

## **BOROUGH OF TELFORD & WREKIN**

### **Minutes of a meeting of the Borough of Telford & Wrekin held on Thursday, 19 September, 2012 at 6.30 p.m. at the Civic Offices, Telford.**

#### **PRESENT:**

Councillors K.R. Guy (Mayor), S. Bentley, K.T. Blundell, F.M. Bould, S.P. Burrell, E.J. Carter, E.A. Clare, S. Davies, B.H. Duce, N.A. Dugmore, A.J. Eade, C.B.A. Elliott, A.R.H. England, N.A.M. England, R.C. Evans, I.T.W. Fletcher, V.A. Fletcher, G.M. Green, E.J. Greenaway, T.J. Hope, M.B. Hosken, M.G. Ion, A.S. Jhawar, R.T. Kiernan, A. Lawrence, A.A. Mackenzie, C.N. Mason, A.D. McClements, W.A.M. McClements, A.A. Meredith, C.P.R. Mollett, L.A. Murray, R.A. Overton, F.R. Picken, G.C.W. Reynolds, S.A.W. Reynolds, K.S. Sahota (Leader), J.M. Seymour, R.J. Sloan, C.F. Smith, A.J. Stanton B.J. Thompson, W.L. Tomlinson, C.R. Turley, P.R. Watling and D.R.W. White.

#### **29. MINUTES OF THE COUNCIL**

**RESOLVED** – that the minutes of the meeting of Council Meeting held on 12 July, 2012, be confirmed and signed by the Mayor.

#### **30. APOLOGIES FOR ABSENCE**

Councillors R.K. Austin, D.G. Davies, J. Loveridge, J.C. Minor, H. Rhodes, R.G. Scammell, M.J. Smith and K.L. Tomlinson,

#### **31. DECLARATIONS OF INTEREST**

Councillor A.J. Stanton declared a pecuniary interest in agenda item 13, the motion on changes to Council Tax benefits.

#### **32. LEADER'S REPORT & ANNOUNCEMENTS**

- a) Children and staff of Holmer Lake Primary School – Presentation of Certificate for the 'I Stay Safe' – Chatterbox Project

The Leader asked Councillor P.R. Watling, Cabinet Member: Children, Young People & Families to present a certificate of merit to children and staff of Holmer Lake Primary school in recognition of the excellent work done on the 'I Stay Safe – Chatterbox' project. Councillor Watling told the meeting that the project had been created by children and was for children. He also added that:

- Pupils had written and recorded jingles for Radio Beacon, which were aired 67 times reaching an audience of 500,000
- Pupils had hosted the Chatterbox consultation which involved 5 other primary schools and trialled the Chatterbox
- Head teacher Sian Deane and her head of PSHE Tanya Mitchell had written the Chatterbox curriculum enrichment, a set of accompanying lesson plans.
- The Chatterbox Toolkit had been dispatched to every Primary School in the Borough during anti-bullying week.
- The school had presented their work to the LSCB and Ofsted

- The I Stay Safe Project had been recognised by the Children's Commissioner as best practice
- The project had been acclaimed in a book, Cyberbullying and E-Safety
- The school had been invited to the national Annual Anti-bullying Conference in London to present the Chatterbox

Head Teacher Sian Deane gave members a short account of the children's 'journey' and thanked councillors for their support.

#### b) Leader's Report

The Leader paid special tribute to Telford's Paralympic gold medallists Mickey Bushell and Danielle Brown as well as all those from the Borough who had taken part in the Olympic and Paralympic games. He had been particularly impressed with the golden post box near Mickey Bushell's family home in Arleston and the council's golden bus which had been created in tribute to the Borough's paralympic champions.

Members were told of the council's 'Automotive Excellence' project. The council had contacted a large number of businesses, highlighting Telford as a strategic location with a large supply of affordable land ready for development. In addition, recruitment was being undertaken for the appointment of a Commercial Enterprise Manager. The Leader congratulated the Borough's students on the best ever GCSE results, Lord Silkin and BRJ schools had done particularly well.

### **33. MAYOR'S ANNOUNCEMENTS**

#### (a) Mayoral Engagements

The Mayor drew members' attention to two royal visits which were happening in the near future. HRH the Duke of Gloucester was due to open Lightmoor Village Centre on the following day, whilst HRH the Prince of Wales was due to visit Enginuity, Ironbridge in the following week.

### **34. CABINET DECISIONS MADE SINCE THE LAST MEETING OF THE COUNCIL**

Members received the report on the Cabinet decisions made since the last meeting of the Council on 12 July, 2012.

Councillor I.T.W. Fletcher, referring to the Planning of School Places report, asked whether any progress had been made on planning for secondary school places in Priorslee. Councillor P.R. Watling, Cabinet Member: Children, Young People & Families replied that this would be moved forward as soon as possible and that he would confirm this information as soon as practicable.

### **35. RECOMMENDATIONS FROM CABINET**

#### **26 July 2012 Cabinet**

##### **i) Financial Monitoring 2012/13**

Councillor W.A.M. McClements, Cabinet Member: Resources & Service Delivery, presented the report of the Head of Finance, Audit & Information Governance which sought approval for the changes to the capital programme outlined in the report.

**RESOLVED - That the changes to the capital programme shown in section 1 of the report be approved.**

##### **ii) Council Medium Term Plan 2012/13-2014/15**

The Leader of the Council presented the report of the Managing Director which sought approval for the council's medium term plan 2012/13-2014/15. The plan identified the high level strategic focus of the council over the next 3 years which included the following:

- The Council's Vision, Priorities and Values
- A 'Co-operative Council working with the Community' embedding co-operative ways of working into all that we do, a new relationship with the community, employees and partners.
- Medium term financial strategy – how the Council's budget would be balanced over the next 3 years based on available information and setting out the capital strategy.
- 'Putting Customers First' – treating customers as we would wish to be treated and developing ways to ensure that 'every contact counts'.
- Being a 'Business supporting, Business winning Council' – working with businesses to secure and create jobs in the Borough; a challenge for all of the organisation and the council's partners.

**RESOLVED- That the council's medium term plan 2012/13-2014/15 be approved**

### **36. RECOMMENDATIONS FROM BOARDS & COMMITTEES**

#### **23 August 2012 Boundary Review Committee**

##### **i) Further Electoral Review of the Borough**

Councillor R.J. Sloan, Chairman of Boundary Review Committee, presented the report of the Assistant Director: Law, Democracy & Public Protection which sought approval for the Boundary Review Committee to make a formal submission to the Local Government Boundary Commission for England (LGBCE) for a council size of 54 councillors. A review was due to commence in October 2012, the last review had been completed in 2002.

Councillor Sloan told the meeting that Boundary Review Committee had done a considerable amount of work on this matter. The committee had looked at models

of 40 and 50 members before making their recommendation. He thanked the Electoral Services Manager for work done on modelling different council sizes. At the third meeting information had been provided from a councillor workload survey that had been persuasive in the decision to propose the retention of 54 councillors. Councillor A.J. Eade, leader of the main opposition group, confirmed that his group would be making a separate submission based on a significant reduction in numbers of councillors and a return to the committee system.

A number of councillors spoke in support of the recommendations, some of the reasons cited in support of the recommendation were:

- Increased councillor workloads on top of already heavy caseloads
- Transfer of public health from NHS in April 2013
- Demands of Welfare reform agenda
- Growing population of the Borough
- Ensuring that councillors could effectively serve those that elected them

A number of councillors spoke against the recommendations, some of the reasons cited were:

- Similar sized councils had reduced numbers of councillors
- The current model of 54 councillors was 10 years old and not suitable for a further 10 years in the future.

Councillor Sloan closed the debate with his response. He told the meeting that the introduction of a committee structure to replace the current leader and cabinet model had not been discussed by Boundary Review Committee at any of the three meetings. The Borough was a diverse area with an urban/rural mix and with areas of deprivation. Retaining 54 councillors was not maintaining a 'status quo', there would need to be significant redrawing of boundaries. There was a cost for providing effective democracy for the Borough's electors.

#### **RESOLVED: -**

- a) That the recommendation of Boundary Review Committee for a preferred council size of 54 be approved**
- b) That the Boundary Review Committee make the Council's submission to the Local Government Boundary Commission for England (LGBCE) for a Council size of 54 councillors before the end of September**

#### **4 September 2012 Council Constitution Committee**

- i) Transparency & Public Accountability**

The Leader of the council presented the report of the Assistant Director: Law, Democracy & Public Protection which sought approval for a number of proposals which would serve to increase transparency and public accountability.

The proposals included:

- Publication of additional information on councillors who trade with the council

- Publication of Member attendance figures at meetings of the Council and of a list of councillor membership on Outside Bodies (commencing from start of 2012 Civic Year).
- Introduction of a 15 Minute Public Question session at Full Council Meetings
- Filming/Recording of Cabinet and Full Council meetings by members of the public
- Use of Social Media (Twitter, Blogs) by members of the public during meetings of the Council
- Reducing the level for Publication of expenditure by the Council to £100

Members were generally very supportive of the recommendations. An amendment was moved and seconded to add to the recommendations the publication of attendance information for councillors serving on outside bodies. Following a debate it was agreed that this proposal should be referred to Council Constitution Committee for further consideration.

**RESOLVED: –**

- Publication on the Council's website of information on Councillors who trade with the Council, information to be collected as part of the annual related party transactions data collection exercise**
- Publication on the Council's Website of Councillor attendance figures for appointed meetings of the Council and a list of councillors' appointed to serve on Outside Bodies**
- Introduction of a 15 minute Public Question session at Full Council Meetings**
- Permitting Filming and/or Recording of Cabinet and Full Council meetings by members of the public**
- Permitting use of Social Media by members of the public during all meetings**
- Voluntary publication of Council expenditure over £100 reduced from the current level of £500**

**37. TREASURY MANAGEMENT – AMENDMENT TO TREASURY STRATEGY**

Councillor W.A.M. McClements, Cabinet Member: Resources & Service Delivery, presented the report of the Head of Finance, Audit & Information Governance which requested approval for the amendment of the Treasury Strategy to use the council's appointed treasury advisers recommended counterparty list as one of its criteria when selecting investment counterparties.

**RESOLVED – That the amendment of the Treasury Strategy to use the council's appointed treasury advisers recommended counterparty list as one of its criteria when selecting investment counterparties be approved**

### **38. APPOINTMENT OF PERSON FOR STANDARDS**

Councillor R.C. Evans, Chairman of Standards Committee, presented the report of the Monitoring Officer that sought approval for the appointment of Mr. Michael Tebbutt to the role of Independent person. The Monitoring Officer had undertaken a recruitment process to find a suitable candidate to act as the authority's Independent person in relation to councillor code of conduct complaints. The role was set out in section 28 of the Localism Act 2011 and the appointment was with immediate effect and for an initial period of 2 and a half years. The report also sought approval for the appointment of Mr. Christopher Humphries as a reserve for Mr. Tebbutt with immediate effect and for an initial period of two and a half years.

#### **RESOLVED :-**

- a) That Mr. Michael Tebbutt be appointed to the role of Independent person, as set out in section 28 of the Localism Act 2011, for an initial period of 2 and a half years effective immediately
- b) That Mr Christopher Humphries be appointed to the role of Independent person, as set out in section 28 of the Localism Act 2011, in the capacity of a reserve for Mr. Tebbutt for an initial period of 2 and a half years effective immediately

### **39. MINUTES OF BOARDS AND COMMITTEES**

Council noted the resolved minutes of Boards and Committees:

|                           |                    |
|---------------------------|--------------------|
| Audit Committee           | 26 June            |
| Boundary Review Committee | 21 June & 19 July  |
| Plans Board               | 11 July & 1 August |
| Scrutiny Management Board | 21 June            |

### **40. QUESTIONS**

The following Questions were asked in accordance with Council Procedure Rule 10:

- a) Councillor N.A.M. England:

“Can the cabinet member for Children, Young People & Families report on the recent Ofsted report with particular reference to the appointment of a dedicated Director of Children's Services?”

Councillor P.R. Watling, Cabinet Member: Children, Young People & Families responded that the report showed that children in the Borough were safe but that there was more to be done to ensure the highest quality service. There were a number of positive comments in the report, the council's co-operative approach, partnership working and commitment to safeguarding had been commended.

Councillor Watling had worked in partnership with the Director of Children's Services to secure a £25k improvement grant From the Regional Children's Improvement Board.

Councillor England asked what the scenario might have been if, as suggested by the main opposition group, no appointment had been made to the position of Director of Children's services.

Prior to discussion of the following item Councillor A.J. Stanton left the room.

#### **41. NOTICES OF MOTION**

- (a) Councillor W.A.M. McClements, in accordance with Council Procedure Rule 11, moved the following Motion:

This Council believes that the Coalition Government's cuts to Council Tax Benefits and their overall Welfare Reform agenda are a very real threat to over 10,000 of Telford and Wrekin's most vulnerable residents and condemns the Coalition Government's lack of a strategy for job creation and its increasing demonisation of those claiming welfare, many of whom are working people on low wages.

Telford and Wrekin Council notes that:

1. The Council Tax Benefit changes proposed by the Government will lead to at least 10,700 claimants in Telford & Wrekin being worse off – our families that can least afford these cuts.
2. The Council will be faced with a cut equivalent to £3.1 million in the first year as the Governments funding proposals are based on a 10% reduction in the 2011/2012 level of funding, makes no allowance for inflation and assumes that the number of claimants are falling because of the improving economy. With the existing cuts to its budget of over £40 million Telford & Wrekin Council has little alternative other than to design and administer a local scheme to reduce the support available to claimants.
3. These proposals affect the Fire and Police Authorities' funding as well as the Council's.
4. These plans are not about localism, they are a move to force councils to pass further central government cuts on to their local residents. They also transfer the risk and uncertainty of rising claimant numbers onto councils, placing them in a perilous and unsustainable financial position.
5. These proposals will have a greater impact on the residents of Telford & Wrekin, The Midlands and The Northern Industrial Regions, which have lower wages and higher unemployment.
6. The administration costs of these proposals will be considerable and the debt levels significant for all Councils. Council Tax Benefits could have been included in the proposed Universal Benefit scheme eliminating most of the administration costs and all of the debt likely to be incurred by Councils.

This Council opposes cuts to Council Tax benefits and calls on the Coalition government to change its Welfare Reform plans and recognise the unequal impact its proposals will have on the Industrial Regions and the poorest in our community

However, if the Government carries on with its plans we call for the cuts to be included in the Universal Credit and that If the Government insists on introducing its present proposals we call for a delay in its implementation to concur with the introduction of Universal Credit in October 2013.

The motion was seconded by Councillor K.S. Sahota

Councillor McClements, proposing the motion, told the meeting that the local benefit scheme administered by the Borough council would be underfunded due to the government's funding proposals. The changes to Council Tax benefits were an attack on the 10,700 residents of the Borough who would suffer the effects of funding reductions. The current benefit scheme was fit for purpose and should be retained; the proposed scheme would have most effect on the vulnerable.

Councillor K.S. Sahota, seconding the motion, thought it ironic that tax cuts were being introduced for the wealthiest in society whilst the poorest would be asked to pay more and to lose benefit. The government should adjust policy and acknowledge that the proposals would be costly to administer. Councillor E.J. Carter noted that no one wanted cuts but that in the current economic climate it was not possible to continue borrowing. Councillor C.B.A. Elliott told the meeting that spending cuts were wrong; cuts to Police budgets were unacceptable.

A number of Members felt that the proposals were an attack on the poor and that more should be done to eliminate tax evasion and avoidance. Councillor W.L. Tomlinson, Leader of the Liberal Democrat/Independent opposition group, condemned the welfare cuts completely. However, he could not support increased borrowing by government. Councillor M. G. Ion felt that the cuts had been made for ideological reasons and were wholly disproportionate. Councillor A.J. Eade, Leader of the main opposition group, told the meeting that Council Tax benefit had doubled since the late 1990's. Councillor D.R.W. White thought that it was cowardly that councils were being given the task of cutting people's benefits by central government.

Closing the debate, Councillor McClements noted that more debt than ever had been created and that economic growth was required. The locally administered system would affect many of the Borough's residents and would be expensive to administer.

A recorded vote was requested and the votes were as follows:

For (29): *Councillors: FM Bould, EA Clare, S Davies, BH Duce, CBA Elliott, ARH England, NAM England, RC Evans, GM Green, KR Guy, MG Ion, AS Jhavar, AA Mackenzie, CN Mason, AD McClements, WAM McClements, LA Murray, RA Overton, FR Picken, GCW Reynolds, S Reynolds, KS Sahota, RJ Sloan, CF Smith, BJ Thompson, WL Tomlinson, CR Turley, PR Watling, DRW White.*



Against (14): *S Bentley, SP Burrell, EJ Carter, NA Dugmore, AJ Eade, ITW Fletcher, VA Fletcher, EJ Greenaway, MB Hosken, RT Kiernan, A Lawrence, AA Meredith, CRP Mollett, JM Seymour*

Absent: (3) *KT Blundell, TJ Hope and AJ Stanton.*

**RESOLVED** – that the motion be approved

The meeting ended at 8.46 pm

**Mayor:** .....

**Date:** .....

## MAYORAL ENGAGEMENTS 4<sup>th</sup> SEPTEMBER 2012 – 11<sup>TH</sup> NOVEMBER 2012

**September**

**5<sup>th</sup>**

**M** Royal National Institute for the Blind  
Recruitment Evening, Grays Hotel, Telford

**DM** Heritage Weekend Launch at Attfield  
Theatre, Guildhall, Oswestry

**6<sup>th</sup>** **DM** RAF Cosford Annual Reception at Hangar 3,  
RAF Cosford

**M** 2<sup>nd</sup> Oakengates Boys' Brigade Diamond  
Jubilee Reception at Oakengates United  
Church

**12<sup>th</sup>** **DM** University of Wolverhampton Graduation  
Ceremony at The Grand Theatre,  
Wolverhampton

**13<sup>th</sup>** **DM** Redwoods Centre Official Opening at  
Shelton Hospital Site, Bicton Heath,  
Shrewsbury

**M** Civic Reception for the Chatterbox Project in  
the Mayor's Parlour, Civic Offices, Telford

**14<sup>th</sup>** **M** HRH The Duke of Gloucester – Lightmoor  
Village Centre Opening at Bournville Extra  
Care Scheme, Lightmoor Village

**M** The Chancellor's Graduation Dinner at  
Millennium City Building, University of  
Wolverhampton

**15<sup>th</sup>** **M** Epilepsy Society Charity Fun Day at The  
Venue, Madeley

**DM** The Telfordaires 2012 Show at Theatre  
Severn, Shrewsbury

**17<sup>th</sup>** **DM** Tribute to Kim Hughes GC at Thomas  
Telford School

**M** HRH Prince of Wales visit to Enginuity at  
Coalbrookdale, Ironbridge

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- 19<sup>th</sup> DM** Citizenship Ceremony at the Ceremony Room, Wellington Register Office
- 21<sup>st</sup> DM** Harper Adams Graduation Ceremony at West Midlands Regional Academy Building, Harper Adams, Newport
- 22<sup>nd</sup> DM** World Heritage Festival Opening, Market Square, Ironbridge
- M** British Heart Foundation's Great British Bag-athon Launch, Centre Management Office, Telford town Centre
- M** World Heritage Festival Fireworks at The Iron Bridge, Ironbridge
- 23<sup>rd</sup> M** Battle of Britain Service at St George's Parish Church
- 26<sup>th</sup> M** Madeley Rest Room Annual Party at The Rest Room, Madeley
- 28<sup>th</sup> M** McMillan Coffee Morning with Foster Carers at The Reception Suite, Civic Offices, Telford
- 29<sup>th</sup> DM** Induction Service for Rev Ian Olliver, Dawley Baptist Church
- DM** Wellington Town Council Civic Reception at The Studio, Graham Building, Wrekin College, Wellington
- October**
- 1<sup>st</sup> DM** Sanctuary Housing Show Case Event at Hartshorne Court, Dawley
- 3<sup>rd</sup> DM** Stay's Annual General Meeting at Meeting Point House, Telford
- 5<sup>th</sup> M** The Sambrook Centre Opening at the Former Stirchley Library Site, Stirchley
- 6<sup>th</sup> M** County Scout Fun Day at Stanley Park, Bridgnorth
- DM** Wrekin Lions Charter Night at The Whitehouse Hotel, Wellington
- 7<sup>th</sup> DM** Wem Town Council Civic Service at St Peter

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& Paul's Church, High Street, Wem

- 8<sup>th</sup>**    **DM**    Opening of Sew Creations fabric and dressmaking shop at Market Street, Oakengates
- 9<sup>th</sup>**    **M**    Hot Shots Awards Ceremony 2012 at The Place, Oakengates
- 10<sup>th</sup>**    **M**    Home Start 23<sup>rd</sup> Annual General Meeting at Heslop Pritchard Room, Holiday Inn, Telford
- 11<sup>th</sup>**    **DM**    HRH Earl of Wessex Visit to Abraham Darby Academy , Madeley
- M**    The Opening of the Exhibition of Work of Falcon Hildred at Coalbrookdale Gallery, next to Enginuity, Telford
- 12<sup>th</sup>**    **M**    Old Style Coach Trip Comes to Telford at Ironbridge Museum, Ironbridge
- DM**    Black History Month Launch at Sutton Hill Community Centre, Telford
- M**    Home Instead Senior Care Office Opening at Court Street, Madeley
- M**    Insect Hotel Opening Event at Wooden Tops Day Nursery, Park Lane Centre, Woodside
- M**    Shropshire Council Civic Heads Dinner at Davenport House, Worfield, Bridgnorth
- 13<sup>th</sup>**    **M**    Hope House Fundraiser at Sinclair Social Club, Ketley, Telford
- 14<sup>th</sup>**    **DM**    St George's Parish Church 150<sup>th</sup> Anniversary Service at St George's Parish Church
- 15<sup>th</sup>**    **DM**    The Community Foundation's Annual General Meeting at Telford College of Arts and Technology
- 16<sup>th</sup>**    **M**    Army Community Engagement Event at Abraham Darby Academy, Madeley
- 19<sup>th</sup>**    **M**    Welcomed the Paralympic Torch at Sainsbury's Telford Forge Retail Park

|                 |                        |           |                                                                                   |
|-----------------|------------------------|-----------|-----------------------------------------------------------------------------------|
|                 | <b>24<sup>th</sup></b> | <b>M</b>  | Citizenship Ceremony at Ceremony Room, Register Office, Wellington                |
|                 | <b>27<sup>th</sup></b> | <b>M</b>  | TADLOP's 40 <sup>th</sup> Anniversary Performance at The Place, Oakengates        |
|                 | <b>29<sup>th</sup></b> | <b>M</b>  | HRH Princess Royal Visit to Harper Adams University College, Newport              |
| <b>November</b> | <b>3<sup>rd</sup></b>  | <b>DM</b> | Rummage Sale Opening at St George's Church, St Georges                            |
|                 |                        | <b>M</b>  | Opening of the PDSA Family Fun Day at PDSA Head Office, Priorslee                 |
|                 | <b>5<sup>th</sup></b>  | <b>DM</b> | Official Opening of Wiggle Jiggle at Market Street, Oakengates                    |
|                 | <b>7<sup>th</sup></b>  | <b>M</b>  | Civic Reception for Cultural Heritage Visitors from China @ Enginuity, Ironbridge |
|                 | <b>8<sup>th</sup></b>  | <b>DM</b> | Remembrance Day Parade at TCAT Sports Dome, Wellington                            |
|                 | <b>10<sup>th</sup></b> | <b>DM</b> | Synchronised Swimming Masters Championships at Thomas Telford School, Telford     |
|                 |                        | <b>DM</b> | Donnington Bonfire at Broadoaks Field, Donnington                                 |
|                 | <b>11<sup>th</sup></b> | <b>M</b>  | Wreath Laying Event at Madeley                                                    |
|                 |                        | <b>DM</b> | Wreath Laying Event at Hadley                                                     |
|                 |                        | <b>M</b>  | Festival of Remembrance at The Place, Oakengates                                  |

**TELFORD & WREKIN COUNCIL**

**COUNCIL – 22 NOVEMBER 2012**

**REPORT OF CABINET – FOR INFORMATION ONLY**

**MATTERS DETERMINED BY THE CABINET**

**1.0 INTRODUCTION**

This report sets out those matters determined by the Cabinet at its meetings on 20<sup>th</sup> September 2012 and 18<sup>th</sup> October 2012.

**2.0 CABINET BUSINESS**

Matters that have been determined by Cabinet are listed below:

**2.1 20<sup>th</sup> September 2012**

- 2.1.1 Service & Financial Planning Update
- 2.1.2 Driving Delivery of the Council's Priorities
- 2.1.3 Local Safeguarding Children Board Annual Report 2011/12
- 2.1.4 Public Health Transition Arrangements
- 2.1.5 Care and Support White Paper and Bill
- 2.1.6 Foster Carers Allowances for Children in Care
- 2.1.7 Future Use of Land off Concorde, Dawley Bank
- 2.1.8 Disposal of Dawley War Memorial Hall, King Street, Dawley

**2.2 18<sup>th</sup> October 2012**

- 2.2.1 Scrutiny Review of the Management of Community Centres
- 2.2.2 2012/13 Financial Monitoring
- 2.2.3 Planning of School Places: Hollinswood Infant and Junior Schools
- 2.2.4 Disposal of the Former Gower Street Youth Centre, St Georges
- 2.2.5 Designation of a Neighbourhood Plan Area for Madeley

**3.0 DELEGATION OF POWERS GRANTED BY THE CABINET**

| REPORT HEADING                        | DELEGATION GRANTED TO                  | DETAIL OF DELEGATION GRANTED                                                                                                                |
|---------------------------------------|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| Public Health Transition Arrangements | Director of Adult & Community Services | In consultation with the Director of Public Health and Cabinet Lead/Shadow Health & Wellbeing Board Chair; to progress the consideration of |

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| REPORT HEADING                                            | DELEGATION GRANTED TO                                                                                             | DETAIL OF DELEGATION GRANTED                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                           |                                                                                                                   | future commissioned services; the award of relevant contracts for those public health services within the finances available once the Public Health ring-fenced grant is announced; and to enter into any appropriate documentation to enable and give effect to the transfer of public health functions to the Council. |
| Foster Care Allowances for Children in Care               | Assistant Director: Children's Safeguarding                                                                       | In consultation with the Cabinet Member: Children, Young People & Families, to approve proposals for the remodelling of the fees element of payments to foster carers to reflect the different level of skills needed to care for children according to the complexity of their needs.                                   |
| Future Use of Land off Concorde, Dawley Bank              | Assistant Director: Development, Business & Housing<br><br>Assistant Director: Law, Democracy & Public Protection | To deal with the land in accordance with the above resolution, including development of a lease agreement.<br><br>To agree and execute all necessary documentation.                                                                                                                                                      |
| Disposal of Dawley War Memorial Hall, King Street, Dawley | Assistant Director: Development, Business & Housing<br><br>Assistant Director: Law Democracy & Public Protection  | In consultation with the Cabinet Member for Resources & Service Delivery for the disposal of Dawley War Memorial Hall as detailed in the report.<br><br>To agree and execute all necessary documentation.                                                                                                                |

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|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Scrutiny Review of the Management of Community Centres                                                                                                                                                                     | Managing Director                                                                                                              | Following consultation with the Cabinet Member: Leisure & Wellbeing and Cabinet Member: Neighbourhood Services & Co-operative Council, to implement the proposals made as a result of the review of community centres.                                                    |
| Disposal of the Former Gower Street Youth Centre, St Georges                                                                                                                                                               | <p>Assistant Director: Business Development &amp; Housing</p> <p>Assistant Director: Law Democracy &amp; Public Protection</p> | <p>In consultation with the Cabinet Member: Resources &amp; Service Delivery, to negotiate terms to dispose of the former Gower Street Youth Centre as recommended within the report.</p> <p>To sign or seal any documentation to give effect to the above resolution</p> |
| <b>LEGAL COMMENT</b><br><b>FINANCIAL COMMENT</b><br><b>LINKS WITH CORPORATE PRIORITIES</b><br><b>RISKS AND OPPORTUNITIES</b><br><b>ENVIRONMENTAL IMPACT</b><br><b>EQUALITY &amp; DIVERSITY</b><br><b>WARD IMPLICATIONS</b> |                                                                                                                                | As described in each report considered by Cabinet. Copies of all reports have been previously circulated to all Members of the Council                                                                                                                                    |



**TELFORD & WREKIN COUNCIL****COUNCIL – 22 NOVEMBER 2012****2012/13 FINANCIAL MONITORING REPORT****REPORT OF THE ASSISTANT DIRECTOR: FINANCE, AUDIT &  
INFORMATION GOVERNANCE (CHIEF FINANCIAL OFFICER)****PART A) – SUMMARY REPORT****1.0 SUMMARY OF KEY ISSUES**

- 1.1** The Financial Monitoring report to Cabinet in October showed overall revenue spending projected to be within approved budgets and provided an update on progress on capital programme spending. The report also highlighted some new capital allocations, slippage and virements which require formal approval by Full Council. Cabinet also received a report relating to the disposal of the former Gower Street Youth Centre, St Georges which included a recommendation that part of the receipt is used for Youth provision in the St Georges Area. The detailed approvals required by Full Council are shown below.

**1.2 SUMMARY**

| <b>New Allocations - £</b>                                   |                |
|--------------------------------------------------------------|----------------|
| <b>Education &amp; Skills</b>                                |                |
| Meadows Primary                                              | 152            |
| Meadows Primary                                              | 209            |
| Devolved Formula Capital                                     | 107            |
| Redhill Demountable                                          | 5,000          |
| Newport Girls High - Demountable Phase 2 and Food Technology | 16,500         |
| Charlton - PRU Bungalow                                      | 25,000         |
| Lilleshall Primary                                           | 4,000          |
| King Street PRU                                              | 7,600          |
| Crudgington Primary - External Works                         | 7,000          |
| Millbrook Primary - Roofing Works                            | 2,603          |
| Wombridge Primary - New Entrance & Fencing                   | 16,907         |
| Newdale Primary - classbase extension                        | 156,341        |
| Muxton Primary - 3 Classbase extension                       | 21,349         |
| Muxton Primary - 3 Classbase extension                       | 14,180         |
| Haughton Special School - Main School Roof and Floor         | 7,500          |
| <b>Neighbourhoods Safe &amp; Clean</b>                       |                |
| Highways Maintenance                                         | 55,242         |
| Integrated transport                                         | 196,309        |
| <b>Regeneration &amp; Housing</b>                            |                |
| Loan Contingency Grant                                       | 27,455         |
| <b>Health &amp; Well Being of Communities</b>                |                |
| Youth Provision                                              | 75,000         |
| <b>Total New Allocations</b>                                 | <b>638,454</b> |

| Virements - £                |          |                           |
|------------------------------|----------|---------------------------|
| Vulnerable Children & Adults | 150,000  | Disabled Facilities Grant |
| Regeneration & Housing       | -150,000 | Unallocated Grant         |

| Slippage                                             |           |                                                          |
|------------------------------------------------------|-----------|----------------------------------------------------------|
|                                                      | £         | Comment                                                  |
| Neighbourhoods – Safe & Clean – integrated transport | 198,742   | Telford interchange project re-phased; slippage to 13/14 |
| Business Support/Business Winning – Town Centre      | 9,942,098 | Re-phased to 13/14                                       |

## **2.0 RECOMMENDATIONS**

- 2.1** Members are asked to approve the changes to the capital programme shown in section 1 above.

## **3.0 SUMMARY IMPACT ASSESSMENT**

|                                                 |                                                                                 |                                                                                                                                                                                              |
|-------------------------------------------------|---------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>COMMUNITY IMPACT</b>                         | Do these proposals contribute to specific Priority Plan objective(s)?           |                                                                                                                                                                                              |
|                                                 | Yes                                                                             | Delivery of all priority objectives depend on the effective use of available resources.                                                                                                      |
|                                                 | Will the proposals impact on specific groups of people?                         |                                                                                                                                                                                              |
|                                                 | No                                                                              |                                                                                                                                                                                              |
| <b>TARGET COMPLETION/DELIVERY DATE</b>          | The capital programme will be immediately updated to reflect the new approvals. |                                                                                                                                                                                              |
| <b>FINANCIAL/VALUE FOR MONEY IMPACT</b>         | Yes                                                                             | Financial impacts arising from this report will be reflected in future financial monitoring reports and built in to the final service and financial planning strategy for 2012/13 and beyond |
| <b>LEGAL ISSUES</b>                             | No                                                                              | None directly arising from this report. The S151 Officer has a statutory duty to monitor income and expenditure and take action if overspends /shortfalls emerge.                            |
| <b>OTHER IMPACTS, RISKS &amp; OPPORTUNITIES</b> | No                                                                              |                                                                                                                                                                                              |
| <b>IMPACT ON SPECIFIC WARDS</b>                 | No                                                                              | Borough Wide                                                                                                                                                                                 |

## **4.0 PREVIOUS MINUTES**

- 01/03/12 – Full Council, Service & Financial Planning Strategy
- 26/7/12 – Cabinet, 2011/12 Financial Monitoring
- 18/10/12 – Cabinet, 2011/12 Financial Monitoring

**PART B) – ADDITIONAL INFORMATION**

There is no additional information.

**5.0    BACKGROUND PAPERS**

2012/13 Budget Strategy / Financial Ledger reports

Report Prepared by: Ken Clarke, Assistant Director: Finance, Audit & I.G. (C.F.O.) – 01952 383100; Pauline Harris, Finance Manager – 01952 383701

## **APPENDIX A**

### **Co-operative & Communities and Budget & Finance Scrutiny Committees**

#### **Response to the proposed localised Council Tax Support scheme**

The Co-operative & Communities and Budget & Finance Scrutiny Committees jointly reviewed the proposed Council Tax Support scheme at meetings on 11<sup>th</sup> and 23<sup>rd</sup> October and were also provided with additional supporting information outside the meetings.

Members met with Cllr. Bill McClements, Cabinet Member Resources & Service Delivery; Cllr. Liz Clare, Cabinet Member Adult & Social Care; Cllr. Paul Watling, Cabinet Member Children & Young People; Angie Astley, Assistant Director Customer & People Services; Lee Higgins, Benefit Service Delivery Manager and Sophie Lane, Revenues Service Delivery Manager who all assisted the Committee in their work and deliberations.

The Committees considered the implications of the proposed scheme for the Council and for residents who would be affected by the scheme, and also considered alternative models and their impacts.

Members have agreed a number of comments and recommendations to submit for consideration as part of the consultation on the scheme. This response will be presented to Council when the final scheme is decided. A joint response was submitted separately to Policy Review in favour of declining the Council Tax Support Transition grant, and this response is confined to the Council Tax Scheme under consultation

#### **Comments**

- The Co-operative & Communities and Budget & Finance Scrutiny Committees support the proposed scheme as the fairest and best possible under the regrettable circumstances of having to make cuts to Council Tax benefits.
- It was acknowledged that although it was desirable to protect as many vulnerable people as possible, the cost of treating one group as vulnerable (for example families with children) would be at the expense of another group (non-vulnerable working age customers) and that the right balance had been struck.
- The Committees recognised that the consultation process had been extensive and welcomed the fact that all households had been given an opportunity to take part and not just those in receipt of the benefits.
- Members would like to commend Angie Astley and the Revenues and Benefits team for their hard work in developing the proposed scheme along side work on the other welfare reform changes, and in particular would like to thank Lee Higgins for the preparation and clear presentation of complex information which greatly helped the work of the Committees.

## **Recommendations**

- Members were concerned that although there had been an extensive consultation exercise, it was possible that there were still a great many people who may be unaware that from April 2013 they will have to pay some or more Council Tax. Members therefore recommend that there is a continued awareness campaign targeted at affected groups, and that low- or no-cost ways of reaching these people are explored such as by putting information slips into housing benefit notifications.
- There was concern about the enforcement of the empty property tax, and it was recommended that consideration should be given as to how empty properties will be identified, and whether Council Tax demands can be back-dated to the date the property became rather than from the date it is identified.
- Although the scheme was considered the fairest and best possible within current time and IT constraints, it is essential that the scheme is thoroughly assessed post-implementation to identify unintended consequences and improvements that can be made for 2014. The Co-operative & Communities and Budget & Finance Scrutiny Committees will scope work for a joint review over the year following the introduction of the scheme with a view to making recommendations in this area.

## **APPENDIX B**

### **Co-operative & Communities and Budget & Finance Scrutiny Committees**

#### **Joint statement for Policy Review on the Council Tax Support Transitional Grant Scheme**

The Co-operative & Communities and Budget & Finance Scrutiny Committees received a briefing on 23<sup>rd</sup> October 2012 on the government announcement of £100m grant funding available to Councils to support the Council Tax Support Scheme during the transition year.

Members appreciated the fact that a briefing had been provided to Scrutiny in advance of a discussion at Policy Review due to the timing of events and meetings, and were pleased that this provided an opportunity for scrutiny to contribute to the process.

Members considered the information provided and discussed the implications of the grant scheme option for the Council and for residents of the borough. The following statement was agreed which members would like Policy Review to take into account when forming a view on whether to accept or decline the grant.

#### **The Co-operative & Communities and Budget & Finance Scrutiny Committees recommend declining the £336k Council Tax Support Transition grant for the following reasons:**

- In terms of the broader finances of the Council, accepting the grant does not make financial sense. Whereas Members would welcome opportunities to limit the impact of benefit cuts on the public, accepting the grant would leave an estimated deficit of **£679k** which could not be passed on to Council Tax benefit claimants because of the constraints of the grant scheme would mean collecting over £1 million pounds less in revenue. The Council would need to find this money elsewhere and in all likelihood this would mean cutting front-line services with a potential negative impact on vulnerable people in the borough.
- Setting an upper limit of 25% on the earnings taper for working age claimants in receipt of some Council Tax benefit could act as a disincentive to work which is contrary to the principles of the scheme that it should not disincentivise work.
- The grant (as it stands) is a transitional grant, and accepting it only stores up problems for following years when further cuts would have to be made.
- Accepting the grant would require a further period of consultation which would cost money.
- Extending the period of consultation would make it very difficult to meet the government's deadline for agreeing the Council Tax Support scheme by 31<sup>st</sup> January and then making the necessary changes to the IT system and staff training.

- Reducing benefit cuts for working age people who pay no Council Tax to 8.5% may have a positive impact on collection rates and the cost of collection over the longer term but would not be enough to offset the loss of £679k income.
- In reaching its conclusion, members of the Committees were very concerned, should a decision be made to decline the grant, that this would be perceived by the public that the Council has turned away money which could help Council Tax benefit customers. It is important that clear communication and messages about such a decision should go out to the public should Cabinet decide to decline the grant.

The Committees will be submitting a separate response to the wider consultation on the Council Tax Support scheme.

Members commended Angie Astley and the Revenues and Benefits team for their hard work in developing the scheme proposals along side work on the other welfare reform changes, and in particular would like to thank Lee Higgins for the preparation and clear presentation of complex information which had made the work of the Committees much easier.

Report prepared by Stephanie Jones, Scrutiny Officer

**APPENDIX C****Council Tax Unoccupied Property Exemptions list (for information only)**

| <b>CLASS</b>     | <b>DEFINITION</b>                                                                                                                                                 |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Class B</b>   | Belongs to a charity; up to 6 months exemption                                                                                                                    |
| <b>Class D</b>   | Was previously the sole or main residence of someone in prison or detention                                                                                       |
| <b>Class E</b>   | Was previously the sole or main residence of someone in a hospital, nursing or residential care home, or certain hostels                                          |
| <b>Class F</b>   | A property where the tax payer has died (no probate has been granted)                                                                                             |
| <b>Class F/A</b> | A property where the tax payer has died (probate has been granted); up to 6 months                                                                                |
| <b>Class G</b>   | Occupation is prohibited by law                                                                                                                                   |
| <b>Class H</b>   | A property being kept for the occupation of a minister of religion                                                                                                |
| <b>Class I</b>   | Was previously the sole or main residence of someone who is receiving care in a place other than a hospital or care home                                          |
| <b>Class J</b>   | A property owned by, and was previously the sole or main residence of someone who is residing elsewhere providing personal care                                   |
| <b>Class K</b>   | A property that was previously the sole or main residence of a student who is resident elsewhere or a person who will become a student within 6 weeks of vacating |
| <b>Class Q</b>   | Unoccupied Dwelling Held by Trustees in Bankruptcy                                                                                                                |
| <b>Class R</b>   | Unoccupied caravan pitch or boat mooring                                                                                                                          |
| <b>Class T</b>   | Unoccupied Annexes                                                                                                                                                |



## APPENDIX E

### Council Tax Support Exceptional Hardship Fund - Principles

#### Targeted assistance

- Given that pension age claimants are protected under the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, which broadly replicate the existing Council Tax Benefit schemes, it is proposed that the exceptional hardship fund only be available to working age claimants.
- By limiting applications to the working age group, the Authority will be able to target additional assistance to those most in need.

#### Long term / short term

- The approach to be taken with the fund is not just to pay additional levels of support to taxpayers (thereby enhancing the proposed Local Council Tax Support schemes) but to aid and assist the most impoverished families.
- A key element of the fund will therefore be that support will only be given to taxpayers who qualify, for a short period of time. It is not intended that the fund will be a long-term solution to the overall reduction in Council Tax Support.
- Where taxpayers are unable to meet their liabilities in the longer term, they will be encouraged to take actions, which will reduce their council tax liabilities such as by moving to smaller or less expensive premises.

#### Criteria

- Any person claiming against the fund will be required to go through a process that will not only establish their eligibility for any payment but would allow them to more adequately manage their finances in the future.
- It is proposed that **before** making any payments, the Authority will require the council taxpayer to undertake the following;
  1. Make a separate application for assistance;
  2. Provide full details of their income and expenditure;
  3. Accept assistance from either the Authority or third parties such as the CAB or similar organisations to enable them to manage their finances more effectively including the termination of non essential expenditure;
  4. Identify potential changes in payment methods and arrangements to assist the taxpayer;
  5. Assist the Authority to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted; and
  6. Maximising income through the application for other welfare benefits and identifying the most economical tariffs for the supply of utilities.

At any time the Authority feels that additional support is not appropriate, no payment would be made. However where it is clearly identified that the taxpayer is suffering '**exceptional hardship**' then the Authority would be free to grant additional support up to a total of 100% of the total liability for Council Tax.

Priority will be given to those cases, which are identified as particularly vulnerable.

### **Council Tax Support scheme - Analysis of consultation**

#### **Executive Summary**

From 1 April 2013 there will be a major change in the way that people on low incomes are supported to pay their Council Tax, including a reduction in the grant available to local Councils to fund Council Tax Support. As a result Telford & Wrekin Council are having to make changes to the amount and type of support they offer people under the scheme and undertook consultation with residents and stakeholders on the proposed options.

People were invited to comment on the proposals in a number of ways including meetings, a special 'Your Voice', letters/emails and social media, or through completing the Council Tax Support Scheme Survey to which 308 responses were received.

#### **Principles**

The survey set out five draft principles being considered for the new scheme. The level of support for range from 63% to 91%. The most supported of these was principle 5 – 'The new scheme should not discourage Council Tax Benefit Claimants from retaining or starting low paid employment' (91%), and the least supported was principle 2 – 'The impact of the cut should be shared equally across all working age Council Tax Benefit claimants.

More than two thirds of respondents (68%) agreed with principle 1 – 'The cut in funding should not mean a cut to Council services'. Suggestions for alternative areas in which to make cuts included:

- Reduce numbers of staff / staff wages / pensions / expenses
- Scrutinise for economy / quality / efficiency / less bureaucracy / thorough review of services / stop waste
- Reduce number of councillors / councillors expenses / review of councillor expenses

Just over three out of five respondents (63%) agreed with principle 2 – 'The impact of the cuts should be shared equally across all working age Council Tax benefit claimants'. Suggestions for alternative ways to share the impact of the cut included:

- Cuts should apply to pensioners too
- People do not have more money / cuts should not mean a greater burden for those on low income
- Should be means tested on household income / based on ability to pay
- Everyone should contribute something / cuts shared equally

More than three quarters of respondents (79%) agreed with principle 3 – ‘The most vulnerable Council Tax Benefit claimants should be protected from changes’. Suggestions for vulnerable groups to protect included:

- Disabled / long term illness
- Cuts should be shared according to income and need / means test
- Elderly / pensioners
- Need to define most vulnerable

Around two thirds of respondents (67%) agreed with principle 4 – ‘The needs of those with children or caring responsibilities should be recognised’. Ideas for supporting those with children or caring responsibilities included:

- Having children is a life choice should not be for council to support / should only support certain number of children
- Being a carer is a big responsibility / caring responsibility should be recognised
- Should be based on income/need / means tested
- People use children as income / benefits not used to support children

Nine out of ten respondents (91%) agreed with principle 5 – ‘The new scheme should not discourage Council Tax Benefit claimants from retaining or starting low paid employment’. Suggestions for supporting the idea the ‘work pays’ included:

- Continue to pay benefits for a period once work is started
- Allow people on low incomes to claim benefits and support / claim more than those not working

## **Features**

Nine draft features were proposed for the Council Tax support scheme, with all nine having majority agreement. Feature 4 ‘empty homes premium’ had the greatest level of agreement and Feature 5 ‘reducing the savings and capital limits’ the least at 57%.

- Feature 1 – ‘Applying the cuts in the Government’s funding equally to all working age claimants (65%)
- Feature 2 – ‘Protecting the severely disabled and those receiving specific types of income from the impact of the cuts’ (78%)
- Feature 3 – ‘Removing the current Council Tax exemptions and discounts for empty properties and second homes’ (81%)
- **Feature 4 – ‘Introducing an empty homes premium on properties left empty for longer than 2 years’ (86%)**
- **Feature 5 – ‘Reducing savings and capital limits to £6,000’ (57%)**
- Feature 6 – ‘Limiting claims for backdated benefit to one month’ (63%)
- Feature 7 – ‘Introducing a £2.50 minimum weekly award level’ (60%)
- Feature 8 – ‘Removing Second Adult Rebate for working age Council Tax Benefit claimants’ (62%)
- Feature 9 – ‘Introducing a cash-limited discretionary scheme to deal with extreme financial hardship’ (79%)

The feature with the most comments was Feature 5 – ‘Reducing savings and capital limits to £6,000’ (88 comments) with the top themes being:

- Needs to be higher than £6,000
- Penalises those who save / discourages people from saving

Feature 6 – ‘Limiting claims for backdated benefit to one month’ received 72 comments with key themes being:

- Should be longer than 1 month
- Should be discretionary for vulnerable cases
- As long as does not include processing time / not if it is council error

Feature 1 – ‘Applying the cuts in the Government’s funding equally to all working age claimants’ also received 72 comments with the top theme being:

- Should be means tested not based on age

Feature 3 ‘Removing the current Council Tax exemptions and discounts for empty properties and second homes’ received 64 comments with main themes being:

- Do not remove empty properties discount – need grace period to find new tenants / renovate
- Second home owners are able to pay full council tax
- Need time to sell properties (divorce, death, job move) / in current market houses do not sell

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## Impact Assessment - Local council Tax Support

### Section 1 – Overview

#### 1. What is the title of the policy?

Localised Support for Council Tax

#### 2. What are the objectives of the policy? For example, what are we aiming to achieve? Who does it benefit? Please provide a brief description

The national Council Tax Benefit (CTB) scheme comes to an end on 31<sup>st</sup> March 2013 and is to be replaced by a locally determined system of Council Tax Support (CTS). The funding available for the new scheme will be cash limited. The aim of the new support scheme is to provide financial assistance to council taxpayers within the Council's area who have low incomes.

The Council currently pays Council Tax Benefit to around 18500 claimants and 10700 of these are of working age. We recognise that Council Tax Benefit is paid to greater numbers of women than men and in particular females who do not have a partner. Therefore, we acknowledge that any change to the Council Tax Benefit scheme will have a disproportionate affect on female claimants. We have included a breakdown of our current caseload in Appendix 1 (as of 31 August 2012).

Persons who are of state pension age (a minimum 60 years or greater) are protected under the scheme, in that the calculation of the support they are to receive has been set by Central Government. For working age applicants however, the support they receive is to be determined by the local authority.

This equality impact assessment looks at the potential for **not only** protecting pensioners (as required under the legislation) **but also** providing full support to all working age claimants who are considered **vulnerable** as defined below;

- The claimant or partner is in receipt of a severe disability premium within the calculation of council tax support or within any means tested benefit (Housing Benefit, Income Support, Employment and Support Allowance (Income Related) or Job Seeker's Allowance (Income Based)); or
- The claimant, partner or any dependant is in receipt of a enhanced disability premium within the calculation of council tax support or within any means tested benefit (Housing Benefit, Income Support, Employment and Support Allowance (Income Related) or Job Seeker's Allowance (Income Based)); or
- The claimant or partner is in receipt of a support component within the calculation of council tax support or within their Employment and Support Allowance; or
- The claimant or partner receives War Disablement Pension or a War Widow's/Widower's Pension, or any similar payment from another country.

The objective in adopting this policy would be as follows;

- a. To protect pension age claimants (in accordance with the requirements laid down by Central Government);
- b. to protect a specific section of the existing claimant group deemed to be highly vulnerable and independently verified as being the most seriously sick and not likely to be able to obtain work; and
- c. to protect the Council's armed forces covenant



The main issue for the Council is that the funding for support has been reduced significantly. However exempting these two additional working age groups (bearing in mind that pensioners are already protected under the scheme by Central Government) would increase the shortfall in funding to be borne by the remaining working age claimants who are not deemed vulnerable.

