by which specialised services will be commissioned is that GM commissioners, providers, patients and the public will shape the future of health and social care provision in Greater Manchester. This is subject to Greater Manchester, via the GMJCB, formally agreeing to accept responsibility for commissioning those Specialised Services that are best served commissioned by Greater Manchester.
- 11.2 If it is agreed to commission specialised services the commissioning will be in line with the content and direction of the Strategic Plan. The GMJCB will produce a GM commissioning strategy to complement and deliver the Strategic Plan; this plan will require the endorsement of the SPB.
- 11.3 As part of the GMJCB commissioning process, the GMJCB will be required to clearly define the process that will be followed to commission a service. This process will need the support and approval of the SPB (including NHS Trusts). The process will be required to give due consideration and ultimately make provision for the co-design of services; the actual commissioning of service will remain the sole domain of the GMJCB which will operate fully independently of providers.
- 11.4 It is recognised that there is no mechanism that Greater Manchester can develop that will eliminate the risk of decisions being challenged, or subjected to a judicial review. However, the governance that is being developed by Greater Manchester and the process that is being outlined to commission services should reduce significantly the risk of decisions being challenged from within Greater Manchester. Where a commissioning process has been agreed by the Strategic Partnership Board and subsequently followed, the GMJCB would not expect the outcome to be challenged by an organisation with Greater Manchester. As the regulatory bodies are SPB members it is anticipated that the outcome of commissioning decisions would be supported by regulators.
- 11.5 Greater Manchester has already committed to reviewing the existing scrutiny arrangements for health and social care. Scrutiny is recognised

as playing a vital role in supporting both service delivery and transformation. It is therefore proposed that prior to a decision taken being referred to an Independent Review Panel, that Greater Manchester reviews a decision at the SPB. However, this does not remove or replace the right of scrutiny committee to refer decision taken.

12. JOINT COMMISSIONING BOARD – SERVICE RECONFIGURATION

- 12.1 The premise of the Memorandum of Understanding signed in February 2015 was two fold: that decisions about Greater Manchester will be taken with Greater Manchester; and that decisions on health and social care spend would be taken to benefit the residents of Greater Manchester not necessarily be taken based on the institution that serve them.
- 12.2 The GMJCB have a key role to play in commissioning services across Greater Manchester, as part of the transformation required this may result in significant organisational change.
- 12.3 The GMJCB will be required to consult with the public about proposals that could result in service reconfiguration, and work collaboratively with the regulatory bodies.
- 12.4 Any such activity will need to be delivered within the context of the Strategic Plan. Where a proposed change at a Greater Manchester level could potentially adversely impact the sustainability of a service or organisation; and or, have a material impact at a locality level or on the deliverability of a locality plan, the proposal will be referred to the SPB.

13. JOINT COMMISSIONING BOARD – OTHER SERVICES

- 13.1 There are a number of services that are currently commissioned at a locality level that may be best commissioned within a Greater Manchester framework of quality and standards. These include General Practice, a significant amount of social care services, and certain Public Health services. The GMJCB will consider the commissioning of such services within its Commissioning Plan.

14. JOINT COMMISSIONING BOARD SUPPORTING STRUCTURE

- 14.1 The GMJCB will be supported by a smaller executive, which will operate within a framework developed and agreed by the GMJCB.
- 14.2 The smaller executive will have responsibility for taking forward the next steps set out within this report (see section 15), and will be responsible for receiving clear updates from the commissioning advisory groups (see 8.4), making recommendations to the broader GMJCB as required.

14.3 The membership of the smaller executive will be drawn from the commissioning organisation across Greater Manchester, and be supported by members of the Greater Manchester Health and Social Care Team.

15. JOINT COMMISSIONING BOARD IN SHADOW FORM AND NEXT STEPS

15.1 The GMJCB will meet in shadow form and carry out the following functions:

- To agree the scope of its remit from April 2016, including agreeing line by line which Specialised Services will be commissioned by Greater Manchester.
- To have oversight and be cognisant of those services that will be commissioned on a Greater Manchester footprint from April 2016-17.
- In recognition that commissioning cycle may already be in train, the Joint Commissioning Board will therefore be required to be appraised of those take decisions that need to be taken, and make recommendations to the decision makers.
- To develop the Greater Manchester Commissioning Strategy.

16. RECOMMENDATIONS

16.1 See front cover of the report.