Central Government has not been prescriptive in how an authority should protect vulnerable groups but points to the Council's existing responsibilities including the Child Poverty Act 2010, the Disabled Person Act 1986 and the Housing Act 1996 as well as the public sector equality duty in section 149 of the Equality Act 2010.

In relation to disability, no definition has been given as to the level which would lead to protection being given, although it is acknowledged that where a person is in the longer term able to undertake work, that they should be incentivised to do so.

This would not apply to those who are deemed severely disabled.

### **3. Who does this policy affect?**

- Customers/service-users
- Partners
- Employees
- Other – interested parties and organisations representing claimant groups

### **4. What period does the policy cover?**

1<sup>st</sup> April 2013 until 31<sup>st</sup> March 2014. Reviewed annually

### **5. Your contact details:**

|                                                            |  |
|------------------------------------------------------------|--|
| Name of person completing impact assessment and their post |  |
| Telephone                                                  |  |
| Date started                                               |  |
| Other officers/Stakeholders involved                       |  |

## Section 2 – Impact Assessment

1. Will this policy have a significant impact on any of the following groups of people with regard to the General Equality Duty?

Positive and negative impacts should be assessed with regard to the General Equality Duty;

- eliminate unlawful discrimination, harassment and victimisation
- advance equality of opportunity
- foster good relations between different groups

Please mark all boxes indicating whether an impact has occurred, this could be positive or negative.

|                                                    | Impact (X) |                                                                                                                                             |                                                  |
|----------------------------------------------------|------------|---------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
|                                                    | Positive   | Negative                                                                                                                                    | None                                             |
| People of different ages                           |            | Working age 18-65yrs                                                                                                                        | Pension age and protected groups                 |
| People with ill health or people with a disability |            | Disabled persons not in protected group                                                                                                     | Severely Disabled persons are in protected group |
| People of different gender                         |            | Women of working age will be affected more than men as they represent a higher number of claimants and tend to be in lower wage employment. |                                                  |
| People who are transgender                         |            |                                                                                                                                             | No evidence to indicate impact                   |
| Different racial groups                            |            |                                                                                                                                             | No evidence to indicate impact                   |
| People with different religion or beliefs          |            |                                                                                                                                             | No evidence to indicate impact                   |
| People of different sexual orientation             |            |                                                                                                                                             | No evidence to indicate impact                   |
| Women who are pregnant or breast-feeding           |            |                                                                                                                                             | No evidence to indicate impact                   |
| People that are married or in a civil partnership  |            |                                                                                                                                             | No evidence to indicate impact                   |
| People affected by deprivation                     |            | Working age 18-65yrs (although there is in-built protection for low incomes)                                                                |                                                  |

## **What is the expected impact?**

All persons within the Council's area who have a low income may apply for support and assistance with their Council Tax.

By making an application, providing evidence of their income and household circumstances, their potential entitlement for support will be calculated in line with Central Government prescribed requirements for the Council Tax Support (Reduction) scheme.

In the case of all claimants, it will be essential for the authority to correctly process claims for support based on the new regulatory requirements and to ensure that all existing benefit claimants continue to receive support through the transition and onwards

The desired outcomes are as follows;

### **Pension Age Claimants**

- That existing pensioner claimants for Council Tax Benefit (up until 31<sup>st</sup> March 2013) are successfully transferred to the new Council Tax Support scheme;
- That all pensioners receive the level of support required by regulations set by Central Government (Council Tax Reduction Scheme (Prescribed Requirements) Regulations 2012);
- That all new pensioner claimants or existing working age claimants who rise to pension age are able to receive Council Tax Support in line with the regulations; and
- That all pensioner claimants continue to receive the correct level of support at all times.

There are currently 7728 pensioner claimants for Council Tax Benefit

### **Severely Disabled Working Age Claimants (as defined above)**

- That existing severely disabled working age claimants (as defined earlier in this assessment) for Council Tax Benefit (up until 31<sup>st</sup> March 2013) are successfully transferred to the new Council Tax Support scheme;
- That all working age severely disabled claimants receive the level of support currently provided under the existing Council Tax Benefit scheme;
- That all new working age severely disabled claimants or existing working age claimants who become severely disabled are able to receive Council Tax support in line with current Council Tax Benefit scheme; and
- That all working age severely disabled claimants continue to receive the correct level of support at all times.

### **Working Age Claimants who receive a war widows pension or war disablement pension**

- That existing working age claimants who meet the criteria and who currently claim Council Tax Benefit (up until 31<sup>st</sup> March 2013) are successfully transferred to the new Council Tax Support scheme;
- That all working age claimants who meet the criteria, receive the level of support currently provided under the existing Council Tax Benefit scheme;
- That all new working age claimants or existing working age claimants who meet the criteria are able to receive Council Tax support in line with current council tax benefit scheme; and
- That all working age claimants who meet the criteria, continue to receive the correct level of support at all times.
-

There are currently 240 Council Tax Benefit claimants who are either severely disabled working age claimants or receive a war widows or war disablement pension.

#### **Remaining Working Age Claimants (not protected)**

- That the remaining existing working age claimants who currently claim Council Tax Benefit (up until 31<sup>st</sup> March 2013) are successfully transferred to the new Council Tax Support scheme;
- That the remaining (non protected) working age claimants receive the level of support decided by the Council;
- That all new working age claimants or existing working age claimants who are not in the protected categories are able to receive Council Tax Support in line with Council policy; and
- That they continue to receive the correct level of support at all times.

There are around 10500 remaining working age claimants who would not be protected from the impact of any changes in the new Council Tax Support scheme unless they were defined as vulnerable.

A breakdown of those affected by Parish area is included at Appendix 1.c. We recognise there are areas within the Borough where there are higher numbers of people claiming Council Tax Benefit and acknowledge therefore that claimants in these areas will disproportionately be affected when compared to the whole Borough.

There are a number of factors which will **contribute** to the outcomes of the new process namely;

- That the new Council Tax Support scheme broadly replicates the existing Council Tax Benefit scheme for pension age and working age disabled claimants;
- That management and staff are experienced in delivering means tested support / benefit schemes; and
- That there is a comprehensive project plan, which ensures that delivery of the new scheme, will be on time and in line with legislative requirements.

The factors / forces that could **detract** from these outcomes are as follows;

- The failure of Central Government to approve the necessary legislation on time;
- The tight timescales for implementation of the new scheme;
- The failure of the Council's software suppliers to deliver the necessary changes to existing software systems to enable the correct processing of the new support; and
- The failure to deliver these significant changes to the welfare benefit system on time and within budget.

## **2. What engagement and consultation have you already carried out?**

The Council has consulted with major preceptors and has consulted with the public commencing in August 2012 ending on 26<sup>th</sup> October 2012.

The information has been collated and will influence the decisions made by the Council prior to the 31 January 2013 in order to allow the implementation of the scheme for the April 2013.

**3. Please give brief details of any further engagement/consultation you plan to carry out with any of the above groups, particularly where you feel you don't have sufficient information.**

All major precepting authorities have been consulted on the implementation of the new Council Tax Support scheme and a full consultation with the public was undertaken as required by the legislation (Local Government Finance Act 2012) from 28<sup>th</sup> August 2012 to 26<sup>th</sup> October 2012.

The consultation delivered responses regarding the principles used to identify the changes and the thoughts of people regarding the individual proposals.

Whilst pension age claimants are protected, the Council still, as part of the consultation process, looked to pension age claimants and pensioners generally to respond to the consultation itself.

In respect of working age severely disabled claimants and the protected groups generally, it was essential to consult with the group as, being of working age, they will be directly affected by any changes decided by the Council.

For working age claimants generally or those who are not classified as protected within this policy, extensive consultation was undertaken to obtain their views given that the level of support they receive will be reduced significantly where these other groups are protected.

The consultation process was robust, comprehensive and encouraged a full response to the new support scheme itself (notwithstanding the fact that the authority is obliged to implement the scheme determined by Central Government for pension age claimants).

The consultation process has utilised a number of communication channels and delivered a maximum coverage of the Borough through the production of a specialized consultation document to every household within the Borough. Direct engagement with potentially affected claimants was undertaken in First Point, Telford at Civic Offices when customers access the benefit service.

Groups representing disabled people or people who chronically sick have been directly consulted as part of the process and we have encouraged their opinions on both local and national schemes.

Public consultation has taken place during the period 28 August 2012 until 26 October 2012

Appendix 2 provides links to information used as part of the consultation.

### Section 3 – Mitigating Actions

**1. For each significant negative impact identified in Section 2 (Questions 3 & 4), what action have you taken, or will you be taking, to reduce/manage these impacts?**

Where claimants are not protected, the level of support will be reduced in line with the funding available from Central Government.

This will be mitigated to some degree by the Council having the ability to assist claimants, by awarding additional support, where they are facing **exceptional** hardship and each case will be examined on a case-by-case basis taking into account their full personal and financial circumstances.

It is **not** possible to protect all claimants given the significant reduction in funding available to the Council.

All working age claimants **not** in the protected groups will see a reduction in support from the current Council Tax Benefit levels. However depending on their circumstances, the reduction they experience will be proportionate to the level of benefit they currently get and also their specific circumstances.

The Council is maintaining the core aspects of the current means tested scheme that provides additional assistance where there are dependants, disability and caring responsibilities by continuing to grant;

- disability premiums;
- enhanced disability premiums;
- severe disability premiums;
- work related activity components (where the person is in receipt of Employment and Support Allowance);
- support component (where the person is in receipt of Employment and Support Allowance);
- disabled child premiums (where dependants are in receipt of Disability Living Allowance or are registered / certified blind; and
- carer's premium where the claimant or partner is in receipt of Carer's Allowance

The scheme also provides significant work incentives with the continued use of;

- earnings disregards;
- additional earnings disregards;
- childcare disregards; and
- extended payments (reductions)

The Council, in creating its policy, has looked to protect families from child poverty by maintaining

- Dependants Additions – an allowance for each child is used within the calculation;
- Disabled Child Premiums – where a child is deemed to be disabled under the policy an additional premium is granted for each child within the calculation;
- Enhanced Disability Premium (where the child is entitled to Disability Living Allowance Care Component at the highest rate); and
- Family premium – where any claimant has at least one child, a family premium is awarded.

In addition child benefit, child maintenance and other income payable to children will continue to be disregarded in full.

The engagement activities have identified that consideration should be given to those with limited financial management skills, mental health problems and anxiety in completing forms. As part of the wider changes to Welfare Reform being delivered through a number of Council services, the Council will continue to proactively engage and work with interested groups and third party organisations (including but not limited to Citizen's Advice Bureau) to maximise opportunities to support and advise customers affected by the changes, especially but not exclusively limited to customers who may share these characteristics.

Also, to some extent some of the concerns identified above will be mitigated by the fact that the Benefit Service operate a telephone and face-to-face application process that alleviates the requirement for a paper based application to be completed and guides the claimants through the process in a much more supportive manner. Home visits are available to customers in exceptional circumstances, particularly where the customer may have mobility difficulties or complex needs.

**2. For each significant positive impact you identified in Section 2 (Questions 3 & 4) what action have you taken, or will you be taking, to maximise the opportunity?**

N/A

**Remember to integrate any actions you have identified in to your service/team plans.**

**3. How do any of the above actions contribute to the aims of the General Equality Duty;**

- **eliminate unlawful discrimination, harassment and victimisation**
- **advance equality of opportunity**
- **foster good relations between different groups**

The above actions eliminate unlawful discrimination and maintain the level of support to the most vulnerable within the Council's area.

We believe the current proposals are objectively justified to achieve the legitimate aim of protecting the most vulnerable in our society whilst budgetary reductions of 10% or more are implemented nationally in relation to available council tax support. These steps will also improve equitable outcomes by removing inconsistencies where household income levels are not taken into consideration.

Where negative impacts have been identified we have made attempts to lessen the impact on those affected; the continuation of childcare disregards in calculations and a reactive hardship fund for instance.

We will also continue to review the situation and seek to provide further mitigation as and when opportunities and budgetary constraints allow.

## **Section 4 – Review and Monitoring**

**1. From what date will this policy be implemented?**

1<sup>st</sup> April 2013

**2. How will the actual impact of the policy be monitored and reviewed?**

Full monitoring of scheme implementation on a monthly basis in line with the accepted project plan.

Monthly and quarterly collection of data is to be undertaken by the Revenues and Benefits Service.

An update report will be produced at the end of the first year with further analysis of the actual impacts incorporating engagement with key stakeholders and detailing the effectiveness of the discretionary fund – April 2014



## APPENDIX 1

### Current Council Tax Benefit Caseload Breakdown

#### 1a. Breakdown by case group

| Case Group  | Number of Current Council Tax Benefit claims |
|-------------|----------------------------------------------|
| Pension Age | 7728                                         |
| Working Age | 10774                                        |

#### 1b. Working Age claims breakdown by gender by the person claiming Council Tax Benefit

| Gender                 | Number of claims |
|------------------------|------------------|
| Female with partner    | 1607             |
| Female without partner | 5493             |
| Male with partner      | 1464             |
| Male without partner   | 2210             |

#### 1c. Working Age claims breakdown by Parish area

| Parish                                    | Number of Council Tax Benefit claims |
|-------------------------------------------|--------------------------------------|
| Dawley Hamlets Parish Council             | 288                                  |
| Ercall Magna Parish Council               | 37                                   |
| The Gorge Parish Council                  | 112                                  |
| Great Dawley Parish Council               | 1295                                 |
| Hadley and Leegomery Parish Council       | 900                                  |
| Hollinswood & Randlay Parish Council      | 425                                  |
| Ketley Parish Council                     | 269                                  |
| Lawley & Overdale Parish Council          | 419                                  |
| Lilleshall & Donnington Parish Council    | 886                                  |
| Madeley Parish Council                    | 1890                                 |
| Newport Town Council                      | 355                                  |
| Oakengates Town Council                   | 558                                  |
| St Georges & Priorslee Parish Council     | 467                                  |
| Stirchley & Brookside Parish Council      | 1047                                 |
| Wellington Town Council                   | 1332                                 |
| Wrockwardine Parish Council               | 66                                   |
| Wrockwardine Wood & Trench Parish Council | 318                                  |
| Others*                                   | 101                                  |

\*Represents Parish areas with fewer than 20 claimants and have been combined to protect against the potential identification of individuals.

Information extracted from Telford & Wrekin Council Tax information management system 31 August 2012. The number of claimants can change daily so this information is only accurate at the time of extraction

## **APPENDIX 2 – Consultation Documents**

### **Council Tax Support Consultation – Consultation Document**

[http://www.telford.gov.uk/downloads/file/4622/council\\_tax\\_support-consultation\\_document](http://www.telford.gov.uk/downloads/file/4622/council_tax_support-consultation_document)

### **Council Tax Support Consultation – Consultation Survey**

Online - [http://www.telford.gov.uk/downloads/file/4623/council\\_tax\\_support-draft\\_proposed\\_scheme](http://www.telford.gov.uk/downloads/file/4623/council_tax_support-draft_proposed_scheme)

Paper - [http://www.telford.gov.uk/downloads/file/4621/council\\_tax\\_support-paper\\_survey](http://www.telford.gov.uk/downloads/file/4621/council_tax_support-paper_survey)

### **Your Voice Special edition**

[http://www.telford.gov.uk/downloads/file/4705/council\\_tax\\_benefit-the\\_changes\\_that\\_could\\_affect\\_you](http://www.telford.gov.uk/downloads/file/4705/council_tax_benefit-the_changes_that_could_affect_you)

**TELFORD & WREKIN COUNCIL****FULL COUNCIL     22<sup>nd</sup> November 2012****TITLE                     Council Tax Support Scheme 2013/14****REPORT OF             Angie Astley, Assistant Director: Customers & People****PART A) – SUMMARY REPORT****1.     SUMMARY OF MAIN PROPOSALS**

- 1.1     The Government announced as part of the Spending Review in 2010, that it would localise support for Council Tax from 2013/14, with an expectation expenditure would be reduced by 10%.
- 1.2     This report outlines the background, options and recommendations, following robust consultation and engagement with key stakeholders for delivering a local Council Tax Support scheme for the Council from April 2013.

**2.     RECOMMENDATIONS**

- 2.1     That Council approves the Council Tax Support scheme policy for 2013/14.
- 2.2     That Council approve the decision not to apply for the additional transitional funding for 2013/14.
- 2.3     That Council approves the principles of the Council Tax Support Exceptional Hardship Policy.
- 2.4     That Council consider and note the reports from the joint Co-Operative and Communities and Budget & Finance Scrutiny Committees (see Appendix A and B) recommending approval of the proposed Council Tax Support Scheme and recommendation 2.2. above not to apply for the additional transitional funding.
- 2.5     That Council note that the approval of this policy is dependent upon the approval of the recommendations regarding the empty property exemptions and charges that will be contained in the Setting of the Council Tax Base report presented to Cabinet January 2013
- 2.6     That Council delegate authority to the Benefit Service Delivery Manager to undertake all functions, except approval of policy, relating to Council Tax Support under the Local Government Finance Acts 1992 and 2012 and Regulations made there under and as amended.

### 3. SUMMARY IMPACT ASSESSMENT

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>COMMUNITY IMPACT</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Do these proposals contribute to specific Priority Plan objective(s)?                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | No                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Will the proposals impact on specific groups of people?                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Yes                                                                                                                                                                                                                                                                                                 | <p>These proposals will impact on all current and future working age recipients of Council Tax Benefit/Council Tax Support and Council Tax payers who would receive an empty property discount.</p> <p>More information about how we are meeting the General equality Duty is available in the attached Community Impact Assessment provided at Appendix G.</p> |
| <b>TARGET COMPLETION/DELIVERY DATE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>The Council Support Tax scheme has to be approved by full Council no later than 31<sup>st</sup> January 2013.</p> <p>The existing Council Tax Benefit scheme will cease on the 31<sup>st</sup> March 2013 and The Council Tax Support scheme will commence on the 1<sup>st</sup> April 2013.</p> |                                                                                                                                                                                                                                                                                                                                                                 |
| <b>FINANCIAL/VALUE FOR MONEY IMPACT</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Yes                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                 |
| <p>The Council currently administers the nationally prescribed council tax benefit scheme and receives a subsidy grant from the Department of Works and Pensions (DWP) in relation to benefits paid out, together with a grant towards the administrative costs of the scheme. The system is demand led i.e. an increase in eligible claimant's leads to increased council tax benefit being paid and increased subsidy grant received by local authorities. Spend on Council Tax Benefits in this area was £14.7m in 2011/12.</p> <p>As part of the 2010 Spending Review the Government announced that the current national Council Tax Benefit Scheme would be abolished and local authorities would be required to establish their own local Council Tax Support scheme by 31<sup>st</sup> January 2013, for implementation in April 2013. It was also announced that in making this change, the Government would cut the amount of grant paid to councils by 10%. Pension age claimants will be protected i.e. they will not experience a reduction in support as a result of these changes. Local Authorities have the freedom to design a scheme for working age claimants and to decide how to manage the impact of the reduction in funding.</p> <p>Council Tax Support is to be given as a council tax discount with funding being provided via Government Grant. However, the grant is to be distributed through the new business rates retention scheme (the Government's mechanism for providing revenue funding to Local Authorities), rather than being given as a separate identifiable grant so after the first year of the scheme we will not be able to identify how much grant we are receiving specifically for the new local support for council tax scheme. However, the amount of grant transferred into the business rates retention mechanism will only be 90% of the Government's forecast of the 2013/14 subsidy.</p> |                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                 |

The Government's forecast has no allowance for inflation (i.e. assumes that no council will increase council tax) and is based on an assumption of reduced caseload volumes (2.3% reduction presumably due to an assumption that the economy is starting to grow). Our budget strategy includes assumptions for a 2.5% council tax increase over the medium term and local caseloads indicate a trend of around 2% pa increases. This, together with the likely impact on collection levels gives an estimated funding shortfall of £3.1m in 2013/14 (note final grant allocations will be updated by Government and therefore current estimates are only indicative).

Telford & Wrekin's proposed scheme proposes that the funding gap will be met through a combination of changes to council tax exemptions and discounts, which are detailed in the report, and by applying a percentage global reduction in support given to less-vulnerable claimants. Current estimates indicate that overall this will mean a reduction in council tax support of around 21% for working age, non-vulnerable claimants – this percentage will be confirmed when the local council tax support grant is confirmed by Government, which is not expected until the Local Government Finance Settlement is announced in December and council tax is set. It is also proposed that a one-off £0.065m is earmarked to award discretionary discounts in cases of extreme financial hardship and this has been included in the draft 13/14 budget strategy.

In October 2012 The Department for Communities and Local Government (DCLG) announced an additional £100m funding available for one year to support local authorities in developing their local council tax support schemes. Telford & Wrekin could apply for £336k of this transitional grant. Although this would reduce the initial funding gap to around £2.8m the limitations and criteria imposed to the design of the scheme would result in a funding shortfall in 2012/13 of around £0.680m which would have to be met from savings elsewhere across the Council. Further, as the funding is only one off the shortfall would increase to just over £1m in future years. Changing the proposed scheme at this late stage would also require further consultation which would also incur additional costs. The recommendation is therefore not to apply for the transitional grant funding.

The proposed scheme is likely to have an impact on council tax collection levels as some claimants who previously received 100% council tax benefit will in future receive council tax support of around 79% and they will have council tax to pay. Council tax is accounted for in the Collection Fund and any surpluses/deficits are shared between the billing authority and major precepting authorities. Collection levels will therefore need to be monitored closely in 13/14 as the financial risk is higher than previously.

The administration grant covers both council tax and housing benefits administration and we have received notification that this will be reduced by £0.110m to £1.4m in 13/14 which has been included in the draft 2013/14 budget strategy. The grant is likely to further reduce in future years as housing benefits transfer to Universal Credit which is to be administered by DWP.

DCLG have stated that funding will be made available to local authorities, under the principle of new burdens, for the administration costs of moving to local council tax support schemes and initial funding of £30m was made available nationally to assist local authorities with the change (circa. £0.080m for Billing Authorities).

|                                                 |     |                                                                                                                                                                                                |
|-------------------------------------------------|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>LEGAL ISSUES</b>                             | Yes | The legal implications are set out in the body of the report which details the risks if a Council Tax Support Scheme is not made in accordance with the Acts and Regulations made there under. |
| <b>OTHER IMPACTS, RISKS &amp; OPPORTUNITIES</b> | No  |                                                                                                                                                                                                |
| <b>IMPACT ON SPECIFIC WARDS</b>                 | No  | Borough wide impact                                                                                                                                                                            |

## **PART B) – ADDITIONAL INFORMATION**

### **4. INFORMATION**

#### **4.1 Introduction and Background**

- 4.1.1 The Government announced as part of the Spending Review in 2010, that it would localise support for Council Tax from 2013/14, with an expectation that expenditure would be reduced by 10%. The proposals will take place within the wider programme of welfare reform. The framework is established in the Local Government Finance Bill and will become law in November 2013.
- 4.1.2 In May 2012 the Government issued a consultation document on the funding arrangements for Localising Support for Council Tax and a “Statement of Intent”. This provided local authorities with the certainty over the Government’s proposals that were needed in order to construct a scheme and begin detailed and conversations with interested parties in their area and to undertake a formal consultation and engagement exercises prior to the publication of detailed regulations.
- 4.1.3 Councils will be required to establish local Council Tax Support (CTS) schemes to be implemented in April 2013. The Welfare Reform Act 2012 contains provisions for Council Tax Benefit in its current form to be abolished across the whole of Great Britain. The Welfare Reform Act also contains provisions regarding the introduction of Universal Credit which will impact on the future administration of Housing Benefit. Proposals are for a phased approach to the introduction of a new single welfare credit which includes a housing element from Autumn 2013 for working age claimants.
- 4.1.4 The reform of council tax support will be accompanied by a new cash-limited government grant to councils which will be taken into account in setting the Council Tax Base and when forming the CTS local schemes. The support will be in the form of discount shown on the Council Tax demand notice. Whilst the new regulations provide councils with flexibility to set up their own local arrangements, the Government has expressed a clear intention in relation to certain aspects of a local scheme. These include:
- For pensioners there should be no change in the current level of awards as a result of this reform. This includes both existing and new benefit claimants.
  - Councils should also consider ensuring support for other vulnerable groups
  - Local schemes should support work incentives and in particular avoid disincentives to move into work.

## **4.2 Establishing a Local Scheme**

4.2.1 Every Billing Authority must introduce a local Council Tax Support scheme by 31 January 2013 otherwise a default scheme similar to the current Council Tax Benefit scheme will apply. A Council Tax Support scheme cannot be changed mid-financial year.

4.2.2 The CTS scheme must go through certain steps to comply with provisions in the Local Government Finance Act before it can be adopted by the Council, these are;

- Consultation with major precepting authorities (Police, Fire Service)
- Public Consultation

Consultation with the major precepting authorities (West Mercia Police and Shropshire Fire and Rescue Service) has been ongoing throughout the beginning of this process with various joint meetings with Section 151 Finance Officers, and the Assistant Director: Customer and People.

4.2.3 The Department for Communities and Local Government has issued a set of CTS scheme regulations that will apply to pension-age claimants. This is similar to the scheme for the current Council Tax Benefit so they will not be affected by the changes. Under the new scheme council tax support for pensioners will remain broadly as it is currently.

4.2.4 However, working age claimants will be affected by the localised Council Tax Support schemes and particularly the 10% reduction in the scheme funding. The 10% overall cut in funding actually equates to the equivalent of between a 20% and 30% cut in real terms for the working age group as we cannot reduce pensioners' current entitlement.

4.2.5 Failure to introduce a local scheme will result in the default scheme being imposed on the local authority. This would remove the ability to manage expenditure and design a scheme that meets local needs. The funding gap however would still be required to be found.

4.2.6 A requirement is placed on local authorities through statute to consider the needs of vulnerable groups when designing a local scheme. There are a number of key duties that councils should consider when looking at vulnerable groups. These include:

- i. Public Sector Equality Duty (Equality Act 2010)
- ii. Duty to mitigate the effects of child poverty (Child Poverty Act 2010)
- iii. The armed forces covenant
- iv. Duty to prevent homelessness (Housing Act 1996)

4.2.7 In addition to this, councils were asked by Government to consider how a local scheme can incentivise employment and make work pay.



- 4.2.8 Although the majority of the scheme for pension age customers will be specified by DCLG, there is one small area for local discretion. Within the current Council Tax Benefit scheme, local authorities can use their discretion to disregard the income derived from pensions and benefits paid in relation to employment in the armed services, however the Department for Work and Pensions do not subsidise any additional benefit paid out as a result.

Currently, all local authorities in the UK apply this discretion. The local policy for working age customers continues to apply this disregard in full, and it is also recommended that Council apply this discretion to the pension age customers.

### **4.3 Funding**

- 4.3.1 As part of the localisation of support for council tax, the Government will no longer provide 100% funding of council tax benefits to local authorities under the current funding regime, but will instead provide a grant to billing and major precepting authorities. The consultation on funding, published on 17 May 2012, proposes that the level of funding will be based on past proportions of council tax benefit expenditure (i.e. per local authority billing area) and that these will be applied to a future projection for total national subsidised council tax benefit expenditure, made by the Office for Budget Responsibility (OBR). The consultation document provided exemplification of the funding distribution using the latest information available from 2010/11 data. This will be updated for final allocations using 2011/12 data.
- 4.3.2 In addition to the 10% reduction in funding nationally, the grant also contains a further reduction based on the forecast that claimant numbers will fall in future years as the economy and unemployment levels improve. In reality the number of customers claiming Council Tax Benefit in the Borough has been dramatically increasing year on year since 2008 and continues to rise sharply each month.
- 4.3.3 There are currently 18,465 households in the Borough receiving CTB, which represents 26% of all households. The total value of Council Tax Benefit paid out last year was £14,707,676, of which:

|             | <b>Number</b> | <b>Percentage</b> | <b>CTB expenditure</b> |
|-------------|---------------|-------------------|------------------------|
| Pensioners  | 7753          | 42%               | £6.2 m                 |
| Working age | 10712         | 58%               | £8.5 m                 |

Of the 10,712 working age claimants, approximately 8,100 receive full Council Tax Benefit and therefore pay no Council Tax at all.

- 4.3.4 The funding also makes no provision for future increases in Council Tax, including the 2.5% increase in Council Tax that was approved for 2012/13.
- 4.3.5 In calculating the potential funding gap that we may face in 2013/14, we have estimated an increase in claimant numbers of 2% per annum, and assumed a further 2.5% increase in Council Tax. Although Council Tax collection levels for

2011/12 were strong at 97.8% considering the economic climate we have also built in an contingency to manage the risk for 2013/14 that the funding reduction is likely to lead to higher level of payment defaults.

| Potential Funding Shortfall                                                                                                                                                    | T&W | Police /Fire |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|--------------|
|                                                                                                                                                                                | £m  | £m           |
| "10%" Government Funding Reduction – announced; (T&W includes Parishes impact)                                                                                                 | 1.5 | 0.3          |
| Impact of inflation i.e. Council tax increases – 2.5% in 2012/13 and 2013/14                                                                                                   | 0.5 | 0.1          |
| Impact of increased caseload – estimated at 2% p.a.                                                                                                                            | 0.5 | 0.1          |
| Impact of reduced collection                                                                                                                                                   | 0.6 | 0.2          |
| Total Estimated Shortfall                                                                                                                                                      | 3.1 | 0.7          |
| Note: grant based on 10/11 figures which will be updated in the Autumn; assumes no loss of admin grant; assumes Police & Fire deal with impact on them (via. Collection fund). |     |              |

- 4.3.6 Authorities will be paid a fixed grant to enable them to provide council tax support. The grant will be paid to billing and major precepting authorities in proportion to their share of the council tax. The grant will be used to reduce their council tax requirement and help offset the reduction in the council tax base (as the new scheme is a discount it will reduce the Council's council tax base).
- 4.3.7 The funding is currently paid by way of a subsidy from the Department for Work and Pensions for the amount of Council Tax Benefit awarded and is demand-led. Future grant is not demand-led but cash-limited. This introduces new risks because future demand for Council Tax Support will now have to be funded by councils as demand rises and falls within the financial year. The DCLG grant will become part of the Local Government Financial Settlement announced each Autumn. Risk-sharing needs to be considered with our major preceptors and other billing authorities to ensure the funding gap can be covered.
- 4.3.8 Financial modelling has identified that the estimated total funding gap for Telford & Wrekin in 2013/14 is approximately £3.1 million; however there are many variables that will affect the actual deficit.
- 4.3.9 The options to fund this gap include;
- Reduce the level of Council Tax Support to working age claimants
  - Increase income through the new discretions for Council Tax exemptions
  - Increase Council Tax
  - Fund the deficit from elsewhere within Council budgets
  - A combination of the above

#### **4.4 Changes to Council Tax Discounts and Exemptions**

- 4.4.1 The Government proposes to allow billing authorities' greater discretion over applying discounts and exemptions for certain categories of property from April 2013. These changes to discounts and exemptions also support our wish to see vacant homes within the Borough reduced
- 4.4.2 In keeping with the Council's desire to encourage vacant properties back into use, the proposal is to maximise additional revenue using these technical reforms to Council Tax with the following changes:
- Reduce the Class A exemption to a 0% discount for the whole period
  - Reduce the Class C exemption to a 0% discount for the whole period
  - Introduce a 'premium' to charge 150% on dwellings left empty and unoccupied for more than 2 years
  - Reduce the second homes discount from 10% to 0%

A Class A exemption is awarded where a property is unfurnished and needs major repairs or is undergoing structural alterations to make it habitable (for up to 12 months only)

A Class C exemption is awarded where a property is unoccupied and unfurnished

- 4.4.3 There are a number of further empty property related exemptions which we do not have the discretion to alter, a summary of these is provided at Appendix C.
- 4.4.4 The estimated revenue that could be generated from these changes in 2013/14 amounts to £1.2 million which we recommend should be used to reduce the funding deficit within the Council Tax Support grant.
- 4.4.5 Formal approval for the changes to these discounts and exemptions will be sought from full Council in January 2013 when it is presented with Setting of the Council Tax Base report in January 2013.

#### **4.5 Proposals for a local Council Tax Support Scheme**

- 4.5.1 The funding shortfall for this Council after deducting the expected revenue from implementing the technical changes to Council Tax is approximately £1.9m.
- 4.5.2 For all working age claimants, Telford & Wrekin Council has considered the option of continuing the existing national Council Tax Benefit scheme rules and the impact of funding this by finding savings elsewhere within its budget, principally by making cuts to other services. However, with the budget pressures that we are already anticipating for next year, we are proposing to meet the deficit in government funding through reductions within the Council Tax Support scheme.
- 4.5.3 The Council has been guided by a number of key principles outlined from 4.5.5 onwards. Our proposed scheme is broadly based on the current Council Tax

Benefit scheme for working age claimants with a number of variations to meet the reduction in funding.

- 4.5.4 It is important to note that the scheme can be reviewed and amended on an annual basis as required. Any review of the scheme for year two and later years will need to take into account under or over achievement of the associated financial impact, changes to the claimant caseload, the management and numbers of Council Tax accounts.

4.5.5 **Principal 1 - The cut in funding should not mean cuts to other Council services**

If the Council kept the current Council Tax Benefit scheme it would need to fund the extra cost itself by cutting other Council services, however the new working age local Council Tax Support scheme for Telford & Wrekin should address the full funding cut.

4.5.6 **Principal 2 - The impact of the cut should be shared equally across all working age claimants**

The Council will seek to spread the impact of this Government cut as fairly as possible.

Current Council Tax Benefit rules mean that working age claimants who are in receipt of Income Support, Jobseekers Allowance (income based), Employment Support Allowance (income related) and other claimants with an income below the required level for their basic living needs generally receive 100% Council Tax Benefit and therefore do not pay any Council Tax.

Under the proposed T&W scheme, all working age claimants including those in receipt of the benefits listed above (unless they are defined as vulnerable) will be required to pay a contribution towards their Council Tax.

4.5.7 **Principal 3 - Vulnerable claimants should be protected from changes**

We intend to define severely disabled claimants as vulnerable and protect their payments. The Council recognises that severely disabled claimants often face additional challenges that affect their income and capacity to pay Council Tax through higher disability related living costs and in some cases, a limited ability to work

4.5.8 **Principal 4 - The needs of those with children or caring responsibilities should be recognised**

The Council has recognised the needs of claimants with children and caring responsibilities and will continue to include all of the specific features of the Council Tax Benefit scheme that are aimed at benefiting families or claimants with childcare and caring responsibilities. However the overall reduction in funding will still apply to those claimants not classified as vulnerable.

#### 4.5.8 **Principle 5 - The new scheme should not discourage claimants from retaining or starting low paid employment**

All of the current features of the scheme that are intended to give specific incentives to those Council Tax Benefit claimants that are in employment, or are considering taking on employment, will be retained. This is to ensure that our scheme supports the concept that 'work pays'.

4.5.9 The full Council Tax Support policy for Telford & Wrekin Council, known as the "Council Tax Reduction Scheme Policy under S13a (s) and Schedule 1a of the Local Government Finance Act 1992" is provided at Appendix D. This policy sets out the detail of the scheme that will be operated by the Council in 2013/14.

4.5.10 For the most part, our local scheme follows the same basic rules of the default national scheme, with a number of key differences which follow the 5 main principals. These are:

- Customers who meet the specific definition of severe disability contained within the policy will be protected from any reduction in benefit. This will also apply to customers who meet the criteria for receiving a war compensation related benefit or pension.
- Customers who have in excess of £6000 in capital will not be entitled to Council tax Support. The current Council Tax Benefit scheme has an absolute cap of £16,000, but any capital between £6000 and £16,000 reduce the amount of benefit paid to the customer. The first £6000 will however continue to be disregarded in full.
- The maximum period that an award of Council Tax Support can be backdated will be reduced from the current 6 months, to 1 calendar month from the date of the application.
- At present, if you are the only person in your household liable to pay Council Tax, but another adult in your household has a low income, you may be able to receive Council Tax Benefit of up to 25%. This can be paid regardless of the relative prosperity of the Tax Payer. This benefit, known as Second Adult Rebate will be removed in our local scheme.
- Some customers already receive relatively low levels of Council Tax Benefit as the means test calculation assesses them as being able to pay a proportion of their Council Tax. We intend to introduce a minimum award of £2.50 a week, removing payment to those claimants that only qualify for relatively small amounts of rebate.

4.5.11 The overall effect of removing the empty property discounts, introducing a lower capital level, restricting backdating, removing second adult rebate and introducing a minimum weekly award is to enable us to keep the reduction in benefit for most working age customers to around 21 – 25%, as opposed to up to 30% if we were not to introduce these changes.

4.5.12 The final calculation of the percentage reduction in Council Tax Support for non-vulnerable working age customers will not be able to be undertaken until the Council Tax is set for 2013/14. Therefore the Council Tax Setting report that will be presented to full Council in March will contain the final percentage reduction figure for approval.

4.5.13 To mitigate some of the impact of this scheme, the Council will develop a Council Tax Support Exceptional Hardship Fund to support vulnerable residents with extreme hardship arising as a result of the reduction in Council Tax Support.

4.5.14 We intend to set aside a sum of £65,000 for 2013/14 from which to award these discretionary payments. The general principals of the scheme are provided at Appendix E, however a more detailed report outlining specific entitlement criteria for the fund will be presented to a future Cabinet meeting before the scheme commences.

#### **4.6 Transitional Funding**

4.6.1 On the 19<sup>th</sup> October the Department for Communities and Local Government released details of a further £100m of transitional funding available to Local Authorities for the funding of their Council Tax Support schemes in 2013/14.

4.6.2 Authorities can make an application for additional funding after 31<sup>st</sup> January 2013. However, if the additional funding is granted, DCLG will place a number of further limitations on the design of the local scheme.

4.6.3 The additional funding we could apply for would total £336k. This would reduce our funding gap to around £2.8 million. However, in designing our scheme for working age customers, the following limitations would have to be applied.

- We would be unable to reduce the benefit entitlement of customers who currently pay no Council Tax at all by more than 8.5%. Therefore from those 8,753 customers we would only be able to collect an additional £542k (8.5% reduction in CTB).
- For working age customers who are not receiving full benefit, we cannot increase the earnings taper by more than 25%. The taper is the amount of additional Council Tax Benefit they receive as a percentage of the income that they receive above their basic means tested level. Within our local scheme we are intending to retain the existing taper level of 20% to ensure that we did not create a work disincentive. If we were to increase the taper to the maximum this transitional funding allows, we could collect an additional £189k in Council Tax from these customers to help offset the deficit, however this is not included in our proposed new scheme.

- We would have to ensure that our calculation of Council Tax Support was based on 100% of Council Tax liability.
  - We could not dramatically increase non-dependant deductions (our scheme proposes no change to non-dependant deductions)
  - If we decide to apply for this additional funding and modify our scheme, the government has advised that we would have to re-consult on our revised scheme. As this additional offer was only received during the final week of our consultation exercise, accepting it would add a further delay and impact on our implementation deadline of 1<sup>st</sup> April 2013.
- 4.6.4 If we leave the other elements of our proposal unchanged, i.e. protection of severely disabled customers, removal of empty property discounts, limiting capital and backdating, then the overall effect of this is that the funding gap in our Council Tax Support scheme for 2013/14 would be £679k which we would **not** be able to pass on to Council Tax Benefit claimants by further reductions to their benefit.
- 4.6.5 This would effectively leave the Council with an increase of an estimated £679k in its overall budget deficit for the first year, however it is clear that this additional grant is only for the first year and we would have to revisit the issue of the larger funding gap of over £1m for 2014/15.

#### **4.7 Consultation**

- 4.7.1 A formal consultation on the proposals with residents and stakeholders took place between the 28<sup>th</sup> August 2012 and the 26<sup>th</sup> October 2012. They were asked to comment on the proposals through a number of channels.
- A special edition of Your Voice was sent to every home in the Borough
  - All key stakeholders and a significant number of landlords were written to directly
  - A survey was available both online and paper copies, to which 308 responses were received
  - A public engagement event was held at civic offices
  - Conversation and feedback was encouraged on Twitter
  - People were invited to send additional comments via post or email to the Council
  - A stakeholder consultation event was held to encourage stakeholders to complete the questionnaire or respond formally to the consultation

- 4.7.2 An executive summary of the result of the consultation are provided at Appendix F.
- 4.7.3 All of the five principals of the scheme were supported by the majority of respondents.
- 4.7.4 All of the nine detailed features of the scheme were supported by the majority of respondents, with the proposals regarding the empty property discounts and charges gaining the most support.
- 4.7.5 The proposal was also reviewed by the joint Co-Operative and Communities and Budget & Finance Scrutiny Committees. Their response to the consultation is provided at Appendix A, but in essence, having considered the proposal and a range of alternative options they have recommended the proposal as fairest and best possible under the circumstances.
- 4.7.6 The scrutiny committees also considered the offer of the transitional funding from the Department for Community and Local Government. Their response is provided at Appendix B and in summary is that the transitional funding should not be applied for.

#### **4.9 Review of the scheme**

- 4.9.1 The Council expects to review the scheme for 2014 following on from the first year of implementation. The Council will be learning from its operation of the new scheme and from wider welfare reform changes. with the objective of being able to improve and tailor the level of support to reflect the level of funding provided by the government through minor changes to the rules of entitlement and assessment. New software is also likely to cater for additional options that cannot be delivered in the first year of the scheme and this may facilitate changes to the scheme that have been identified as desirable but at this stage are not able to be implemented due to constraints both in time and technology

#### **5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION**

- 5.1 These proposals will impact on all current and future working age recipients of Council Tax Benefit/Council Tax Support and Council Tax payers who would receive an empty property discount.
- 5.2 The engagement activities have also identified that additional consideration should be given to those with limited financial management skills, mental health problems and anxiety in completing forms.
- 5.3 Mitigating actions include:-
- Provision of an Exceptional Hardship Fund
  - Protection for those customers deemed as “vulnerable” which will include severely disabled people



- Maintenance of core aspects of the current means tested scheme that provides additional assistance where there are dependants, disability and caring responsibilities.
- Close monitoring of the scheme throughout the first year to ensure unanticipated implications and effects are reviewed and addressed.

A full Community Impact Assessment is included at Appendix G

## **6. PREVIOUS MINUTES**

None

## **7. BACKGROUND PAPERS**

Appendix A – Response from Scrutiny to the consultation

Appendix B – Response from Scrutiny to the transitional grant

Appendix C – Summary of empty property related Council Tax exemptions and discounts

Appendix D - Council Tax Reduction Scheme Policy under S13a (s) and Schedule 1a of the Local Government Finance Act 1992

Appendix E – Council Tax Support Exceptional Hardship Fund Principals

Appendix F – Executive Summary of Council Tax Support consultation analysis

Appendix G – Community Impact Assessment

**Report prepared by Lee Higgins, Benefit Service Delivery Manager, Telephone: 01952 383835**

**Telford & Wrekin Council**  
**Council Tax Reduction Scheme Policy**  
S13a and Schedule 1a of the Local Government Finance Act 1992

|                                                                                                                                                                                                     |    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| Telford & Wrekin Council - Council Tax Reduction Scheme Policy .....                                                                                                                                | 1  |
| 1.0 Introduction to the Council Tax Reduction Scheme (Council Tax Support) .....                                                                                                                    | 7  |
| The scheme for working age applicants – the council’s local policy .....                                                                                                                            | 7  |
| Class A .....                                                                                                                                                                                       | 7  |
| Class B .....                                                                                                                                                                                       | 8  |
| The scheme for pension age applicants – Central Government’s scheme as defined by the Council<br>Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012 .....                    | 8  |
| Reductions attracted by classes: protection of pensioner-related awards .....                                                                                                                       | 10 |
| Class A Reduction (support) .....                                                                                                                                                                   | 10 |
| Class A – special provisions for state pension credit .....                                                                                                                                         | 10 |
| Class B Reduction (support) .....                                                                                                                                                                   | 10 |
| Class C Reduction (support) .....                                                                                                                                                                   | 10 |
| Additional information in relation to the pension age scheme .....                                                                                                                                  | 11 |
| Council Tax Reduction Scheme .....                                                                                                                                                                  | 14 |
| Details of support to be given for working age applicants for the financial year 2013/2014 .....                                                                                                    | 14 |
| Sections 2- 8 .....                                                                                                                                                                                 | 15 |
| Definitions and interpretation .....                                                                                                                                                                | 15 |
| 2.0 Interpretation – an explanation of the terms used within this policy .....                                                                                                                      | 16 |
| 3.0 Definition of non-dependant .....                                                                                                                                                               | 23 |
| 4.0 Requirement to provide a National Insurance Number .....                                                                                                                                        | 24 |
| 5.0 Persons who have attained the qualifying age for state pension credit or who are of<br>working age and who have a partner who has attained the qualifying age for state pension<br>credit ..... | 24 |
| 6.0 Remunerative work .....                                                                                                                                                                         | 24 |
| 7.0 Persons from abroad – exempted from claiming under this scheme .....                                                                                                                            | 25 |
| 8.0 Temporary Absence (period of absence) .....                                                                                                                                                     | 27 |
| Sections 9 - 11 .....                                                                                                                                                                               | 29 |
| The family for Council Tax Support purposes .....                                                                                                                                                   | 29 |
| 9.0 Membership of a family .....                                                                                                                                                                    | 30 |
| 10.0 Circumstances in which a person is to be treated as responsible (or not responsible) for a<br>child or young person .....                                                                      | 30 |
| 11.0 Circumstances in which a child or young person is to be treated as being or not being a<br>member of the household .....                                                                       | 31 |
| Sections 12 – 14 & Schedule 1 .....                                                                                                                                                                 | 32 |
| Living Allowances (Applicable Amounts) for Council Tax Support purposes .....                                                                                                                       | 32 |
| 12.0 Applicable amounts (Living Allowances) .....                                                                                                                                                   | 33 |
| 13.0 Polygamous marriages .....                                                                                                                                                                     | 33 |
| 14.0 Applicable amount: persons who are not pensioners who have an award of<br>universal credit .....                                                                                               | 33 |
| Sections 15 – 32 & Schedules 3 & 4 .....                                                                                                                                                            | 35 |
| Definition and the treatment of income for Council Tax Support purposes .....                                                                                                                       | 35 |
| 15.0 Calculation of income and capital of members of applicant’s family and of a polygamous<br>marriage .....                                                                                       | 36 |



|      |                                                                                                 |    |
|------|-------------------------------------------------------------------------------------------------|----|
| 16.0 | Circumstances in which capital and income of non-dependant is to be treated as applicant's..... | 37 |
| 17.0 | Calculation of income on a weekly basis.....                                                    | 37 |
| 18.0 | Treatment of child care charges .....                                                           | 37 |
| 19.0 | Average weekly earnings of employed earners.....                                                | 41 |
| 20.0 | Average weekly earnings of self-employed earners.....                                           | 42 |
| 21.0 | Average weekly income other than earnings.....                                                  | 42 |
| 22.0 | Calculation of average weekly income from tax credits.....                                      | 42 |
| 23.0 | Calculation of weekly income .....                                                              | 43 |
| 24.0 | Disregard of changes in tax, contributions etc. ....                                            | 43 |
| 25.0 | Earnings of employed earners.....                                                               | 43 |
| 26.0 | Calculation of net earnings of employed earners.....                                            | 44 |
| 27.0 | Earnings of self-employed earners.....                                                          | 45 |
| 28.0 | Calculation of net profit of self-employed earners .....                                        | 45 |
| 29.0 | Deduction of tax and contributions of self-employed earners.....                                | 47 |
| 30.0 | Calculation of income other than earnings .....                                                 | 48 |
| 31.0 | Capital treated as income.....                                                                  | 49 |
| 32.0 | Notional income .....                                                                           | 50 |
|      | Sections 33 – 42 & Schedule 5 .....                                                             | 53 |
|      | Definition and the treatment of capital for Council Tax Support purposes .....                  | 53 |
| 33.0 | Capital limit.....                                                                              | 54 |
| 34.0 | Calculation of capital.....                                                                     | 54 |
| 35.0 | Disregard of capital of child and young person .....                                            | 54 |
| 36.0 | Income treated as capital.....                                                                  | 54 |
| 37.0 | Calculation of capital in the United Kingdom.....                                               | 54 |
| 38.0 | Calculation of capital outside the United Kingdom .....                                         | 55 |
| 39.0 | Notional capital .....                                                                          | 55 |
| 40.0 | Diminishing notional capital rule.....                                                          | 56 |
| 41.0 | Capital jointly held .....                                                                      | 59 |
| 42.0 | Not used .....                                                                                  | 59 |
|      | Sections 43 - 56 .....                                                                          | 60 |
|      | Definition and the treatment of students for Council Tax Support purposes .....                 | 60 |
| 43.0 | Student related definitions.....                                                                | 61 |
| 44.0 | Treatment of students .....                                                                     | 64 |
| 45.0 | Students who are excluded from entitlement to council tax support.....                          | 64 |
| 46.0 | Calculation of grant income .....                                                               | 66 |
| 47.0 | Calculation of covenant income where a contribution is assessed .....                           | 67 |
| 48.0 | Covenant income where no grant income or no contribution is assessed .....                      | 67 |
| 49.0 | Student Covenant Income and Grant income – non disregard.....                                   | 68 |
| 50.0 | Other amounts to be disregarded .....                                                           | 68 |

|                                                                                                                                                                           |    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| 51.0 Treatment of student loans.....                                                                                                                                      | 68 |
| 51A.0 Treatment of fee loans .....                                                                                                                                        | 69 |
| 52.0 Treatment of payments from access funds.....                                                                                                                         | 69 |
| 53.0 Disregard of contribution .....                                                                                                                                      | 70 |
| 54.0 Further disregard of student's income .....                                                                                                                          | 70 |
| 55.0 Income treated as capital.....                                                                                                                                       | 70 |
| 56.0 Disregard of changes occurring during summer vacation.....                                                                                                           | 70 |
| Sections 57 – 63 .....                                                                                                                                                    | 71 |
| The calculation and amount of Council Tax Support.....                                                                                                                    | 71 |
| 57.0 Maximum council tax support .....                                                                                                                                    | 72 |
| 57A Minimum Council Tax Support.....                                                                                                                                      | 72 |
| 58.0 Non-dependant deductions .....                                                                                                                                       | 72 |
| 59.0 Council tax support taper (applies to persons defined within Class B).....                                                                                           | 74 |
| 59A.0 Reduction of entitlement (Classes A & B).....                                                                                                                       | 74 |
| 60.0 Extended reductions .....                                                                                                                                            | 74 |
| 60A.0 Duration of extended reduction period.....                                                                                                                          | 75 |
| 60B.0 Amount of extended reduction.....                                                                                                                                   | 75 |
| 60C Extended reductions – movers.....                                                                                                                                     | 76 |
| 60D.0 Relationship between extended reduction and entitlement to council tax support under the general conditions of entitlement.....                                     | 76 |
| 61.0 Extended reductions (qualifying contributory benefits).....                                                                                                          | 76 |
| 61A.0 Duration of extended reduction period (qualifying contributory benefits) .....                                                                                      | 77 |
| 61B.0 Amount of extended reduction (qualifying contributory benefits) .....                                                                                               | 77 |
| 61C.0 Extended reductions (qualifying contributory benefits) – movers .....                                                                                               | 78 |
| 61D.0 Relationship between extended reduction (qualifying contributory benefits) and entitlement to council tax support under the general conditions of entitlement ..... | 78 |
| 61E.0 Extended reductions: - Movers Generally .....                                                                                                                       | 78 |
| 62.0 - 63.0 Not used.....                                                                                                                                                 | 79 |
| Sections 64 – 67 .....                                                                                                                                                    | 80 |
| Changes of circumstances within Council Tax Support .....                                                                                                                 | 80 |
| 64.0 Date on which entitlement is to begin.....                                                                                                                           | 81 |
| 65.0 - 66.0 Not Used .....                                                                                                                                                | 81 |
| 67.0 Date on which change of circumstances is to take effect.....                                                                                                         | 81 |
| Sections 68– 74A .....                                                                                                                                                    | 83 |
| Claiming and the treatment of claims for Council Tax Support purposes .....                                                                                               | 83 |
| 68.0 Who may claim .....                                                                                                                                                  | 84 |
| 69.0 Procedure by which a person may apply for a reduction under an authority's scheme.....                                                                               | 84 |
| 69A.0 Date on which a claim made.....                                                                                                                                     | 86 |
| 70.0 Submission of evidence electronically .....                                                                                                                          | 88 |
| 71.0 Use of telephone provided evidence.....                                                                                                                              | 88 |
| 72.0 Evidence and information .....                                                                                                                                       | 88 |

|       |                                                                                                                             |     |
|-------|-----------------------------------------------------------------------------------------------------------------------------|-----|
| 73.0  | Amendment and withdrawal of claim .....                                                                                     | 89  |
| 74.0  | Duty to notify changes of circumstances .....                                                                               | 89  |
|       | Sections 75- 90 .....                                                                                                       | 91  |
|       | Decisions, decision notices and awards of Council Tax Support.....                                                          | 91  |
| 75.0  | Decisions by the authority.....                                                                                             | 92  |
| 76.0  | Notification of decision.....                                                                                               | 92  |
| 77.0  | Time and manner of granting council tax support .....                                                                       | 92  |
| 78.0  | Persons to whom support is to be paid .....                                                                                 | 93  |
| 79.0  | Shortfall in support / reduction.....                                                                                       | 94  |
| 80.0  | Payment on the death of the person entitled.....                                                                            | 94  |
| 81.0  | Offsetting.....                                                                                                             | 94  |
|       | 82 – 87 Not used .....                                                                                                      | 94  |
| 88.0  | Diminution of notional capital.....                                                                                         | 94  |
| 89.0  | Not used.....                                                                                                               | 94  |
| 90.0  | Not used.....                                                                                                               | 94  |
|       | Sections 91 – 94 .....                                                                                                      | 96  |
|       | Collection, holding and forwarding of information for Council Tax Support purposes.....                                     | 96  |
| 91.0  | Use of information from and to the Department of Work and Pensions (DWP) and Her Majesty's Revenues and Customs (HMRC)..... | 97  |
| 92.0  | Collection of information .....                                                                                             | 97  |
| 93.0  | Recording and holding information.....                                                                                      | 97  |
| 94.0  | Forwarding of information .....                                                                                             | 97  |
|       | Sections 95 – 98 .....                                                                                                      | 98  |
|       | Revisions, Written Statements, Termination of Council Tax Support .....                                                     | 98  |
| 95.0  | Persons affected by Decisions.....                                                                                          | 99  |
| 96.0  | Revisions of Decisions.....                                                                                                 | 99  |
| 97.0  | Written Statements.....                                                                                                     | 99  |
| 98.0  | Terminations.....                                                                                                           | 99  |
|       | Section 99.....                                                                                                             | 100 |
|       | Appeals against the authority's decisions .....                                                                             | 100 |
| 99.0  | Procedure by which a person may make an appeal against certain decisions of the authority .....                             | 101 |
|       | Section 100.....                                                                                                            | 102 |
|       | Procedure for applying for a discretionary reduction.....                                                                   | 102 |
| 100.0 | Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act.....                  | 103 |
|       | Section 101 - 106.....                                                                                                      | 104 |
|       | Electronic Communication.....                                                                                               | 104 |
| 101.0 | Interpretation .....                                                                                                        | 105 |
| 102.0 | Use of intermediaries.....                                                                                                  | 105 |
| 103.0 | Effect of delivering information by means of electronic communication .....                                                 | 105 |
| 104.0 | Proof of identity of sender or recipient of information.....                                                                | 106 |
| 105.  | Proof of delivery of information .....                                                                                      | 106 |

|                                                                               |     |
|-------------------------------------------------------------------------------|-----|
| 106.0 Proof of content of information .....                                   | 106 |
| Section 107.....                                                              | 109 |
| Counter Fraud and Compliance .....                                            | 109 |
| 107.0 Counter Fraud and compliance.....                                       | 110 |
| Schedule 1.....                                                               | 111 |
| Applicable Amounts (Living Allowances) .....                                  | 111 |
| Personal Allowance .....                                                      | 112 |
| Family Premiums.....                                                          | 112 |
| Premiums.....                                                                 | 113 |
| Disability Premium.....                                                       | 113 |
| Additional Condition for the Disability Premiums .....                        | 113 |
| Severe Disability Premiums.....                                               | 113 |
| Enhanced Disability Premium .....                                             | 114 |
| Disabled Child Premium.....                                                   | 114 |
| Carer Premium .....                                                           | 114 |
| Persons in receipt of concessionary payments .....                            | 114 |
| Persons in receipt of benefit for another .....                               | 114 |
| Amounts of Premiums.....                                                      | 114 |
| The components.....                                                           | 115 |
| Transitional Addition.....                                                    | 115 |
| Amount of transitional addition .....                                         | 115 |
| Schedule 2.....                                                               | 116 |
| Not used.....                                                                 | 116 |
| Schedule 3.....                                                               | 118 |
| Sums to be disregarded in the calculation of earnings.....                    | 118 |
| Schedule 4.....                                                               | 124 |
| Sums to be disregarded in the calculation of income other than earnings ..... | 124 |
| Schedule 5.....                                                               | 135 |
| Capital to be disregarded.....                                                | 135 |

## 1.0 Introduction to the Council Tax Reduction Scheme (Council Tax Support)

- 1.1 The following policy has been adopted by the Council on 22<sup>nd</sup> November 2012 and details the Council Tax Reduction scheme adopted by the authority for the period 1<sup>st</sup> April 2013 until 31<sup>st</sup> March 2014.
- 1.2 This policy details how the scheme will operate for both pension credit age and working age applicants and in accordance with Section 13a of the Local Government Finance Act 1992 specifies the classes of person who are to be entitled to a reduction under the scheme and is effective from 1<sup>st</sup> April 2013 for a period of one financial year.
- 1.3 The scheme in respect of pension age applicants is defined by Central Government within the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 and the Local Government Finance Act 1992 (as amended). The Council has **no** discretion in relation to the calculation of council tax support in respect of the pension age scheme and it is designed to provide broadly the same level of support provided within the previous (Council Tax Benefit) scheme.

### The scheme for working age applicants – the council's local policy

- 1.4 The adopted scheme for working age applicants is a means test, which compares income against an assessment of living allowances or *applicable amounts* (unless otherwise stated). Full details of the working age policy of the authority are contained within this document from section 2 onwards. The authority is required to specify a scheme for working age and therefore this policy only applies to a person who;
- has not attained the qualifying age for state pension credit; or
  - has attained the qualifying age for state pension credit if he, and his partner, is a person on income support, on an income-based jobseeker's allowance or on an income-related employment and support allowance.
- 1.5 This policy shall not apply in relation to any person if he, or if he has a partner, his partner, has attained the qualifying age for state pension credit. The scheme shall not apply to any applicant who is subject to immigration control under Section 115 of the Immigration and Asylum Act 1999 and non-economically active EEA nationals.
- 1.6 The Council has resolved that there will be *two* classes of persons who will receive a reduction in line with adopted scheme (from hereafter referred to as Support). There will be *two* main classes prescribed for, for each of which there will be a number of qualifying criteria. In all cases individuals must not be of a prescribed class exempted from support as specified within section 7 of this policy.

#### Class A

To obtain support the individual (or partner) must:

- have not attained the qualifying age for state pension credit<sup>1</sup>; or
- has attained the qualifying age for state pension credit if he, and his partner, is a person on income support, on an income-based jobseeker's allowance or on an income-related employment and support allowance or in receipt of an award Universal Credit;
- be liable to pay council tax in respect of a dwelling in which he is solely or mainly resident;
- is not deemed to be absent from the dwelling;
- who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;

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<sup>1</sup> Section 5 of this policy



- f. be somebody in respect of whom a maximum council tax support<sup>2</sup> amount can be calculated;
  - g. not have capital savings above £6,000<sup>3</sup>;
  - h. be a person in respect of whom a day in which s/he is liable to pay council tax falls within a week in respect of which the person's *income*<sup>4</sup> is **less** than their (living allowance) *applicable amount*<sup>5</sup> or the applicant or partner is in receipt of Income Support, Jobseekers allowance (income based) or Employment and Support Allowance (income related); and
  - i. has made a valid application for support<sup>6</sup>.
- Maximum council tax reduction stated in d. above is defined within section 57 of this policy

### Class B

To obtain support the individual (or partner) must:

- a. have not attained the qualifying age for state pension credit<sup>7</sup>;
- b. be liable to pay council tax in respect of a dwelling in which they are solely or mainly resident;
- c. is not deemed to be absent from the dwelling;
- d. who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- e. be somebody in respect of whom a maximum council tax support<sup>8</sup> amount can be calculated;
- f. not have capital savings above £6,000<sup>9</sup>;
- g. be a person in respect of whom a day in which s/he is liable to pay council tax falls within a week in respect of which the person's *income*<sup>10</sup> is **more** than their (living allowances) *applicable amount*<sup>11</sup>;
- h. have made a valid application for support<sup>12</sup>;
- i. be a person in respect of whom amount A exceeds amount B where
  - (i) amount A is the maximum council tax reduction in respect of the day in the applicant's case; and £
  - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount.

Maximum council tax reduction stated in d. above is defined within section 57 of this policy

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

- 1.7 There are three main classes under the prescribed pension credit age scheme, for each of which there are a number of qualifying criteria. In all cases individuals must not be of a prescribed class exempted from support, such as a person from abroad with limited leave to remain. The definition of a pension credit age person is a person who;
- has attained the qualifying age for state pension credit; and
  - is not, or, if he has a partner, his partner is not

<sup>2</sup> Sections 57 to 63 of this policy

<sup>3</sup> Sections 33 to 42 and Schedule 5 of this policy

<sup>4</sup> Sections 15 to 32 and Schedules 3 and 4 of this policy

<sup>5</sup> Sections 12 to 14 and Schedule 1 of this policy

<sup>6</sup> Sections 68 to 74a of this policy

<sup>7</sup> Section 5 of this policy

<sup>8</sup> Sections 57 to 63 of this policy

<sup>9</sup> Sections 33 to 42 and Schedule 5 of this policy

<sup>10</sup> Sections 15 to 32 and Schedules 3 and 4 of this policy

<sup>11</sup> Sections 12 to 14 and Schedule 1 of this policy

<sup>12</sup> Sections 68 to 74a of this policy

- o a person on income support, on an income-based jobseeker's allowance or on an income-related employment and support allowance; or
- o a person with an award of universal credit

The three prescribed classes are as follows;

**Class A: pensioners whose income is less than the applicable amount.**

On any day Class A consists of any person who is a pensioner:

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

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

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

- a. who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- b. who, subject to paragraph 5 of Schedule 1A of the Local Government Finance Act 1992, is not absent from the dwelling throughout the day;
- c. in respect of whom a maximum council tax reduction amount can be calculated;
- d. who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- e. whose income for the relevant week is greater than his applicable amount calculated in accordance with paragraph 9 and Schedule 2 to the Local Government Finance Act 1992;
- f. in respect of whom amount A exceeds amount B where;
  - (i) amount A is the maximum council tax reduction in respect of the day in the applicant's case; and £
  - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount; and
- g. who has made an application for a reduction under the authority's scheme.

**Class C: alternative maximum council tax reduction**

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

- a. who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- b. who, subject to paragraph 5 of the Local Government Finance Act 1992, is not absent from the dwelling throughout the day;
- c. in respect of whom a maximum council tax reduction amount can be calculated;
- d. who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act and excluded from the authority's scheme;
- e. who has made an application for a reduction under the authority's scheme; and
- f. in relation to whom the condition below is met.

The condition referred to in sub-paragraph f) is that no other resident of the dwelling is liable to pay rent to the applicant in respect of the dwelling and there is an alternative maximum council tax reduction in respect of the day in the case of that person which is

derived from the income, or aggregate income, of one or more residents to whom this subparagraph applies.

The above applies to any other resident of the dwelling who:

- a. is not a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount;
- b. is not a person who is liable for council tax solely in consequence of the provisions of section 9 of the 1992 Act (spouse's or civil partner's joint and several liability for tax);
- c. is not a person who is residing with a couple or with the members of a polygamous marriage where the applicant is a member of that couple or of that marriage and—
  - (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount; or
  - (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;
- d. is not a person who jointly with the applicant falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or
- e. is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

#### **Reductions attracted by classes: protection of pensioner-related awards**

##### **Class A Reduction (support)**

- 1.8 If an individual matches the criteria in Class A, including that *income* is less than their *applicable amount (living allowances)* (as set out in regulations) in their case, that person qualifies for 100% reduction on their council tax liability.

##### **Class A – special provisions for state pension credit**

- 1.9 Central Government regulations set out that an individual in receipt of state pension credit guarantee credit from the Department for Work and Pensions (Pensions Service) will have both his income and capital counted as zero. This means that the individual's income will automatically be less than their applicable amount, and they will qualify for 100% reduction of their council tax liability.
- 1.10 Where a person has been awarded only the *savings credit* element of state pension credit, the council is required to use the information in relation to income and capital provided by the Department of Work and Pensions (DWP) Pension Service when calculating their reduction in liability.

##### **Class B Reduction (support)**

- 1.11 If an individual matches the criteria in Class B, it will mean the individual's *income* is greater than their *applicable amount (living allowances)* (as defined in central government regulations). Twenty per cent of the difference between the two will be subtracted from this individual's council tax liability.

##### **Class C Reduction (support)**

- 1.12 This may be awarded in respect of a second adult sharing the household who would normally be expected to contribute towards the council tax bill, but who cannot afford to do so, based on their low income as indicated by prescribed low wages bands or prescribed working-age benefit indicators.

- 1.13 This reduction will equate to the *second adult rebate* available under the Council Tax Benefit scheme and may be awarded at 100%, 25%, 15% or 7.5% of the council tax liability, depending on individual circumstances. As follows;

| Second Adult                                                                                                                                                                                                                                                                                        | Alternative Maximum Council Tax Support                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) Where the second adult or all second adults are in receipt of income support, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker's allowance;                                                                               | 25 per cent of the council tax due in respect of that day;                                                                                                                                                                         |
| (b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, an income-related employment and support allowance, state pension credit or an income-based jobseeker's allowance– | is less than £180.00 per week; - 15 per cent of the council tax due in respect of that day;<br><br>is not less than £180.00 per week but less than £235.00 per week; - 7.5 per cent of the council tax due in respect of that day; |
| (c) If the dwelling is occupied by a second adult/adults on state pension-credit, income-related jobseeker's allowance, income-related employment and support allowance or income support, living with a full-time student(s).                                                                      | 100 per cent. of the council tax due in respect of that day.                                                                                                                                                                       |

#### Additional information in relation to the pension age scheme

##### Non-dependent deductions

- 1.14 Once the reduction award is calculated, it will be subject to a downwards adjustment to take into account non-dependent adults that normally reside in the dwelling who would be expected to contribute to council tax. Deductions for such non-dependent adults will be prescribed by central government

##### Living allowance – the applicable amount

- 1.15 The individual's *living allowance*, or *applicable amount*, is made up of four elements set within central government regulations. These will be:
- a personal allowance in respect of the applicant;
  - an amount in respect of any child or young person who is part of his family;
  - a *family premium* element (where the applicant is part of a family of which at least one member is a child or young person); and
  - any *premium* amount, set out in central government regulations, which is applicable to the individual.

##### Calculation of income and capital

- 1.17 Income and capital will be calculated for a person who has attained the qualifying age for state pension credit in line with provisions under The Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012. The income and capital of an applicant's partner (or, to mitigate the risk of over-claiming in a polygamous marriage, partners) will continue to be treated as income of the applicant.

- 1.18 Income or capital of any child or young person will *not* be treated as income or capital of the applicant.

#### **Income and capital for those on state pension credit**

- 1.19 For those in receipt of the *guarantee credit* element of state pension credit, the whole of their income and capital will be disregarded. This will mean that they automatically qualify, under Class A, for 100% council tax support.
- 1.20 Where a person has been awarded only the *savings credit* element of state pension credit, the council is required to use the information in relation to income and capital provided by the Department of Work and Pensions (DWP) Pension Service when calculating their reduction in liability.

#### **Calculation of income where a person is not in receipt of state pension credit**

- 1.21 For those who have reached the qualifying age for state pension credit, but are not in receipt of this state pension credit, provisions relating to income, its calculation on a weekly basis, what is to be regarded as income and what is to be disregarded as income in line with the Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012

#### **Calculation of capital**

#### **Calculation of capital where a person is not in receipt of state pension credit**

- 1.22 Provisions relating to capital will operate in accordance Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012.

#### **Disregard of certain incomes**

- 1.23 For those who have reached the qualifying age for state pension credit, the Council has resolved to disregard in total the following;
- (a) a war disablement pension;
  - (b) a war widow's pension or war widower's pension;
  - (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
  - (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
  - (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
  - (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
  - (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

#### **Tariff income on capital**

- 1.24 Once an amount of capital is calculated, net of any amounts to be disregarded, this will be treated as if it is income of £1 for every £500 (or part of £500) in excess of £10,000.

### Calculation of Support

- 1.25 Once the total income amount has been calculated, it will be compared with the *applicable amount (living allowance)*, to determine whether the individual falls into Class A (income less than applicable amount) or Class B (income greater than applicable amount).
- 1.26 Persons in Class A will receive 100% council tax reduction against their council tax liability. (This liability will be net of any council tax discounts under the Local Government Finance Act 1992 and non-dependent deductions under the central government regulations for persons of pension credit eligible age).
- 1.27 Persons in Class B will receive support equivalent to 20% of the difference between their income and applicable amount on their net council tax liability.
- 1.28 Where a person of pension credit age is jointly liable for council tax and who has a second adult who is not their partner and does not pay rent in respect of the dwelling, they may fall under Class C, where conditions the set out in regulations are met.

### Applications and evidence

- 1.29 The Council may accept applications in writing, electronically, by telephone or by any other means, as it feels appropriate. The date of claim will be the date of first contact. Withdrawals can be effected in the same way and will have effect on the same day any notice of withdrawal is received by the authority. The authority may request any such information; certificates, documents or evidence as it feels is reasonable to establish and verify the claim for support.

### Entitlement

- 1.30 Entitlement to council tax support for persons who have attained the age for state pension credit begins on the first day of the first week after the application is made. The Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012 set out that people of pension- credit eligible age will be able to back-date their applications by three months, provided they were entitled to pension-credit age reduction at the start of the three month back-dated period. Advanced applications will be accepted.

### Decisions

- 1.31 The regulations for the scheme for persons who have attained the qualifying age for state pension credit require the authority to notify the applicant in writing of its decision within 14 days from the date that all relevant information and evidence relating to the application has been received by the billing authority, and include information on how an appeal to the council tax bill can be made by the applicant initially to the billing authority and eventually, if appropriate to the Valuation Tribunal

### Changes of circumstance

- 1.32 Regulations set out the dates from which various prescribed changes of circumstance are to take effect. In particular, the Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012 set out the dates from which changes of circumstance in relation to awards of state pension credit will be taken into account. The billing authority, under local discretion, may allow more time if it sees fit.

## Council Tax Reduction Scheme

Details of support to be given for **working age applicants** for the financial year 2013/2014



## **Sections 2- 8**

### **Definitions and interpretation**



## 2.0 Interpretation – an explanation of the terms used within this policy

### 2.1 In this policy–

**‘the Act’** means the Social Security Contributions and Benefits Act 1992;

**‘the Administration Act’** means the Social Security Administration Act 1992;

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

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

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

**‘Abbeyfield Home’** means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;

**‘adoption leave’** means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996;

**‘applicant’** means a person who the authority designates as able to claim Council Tax Support – for the purposes of this policy all references are in the masculine gender but apply equally to male and female

**‘appropriate DWP office’** means an office of the Department for Work and Pensions dealing with state pension credit or office which is normally open to the public for the receipt of claims for income support, a jobseeker’s allowance or an employment and support allowance;

**‘assessment period’** means such period as is prescribed in sections 19 to 21 over which income falls to be calculated;

**‘attendance allowance’** means–

(a) an attendance allowance under Part 3 of the Act;

(b) an increase of disablement pension under section 104 or 105 of the Act;

(c) a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Part 2 of Schedule 8 to the Act;

(d) an increase of an allowance which is payable in respect of constant attendance under paragraph 4 of Part 1 of Schedule 8 to the Act;

(e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983 or any analogous payment; or

(f) any payment based on need for attendance which is paid as part of a war disablement pension;

**‘basic rate’**, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act).

**‘the benefit Acts’** means the Act and the, the Jobseekers Act 1995 and the Welfare Reform Act 2007;

**‘care home’** in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000 and in Scotland means a care home service within the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001;

**‘the Caxton Foundation’** means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;

**‘child’** means a person under the age of 16;

**‘child tax credit’** means a child tax credit under section 8 of the Tax Credits Act;

**‘the Children Order’** means the Children (Northern Ireland) Order 1995;

**‘claim’** means a claim for council tax support; **‘applicant’** means a person claiming council tax support;

**‘close relative’** means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or if any of the preceding persons is one member of a couple, the other member of that couple;

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

**‘the Consequential Provisions Regulations’** means the Housing Benefit and Council tax

support (Consequential Provisions) Regulations 2006;

**‘contributory employment and support allowance’** means a contributory allowance under Part 1 of the Welfare Reform Act;

**‘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;

**‘council tax reduction scheme’** has the same meaning as **‘council tax support or reduction’**

**‘council tax support (or reduction)’** means council tax reduction as defined by S13a Local Government Finance Act 1992 (as amended);

**‘couple’** means;

- a. a man and a woman who are married to each other and are members of the same household;
- b. a man and a woman who are not married to each other but are living together as husband and wife;
- c. two people of the same sex who are civil partners of each other and are members of the same household; or
- d. two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,  
and for the purposes of sub-paragraph (d) two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;

**‘date of claim’** means the date on which the claim is made, or treated as made, for the purposes of this policy

**‘designated authority’** means any of the following;

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

**‘designated office’** means the office designated by the authority for the receipt of claims for council tax support;

(a) by notice upon or with a form approved by it for the purpose of claiming council tax support; or

(b) by reference upon or with such a form to some other document available from it and sent by electronic means or otherwise on application; or

(c) by any combination of the provisions set out in sub-paragraphs (a) and (b) above;

**‘disability living allowance’** means a disability living allowance under section 71 of the Act;

**‘dwelling’** has the same meaning in section 3 or 72 of the 1992 Act;

**‘earnings’** has the meaning prescribed in section 25 or, as the case may be, 27;

**‘the Eileen Trust’** means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;

**‘electronic communication’** has the same meaning as in section 15(1) of the 2000 Act;

**‘employed earner’** is to be construed in accordance with section 2(1)(a) of the Act and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay;

**‘Employment and Support Allowance Regulations’** means the Employment and Support Allowance Regulations 2008;

**‘Employment and Support Allowance (Existing Awards) Regulations’** means the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) Regulations 2010;

**‘the Employment, Skills and Enterprise Scheme’** means a scheme under section 17A (schemes for assisting persons to obtain employment; ‘work for your benefit’ schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist applicants to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);

**‘employment zone’** means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999 and an **‘employment zone programme’** means a programme established for such an area or areas designed to assist applicants for a jobseeker’s allowance to obtain sustainable employment;

**‘employment zone contractor’** means a person who is undertaking the provision of facilities in respect of an employment zone programme on behalf of the Secretary of State for Work and Pensions;

**‘enactment’** includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;

**‘extended payment (or reduction)’** means a payment of council tax support payable pursuant to section 60;

**‘extended payment (or reduction) period’** means the period for which an extended reduction is payable in accordance with section 60A or 61A of this policy;

**‘extended payment or extended reduction (qualifying contributory benefits)’** means a payment of council tax support payable pursuant to section 61;

**‘family’** has the meaning assigned to it by section 137(1) of the Act;

**‘the Fund’** means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992;

**‘a guaranteed income payment’** means a payment made under article 14(1)(b) or article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005**(b)**;

**‘he, him, his’** also refers to the feminine within this policy

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

**‘Immigration and Asylum Act’** means the Immigration and Asylum Act 1999;

**‘an income-based jobseeker’s allowance’** and **‘a joint-claim jobseeker’s allowance’** have the same meaning as they have in the Jobseekers Act by virtue of section 1(4) of that Act;

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

**‘Income Support Regulations’** means the Income Support (General) Regulations 1987**(a)**;

**‘independent hospital’–**

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

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

(c) in Scotland, means an independent health care service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;

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

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

**‘Jobseekers Act’** means the Jobseekers Act 1995; ‘Jobseeker’s Allowance Regulations’ means the Jobseeker’s Allowance Regulations 1996;

**‘limited capability for work’** has the meaning given in section 1(4) of the Welfare Reform Act;

**‘limited capability for work-related activity’** has the meaning given in section 2(5) of the Welfare Reform Act;

**‘the London Bombing Relief Charitable Fund’** means the company limited by guarantee (number 5505072), and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;

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

**‘the Macfarlane (Special Payments) Trust’** means the trust of that name, established on

29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

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

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

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

**'the Mandatory Work Activity Scheme'** means a scheme within section 17A (schemes for assisting persons to obtain employment; 'work for your benefit' schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to provide work or work related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting applicants to improve their prospect of obtaining employment;

**'maternity leave'** means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996;

**'member of a couple'** means a member of a married or unmarried couple;

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

**'mobility supplement'** means a supplement to which paragraph 9 of Schedule 4 refers;

**'mover'** means a applicant who changes the dwelling in which the applicant is resident and in respect of which the applicant liable to pay council tax from a dwelling in the area of the appropriate authority to a dwelling in the area of the second authority;

**'net earnings'** means such earnings as are calculated in accordance with section 26;

**'net profit'** means such profit as is calculated in accordance with section 28;

**'the New Deal options'** means the employment programmes specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations and the training scheme specified in regulation 75(1)(b)(ii) of those Regulations;

**'new dwelling'** means, for the purposes of the definition of 'second authority' and sections 60C, 61C, 96 and 97, the dwelling to which a applicant has moved, or is about to move, in which the applicant is or will be resident;

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

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

**'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;

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

**'partner'** means–

- (a) where an applicant is a member of a couple, the other member of that couple; or
- (b) where a 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 leave by virtue of section 80A or 80B of the Employment Rights Act 1996;

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

**'pension fund holder'** means with respect to a personal pension scheme or an occupational pension scheme, the trustees, managers or scheme administrators, as the case may be, of the scheme concerned;

**'pensioner'** a person who has attained the age at which pension credit can be claimed;

**'person affected'** shall be construed as a person to whom the authority decides is affected by any decision on for council tax support

**'person on income support'** means a person in receipt of income support;

**'personal independence payment'** as defined within 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 contractor trust scheme approved under section 20 or 21 of the Income and Corporation Taxes Act 1998 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 of the Finance Act 2004;
- c. a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;

**'policy of life insurance'** means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

**'polygamous marriage'** means a marriage to which section 133(1) of the Act refers;

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

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

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

**'qualifying contributory benefit'** means;

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

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

- (a) income support;
- (b) income-based jobseeker's allowance;
- (c) income-related employment and support allowance;

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

**'relative'** means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece;

**'relevant authority'** means an authority administering council tax support;

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

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

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

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

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

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

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

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

- a. a Health Board, Special Health Board or the Agency in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978,
- b. a landlord authority in consequence of a function under section 105 of the Housing Act 1985,
- c. a public authority in consequence of a function under section 49A of the Disability



Discrimination Act 1995,

- d. a best value authority in consequence of a function under section 3 of the Local Government Act 1999,
- e. a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001,
- f. a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006,
- g. a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006,
- h. the Commission or the Office of the Health Professions Adjudicator in consequence of a function under sections 4, 5, or 108 of the Health and Social Care Act 2008,
- i. the regulator or a private registered provider of social housing in consequence of a function under sections 98, 193 or 196 of the Housing and Regeneration Act 2008, or
- j. a public or local authority in Great Britain in consequence of a function conferred under any other enactment,
- k. for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons;

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

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

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

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

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

**'student'** has the meaning prescribed in section 43;

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

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

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

**'training allowance'** means an allowance (whether by way of periodical grants or otherwise) payable–

(a) out of public funds by a Government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Young People's Learning Agency for England, the Chief Executive of Skills Funding or Welsh Ministers;

(b) to a person for his maintenance or in respect of a member of his family; and

(c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, the department or approved by the department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers.

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

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

**'Universal Credit'** means any payment of Universal Credit payable under the Welfare Reform Act 2012;

**'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;

**'Welfare Reform Act'** means the Welfare Reform Act 2007;

**'Working Tax Credit Regulations'** means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002; and

**'young person'** has the meaning prescribed in section 9(1).

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

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

2.5 For the purposes of this policy, two persons shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.

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

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

3.1 In this policy, 'non-dependant' means any person, except someone to whom paragraph 3.2 applies, who normally resides with an applicant or with whom an applicant normally resides.

3.2 This paragraph applies to;

- a. any member of the applicant's family;
- b. if the applicant is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
- c. a child or young person who is living with the applicant but who is not a member of his household by virtue of section 11(membership of the same household);
- d. subject to paragraph 3.3, any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under sections 6, 7 or 75 of the 1992 Act (persons liable to pay council tax);
- e. subject to paragraph 3.3, any person who is liable to make payments on a commercial basis to the applicant or the applicant's partner in respect of the occupation of the dwelling;
- f. a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.

3.3 Excepting persons to whom paragraph 3.2 a) to c) and f) refer, a person to whom any of the following sub-paragraphs applies shall be a non-dependant–

- a. a person who resides with the person to whom he is liable to make payments in respect of the dwelling and either;
  - i. that person is a close relative of his or her partner; or
  - ii. the tenancy or other agreement between them is other than on a commercial basis;
- b. a person whose liability to make payments in respect of the dwelling appears to the authority to have been created to take advantage of the council tax support scheme except someone who was, for any period within the eight weeks prior to the creation of the agreement giving rise to the liability to make such payments, otherwise liable to make payments of rent in respect of the same dwelling;
- c. a person who becomes jointly and severally liable with the applicant for council tax in respect of a dwelling and who was, at any time during the period of eight weeks prior to his becoming so liable, a non-dependant of one or more of the other residents in that dwelling who are so liable for the tax, unless the authority is satisfied that the change giving rise to the new liability was not made to take advantage of the support scheme.



#### **4.0 Requirement to provide a National Insurance Number<sup>13</sup>**

- 4.1 No person shall be entitled to support unless the criteria below in 4.2 is satisfied in relation both to the person making the claim and to any other person in respect of whom he is claiming support.
- 4.2 This subsection is satisfied in relation to a person if–
- a. the claim for support is accompanied by;
    - i. a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or
    - ii. information or evidence enabling the national insurance number that has been allocated to the person to be ascertained; or
  - b. the person makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated
- 4.3 Paragraph 4.2 shall not apply–
- a. in the case of a child or young person in respect of whom council tax support is claimed;
  - b. to a person who;
    - i. is a person in respect of whom a claim for council tax support is made;
    - ii. is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act;
    - iii. is a person from abroad for the purposes of this policy as defined in section 2.2; and
    - iv. has not previously been allocated a national insurance number.

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

- 5.1 This policy for working age applicants does not apply to a person in relation to any person if he, or if he has a partner, his partner, has attained the qualifying age for state pension credit.

#### **6.0 Remunerative work**

- 6.1 Subject to the following provisions of this section, a person shall be treated for the purposes of this policy as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.
- 6.2 Subject to paragraph 6.3, in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard shall be had to the average of hours worked over;
- a. if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
  - b. in any other case, the period of 5 weeks immediately prior to that date of claim, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately,
- 6.3 Where, for the purposes of paragraph 6.2 a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and

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

includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work shall be disregarded in establishing the average hours for which he is engaged in work.

- 6.4 Where no recognisable cycle has been established in respect of a person's work, regard shall be had to the number of hours or, where those hours will fluctuate, the average of the hours, which he is expected to work in a week.
- 6.5 A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph 6.1 if the absence is either without good cause or by reason of a recognised customary or other holiday.
- 6.6 A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any reduction week shall be treated as not being in remunerative work in that week.
- 6.7 A person shall not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave, or is absent from work because he is ill.
- 6.8 A person shall not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which;
  - a. a sports award has been made, or is to be made, to him; and
  - b. no other payment is made or is expected to be made to him.

**7.0 Persons from abroad – exempted from claiming under this scheme**

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

- 7.1 The class of person described in this paragraph consists of any person treated as not being in Great Britain.
- 7.2 For the purposes of determining whether a person meets the basic condition to be in Great Britain, except where a person falls within sub-paragraph (5), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.
- 7.3 A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.
- 7.4 For the purposes of sub-paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with—
  - a) regulation 13 of the Immigration (European Economic Area) Regulations 2006; or
  - b) Article 6 of Council Directive No.2004/38/EC.
- 7.5 A person falls within this sub-paragraph if the person is
  - a) a qualified person for the purposes of regulation 6 of the Immigration (European Economic Area) Regulations 2006(88) as a worker or a self-employed person;
  - b) a family member of a person referred to in paragraph (a) within the meaning of regulation 7 of the Immigration (European Economic Area) Regulations 2006;
  - 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 Immigration (European Economic Area) Regulations 2006;

d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;

e) a person granted limited leave to enter or remain in the United Kingdom outside the provisions of the rules made under section 3(2) of the Immigration Act 1971(89) on the rejection of their claim for asylum;

f) a person who has humanitarian protection granted under those rules; or

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(90) and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

7.5 A person is not a person from abroad if he is–

- a. a worker for the purposes of Council Directive No. 2004/38/EC;
- b. a self-employed person for the purposes of that Directive;
- c. a person who retains a status referred to in sub-paragraph (a) or (b) pursuant to Article 7(3) of that Directive;
- d. a person who is a family member of a person referred to in sub-paragraph (a), (b) or (c) within the meaning of Article 2 of that Directive;
- e. a person who has a right to reside permanently in the United Kingdom by virtue of Article 17 of that Directive;
- f. a person who is treated as a worker for the purpose of the definition of ‘qualified person’ in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 pursuant to regulation 6 of the Accession (Immigration and Worker Authorisation) Regulations 2006 (right of residence of a Bulgarian or Romanian who is an ‘accession State national subject to worker authorisation);
- g. a refugee;
- h. a person who has exceptional leave to enter or remain in the United Kingdom granted outside the rules made under section 3(2) of the Immigration Act 1971;
- i. a person who has humanitarian protection granted under those rules;
- j. a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 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;
- k. a person in Great Britain who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption;
- l. a person who
  - i. arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
  - ii. immediately before arriving there had been resident in Zimbabwe, and
  - iii. before leaving Zimbabwe, had accepted an offer, made by Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom; or
- k. in receipt of income support, an income-based jobseeker’s allowance or on an income-related employment and support allowance.

7.6 The above shall not apply to a person who has been temporarily without funds for any period, or the aggregate of any periods, exceeding 42 days during any one period of limited leave (including any such period as extended).

7.7 In this ‘refugee’ means 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.

## 8.0 Temporary Absence (period of absence)

- 8.1 Where a person is absent from the dwelling throughout any day then no support shall be payable
- 8.2 A person shall not, in relation to any day, which falls within a period of temporary absence from that dwelling, be a prescribed person under paragraph 8.1.
- 8.3 In paragraph 8.2, a 'period of temporary absence' means–
- a. a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as;
    - i. the person resides in that accommodation;
    - ii. the part of the dwelling in which he usually resided is not let or sub-let; and
    - iii. that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,
 where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;
  - b. a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as;
    - i. the person intends to return to the dwelling;
    - ii. the part of the dwelling in which he usually resided is not let or sub-let; and
    - iii. that period is unlikely to exceed 13 weeks; and
  - c. a period of absence not exceeding 52 weeks, beginning with the first whole day of absence, where and for so long as
    - i. the person intends to return to the dwelling;
    - ii. the part of the dwelling in which he usually resided is not let or sub-let;
    - iii. the person is a person to whom paragraph 8.4 applies; and
    - iv. the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.
- 8.4 This paragraph applies to a person who is;
- a. detained in custody on remand pending trial or required, as a condition of bail, to reside;
    - i. in a dwelling, other than the dwelling referred to in paragraph 6.1, or
    - ii. in premises approved under section 13 of the Offender Management Act 2007, or, detained in custody pending sentence upon conviction;
  - b. resident in a hospital or similar institution as a patient;
  - c. undergoing, or his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
  - d. following, in the United Kingdom or elsewhere, a training course;
  - e. undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
  - f. undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care of medical treatment;
  - g. in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
  - h. a student;
  - i. receiving care provided in residential accommodation other than a person to whom paragraph 6.3a) applies; or
  - j. has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.
- 8.5 This paragraph applies to a person who is;
- a. detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of

the Mental Health Act 1983, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995); and

- b. on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989

8.6 Where paragraph 8.5 applies to a person, the, for any day when he is on temporary release–

- a. if such temporary release was immediately preceded by a period of temporary absence under paragraph 8.3 b) or c), he shall be treated, for the purposes of paragraph 8.1, as if he continues to be absent from the dwelling, despite any return to the dwelling;
- b. for the purposes of paragraph 8.4 a), he shall be treated as if he remains in detention;
- c. if he does not fall within sub-paragraph a), he shall be able to claim support.

8.7 In this section;

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



## **Sections 9 - 11**

### **The family for Council Tax Support purposes**

## 9.0 Membership of a family

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

For the purposes of the policy a child is further defined as a 'child or young person'

A 'child' means a person under the age of 16 and a 'Young Person' is someone aged 16 or over but under 20 and who satisfies other conditions. These conditions are:

- they are aged 16, have left 'relevant education' or training, and 31 August following the sixteenth birthday has not yet been passed;
- they are aged 16 or 17, have left education or training, are registered for work, education or training, are not in remunerative work and are still within their 'extension period';
- they are on a course of full-time non-advanced education, or are doing 'approved training', and they began that education or training before reaching the age of 19;
- they have finished a course of full-time non-advanced education, but are enrolled on another such course (other than one provided as a result of their employment);
- they have left 'relevant education' or 'approved training' but have not yet passed their 'terminal date'.

- 9.2 Paragraph 9.1 shall not apply to a person who is;
- on income support ;
  - an income-based jobseeker's allowance or an income- related employment and support allowance; or has an award of Universal Credit; or
  - a person to whom section 6 of the Children (Leaving Care) Act 2000 applies.
- 9.3 The definition also includes a child or young person in respect of whom there is an entitlement to child benefit but only for the period that Child Benefit is payable

## 10.0 Circumstances in which a person is to be treated as responsible (or not responsible) for a child or young person.

- 10.1 Subject to the following paragraphs a person shall be treated as responsible for a child or young person who is normally living with him and this includes a child or young person to whom paragraph 9.3 applies
- 10.2 Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person shall be treated for the purposes of paragraph 9.1 as normally living with;
- the person who is receiving child benefit in respect of him; or
  - if there is no such person;

- i. where only one claim for child benefit has been made in respect of him, the person who made that claim; or
- ii. in any other case the person who has the primary responsibility for him.

10.3 For the purposes of this policy a child or young person shall be the responsibility of only one person in any reduction week and any person other than the one treated as responsible for the child or young person under this section shall be treated as not so responsible.

**11.0 Circumstances in which a child or young person is to be treated as being or not being a member of the household**

11.1 Subject to paragraphs 11.2 and 11.3, the applicant and any partner and, where the applicant or his partner is treated as responsible by virtue of section 10 (circumstances in which a person is to be treated as responsible or not responsible for a child or young person) for a child or young person, that child or young person and any child of that child or young person, shall be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.

11.2 A child or young person shall not be treated as a member of the applicant's household where he is–

- a. placed with the applicant or his partner by a local authority under section 23(2)(a) of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the applicant or his partner under a relevant enactment; or
- b. placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
- c. placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009.

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

- a. is being looked after by, or in Scotland is in the care of, a local authority under a relevant enactment; or
- b. has been placed, or in Scotland boarded out, with a person other than the applicant prior to adoption; or
- c. has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009; or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes).

11.4 An authority shall treat a child or young person to whom paragraph 11.3 a) applies as being a member of the applicant's household in any reduction week where;

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

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



## **Sections 12 - 14 & Schedule 1**

### **Living Allowances (Applicable Amounts) for Council Tax Support purposes**

## **12.0 Applicable amounts (Living Allowances)**

- 12.1 Subject to sections 13 and 14, an applicant's weekly applicable amount shall be aggregate of such of the following amounts as may apply in his case;
- a. an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 as the case may be, of Schedule 1 of this policy;
  - b. an amount determined in accordance with paragraph 2 of Schedule 1 of this policy in respect of any child or young person who is a member of his family;
  - c. if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of Schedule 1 (family premium);
  - d. the amount of any premiums which may be applicable to him, determined in accordance with paragraphs 4 to 20 of Schedule 1 of this document (premiums).
  - e. the amount of either the
    - i. work-related activity component; or
    - ii. support component which may be applicable to him in accordance with paragraph 21 and 22 of Schedule 1 of this document (the components)
  - f. the amount of any transitional addition which may be applicable to him in accordance with paragraph 23 to 24 of Schedule 1 of this policy (transitional addition).

## **13.0 Polygamous marriages**

- 13.1 Subject to section 14, where an applicant is a member of a polygamous marriage, his weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case;
- a. the amount applicable to him and one of his partners determined in accordance with paragraph 1 of Schedule 1 of this policy as if he and that partner were a couple;
  - b. an amount equal to the lowest amount within paragraph 1 of Schedule 1 of this policy in respect of each of his other partners;
  - c. an amount determined in accordance with paragraph 2 of Schedule 1 of this policy (applicable amounts or living allowances) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;
  - d. if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in paragraph 3 of Schedule 1 of this policy (family premium);
  - e. the amount of any premiums which may be applicable to him determined in accordance with paragraphs 4 to 20 of Schedule 1 of this policy (premiums).
  - f. the amount of either the;
    - i. work-related activity component; or
    - ii. support component which may be applicable to him in accordance with paragraph 22 of Schedule 1 (the components).
  - g. the amount of any transitional addition which may be applicable to him in accordance with paragraphs 23 and 24 of Schedule 1 of this policy (transitional addition)

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

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

- (a) who has, or



(b) who (jointly with his partner) has,

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

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

(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(1)



## **Sections 15 – 32 & Schedules 3 & 4**

### **Definition and the treatment of income for Council Tax Support purposes**

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

15.1 The income and capital of an applicant's partner within this policy and for the purposes of claiming council tax support is to be treated as income and capital of the applicant and shall be calculated or estimated in accordance with the following provisions in like manner as for the applicant; and any reference to the 'applicant' shall, except where the context otherwise requires be construed for the purposes of this policy as if it were a reference to his partner.

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

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

15.2 The income and capital of a child or young person shall not be treated as the income and capital of the applicant.

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

15A.1 In determining the income of an applicant

- (a) who has, or
  - (b) who (jointly with his partner) has,
- an award of universal credit the authority must, subject to the following provisions of this paragraph, use the calculation or estimate of the income of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.

15A.2 The authority must adjust the amount referred to in sub-paragraph (1) to take account of

- (a) income consisting of the award of universal credit, determined in accordance with subparagraph (3);
- (b) any sum to be disregarded under paragraphs [to be confirmed] of Schedule 7 to this scheme (sums to be disregarded in the calculation of earnings: persons who are not pensioners);
- (c) any sum to be disregarded under paragraphs [to be confirmed] of Schedule 8 to this scheme (sums to be disregarded in the calculation of income other than earnings: persons who are not pensioners);
- (d) paragraph 33 (circumstances in which income and capital of non-dependant is to be treated as applicant's), if the authority determines that the provision applies in the applicant's case;
- (e) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable).

15A.3 The amount for the award of universal credit is to be determined by multiplying the amount of the award by 12 and dividing the product by 52.

15A.4 Paragraphs 33 (income and capital of non-dependant to be treated as applicant's) and 52 and 53 (disregards from income) apply (so far as relevant) for the purpose of determining any adjustments which fall to be made to the figure for income under sub-paragraph (2)

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

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

an award of universal credit, the authority must use the calculation or estimate of the capital of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining that award

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

- 16.1 Where it appears to the authority that a non-dependant and the applicant have entered into arrangements in order to take advantage of the council tax support scheme and the non-dependant has more capital and income than the applicant, that authority shall, except where the applicant is on income support, an income- based jobseeker's allowance or an income-related employment and support allowance, treat the applicant as possessing capital and income belonging to that non-dependant, and, in such a case, shall disregard any capital and income which the applicant does possess.'
- 16.2 Where an applicant is treated as possessing capital and income belonging to a non-dependant under paragraph 16.1 the capital and income of that non-dependant shall be calculated in accordance with the following provisions in like manner as for the applicant and any reference to the 'applicant' shall, except where the context otherwise requires, be construed for the purposes of this policy as if it were a reference to that non-dependant.

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

- 17.1 For the purposes of this policy and in line with regulation 34 of the Housing Benefit Regulations 2006 (disregard to changes in tax, contributions etc.), the income of an applicant shall be calculated on a weekly basis;
- by estimating the amount which is likely to be his average weekly income in accordance with this Section and in line with Sections 2, 3, 4 and 5 of the Housing Benefit Regulations 2006;
  - by adding to that amount the weekly income calculated in line with regulation 52 of the Housing Benefit Regulations 2006 (calculation to tariff income from capital); and
  - by then deducting any relevant child care charges to which section 18 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in paragraph 14.2 are met, from those earnings plus whichever credit specified in sub- paragraph (b) of that paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in paragraph (3) applies in his case.
- 17.2 The conditions of this paragraph are that;
- the applicant's earnings which form part of his average weekly income are less than the lower of either his relevant child care charges or whichever of the deductions specified in paragraph (3) otherwise applies in his case; and
  - that applicant or, if he is a member of a couple either the applicant or his partner, is in receipt of either working tax credit or child tax credit.
- 17.3 The maximum deduction to which paragraph 17.1 c) above refers shall be;
- where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week.
  - where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300.00 per week.
- 17.4 For the purposes of paragraph 17.1 'income' includes capital treated as income under section 31 (capital treated as income) and income, which an applicant is treated as possessing under section 32 (notional income).

## **18.0 Treatment of child care charges**

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

- a. is a lone parent and is engaged in remunerative work;
  - b. is a member of a couple both of whom are engaged in remunerative work; or
  - c. is a member of a couple where one member is engaged in remunerative work and the other;
    - i. is incapacitated;
    - ii. is an in-patient in hospital; or
    - iii. is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).
- 18.2 For the purposes of paragraph 18.1 and subject to paragraph 18.4, a person to whom paragraph 18.3 applies shall be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he–
- a. is paid statutory sick pay;
  - b. is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the Act;
  - c. is paid an employment and support allowance;
  - d. is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support Regulations; 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.
- 18.3 This paragraph applies to a person who was engaged in remunerative work immediately before
- a. the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
  - b. the first day of the period in respect of which earnings are credited, as the case may be.
- 18.4 In a case to which paragraph 18.2 c) or d) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.
- 18.5 Relevant child care charges are those charges for care to which paragraphs 18.6 and 18.7 apply, and shall be calculated on a weekly basis in accordance with paragraph 18.10.
- 18.6 The charges are paid by the applicant for care, which is provided
- a. in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or
  - b. in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.
- 18.7 The charges are paid for care, which is provided by one, or more of the care providers listed in paragraph 18.8 and are not paid–
- a. in respect of the child's compulsory education;
  - b. by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with section 10 (circumstances in which a person is treated as responsible or not responsible for another); or
  - c. in respect of care provided by a relative of the child wholly or mainly in the child's home.
- 18.8 The care to which paragraph 18.7 refers may be provided;
- a. out of school hours, by a school on school premises or by a local authority;
    - i. for children who are disabled in respect of the period beginning on their eight birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or

- ii. for children who are disabled in respect of the period beginning on their eight birthday and ending on the day preceding the first Monday in September following their sixteenth birthday; or
  - b. by a child care provider approved in accordance with by the Tax Credit (New Category of Child Care Provider) Regulations 1999;
  - c. by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or
  - d. by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) order 2010; or
  - e. by;
    - i. persons registered under section 59(1) of the Public Services Reform Act 2010; Act 2001, or
    - ii. local authorities registered under section 33(1) of that Act, where the care provided is child minding or daycare within the meaning of that Act; or
  - f. by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002 or
  - g. by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or
  - h. by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
  - i. by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
  - j. by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of 'childcare' for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
  - k. by a foster parent or kinship carer under the Fostering Services Regulations 2002, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or
  - l. by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002 or the Domiciliary Care Agencies (Wales) Regulations 2004; or
  - m. by a person who is not a relative of the child wholly or mainly in the child's home.
- 18.9 In paragraphs 18.6 and 18.8 a), 'the first Monday in September' means the Monday which first occurs in the month of September in any year.
- 18.10 Relevant child care charges shall be estimated over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to information as to the amount of that charge provided by the child minder or person providing the care.
- 18.11 For the purposes of paragraph 18.1 c) the other member of a couple is incapacitated where
- a. the applicant's applicable amount includes a disability premium on account of the other member's incapacity or the support component or the work- related activity component on account of his having limited capability for work
  - b. the applicant's applicable amount would include a disability premium on account of the other member's incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulation made under section 171E of the Act;
  - c. the applicant's applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the



- Employment and Support Allowance Regulations;
- d. the applicant (within the meaning of this policy) is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
  - e. the applicant (within the meaning of this policy) has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
  - f. there is payable in respect of him one or more of the following pensions or allowances–
    - i. long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the Act;
    - ii. attendance allowance under section 64 of the Act;
    - iii. severe disablement allowance under section 68 of the Act;
    - iv. disability living allowance under section 71 of the Act or personal independence payment under the Welfare Reform Act 2012;
    - v. increase of disablement pension under section 104 of the Act;
    - vi. a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under head (ii), (iv) or (v) above;
    - vii. main phase employment and support allowance;
  - g. a pension or allowance to which head (ii), (iv), (v) or (vi) of sub-paragraph (f) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this section shall mean a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of social security (Hospital In-Patients) Regulations 2005.
  - h. paragraphs (f) or (g) would apply to him if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
  - i. he has an invalid carriage or other vehicle provided to him by the Secretary of State under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 20(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.
- 18.12 For the purposes of paragraph 18.11 once paragraph 18.11c) applies to the applicant, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.
- 18.12A For the purposes of paragraph 18.11, once paragraph 18.11d) applies to the applicant, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter apply to him for so long as he has, or is treated as having, limited capability for work.
- 18.13 For the purposes of paragraphs 18.6 and 18.8 a), a person is disabled if he is a person–
- a. in respect of whom disability living allowance or personal independence payment is payable, or has ceased to be payable solely because he is a patient;
  - b. who is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a

- c. council constituted under section 2 of the Local Government (Scotland) Act 1994; or who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.

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

- a. in the week before the period of maternity leave, paternity leave or adoption leave began she was in remunerative work;
- b. the applicant is incurring relevant child care charges within the meaning of paragraph 18.5; and
- c. she is entitled to either statutory maternity pay under section 164 of the Act, statutory paternity pay by virtue of section 171ZA or 171ZB of the Act statutory adoption pay by of section 171ZL of the Act, maternity allowance under section 35 of the Act or qualifying support.

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

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

whichever shall occur first.

18.16 In paragraphs 18.14 and 18.15

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

18.17 In this paragraph "applicant" does not include an applicant;

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

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

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

- a. over a period immediately preceding the reduction week in which the claim is made or treated as made and being a period of
  - i. 5 weeks, if he is paid weekly; or
  - ii. 2 months, if he is paid monthly; or
- b. whether or not sub-paragraph 16.1 i) or ii) applies, where an applicant's earnings fluctuate, over such other period preceding the reduction week in which the claim is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.

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

- a. if he has received any earnings for the period that he has been in that employment

and those earnings are likely to represent his average weekly earnings from that employment his average weekly earnings shall be estimated by reference to those earnings;

- b. in any other case, the authority shall require the applicant's employer to furnish an estimate of the applicant's likely weekly earnings over such period as the authority may require and the applicant's average weekly earnings shall be estimated by reference to that estimate.

19.3 Where the amount of an applicant's earnings changes during an award the authority shall estimate his average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period shall not in any case exceed 52 weeks.

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

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

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

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

## **21.0 Average weekly income other than earnings**

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

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

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

## **22.0 Calculation of average weekly income from tax credits**

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

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

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

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

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

### **23.0 Calculation of weekly income**

23.1 For the purposes of sections 19 (average weekly earnings of employed earners), 21 (average weekly income other than earnings) and 22 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made;

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

23.2 For the purpose of section 20 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant shall be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the quotient by 7.

### **24.0 Disregard of changes in tax, contributions etc.**

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

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

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

### **25.0 Earnings of employed earners**

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

- a. any bonus or commission;
- b. any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
- c. any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- d. any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
- e. any payment by way of a retainer;
- f. any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of–
- g. travelling expenses incurred by the applicant under arrangements made for the case of a member of his family owing to the applicant's absence from home;
- h. any award of compensation made under section 112(4) or 117(3)(a) of the

- i. any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
- j. any such sum as is referred to in section 112 of the Act (certain sums to be earnings for social security purposes);
- k. any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
- l. any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;
- m. the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001.

**25.2 Earnings shall not include–**

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

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

**26.0 Calculation of net earnings of employed earners**

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

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

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

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

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

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

qualifying contribution shall be determined–

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

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

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

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

27.1 Subject to paragraph 27.2, ‘earnings’, in the case of employment as a self-employed earner, means the gross income of the employment any allowance paid under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 to the applicant for the purpose of assisting him in carrying on his business unless at the date of claim the allowance has been terminated.

27.2 ‘Earnings’ shall not include any payment to which paragraph 27 or 28 of Schedule 4 refers (payments in respect of a person accommodate with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant’s care) nor shall it include any sports award.

27.3 This paragraph applies to–

- a. royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
- b. any payment in respect of any–
  - (i) book registered under the Public Lending Right Scheme 1982; or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982, where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book of work concerned.

27.4 Where the applicant’s earnings consist of any items to which paragraph 27.3 applies, those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of council tax support which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 3 (sums to be disregarded in the calculation of earnings) as appropriate in the applicant’s case.

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



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

- b. a deduction shall be made thereunder in respect of-
      - i. the excess of any value added tax paid over value added tax received in the assessment period;
      - ii. any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
      - iii. any payment of interest on a loan taken out for the purposes of the employment
- 28.9 Where an applicant is engaged in employment, as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less an amount in respect of
- a. income tax; and
  - b. social security contributions payable under the Act, calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
  - c. one-half of the amount calculated in accordance with paragraph 28.1 in respect of any qualifying premium
- 28.10 For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.
- 28.11 The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this section the daily amount of the qualifying premium shall be determined
- a. where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and divided the product by 365;
  - b. in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.
- 28.12 In this section, 'qualifying premium' means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of claim.
- 29.0 Deduction of tax and contributions of self-employed earners**
- 29.1 The amount to be deducted in respect of income tax under section 28.1b) i), 28.3 b) i) or 28.9 a) i) (calculation of net profit of self-employed earners) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988(personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph shall be calculated on a pro rata basis.
- 29.2 The amount to be deducted in respect of social security contributions under paragraphs 28.1 1 b)(i); 28.3 b) ii) or 28.9 a ii) shall be the total of-
- a. the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Act at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of the Act (small earnings exception) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year shall be reduced pro rata; and
  - b. the amount of Class 4 contributions (if any) which would be payable under section 15 of the Act (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and



gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits shall be reduced pro rata.

29.3 In this section 'chargeable income' means–

- a. except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph (28.3)(a) or, as the case may be, (28.4) of section 28;
- b. in the case of employment as a child minder, one-third of the earnings of that employment.

### 30.0 Calculation of income other than earnings

30.1 For the purposes of section 21 (average weekly income other than earnings), the income of an applicant which does not consist of earnings to be taken into account shall, subject to paragraphs 27.2 to 27.8, be his gross income and any capital treated as income under section 31 (capital treated as income).

30.2 There shall be disregarded from the calculation of an applicant's gross income under paragraph 30.2, any sum, where applicable, specified in Schedule 4.

30.3 Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under paragraph 30.1 shall be the gross amount payable.

30.4 Where the applicant or, where he is a member of a couple, his partner is receiving a contributory employment and support allowance and that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations, the amount of that benefit to be taken into account is the amount as if it had not been reduced.

30.5 Where an award of any working tax credit or child tax credit under the Tax Credits Act is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under paragraph 27.1 shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.

30.6 In paragraph 30.5 'tax year' means a period beginning with 6th April in one year and ending with 5th April in the next.

30.7 Paragraph 30.8 and 30.9 apply where a relevant payment has been made to a person in an academic year; and that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.

30.8 Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph 30.1 in respect of a person to whom paragraph 30.7 applies, shall be calculated by applying the formula–

$$\frac{A - (B \times C)}{D}$$

Where

A =

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

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

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

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

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

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

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

- a. in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;
- b. in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes–
  - i. the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or
  - ii. the last day of the last quarter for which an instalment of the relevant payment was payable to that person.

whichever of those date is earlier

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

- a. 1st January and ending on 31st March;
- b. 1st April and ending on 30th June;
- c. 1st July and ending on 31st August; or
- d. 1st September and ending on 31st December;

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

30.11 For the avoidance of doubt there shall be included as income to be taken into account under paragraph 27.1

- a. any payment to which paragraph 25.2 (payments not earnings) applies; or
- b. in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.

### **31.0 Capital treated as income**

31.1 Any capital payable by instalments which are outstanding at the date on which the claim is made or treated as made, or, at the date of any subsequent revision or supersession, shall, if the aggregate of the instalments outstanding and the amount of the applicant’s capital otherwise calculated in accordance with sections 33 to 42 of this policy exceeds £6,000, be treated as income.

31.2 Any payment received under an annuity shall be treated as income.

31.3 Any earnings to the extent that they are not a payment of income shall be treated as income.

31.4 Any Career Development Loan paid pursuant to section 2 of the 1973 Act shall be treated as income

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

### **32.0 Notional income**

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

32.2 Except in the case of–

- a. a discretionary trust;
- b. a trust derived from a payment made in consequence of a personal injury;
- c. a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
- d. any sum to which paragraph 47(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 47(1)(a);
- e. any sum to which paragraph 48(a) of Schedule 5 refers;
- f. rehabilitation allowance made under section 2 of the 1973 Act;
- g. child tax credit; or
- h. working tax credit;
- i. any sum to which paragraph 32.13 applies;

any income which would become available to the applicant upon application being made, but which has not been acquired by him, shall be treated as possessed by the applicant but only from the date on which it could be expected to be acquired were an application made.

32.3 – 32.5 Not used

32.6 Any payment of income, other than a payment of income specified in paragraph 32.7 made–

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

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

- a. under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);
- b. pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal);
- c. pursuant to section 2 of the 1973 Act in respect of a person's participation–  
(i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;

- (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
  - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
  - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations or;
  - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
  - d. in respect of a previous participation in the Mandatory Work Activity Scheme;
  - e. under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where–
    - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
    - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
    - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.
- 32.8 Where an applicant is in receipt of any benefit (other than council tax support) under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the authority shall treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority shall select to apply in its area, to the date on which the altered rate is to take effect.
- 32.9 Subject to paragraph 32.10, where–
- a. applicant performs a service for another person; and
  - b. that person makes no payment of earnings or pays less than that paid for a comparable employment in the area, the authority shall treat the applicant as possessing such earnings (if any) as is reasonable for that employment unless the applicant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.
- 32.10 Paragraph 32.9 shall not apply–
- a. to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge; or
  - b. in a case where the service is performed in connection with–
    - (i) the applicant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations, other than where the service is performed in connection with the applicant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations or
    - (ii) the applicant's or the applicant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme ; or
  - c. to an applicant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.
- 32.10A In paragraph 32.10 (c) 'work placement' means practical work experience which is not undertaken in expectation of payment.
- 32.11 Where an applicant is treated as possessing any income under any of paragraph 32.1 to (32.8), the foregoing provisions of this policy shall apply for the purposes of calculating the amount of that income as if a payment has actually been made and as if it were actual

income which he does possess.

32.12 Where an applicant is treated as possessing any earnings under paragraph 32.9 the foregoing provisions of this policy shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph (32.3) of section 26 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account those earnings which he is treated as possessing, less;

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

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



## **Sections 33 – 42 & Schedule 5**

### **Definition and the treatment of capital for Council Tax Support purposes**

### **33.0 Capital limit**

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

### **34.0 Calculation of capital**

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

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

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

### **36.0 Income treated as capital**

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

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

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



- b. the amount of any encumbrance secured on it;

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

38.1 Capital which an applicant possesses in a country outside the United Kingdom shall be calculated

- a. in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value.
- b. in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent. and the amount of any encumbrances secured on it.

### **39.0 Notional capital**

39.1 An applicant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to council tax support or increasing the amount of that support except to the extent that that capital is reduced in accordance with section 40 (diminishing notional capital rule).

39.2 Except in the case of

- (a) a discretionary trust; or
- (b) a trust derived from a payment made in consequence of a personal injury; or
- (c) any loan which would be obtained only if secured against capital disregarded under Schedule 5; or
- (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
- (e) any sum to which paragraph 47(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 47(1)(a); or
- (f) any sum to which paragraph 48(a) of Schedule 5 refers; or
- (g) child tax credit; or
- (h) working tax credit,

any capital which would become available to the applicant upon application being made, but which has not been acquired by him, shall be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.

39.3 Any payment of capital, other than a payment of capital specified in paragraph (39.4), made

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

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

- (a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the



- London Bombings Relief Charitable Fund;
- (b) pursuant to section 2 of the 1973 Act in respect of a person's participation
    - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
    - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
    - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
    - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
    - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
  - (bb) in respect of a person's participation in the Mandatory Work Activity Scheme; Enterprise Scheme;
  - (bc) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
  - (c) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
    - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
    - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
    - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.
- 39.5 Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case
- (a) the value of his holding in that company shall, notwithstanding section 34 (calculation of capital) be disregarded; and
  - (b) he shall, subject to paragraph 39.6, be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Section shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.
- 39.6 For so long as the applicant undertakes activities in the course of the business of the company, the amount which, he is treated as possessing under paragraph 39.5 shall be disregarded.
- 39.7 Where an applicant is treated as possessing capital under any of paragraphs 39.1 to 39.2 the foregoing provisions of this Section shall apply for the purposes of calculating its amount as if it were actual capital, which he does possess.
- 40.0 Diminishing notional capital rule**
- 40.1 Where an applicant is treated as possessing capital under section 39.1 (notional capital), the amount which he is treated as possessing;
- (a) in the case of a week that is subsequent to
    - (i) the relevant week in respect of which the conditions set out in paragraph 40.2 are satisfied; or
    - (ii) a week which follows that relevant week and which satisfies those conditions, shall be reduced by an amount determined under paragraph 40.3;
  - (b) in the case of a week in respect of which paragraph 40.1(a) does not apply but where
    - (i) that week is a week subsequent to the relevant week; and
    - (ii) that relevant week is a week in which the condition in paragraph 40.4 is satisfied, shall be reduced by the amount determined under paragraph 40.4.
- 40.2 This paragraph applies to a reduction week or part-week where the applicant satisfies the conditions that
- (a) he is in receipt of council tax support; and

- (b) but for paragraph 39.1, he would have received an additional amount of council tax support in that week.
- 40.3 In a case to which paragraph 40.2 applies, the amount of the reduction for the purposes of paragraph 40.1(a) shall be equal to the aggregate of
- (a) the additional amount to which sub-paragraph 40.2 (b) refers;
  - (b) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 40.2 refers but for the application of regulation 49(1) of the Housing Benefit Regulations (notional capital);
  - (c) where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 40.2 refers but for the application of regulation 51(1) of the Income Support Regulations (notional capital);
  - (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 40.2 refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations (notional capital) and
  - (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of reduction week to which paragraph 40.2 refers but for the application of regulation 115 of the Employment and Support Allowance Regulations (notional capital).
- 40.4 Subject to paragraph 40.5, for the purposes of paragraph 40.1(b) the condition is that the applicant would have been entitled to council tax support in the relevant week but for paragraph 39.1, and in such a case the amount of the reduction shall be equal to the aggregate of
- (a) the amount of council tax support to which the applicant would have been entitled in the relevant week but for paragraph 39.1; and for the purposes of this sub-paragraph is the amount in respect of a part-week, that amount shall be determined by dividing the amount of council tax support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;
  - (b) if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the reduction week which includes the last day of the relevant week, the amount which is equal to—
    - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
    - (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled,
 and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of housing benefit to which he would have been so entitled by the number equal to that number of days in the part-week and multiplying the quotient so obtained by 7;
  - (c) if the applicant would, but for regulation 51(1) of the Income Support Regulations, have been entitled to income support in respect of the reduction week, within the meaning of regulation 2(1) of those Regulations, which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub- paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income support to which he would have been so entitled by the number equal to the number of days in the part- week and multiplying the quotient so obtained by 7
  - (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations, have been entitled to an income-based jobseeker's allowance in respect of the reduction week, within the meaning of this policy, which includes the last day of the relevant week, the amount to which he would have been entitled and,

for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income-based jobseeker's allowance to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7; and

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

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

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

40.6 The conditions are that

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

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

40.8 For the purposes of this section

- (a) 'part-week'
  - (i) in paragraph 40.4(a) means a period of less than a week for which council tax support is allowed;
  - (ii) in paragraph 40.4(b) means a period of less than a week for which housing benefit is payable;
  - (iii) in paragraph 40.4 (c),(d) and (e) means—
- (aa) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and
- (bb) any other period of less than a week for which it is payable;
- (b) 'relevant week' means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of section 39.1
  - (i) was first taken into account for the purpose of determining his entitlement to council tax support; or
  - (ii) 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 heads (i) and (ii) of this sub-paragraph the later or latest such reduction week or, as the case may be, the later or latest such part-week;

- (c) 'relevant subsequent week' means the reduction week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.

#### **41.0 Capital jointly held**

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

#### **42.0 Not used**



## **Sections 43 - 56**

### **Definition and the treatment of students for Council Tax Support purposes**

## 43.0 Student related definitions

43.1 In this policy the following definitions apply;

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

**‘access funds’** means;

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

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

**‘contribution’** means;

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

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

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

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

**‘full-time course of study’** means a full time course of study which;

- (a) is not funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;;
  - (b) is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
    - (i) in the case of a course funded by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either
      - of those persons for the delivery of that course; or
      - (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or
  - (c) is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—
    - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
    - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;
- 'full-time student'** means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;
- 'grant'** (except in the definition of 'access funds') means any kind of educational grant or award and includes any scholarship, studentship, exhibition allowance or bursary but does not include a payment from access funds or any payment to which paragraph 12 of Schedule 4 or paragraph 53 of Schedule 5 applies;
- 'grant income'** means
- (a) any income by way of a grant;
  - (b) any contribution whether or not it is paid;
- 'higher education'** means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992; 'last day of the course' means;
- a. in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;
  - b. in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;
- 'period of study'** means—
- a. in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
  - b. in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be,



the year's start and ending with either–

(i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to his studying throughout the year, or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or

(ii) in any other case, the day before the start of the normal summer vacation appropriate to his course;

- c. in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;

**'periods of experience'** means periods of work experience which form part of a sandwich course;

**'qualifying course'** means a qualifying course as defined for the purposes of Parts 2 and 4 of the Jobseeker's Allowance Regulations;

**'modular course'** means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

**'sandwich course'** has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans), (Scotland), Regulations 2007 or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007, as the case may be;

**'standard maintenance grant'** means–

(a) except where paragraph (b) or (c) applies, in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 ('the 2003 Regulations') for such a student;

(b) except where paragraph (c) applies, in the case of a student residing at his parent's home, the amount specified in paragraph 3 thereof;

(c) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as 'standard maintenance allowance' for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;

(d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof;

**'student'** means a person, other than a person in receipt of a training allowance, who is attending or undertaking–

(a) a course of study at an educational establishment; or

(b) a qualifying course;

**'student loan'** means a loan towards a student's maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998, section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 and shall include, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the Student's Allowances (Scotland) Regulations 2007

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

(a) in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending;

(i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or

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

(b) in any other case, throughout the period beginning on the date on which he starts



attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

43.3 For the purposes of sub-paragraph (a) of paragraph 2.8, the period referred to in that sub-paragraph shall include;

- (a) where a person has failed examinations or has failed to successfully complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
- (b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

#### **44.0 Treatment of students**

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

#### **45.0 Students who are excluded from entitlement to council tax support**

45.1 Students (except those specified in paragraph 45.3) are not able to claim Council Tax Support under Classes A and B of the Council's reduction scheme however they will be able to claim under Class C (alternative maximum council tax support or second adult rebate).

45.2 To be eligible for support, the student must be liable for Council Tax under Section 6 of the Local Government Finance Act 1992 and they must not be deemed to be a full time student or a persons from abroad within the meaning of section 7 of this policy (persons from abroad).

45.3 Paragraph 45.2 shall not apply to a student

- (a) who is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance;
- (b) who is a lone parent;
- (c) whose applicable amount would, but for this section, include the disability premium or severe disability premium;
- (d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the Act;
- (e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
- (f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period.
- (g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;
- (h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989, or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;
- (i) who is;
  - (i) aged under 21 and whose course of study is not a course of higher education,

or

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

(j) in respect of whom

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

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

(iii) a payment has been made under section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education Act 1998;

(iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or

(v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986,

on account of his disability by reason of deafness.

45.3A For the purposes of paragraph 45.3(h)(i) the student must have begun, or been enrolled or accepted onto the course before attaining the age of 19

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

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

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

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

(a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is;

(i) engaged in caring for another person; or

(ii) ill;

(b) he has subsequently ceased to be engaged in engaging in caring for that person or, as the case may be, he has subsequently recovered from that illness; and

(c) he is not eligible for a grant or a student loan in respect of the period specified in paragraph 45.8.

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

(a) the day on which he resumes attending or undertaking the course; or

(b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course, which shall first occur.

#### **46.0 Calculation of grant income**

- 46.1 The amount of a student's grant income to be taken into account shall, subject to paragraphs 46.2 and 46.3, be the whole of his grant income.
- 46.2 There shall be excluded from a student's grant income any payment;
- (a) intended to meet tuition fees or examination fees;
  - (b) in respect of the student's disability;
  - (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
  - (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
  - (e) on account of any other person but only if that person is residing outside of the United Kingdom and there is no applicable amount in respect of him;
  - (f) intended to meet the cost of books and equipment;
  - (g) intended to meet travel expenses incurred as a result of his attendance on the course;
  - (h) intended for the child care costs of a child dependant.
  - (i) of higher education bursary for care leavers made under Part III of the Children Act 1989.
- 46.3 Where a student does not have a student loan and is not treated as possessing such a loan, there shall be excluded from the student's grant income;
- (a) the sum of £303 per academic year in respect of travel costs; and
  - (b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any such costs are incurred.
- These figures will be uprated annually in line with the Housing Benefit Regulations 2006 (as amended).
- 46.4 There shall also be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.
- 46.5 Subject to paragraphs 46.6 and 46.7, a student's grant income shall be apportioned;
- (a) subject to paragraph 46.8, in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study;
  - (b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.
- 46.6 Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2004 shall be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.
- 46.7 In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither paragraph 46.6 nor paragraph 50.2 (other

amounts to be disregarded) apply, shall be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.

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

#### **47.0 Calculation of covenant income where a contribution is assessed**

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

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

- 48.1 Where a student is not in receipt of income by way of a grant the amount of his covenant income shall be calculated as follows;
- (a) any sums intended for any expenditure specified in paragraph 48.2 (a) to (e) (calculation of grant income) necessary as a result of his attendance on the course shall be disregarded;
  - (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, shall be apportioned equally between the weeks of the period of study;
  - (c) there shall be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 48.2(f) and 48.3 (calculation of grant income) had the student been in receipt of the standard maintenance grant; and
  - (d) the balance, if any, shall be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 shall be disregarded.
- 48.2 Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income shall be calculated in accordance with sub-paragraphs (a) to (d) of paragraph 48.1, except that;
- (a) the value of the standard maintenance grant shall be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 46.2 (a) to (e); and
  - (b) the amount to be disregarded under paragraph 48.1(c) shall be abated by an amount equal to the amount of any sums disregarded under paragraph 46.2(f) and (g) and 48.3.

#### **49.0 Student Covenant Income and Grant income – non disregard**

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

#### **50.0 Other amounts to be disregarded**

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

#### **51.0 Treatment of student loans**

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

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

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

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

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

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

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

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

- (a) the sum of £303 per academic year in respect of travel costs; and
  - (b) the sum of £390 per academic year towards the cost of books and equipment, whether or not any such costs are incurred.
- These figures will be uprated annually in line with the Housing Benefit Regulations 2006 (as amended).

#### **51A.0 Treatment of fee loans**

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

#### **52.0 Treatment of payments from access funds**

52.1 This paragraph applies to payments from access funds that are not payments to which paragraph 52.2 or 52.3 (income treated as capital) applies.

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

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

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

52.4 Where a payment from access funds is made—

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



- intended for the purpose of bridging the period until receipt of the student loan; or
- (b) before the first day of the course to a person in anticipation of that person becoming a student,
- that payment shall be disregarded as income.

### **53.0 Disregard of contribution**

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

### **54.0 Further disregard of student's income**

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

### **55.0 Income treated as capital**

- 55.1 Any amount by way of a refund of tax deducted from a student's covenant income shall be treated as capital.
- 55.2 Any amount paid from access funds as a single lump sum shall be treated as capital.
- 55.3 An amount paid from access fund as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear, household fuel or rent, or which is used for an item other than any council tax or water charges for which that applicant or member is liable, shall be disregarded as capital but only for a period of 52 weeks from the date of the payment.

### **56.0 Disregard of changes occurring during summer vacation**

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



## **Sections 57 – 63**

### **The calculation and amount of Council Tax Support**



## **57.0 Maximum council tax support**

- 57.1 Subject to paragraphs 57.2 to 57.4, the amount of a person's maximum council tax support in respect of a day for which he is liable to pay council tax, shall be 100 per cent, of the amount A divided by B where;
- (a) A is the amount set by the appropriate authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
  - (b) B is the number of days in that financial year, less any deductions in respect of non-dependants which fall to be made under section 58 (non-dependant deductions).
- 57.2 In calculating a person's maximum council tax support any reduction in the amount that person is liable to pay in respect of council tax, which is made in consequence of any enactment in, or made under, the 1992 Act, shall be taken into account.
- 57.3 Subject to paragraph 57.4, where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons but excepting any person so residing with the applicant who is a student to whom paragraph 45.2 (students who are excluded from entitlement to council tax support) applies, in determining the maximum council tax support in his case in accordance with paragraph 57.1, the amount A shall be divided by the number of persons who are jointly and severally liable for that tax.
- 57.4 Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, paragraph 57.3 shall not apply in his case.

## **57A Minimum Council Tax Support**

- 57A.1 The amount of a person's minimum council tax support in respect of a day for which he is liable to pay council tax, shall be £2.50 / 7

## **58.0 Non-dependant deductions<sup>14</sup>**

- 58.1 Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in section 57 (maximum council tax support) shall be;
- (a) in respect of a non-dependant aged 18 or over in remunerative work, £9.90x 1/7;
  - (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £3.30 x 1/7.
- 58.2 In the case of a non-dependant aged 18 or over to whom paragraph 58.1(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is–
- (a) less than £183.00, the deduction to be made under this paragraph shall be that specified in paragraph 58.1(b);
  - (b) not less than £183.00, but less than £316.00, the deduction to be made under this section shall be £6.55;
  - (c) not less than £316.00, but less than £394.00, the deduction to be made under this section shall be £8.25;
- 58.3 Only one deduction shall be made under this section in respect of a couple or, as the case may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or

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<sup>14</sup> The amounts shown within this section shall be uprated in line with the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012

polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.

- 58.4 In applying the provisions of paragraph 58.2 in the case of a couple or, as the case may be a polygamous marriage, regard shall be had, for the purpose of that paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.
- 58.5 Where in respect of a day–
- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
  - (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 or 77 or 77A of the 1992 Act (liability of spouses and civil partners); and
  - (c) the person to whom sub-paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant shall be apportioned equally between those liable persons.
- 58.6 No deduction shall be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is–
- (a) blind or treated as blind by virtue of paragraph 13 of Schedule 1 (additional condition for the disability premium); or
  - (b) receiving in respect of himself
    - (i) attendance allowance, or would be receiving that allowance but for
      - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the 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).
- 58.7 No deduction shall be made in respect of a non-dependant if;
- (a) although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or
  - (b) he is in receipt of a training allowance paid in connection with a youth training established under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
  - (c) he is a full time student within the meaning of section 44.0 (Students); or
  - (d) he is not residing with the applicant because he has been a patient for a period of excess of 52 weeks, and for these purposes;
    - (i) 'patient' has the meaning given in paragraph (7) of section 8, and
    - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.
- 58.8 No deduction shall be made in respect of a non-dependant;
- (a) who is on income support, state pension credit, an income-based jobseeker's allowance or an income-related employment and support allowance; or
  - (b) to whom Schedule 1 of the 1992 Act applies (persons disregarded for purposes of discount) but this sub-paragraph shall not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.

58.9 In the application of paragraph 58.2 there shall be disregarded from his weekly gross income–

- (a) any attendance allowance, disability living allowance or personal independence payment 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 had his income fallen to be calculated under section 30 (calculation of income other than earnings) would have been disregarded under paragraph 24 of Schedule 4 (income in kind); and
- (c) any payment which had his income fallen to be calculated under section 30 would have been disregarded under paragraph 36 of Schedule 4 (payments made under certain trusts and certain other payments).

## **59.0 Council tax support taper (applies to persons defined within Class B)**

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

### **59A.0 Reduction of entitlement (Classes A & B)**

59A.1 An entitlement calculated in accordance with this policy shall be reduced by an amount equivalent to the deficit in funding received from Central Government for the administration of Council Tax Support expressed as a percentage. The standard deduction shall apply to the council tax support calculated for all working age claimants. The deduction **will not apply** where the following circumstances apply;

- The claimant or partner is in receipt of a severe disability premium within the calculation of council tax support or within any means tested benefit (Housing Benefit, Income Support, Employment and Support Allowance (Income Related) or Job Seeker's Allowance (Income Based)); or
- The claimant, partner of any dependant is in receipt of a enhanced disability premium within the calculation of council tax support or within any means tested benefit (Housing Benefit, Income Support, Employment and Support Allowance (Income Related) or Job Seeker's Allowance (Income Based)); or
- The claimant or partner is in receipt of a support component within the calculation of council tax support or within their Employment and Support Allowance; or
- The claimant or partner receives War Disablement Pension or a War Widow's/Widower's Pension, or any similar payment from another country.

## **60.0 Extended reductions**

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

- (a) the applicant or the applicant's partner was entitled to a qualifying income- related benefit;
- (b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner–
  - (i) commenced employment as an employed or self-employed earner;
  - (ii) increased their earnings from such employment; or
  - (iii) increased the number of hours worked in such employment,
 and that employment is or, as the case may be, increased earnings or increased

- number of hours are expected to last five weeks or more; and
- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.

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

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

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

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

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

#### **60A.0 Duration of extended reduction period**

60A.1 Where an applicant is entitled to an extended reduction, the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying income-related benefit.

60A.2 For the purpose of paragraph (60A.1), an applicant or an applicant's partner ceases to be entitled to a qualifying income-related benefit on the day immediately following the last day of entitlement to that benefit.

60A.3 The extended reduction period ends;

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

#### **60B.0 Amount of extended reduction**

60B.1 For any week during the extended reduction period the amount of the extended reduction payable to an applicant shall be the higher of—

- (a) the amount of council tax support to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying income-related benefit;
- (b) the amount of council tax support to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended

reduction period, if section 60 (extended reductions) did not apply to the applicant;  
or

- (c) the amount of council tax support to which the applicant's partner would be entitled under the general conditions of entitlement, if section 60 did not apply to the applicant.

60B.2 Paragraph 60B1 does not apply in the case of a mover.

60B.3 Where an applicant is in receipt of an extended reduction under this section and the applicant's partner makes a claim for council tax support, no amount of council tax support shall be payable by the appropriate authority during the extended reduction period.

#### **60C Extended reductions – movers**

60C.1 This section applies;

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

60C.2 The amount of the extended reduction payable from the Monday from which this section applies until the end of the extended reduction period shall be the amount of council tax support which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit.

60C.3 Where a mover's liability to pay council tax in respect of the new dwelling is to the second authority, the extended reduction may take the form of a payment from the appropriate authority to;

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

60C.4 Where–

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

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

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

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

#### **61.0 Extended reductions (qualifying contributory benefits)**

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

- (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the applicant or the

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

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

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

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

61A.1 Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.

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

61A.3 The extended reduction period ends;

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

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

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

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

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

61B.3 Where an applicant is in receipt of an extended reduction (qualifying contributory



benefits) under this section and the applicant's partner makes a claim for council tax support, no amount of council tax support shall be payable by the appropriate authority during the extended reduction period.

#### **61C.0 Extended reductions (qualifying contributory benefits) – movers**

61C.1 This section applies;

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

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

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

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

61C.4 Where

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

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

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

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

#### **61E.0 Extended reductions: - Movers Generally <sup>15</sup>**

61E.1 Where;

- a. an application is made to a billing authority ("the current authority") for a reduction under this scheme, and
- b. the applicant, or the partner of the applicant, is in receipt of an extended reduction from
- c. (i) another billing authority in England;  
(ii) a billing authority in Wales;<sup>£</sup>  
(iii) a local authority in Scotland; or<sup>£</sup>  
(iv) a local authority in Northern Ireland.

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



the current billing authority must reduce any reduction to which the applicant is entitled under this scheme by the amount of that extended reduction.

**62.0 - 63.0 Not used**





## **Sections 64 – 67**

### **Changes of circumstances within Council Tax Support**

#### **64.0 Date on which entitlement is to begin**

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

#### **65.0 - 66.0 Not Used**

#### **67.0 Date on which change of circumstances is to take effect**

- 67.1 Except in cases where section 24 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph, a change of circumstances which affects entitlement to, or the amount of, a reduction under an authority's scheme ("change of circumstances"), takes effect from the first day of the reduction week following the date on which the change actually occurs, and where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs shall be the day immediately following the last day of entitlement to that benefit.
- 67.2 Subject to paragraph (3), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.
- 67.3 Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under sections 11 or 12 of that Act, it shall take effect from the day on which the change in amount has effect.
- 67.4 Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.
- 67.5 Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.
- 67.6 If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with paragraphs (1) to (5) they take effect from the day to which the appropriate paragraph from (2) to (5) above refers, or, where more than one day is concerned, from the earlier day.
- 67.7 Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the 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.
- 67.8 Without prejudice to paragraph (7), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

67.9 Sub-paragraph (10) applies if

- (a) the applicant or his 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 deduction which falls to be made under paragraph 29 increased.

67.10 Where this sub-paragraph applies, the change of circumstances referred to in sub-paragraph (9)(b) takes effect from the effective date.

67.11 In sub-paragraph (10), but subject to sub-paragraph (12), "the effective date" means

(a) where more than one change of a kind referred to in sub-paragraph (10)(b) relating to the same non-dependant has occurred since

- (i) the date on which the applicant's entitlement to a reduction under this scheme first began; or
- (ii) the date which was the last effective date in respect of such a change,

whichever is the late, the date which falls 26 weeks after the date on which the first such change occurred;

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.

67.12 If in any particular case the date determined under sub-paragraph (12) is not the first day of a reduction week, the effective date in that case is to be the first day of the next reduction week to commence after the date determined under that sub-paragraph.



## **Sections 68- 74A**

### **Claiming and the treatment of claims for Council Tax Support purposes**

## **68.0 Who may claim<sup>16</sup>**

- 68.1 In the case of a couple or members of a polygamous marriage an application shall be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines.
- 68.2 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 apply, or as the case may be, receive benefit on his behalf; or
  - (b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on his behalf; or
  - (c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,
- that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.
- 68.3 Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and paragraph (2) does not apply to him, an authority may, upon written application made to them by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under the authority's scheme and to receive and deal on his behalf with any sums payable to him.
- 68.4 Where the authority has made an appointment under paragraph (3) or treated a person as an appointee under paragraph (5);
- (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 shall terminate when the authority is notified of the appointment of a person mentioned in paragraph (2).
- 68.5 Where a person who is liable to pay council tax in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on his behalf under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act), the authority may if that person agrees, treat him as if he had been appointed by them under paragraph (3).
- 68.6 Anything required by an 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 paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.

## **69.0 Procedure by which a person may apply for a reduction under an authority's scheme<sup>17</sup>**

- 69.1 Paragraphs 2 to 8 apply to an application for a reduction under an authority's scheme.

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

<sup>17</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) Regulations 2012

- 69.2 An application may be made—
- (a) in writing,
  - (b) by means of an electronic communication in accordance with Part 4 of Schedule 7 Council Tax Reductions (Prescribed requirements) Regulations 2012 or
  - (c) (where the authority has published a telephone number for the purpose of receiving such applications) by telephone.
- 69.3 (1) An application which is made in writing must be made to the offices of the authority on a properly completed form.  
(2) The form will be provided free of charge by the authority for the purpose.
- 69.4. Where an application received by the authority 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.
- 69.5. (1) Where an application made in writing is defective because—
- (a) the form provided by the authority has not been properly completed; or
  - (b) if it is made in writing, but not on the form provided by the authority, and the authority does not consider the application as being in a written form which is sufficient in the circumstances of the case;
- the authority may request the applicant to complete the defective application or (as the case may be) supply the applicant with the form to complete or request further information or evidence.
- (2) An application made on a form provided by the authority is properly completed if completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.
- 69.6. (1) If an application made by electronic communication is defective the authority will provide the person making the application with an opportunity to correct the defect.  
(2) An application made by electronic communication is defective if the applicant does not provide all the information the authority requires.
- 69.7. In a particular case the authority may determine that an application made by telephone is only valid if the person making the application approves a written statement of his circumstances provided by the authority.
- 69.8. (1) If an application made by telephone is defective the authority will provide the person making the application with an opportunity to correct the defect.  
(2) An application made by telephone is defective if the applicant does not provide all the information the authority requests during the telephone call.
- 69.9 Notwithstanding other paragraphs within this section, the authority will determine the method by which claims are to be made as well as where claims should be sent or delivered.  
received at the designated office, authorised office, county offices or appropriate DWP office.

69.10 Where an applicant ('C')–

- (a) makes a claim which includes (or which C subsequently requests should include) a period before the claim is made; and
- (b) from a day, in that period, up to the date when C made the claim (or subsequently requested that the claim should include a past period), C had continuous good cause for failing to make a claim (or request that the claim should include that period), the claim is to be treated as made on the date determined in accordance with paragraph 69.11

69.11 The date is the latest of–

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

#### **69A.0 Date on which a claim made**

69A.1 Subject to sub-paragraph (7), the date on which an application is made is

- (a) in a case where;
  - (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and
  - (ii) the application for a reduction under this scheme is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received,
 the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;

(b) in a case where—

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

the date of the death or separation;

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

(e) in any other case, the date on which the application is received at the offices of the authority.

69A.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.

- 69A.3 Where the defect referred to in paragraph 7 of Schedule 1 to this scheme (application by telephone)
- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority is to 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 is to treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide on the application.
- 69A.4 The authority is to treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.
- 69A.5 The conditions are that—
- (a) where paragraph 4(a) of Schedule 1 (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 1 (application not on approved form or further information requested by authority) applies;
    - (i) the approved form sent to the applicant is received at the offices of the authority properly completed within one month of it having been sent to him; or, as the case may be; ~~or~~
    - (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 offices the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.
- 69A.6 Except in the case of an application made by a person treated as not being in United Kingdom, 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.
- 69A.7 Except in the case of an application made by a person treated as not being in United Kingdom, where the applicant is not entitled to a reduction under this scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under this scheme for a period beginning not later than
- (a) in the case of an application made by a pensioner, 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.
- 69A.8 Sub-paragraph (7) applies in the case of 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.



## **70.0 Submission of evidence electronically**

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

## **71.0 Use of telephone provided evidence**

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

## **72.0 Evidence and information<sup>18</sup>**

- 72.1 Subject to paragraph (2), a person who makes an application, or a person to whom a reduction under an authority's scheme has been awarded, shall furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by the authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under its scheme and shall do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.
- 72.2 Nothing in this paragraph requires a person to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (4) applies.
- 72.3 Where a request is made under sub-paragraph (1), the authority shall;
- (a) inform the applicant or the person to whom a reduction under its scheme has been awarded of his duty to notify the authority of any change of circumstances; and
  - (b) without prejudice to the extent of the duty owed, 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.
- 72.4 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 9 (payments made under certain trusts and certain other payments), other than a payment under the Independent Living Fund (2006);
  - (c) a payment which is disregarded under paragraph 29(9)(b) or (c) (non-dependant deductions) or paragraph 2(b) or (c) of Schedule 4 (second adult's gross income) other than a payment under the Independent Living Fund (2006).
- 72.5 Where an applicant or a person to whom a reduction under this scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, he must where the authority so requires furnish the following information
- (a) the name and address of the pension fund holder;

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<sup>18</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) Regulations 2012

(b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

### **73.0 Amendment and withdrawal of claim<sup>19</sup>**

- 73.1 A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the offices of the authority.
- 73.2 Where the application was made by telephone in accordance with this policy, the amendment may also be made by telephone.
- 73.3 Any application amended in accordance with paragraph (1) or (2) will be treated as if it had been amended in the first instance.
- 73.4 A person who has made an application may withdraw it at any time before a decision has been made on it by notice to the offices of the authority.
- 73.5 Where the application was made by telephone in accordance with this policy, the withdrawal may also be made by telephone.
- 73.6 Any notice of withdrawal given in accordance with paragraph (4) or (5) shall have effect when it is received.

### **74.0 Duty to notify changes of circumstances<sup>20</sup>**

- 74.1 Subject to paragraphs (2), (5) and (6), if at any time between the making of an application to an authority and a decision being made on it there is a change of circumstances which the applicant (or any person acting on his behalf) might reasonably be expected to know might affect his entitlement to, or the amount of, a reduction under that authority's scheme, that person is under a duty to notify that change of circumstances by giving notice to the authority;
- (a) in writing; or
  - (b) by telephone;
    - (i) where the authority has published a telephone number for that purpose unless the authority determines that in any particular case or class of case notification may not be given by telephone; or
    - (ii) in any case or class of case where the authority determines that notice may be given by telephone; or
  - (c) by any other means which the authority agrees to accept in any particular case.
- 74.2 The duty imposed on a person by sub-paragraph (1) does not extend to notifying changes in;
- (a) the amount of a council tax payable to the authority;
  - (b) the age of the applicant or that of any member of his family;
  - (c) in the case of an applicant on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, or who has an award of universal credit, in circumstances which affect the amount of income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit but not the amount of the reduction under this scheme to which he is entitled, other than the cessation of that entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit.

<sup>19</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) Regulations 2012

<sup>20</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) Regulations 2012



- 74.3 Notwithstanding paragraph (2)(b) or (c) an applicant is required by paragraph (1) to notify the authority of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he ceases to be a child or young person.
- 74.4 In the case of a person who receives 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 income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the date when this occurs.



## **Sections 75- 90**

### **Decisions, decision notices and awards of Council Tax Support**

## **75.0 Decisions by the authority<sup>21</sup>**

- 75.1 An authority must make a decision on an application for a reduction under its scheme within 14 days or as soon as reasonably practicable thereafter.

## **76.0 Notification of decision<sup>22</sup>**

- 76.1 The authority must notify in writing any person affected by a decision made by it under this scheme
- (a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;
  - (b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.
- 76.2 Where the decision is to award a reduction the notification under sub-paragraph (1) must include a statement—
- (a) informing the person affected of the duty imposed by paragraph 74.1;
  - (b) explaining the possible consequences (including prosecution) of failing to comply with that duty; and
  - (c) setting out the circumstances a change in which might affect entitlement to the reduction or its amount.
- 76.3 A person affected to whom the authority sends or delivers a notification of decision may, within one month of the date of the notification of that decision request in writing the authority to provide a written statement setting out the reasons for its decision on any matter set out in the notice.
- 76.4 The written statement referred to in sub-paragraph (3) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.
- 76.5 For the purposes of this paragraph a person is to be treated as a person affected by a decision of the authority under this scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (6).
- 76.6 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, a person appointed by the authority under paragraph 68.2.

## **77.0 Time and manner of granting council tax support<sup>23</sup>**

- 77.1 Where a person is entitled to a reduction under this authority's scheme in respect of

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<sup>21</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) Regulations 2012

<sup>22</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) Regulations 2012

<sup>23</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) Regulations 2012

his liability for the authority's council tax as it has effect in respect of a chargeable financial year ("the chargeable year"), the authority must discharge his entitlement;

- (a) by reducing, so far as possible, the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992 refers; or
- (b) where;
  - (i) such a reduction is not possible; or
  - (ii) such a reduction would be insufficient to discharge the entitlement to a reduction under the authority's scheme; or
  - (iii) the person entitled to the reduction is jointly and severally liable for the council tax and the authority determines that such a reduction would be inappropriate, by making payment to him of the amount of reduction to which he is entitled, rounded where necessary to the nearest penny.

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

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

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

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

## **78.0 Persons to whom support is to be paid <sup>24</sup>**

78.1 Subject to section 80 (payment on death) and paragraph (2), any payment of the amount of a reduction under paragraph 14(1)(b) must be made to that person.

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

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<sup>24</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) Regulations 2012

#### **79.0 Shortfall in support / reduction<sup>25</sup>**

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

#### **80.0 Payment on the death of the person entitled<sup>26</sup>**

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

#### **81.0 Offsetting**

- 81.1 Where a person has been allowed or paid a sum of council tax support under a decision which is subsequently revised or further revised, any sum allowed or paid in respect of a period covered by the subsequent decision shall be offset against arrears of entitlement under the subsequent decision except to the extent that the sum exceeds the arrears and shall be treated as properly awarded or paid on account of them.

#### **82 – 87 Not used**

#### **88.0 Diminution of notional capital**

- 88.1 Where notional capital has been used in the calculation of Council Tax Support. Further calculations may be undertaken every thirteen weeks to reduce the notional capital by the amount of council tax support that would have been awarded if the notional capital had not been taken into account in the calculation.

#### **89.0 Not used**

#### **90.0 Not used**

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<sup>25</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) Regulations 2012

<sup>26</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) Regulations 2012





## **Sections 91 – 94**

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

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

- 91.1 The authority will use information provided by the DWP and HMRC for the purposes of council tax support, council tax liability, billing, administration and enforcement as outlined within Schedule 2 of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012.
- 91.2 Where required by the relevant department and where required by law, the authority will share information obtained for Council Tax Support with the DWP or HMRC as appropriate.

#### **92.0 Collection of information**

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

#### **93.0 Recording and holding information**

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

#### **94.0 Forwarding of information**

- 94.1 The authority may forward it to the person or authority for the time being administering claims to or awards of council tax support to which the relevant information relates, being
- (i) a local authority;
  - (ii) a person providing services to a local authority; or
  - (iii) a person authorised to exercise any function of a local authority relating to council tax support.



## **Sections 95 – 98**

### **Revisions, Written Statements, Termination of Council Tax Support**

## **95.0 Persons affected by Decisions**

- 95.1 A person is to be treated as a person affected by a relevant decision of the authority here that person is;
- a. an applicant;
  - b. in the case of a person who is liable to make payments in respect of a dwelling and is unable for the time being to act
    - (i) a Deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit or support on his behalf,
    - (ii) in Scotland, a tutor, curator, judicial factor or other guardian acting or appointed in terms of law administering that person's estate, or
    - (iii) an attorney with a general power or a power to receive benefit or support appointed by the person liable to make those payments under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise;
  - c. a person appointed by the authority under this policy;

## **96.0 Revisions of Decisions**

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

## **97.0 Written Statements**

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

## **98.0 Terminations**

- 98.1 The authority may terminate support in whole or in part the Council Tax Support where it appears to the authority that an issue arises whether;
- a. the conditions for entitlement to Council Tax Support are or were fulfilled; or
  - b. a decision as to an award of such a support should be revised or superseded.
- 98.2 The authority may terminate, in whole or in part the Council Tax Support where it appears to the authority that an issue arises whether;
- a. the conditions for entitlement to Council Tax Support are or were fulfilled; or
  - b. a decision as to an award of such a support should be revised or superseded.
- Where the person fails to provide information to the authority as requested in relation to any matter relating to their liability for Council Tax



## **Section 99**

### **Appeals against the authority's decisions**

**99.0 Procedure by which a person may make an appeal against certain decisions of the authority<sup>27</sup>**

99.1 A person who is aggrieved by a decision of the authority under its scheme may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.

99.2 In the circumstances mentioned in sub-paragraph (1) the authority must

- (a) consider the matter to which the notice relates;
- (b) notify the aggrieved person in writing;
  - (i) that the ground is not well founded, giving reasons for that belief; or
  - (ii) that steps have been taken to deal with the grievance, stating the steps

taken.

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

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<sup>27</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) Regulations 2012



## **Section 100**

### **Procedure for applying for a discretionary reduction**

**100.0 Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act<sup>28</sup>**

- 100.1** An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act must be made;
- (a) in writing,
  - (b) by means of an electronic communication in accordance with this policy

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<sup>28</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) Regulations 2012





**Section 101 - 106<sup>29</sup>**  
**Electronic Communication**

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<sup>29</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) Regulations 2012

### **101.0 Interpretation**

- 101.1 In this section “official computer system” means a computer system maintained by or on behalf of the authority for sending, receiving, processing or storing of any claim, certificate, notice, information or evidence. The authority may use an electronic communication in connection with claims for, and awards of, reduction under this scheme.
- 101.2 A person other than the authority may use an electronic communication in connection with the matters referred to in paragraph (1) if the conditions specified in paragraphs (3) to (6) are satisfied.
- 101.3 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.
- 101.4 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 claim or notice delivered by means of an electronic communication; and
  - (d) subject to paragraph (7), submitting to the authority any claim, certificate, notice, information or evidence.
- 101.5 The third condition is that any claim, certificate, notice, information or evidence sent by means of an electronic communication is in a form approved for the purposes of this section
- 101.6 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.
- 101.7 Where the person uses any method other than the method approved of submitting any claim, certificate, notice, information or evidence, that claim, certificate, notice, information or evidence shall be treated as not having been submitted.
- 101.8 In this paragraph “approved” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this policy.

### **102.0 Use of intermediaries**

- 102.1 The authority may use intermediaries in connection with;
- (a) the delivery of any claim, certificate, notice, information or evidence 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.

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

- 103.1 Any claim, certificate, notice, information or evidence which is delivered by means of an electronic communication shall be treated as having been delivered in the manner or form required by any provision of this scheme, on the day the conditions imposed;
- (a) by this policy; and
  - (b) by or under an enactment,

are satisfied.

103.2 The authority may, by a direction, determine that any claim, certificate, notice, information or evidence is to be treated as delivered on a different day (whether earlier or later) from the day provided for in paragraph (1).

103.3 Information shall 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.

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

104.1 If it is necessary to prove, for the purpose of any legal proceedings, the identity of;

- (a) the sender of any claim, certificate, notice, information or evidence delivered by means of an electronic communication to an official computer system; or
- (b) the recipient of any such claim, certificate, notice, information or evidence delivered by means of an electronic communication from an official computer system,

the sender or recipient, as the case may be, shall be presumed to be the person whose name is recorded as such on that official computer system.

#### **105. Proof of delivery of information**

105.1 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 claim, certificate, notice, information or evidence this shall be presumed to have been the case where;

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

105.2 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 claim, certificate, notice, information or evidence, this shall be presumed not to be the case, if that claim, certificate, notice, information or evidence delivered to the relevant authority has not been recorded on an official computer system.

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

#### **106.0 Proof of content of information**

106.1 If it is necessary to prove, for the purpose of any legal proceedings, the content of any claim, certificate, notice, information or evidence sent by means of an electronic communication, the content shall be presumed to be that recorded on an official computer system.





**Section 107**  
**Counter Fraud and Compliance**

### **107.0 Counter Fraud and compliance**

107.1 In order to protect the finances of the authority and also in the interests of all council taxpayers, the authority will undertake such actions as allowed by law to;

- a. Prevent and detect fraudulent claims and actions in respect of Council Tax Support;
- b. Carry out investigations fairly, professionally and in accordance with the law; and
- c. Ensure that sanctions are applied in appropriate cases

107.2 The authority believes that it is important to minimise the opportunity for fraud and;

- a. will implement rigorous procedures for the verification of claims for council tax support;
- b. will employ sufficient Officers to fulfil the authority's commitment to combat fraud;
- c. will actively tackle fraud where it occurs in accordance with this policy;
- d. will co-operate with the Department for Work and Pensions (DWP), Her Majesty's Revenues and Customs and take part in joint working including prosecutions; and
- e. will in all cases seek to recover all outstanding council tax.

107.3 The authority shall put into place such administrative policies, procedures and processes as are necessary to ensure that the actions outlined within paragraph 107.1 and 107.2 can be carried out successfully



## **Schedule 1**

### **Applicable Amounts (Living Allowances)<sup>30</sup>**

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<sup>30</sup> The amounts shown within this schedule shall be uprated in line with the Housing Benefit Regulations 2006 as amended



## Personal Allowance

- 1 The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes of section 10 a) and 11 a) and b) of the main policy;

| Column 1<br>Person or Couple                                                                           | Column 2 |
|--------------------------------------------------------------------------------------------------------|----------|
| 1. A Single applicant who;<br>a) is entitled to main phase employment and support allowance            | £71.00   |
| b) is aged not less than 25                                                                            | £71.00   |
| c) is aged not less than 18 but less than 25                                                           | £56.25   |
| 2. Lone Parent                                                                                         | £71.00   |
| 3. Couple;<br>a) Where the applicant is entitled to the main phase of employment and support allowance | £111.45  |
| b) Where one member is aged not less than 18                                                           | £111.45  |

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

- Paragraph 21 is satisfied in relation to the applicant; or
- The applicant is entitled to a converted employment and support allowance

- 2 (1) The amount specified in column (2) below in respect of each person specified in column (1) shall, for the relevant period specified in column (1), be the amounts specified for the purposes of sections 10 b) and 11 c) in the main policy

| Column 1<br>Child or Young Person                                                                                                                                                          | Column 2 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| Person in respect of the period–<br>(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; | £64.99   |
| (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.                                | £64.99   |

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

## Family Premiums

3. (1) The amount for the purposes of sections 10(c) and 11(d) of this policy in respect of a family of which at least one member is a child or young person shall be
- where the applicant is a lone parent to whom sub-paragraph (3) of Schedule 3 of the Housing Benefit Regulations 2006 applies, £22.20;
  - in any other case, £17.40;

(2) The conditions specified for the purposes of sub-paragraph (3) are that, in respect of the period commencing on 6th April 1998–

- a. the applicant has not ceased to be entitled, or has not ceased to be treated as entitled, to (3) For the purposes of sub-paragraphs (3)(b)(i) and (4)(a), an applicant shall be treated as entitled to council tax support during any period where he was not, or had ceased to be, so entitled and—
- a. throughout that period, he had been awarded housing benefit and his applicable amount included the amount applicable under paragraph 3(1)(a) of Schedule 3 to the Housing Benefit Regulations (lone parent rate of family premium); or
- b. he would have been awarded housing benefit during that period had that period not been a rent free period as defined in regulation 81 of the Housing Benefit Regulations and his applicable amount throughout that period would have included the amount applicable under paragraph 3(1)(a) of Schedule 3 to those Regulations.

### **Premiums**

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

### **Disability Premium**

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

### **Additional Condition for the Disability Premiums**

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

### **Severe Disability Premiums**

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

2006

### Enhanced Disability Premium

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

### Disabled Child Premium

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

### Carer Premium

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

### Persons in receipt of concessionary payments

14. For the purpose of determining whether a premium is applicable to a person under paragraphs 13 to 17, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.

### Persons in receipt of benefit for another

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

### Amounts of Premiums

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

| Premium                                                                                                                                                 | Amount                                                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Disability Premium</b>                                                                                                                               | £30.35                                                                                                                                                              |
| a. where the applicant satisfies the condition in paragraph 12(a) of Schedule 3 Housing Benefit Regulations 2006                                        |                                                                                                                                                                     |
| b. where the applicant satisfies the condition in paragraph 12(b) of Schedule 3 Housing Benefit Regulations 2006                                        | £43.25                                                                                                                                                              |
| <b>Severe Disability Premium</b>                                                                                                                        | £58.20                                                                                                                                                              |
| a. where the applicant satisfies the condition in paragraph 14(2)(a) of Schedule 3 Housing Benefit Regulations 2006                                     |                                                                                                                                                                     |
| b. where the applicant satisfies the condition in paragraph 14(2)(b) of Schedule 3 Housing Benefit Regulations 2006                                     | £58.20                                                                                                                                                              |
| i. in a case where there is someone in receipt of carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 14(5); |                                                                                                                                                                     |
| ii. in a case where there is no one in receipt of such an allowance                                                                                     | £116.40                                                                                                                                                             |
| <b>Disabled Child Premium</b>                                                                                                                           | £56.63 in respect of each child or young person in respect of whom the condition specified in paragraph 16 of Part 3 of Schedule 3 Housing Benefit Regulations 2006 |
| <b>Carer Premium</b>                                                                                                                                    | £32.60 in respect of each person who satisfies the condition specified in paragraph 17 of Part                                                                      |

|                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                    | 3 of Schedule 3 Housing Benefit Regulations 2006                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Enhanced Disability Premium</b> | <p>(a) £22.89 in respect of each child or young person in respect of whom the conditions specified in paragraph 15 of Part 3 of Schedule 3 Housing Benefit Regulations 2006 are satisfied;</p> <p>(b) £14.80 in respect of each person who is neither–</p> <p>(i) a child or young person; nor</p> <p>(ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 15 are satisfied;</p> <p>(c) £21.30 where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 15 of Part 3 of Schedule 3 Housing Benefit Regulations 2006 are satisfied in respect of a member of that couple or polygamous marriage.</p> |

#### **The components**

17. The condition (s) to be met is contained in Schedule 3 (21 -24) Housing Benefit Regulations 2006
18. The amount of the work-related activity component is £28.15. The amount of the support component is £34.05

#### **Transitional Addition**

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

#### **Amount of transitional addition**

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



## **Schedule 2**

**Not used**





### **Schedule 3**

#### **Sums to be disregarded in the calculation of earnings**

1. In the case of an applicant who has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged–
  - (a) where–
    - (i) the employment has been terminated because of retirement; and
    - (ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions,  
any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;
  - (b) where before the first day of entitlement to council tax support the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except–
    - (i) any payment of the nature described in  
(aa) paragraph 25.1(e), or  
(bb) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds); and
    - (ii) any award, sum or payment of the nature described in  
(aa) paragraph 25.1(g) or (h), or  
(bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),  
including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;
  - (c) where before the first day of entitlement to council tax support–
    - (i) the employment has not been terminated, but
    - (ii) the applicant is not engaged in remunerative work,  
any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii) (bb) or paragraph 25.1(i), or (j).
2. In the case of an applicant who, before first day of entitlement to council tax support;
  - (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and
  - (b) has ceased to be engaged in that employment, whether or not that employment has been terminated,  
any earnings paid or due to be paid in respect of that employment except;
    - (i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i) or (ii)(bb);
    - (ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) or paragraph 25.1(i), (i) or (j).
- 2A. In the case of an applicant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment any earnings derived from that employment except earnings



to which paragraph 27.3 and paragraph 27.4 (earnings of self-employed earners) apply.

3. (1) In a case to which this paragraph applies and paragraph 4 does not apply, £20; but notwithstanding section 15 (calculation of income and capital of members of an applicant's family and of a polygamous marriage) if this paragraph applies to an applicant it shall not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £20.
- (2) This paragraph applies where the applicant's applicable amount includes an amount by way of the disability premium, severe disability premium, work-related activity component or support component.
- (3) This paragraph applies where
  - (a) the is a member of a couple and his applicable amount includes an amount by way of the disability premium; and
  - (b) the or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.
- (4)–(5) Not used
4. In a case where the applicant is a lone parent, £25.
5. (1) In a case to which neither paragraph 3 nor paragraph 4 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium, £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with this policy as being in receipt of carer's allowance.
- (2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £20 of the aggregated amount.
6. Where the carer premium is awarded in respect of an applicant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment;
  - (a) specified in paragraph 8(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 5 exceed £20;
  - (b) other than one specified in paragraph 8(1), so much of the other member's earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 5 exceed £20.
7. In a case where paragraphs 3, 5, 6 and 8 do not apply to the applicant and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding section 15 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it shall not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £10.
8. (1) In a case where paragraphs 3, 4, 5 and 6 do not apply to the applicant, £20 of earnings derived from one or more employments as–
  - (a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
  - (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005(a)) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;

- (c) an auxiliary coastguard in respect of coast rescue activities;
  - (d) a person engaged part-time in the manning or launching of a life boat;
  - (e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001;

but, notwithstanding section 15 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it shall not apply to his partner except to the extent specified in sub-paragraph (2).
- (2) If the applicant's partner is engaged in employment;
  - (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the applicant's earnings disregarded under this paragraph exceed £20;
  - (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £20.
- 9. Where the applicant is engaged in one or more employments specified in paragraph 8(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment so much of his earnings from that other employment, up to £5 if he is a single applicant, or up to £10 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 8 exceed £20.
- 10. In a case to which none of the paragraphs 3 to 9 applies, £5.
- 10A. (1) Where;
  - (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
  - (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
  - (c) paragraph 12 does not apply,

the amount specified in sub-paragraph (7) ('the specified amount').
- (2) Where this paragraph applies, paragraphs 3 to 10 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 4, then paragraph 4 applies instead of this paragraph.
- (3) Notwithstanding section 15 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ('A') it shall not apply to the other member of that couple ('B') except to the extent provided in sub-paragraph (4).
- (4) Where A's earnings are less than the specified amount, there shall also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.
- (5) This sub-paragraph applies to a person who is;
  - (a) in receipt of a contributory employment and support allowance;
  - (b) in receipt of incapacity benefit;
  - (c) in receipt of severe disablement allowance; or
  - (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975
- (6) 'Exempt work' means work of the kind described in;
  - (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations; or (as the case may be)

(b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995, and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

- (7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).
11. Any amount or the balance of any amount which would fall to be disregarded under paragraph 19 or 20 of Schedule 4 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.
  12. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, his earnings.
  13. Any earnings derived from employment, which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.
  14. Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting that payment into Sterling.
  15. Any earnings of a child or young person.
  16. (1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 3 to 10A of this Schedule shall be increased by £17.10.  
(2) The conditions of this sub-paragraph are that-  
    - (a) the applicant, or if he is a member of a couple, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or
    - (b) the applicant-  
      - (i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or
      - (ii) is a member of a couple and  
        - (aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and
        - (bb) his applicable amount includes a family premium; or
      - (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
      - (iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and;
      - (aa) the applicant's applicable amount includes a disability premium, the work-related activity component or the support component ;
      - (bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the disability premium or either of the components referred to in sub-head (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or
    - (c) the applicant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit Regulations (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be



made in his case.

- (3) The following are the amounts referred to in sub-paragraph (1);
    - (a) the amount calculated as disregardable from the applicant's earnings under paragraphs 3 to 10A of this Schedule;
    - (b) the amount of child care charges calculated as deductible under paragraph 17(1)(c); and
    - (c) £17.10
  - (4) The provisions of section 6 shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that section were a reference to 30 hours.
- 17.** In this Schedule 'part-time employment' means employment in which the person is engaged on average for less than 16 hours a week.

## **Schedule 4**

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

1. Any amount paid by way of tax on income, which is to be taken into account under section 30 (calculation of income other than earnings).
- A2. Any payment made to the claim and in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.
- A3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme, but only for 52 weeks beginning with the date of receipt of the payment.
2. Any payment in respect of any expenses incurred or to be incurred by an applicant who is–
  - (a) engaged by a charitable or voluntary organisation, or
  - (b) volunteer,
 if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under paragraph 32.8 (notional income).
- 2A. Any payment in respect of expenses arising out of the applicant's participation in a service user group.
3. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.
4. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance the whole of his income.
5. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.
6. Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999 as in force at that date, the whole of his income.
7. Any disability living allowance or personal independence payment
8. Any concessionary payment made to compensate for the non-payment of;
  - (a) any payment specified in paragraph 7 or 10;
  - (b) income support;
  - (c) an income-based jobseeker's allowance.
  - (d) an income-related employment and support allowance.
9. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
10. Any attendance allowance.
11. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.
12. (1) Any payment–

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

- (ii) from funds derived from a payment made, in consequence of any personal injury to the applicant; or
  - (e) a payment (not falling within sub-paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.
- (2) Sub-paragraph (1) shall not apply to a payment, which is made or due to be made by–
  - (a) a former partner of the applicant, or a former partner of any member of the applicant's family; or
  - (b) the parent of a child or young person where that child or young person is a member of the applicant's family.
- 16.** The Council has resolved to disregard in total the following;
  - (a) a war disablement pension;
  - (b) a war widow's pension or war widower's pension;
  - (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
  - (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
  - (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
  - (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
  - (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria
- 17.** Subject to paragraph 35, £15 of any;
  - (a) widowed mother's allowance paid pursuant to section 37 of the Act;
  - (b) widowed parent's allowance paid pursuant to section 39A of the Act.
- 18.**
  - (1) Any income derived from capital to which the applicant is or is treated under section 41 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or 25 to 28 of Schedule 5.
  - (2) Income derived from capital disregarded under paragraphs 2, 4 or 25 to 28 of Schedule 5 but only to the extent of–
    - (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
    - (b) any council tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.
  - (3) The definition of 'water charges' in paragraph 2(1) shall apply to sub-paragraph (2) of this paragraph with the omission of the words 'in so far as such charges are in respect of the dwelling which a person occupies as his home'.
- 19.** Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating–
  - (a) under, or pursuant to regulations made under powers conferred by, sections 1 or 2 of the Education Act 1962 or section 22 of the Teaching and Higher Education Act 1998(c), that student's award;
  - (b) under regulations made in exercise of the powers conferred by section 49 of the



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

(c) the student's student loan,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

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

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

Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006

29. Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or section 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).
- 29A. (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989(e) or section 29 of the Children (Scotland) Act 1995(local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ('A') which A passes on to the applicant.  
(2) Sub-paragraph (1) applies only where A;  
(a) was formerly in the applicant's care, and  
(b) is aged 18 or over, and  
(c) continues to live with the applicant.
30. (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments;  
(a) on a loan which is secured on the dwelling which the applicant occupies as his home; or  
(b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.  
(2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—  
(a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (b); and  
(b) meet any amount due by way of premiums on—  
(i) that policy; or  
(ii) in a case to which sub-paragraph(1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).
31. Any payment of income which, by virtue of section 36 (income treated as capital) is to be treated as capital.
32. Any social fund payment made pursuant to Part 8 of the Act (the Social Fund).
33. Any payment under Part 10 of the Act (Christmas bonus for pensioners).
34. Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
35. The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under paragraph 15.2 (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph 47.2(b) and paragraph 48.1(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 51(2) (treatment of student loans), paragraph 52(3) (treatment of payments from access funds) and paragraphs 16 and 17 shall in no case exceed £20 per week.
36. (1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).  
(2) Any payment by or on behalf of a person who is suffering or who suffered from

haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of–

- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of;

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where;

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either;
  - (i) to that person's parent or step-parent, or
  - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where;

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either
  - (i) to that person's parent or step-parent, or
  - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

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

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the

Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.

37. Any housing benefit.
38. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
39. - 40. not used
41. Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.
42. Not used
43. Any payment in consequence of a reduction of council tax under section 13 or section 80 of the 1992 Act (reduction of liability for council tax).
44. Not used
45. (1) Any payment or repayment made—
  - (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
  - (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
  - (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies).(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers, which is analogous to a payment or repayment, mentioned in sub-paragraph (1).
46. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).
47. Any payment made by either the Secretary of State for Justice or by the Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody.
48. (1) Where an applicant's applicable amount includes an amount by way of a family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.  
(2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments such be aggregated and treated as if they were a single payment.  
(3) A payment made by the Secretary of State in lieu of maintenance shall, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).
- 48A. (1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.

(2) In paragraph (1)

‘child maintenance’ means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under;

- (a) the Child Support Act 1991;
- (b) the Child Support (Northern Ireland) Order 1991;
- (c) a court order;
- (d) a consent order;
- (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

‘liable relative’ means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.

**49.** Not used

**50.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.

**51.** Any guardian’s allowance.

**52.** (1) If the applicant is in receipt of any benefit under Parts 2, 3 or 5 of the Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of the Act, where the dependant in respect of whom the increase is paid is not a member of the applicant’s family.

(2) If the applicant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the applicant’s family.

**53.** Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.

**54.** In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983(a) (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

**55** (1) Any payment which is

- (a) made under any of the Dispensing Instruments to a widow, widower or
- (b) surviving civil partner of a person;
  - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
  - (ii) whose service in such capacity terminated before 31st March 1973; and

equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(2) In this paragraph ‘the Dispensing Instruments’ means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).

**55A.** Any council tax support or council tax benefit to which the applicant is entitled.

**56.** Except in a case which falls under sub-paragraph (1) of paragraph 16 of Schedule 3, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10

**56A.-56B.** Not used



57. Any payment made under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care) or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments).
58. (1) Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person—
  - (a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;
  - (b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,in respect of which such assistance is or was received.  
(2) Sub-paragraph (1) shall apply only in respect of payments, which are paid to that person from the special account
59. (1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).  
(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.  
(3) For the purposes of sub-paragraph (2) 'food' does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.
60. Where the amount of subsistence allowance paid to a person in a reduction week exceeds the amount of income-based jobseeker's allowance that person would have received in that reduction week had it been payable to him, less 50p, that excess amount.
61. In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.
62. Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001
63. (1) Any payment made by a local authority or by the Welsh Ministers to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.  
(2) For the purposes of sub-paragraph (1) 'local authority' includes, in England, a county council.
64. Not used
65. Not used
66. Any payment of child benefit.



## **Schedule 5**

### **Capital to be disregarded**



1. The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular 5, in Scotland, any croft land on which the dwelling is situated; but, notwithstanding section 15 (calculation of income and capital of members of applicant's family and of polygamous marriage), only one dwelling shall be disregarded under this paragraph.
- A2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.
- A3. Any payment made to the applicant in respect of any travel or other expenses incurred or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme but only for 52 weeks beginning with the date of receipt of the payment but only for 52 weeks beginning with the date of receipt of payment.
2. Any premises acquired for occupation by the applicant, which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
3. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the applicant to complete the purchase.
4. Any premises occupied in whole or in part–
  - (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
  - (b) by the former partner of the applicant as his home; but this provision shall not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
5. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his capital.
6. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and his partner is on income-based jobseeker's allowance, the whole of the applicant's capital.
7. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
8. (1) The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.  
 (2) The assets of any business owned in whole or in part by the applicant where–
  - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
  - (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business;

for a period of 26 weeks from the date on which the claim for council tax support is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

(3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

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

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

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

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as 'the relevant sum') and is

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations; and
- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of council tax support, for the remainder of that award if that is a longer period.

- (3) For the purposes of sub-paragraph(2), 'the award of council tax support' means–
- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
  - (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant;
    - (i) is the person who received the relevant sum; or
    - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death.

10. Any sum
- (a) paid to the applicant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or replacement; or
  - (b) acquired by the applicant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home, which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to effect the repairs, replacement or improvement.

- 11.** Any sum–
  - (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 or section 338(1) of the Housing (Scotland) Act 1987 as a condition of occupying the home;
  - (b) which was so deposited and which is to be used for the purchase of another home,for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the applicant to complete the purchase.
- 12.** Any personal possessions except those which have been acquired by the applicant with the intention of reducing his capital in order to secure entitlement to council tax support or to increase the amount of that support.
- 13.** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 14.** Where the funds of a trust are derived from a payment made in consequence of any personal injury to the applicant or applicant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.
- 14A.** (1) Any payment made to the applicant or the applicant's partner in consequence of any personal injury to the applicant or, as the case may be, the applicant's partner.  
  
(2) But sub-paragraph (1)
  - (a) applies only for the period of 52 weeks beginning with the day on which the applicant first receives any payment in consequence of that personal injury;
  - (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
  - (c) ceases to apply to the payment or any part of the payment from the day on which the applicant no longer possesses it;
  - (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the applicant.  
(3) For the purposes of sub-paragraph (2)(c), the circumstances in which an applicant no longer possesses a payment or a part of it include where the applicant has used a payment or part of it to purchase an asset.  
  
(4) References in sub-paragraphs (2) and (3) to the applicant are to be construed as including references to his partner (where applicable).
- 15.** The value of the right to receive any income under a life interest or from a life rent.
- 16.** The value of the right to receive any income, which is disregarded under paragraph 13 of Schedule 3 or paragraph 25 of Schedule 4.
- 17.** The surrender value of any policy of life insurance.
- 18.** Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
- 19.** Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).
- 19A.** (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and

powers to grant financial assistance to persons in, or formerly in, their care) to a person ('A') which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A;

- (a) was formerly in the applicant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the applicant.

20. Any social fund payment made pursuant to Part 8 of the Act.
21. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.
22. Any capital which, by virtue of sections 31 or 51 (capital treated as income, treatment of student loans) is to be treated as income.
23. Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
24. (1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the Charitable Fund.
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) the person who is suffering from haemophilia or who is a qualifying person;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and

- (b) the payment is made either;
  - (i) to that person's parent or step-parent; or
  - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian, but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or any of the Trusts to which sub-paragraph (1) refers, where

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either;
  - (i) to that person's parent or step-parent; or
  - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian, but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose support payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited the Skipton Fund, the Caxton Foundation, and the London Bombings Relief Charitable Fund.

25. (1) Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.  
  
(2) In this paragraph 'dwelling' includes any garage, garden and outbuildings, which were formerly occupied by the applicant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.
26. Any premises where the applicant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.
27. Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.
28. Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.
29. Any payment made by the Secretary of State to compensate for the loss (in whole or in

part) of entitlement to housing benefit.

30. Not used
31. The value of the right to receive an occupational or personal pension.
32. The value of any funds held under a personal pension scheme
33. The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.
34. Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
35. Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.
36. Not used.
37. Any payment in consequence of a reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992 (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.
38. Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988 or section 66 of the Housing (Scotland) Act 1988 (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used–
  - (a) to purchase premises intended for occupation as his home; or
  - (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of those premises as his home.
39. Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.
40. (1) Any payment or repayment made–
  - (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
  - (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
  - (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),but only for a period of 52 weeks from the date of receipt of the payment or repayment.  
(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers, which is analogous to a payment, or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of the receipt of the payment or repayment.
41. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of



vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.

- 41A.** Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).
- 42.** Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.
- 43.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.
- 44.** Not used
- 45.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958 to homeworkers assisted under the Blind Homeworkers' Scheme.
- 46.** (1) Subject to sub-paragraph (2), where an applicant satisfies the conditions in section 131(3) and (6) of the Act (entitlement to alternative maximum council tax support), the whole of his capital.  
(2) Where in addition to satisfying the conditions in section 131(3) and (6) of the Act the applicant also satisfies the conditions in section 131(4) and (5) of the Act (entitlement to the maximum council tax support), sub-paragraph (1) shall not have effect.
- 47.** (1) Any sum of capital to which sub-paragraph (2) applies and
  - (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;
  - (b) which can only be disposed of by order or direction of any such court; or
  - (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.
 (2) This sub-paragraph applies to a sum of capital which is derived from;
  - (a) an award of damages for a personal injury to that person; or
  - (b) compensation for the death of one or both parents where the person concerned is under the age of 18.
- 48.** Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules, where such sum derives from
  - (a) award of damages for a personal injury to that person; or
  - (b) compensation for the death of one or both parents where the person concerned is under the age of 18.
- 49.** Any payment to the applicant as holder of the Victoria Cross or George Cross.
- 50.** Not used
- 51.** In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.
- 52.** (1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) 'food' does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

**53. (1) Any payment;**

- (a) by way of an education maintenance allowance made pursuant to–
  - (i) regulations made under section 518 of the Education Act 1996;
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
  - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
- (b) corresponding to such an education maintenance allowance, made pursuant to;
  - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
  - (ii) regulations made under section 181 of that Act ;

or in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to;

- (a) regulations made under section 518 of the Education Act 1996;
  - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
  - (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,
- in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

**53A.-53B. Not used**

**54.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

**55.** Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.

**56.** Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or interment of–

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

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

**57. (1)** Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is

- (a) a diagnosed person;
- (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;



- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
  - (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.
- (2) Where a trust payment is made to;
  - (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
  - (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending–
    - (i) two years after that date; or
    - (ii) on the day before the day on which that person–
      - (aa) ceases receiving full-time education; or
      - (bb) attains the age of 20,whichever is the latest.
- (3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is–
  - (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
  - (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
  - (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.
- (4) Where a payment as referred to in sub-paragraph (3) is made to–
  - (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date; or
  - (c) person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending–
    - (i) two years after that date; or
    - (ii) on the day before the day on which that person
      - (aa) ceases receiving full-time education; or
      - (bb) attains the age of 20,whichever is the latest.
- (5) In this paragraph, a reference to a person–
  - (a) being the diagnosed person's partner;
  - (b) being a member of a diagnosed person's family;
  - (c) acting in place of the diagnosed person's parents,at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

- (6) In this paragraph- ‘diagnosed person’ means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld- Jakob disease;  
‘relevant trust’ means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;  
‘trust payment’ means a payment under a relevant trust.
- 58.** The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant’s partner, the applicant’s deceased spouse or deceased civil partner or the applicant’s partner’s deceased spouse or deceased civil partner
- (a) was a slave labourer or a forced labourer;
  - (b) had suffered property loss or had suffered personal injury; or
  - (c) was a parent of a child who had died,
- during the Second World War.
- 59** (1) Any payment made by a local authority, or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service, which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.
- (2) For the purposes of sub-paragraph (1) ‘local authority’ includes in England a county council.
- 60.** Any payment made under regulations made under section 57 of the Health and Social Care Act 2001 or under section 12B of the Social Work (Scotland) Act 1968, or under section 12A to 12D of the National Health Service Act 2006 (direct payments for health care).
- 61.** Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 62.** Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).

**TELFORD & WREKIN COUNCIL  
FULL COUNCIL 22 NOVEMBER 2012**

**FURTHER ELECTORAL REVIEW OF THE BOROUGH: COUNCIL SIZE**

**REPORT OF THE ASSISTANT DIRECTOR: LAW, DEMOCRACY AND PUBLIC  
PROTECTION**

**PART A) – SUMMARY REPORT**

**1.0 SUMMARY**

- 1.1 The Local Government Boundary Commission for England (LGBCE) commenced a further electoral review of the Borough in October 2012. The last review was completed in 2002, and the Order that came out at that time gave the Borough a pattern of 33 wards and 54 councillors. 16 wards are single member; 13 wards elect two members and 4 wards elect three members. One of the crucial requirements for such a review is the appropriate number of councillors because this then leads to the quota of electors to councillors. This, in turn leads to the allocation of councillors to wards, ensuring that, as far as possible, every councillor represents approximately the same number of electors. The Commission's technical guidance document can be viewed at the following link

[http://www.lgbce.org.uk/\\_documents/lgbce/guidance-policy-and-publications/guidance/electoral-review-guidance-august-2012.pdf](http://www.lgbce.org.uk/_documents/lgbce/guidance-policy-and-publications/guidance/electoral-review-guidance-august-2012.pdf)

Consultation is currently taking place on council size – the appropriate number of councillors that are required to transact the business of the council effectively.

Full council in September approved that a submission be made to LGBCE for a preferred Council size of 54 councillors by the Boundary Review Committee. The main opposition group made a separate submission in support of a council size of 44 and based on a return to the 'Committee system'. LGBCE considered both submissions and decided to consult on both numbers from the end of October. Submissions can be viewed at [www.lgbce.org.uk](http://www.lgbce.org.uk) Consultation on council size closes on 3 December. If

appropriate, further submissions can now be made supporting proposals for council size. This work lies within the remit of Boundary Review Committee and a further meeting has been scheduled for 26 November to discuss any further submission in support of a council size of 54. The Assistant Director: Law, Democracy & Public Protection, in consultation with the Chairman of Boundary Review Committee can then be tasked with ensuring that any response is made to LGBCE by 3 December

## **2.0 RECOMMENDATIONS**

- 2.1 That the Boundary Review Committee meet to determine, if appropriate, whether a further submission to the Local Government Boundary Commission for England (LGBCE) for a Council size of 54 councillors**
- 2.2 That the Assistant Director Law, Democracy & Public Protection in consultation with the Chairman of Boundary Review Committee be delegated with ensuring that any further submission is made to LGBCE by 3 December.**

## **3. SUMMARY IMPACT ASSESSMENT**

|                                         |                                                                                               |                                                                                                                                                |
|-----------------------------------------|-----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>COMMUNITY IMPACT</b>                 | Do these proposals contribute to specific Priority Plan objective(s)?                         |                                                                                                                                                |
|                                         | No                                                                                            |                                                                                                                                                |
|                                         | Will the proposals impact on specific groups of people?                                       |                                                                                                                                                |
|                                         | No                                                                                            | <i>Borough Wide</i>                                                                                                                            |
| <b>DELIVERY DATE</b>                    | <i>Timetable not currently formulated by Local Government Boundary Commission for England</i> |                                                                                                                                                |
| <b>FINANCIAL/VALUE FOR MONEY IMPACT</b> | No                                                                                            | Costs associated with the electoral review are in the form of officer time and will be met from within existing budgets.<br><br>MLB 17.01.12   |
| <b>LEGAL ISSUES</b>                     | No                                                                                            | The Local Government Boundary Commission for England has a statutory duty to keep under review electoral arrangements at local authority level |

|                                                 |     |                                                                                                                                                                                                                                                             |
|-------------------------------------------------|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>OTHER IMPACTS, RISKS &amp; OPPORTUNITIES</b> | Yes | The Local Government Boundary Commission for England began a Further Electoral Review in October 2012. The outcome of any review may change the size of the council, number and boundaries of wards, names of wards and allocation of councillors to wards. |
| <b>IMPACT ON SPECIFIC WARDS</b>                 | Yes | Borough-wide impact.                                                                                                                                                                                                                                        |

## **PART B) – ADDITIONAL INFORMATION**

### **4.0 COUNCIL SIZE**

4.1 The guidance that the Commission provides on the issue of council size is reproduced at the Annex to this report.

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Documents and information used in the preparation of this report can be found on the website of the Local Government Boundary Commission for England at [www.lgbce.org.uk](http://www.lgbce.org.uk). Of particular relevance is the Commission's guidance: *Electoral reviews: technical guidance* (May 2011). Ward maps and electorates (at 1 December 2011) can be found at our elections website at [www.telford.gov.uk/elections](http://www.telford.gov.uk/elections).

Agendas and papers of Boundary Review Committees can be found here.  
<http://apps.telford.gov.uk/demservice/CommitteesDetails.asp?theCommittee=Boundary>

**Report prepared by Phil Griffiths, Democratic Services Manager, telephone 01952 383210**

## **Annex**

### **Extract from Local Government Boundary Commission for England, *Electoral Reviews: Technical Guidance* (July 2012)**

#### **Council size**

##### **5.2**

Council size is the starting point in any electoral review since it determines the average number of electors per councillor to be achieved across all wards or divisions of the authority. We cannot consider the patterns of wards or divisions without knowing the optimum number of electors per councillor, which is derived from dividing the electorate by the number of councillors to be elected to the authority.

##### **5.3**

We face a number of challenges in deciding on the most appropriate council size for any authority. There is wide variation in council size across England, not only between the different types of local authority – metropolitan and shire district councils, county councils and London boroughs – but also between authorities of the same type.

##### **5.4**

In our opinion, local government is as diverse as the communities it serves, providing services, leadership and representation tailored to the characteristics and needs of individual areas. We believe, therefore, that each local authority should be considered individually and not compared with other authorities of similar geographic or population size, or those facing similar issues and concerns. In addition, the demographic make-up and dispersal of communities in England are such that to aim for equality in the number of electors each councillor represents as an average across the whole country would be impractical, if not unachievable.

##### **5.5**

Consistent, therefore, with our desire to support the preparation of electoral arrangements based on the local views and circumstances of councils and their communities, we are unwilling to apply strict mathematical criteria for council size or impose nationally a formula for its calculation. This also means that we will not base our decisions on council size on comparisons between local authorities. It is important therefore that, if we are to reach clear and transparent decisions on council size, we receive well-reasoned proposals that are based on the individual characteristics and needs of each local authority area and its communities.

##### **5.6**

Despite this respect for diversity it is important to remember that a local authority may not have fully considered the number of councillors for a number of years, and that during that time the role and responsibilities of local government and councillors have changed considerably. Following the Local Government Act 2000 (the 2000 Act), most local authorities changed the way they make decisions and operate internally, some more so than others.

## 5.7

The political management structures that have come into place in most local authorities since the 2000 Act have changed the roles of all councillors, both those who sit on executives and those who undertake the scrutiny and representational roles. In addition, various central government and local authority initiatives have affected the roles of local councillors, and the impact of these may affect the number of councillors needed to politically manage the authority. Finally, the development and the sharing of knowledge has provided opportunities for councils to learn from their own experience and that of others, encouraging innovation. Some councils have, however, used their experience of working in new ways in order to reach a view of the council size they think appropriate for their area, and tested that view through local consultation and electoral review.

## 5.8

Local authority proposals for council size that are based solely on an examination of national statistics, or simply an attempt to make it more consistent with that of a neighbouring area may mean that opportunities are missed either to reflect new models of political management or to adapt to changes in the responsibilities of local authorities.

## 5.9

Whilst we have no absolute numbers in mind, there are obviously levels at which an authority risks being too small to discharge its statutory functions or too large to be able to function in an effective manner. For this reason, we will normally wish to give detailed consideration to proposals for council sizes of below thirty councillors to be assured that the reduction will not jeopardise the ability of a council to manage its business effectively. Equally, we will wish to examine closely proposals for council sizes of above a hundred councillors.

## 5.10

In short, whatever council size local authorities have in mind, we will wish to test the assumptions underlying the proposals regardless of whom they are from.

## 5.11

Our preliminary discussions with principal local authorities which will take place around six months in advance of the formal start of the review, will give us the opportunity to hear their views about council size and begin to test the assumptions made to us. This will not be due to any presumption on our part but rather to ensure that we have a thorough understanding of why a particular council size has been proposed and that the authority has thought through all relevant considerations. The preliminary discussions will therefore progress most effectively if the local authority has considered its view at the earliest possible stage and is able to provide supporting evidence for it.



## **Factors to consider when making a proposal on council size**

### **5.12**

Proposals for council size are most easily, and regularly, argued in terms of effective and convenient local government (in terms of choosing the appropriate number of members to allow the council and individual councillors to conduct the council's business most effectively). Arguments can also be made on the basis of reflecting communities and allowing for fairness of representation.

### **5.13**

Broadly speaking, we will take a view on the right council size for an authority by considering three areas:

We will look at the governance arrangements of the council and how it takes decisions across the broad range of its responsibilities.

The Commission will look at the council's scrutiny functions relating to its own decision making and the council's responsibilities to outside bodies.

We will also consider the representational role of councillors in the local community and how they engage with people, conduct casework and represent the council on local partner organisations.

### **5.14**

The Commission also asks local authorities and local people to consider the number of councillors for the authority not simply in the context of the council's current arrangements, but also likely future trends or plans. In every review it carries out, the Commission aims to ensure its recommendations remain relevant for the long term and will aim to recommend a number that delivers effective and convenient local government well after the completion of the electoral review..

### **5.15**

Those submitting proposals to us should examine the political management and working practices of the council under review, and make well-argued and reasoned proposals. We have no pre-conceived views on the number of councillors necessary to run any particular local authority effectively, and we are content to accept proposals for an increase, a decrease or the retention of the existing number of councillors, but only on the basis that they can be justified. We do not accept, for example, that increases in an authority's electorate should automatically result in an increase in council size.

### **5.16**

We are often asked for a more detailed breakdown of the sort of rationale we are seeking in support of a council size proposal. We have therefore developed further guidance (see Appendix C) that local authorities and political groups are asked to consider in submitting their council size proposals to us. They are not exhaustive and we encourage local authorities and others to present us with any such further material as they consider appropriate. We are, of course, content to discuss the guidance at preliminary meetings in advance of the review commencing.

5.17

In the absence of sufficient justification we will consider responses to our challenge to the rationale for the council size being proposed and reach our own conclusions.

5.18

When we consulted on policies and procedures, some people asked us to consider value for money when we are presented with proposals on council size. We believe that value for money is, in part, addressed by our consideration of effective and convenient local government – that an ineffective council is unlikely to offer good value for money. We do not feel that it would be appropriate to make further judgements on other value for money aspects of council size.

5.16

Even if we are content with the rationale provided in support of a proposal for council size, we may choose to consider whether it is necessary to change this number slightly in order to ensure better levels of electoral representation across the district (or county). Having regard to the nature and extent of communities or to appropriate ward/division boundaries, it is often possible to improve the levels of electoral representation across an authority by making minor modifications of one or two to the council size.

## **TELFORD & WREKIN COUNCIL**

**COUNCIL – 22 NOVEMBER 2012**

### **BUDGET CONSULTATION**

#### **REPORT OF THE ASSISTANT DIRECTOR: FINANCE, AUDIT & INFORMATION GOVERNANCE (CHIEF FINANCIAL OFFICER)**

## **1.0 SUMMARY**

There is currently considerable uncertainty over the date that the Government will announce the provisional local government finance settlement. The settlement cannot be announced before the Chancellor's Autumn statement which is scheduled for 5<sup>th</sup> December but has to be announced on or before 31<sup>st</sup> December. The Council's constitution requires the Cabinet to publish its budget and policy proposals before the end of December. Clearly, if the provisional settlement was announced very late in December, and there is a very real chance that it might be, it would not be possible for the Cabinet to issue its proposals by this deadline but it would do so as soon as possible in very early January.

## **1.1 INFORMATION.**

The Council's constitution includes a section on budget setting. This includes the following references:-

### ***"Process for Developing the Framework***

*The Council is responsible for the adoption of the budget and policy framework. The process by which the budget and policy framework shall be developed is:*

*Before the end of December each year the Leader and Cabinet Executive will publicise its policy and budget proposals, together with a timetable for taking final proposals to the Council and arrangements for consultation. There will be a minimum 4 week consultation period."*

If the Government is able to announce the provisional local government finance settlement in a timely way the deadline of publishing the budget proposals before the end of December is achievable. However, major changes are being made by the Government to the local government finance system which come in to effect next year and the date for the Autumn statement has been announced as 5<sup>th</sup> December.

Given the comparative lateness of the Autumn statement and the extent of the changes to the local government finance system, there are informal indications that the provisional local government finance settlement could be delayed until late December. Despite requests, the Department for Communities and Local Government are unable to give an indication of when the provisional settlement will be announced other than that it will be after the

Autumn Statement but before the end of December. If the settlement was not announced until late December the Cabinet may not be able to publish its service and financial planning proposals by the 31<sup>st</sup> December deadline set out in our constitution, particularly with the Christmas break but it would clearly endeavour to do so as early in January as possible.

As a contingency two potential Cabinet dates have been identified for consideration of the service and financial planning proposals. These are 20<sup>th</sup> December 2012 which would clearly be in advance of the Council constitution's 31<sup>st</sup> December deadline and 10<sup>th</sup> January 2013. Publishing the papers for the 10<sup>th</sup> January meeting could meet the requirement to publish by the end of December, but is dependent upon us receiving details of the settlement in sufficient time for them to be analysed and the implications addressed.

Members are therefore requested to note that the Cabinet will publish its service and financial planning proposals as early as possible in order to maximise the period available for consultation which will run through to early February with the Cabinet making their final decisions and recommendations to full council at their meeting to be held on 28<sup>th</sup> February 2013 and full Council considering the proposals on 7<sup>th</sup> March 2013.

## **2.0 RECOMMENDATION**

- 2.1** Members are asked to note the current uncertainty over the date that the Government will announce the local government finance settlement and agree that proposals can, if necessary, be published outside the constitutional timeframe.

## **3.0 SUMMARY IMPACT ASSESSMENT**

|                                         |                                                                                                                                                         |                                                                                                                                                                           |
|-----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>COMMUNITY IMPACT</b>                 | Do these proposals contribute to specific Priority Plan objective(s)?                                                                                   |                                                                                                                                                                           |
|                                         | Yes                                                                                                                                                     | Delivery of all priority objectives depend on the effective use of available resources.                                                                                   |
|                                         | Will the proposals impact on specific groups of people?                                                                                                 |                                                                                                                                                                           |
|                                         | Yes                                                                                                                                                     | It is likely that the service and financial planning proposals will include proposals for service reductions which will be subject to impact assessment and consultation. |
| <b>TARGET COMPLETION/DELIVERY DATE</b>  | The service and financial planning strategy will be published as soon as possible after receipt of the provisional local government finance settlement. |                                                                                                                                                                           |
| <b>FINANCIAL/VALUE FOR MONEY IMPACT</b> | Yes                                                                                                                                                     | Financial impacts arising from the provisional local government finance settlement and the Council's medium                                                               |

|                                                 |     |                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                 |     | term service and financial planning strategy will be set out in the Cabinet once the provisional settlement has been received.                                                                                                                                                                                                                                                          |
| <b>LEGAL ISSUES</b>                             | Yes | The possibility of late publication is subject to DCLG's timetable and accordingly not within the council's control. Publication in January does breach the constitution's provisions and could leave the council open to challenge. However, if Full council approves the departure from these rules in these extraordinary circumstances the chances of successful challenge are low. |
| <b>OTHER IMPACTS, RISKS &amp; OPPORTUNITIES</b> | No  |                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>IMPACT ON SPECIFIC WARDS</b>                 | No  | Borough Wide                                                                                                                                                                                                                                                                                                                                                                            |

Report Prepared by: Ken Clarke, Assistant Director: Finance, Audit & I.G.  
(C.F.O.) – 01952 383100

# **TELFORD & WREKIN COUNCIL**

**COUNCIL 22nd NOVEMBER 2012**

**AUDIT COMMITTEE ANNUAL REPORT 2011/12**

**JOINT REPORT OF THE SECTION 151 OFFICER & THE MONITORING OFFICER**

## **1 PURPOSE**

- 1.1 To present to the Council an Annual Report on the 2011/12 operations of the Audit Committee.

## **2 RECOMMENDATIONS**

- 2.1 That Members of the Council note the contents of the annual report 2011/12.

## **3 SUMMARY**

- 3.1 The Audit Committee is part of the Council's governance and assurance arrangements. The key benefits of the Audit Committee are:
- ✓ raising awareness on the need for governance and internal control including the implementation of both internal and external audit recommendations.
  - ✓ increasing public confidence in the objectivity and fairness of financial and other reporting.
  - ✓ reinforcing the importance and independence of internal and external audit.
  - ✓ providing additional assurance through a process of independent and objective review by a cross party group of elected Members including challenging Cabinet Members and Senior Officers.
- 3.2 As the key assurance Committee of the Council it is accepted best practice that an Annual Report is presented to the Council on the operations of the Committee during the municipal year (May 2011 – April 2012). The structure of the report is based on the terms of reference and includes a summary of the business conducted by the Committee during the period (attached as Appendix A).
- 3.3 There were 5 meetings of the Audit Committee in 2011/12 compared to 6 in 2010/11 (and 7 in 2009/10). The reduction was due to removing the July meeting as part of the Council's overall efficiency agenda and has not affected the effectiveness of the Committee.

## **4 PREVIOUS MINUTES**

- 4.1 Audit Committee 23<sup>rd</sup> September 2009; 21<sup>st</sup> September 2010; 20<sup>th</sup> September 2011  
Council 30<sup>th</sup> September 2009; 7<sup>th</sup> October 2010; 24<sup>th</sup> November 2011

## **5 INFORMATION – AUDIT COMMITTEE 2011/12**

### **5.1 Internal Audit**

- 5.1.1 The Internal Audit team has continued to provide the Committee with reports as outlined in the CIPFA Code of Practice and Constitution, highlighting any areas requiring attention by Members.

- 5.1.2 The Internal Audit Annual Plan and Strategy for 2012/13 was presented and approved by the Committee at the March 2012 meeting.

## **5.2 External Audit**

- 5.2.1 The External Auditors – KPMG have made their reports to the Committee as required by legislation, accounting standards and the external audit code.

## **5.3 Risk Management**

- 5.3.1 The Committee, in addition to the annual report and internal audit review of the risk management arrangements, sought further assurance in respect to ICT Back Up and Recovery arrangements and Children's Placement costs.

## **5.4 Governance**

- 5.4.1 The Annual Governance Statement 2010/11 was approved after consideration of the supporting information.
- 5.4.2 Members of the Committee reviewed their effectiveness at the beginning of the 2012 and undertook a skills audit to inform future training programmes. No additional training was identified at this time.
- 5.4.3 The 2010/11 Information Governance annual report was presented to the Committee for the first time. An Information Governance update was provided to the January 2012 meeting. At the March 2012 meeting the 12/13 work programme was presented.

## **5.5 Treasury Management**

- 5.5.1 The Committee continued to build on the training and experience of the new responsibilities taken on during 2009/10 and received the annual report, in year updates and reviewed the 2012/13 strategy prior to approval by Cabinet.

## **5.6 Statement of Accounts 2010/11**

- 5.6.1 The Statement of Accounts were approved by the Committee following external audit at the September 2011 meeting. As in previous years the approval meeting was preceded by a training session with key Finance staff who explained the statements and the changes that had occurred during 2010/11.

## **5.7 Anti-Fraud & Corruption**

- 5.7.1 The annual report on the Anti-Fraud & Corruption Policy was received in September 2011.
- 5.7.2 A review and update of the Speak Up Policy and activity 2011 was approved at the January 2012 meeting.

## **5.8 Complaints**

- 5.8.1 The Committee reviewed the 2010/11 Customer Performance Feedback Report in September 2011.

## 5.9 General

5.9.1 The Committee reviewed its Terms of Reference at its first meeting of the municipal year as set out in the Constitution. No changes were required at this time and none have been made during the year.

## 5.10 Conclusions for 2011/12 and the future 2012/13

5.10.1 The Committee has had some busy agenda's during the year.

5.10.2 The Committee has continued to seek assurance for Members and the Community on the audit, governance, risk management, financial statements, treasury management, complaints and anti-fraud and corruption arrangements of the Council.

5.10.3 The terms of reference were reviewed during May 2012 and the Audit Committee have agreed changes for review by the Council's Constitution Committee and approval by Council. These reflect the reporting of Information Governance information and organisational changes that have taken place in respect to risk management.

5.10.4 The Committee recognises that the Council is experiencing some significant challenges and that it must continue to seek and provide appropriate assurance during 2012/13. Most notable are the changes in the legislation/regulatory regime, organisational changes, significant reductions in resources and the International Financial Reporting Standards. The Committee will continue to seek assurances from Assistant Directors and other key risk owners in respect to governance and the control environment.

## 6 OTHER CONSIDERATIONS

| AREA                            | COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Equal Opportunities             | Internal reports to the Committee consider any appropriate equalities/diversity issues. If raised during the meeting they would be referred to the appropriate officer and if required cabinet member.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Environmental Impact            | Internal reports to the Committee consider any appropriate sustainability issues. If raised during the meeting they would be referred to the appropriate officer and if required cabinet member.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Legal Implications              | The work undertaken by the Audit committee during the year 2011/12 ensured that the Council complied with the statutory requirements set out in the Accounts and Audit (England) Regulations 2011 ('the Regulations'). These set out certain requirements that the Council must adhere to in relation to matters such as risk and financial management. If at any point there is a review of either the Audit Committee work plan and/or terms of reference, consideration must be given to the Council's statutory obligations as set out in the Regulations which are now in force.<br>Although Audit Committees are not a legal requirement they are good practice as defined by CIPFA and the Audit Commission. |
| Links with Corporate Priorities | The Audit Committee contributes to good governance and the assurance framework. The work of the Committee links to all Council priorities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Risks and Opportunities         | The Audit Committee has an assurance role in the management of the Council's risks and opportunities.<br><br>The Chairman of the Committee is responsible for the management of the risks and opportunities associated with the committee but supported by appropriate officers.                                                                                                                                                                                                                                                                                                                                                                                                                                    |



|                        |                                                                                                                                                               |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Financial Implications | There are no financial implications arising from this report. The Audit Committee and support arrangements are fully funded within existing budgets.          |
| Ward Implications      | The operations of the Audit Committee encompass all Council activities and all Council locations. Therefore all Council Wards are affected by its operations. |

## **7 BACKGROUND PAPERS**

Audit Committee Papers 2011/12 (including minutes)

Constitution

Constitution Committee, Full Council – appropriate agenda's, papers and minutes

Report by Jenny Marriott, Audit & Information Governance Manager 383101

| Area                          | Activity                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Internal Audit</b>         | Annual Report 2010/11<br>Quarter 4 2010/11 Update report<br>Final Audit Report – Leasing of Community Centres<br>Quarter 1 2011/12 Update report<br>Quarter 2 2011/12 Update report<br>Quarter 3 2011/12 Update report<br>Internal Audit Plan and Strategy 2012/13<br>Results of the CIPFA Internal Audit Benchmarking exercise 2011                                                                                                                                                                                                                                 |
| <b>External Audit</b>         | Annual Audit Plan and Fee Letter 2011/12<br>Interim Report on 2010/11 final accounts work<br>Value for Money Audit Plan 2010/11<br>Annual Governance Report (ISA 260) 2010/11<br>Annual External Audit Letter 2010/11<br>Financial Statements Audit Plan – 2011/12<br>Certification of Grant Claims and Returns 2010/11                                                                                                                                                                                                                                              |
| <b>Risk Management</b>        | Risk Management Annual Report 2010/11<br><br>Update on ICT Back Up & Recovery<br>Update on Children's Placement Costs                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Governance</b>             | Annual Governance Statement (AGS) 2010/11<br>Review of the Effectiveness of the Audit Committee 2011/12 and Skills Audit<br>Results of the Review of the Effectiveness of the Audit Committee 2011/12 and Skills Audit<br>Results of the Assurance Review 2010/11 Annual Governance Statement AGS) and Half yearly progress 2010/11 AGS Action Plan<br><br>Information Governance Annual Report 2010/11<br>Information Governance Update Report April to December 2011<br>Information Governance Work Programme 2012/13<br><br>Audit Committee Annual Report 2010/11 |
| <b>Treasury Management</b>    | 2010/11 Annual Report & 2011/12 to date (June 2011)<br>Treasury In Year Update Reports 2011/12 – two separate reports<br>2012/13 Treasury Management Strategy                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Statement of Accounts</b>  | Approval of the audited Statement of Accounts 2010/11                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Fraud &amp; Corruption</b> | 2010/11 Annual Report on Corporate Anti-Fraud & Corruption Policy<br>Review and Update to the Speak Up Policy 2011                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Complaints</b>             | Customer Feedback Performance Report – 1 <sup>st</sup> April 2010 – 31 <sup>st</sup> March 2011                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>General</b>                | Terms of Reference reviewed June 2011<br>Outline Audit Committee Business                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

## **AUDIT COMMITTEE**

### **Minutes of a meeting of the Audit Committee held on Tuesday, 25<sup>th</sup> September 2012 at 6.00 pm in the Scrutiny Meeting Room, Civic Offices, Telford**

**PRESENT:** Councillors S A W Reynolds (Acting Chair for the meeting), R Evans, I T W Fletcher, A Meredith, W L Tomlinson and C R Turley.

**Officers:** J Eatough (Assistant Director: Law, Democracy and Public Protection and Monitoring Officer), J Marriott (Audit & Assurance Manager), B Morris (Finance Manager), P Harris (Finance Manager), David Sidaway (Assistant Director: Development, Business & Housing), Alan Fox (Service Delivery Manager Estates and Investments), K Perry (Assistant Director: Children's Safeguarding) Clive Jones (Assistant Director: Family & Cohesion Services) and J Clarke (Democratic Services Officer).

**KPMG:** A Cardoza and A Bunting

Roy Williams, Budget & Finance Scrutiny Committee

#### **AUC-15      ELECTION OF CHAIR**

Due to the absence of the Chair nominations were taken for an acting Chair for the meeting.

**RESOLVED** – that Cllr Shirley Reynolds would Chair the meeting.

#### **AUC-16      MINUTES**

**RESOLVED** – that the minutes of the meeting of the Audit Committee held on 26<sup>th</sup> June 2012 be confirmed and signed by the Chairman.

#### **AUC-17      APOLOGIES FOR ABSENCE**

Cllr R Sloan (Chair)

#### **AUC-18      DECLARATIONS OF INTEREST**

None

#### **AUC-19      ANNUAL GOVERNANCE REPORT 2011/12**

Andrew Cardoza from KPMG gave a brief overview on the Annual Governance Report 2011/12 and the Accounts Audit for the financial year end 31<sup>st</sup> March 2012.

There were two parts to the Audit but the substantive part took place from July to August 2012, and had now been completed. As part of this there had also been a Value for Money assessment. It was anticipated that an Unqualified Opinion would be issued by the end of September 2012. Five adjustments had been identified which had meant a decrease on the surplus on provision of services for the year by £3.4m and a decrease in the net worth of the Authority by the same amount. Corrections had been made relating to casting and presentational issues. It was highlighted that the recommendation, in relation to ensuring the correct accounting treatment, is applied when a school obtains academy status. The main critical accounting matters which arose during the year related to fixed asset accounting, specifically Heritage Assets, Component Accounting and Capital Accounting Thresholds. No

issues had arisen around these areas. There had been a general improvement of working papers which, together with a SharePoint site which had been set up for collating and sharing working papers, had made the audit of the accounts a much smoother process. The majority of recommendations from the ISA 260 Report 2010/11 had now been implemented with the only recommendation remaining outstanding being in respect to the draft financial statements.

The audit was now substantially complete. A signed management representation letter would be given to the external Auditors following the meeting of the Audit Committee on 25<sup>th</sup> September 2012. The external auditors had a duty of care to review its objectivity and independence in relation to the Audit in line with ISA 260 Report and confirmed that there were no issues. The external Auditors concluded that the Council has made proper arrangements to secure economy, efficiency and effectiveness of its resources within the Value for Money risk areas which it had outlined in the Interim Audit Report 2011/12.

Due to errors found within cash flow, the external auditors were proposing an over-run fee due to the extra time spent in this area. A breakdown of this fee had been given to the Chief Financial Officer and discussions were ongoing with regard to this.

The Chair thanked the external Auditors together with internal Staff for their hard work.

**RESOLVED – that the report be accepted.**

#### **AUC-20      EXTERNAL AUDIT FEE 12/13**

Adam Bunting from KPMG gave a brief overview of the External Audit Fee 12/13.

The proposed fee for 2012/13 was £155,088 (plus VAT) which was a 40% reduction on the fee for the previous. The fee was based on a number of assumptions. If these assumptions were not met or more work was needed then the fee may be subject to change and extra costs incurred. Any changes would be discussed with the Chief Financial Officer. Due to historic time differences, the fee for the Value for Money audit work was slightly out of line with the audit fee and it was intended to re-align these fees with those of the financial statements. A one-off amount of £25,800 would need to be charged in order for this alignment to take place. Discussions with regard to the Value for Money fee would be ongoing.

A discussion took place including:

- 40% reduction of fees
- Billing separately for compliance issues

**RESOLVED – that the External Audit Fee 12/13 be accepted.**

#### **AUC-21      ANNUAL STATEMENT OF ACCOUNTS 2011/12**

The Finance Manager presented a report on the 2011/12 Annual Statement of Accounts.

This was the second year that the Statements had been produced following the IFRS Regulations. The draft Accounts had now been made available to the Public and were circulated to Members of the Audit Committee. KPMG, the Council's external Auditors had now completed their work and were in the process of issuing an unqualified opinion. The outturn position of £1.843m under-spend was unchanged from the report taken to Cabinet on

28<sup>th</sup> June 2012. Once the Statement of Accounts had been approved it would be published on the Council's website.

Delegated authority was sought for the Assistant Director: Finance, Audit and Information Governance to make any final changes required to the Statement of Accounts prior to publication, although it was not envisaged that any changes would be needed.

A discussion took place including:

- Publication of draft Accounts
- Heritage Assets
- That Committee members would be informed of any changes to the accounts

**RESOLVED – that**

- a) **Members approve the 2011/12 Statement of Accounts;**
- b) **Delegated authority be granted to the Assistant Director: Finance, Audit and Information Governance, in consultation with the Chair of Audit Committee, to make any final changes required to the Statement of Accounts prior to publication.**

**AUC-22      UPDATE ON CHILDREN'S PLACEMENT COSTS**

The Interim Assistant Director: Children's Safeguarding presented an update on the children's placement costs.

The costs of residential care drove the budget and it was important to try and reduce the number of residential placements in order to reduce costs. A regional framework agreement was in place that enabled the Council to access high quality providers at reduced costs. Children were only placed with external foster carers if absolutely necessary because there were no suitable internal foster carers available. There was currently an advertising campaign to try and attract new foster carers into Telford and Wrekin. Although the Council was improving on recruitment there needed to be an emphasis on more careful targeting to capture the attention of those most likely to be interested. There had recently been some positive enquiries made from local childminders.

A discussion took place around the graphs and charts contained in the report including:

- The deteriorating economic climate and the effect it had on children in care
- Internal and external foster care placements
- Historical figures on placements
- Fostering Recruitment Campaign including successful activity at Culturefest Event
- Pressures on social care following highly publicised cases nationally eg baby P

**AUC-23      AUDIT COMMITTEE ANNUAL REPORT 2011/12**

The Audit and Information Governance Manager presented the annual report of the operations of the Audit Committee during 2011/12.

The meetings had been reduced to 5 during the 2011/12 year but this had not affected the effectiveness of the committee. Some of the key areas of work covered in this time had

included risk management, governance, treasury management, statement of accounts, fraud and corruption and complaints. The Committee had a busy Agenda through 2011/12 which would continue into 2012/13 due to the changes occurring across the Council and the continued financial constraints. The Terms of Reference of the Committee had been amended by the Committee to reflect changes required in respect to Information Governance and would now go to the Council Constitution Committee and to Council to be approved.

**RESOLVED – that the report be noted.**

#### **AUC-24      INTERNAL AUDIT AND INFORMATION GOVERNANCE UPDATE REPORT**

The Audit and Information Governance Manager presented an update report on the work of Internal Audit during Quarter 1 2012/13 and an update on Information Governance April to August 2012.

A new Internal Audit Team Leader had begun working within the Team in April and there had been a familiarisation and induction into the Council during the quarter. The Audit and Assurance Team's Phase 2 restructure had launched in April and was implemented on 17<sup>th</sup> September 2012. The team was renamed as Audit and Information Governance as this better reflected the work being undertaken. The restructure had not had an impact on the Audit side of the Team, but following one team member leaving the Authority, a post within the team had been advertised, with increased hours from 18.5 hours to 25 hours and recruitment was currently taking place.

Nine final reports had been issued in quarter 1; these included two amber reports, Market and Cash Collection and Purchase Ledger. A follow up of the implementation of the recommendations had been completed and as a result this had now been upgraded to yellow. Any outstanding issues around Markets and Cash Collection were in the process of being followed up and would be reported back to a future meeting. Further improvements were still required on Abacus, the Adult Social Care financial system, and this remained an amber report. Further follow up work would be undertaken in this area and a report would be brought back to a future meeting.

The Information Governance work programme was making good progress although it had slowed a little due to the accommodation moves. Some 216 Freedom of Information requests had been received during the period 1 April 2012 to 31 August 2012 and 85% of these requests had been responded to within the statutory period, which was 5% above the Information Commissioner's benchmark of 80%. During the same period 24 subject access reports had been received with a 68% performance rate. The team had been re-organised and new procedures put in place to improve this level of performance. A total of 5 internal appeal requests had been received and revised responses/additional information sent and no further action was required. There had been 25 confirmed data breaches with 92% of these breaches being in respect of accidentally sending information to the wrong person. There were 2 cases of lost/stolen information. In order to prevent these happening in the future investigations were undertaken and changes to procedures implemented and, if necessary, disciplinary action was taken. On 28<sup>th</sup> May 2012 the Information Commissioner had fined the Council £72,000 in respect of 2 data breaches that had been voluntarily reported by the Council.

A discussion took place including:

- ICO fine

**RESOLVED – that the report be noted.**

**AUC-25      EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED** – that the press and public be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

**AUC-26      CAPITAL RECEIPTS UPDATE**

The Assistant Director: Development Business and Housing gave a verbal update on the capital receipts.

The disposals of assets were at different stages:

- Sold and funds received
- Completion
- Sold Subject to Contract
- Currently being advertised for sale
- Seeking Planning Permission

Some of the assets were proving a little more difficult than others due to lack of interest in the open market. A schedule for disposal of assets had been drawn up covering 2012/13, 2013/14 and 2014/15 but this would be subject to change in response to market trends. The budget was currently on target for 2012/13 capital receipts and this was being monitored closely.

A discussion took place including:

- Shortfalls
- Security of empty properties
- Maintenance costs of vacant sites

**RESOLVED** – that the information be noted.

The meeting ended at 7.11 p.m.

**Chairman:**

**Date:**

## **BOUNDARY REVIEW COMMITTEE**

### **Minutes of a meeting of the Boundary Review Committee held on Thursday, 23<sup>rd</sup> August, 2012 at 6.00 p.m. in the Civic Offices, Telford, Shropshire**

**PRESENT:** Councillors R.J. Sloan (Chairman), K.T. Blundell, S. Davies, N.J. Dugmore, A.J. Eade, A.D. McClements and R.A. Overton.

#### **BRC-5      MINUTES**

**RESOLVED** – That the minutes of the meeting held on 19<sup>th</sup> July 2012 be confirmed and signed by the Chairman

#### **BRC-6      APOLOGIES FOR ABSENCE**

None.

#### **BRC-7      DECLARATIONS OF INTEREST**

None.

#### **BRC-8      BOROUGH ELECTORAL REVIEW – OPTIONS FOR COUNCIL SIZE**

Members received the report of the Assistant Director: Law, Democracy & Public Protection which provided briefing information of the Further Electoral Review of the Borough. The report concluded the Committee's work in considering what Council size should be recommended to Full Council. The report covered information previously requested by the Committee on

- Committee workloads
- Results of a councillor workload survey
- Consideration of additional challenges and developments facing the role of the elected councillor.

Referring to the results of the councillor workload survey, Councillor R.A. Overton noted that a large number of members had reported that workloads had noticeably increased. The additional challenges and developments outlined in the report would make the role of councillors more demanding in the future. Cuts to budgets tended to increase councillors' casework, particularly in the more deprived wards of the Borough. The ethos of a Co-operative Council placed an onus on councillors to actively engage with their community, this added significantly to the workload of elected members.

Councillor A.D. McClements told members that the workload survey provided data on formal meetings but that she knew that there were many more informal meetings undertaken by councillors, particularly with Scrutiny work. Councillor K.T. Blundell agreed that case work had increased, noting that an effective councillor engaging



with their community would tend to create sustained workloads at a high level. Councillor Blundell also felt that reducing the number of councillors and increasing workloads significantly had the potential to exclude a wide range of people that might otherwise come forward to serve as councillors. Councillor S. Davies noted that reductions had been made on the cost of councillors through voluntary reductions, expenses were now at a minimum and it was not sensible to make large reductions in the numbers of councillors on the basis of cost reductions. The Council needed an appropriate number of councillors in order to deliver the Council's responsibilities efficiently. Councillor N.A. Dugmore told the meeting that the previous review resulting in 54 councillors had been conducted 10 years previously and the current review would be effective for a further 10 years. Circumstances changed and it would not be appropriate to continue with a model that would effectively be 20 years old. He felt that where councillor workloads were high, neighbouring councillors could support and assist each other and that better ways of working could ensure that councillors were better utilised.

Councillor R.J. Sloan (Chairman) believed that work was being passed down from central to local government and that workloads would continue to increase. The issue was not solely around savings but in ensuring that elected councillors were able to properly serve the people who had elected them. Councillor A.J. Eade felt that there could be different ways to deliver a reduction in councillor numbers and that this could be done with a different Committee and governance structure.

Following further discussion a proposal that the Council size should be 54 was proposed and seconded. Following a vote this proposal was carried by 5 votes to 2 with no abstentions and it was:

**RESOLVED – That the Committee recommend to Full Council that the appropriate Council size should be 54 councillors and that the Boundary Review Committee make a formal submission on behalf of the Council to the Local Government Boundary Commission for England**

The meeting ended at 6.41 p.m.

**Chairman:** .....

**Date:** .....

## **LICENSING COMMITTEE**

### **Minutes of a meeting of the Licensing Committee held on Wednesday 5<sup>th</sup> September 2012 at 6.00 pm in the Reception Suite, Civic Offices, Telford**

#### **PRESENT**

Councillors: C Mason (Chair), R Scammell and J Seymour.

Officers in attendance: Jonathan Eatough – Assistant Director: Law, Democracy & Public Protection, Ian Mercer – Public Protection Service Delivery Manager, Suzanne Fisher – Public Protection Team Leader, Carl Phillips – Licensing Technical Officer, Lorraine Fowkes – Solicitor and Wendy Buckley - Democratic Services Support Officer.

#### **LC-06        MINUTES**

**RESOLVED** – that the minutes of the meeting of the Licensing Committee held on the 27<sup>th</sup> June 2012 be confirmed and signed by the Chair.

#### **LC-07        APOLOGIES FOR ABSENCE**

Councillors B Duce, T Hope, L Murray, A Mackenzie and K Tomlinson.

#### **LC-08        DECLARATIONS OF INTEREST**

None.

#### **LC-09        REVIEW OF HACKNEY CARRIAGE CONDITION OF LICENCE**

The Public Protection Team Leader presented a summary of the report of the Service Delivery Manager - Public Protection for Members to consider the Council's Hackney Carriage condition of licence covering the types of vehicle that can be licensed as a Hackney Carriage in Telford & Wrekin. Members confirmed they had read the report prior to the meeting.

Members were advised that there was a typing error in recommendation 2.1. This was amended to read 'purpose-built vehicle' and not a 'multi-purpose vehicle'.

A 12 week consultation began in March 2011, following which Members resolved to maintain the existing condition at the Licensing Committee meeting on 7<sup>th</sup> September 2011. In December 2011 a further consultation was carried out on the draft Hackney Carriage and Private Hire policy where a response was received from Solicitors acting for Allied Vehicles Ltd. The response related to the Council's conditions of licence rather than the policy itself specifically relating to the type of vehicle the Council will license as a Hackney Carriage. Copies of these letters were appended to the report. The Public Protection Team Leader then contacted the consultees who responded to the earlier 2011 consultation to inform them that condition 2.2 was again being reviewed by the Licensing Committee. Four supplementary responses had been received and were tabled at the meeting.

Councillor Scammell produced a print out of an e-mail he had received nominally regarding this issue; other Members confirmed they too had received the e-mail but Members were of the view that as the e-mail concerned a particular constituent issue it was not appropriate to be considered in relation to this item of business.

The Committee were asked to consider the accessibility of Hackney Carriage vehicles for wheelchairs, the outcome of a court case in 2009, Department for Transport guidance and matters relating to restraint safety. It was proposed that the vehicle types should follow an approved list compiled in consultation with a working group consisting of the Telford Hackney Carriage Association, disability user groups, member of the highways and transport team, licensing officers and a member of the licensing committee. All applications made to license a purpose built vehicle would be considered by the Principal Licensing Officer after consultation on the vehicle type with the working group. If revised condition 2.2 was agreed by Members it would be implemented immediately. Photographs of typical vehicles that might appear on the approved list of Hackney Carriage vehicles were distributed to Members.

Councillor Seymour suggested that disabled persons requiring a vehicle to accommodate a larger wheelchair could pre-book to confirm such a specific vehicle rather than waiting at a taxi rank. Private hire vehicles catered for larger wheelchairs which could accommodate a pre-planned journey with a suitable vehicle. This position was endorsed by Councillor Scammell.

The Public Protection Team Leader confirmed that the working group would look at different vehicles and put wheelchairs in them to see if they were suitable. This is what the private hire working group was already doing with applications to license vehicles which were not already on the approved list for private hire vehicles.

Following a Member question regarding receipt of complaints from disabled users travelling in a hackney carriage, the Public Protection Team Leader confirmed that complaints had been received from wheelchair users stating that their wheelchairs were not suitable or safely restrained in a hackney carriage.

The Solicitor to the Licensing Committee gave a brief summary of the issues surrounding a case that was brought against Liverpool City Council. One issue that was highlighted was that 96% of wheelchair user journeys were confirmed as not safely secured in a London style taxi. It concluded that the Council Committee failed to understand that Hackney Carriages were not accessible to all users- it provided a restricted choice of vehicles that had the ability to accommodate wheelchairs in a safe position. Evidence from the report showed that some wheelchair users were not able to access London style taxis however there was an opportunity to use other more suitable vehicles if they were not restricted to London style taxis only.

Jonathan Eatough, Assistant Director, advised Members that if Condition 2.2 was not amended, Telford & Wrekin Council would run a very high risk of a Judicial Review based on the Liverpool City Council case and an exposure to costs.

The Chair moved that the recommendations in the report, as amended, be approved.

There being no seconder, the motion fell. As no further proposals were forthcoming the item of business was unresolved.

## **LC-10      REVIEW OF PRIVATE HIRE VEHICLE CONDITION OF LICENCE**

The Chair welcomed the Licensing Technical Officer, Carl Phillips to the meeting who presented a summary of the report of the Service Delivery Manager – Public Protection for Members to consider the consultation responses in respect of reviewing the age-limit restrictions of Private Hire Vehicles and to the proposed revision of a specific condition relating to Private Hire Vehicles.

A typing error was pointed out at point 5.6.2 of the report which should read 2.1.1 and not 2.1.2 as suggested.

An extensive 12 week consultation had been carried out with 8 responses received. A summary of the responses was appended to the report.

Clarification was asked by Members on the Financial Comment in the report regarding action to recover costs. The Public Protection Team Leader confirmed that if a vehicle was booked in for a test and did not turn up for the test the Council were charged and would then proceed to collect the debt via an invoice being sent out. However, if a vehicle arrived later for a missed test, the previous test debt was collected first.

Having considered the report it was:

### **RESOLVED – by unanimous vote**

- (a)            that the Private Hire Vehicles Licence Condition 3.6 be amended to read:  
The Council will only license suitable motor cars and multi purpose vehicles or purpose built or adapted minibuses up to ten years. Vehicles to be tested every six months from five years of age in line with best practice guidance. No vehicle to be over 5 years of age when first licensed.**
- (b)            that an additional consultation exercise with a view to re-examining Hackney Carriage Conditions including age-limits be approved.**

Meeting closed at 7.00 pm.

Chairman:

Date:





|                              |                                                                                    |
|------------------------------|------------------------------------------------------------------------------------|
| <b>Service Area</b>          | <b>Law, Democracy and Public Protection</b>                                        |
| <b>Service Delivery Area</b> | <b>Public Protection (Environmental Health, Licensing &amp; Trading Standards)</b> |
| <b>Service</b>               | <b>Licensing</b>                                                                   |

### **Change of conditions - Consultation**

#### **List of consultees**

Managing Director & Senior Management Team of Telford & Wrekin Council  
 Telford & Wrekin Councillors  
 Chief Constable for West Mercia Police  
 Police Licensing Officer for Telford and Wrekin area  
 Shropshire Fire and Rescue Service  
 Transforming Telford  
 Shropshire Chamber and Business Link  
 Wellington Chamber of Commerce  
 Shropshire Council  
 Commission for Racial Equality  
 British Holiday & Home Parks Association  
 Racecourse Association Limited  
 British Beer and Pub Association  
 Greyhound Board of Great Britain  
 The British Association of Leisure Parks, Piers & Attractions Ltd  
 BACTA  
 Association of British Bookmakers Ltd  
 The Bingo Association  
 National Casino Industry Forum  
 Business in Sport & Leisure  
 Gamcare

#### **In addition the Licensing Authority Consulted with**

- Anne Walker – Neighbourhood Watch Administration Team – Malinsgate Police Station
- Police and Community Consultative Group – Malinsgate Police Station
- Local Safeguarding Children Board
- Environmental Health Section – Telford and Wrekin Council
- Trading Standards – Telford and Wrekin Council
- Planning – Telford and Wrekin Council
- Regeneration Section – Telford and Wrekin Council
- Tourism Section – Telford & Wrekin Council
- Lead Equalities Officer – Telford & Wrekin Council
- Safer and Stronger Communities partnership – Telford & Wrekin Council

## Appendix A

- Telford and Wrekin PCT
- Telford Citizen's Advice Bureau
- ACRE – Actions with Communities in Rural England (Village Halls etc)

### **Town and Parish Councils and Local CSOs for the following areas:**

- Chetwynd Parish Council
- Chetwynd Aston & Woodcote Parish Council
- Church Aston Parish Council
- Dawley Hamlets Parish Council
- Edgmond Parish Council
- Ercall Magna Parish Council
- Great Dawley Parish Council
- Hadley & Leegomery Parish Council
- Hollinswood & Randlay Parish Council
- Ketley Parish Council
- Kynnersley Parish Council
- Lawley and Overdale Parish Council
- Little Wenlock Parish Council
- Lilleshall & Donnington Parish Council
- Madeley Parish Council
- Newport Town Council
- Oakengates Town Council
- Rodington Parish Council
- St Georges & Priorslee Parish Council
- Stirchley & Brookside Parish Council
- Tibberton & Cherrington Parish Council
- The Gorge Parish Council
- Waters Upton Parish Council
- Wellington Town Council
- Wrockwardine Parish Council
- Wrockwardine Wood & Trench Parish Council
- Preston on the Wealdmoors
- Eyton on the Wealdmoors

### **Telford Housing Associations:**

- Abbeyfield Wrekin Society
- Bournville Village Trust
- Hanover Housing Association
- Robert Moore Housing Trust
- Stay Supported Housing
- Wrekin Housing Trust

### **Residents Associations**

- SORT Residents Ltd
- Stephenson's Apartments Residents Association
- Racedoor Residents Association

## Appendix A

### **Community Organisations:**

- Guru Nanak Darwar Sikh Temple, Oakengates
- Guru Nanak Sikh Temple, Hadley
- Punjabi Cultural Society
- Regent Street Mosque
- Hadley Mosque
- New Testament Church of God, Ketley
- Seventh Day Adventist Church
- Hadley Mens get together group
- The Pentecostal Church, Wellington
- Pakistani Welfare Association
- Shropshire Bangladeshi Welfare Association
- Telford Hindu Sabha
- Equal Project
- Telford West Indian Association
- South Telford Anti-Racist Committee
- Telford Women's Craft Group
- Schools Multi Cultural Development Service
- Shropshire Greek School
- Telford Central Mosque
- Chinese Christian Church
- Telford Cultural and Leisure Centre
- Asian Health Link Officer, Telford and Wrekin Primary Care trust.
- Sangat Parchar Sabha Community Organisation.
- Telford African Welfare Association
- Age Concern, Telford Town Centre
- CARE, Telford
- CHEC Voluntary Organisation
- Children's Society, Telford
- Carer's Contact Centre, Leegomery
- Listen and Care Group, Randlay
- MENCAP, Wellington
- Ex-Services Mental Welfare Society
- Multiple Sclerosis Society, Wellington
- Salvation Army
- Telford and Wrekin Foster Care Association
- Wellington and District Cottage Care Centre Trust
- Young People's Support Scheme
- MIND, Telford
- Telford and Wrekin CVS
- Telford Christian Council
- Wellington YMCA
- Senior Citizens Forum
- Sure Start Children's Centre
- Sutton Hill Family Project
- Rights and Fairness Telford (RAFT)
- Telford Islamic Academy
- British Red Cross



## Appendix A

- ESOL Tutor at Telford College Arts & Technology
- Sanctuary

All schools in Telford and Wrekin area

Libraries – all in Telford & Wrekin area

Jonathan Eatough  
Solicitor and Assistant Director, Law,  
Democracy and Public Protection

Public Protection (Environmental  
Health, Licensing & Trading Standards)  
Darby House  
Telford  
TF3 4JA

Tel: +44 (0)1952 381800

**Contact:** Helen Owen

**Telephone:** 01952 383266

**Fax:** 01952 381993

**Your Ref:**

**Our Ref:**

**Date:**

Dear Sir/Madam

**Re: Gambling Act 2005 Review of Statement of Principles Consultation**

Telford and Wrekin Council is consulting on the review of the Statement of Principles issued under the Gambling Act 2005.

The consultation commences on Monday 23<sup>rd</sup> July.

You are invited to submit any comments you have in relation to the policy **by 5:00pm on Monday 15<sup>th</sup> October 2012.**

The Statement of Principles is available on the Council's website at [www.telford.gov.uk](http://www.telford.gov.uk), in Darby House and Civic Offices reception, and in local libraries. Comments can be made in respect of the review by writing, fax or by e-mailing to the details below:

Licensing,  
Darby House,  
Lawn Central,  
Telford,  
TF3 4JA  
Fax; 01952 381993  
Email; [consultationlicensing@telford.gov.uk](mailto:consultationlicensing@telford.gov.uk).

I would like to thank you for taking time to participate in this consultation exercise and look forward to receiving your comments.

Yours faithfully



**Helen Owen (Mrs)**  
**Licensing Technical Officer**

## Appendix C

|   | <b>Name</b>                                   | <b>Comments</b>                                                       |
|---|-----------------------------------------------|-----------------------------------------------------------------------|
| 1 | Paul Swain, Racecourse Association            | No venues in this area so no response to make.                        |
| 2 | Hadley & Leegomery Parish Council             | Supports the reviewed statement of principles.                        |
| 3 | Lilleshall Donnington & Muxton Parish Council | Considers the changes to be of little significance to the overall Act |
| 4 | Business in Sport & Leisure                   | Information requested but no final response received.                 |
| 5 | National Casino Industry Forum                | Seeking consideration on the adoption of a casino                     |
|   |                                               |                                                                       |

13<sup>th</sup> August 2012

Cllr Kuldip Sahota  
Leader of the Council  
Telford & Wrekin Council  
Civic Offices  
Telford  
Shropshire  
TF3 4LD

Dear Cllr Sahota

### Select Committee Report and the Opportunities for Local Authorities

I am writing to you as Chairman on behalf of the National Casino Industry Forum (NCiF) the body that represents over 90% of UK land based casino operators.

As we know you're aware there is a requirement, under Section 349 of the Gambling Act 2005, for your Authority to publish a Gambling Policy Statement every three years. You will also be aware that the next Policy Statement is due to come into force on 31<sup>st</sup> January 2013.

As the representative body for the casino industry we would welcome the opportunity to contribute to your consultation process.

Casinos play an important part in the provision of entertainment and hospitality, bringing mature and responsible patrons to our town and city centres. Casinos are an attractive and positive addition to the overall offer of our evening economies, without any of the negative experiences of anti-social behaviour sometimes sadly attributable to late night venues. Last year casinos in the UK hosted almost 19 million visits, and provided an important source of local revenue. Which could translate to:

- New £15 million **construction investment** in local authority areas to help to restore confidence locally
- Possibility of Section 106 Agreements to **boost local services**
- Local Authority **business rates boosted** by £250,000 pa
- Areas benefit from **£4-5 million of added value** in the local economy

It is also worth noting that as a, quite properly, highly regulated industry it is also a labour intensive business, providing disproportionately high employment opportunities with typically 100 to 200 staff on a premises, some current casino venues provide up to 450 jobs (depending on the size of the casino). Employment is met at a local level, often to the young; also the lack of academic qualifications is not a barrier to employment.

The number of casino premises licences is fixed in law. Under the Gaming Act 1968 there are 186 licences in existence. The Gambling Act 2005 added 16 new casinos to this number making a total of 202 licences. These 16 '2005 Act' licences are already allocated to specific locations. There is no

move by the government to increase this figure, or by NCiF to move the 2005 Act licences away from the granted area. Nor are our members seeking to increase these finite numbers.

However, there is an anomaly in the current legislation. The 186 '1968 Act' licences were allocated to 53 'Permitted Areas'. These Areas have not changed in the intervening 40 years. However, population and demographic shifts over the last four decades have rendered the operation of a number of these licences uneconomic. At the same time a number of Local Authorities have sought to attract a casino to their area, but are unable to as they are not 'Permitted Areas' under the 1968 Act. The current position is that there are 38 casino licences not being used - dormant. We know of no other business sector where those who wish to operate and those that wish to attract the resultant inward investment are both blocked from doing so by law.

However, on 24<sup>th</sup> July 2012, the Culture, Media and Sport Committee produced a report, entitled '[The Gambling Act 2005: A bet worth taking?](#)'. This Report scrutinised the operation of the Gambling Act 2005. Regarding casinos, it concluded (at Para. 165):

***“Both the 1968 and 2005 Act provisions successfully prevented casinos from proliferating or clustering. However, there is no evidence that allowing local authorities to decide independently whether or not they wish to have a casino would lead to a significant increase in the total number of casinos. We believe that the decision as to whether a casino would be of benefit to a local area should be made by local authorities rather than central diktat.***

***We recommend that any local authority be able to make the decision as to whether or not they want a casino. As a step towards this, we recommend that existing 1968 Act Casino licences are made portable, allowing operators to relocate to any local authority provided that they have the consent of that local authority. The portability of these licences would be constrained by the existing 'triple lock' contained in the Gambling Act: the need to obtain local authority approval, a premises licence and planning permission.”***

It is clear that the CMS Committee's view is that Local Authorities are best placed to decide whether they should be a permitted area and do or do not wish to host a casino in their area, rather than remaining with the current position.

We are asking you to consider the proposition that your Authority *is* the proper body (rather than central government) to decide if it wishes to have a casino in its area. We are aware that a small number of Authorities passed a 'No Casino' policy at the last review of its Gambling Policy in 2010. Given the above we would ask you to re-consider that decision. To revoke this policy would not in any way commit that Authority to having a casino – the 'Triple Lock' expressed in the CMS Report extract above still allows an Authority to take individual decisions on applications in accordance with its views and the application's merits. By not having a “No Casino” policy does offer an Authority the continuing opportunity to decide for itself whether it is right for the Authority and its public to have a casino.

We are collating responses from across England, Scotland and Wales and would really appreciate your Authority's views on this local decision-making issue.

Additionally, should your Authority take a positive view that it would, on the freeing up of the position, actively seek to host a casino we would be pleased to hear from you.

Given the timeframe and in order to assist could we ask that you reply to this letter by Friday 31<sup>st</sup> August using the attached 'Licensing Survey' response form, and kindly email your reply to my colleague Jim Ratchford [jim@nci-forum.co.uk](mailto:jim@nci-forum.co.uk).

Should you wish to discuss any of the information above please contact my colleague, Jim who will be happy to assist:

Tel: 020 7828 5410

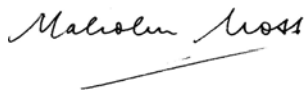
Fax: 020 7932 0751

Mobile: 07718 131479

E-mail: [jim@nci-forum.co.uk](mailto:jim@nci-forum.co.uk)

Website [www.nci-forum.co.uk](http://www.nci-forum.co.uk)

Yours sincerely

A handwritten signature in black ink, reading "Malcolm Moss". The signature is written in a cursive style with a long horizontal stroke extending to the right.

**Malcolm Moss**  
**Chairman**

**Copied to: The Chief Executive**

**Encl: 1 Licensing Survey**



## **Statement of Principles**

### **Gambling Act 2005**

## Appendix E

### Contents

| Item                                                                                  | Page |
|---------------------------------------------------------------------------------------|------|
| <b>Part A</b>                                                                         |      |
| 1. The licensing objectives                                                           | 2    |
| 2. Introduction                                                                       | 2    |
| 3. Declaration                                                                        | 7    |
| 4. Responsible Authorities                                                            | 7    |
| 5. Interested parties                                                                 | 7    |
| 6. Exchange of information                                                            | 8    |
| 7. Enforcement                                                                        | 7    |
| 8. Licensing authority functions                                                      | 10   |
| <b>Part B - Premises licences</b>                                                     |      |
| 1. General Principles                                                                 | 11   |
| 2. Adult Gaming Centres                                                               | 19   |
| 3. (Licensed) Family Entertainment Centres                                            | 19   |
| 4. Casinos                                                                            | 20   |
| 5. Bingo                                                                              | 20   |
| 6. Betting premises                                                                   | 21   |
| 7. Tracks                                                                             | 22   |
| 8. Travelling fairs                                                                   | 23   |
| 9. Provisional Statements                                                             | 24   |
| <del>10. Small Society Lotteries</del>                                                | 25   |
| <del>11</del> 10. Reviews                                                             | 26   |
| <b>Part C - Permits/<del>Registrations</del>-Temporary and Occasional Use Notices</b> |      |
| 1. Unlicensed Family Entertainment Centre gaming machine permits                      | 27   |
| 2. (Alcohol) Licensed premises gaming machine permits                                 | 28   |
| 3. Prize Gaming Permits                                                               | 30   |
| 4. Club Gaming and Club Machines Permits                                              | 31   |
| <del>5. Small Society Lotteries</del>                                                 |      |
| <del>6</del> 6. Temporary Use Notices                                                 | 32   |
| <del>7</del> 7. Occasional Use Notices                                                | 33   |

*This Statement of Licensing Principles was approved by [x] Council on [date]*

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 3<sup>rd</sup> Edition, published May 2009.*



## Appendix E

### 1. The Licensing Objectives

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

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”.

This licensing authority is aware that, 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 is:

- 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

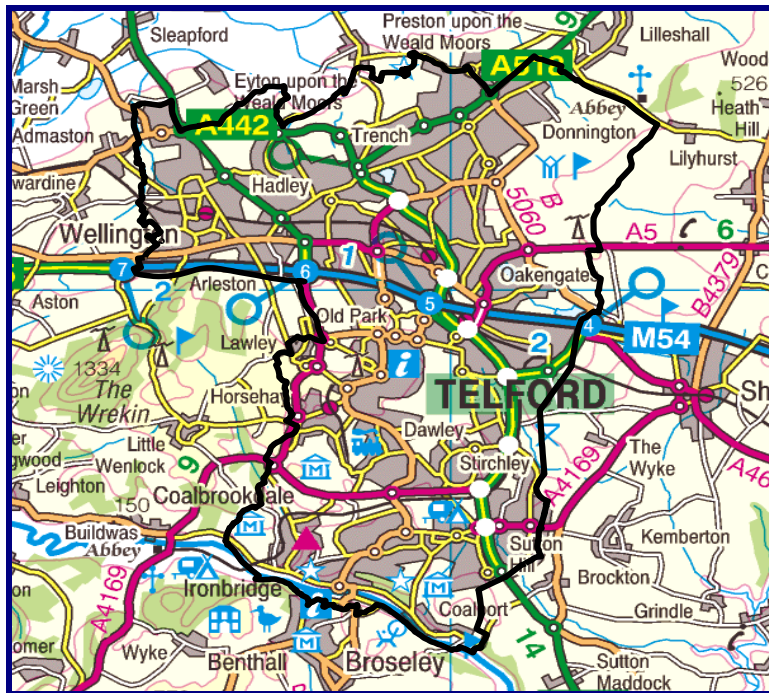
### 2. Introduction

Telford & Wrekin Council is situated in the County of Shropshire which contains one other Unitary Council. The Council area has a population of 166,000 making it the smallest in the County in terms of population. In terms of area it is the smallest, covering 112 square miles. The Council area is a mixture of urban and rural districts; which includes the market town of Newport on the north-east corner of the borough and the central retail area of Telford town centre. These areas are shown in the maps below and include areas targeted for major housing projects.

Telford & Wrekin Council is a Co-operative Council, working with local communities to transform and improve the borough is a key priority for Telford & Wrekin Council. We are currently making a major investment in regenerating towns and centres to make them more attractive and accessible to residents and visitors.

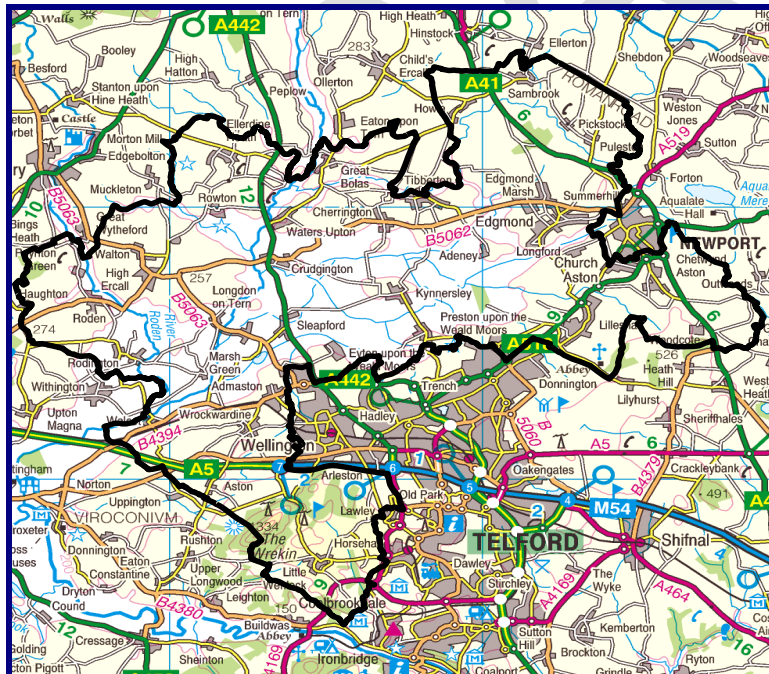
## Appendix E

### Telford & Wrekin – Urban Areas



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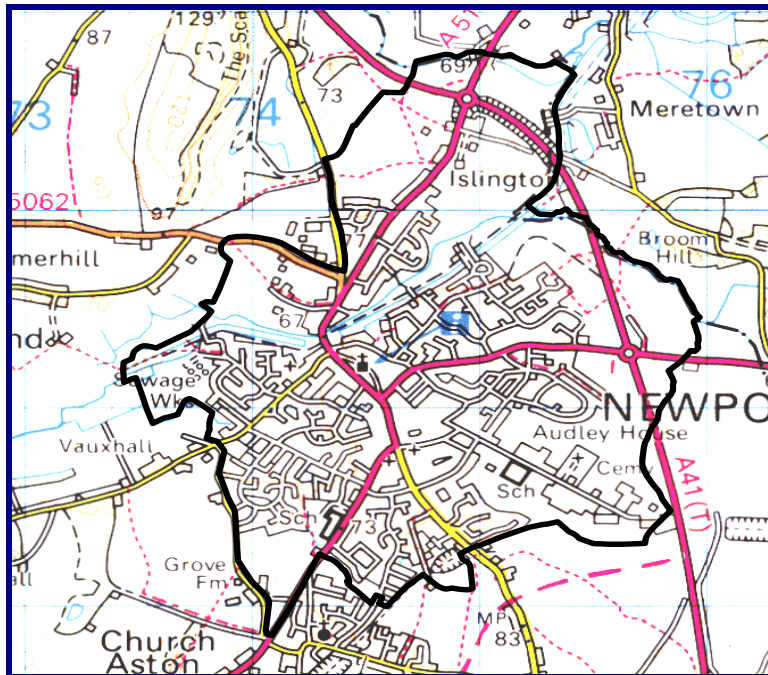
### Telford & Wrekin – Rural Areas



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## Appendix E

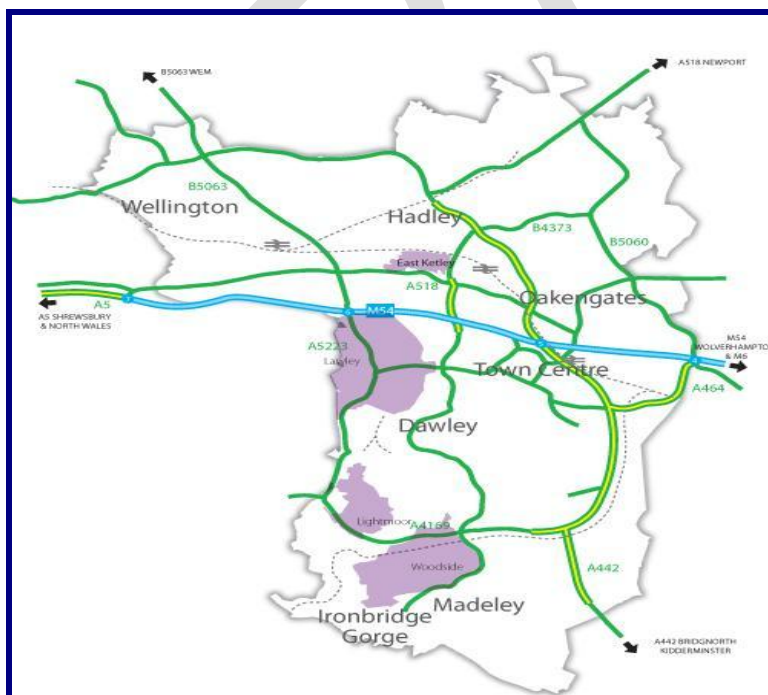
### Telford & Wrekin - Newport



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### Telford & Wrekin - Major Housing projects



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## Appendix E

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.

Telford & Wrekin Council is consulting widely upon this statement before finalising and publishing. The changes which have been made from the current statement are shown in [red](#).

The Gambling Act requires that the following parties are consulted by licensing authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.

List of statutory consultees this authority consulted:

- Chief Officer of police West Mercia Police, Telford
- Association of British Bookmakers
- BACTA
- GamCare

The consultation for this policy is taking place between 23rd July 2012 and 15<sup>th</sup> October 2012 and follows best practice as set out by the Department for Business, Innovation and Skills  
<http://www.bis.gov.uk/assets/biscore/corporate/migrateddd/publications/f/file44364.pdf>.

The full list of comments made and the consideration by the Council of those comments will be available once the consultation process has ended by request to: Licensing Service, Telford & Wrekin Council, Darby House, Lawn Central, Telford, TF3 4JA / via the Council’s website at: [www.telford.gov.uk](http://www.telford.gov.uk).

Information provided in response will be dealt with in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations (2004). Please refer to the accompanying Guidance on the Code of Practice on Consultation <http://www.cabinetoffice.gov.uk/regulation/consultation/index.asp> for more information.

The proposed policy will be put to the Full Council on 22<sup>nd</sup> November 2012



## **Appendix E**

and will be published via our website on 3<sup>rd</sup> January 2013. Copies of this consultation document have been placed in the public libraries of the area as well as Civic Offices and Darby House receptions.

To express your opinions on the proposed policy document, please write, fax or email, as detailed below:

By post : Licensing Service, Telford & Wrekin Council, Darby House, Lawn Central, Telford, TF3 4JA

By fax: (01952) 381993

By e-mail: **[consultationlicensing@telford.gov.uk](mailto:consultationlicensing@telford.gov.uk)**

It should be noted that this statement of licensing principles 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.

### **3. Declaration**

In producing the final statement, this licensing authority declares that it will have had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

### **4. Responsible Authorities**

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.

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the Local Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [www.telford.gov.uk](http://www.telford.gov.uk)

### **5. Interested parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the

## **Appendix E**

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)”

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:

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 to Licensing Authorities at 8.11 to 8.19 and any decisions on premises licences and temporary use notices must be “in accordance” with Gambling Commission Guidance (Section 153). 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.

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 represent 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.

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 Committee dealing with the licence application. If there are any doubts then please contact the Licensing Service, Telford & Wrekin Council, Darby House, Lawn Central, Telford, TF3 4JA.

### **6. Exchange of Information**

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 the respect to the exchange of information between it and the other

## Appendix E

persons listed in Schedule 6 to the Act.

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 on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

Please contact the Licensing Service, Telford & Wrekin Council, Darby House, Lawn Central, Telford, TF3 4JA for further information on our protocols.

### 7. Enforcement

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.

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour 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.

As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice

## Appendix E

- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences.

It should be noted that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

This Licensing Authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

In accordance with the principle of transparency, this Licensing Authority's enforcement policy is available at [http://www.telford.gov.uk/downloads/file/4060/public\\_protection\\_enforcement\\_policy](http://www.telford.gov.uk/downloads/file/4060/public_protection_enforcement_policy) or upon request to the Licensing Service, Telford & Wrekin Council, Darby House, Lawn Central, Telford, TF3 4JA. Our risk methodology is also available upon request.

### 8. Licensing authority functions

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- 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 Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- 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 licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under



## **Appendix E**

these functions

It should be noted that Licensing Authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

### **Part B**

#### **Premises Licences: Consideration of Applications**

##### **1. General Principles**

Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are 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.

##### **(i) Decision-making**

This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks fit:

- 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 Principles.

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities 'moral objections to gambling are not a valid reason to reject applications for premises licences' (except as regards any 'no casino resolution' - see section on Casinos - page 12) and also that unmet demand is not a criterion for a licensing authority.

##### **(ii) 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.

## Appendix E

The Gambling Commission states in the third 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.”

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 names on the premises licence.

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?

This Authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

## **Appendix E**

**The Gambling Commission's relevant access provisions for each premises type are reproduced below:**

### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.23 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 para 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

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this Authority will also take into

## Appendix E

account in its decision-making.

### **(iii) 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 are 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 the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

### **(iv) 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 are relevant to its decision-making. As per the Gambling Commission’s Guidance to Licensing 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.

### **(v) Planning:**

The Gambling Commission Guidance to Licensing Authorities states:

7.59 – ‘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.’

## Appendix E

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:

7.66 – ‘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.’

### **(vi) Duplication with other regulatory regimes**

This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. 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.

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.

**Licensing objectives** - Premises licences 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 Licensing Authorities and some comments are made below.

**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 (for example whether police assistance was required and how

## Appendix E

threatening the behaviour was to those who could see it) so as to make that distinction.

**Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section– see page 22).

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance 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.

This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

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 gambling 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.

**Conditions** - Any conditions attached to licences 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.

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 way in which the licensing objectives can be met effectively.

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such

## Appendix E

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.

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.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

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.

It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

- 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.

**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

## **Appendix E**

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).

### **2. Adult Gaming Centres**

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.

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-exclusion 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

### **3. Family Entertainment Centres (Licensed)**

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.

This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry



## **Appendix E**

- Notices / signage
- Specific opening hours
- Self-exclusion 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.

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 licences 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 licences, when they have been published.

### **4. Casinos**

This licensing authority has passed a 'no casino' resolution on the basis that there was no requirement to consider such a resolution in accordance with Section 166 Gambling Act 2005 and in line with advice provided by the Local Authorities Co-ordinators of Regulatory Services. This decision is consistent with the discretionary nature of Section 166 and the authority may continue to take into account any principle or matter outside the licensing objectives. Furthermore, the maintenance of a neutral stance should be considered attractive because it neither ruled the licensing authority in or out of considering applications for casino licences in the future.

However, potential licence applicants should note that as a 'no-casino' resolution has been passed by this authority and no applications for casino premises licences will be considered. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

This resolution came into effect on 31<sup>st</sup> January 2010.

### **5. Bingo premises**

This licensing authority notes that the Gambling Commission's Guidance states:

18.4 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 18.8 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

## Appendix E

permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

18.7 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.

### 6. Betting premises

*Betting machines (bet receipt terminals)* – are not gaming machines as they are designed or adapted for use to bet on future real events thus automating the betting process. Therefore, they do not count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. However, this does not include machines that are capable of taking bets on computer generated 'virtual races'.

Sec 181 gambling Act 2005 contains an express power for licensing authorities to restrict the number of betting machine, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence.

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.

Primary Gambling Activity – An Operating Licence condition provides that gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. In this respect, such facilities must include information that enables customers to access details of events on which bets can be made, make such bets, learn of the outcome and collect any winnings. Where betting facilities are provided only by betting machines, the number of betting machines must exceed the number of gaming machines made available for use.

### 7. Tracks

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.

## Appendix E

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.

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-exclusion 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.

*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.

*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.

**Applications and plans** – Sec 51 Gambling Act 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. (Para 20.28 Guidance to Licensing Authorities).

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. (Para 20.29 Guidance to Licensing Authorities,).

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.

## **Appendix E**

In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (Para 20.31 Guidance to Licensing Authorities,).

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. (Para 20.32 Guidance to Licensing Authorities,).

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. (Para 20.33 Guidance to Licensing Authorities,).

### **8. Travelling Fairs**

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.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, 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 neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

### **9. Provisional Statements**

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.

Sec 204 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:

## Appendix E

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

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.

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.

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.

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 premises 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.

## 10. Reviews

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

## Appendix E

- 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.

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.

The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

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.

The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

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 or Scottish Ministers (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.

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.

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.

## Appendix E

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-/Registrations/-Temporary & Occasional Use Notice

##### 1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

Where a premises 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).

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 to Licensing 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)

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 officer of police has been consulted on the application....Licensing authorities might wish to consider asking applications 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 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. (24.7)

It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

## Appendix E

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.

### **2. (Alcohol) Licensed premises gaming machine permits – {Schedule 13 paragraph 4(1)}**

#### **Entitlement (Automatic): two machines**

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.

The Licensing Authority has no discretion to consider or turn down a notification but 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.

#### **Entitlement (Permit): Three or more machines**

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.*”



## Appendix E

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 being harmed 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 be 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.

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.

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.

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.

### 3. Prize Gaming Permits

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”.

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.

In making its decision on an application for this permit the Licensing Authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

## Appendix E

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.

### 4. Club Gaming and Club Machines Permits

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming 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.

Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfil 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

## Appendix E

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.

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). As the Gambling Commission's Guidance to Licensing 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."

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.

### 5.Small Society Lotteries

The local authority is responsible under the Act for the registration of small lotteries in its area. Sec 2 of the Act defines 'licensing authorities' and sec 25 defines 'local authorities' and both are given the same definition. Therefore, in the interests of consistency the Gambling Commission's guidance refers to 'licensing authorities' as opposed to 'local authorities' under part 34.

Small society lotteries are non-commercial lotteries with prescribed financial limits and are:

- For charitable purposes or
- For purposes of enabling participation in, or supporting sport, athletics or cultural activity or
- For any other non-commercial purpose other than private gain.

As part of the registration, the applicant will be required to inform the licensing authority for what purpose the society is established.

## Appendix E

The licensing authority will refuse applications for registration where it considers that:

- That the society in question cannot be deemed to be non-commercial, or
- A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
- The information provided in or with the application for registration is false or misleading, or
- An operating licence held by the applicant for registration has been revoked or, an application for an operating licence made by the applicant for registration has been refused, within the past five years.

The licensing authority will revoke the registered status of a society if it thinks that it would have had to, or would be entitled to refuse an application for registration if it were being made at that time.

### 6. Temporary Use Notices

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.

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.

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.

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".

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.

## **Appendix E**

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.

### **7.Occasional Use Notices:**

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.

DRAFT

## Appendix F

### **Community Impact Assessment**

It is intended that you complete this form if you have identified a high negative impact to our communities and employees.

Sections 1 & 2 should be completed early in policy development and before any consultation/engagement activity takes place

Sections 3 & 4 should be completed before policy approval.

**You will find the information from this assessment useful for the Equality Implications section of any report you are completing.**

**Make use of the supporting guidance – Community Impact Assessment**

#### **Section 1 – Overview**

1. What is the title of the policy?

|                                                                                                 |
|-------------------------------------------------------------------------------------------------|
| A Statutory review of the Council's Statement of Licensing Principles for the Gambling Act 2005 |
|-------------------------------------------------------------------------------------------------|

2. What are the objectives of the policy? For example, what are we aiming to achieve? Who does it benefit? Please provide a brief description

3.

|                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The objective is to consider and consult with partners, the community and the gambling trade on the Council's Statement of Licensing Principles.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The Gambling Act 2005 contains three key licensing objectives which are central to the regulatory regime. The Gambling Commission, the Licensing Authority and all applicants should positively promote these objectives. The Objectives are :</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime.</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                    |
|--------------------------------------------------------------------|
| <p>Ensuring that gambling is conducted in a fair and open way.</p> |
|--------------------------------------------------------------------|

|                                                                                                     |
|-----------------------------------------------------------------------------------------------------|
| <p>Protecting children and other vulnerable persons from being harmed or exploited by gambling.</p> |
|-----------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The purpose of the Statement of Licensing Principles is to ensure that the licensing objectives as defined under the Gambling Act 2005 are satisfied in all premises where gambling of any form takes place.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The Policy includes instruction and guidance on how the Council will administer applications and also how applicants should expect to promote the three licensing objectives.</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The Licensing Authority is obliged to publish a Statement of Licensing Principles, formally agreed by Full Council and review it every three years</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|

## Appendix F

4. Who does this policy affect? (Delete as appropriate)

- Customers/service-users
- Partners
- Gambling businesses

5. What period does the policy cover? (start date & end/review date)

|                                                                |
|----------------------------------------------------------------|
| 31 <sup>st</sup> January 2013 to 30 <sup>th</sup> January 2016 |
|----------------------------------------------------------------|

6. Your contact details:

|                                                            |                                                 |
|------------------------------------------------------------|-------------------------------------------------|
| Name of person completing impact assessment and their post | Suzanne Fisher<br>Public Protection Team Leader |
| Telephone                                                  | 01952 383261                                    |
| Date started                                               | 23 <sup>rd</sup> October 2012                   |
| Other officers/Stakeholders involved                       |                                                 |

## Appendix F

### Section 2 – Impact Assessment

1. Will this policy have a significant impact on any of the following groups of people with regard to the General Equality Duty?

Positive and negative impacts should be assessed with regard to the General Equality Duty;

- eliminate unlawful discrimination, harassment and victimisation
- advance equality of opportunity
- foster good relations between different groups

Please mark all boxes indicating whether an impact has occurred, this could be **positive** or **negative**. Mark **None** if there is no impact. Help boxes are available to assist.

People of different ages

[Helpbox - Age](#)

People with ill health or people with a disability

[Helpbox - Disability](#)

People of different gender

[Helpbox - Gender \(Sex\)](#)

People who are transgender

[Helpbox - Transgender](#)

Different racial groups

[Helpbox - Race](#)

People with different religion or beliefs

[Helpbox - Religion or Beliefs](#)

People of different sexual orientation

[Helpbox - Sexual Orientation](#)

Women who are pregnant or breast-feeding

[Helpbox - Pregnancy and Maternity](#)

People that are married or in a civil partnership

[Helpbox - Marriage or Civil Partnership](#)

People affected by deprivation

[Helpbox - people affected by deprivation](#)

| Impact (X) |          |      |
|------------|----------|------|
| Positive   | Negative | None |
| X          |          |      |
| X          |          |      |
|            |          | X    |
|            |          | X    |
|            |          | X    |
|            |          | X    |
|            |          | X    |
|            |          | X    |
| X          |          |      |



## Appendix F

### 2. What is the expected impact?

#### **People of different ages**

This licensing authority has noted the Gambling Commission's Guidance 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.

#### **People with ill health or people with a disability and**

#### **People affected by deprivation**

In the policy, the Licensing Authority notes that as regards the term "vulnerable persons" 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 gambling 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.

### 3. What engagement and consultation have you already carried out?

Holders of existing licences, registered clubs and those who represent businesses, residents and community groups in the Borough and their representatives have been consulted on this review of policy. A full list of those consulted as part of the review of the Statement of Principles is listed at **Appendix A**

What the consultation/engagement told you?

The revised Statement of Licensing Policy has taken account of representations made by the consultees.

A full report including feedback from the consultation will be put before a public meeting of the Council's Licensing Committee on 20<sup>th</sup> November 2012.

### 4. Please give brief details of any further engagement/consultation you plan to carry out with any of the above groups, particularly where you feel you don't have sufficient information.

A further consultation and review of this policy will be carried out in 2015.

**You are at the end of Section 2 - have you completed all questions in this section?**

**Please ensure all questions are answered and then send your information to;**  
[Equalityanddiversity@telford.gov.uk](mailto:Equalityanddiversity@telford.gov.uk)

You can ask questions or for any support by contacting 01952 382104 or e-mail  
[equalityanddiversity@telford.gov.uk](mailto:equalityanddiversity@telford.gov.uk)

## **Appendix F**

The Equality and Diversity Team will help you address/respond to any issues in  
**Section 3 – Mitigating Actions**

## Appendix F

### **Section 3 – Mitigating Actions**

1. For each significant **negative** impact identified in Section 2 (Questions 3 & 4), what action have you taken, or will you be taking, to reduce/manage these impacts?

Please bring forward any **negative** impacts identified earlier in the form and explain what action you will take to mitigate against them (The earlier help boxes include help on mitigating actions).

2. For each significant **positive** impact you identified in Section 2 (Questions 3 & 4) what action have you taken, or will you be taking, to maximise the opportunity?

Where the Licensing Authority receives representations to applications for licences under the Gambling Act that, these representations will be put before the Licensing Sub-Committee for consideration. Applicants and those making representations have a right to address the Committee. Members of the Licensing Sub-committee, when making a decision, must have regard to the Licensing Objectives and the Council's Statement of Licensing Principles.

In the event of premises giving rise for concern, interested parties or their representatives, are able to apply for a review of a licence, at any time, on the grounds that their concerns relate specifically to the licensing objectives

**Remember to integrate any actions you have identified in to your service/team plans.**

3. The policy contribute to the following aims of the General Equality Duty;
  - eliminate unlawful discrimination, harassment and victimisation
  - advance equality of opportunity
  - foster good relations between different groups

### **Section 4 – Review and Monitoring**

1. From what date will this policy be implemented?

31<sup>st</sup> January 2013

2. How will the actual impact of the policy be monitored and reviewed?

Use SMART action planning techniques to describe the processes/forums by which the impacts will be monitored and evaluated.

Ensure that appropriate confirmation has been given by your line manager.

## **Appendix F**

### **Line Manager/Head of Service Agreement**

Community Impact Assessments will be published online and available on request. This will include the subject document, equality analysis, data sources and consultation evidence.

Please make sure that your Line Manager/Head of Service has been made aware of the content of the impact assessment and that they agree with it.

Arrange for your Line Manager/Head of Service to e-mail confirmation of agreement to; [equalityanddiversity@telford.gov.uk](mailto:equalityanddiversity@telford.gov.uk)

The Equality and Diversity team will create a summary for ease of access, please make sure that you forward any relevant documentation you have referred to with the e-mail, or a link to the appropriate web page.

Should you have any questions, or

**Thank you conducting this Community Impact Assessment, should you have any questions please contact 01952 382104 or e-mail [equalityanddiversity@telford.gov.uk](mailto:equalityanddiversity@telford.gov.uk)**

**Telford & Wrekin Council**

**Licensing Committee – 20th November 2012**

**Review of the Gambling Act 2005 – Statement of Licensing Principles**

**Report of: Service Delivery Manager Public Protection.**

**1. Purpose**

- 1.1 Following consultation, to present for information a revised Statement of Principles for the Borough of Telford & Wrekin under the Gambling Act 2005 before it is presented to Council on the 22<sup>nd</sup> November for adoption.

**2. Recommendations**

- 2.1 **That the** Statement of Licensing Principles for the Gambling Act 2005 for the Borough of Telford and Wrekin be recommended to Full Council for approval with an effective date of 31st January 2013.

**3. Summary**

- 3.1 The current Statement of Licensing Policy for the Gambling Act 2005 was written in 2009 and came into effect in January 2010. Such policy statements have to be reviewed every three years as a statutory requirement. This is the second review of the Telford & Wrekin Statement of Licensing Policy since it came into effect in 2007.
- 3.2 The first Statement of Licensing Policy, came into effect on 31<sup>st</sup> January 2007. The revised Statement of Licensing Policy now referred to as a Statement of Principles and subject of this report, will need to be approved by Full Council and published on 3<sup>rd</sup> January 2013 to take effect from 31<sup>st</sup> January 2013.

**4. Previous Minutes**

- 4.1 LC-82 – 18/11/2009

**5 Information**

**5.1 Background**

- 5.1.1 The Gambling Act 2005 requires Licensing Authorities to review their Statement of Principles every 3 years. The current policy document came into effect in January 2010. The second review is now due, with the revised Statement of Principles to come into effect on 31st January 2013.

5.1.2 The licensing objectives in the 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.

5.1.3 The draft review of the Statement of Principles has been prepared in the light of six years' experience and interpretation of the current policy which was written before the Gambling Act 2005 came into effect in 2007.

5.1.4 The Gambling Commission has also produced updated guidance since the original Statement of Principles was agreed. This new Statement of Principles takes account the amendments to their Guidance made by the Gambling Commission to date.

5.1.5 The Licensing Authority at Telford & Wrekin Council has received 33 applications for premises licences since the implementation of the Act.

5.1.6 Under the Gambling Act, every application that attracts valid representations must be put before a Licensing Sub-Committee for consideration. Both applicant and those making representations have a right to address the Committee. Members of the Licensing Committee, when making decisions, must have regard to the Act, the Guidance issued to Local Authorities by the Gambling Commission, and the Council's Statement of Licensing Principles.

5.1.7 In the event of premises giving rise for concern, interested parties or their representatives, are able to apply for a review of a licence, at any time, on the grounds that their concerns relate specifically to the licensing objectives. Applications for the review of licences are heard by a Licensing Sub-Committee.

5.1.8 Of the 33 premises licences issued by the Licensing Authority, twenty six are currently in force. These are in the following categories:

|                                           |           |          |
|-------------------------------------------|-----------|----------|
| <b>Betting shops (other than a track)</b> | <b>20</b> |          |
| <b>Adult Gaming Centres</b>               | <b>4</b>  |          |
| <b>Bingo Halls</b>                        |           | <b>2</b> |

Since the implementation of the Act, one Family Entertainment Centre Premises Licence has been surrendered, 3 Betting Premises Licence (other than a track) have been surrendered and 3 Adult Gaming Centres have been surrendered.

5.1.9 In terms of consultation, this review was carried out in accordance with the Cabinet Office Code of Practice over a 12 week period from 23<sup>rd</sup> July to 15<sup>th</sup> October 2012. Responsible authorities are named under Section 157 Gambling Act 2005 and Interested Parties are defined under Section 158 of the Act as:

- Persons living sufficiently close to the premises to be likely to be affected by the authorised activities
- Persons having business interests that might be affected by the authorised activities
- Persons representing those in the above categories.

5.1.10 The representatives of holders of existing licences, registered clubs and those who represent businesses, residents and community groups in the Borough have also been consulted. The revised Statement of Principles has also been made available at Council Offices and local libraries and a copy has also been posted on the Council's website inviting representations. A full list of those consulted as part of the review of the Statement of Principles is listed at **Appendix A**, and the letter to consultees is attached to this report at **Appendix B**.

5.1.11 The revised Statement of Licensing Policy has taken account of representations made by the consultees. Five responses were received in total. The table of responses is attached at **Appendix C**. Members should note that Telford & Wrekin Council have received a letter addressed to the Leader of the Council from the National Casino Industry Forum. This letter has been sent to all Licensing Authorities by the National Casino Industry Forum as they are aware that Authorities are currently undertaking their statutory review of their Statement of Licensing Principles. A copy of the letter is attached as **Appendix D**. In response to the letter, members are advised that Telford & Wrekin Council has a 'No Casinos' Policy.

5.1.12 The revised Statement of Principles for consideration and approval is attached to this Report at **Appendix E**. After careful consideration of the responses, Telford & Wrekin Council is proposing to make no amendments to the current policy. Members should be advised that there have been minor changes made to the Statement of Principles to reflect updated Guidance issued to Local Authorities from the Gambling Commission. The minor changes are highlighted in the actual policy, but it is important to note that there is no substantive change to the policy.

5.1.13 The decision by Officers not to recommend changes to the Statement of Principles is a decision that is also mirrored by other neighbouring authorities.

## **5.2 Equal Opportunities**

5.2.1 A Community Impact Assessment has been carried out post consultation. **Attached at Appendix F**

5.2.2 As described in the revised Statement of Principles and as part of the consultation process, a wide range of organisations, bodies and individuals concerned with Gambling were approached or had the opportunity to make their views known in relation to the revised Statement.

5.2.3 The legislation is designed through the promotion of the licensing objectives to take account of the interests of local residents and businesses and the protection of children from harm in determining any application.

## **5.3 Environmental Impact**

5.3.1 Not applicable for the purposes of this report.

## **5.4 Legal Comment**

5.4.1 Section 349 of the Gambling Act 2005 requires a licensing authority before each successive period of three years to publish a statement of principles that it proposes to apply when exercising its functions under the Act. The current Statement of Licensing Principles ends in January 2013. The Borough of Telford and Wrekin, as the Licensing Authority, have published a Statement of Licensing Principles that it proposes to apply when exercising its functions under the Act from 31 January 2013 and have consulted on the same.

5.4.2 The legal issues concerning this report are contained within the body of the Report.

## **5.5 Links with Corporate Priorities**

5.5.1 This report has links to:

1. Creating a safer community
- (b) Safeguard health and safety of the community

## **5.6 Financial Comment**

5.6.1 The minor changes made to the revised Statement of Principles under the Gambling Act 2005 have not given rise to any financial implications. Gambling license income totalled £30,427 in 2011/12. It is anticipated that a similar level of income will be received in 2012/13.  
MLB 01.11.12

## **5.7 Risks and Opportunities**

5.7.1 In proposing the decision to be made concerning the review of the Statement of Principles under the Gambling Act 2005, the Corporate Risk Management Methodology has been complied with. This approach is not intended to eliminate risks but to identify the risks and manage them. However, not all risks can be managed all of the time and some risks may not have been identified.

5.7.2 The following key risks and opportunities associated with this decision is that a failure to publish the Statement of Principles by 31<sup>st</sup> January 2013 and in a form that is too prescriptive or significantly deviates from Guidance issued to Licensing Authorities by the Gambling Commission (4<sup>th</sup> edition) could give rise to challenge by way of judicial review. Having identified this risk, processes and procedures have been put in place to ensure that the review of the Statement of Principles is carried out in a manner and within a timescale that should minimise such a risk so far as possible.

## **6. Ward Implications**

6.1 Borough Wide Implications



## **7. Background Papers**

- 7.1 Gambling Act 2005
- 7.2 Guidance to Licensing Authorities (4th Edition) issued by the Gambling Commission
- 7.3 Telford & Wrekin Statement of Licensing Principles.
- 7.4 Telford & Wrekin draft revision of Statement of Licensing Principles.

**Report prepared by:** Carl Phillips, Licensing Technical Officer, Public Protection – Darby House. Tel: 01952 383267

## **PLANS BOARD**

### **Minutes of a meeting of the Plans Board held on Wednesday, 22 August 2012 at 6.00pm in the Reception Suite, Civic Offices, Telford, Shropshire**

**PRESENT:** Councillor S A W Reynolds (Vice-Chair in the Chair), N A Dugmore, I T W Fletcher, J Loveridge, C P R Mollett (as substitute for Councillor R T Kiernan), G C W Reynolds, R J Sloan (as substitute for Councillor J C Minor), and C R Turley

**ALSO PRESENT:** Councillor T J Hope (for planning application TWC/2012/0419); V A Fletcher (for planning application TWC/2012/0423) and A D McClements (for planning application TWC/2012/0487).

#### **PB-025      MINUTES**

**RESOLVED** – that the minutes of the meeting of the Plans Board held on 1 August 2012 be confirmed and signed by the Chairman.

#### **PB-026      APOLOGIES FOR ABSENCE**

Councillors J C Minor (Chairman) and R T Kiernan

#### **PB-027      DECLARATIONS OF INTEREST**

Councillor J Loveridge declared a personal and prejudicial interest in planning application TWC/2012/0565 and indicated that she would leave the room during determination thereof.

Councillor C P R Mollett declared a personal interest in planning application TWC/2012/0419 as the application site fell within his Ward boundary although he had not yet formed a firm view on the application.

Councillor R J Sloan declared a personal and prejudicial interest in planning application TWC/2012/0487 and indicated that he would leave the room during determination thereof.

Councillor C R Turley declared a personal interest in planning application TWC/2012/0565 as he was a Parish Councillor but did not sit on the Parish's Planning Committee.

#### **PB-028      DEFERRED/WITHDRAWN APPLICATIONS**

None.

#### **PB-029      SITE VISITS**

**RESOLVED** – that in accordance with the decision reached at the meeting of Plans Board on 7 March 2012 (minute number PB-091(d)) a site visit takes place at 3.45pm on Wednesday, 12 September 2012 at Kynnersley House Farm,

**Kynnersley, Telford, Shropshire, TF6 6DX in respect of application numbers TWC/2011/1027 and TWC/2012/0068.**

**PB-030      PLANNING APPLICATIONS FOR DETERMINATION**

Members had received a schedule of planning applications to be determined by the Board and fully considered each report and the supplementary information tabled at the meeting regarding planning applications TWC/2011/0749, TWC/2012/0419, TWC/2012/0423, TWC/2012/0487 and TWC/2012/0565.

**(a)              TWC/2010/0828 Land at Ironstone, Lawley, Telford, Shropshire**

Members received this report, read in conjunction with the report for application TWC/2012/0419, which sought the Plans Board's agreement to a variation of the existing S106 agreement for Lawley Sustainable Urban Extension (SUE) for the development of Phase 6 and Phase 2 of Lawley Square.

Councillor A Hussey, representing Lawley and Overdale Parish Council, addressed the Board to oppose the renegotiation of the Section 106 Agreement which he considered had not received initial Parish involvement or agreement. He expressed disappointed that the Agreement appeared to be regularly debated and altered without any dialogue with the Parish Council.

The Planning Officer advised that the proposed variation sought an alteration to the amount of affordable housing provision for Phase 6, with a reduction from 25% to 15% and to amend the mix from 13% to 10% shared ownership tenure and 12% to 5% social rented tenure. In addition, a request had been made to omit the affordable housing obligation for residential units above shops in the second phase of Lawley Square Local Centre, known as Buildings 1 and 2. The request had been supported by a viability appraisal which demonstrated that any provision would not make this element viable.

Councillor G C W Reynolds was alarmed at the reduction of affordable housing provision and sought reassurance that, should the economy improve there would be opportunity to review provision upwards. The Planning Officer confirmed that this was the case.

Similarly, Councillor C R Turley expressed his unease with the proposals. However, he noted recent government concern that economically unrealistic agreements were subduing development and, taking a pragmatic approach, he considered that a reduction in affordable housing was better than halting development. He noted the difficulties posed by the economic climate and welcomed the Planning Officer's assurance that a review mechanism could be put in place.

Councillor I T W Fletcher had grave concerns regarding the proposals. He sought clarification regarding how many affordable dwellings had been lost throughout the whole development to date and sought reassurance regarding the integrity of the viability assessment. In response, the Planning Officer advised that full open book accounts had been received which had been reviewed in-house by officers skilled in this area.

Councillor C P R Mollett asked what proportion of the overall Lawley SUE this phase represented and what timescale was envisioned for completion. The Planning Officer advised that a number of phases were yet to come forward but the current two phases represented approximately 10% of the overall development. Approximately 400 dwellings had been built on site, and it was anticipated that there would be 3300 at completion which it had been envisioned would take 10-15 years but this had realistically been revised upwards to 20 years.

Councillor N A Dugmore was extremely unhappy at the reduction in affordable housing and expressed his bafflement at the economic logic to increase private housing in a poor economic climate when there was a ready demand for affordable housing across the whole of the Borough.

The Assistant Director: Planning Specialist shared in the Board's disappointment but reminded Members of the Authority's obligations and advised that it would be difficult to resist a proven viability case which had been endorsed by the Housing and Communities Agency. He advised that the affordable housing element of any development had to be provided at a subsidy which, when considered alongside other site issues such as the cost of remedying ground conditions, affected the viability of provision. Each site, therefore, had to be judged on its individual merits with the best possible outcome achieved at each phase.

Councillor Rob Sloan concluded the debate by noting that whilst all Members were disappointed with the proposed reduction in affordable housing, due to government guidelines, the Board was not in a position to refuse the variation. Upon voting, the majority of Members concurred with this view.

**RESOLVED** – that with respect to planning application TWC/2010/0828 the Development Management Manager be authorised to agree a variation to the Section 106 Agreement by approval in writing and/or formal deed of variation as appropriate so that the affordable housing provision be reduced to 15% in relation to the 388 units at Phase 6 and no affordable housing be required for the 32 flats/apartments subject to appropriate review mechanisms.

(b) TWC/2011/0749 Metal & Waste Ltd, Lightmoor, Telford, Shropshire, TF4 3QN

This was a retrospective application which sought retrospective consent for the installation of a baling machine and associated engine house. Due to issues highlighted on the acoustic report, the erection of an 8m high wall was recommended to enclose the baler. In addition, the proposals sought consent for the continuation of use of the site for car dismantling and scrap storage. The Local Authority requested the change of use application resolve planning concerns related to the history of use at the site and regularise the use of the site for car sales.

Councillor F M Bould, one of the Borough Ward Members for Dawley Magna, was unable to attend the meeting to speak and her written comments were, therefore, tabled.

Mr G Lewis, of the Lawley Waste Action Group, spoke regarding the proposals which he considered would cause increased activity at the site, noise disturbance and increased traffic danger. However, he welcomed the opportunity for the applicant to engage positively with local agencies and sought support for some conditions to be strengthened. These conditions included considering scrap and metal pressing as one entity, provision of a noise management plan prior to permission being issued, clarification on the time at which deliveries could occur, and the creation of a Liaison Group.

Mr J Rice, the applicant, stated that he had worked in collaboration with Planning Officers to bring this application before the Board and it was unfortunate that he had not been aware of some of the impacts that the site had upon neighbours prior to acquisition. The site had been chosen due to its locality to service users and could support industries in Telford which would generate employment and hopefully increase activity in the Borough. He embraced the opportunity to work with local residents and the Environment Agency.

The Planning Officer referred Members to the tabled update report and pointed out that stability issues, particularly following the submission of amended plans to site an acoustic wall on the edge of a spoil mound, were not yet resolved and an investigation report was awaited. In addition, it was possible, if Members were so minded, to enter into further discussions regarding the hours of operation and delivery.

Councillor N A Dugmore sought clarification on the planning history of the site set out in the report and was advised that planning permission for a residential development had been refused in 2002 on the basis that the location was isolated with unstable ground conditions (policy H7) and that little information had been received to justify residential development on green network land (policy OL4); the 2009 application had been withdrawn and the 2010 application, whilst technically still live, was in abeyance due to slope stability issues which the applicant did not wish to invest against. Councillor Dugmore also asked how the throughput of material would be monitored and was advised this would be through returns to the Environment Agency and, on request, to the Local Authority. Councillor Dugmore expressed concern regarding the hours of operation and delivery which he considered coincided with the “school run”.

Councillor G C W Reynolds empathised with the objections made by residents but welcomed the co-operative approach taken by the applicant. She expressed disappointment that the applicant had not more fully researched the site prior to purchase. However, she welcomed the employment opportunities that could be generated by the proposals and overall she considered that the proposed conditions would improve the quality of local residents’ lives.

Councillor R J Sloan also expressed disappointment that the applicant had not been more diligent regarding the needs of local people prior to his acquisition of the site which he noted had a long history of enforcement. Councillor Sloan expressed some concern at the long hours of site operation but he considered that this was mitigated by the positive approach to working with local people which the applicant had exhibited and which he welcomed.

Councillor C R Turley noted that a noise management plan was required prior to the use of the baler and that environmental permits were in place. He considered that the proposal would generate employment in the area and, subject to the recommended conditions, together with liaison between the applicant and local residents and agencies, he felt that the proposals could be supported.

**RESOLVED** – that with respect to planning application TWC/2011/0749 the Development Management Manager be authorised to grant Planning Permission subject to a suitably worded condition with regard to stability and further subject to the conditions as set out in the update report.

(c) TWC/2012/0419 Lawley Phase 6, Dawley Road, Lawley , Telford, Shropshire

This application sought reserved matters consent for 388 dwellings including details of access, scale, mass and design of buildings and landscaping. The proposal also included off site highways works to alter the design and layout of Dawley Road and included traffic calming measures. The proposal was for two access points into the site off Dawley Road and Lawley Road, the creation of 388 two to three storey dwellings with a mix of 1, 2, 3, 4 and 5 beds, with associated gardens and parking.

Councillor A Hussey, representing Lawley and Overdale Parish Council addressed the Board to oppose the proposals. He informed the Board that the Parish Council had undertaken extensive archive research with regard to the ownership of the playing fields and confirmed that unfortunately local perception of ownership and any existence of previous covenants was unfounded. Whilst he expressed sympathy for the views of local residents he acknowledged that representations had to be based upon material planning considerations and therefore focussed his objections on ecological issues relating to local wildlife and adequate assessment thereof and road safety pertaining to the removal of the traffic Island adjacent to the Church of Latter Day Saints together with ongoing safety issues on the Dawley Road in general.

Councillor T J Hope, Borough Ward Member, spoke to express local concerns regarding the development on the grounds that there had been a lack of consultation, removal of existing playing field, the impact upon wildlife and loss of boundary buffer, potential damage and lack of public access to the existing memorial tree and overlooking. Councillor Hope concluded by suggesting that Members defer determination of this application so that a site visit could take place.

Ms E Gorse, a local resident, also spoke to oppose the proposals on the grounds that public consultation had not taken place since 2003, the impact on the character of Lawley Village, loss of the woodland corridor, overlooking, loss of light and privacy, the distance from homes to the proposed NEAP, rear access and increasing traffic requiring improved infrastructure and loss of the playing field. She sought consultation with the local community and an alternative layout which moved the position of the 3 storey houses, retained the playing field, protected the boundary and provided adequate traffic monitoring. She urged members to undertake a site visit.

The Applicant's Agent, Mr C Danks, then addressed the Board to support the application which he claimed was in accordance with the Master Plan and government guidelines on open space, exceeded buffer guidelines with regard to the NEAP and met buffer guidelines for the location of the LEAP. He stated that provision of 3-storey properties accorded with design codes and work with the Council's Highways Officers had resulted in traffic calming measures at an appropriate level. Furthermore, the Memorial Tree had been retained and an additional tree was planned at a more accessible location.

Referring to the tabled update, the Planning Officer noted local discord regarding the use of the mowed land to the south of the designated Village Green and advised Members that public use of this land had thus far been at the discretion of the landowner. She further explained that amended plans relocated 3 dwellings to ensure that an appropriate buffer zone between the NEAP and LEAP was in place. The proposed development did not incorporate as many three storey dwellings as indicated in the design codes. As the economic climate had changed since the outline was granted, the developers had requested a relaxation of some of the design and materials criteria and use of standard house types to continue to deliver new homes and maintain a viable scheme. The Planning Officer considered that building at this site was of strategic importance in order to deliver growth in the Borough and supported this request. She pointed out that planting on the site included a new Elm tree, which could be rededicated to Jack Turner and, therefore, provide a publicly accessible alternative memorial tree to compensate for the existing protected tree being retained within the private amenity space of a dwelling. She noted Shropshire Wildlife Trust's comments on the survey work and advised the Board that the Council's Ecologist did not concur with their view. Issues relating to ground conditions and drainage were addressed in the report. Overall the scheme was in accordance with the Outline Planning Permission, offering high quality housing which integrated with and respected adjacent existing development.

Councillor C P R Mollett considered that the Lawley SUE was a complicated scheme and noted that the main issues appeared to be integration between new and existing development. He, therefore, considered that a site visit would assist determination of this application.

Councillor R J Sloan noted the Planning Officer's advice in the report regarding the loss of park or village green land and, whilst he was sympathetic to the local community's concerns, he noted that the extent of land use had been set at the outline stage.

Councillor C R Turley welcomed the retention of the Memorial Tree and traffic calming measures. He noted that application W2004/0981 included permission for a new school and sought clarification as to when this aspect would come forward to Board. The Planning Officer indicated that pre-application discussions for this stage was likely within the next 12 months.

Councillor N A Dugmore expressed concern at the lack of ongoing consultation and he suggested that determination of this application should be deferred for a site visit, which would give time for the mineshaft investigation report to be received and for further consultation to take place regarding the siting of the garage and parking at

plot 377 which was subject to an objection from the Highways Engineer. He also sought clarification of the parking ratio for this development.

The Planning Officer expressed apologies that she had not updated the Board that the Mineshaft Investigation Report had been received and that sufficient information had been received to prove that standoffs were workable. In accordance with the National Planning Policy Framework, once planning permission had been granted, responsibility for this aspect of development lay with the developer. The Planning Officer advised that it was the opinion of Officers that the scenario leading to the Highway Engineer's concerns with regard to Plot 377 would rarely occur and demonstrated this on the displayed plans. She further stated that Officers conceded that the ratio of 1.5 car parking spaces per dwelling used in previous phases had not been workable in practice and that this phase would see a ratio of at least 2 spaces per dwelling. She also offered clarification on terminology used in the report.

The Assistant Director: Planning Specialist advised Members that the principle of development at this site had been established some time ago and outline planning permission had been granted following extensive public engagement. The reserved matters proposals before the Board were consistent with the development framework and outline consent and also with national and local planning policies.

Councillor G C W Reynolds expressed the opinion that as the area for development had already been decided, a site visit was not necessary, and instead, Members should focus attention on the detail before them. She welcomed the increased parking ratio and design of the properties and, further, considered that residents new to the area would have been aware of the proposals at the time of purchase.

Councillor C P R Mollett proposed, seconded by Councillor N A Dugmore that a site visit should take place but, on being put to the vote, this was not agreed.

The recommendation to grant reserved matters approval was therefore proposed and seconded and it was, by a majority:

**RESOLVED – that with respect to planning application TWC/2012/0419 reserved matters planning permission be granted subject to the conditions as set out in the report.**

(d) TWC/2012/0423 9 Bayswater Close, Priorslee, Telford, Shropshire,  
TF2 9GY

This was a full planning application for the erection of a two storey front extension and the conversion of the attic to habitable space by creating a dormer in the west facing roof pitch. Councillor V A Fletcher had asked for this application to be determined by the Plans Board and the application had been deferred at the meeting on 1 August 2012 to enable Members to undertake a site visit.

Councillor V A Fletcher, one of the Borough Ward Members for Priorslee, addressed the Board to speak against the application on the grounds that there were numerous inaccuracies in the application particularly with regard to the boundary and shared access to the driveway. Councillor Fletcher suggested that planning permission



should be refused on the grounds of parking and access, traffic generation, privacy and overlook, and also that the proposals were out of character with the area, would have a detrimental impact on local amenity and represented overdevelopment of the site.

Mr S Hampshire, spoke on behalf of local residents, to express opposition to the proposals. He stated that the proposals were out of character with the street scene, represented over-development of the site, would exacerbate traffic and parking problems and would impact upon the residential amenity and privacy of neighbouring properties. He referred to the deed plans which had been circulated prior to the meeting which identified the boundary and area of shared access with No8 Bayswater Close.

The Planning Officer referred members to the tabled update report which addressed the concerns raised in additional correspondence received from the owners of No.8 Bayswater Close in connection with shared driveway access and the boundary between the properties. Officers did not consider that the proposals would have a significant impact on existing access or parking provisions. Similarly, it was not considered that the proposals would be detrimental to the street scene or amenity and that the extension's oblique position and separation distances would not intrude upon privacy. The Planning Officer went on to explain that a much larger extension could be built under permitted development rights.

Referring to that afternoon's site visit, Councillor C R Turley did not consider the proposals to be problematic, although he acknowledged there were discrepancies between the application plans and copy sealed plans provided. He noted that parking would be a civil issue and was not the remit of the Board.

Councillor G C W Reynolds noted that emergency services had not objected on the grounds of access and she considered that the plot was large enough to accommodate the proposals.

Drawing on his local knowledge, Councillor I T W Fletcher disagreed with the Planning Officer's conclusions and further considered that the plans would protrude from the building line and, despite the presence of a modest tree partially obscuring views, the proposals would result in overlook that would be detrimental to Nos 7 and 8 Bayswater Close..

Councillor J Loveridge recalled from the site visit that whilst there was potential for overlook into No7 Bayswater Close, the property was otherwise somewhat sheltered by trees.

Councillor N A Dugmore sought clarification on the rules regarding privacy and the Planning Officer confirmed that the 20 metre privacy line was a guideline only and that each case should be considered on individual merits including any mitigation to reduce overlook when the guideline 20m was not fully met. Councillor Dugmore considered that a cautious approach should be taken as the trees which currently provided some screening could be removed in future. Councillor Dugmore also noted that planning permission (W2003/1380) had previously been refused and was

advised that the permitted development rights had since increased so no direct comparison could be drawn.

Upon receiving advice, Councillor S A W Reynolds clarified that if planning permission was not granted in this case, permitted development rights would allow a larger extension to be built and the authority would have lost the ability to condition the development. On balance, therefore, Councillor S A W Reynolds considered that it would be preferable in this case to grant planning permission, but with an additional condition to protect the privacy of neighbouring properties. She was also mindful of construction noise and the potential for access to be hindered by construction vehicles and suggested that negotiation of construction hours would be appropriate to limit any infringement on access at peak hours. The majority of Members concurred with this view.

**RESOLVED** – that with respect to planning application TWC/2012/0423 the Development Management Manager be authorised to grant Planning Permission after discussion with the applicant regarding the imposition of a condition to limit construction and delivery hours and amend the first floor side bedroom window to reduce overlooking and further subject to the conditions as set out in the update report.

(e) TWC/2012/0487 Land adjacent, 55 Manor Rise, Arleston, Telford, Shropshire

*(In accordance with his previous declaration of interest Councillor R J Sloan left the room during determination of this application.)*

This application sought permission to erect a three bedroom dwelling at land to the side of number 55 Manor Rise. Full details of the proposals were detailed in the report. Councillor A D McClements had requested that this application be determined by the Plans Board.

Councillor A D McClements, the Borough Ward Member for Arleston, addressed the Board to speak on behalf of local residents against the application on the grounds of access, traffic flow, drainage and disruption to the quality of life of residents at 53 Manor Rise.

The Applicant, Mr S Bebbington, spoke in support of his application, advising that the Land Registry Title Plan showed that access was not shared. Operators had visited the site and advised that there was sufficient access for the piling machine. He advised that flooding rarely occurred and, when it did, his experience was that blockage was due to a build up of non-flushable waste.

Referring to the tabled update report, the Planning Officer advised that the neighbour objection had not reached the Planning Office until after the expiry of the consultation period but, nevertheless, issues raised were covered by the report and officers were satisfied that the development would not impact upon the street scene and was in a sustainable location.

Members were satisfied that the main issues had been addressed in the report and unanimously supported the recommendation therein.

**RESOLVED** – that with respect to planning application TWC/2012/0487 planning permission be granted subject to the conditions as set out in the report.

(f) TWC/2012/0512 Land between Coach Central and Southwater Way, Town Centre, Telford, Shropshire

This application sought permission for the demolition of existing buildings and redevelopment of the site to provide a multi-storey car park, replacement surface car park, public realm improvements and associated works including highway works. Full details were set out in the report.

Councillor G C W Reynolds was delighted by the modern and innovative design of the multi-storey car park which complimented the contemporary image projected by the Southwater development. She also welcomed the lighting strategy. Councillor C R Turley similarly embraced the ongoing regeneration of the area. Councillor N A Dugmore was pleased to see proposals for a large car park which would reduce the likelihood of an application to extend in the future.

**RESOLVED** – that with respect to planning application TWC/2012/0512 subject to the Council as landowner agreeing that the land will be bound by the obligations in respect of the provision of a sum of monies comprising a contribution of £8,702 for highway works and £3,500 for planning/financial monitoring planning permission be granted subject to the conditions as set out in the report.

(g) TWC/2012/0549 Land at Southwater, Telford, Shropshire

This application was for full planning permission for the development of new access pathways and a “pocket park” development around the southern edge of the proposed new Southwater Lake and embankment together with landscaping works and recladding of existing retaining wall in relation to the wider Southwater public realm improvements.

Councillor C R Turley welcomed the proposed development which would enhance the community hub and encourage visitors and residents alike to explore the town park and Stirchley Chimney. He welcomed the economic investment that regeneration of this area would bring. Councillor G C W Reynolds expressed her excitement for this project, particularly by the creation of a pocket park for adults. Councillor N A Dugmore was assured that lighting formed a central part of the strategy for the area. Members were unanimously supportive of the proposals.

**RESOLVED** – that with respect to planning application TWC/2012/0549 planning permission be granted subject to the conditions as set out in the report.

(h) TWC/2012/0565 Windmill Primary School, Beaconsfield, Brookside, Telford, Shropshire, TF3 1LG

*(In accordance with her previous declaration of interest Councillor J Loveridge left the room during determination of this application.)*

This was a proposal for the erection of a 0.3kw wind turbine on a 10.2m high pole.

The Planning Officer referred Members to the tabled update report and also advised that late objections had been received from the Parish Council and a Parish Councillor regarding the presence of trees on the site, the site being a nature reserve, the impact upon views due to the substantial height of the turbine, efficiency, limited educational value, the potential for additional applications to increase the number of turbines on site and the reliance on old local policies. The Planning Officer informed Members that the Council's Tree Officer did not raise objection to the application. She stated that the height of the proposed turbine was approximately that of a lamp-post and it would be located 100 metres from the nearest property. Efficiency issues were for the applicant to resolve but she did not believe that the application represented a precedent. The policies referred to were saved policies which were still of relevance.

Councillor G C W Reynolds welcomed the benefits posed by this application in educating young people about sustainability. Councillor C R Turley fully supported the use of renewable energies and the low carbon future promoted by the NPPF. Whilst he acknowledged the limited power generation from this turbine, he welcomed the long-term educational benefits. Councillor I T W Fletcher was similarly supportive of renewable energies but considered that an alternative form of energy, such as photovoltaic solar cells, would have been preferable and more informative in this location since the proposed wind turbine would provide only negligible efficiencies. However, the Board recognised the importance of the proposals as part of a wider educational objective and were unanimously supportive.

**RESOLVED – that with respect to planning application TWC/2012/0565 planning permission be granted subject to the conditions as set out in the report.**

The meeting ended at 8.38pm

**Chairman:** .....

**Date:** .....

## **PLANS BOARD**

### **Minutes of a meeting of the Plans Board held on Wednesday, 12 September 2012 at 6.00pm in the Reception Suite, Civic Offices, Telford, Shropshire**

**PRESENT:** Councillors J C Minor (Chairman), N A Dugmore, I T W Fletcher, R T Kiernan, G C W Reynolds, S A W Reynolds, R J Sloan (as substitute for Councillor J Loveridge), B J Thompson (as substitute for Councillor M J Smith) and C R Turley

**ALSO PRESENT:** Councillor V A Fletcher (for planning application TWC/2012/0595)

#### **PB-031      MINUTES**

**RESOLVED** – that the minutes of the meeting of the Plans Board held on 22 August 2012 be confirmed and signed by the Chairman

#### **PB-032      APOLOGIES FOR ABSENCE**

Councillors J Loveridge and M J Smith

#### **PB-033      DECLARATIONS OF INTEREST**

None.

#### **PB-034      DEFERRED/WITHDRAWN APPLICATIONS**

None.

#### **PB-035      SITE VISITS**

**RESOLVED** – that a site visit takes place at 4.00pm on Wednesday, 3 October 2012 at 5 Ainsdale Drive, Priorslee, Telford, Shropshire, TF2 9QJ in respect of planning application TWC/2012/0595.

#### **PB-036      PLANNING APPLICATIONS FOR DETERMINATION**

Members had received a schedule of planning applications to be determined by the Board and fully considered each report and the supplementary information tabled at the meeting regarding planning applications TWC/2011/0702, TWC/2012/0068 and TWC/2012/0595.

- (a)            TWC/2011/0702 - Chetwynd Deer Park, Edgmond Road, Newport, Shropshire, TF10 8AA

This was a full planning application for change of use of agricultural land to mixed leisure and agricultural use for a period of 150 days per year at Chetwynd Deer Park, Edgmond Road, Newport. The Park was identified as Grade II Registered Park and Garden of Special Historic Interest and also included a Grade II Listed Building. The

purpose of the application was to allow a variety and range of events and activities to take place beyond the 28 days allowed under Permitted Development. The application site comprised approximately 59 hectares of the Park's total 86.5 hectare range and full details were set out in the report.

Councillor R Pitt, representing Newport Town Council, spoke to support the extension of use in order to maintain viability in the current economic climate and welcomed the recommendation for a temporary grant and ongoing monitoring of the permission. However, Councillor Pitt expressed concern regarding traffic generation, parking, and impact from increased footfall upon the Grade II Registered Park. In order to address these concerns, he suggested that the increase in use could be gradually introduced.

Mr B Oakes, the Applicant, addressed the Board in support of the application. He advised that 150 days' use was sought to accommodate long periods of set up and breakdown. By way of example he explained that the majority of the 28 days allowed under permitted development were taken up by the Newport Show and that small events may take up 14 days each, so adding just 6 small events to the calendar would take up 110 of the days requested. The remaining 40 days would be for use permitted by Natural England. . It was proposed that events may include educational visits by local schools and scouts and photography groups. The Trust wished to preserve the Grade II Listed status and had worked with Environmental Health regarding noise.

The Planning Officer explained the current usage of the Park and pointed out the types of activity suggested by the applicant as set out on page 6 of the report. She also drew attention to the consultation responses summarised on page 4 of the report, particularly that made by Public Protection. The Planning Officer advised Members that noise impact had been difficult to assess but was most likely to be caused by amplified noise, vehicular noise and generator noise. Referring to the tabled update report, additional conditions regarding fireworks and entertainment noise were recommended and also a condition to limit use by motocross vehicles.

Members considered that their concerns regarding the substantial increase in the number of days applied for had been allayed by the explanation that many of the days would be taken up by set up and breakdown, and did not equate to the number of events which would take place. Overall, the Park's initiative was welcomed and support was given for the economic growth and increase in tourism that could be generated. Councillor N A Dugmore questioned whether noise conditions would apply to temporary structures such as marquees and the Planning Officer confirmed that conditions would apply to the whole of the application site.

**RESOLVED** – that with respect to planning application TWC/2011/0702 three year temporary planning permission be granted subject to the conditions as set out in the update report and further subject to an additional condition to prevent use for motorsports.

(b) TWC/2011/1027 - Kynnersley House Farm, Kynnersley, Telford, Shropshire, TF6 6DX

This application was for the removal of Condition 4 of W2006/0128 to allow additional local horse owners to use the stables at the site. The application had been deferred at Plans Board on 7th March 2012 to enable Members to carry out a site visit when this application could be considered alongside application reference TWC/2012/0068 and once an application under Section 191 for a Certificate of Lawfulness for the ménage (TWC/2012/0161) had been determined by the Council's solicitor.

With regard to application TWC/2012/0161, the Council's solicitor had determined that sufficient evidence had been submitted to demonstrate that the development occurred more than 4 years previously and therefore the ménage and its use by riders other than the applicant was "lawful" and thus the relevant certificate was due to be issued. The report had anticipated that the Certificate would be issued by the time of the meeting but unfortunately this had not happened.

The application was considered in conjunction with planning application TWC/2012/0068 which was the subject of a separate report. Members were advised that since the submission of the original report to the Plans Board on 7 March 2012, national policy had changed somewhat but this did not affect the Planning Officer's recommendation that this application should be approved, subject to a replacement condition permitting only 6 horses to be kept on the yard at any one time, for the reasons detailed in the report.

A representative of Kynnersley Parish Council spoke in support of this application which was considered to be in accordance with the National Planning Policy Framework and formalised arrangements which had already been in place.

Mr P Heritage-Redpath, a near neighbour, spoke to oppose the application, clarifying the resident's position regarding the parked lorry and stated that the area of hardstanding was not necessary. He sought conditions to limit the use of the site to the applicant and her livery customers only between the hours of 8am and 6pm and a further condition or informative that lights were not permitted.

Mr P Plant, the Applicant's Agent, addressed the Board in support of the proposals. He advised that the livery facility supported diversification of a small beef farm and the application had been made to regularise the matter. He advised that livery users were local horse owners who generally walked to the site but there was sufficient parking and there had been no negative reports on noise or traffic to date. He did not consider that the application would adversely affect residential amenity and stated that the hardstanding would not impact upon the horse enterprise. He considered that the application was good for the local economy as supplies were purchased locally.

The Planning Officer suggested that the number of horses would be naturally restricted by good horsemanship and that any increase in traffic was not considered to be significantly detrimental to nearby residents. She reminded Members that the existence of a covenant on parts of the land was not a planning matter and similarly

the Committee was not being asked to comment upon the Certificate of Lawful Use for the ménage.

The legal advisor clarified the position with regard to the Certificate of Lawful Use and advised Members that if they felt there were planning merits in doing so, they could consider attaching additional conditions to the planning applications but that it was not possible to add conditions to the ménage and any issues arising from the ménage use would be a separate matter that would be reviewed by planning enforcement.

Members referred to the site visit which had taken place that afternoon, and considered that provision for six horses was not unreasonable. Members further noted that there had been no complaints with regard to the site over the last four years but considered that additional lighting on the site would be intrusive to neighbours. Overall, it was considered that the application was in accordance with policy and could be supported subject to conditions. Members did not consider an hours restriction to be necessary

**RESOLVED** – that with respect to planning application TWC/2011/1027 planning permission be granted subject to the conditions as set out in the report and further subject to an Informative reminding the applicant that planning permission would be required for any lighting.

(c) TWC/2012/0068 - Kynnersley House Farm, Kynnersley, Telford, Shropshire, TF6 6DY

This was a proposal for the erection of two timber stables with concrete base and the creation of a stoned hard standing to park one horse lorry. The application was considered in conjunction with planning application TWC/2011/1027 which was the subject of a separate report.

**RESOLVED** – that with respect to planning application TWC/2012/0068 planning permission be granted subject to the conditions as set out in the report and further subject to an Informative reminding the applicant that planning permission would be required for any lighting.

(d) TWC/2012/0109 - The Swan, A442, Waters Upton, Shropshire, TF6 6NP

This was an outline application for residential development (up to 5 houses) on part of the public house car park and beer garden, with amended access off River Lane. This application had been deferred at the meeting of the Board on 16 May 2012 to enable the developer to submit evidence supporting the scheme's viability.

Ms K Baker representing Waters Upton Parish Council spoke against the proposals. She referred Members to the comments she made on 16 May 2012, and added the Parish Council's concern that the viability study had not been independent and contradicted the study commissioned by the potential purchaser. She noted that the vendor had indicated a reduced purchase price if the site was purchased with the acceptance that building could take place on the car park and beer garden but this



was not considered viable. She also referred to the Local Housing Needs survey which indicated that additional housing in the village was not required, expressed concern regarding access, the impact upon traffic safety, loss of overall parking and the potential for the future demolition of this much needed community facility.

The Planning Officer advised that the application before the Board was in accordance with policy and there had been no objection from Highways. Any new application for the future demolition of the public house would need to be considered on its merits but policies were clear that the loss of community facilities should be resisted.

Councillor C R Turley sought clarification as to whether the public house was currently open. The Chair stated that he understood it had been closed for several months. He noted that a reasonable offer to purchase the public house had been refused. The Chair expressed concerns that, if this application received planning permission, the public house would become unviable due to the loss of car park and beer garden and, whilst he welcomed the proposed affordable housing provision, he felt that to build additional housing where there were potentially limited facilities would be detrimental to the community.

Councillor N A Dugmore stated that whilst he generally welcomed affordable housing provision and was pleased to see sufficient residential parking allocated in this case, he considered that there were policies in place which sought to protect community facilities and he feared that there was a real possibility that the village would lose the public house in the longer term if this planning permission was granted. He considered that the location chosen for development was unsuitable and would result in a loss of car parking for the business which would have a wider impact on traffic safety and amenity. On balance, he felt unable to support the application on the grounds of overdevelopment.

Councillor R J Sloan felt there was a principle to secure the long term survival of the public house for the village and he, therefore, was also unable to support the application.

Councillor S A W Reynolds concurred that there seemed to be a genuine risk that permitting this application would lead to the eventual loss of the public house. She queried whether there were any other similar facilities in the village and was advised that The Lion provided a restaurant-style facility rather than a public house.

There being no proposer to grant planning permission, it was proposed by Councillor S A W Reynolds and seconded by Councillor I T W Fletcher that planning permission be refused.

**RESOLVED** – that planning application TWC/2012/0109 be refused as it was considered to be overdevelopment of the site which would result in a detrimental loss of community facilities and unacceptable loss of car parking, beer garden and associated amenities.

- (e) TWC/2012/0402 - Granville Arms, Granville Terrace, Church Street, Hadley, Telford, Shropshire, TF1 5RT

This was a full planning application which sought permission for change of use of part of the existing ground floor of the former Granville Arms public house (use class A4) to a Chinese takeaway (use class A5). The application included a proposed single storey rear extension to provide toilet facilities for staff. The remainder of the building was to be used as residential (use class C3) to provide living accommodation for the business' occupants. External alterations were also proposed. An application for replacement signage (TWC/2012/0403) had also been submitted and was considered in conjunction with this application.

Hadley and Leegomery Parish Council had requested that this application be determined by the Plans Board.

The Applicant's Agent, Mr T Wong, addressed the Board in support of the application. He explained the applicant's background and stated that the application was made following lengthy consultation and in accordance with policy. The Applicant understood local concerns and had attempted to mitigate against any potential adverse impacts which had included a revision to opening hours. Mr Wong considered that occupation of the building would enhance the area.

Members noted that permitted development rights would allow the change of use to a takeaway facility and that this application was only brought due to the residential element. Members were unanimously supportive of the application and considered it was important to support local businesses in the area as part of the overall regeneration of Hadley and occupation of the building would also complement regeneration initiatives.

**RESOLVED** – that with respect to planning application TWC/2012/0402 planning permission be granted subject to the conditions as set out in the report.

- (f) TWC/2012/0403 - Granville Arms, Granville Terrace, Church Street, Hadley, Telford, Shropshire, TF1 5RT

This application, considered in conjunction with application reference TWC/2012/0402, sought consent to display advertisements relating to the erection of 1no. internally illuminated fascia sign, 1no. externally illuminated wall mounted sign and 1no. internally illuminated hanging sign.

Hadley and Leegomery Parish Council had requested that this application be determined by the Plans Board.

The application was considered in conjunction with application TWC/2012/0402.

**RESOLVED** – that with respect to planning application TWC/2012/0403 advertisement consent be granted subject to the conditions as set out in the report.

(g) TWC/2012/0595 - 5 Ainsdale Drive, Priorslee, Telford, Shropshire, TF2 9QJ

The initial proposals for a two-storey side extension at this site had not been supported by the Planning Officer and amended plans for a single-storey, flat roof side extension had been submitted. Residents had been afforded a one week consultation period on the amendments. Details of the amended plans and reconsultation were set out in the tabled update report.

Borough Councillor V A Fletcher and St Georges and Priorslee Parish Council had requested that this application be determined by the Plans Board.

Councillor R Williams spoke against this proposal on behalf of St Georges and Priorslee Parish Council on the grounds of drainage and potential flooding, poor ground conditions, overbearing and overshadowing due to the sloping nature of the site.

Borough Councillor V A Fletcher also addressed the Board to oppose the proposal on behalf of local residents. She considered that the revised application was unacceptable due to the close proximity to neighbouring homes, that the elevated site would be intrusive and result in overbearing and overshadowing, loss of amenity, light, privacy and peaceful enjoyment and poor drainage could impact upon the foundations of neighbouring residents.

Mrs A Hill and Mrs J Leith, both local residents, spoke to oppose the amended plans. Mrs Hill considered that the development would result in loss of light to her property, and be overbearing and intrusive. She felt that the proposals were out of keeping with other development in the area and would be in too close proximity to her own home. She also had concerns regarding drainage. Mrs Leith echoed the sentiments of Mrs Hill but her main concerns related to drainage and the impact of flooding on her property. Both residents urged the Board to undertake a site visit.

Mr S Watson, the applicant, spoke in support of the proposals which had been hastily amended once he became aware of local concerns with his original proposals. The amended plans attempt to take concerns into account and the proposed extension was now of a more modest height which would not be as visible. He had chosen a flat roof to reduce the height. He considered that the area was a mixed modern development and his proposals were therefore not out of character. He further considered that drainage concerns could be adequately addressed through condition. He drew Members' attention to permitted development rights and pointed out that he could erect a narrower but taller extension without the need for planning consent and that Officers had concluded his proposals would pose less harm to neighbouring amenity than a permitted development extension.

The Planning Officer clarified the position with regard to permitted development. The Development Management Manager stated that the Council's Drainage Engineers had chosen not to comment upon this application and that drainage would be dealt with under building regulations although a condition to impose the provision of drainage details could be sought.

Councillor I T W Fletcher proposed a site visit would be appropriate in this case as he felt that Members would benefit from more fully understanding the difference in elevation and related drainage issues. On being put to the vote, four Members voted to defer the application to enable Members to undertake a site visit and three Members voted against. There were two abstentions.

**RESOLVED** – that determination of planning application TWC/2012/0595 be deferred to allow the Board Members to make a Site Visit.

The meeting ended at 7.40pm

**Chairman:** .....

**Date:** .....

## **PLANS BOARD**

### **Minutes of a meeting of the Plans Board held on Wednesday, 12 September 2012 at 6.00pm in the Reception Suite, Civic Offices, Telford, Shropshire**

**PRESENT:** Councillors J C Minor (Chairman), N A Dugmore, I T W Fletcher, R T Kiernan, G C W Reynolds, S A W Reynolds, R J Sloan (as substitute for Councillor J Loveridge), B J Thompson (as substitute for Councillor M J Smith) and C R Turley

**ALSO PRESENT:** Councillor V A Fletcher (for planning application TWC/2012/0595)

#### **PB-031      MINUTES**

**RESOLVED** – that the minutes of the meeting of the Plans Board held on 22 August 2012 be confirmed and signed by the Chairman

#### **PB-032      APOLOGIES FOR ABSENCE**

Councillors J Loveridge and M J Smith

#### **PB-033      DECLARATIONS OF INTEREST**

None.

#### **PB-034      DEFERRED/WITHDRAWN APPLICATIONS**

None.

#### **PB-035      SITE VISITS**

**RESOLVED** – that a site visit takes place at 4.00pm on Wednesday, 3 October 2012 at 5 Ainsdale Drive, Priorslee, Telford, Shropshire, TF2 9QJ in respect of planning application TWC/2012/0595.

#### **PB-036      PLANNING APPLICATIONS FOR DETERMINATION**

Members had received a schedule of planning applications to be determined by the Board and fully considered each report and the supplementary information tabled at the meeting regarding planning applications TWC/2011/0702, TWC/2012/0068 and TWC/2012/0595.

- (a)            TWC/2011/0702 - Chetwynd Deer Park, Edgmond Road, Newport, Shropshire, TF10 8AA

This was a full planning application for change of use of agricultural land to mixed leisure and agricultural use for a period of 150 days per year at Chetwynd Deer Park, Edgmond Road, Newport. The Park was identified as Grade II Registered Park and Garden of Special Historic Interest and also included a Grade II Listed Building. The

purpose of the application was to allow a variety and range of events and activities to take place beyond the 28 days allowed under Permitted Development. The application site comprised approximately 59 hectares of the Park's total 86.5 hectare range and full details were set out in the report.

Councillor R Pitt, representing Newport Town Council, spoke to support the extension of use in order to maintain viability in the current economic climate and welcomed the recommendation for a temporary grant and ongoing monitoring of the permission. However, Councillor Pitt expressed concern regarding traffic generation, parking, and impact from increased footfall upon the Grade II Registered Park. In order to address these concerns, he suggested that the increase in use could be gradually introduced.

Mr B Oakes, the Applicant, addressed the Board in support of the application. He advised that 150 days' use was sought to accommodate long periods of set up and breakdown. By way of example he explained that the majority of the 28 days allowed under permitted development were taken up by the Newport Show and that small events may take up 14 days each, so adding just 6 small events to the calendar would take up 110 of the days requested. The remaining 40 days would be for use permitted by Natural England. . It was proposed that events may include educational visits by local schools and scouts and photography groups. The Trust wished to preserve the Grade II Listed status and had worked with Environmental Health regarding noise.

The Planning Officer explained the current usage of the Park and pointed out the types of activity suggested by the applicant as set out on page 6 of the report. She also drew attention to the consultation responses summarised on page 4 of the report, particularly that made by Public Protection. The Planning Officer advised Members that noise impact had been difficult to assess but was most likely to be caused by amplified noise, vehicular noise and generator noise. Referring to the tabled update report, additional conditions regarding fireworks and entertainment noise were recommended and also a condition to limit use by motocross vehicles.

Members considered that their concerns regarding the substantial increase in the number of days applied for had been allayed by the explanation that many of the days would be taken up by set up and breakdown, and did not equate to the number of events which would take place. Overall, the Park's initiative was welcomed and support was given for the economic growth and increase in tourism that could be generated. Councillor N A Dugmore questioned whether noise conditions would apply to temporary structures such as marquees and the Planning Officer confirmed that conditions would apply to the whole of the application site.

**RESOLVED** – that with respect to planning application TWC/2011/0702 three year temporary planning permission be granted subject to the conditions as set out in the update report and further subject to an additional condition to prevent use for motorsports.

(b) TWC/2011/1027 - Kynnersley House Farm, Kynnersley, Telford, Shropshire, TF6 6DX

This application was for the removal of Condition 4 of W2006/0128 to allow additional local horse owners to use the stables at the site. The application had been deferred at Plans Board on 7th March 2012 to enable Members to carry out a site visit when this application could be considered alongside application reference TWC/2012/0068 and once an application under Section 191 for a Certificate of Lawfulness for the ménage (TWC/2012/0161) had been determined by the Council's solicitor.

With regard to application TWC/2012/0161, the Council's solicitor had determined that sufficient evidence had been submitted to demonstrate that the development occurred more than 4 years previously and therefore the ménage and its use by riders other than the applicant was "lawful" and thus the relevant certificate was due to be issued. The report had anticipated that the Certificate would be issued by the time of the meeting but unfortunately this had not happened.

The application was considered in conjunction with planning application TWC/2012/0068 which was the subject of a separate report. Members were advised that since the submission of the original report to the Plans Board on 7 March 2012, national policy had changed somewhat but this did not affect the Planning Officer's recommendation that this application should be approved, subject to a replacement condition permitting only 6 horses to be kept on the yard at any one time, for the reasons detailed in the report.

A representative of Kynnersley Parish Council spoke in support of this application which was considered to be in accordance with the National Planning Policy Framework and formalised arrangements which had already been in place.

Mr P Heritage-Redpath, a near neighbour, spoke to oppose the application, clarifying the resident's position regarding the parked lorry and stated that the area of hardstanding was not necessary. He sought conditions to limit the use of the site to the applicant and her livery customers only between the hours of 8am and 6pm and a further condition or informative that lights were not permitted.

Mr P Plant, the Applicant's Agent, addressed the Board in support of the proposals. He advised that the livery facility supported diversification of a small beef farm and the application had been made to regularise the matter. He advised that livery users were local horse owners who generally walked to the site but there was sufficient parking and there had been no negative reports on noise or traffic to date. He did not consider that the application would adversely affect residential amenity and stated that the hardstanding would not impact upon the horse enterprise. He considered that the application was good for the local economy as supplies were purchased locally.

The Planning Officer suggested that the number of horses would be naturally restricted by good horsemanship and that any increase in traffic was not considered to be significantly detrimental to nearby residents. She reminded Members that the existence of a covenant on parts of the land was not a planning matter and similarly

the Committee was not being asked to comment upon the Certificate of Lawful Use for the ménage.

The legal advisor clarified the position with regard to the Certificate of Lawful Use and advised Members that if they felt there were planning merits in doing so, they could consider attaching additional conditions to the planning applications but that it was not possible to add conditions to the ménage and any issues arising from the ménage use would be a separate matter that would be reviewed by planning enforcement.

Members referred to the site visit which had taken place that afternoon, and considered that provision for six horses was not unreasonable. Members further noted that there had been no complaints with regard to the site over the last four years but considered that additional lighting on the site would be intrusive to neighbours. Overall, it was considered that the application was in accordance with policy and could be supported subject to conditions. Members did not consider an hours restriction to be necessary

**RESOLVED** – that with respect to planning application TWC/2011/1027 planning permission be granted subject to the conditions as set out in the report and further subject to an Informative reminding the applicant that planning permission would be required for any lighting.

(c) TWC/2012/0068 - Kynnersley House Farm, Kynnersley, Telford, Shropshire, TF6 6DY

This was a proposal for the erection of two timber stables with concrete base and the creation of a stoned hard standing to park one horse lorry. The application was considered in conjunction with planning application TWC/2011/1027 which was the subject of a separate report.

**RESOLVED** – that with respect to planning application TWC/2012/0068 planning permission be granted subject to the conditions as set out in the report and further subject to an Informative reminding the applicant that planning permission would be required for any lighting.

(d) TWC/2012/0109 - The Swan, A442, Waters Upton, Shropshire, TF6 6NP

This was an outline application for residential development (up to 5 houses) on part of the public house car park and beer garden, with amended access off River Lane. This application had been deferred at the meeting of the Board on 16 May 2012 to enable the developer to submit evidence supporting the scheme's viability.

Ms K Baker representing Waters Upton Parish Council spoke against the proposals. She referred Members to the comments she made on 16 May 2012, and added the Parish Council's concern that the viability study had not been independent and contradicted the study commissioned by the potential purchaser. She noted that the vendor had indicated a reduced purchase price if the site was purchased with the acceptance that building could take place on the car park and beer garden but this



was not considered viable. She also referred to the Local Housing Needs survey which indicated that additional housing in the village was not required, expressed concern regarding access, the impact upon traffic safety, loss of overall parking and the potential for the future demolition of this much needed community facility.

The Planning Officer advised that the application before the Board was in accordance with policy and there had been no objection from Highways. Any new application for the future demolition of the public house would need to be considered on its merits but policies were clear that the loss of community facilities should be resisted.

Councillor C R Turley sought clarification as to whether the public house was currently open. The Chair stated that he understood it had been closed for several months. He noted that a reasonable offer to purchase the public house had been refused. The Chair expressed concerns that, if this application received planning permission, the public house would become unviable due to the loss of car park and beer garden and, whilst he welcomed the proposed affordable housing provision, he felt that to build additional housing where there were potentially limited facilities would be detrimental to the community.

Councillor N A Dugmore stated that whilst he generally welcomed affordable housing provision and was pleased to see sufficient residential parking allocated in this case, he considered that there were policies in place which sought to protect community facilities and he feared that there was a real possibility that the village would lose the public house in the longer term if this planning permission was granted. He considered that the location chosen for development was unsuitable and would result in a loss of car parking for the business which would have a wider impact on traffic safety and amenity. On balance, he felt unable to support the application on the grounds of overdevelopment.

Councillor R J Sloan felt there was a principle to secure the long term survival of the public house for the village and he, therefore, was also unable to support the application.

Councillor S A W Reynolds concurred that there seemed to be a genuine risk that permitting this application would lead to the eventual loss of the public house. She queried whether there were any other similar facilities in the village and was advised that The Lion provided a restaurant-style facility rather than a public house.

There being no proposer to grant planning permission, it was proposed by Councillor S A W Reynolds and seconded by Councillor I T W Fletcher that planning permission be refused.

**RESOLVED** – that planning application TWC/2012/0109 be refused as it was considered to be overdevelopment of the site which would result in a detrimental loss of community facilities and unacceptable loss of car parking, beer garden and associated amenities.

- (e) TWC/2012/0402 - Granville Arms, Granville Terrace, Church Street, Hadley, Telford, Shropshire, TF1 5RT

This was a full planning application which sought permission for change of use of part of the existing ground floor of the former Granville Arms public house (use class A4) to a Chinese takeaway (use class A5). The application included a proposed single storey rear extension to provide toilet facilities for staff. The remainder of the building was to be used as residential (use class C3) to provide living accommodation for the business' occupants. External alterations were also proposed. An application for replacement signage (TWC/2012/0403) had also been submitted and was considered in conjunction with this application.

Hadley and Leegomery Parish Council had requested that this application be determined by the Plans Board.

The Applicant's Agent, Mr T Wong, addressed the Board in support of the application. He explained the applicant's background and stated that the application was made following lengthy consultation and in accordance with policy. The Applicant understood local concerns and had attempted to mitigate against any potential adverse impacts which had included a revision to opening hours. Mr Wong considered that occupation of the building would enhance the area.

Members noted that permitted development rights would allow the change of use to a takeaway facility and that this application was only brought due to the residential element. Members were unanimously supportive of the application and considered it was important to support local businesses in the area as part of the overall regeneration of Hadley and occupation of the building would also complement regeneration initiatives.

**RESOLVED – that with respect to planning application TWC/2012/0402 planning permission be granted subject to the conditions as set out in the report.**

- (f) TWC/2012/0403 - Granville Arms, Granville Terrace, Church Street, Hadley, Telford, Shropshire, TF1 5RT

This application, considered in conjunction with application reference TWC/2012/0402, sought consent to display advertisements relating to the erection of 1no. internally illuminated fascia sign, 1no. externally illuminated wall mounted sign and 1no. internally illuminated hanging sign.

Hadley and Leegomery Parish Council had requested that this application be determined by the Plans Board.

The application was considered in conjunction with application TWC/2012/0402.

**RESOLVED – that with respect to planning application TWC/2012/0403 advertisement consent be granted subject to the conditions as set out in the report.**

(g) TWC/2012/0595 - 5 Ainsdale Drive, Priorslee, Telford, Shropshire, TF2 9QJ

The initial proposals for a two-storey side extension at this site had not been supported by the Planning Officer and amended plans for a single-storey, flat roof side extension had been submitted. Residents had been afforded a one week consultation period on the amendments. Details of the amended plans and reconsultation were set out in the tabled update report.

Borough Councillor V A Fletcher and St Georges and Priorslee Parish Council had requested that this application be determined by the Plans Board.

Councillor R Williams spoke against this proposal on behalf of St Georges and Priorslee Parish Council on the grounds of drainage and potential flooding, poor ground conditions, overbearing and overshadowing due to the sloping nature of the site.

Borough Councillor V A Fletcher also addressed the Board to oppose the proposal on behalf of local residents. She considered that the revised application was unacceptable due to the close proximity to neighbouring homes, that the elevated site would be intrusive and result in overbearing and overshadowing, loss of amenity, light, privacy and peaceful enjoyment and poor drainage could impact upon the foundations of neighbouring residents.

Mrs A Hill and Mrs J Leith, both local residents, spoke to oppose the amended plans. Mrs Hill considered that the development would result in loss of light to her property, and be overbearing and intrusive. She felt that the proposals were out of keeping with other development in the area and would be in too close proximity to her own home. She also had concerns regarding drainage. Mrs Leith echoed the sentiments of Mrs Hill but her main concerns related to drainage and the impact of flooding on her property. Both residents urged the Board to undertake a site visit.

Mr S Watson, the applicant, spoke in support of the proposals which had been hastily amended once he became aware of local concerns with his original proposals. The amended plans attempt to take concerns into account and the proposed extension was now of a more modest height which would not be as visible. He had chosen a flat roof to reduce the height. He considered that the area was a mixed modern development and his proposals were therefore not out of character. He further considered that drainage concerns could be adequately addressed through condition. He drew Members' attention to permitted development rights and pointed out that he could erect a narrower but taller extension without the need for planning consent and that Officers had concluded his proposals would pose less harm to neighbouring amenity than a permitted development extension.

The Planning Officer clarified the position with regard to permitted development. The Development Management Manager stated that the Council's Drainage Engineers had chosen not to comment upon this application and that drainage would be dealt with under building regulations although a condition to impose the provision of drainage details could be sought.

Councillor I T W Fletcher proposed a site visit would be appropriate in this case as he felt that Members would benefit from more fully understanding the difference in elevation and related drainage issues. On being put to the vote, four Members voted to defer the application to enable Members to undertake a site visit and three Members voted against. There were two abstentions.

**RESOLVED** – that determination of planning application TWC/2012/0595 be deferred to allow the Board Members to make a Site Visit.

The meeting ended at 7.40pm

**Chairman:** .....

**Date:** .....

## PLANS BOARD

### Minutes of a meeting of the Plans Board held on Wednesday, 24 October 2012 at 6.00pm in the Reception Suite, Civic Offices, Telford, Shropshire

**PRESENT:** Councillors J C Minor (Chairman), I T W Fletcher, R T Kiernan, A A Mackenzie (as substitute for C R Turley), A A Meredith, (as substitute for N A Dugmore), G C W Reynolds, R J Sloan (as substitute for S A W Reynolds), M J Smith and B J Thompson (as substitute for J Loveridge)

**ALSO PRESENT:** Councillor D G Davies (for planning application TWC/2012/0554)

#### **PB-044      MINUTES**

**RESOLVED** – that the minutes of the meeting of the Plans Board held on 3 October 2012 be confirmed and signed by the Chairman.

#### **PB-045      APOLOGIES FOR ABSENCE**

Councillors N A Dugmore, J Loveridge, S A W Reynolds and C R Turley

#### **PB-046      DECLARATIONS OF INTEREST**

Cllr G C W Reynolds declared a non-pecuniary interest in planning application TWC/2012/0655 as she had been involved in previous discussions with the objectors and indicated that she would withdraw from the meeting during determination thereof, after she had addressed the Board in accordance with the scheme for Public Speaking.

Cllr R J Sloan declared a non-pecuniary interest in planning application TWC/2012/0655 as he was acquainted with one of the objectors and indicated that he would withdraw from the meeting during determination thereof.

#### **PB-047      DEFERRED/WITHDRAWN APPLICATIONS**

None

#### **PB-048      SITE VISITS**

Members were asked to rearrange the site visit for application reference TWC/2011/0827 land to the north of Audley Avenue Newport Shropshire in order to avoid any further unnecessary delay in determining the application.

**RESOLVED** – that :-

- (a) a site visit takes place at 3.00pm on Wednesday, 14 November 2012 in respect of planning application TWC/2011/0827 – Land to the north of Audley Avenue, Newport, Shropshire; and

- (b) a site visit takes place at 3.00pm on Wednesday, 29 November 2012 in respect of planning application TWC/2011/0292 – Land adjacent to Woodhouse Farm, Granville Road, Donnington Wood, Telford, Shropshire.

**PB-049      PLANNING APPLICATIONS FOR DETERMINATION**

Members had received a schedule of planning applications to be determined by the Board and fully considered each report and the supplementary information tabled at the meeting regarding planning application reference TWC/2012/0655.

- (a)            TWC/2010/0487 Charlton Arms Hotel, Church Street, Wellington, Telford, Shropshire, TF1 1DG

Initially presented to members on the 9 March 2011, this application had been approved subject to the signing of a S106 agreement (details as set out in the report). Unfortunately the agreement had not been signed due to the viability of the site. Full disclosure of the viability of the scheme had been presented to the Council which demonstrated the inability of the scheme to provide any financial contributions or affordable housing.

Councillor R Aveley spoke on behalf of Wellington Town Council to oppose the proposals. He reminded the Plans Board of the historic background to the site and recent planning history. He expressed his dismay for the current condition of the building but was equally concerned that development may be allowed without a S106 Agreement to provide for financial contributions to benefit the area further.

The Planning Officer reminded Members that the revision before them was to grant planning permission without a S106 Agreement as the scheme of development had been considered at a previous meeting. She noted viability concerns and explained that the applicant was in the process of seeking grant funding from the Homes and Community Agency. If the application was successful, funding would be conditioned and she understood that development would likely need to occur in 2013. She noted the listed status of the building and whilst she was aware that the building had been broken into with elements of the interior removed, she stated that the fabric remained in relatively good condition.

The Assistant Director: Planning Specialist advised Members that there was a priority to protect the frontage of the listed building which was located in the centre of Wellington town, itself a conservation area. Viability was an important issue in bringing forward development at the site and he referred Members to recent Government advice to Local Authorities to ensure that planning obligations were not discouraging to developers. He noted concerns that the site could more easily be sold on with Planning Permission attached but considered that in the circumstances this was a reasonable risk to take in order to ensure the development of the site.

Members were sympathetic to the Parish Council's concerns as presented by Councillor Aveley. Local concern for the condition of the site was noted. Members believed that the surrounding area would benefit visually and economically from the

site being redeveloped and expressed regret that the current economic climate placed the viability of the site in jeopardy.

Upon being put to the vote, it was unanimously:

**RESOLVED** – that with respect to planning application TWC/2010/0487 planning permission be granted subject to the conditions as set out in the report.

(b) TWC/2012/0189 Cobb Wood, Rodway Moor Plantation, Rodway, Shropshire

This application was for the erection of a structure to include storage for tools, an area for forestry tasks, a wood store, a small area for shelter, changing & washing facilities and temporary overnight accommodation in Cobb Wood which was part of the Rodway Moor Plantation. Kynnersley Parish Council had requested that the application be determined by the Plans Board. The Planning Officer suggested that conditions should be amended to limit overnight accommodation at the site to 28 days and to ensure that existing structures were removed before the new shed was erected.

Mr J Currie, the Applicant, spoke in support of his application. He noted the Planning Officer's concerns and agreed to a condition limiting overnight accommodation but requested that consideration was given to the difficulties he would experience in removing the caravan from the site in poor winter weather conditions. He noted that the Parish Council had expressed concern regarding the washing facilities but assured that he required only basic facilities.

Members considered the nature of work being carried out on site and the private use of the land before reaching a unanimous conclusion.

**RESOLVED** – that with respect to planning application TWC/2012/0189 the Development Management Manager be authorised to grant planning permission subject to further negotiation for the wording of a condition regarding the removal of the existing sheds and caravan from the site and further subject to the conditions set out in the report and an additional condition limiting overnight accommodation on the site to 28 days.

(c) TWC/2012/0554 12 Dale View, Coalbrookdale, Telford, Shropshire, TF8 7DL

Councillor P Watling, acting on behalf of Councillor D Davies, had requested that this application seeking consent for the replacement of existing unauthorised windows and door, be determined by the Plans Board.

Councillor D G Davies, Borough Ward Councillor, spoke in support of the application. He acknowledged the importance of the Article 4 Direction but considered that such efforts towards conservation in the World Heritage Site should be made in the context of the type of building. Furthermore, in this particular case,

Councillor Davies considered that the clarity of the planning consent issued and subsequent advice thereon had been inadequate.

Mr N Tromans, the Applicant, also spoke to support his application. He provided some background to the case and, whilst he noted the importance of the Article 4 Direction to the Local Planning Authority's ambitions for the World Heritage Site, he did not consider that it had been sufficiently promoted before he undertook the works. Furthermore, he believed that the consent issued had been unclear and he questioned the quality of the subsequent advice he had received. He questioned the relevance of the recent appeal decision at Plowmans, Dale Road because he considered that the circumstances were different from this case. He submitted photographs of the street scene and proposed new windows.

The Planning Officer acknowledged that many homes on Dale View benefited from the installation of uPVC windows but this had either been done prior to the Article 4 Direction or without Planning Consent. She drew attention to the Plowmans appeal decision detailed in the report, particularly the Inspector's advice that the mere existence of uPVC windows at other nearby homes had not lent weight to the appellant's case. Subsequent to that appeal, the Local Planning Authority had taken a more proactive approach towards the installation of uPVC windows by beginning enforcement action and two applications for Certificates of Lawfulness had been received. Noting the photographs submitted by the applicant, she advised that the proposals would need to be subject to a new planning application and that the Local Planning Authority remained open to further discussion.

Councillor R T Kiernan asked for clarification of the legal position. The Legal Advisor referred Members to the recent appeal decision which she stated should receive significant weight in their decision making and which needed to be carefully considered as the property subject to that decision was located very nearby to the premises under consideration.

The Assistant Director: Planning Specialist acknowledged that over time, a variety of window styles had been introduced into the street scene. However, he asked Members to consider whether to allow such a gradual degradation of the quality of the World Heritage Site or attempt to reverse such changes over time. He stated that even uPVC windows needed replacement eventually and the Authority's stance was to move to a better standard upon replacement or to take enforcement action where such avenues were open. He acknowledged that there would be a transition period but considered that this was a principle which would be applied across the World Heritage Site. He pointed out that as part of the appeal decision for Plowmans, which was a very similar property, the Planning Inspector had supported the protection of properties in this way. The Assistant Director: Planning Specialist reminded Members that whilst this application related to this particular property and the merits thereof, it was important to look to the future and establish a design which was in keeping with, and protected the overall value of, the World Heritage Site

Councillor A A Mackenzie sought clarification of condition 2 of permission TWC/2010/0388. The Planning Officer responded that the interpretation of the condition was that the windows would be dark stained timber. This was logical as the existing frontage windows had been of that type and it was only possible to



control windows on frontages facing the highway, not windows to the side or rear, so those would not have been considered. She confirmed that the case notes were silent upon what type of windows had existed to the rear.

Councillors R J Sloan and A A Meredith expressed concern that dark stained timber windows would now look odd in a street scene in which white uPVC prevailed. Councillor Meredith also recognised that the property was not particularly old, having been built in the early 20<sup>th</sup> Century. The Planning Officer acknowledged that white uPVC was the predominant window style in the street but reiterated that not all benefitted from planning consent. She stated that it was the chunky sections and shiny surface of these uPVC windows which caused concern but newer alternatives, with thinner sections and a grain appearance, were more acceptable, but were unfortunately more costly.

Councillor I T W Fletcher considered that each application which came before the Board was considered upon its merits and, despite the weight which should be afforded to the Plowmans Appeal decision and the Article 4 Direction, having listened carefully to the submissions from the Applicant and Councillor D G Davies, it appeared that the original Planning Permission was inadequate and did not specify in detail the type of windows to be installed. He, therefore, felt that the Applicant should not be disadvantaged by what appeared to be a genuine mistake and, in this particular case, the installation of the windows could be supported.

Members recognised the importance of the Article 4 Direction but, on balance, considered that due to the range of window styles that had existed in this particular building and the related confusion in interpreting planning permission TWC/2010/0388, it was appropriate for planning permission to be granted in the circumstances of this case.

On being put to the vote the recommendation to refuse planning permission was defeated. Subsequently a proposal of approval was made and seconded from the floor. Following a vote it was by a majority:

**RESOLVED – that with respect to planning application TWC/2012/0554 planning permission be granted.**

(d) TWC/2012/0654 Muxton County Primary School, Marshbrook Way, Muxton, Telford, Shropshire, TF2 8SA

This proposal sought permission for the erection of a three class room extension and associated works at Muxton Primary School to provide additional teaching spaces to cater for the increased residential properties being constructed within the school's catchment area. Comments from Sport England remained outstanding.

**RESOLVED – that with respect to planning application TWC/2012/0654 the Development Management Manager be authorised to grant planning permission subject to no objection to the application being received from Sport England and further subject to the conditions as set out in the report.**

(e) TWC/2012/0655 - Land off Bluebell Coppice, Ketley, Telford, Shropshire, TF1 5NE

*(In accordance with their respective declarations of interest Councillors G C W Reynolds and R J Sloan left the room during determination of this application.)*

This was a proposal for outline planning consent for a residential development of four detached dwellings with all matters reserved. The application had been referred to the Plans Board for determination. An update report regarding ecology issues was submitted.

Councillor G C W Reynolds, Borough Ward Councillor, spoke to oppose the proposals. She then left the room in accordance with her previous declaration of interest. Councillor Reynolds referred to the planning history at this site, which was located within the Green Network. She emphasised issues of Highway Safety and Access, which had previously been reasons for development of the land to be refused and which still applied.

Mrs F Webb and Mrs S Ferriday, local residents, also spoke in opposition to the proposals. Mrs Ferriday raised issues regarding access, highway safety and drainage and Mrs Webb asserted that the plans did not reflect the layout of the land and disputed encroachment issues. She pointed out that there would be no pedestrian access and raised parking issues.

Mr R Mills, of Les Stephan Planning, the Applicant's agent, spoke in support of the proposals. He addressed the issue of layout explaining that the plans were based on Land Registry plans and indicated that the applicant had not sought to recover land and was prepared to negotiate in this respect. He stated that the scale of the development had been reduced and it was anticipated that the woodland would be protected for community use by a Management Company and Woodland Management Plan. Mr Mills also addressed highways and access issues.

The Planning Officer reminded Members that this was an outline application and that issues regarding overlooking and privacy could be addressed at reserved matters stage. There was no objection to the application on Highways grounds and the proposed play area, which had been one of the main reasons for previous refusals, had since been located in Mannerly Wood.

Members considered whether a site visit would be beneficial in this case, but concluded that the information before them, coupled with local knowledge shared at the meeting, was sufficient. Members considered that issues regarding drainage and protection for bats could be overcome through the recommended conditions.

On being put to the vote it was, by a majority:

**RESOLVED – that with respect to planning application TWC/2012/0655 planning permission be granted subject to the conditions and informatives as set out in the update report.**

**PB-050      URGENCY RESOLUTION – SECTION 100B(4), LOCAL GOVERNMENT ACT 1972**

The Chairman of the meeting made the following statement:

“I am of the opinion that the following items of business should be dealt with as a matter of urgency at this meeting to avoid any unnecessary delay.”

**PB-051      PLANNING APPLICATION TWC/2011/0292 - LAND ADJACENT TO WOODHOUSE FARM, GRANVILLE ROAD, DONNINGTON WOOD, TELFORD, SHROPSHIRE**

This was a proposal to construct a fully enclosed In-Vessel Composting (IVC) facility with access road improvements at Woodhouse Farm, Redhill, near Telford. A number of concerns had been raised during the consultation process and officers considered that Members would benefit from a site visit before determining the final officer's report at Plans Board on 29 November 2012.

**RESOLVED** – that a site visit take place at 3.00pm on Wednesday, 29 November 2012 in respect of planning application TWC/2011/0292 – Land adjacent to Woodhouse Farm, Granville Road, Donnington Wood, Telford, Shropshire.

The meeting ended at 7.53pm

**Chairman:** .....

**Date:** .....

## **STANDARDS COMMITTEE**

### **Minutes of a meeting of the Standards Committee held on Wednesday, 19 September, 2012 at 6.00 p.m. at Civic Offices, Telford**

**PRESENT:** Councillors R.C. Evans (Chair), S. Davies, T.J. Hope, M.B. Hosken and A.D. McClements

#### **ST-10        MINUTES**

**RESOLVED** – that the minutes of the meeting of the Standards Committee held on 24 August 2012 be confirmed and signed by the Chair.

#### **ST-11        APOLOGIES FOR ABSENCE**

Councillors R.J. Sloan and A.J. Stanton

#### **ST-12        DECLARATIONS OF INTEREST**

None

#### **ST-13        STANDARDS COMMITTEE – A NEW ROLE FOR A NEW FUTURE**

The Assistant Director: Law, Democracy & Public Protection and Monitoring Officer presented a report which provided the Committee with an update on the implementation of the new standards regime and to consider how best to develop its role in the future.

On 12 July 2012, full Council had adopted a new code of conduct, and approved the terms of reference for the “new” Standards Committee and Hearings Sub-Committee along with the arrangements for the investigation of complaints. Work had been progressed on the appointment of an Independent Person (as required in the new legislation), with the Chair being involved in interviewing candidates. Council had, on 12 September 2012, approved the appointment of Michael Tebbutt to the role of Independent Person (and Christopher Humphries as reserve) for an initial period of two and a half years. As previously agreed, this was a joint appointment with the Combined Fire Authority. The Monitoring Officer added that he would be meeting the two appointees to discuss their role and the training they would require. In response to a question about the termination of the appointment (from either side), the Monitoring Officer advised that there was no specific provision for this, but that he would look at whether something was needed

One complaint had been received since the start of the new regime. The Monitoring Officer reported that it had been decided, in consultation with the Independent Person designate (as he then was), the matter was more related

to the actions of a Committee rather than an individual Councillor – and so the complaint had not been progressed.

In relation to the adoption of the Code and completion of the new register of interests forms, there was only one outstanding interests form from a Borough Member. Work was continuing with Town and Parish Clerks to ensure they were complying with the new rules. There were still around 15 parishes who had yet to return forms for all their Members, but it was hoped that the process would be substantially complete by the end of October. Members expressed some concern at the slow response from some parishes, and asked what more could be done to encourage compliance. It was suggested that a reminder could be given at the next Parish Forum meeting, and the Monitoring Officer added that he would continue to monitor the situation and work as closely as possible with the parishes in line with Parish Charter principles. Any significant problems that required further action would be reported to the Committee.

The Committee's terms of reference were appended to the report, and the Monitoring Officer proposed an amendment to paragraph 6 so as to read "to oversee the process for the recruitment of an Independent Person (and up to 2 reserves) and make recommendations to the Council for their appointment". A proposed work programme for the remainder of the year was shown in the report, along with a proposal to consult on whether to develop a mediation service to support town and parish councils to manage conduct issues at a local level. In response to a question about how such a service would be funded, the Monitoring Officer advised that it was something that could be provided by a TWC Officer as it was recognised that external support could be expensive. .

**RESOLVED –**

- (a) that the appointment of the Independent Person and Reserve be noted;**
- (b) that progress towards adoption of a code of conduct by the Borough and Town & Parish Councils, and the completion of their interests forms by Members, be noted;**
- (c) that the update on complaints received since the adoption of the new code of conduct be noted;**
- (d) that paragraph 6 of the terms of reference of the Committee, as shown at Appendix 1 of the report, be amended by adding the words "up to" before the words "2 reserves";**
- (e) that the work plan for the Committee up to March 2013, as shown in the report, be approved;**
- (f) that all members of the Standards Committee be appointed to the Hearings Sub-Committee.**

The meeting ended at 6.22 pm

**Chairman:** .....

**Date:** .....

## **BUDGET AND FINANCE SCRUTINY COMMITTEE**

### **Minutes of a meeting of the Budget and Finance Scrutiny Committee held on Tuesday, 31<sup>st</sup> July 2012 at 6.30pm in the Scrutiny Meeting Room, Civic Offices, Telford**

**PRESENT:** Councillors S. Reynolds (Chair), R. Evans, A. Lawrence, C. Mollett, M. Smith, R. Sloan and R. Williams (Co-optee).

Also attending: Cllr. W. McClements, Cabinet Member Resources & Service Delivery; K. Clarke, Assistant Director Finance, Audit & Information Governance; S. Jones, Scrutiny Officer.

#### **BFSC-1      MINUTES**

**RESOLVED** – that the minutes of the meeting of the Budget and Finance Scrutiny Committee held on 15<sup>th</sup> May 2012 be confirmed and signed by the Chairman with the amendment to show Cllr. S. Reynolds in attendance.

#### **BFSC-2      APOLOGIES FOR ABSENCE**

Cllrs. K. Austin, A. Stanton.

#### **BFSC-3      DECLARATIONS OF INTEREST**

None

#### **BFSC-4      SERVICE & FINANCIAL PLANNING REPORTS**

The Chairman welcomed members to the first meeting of the Committee of the municipal year. The first agenda item was to remind and update the Committee on three recent Service & Financial Planning Reports. The Cabinet Member and Assistant Director were invited to give a short introduction to each report before answering questions from the Committee.

The **Service & Financial Planning Report – 2011/12 Outturn** circulated as Appendix B1 had been approved by Cabinet on 28<sup>th</sup> June and Council on 12<sup>th</sup> July. The report showed the revenue outturn position at year end was within budget and with a final net under-spend of £1.8m (-1.42%) on a net budget of £129m (£409m gross). This was considered a very good result in what had been a challenging year and demonstrated the tight financial control in place throughout the year. Within the overall position, provision had been made for £2.1m contingency to support the 2012/13 budget strategy, the creation of a £1m Invest to Save fund to assist with delivering future savings and £1.5m to fund severance costs associated with making

on-going staff savings. The report highlighted the key budget pressures during 2011/12 as adult social care purchasing largely to offset the withdrawal of cases of NHS Continuing Healthcare (CHC) funding, costs relating to children in care and specialist educational and some shortfalls in income. Savings had been made from service efficiencies and the restructure, including posts that had remained vacant pending the restructure. There had been an under-spend of £13m on capital projects, £71m against an estimate of £84m, mainly due to re-phasing into 2012/13. Council Tax, business rates and sales ledger income collection were slightly behind target for the year which it was felt reflected the pressure on households and businesses.

Cllr. McClements pointed out that although the outturn had remained within budget, there had been some use of one-off reserves which were not sustainable. There was continuing pressure on the children in care budget with no reduction in the number of children coming into care, and there would be additional budget pressure from the changes to the Council Tax benefit policy from April 2013.

The Cabinet Member and Assistant Director then provided the following additional information in response to members' questions and comments:

- With regard to Council Tax, the level of bad debt and cost of collection was projected to rise once the welfare benefit reforms took effect. The localisation of Council Tax support would add significant pressure with authorities receiving a fixed grant of 10% less than currently paid out in Council Tax benefit but the Government had assumed reductions in case load and no future increases in council tax levels or any impact on collection rates so many authorities were projecting that the cost would be considerably greater than 10%. All local authorities were required to develop their own scheme with prescribed protections for vulnerable groups such as pensioners. Members requested further information to compare 2011/12 collection rates with previous economic downturns.
- The shortfall in income from schools for ICT support related to a change in the charging policy which had now been addressed. Schools could choose to buy into the service. All schools had been contacted about the new service; 55 schools had responded positively and 20 had not yet replied but would be contacted after the summer break.
- "Core Services" related to the Co-operative Council team (Policy & Strategy, Delivery & Planning, Community Engagement & voluntary Sector, Corporate Communications) which reports directly into the Managing Director.

The **Service & Financial Planning Update** report circulated as Appendix B2 had been approved by Cabinet in June. The report set out savings proposals to make up the remaining £0.88m budget gap for 2012/13 in addition to the £19m savings proposals agreed in March. Appendix 1 detailed proposals for over £0.9m ongoing savings made up of a combination of operational efficiencies and savings from procurement.



The report also set out ideas for addressing the £3.7m projected remaining budget gap for 2013/14 which was in addition to the £9.3m savings proposals already included in the March Council report. Projections assumed the passporting of £2.1m NHS funding to the Council for adult care in 2013/14 and although the funding remained in the national controls for 2013/14 and 2014/15, it remained to be confirmed how much this authority would receive. It was anticipated that following positive discussions with the PCT a rebalancing of CHC funding would off-set some costs in adult care, bringing the net overall remaining projected shortfall to £2.7m. whilst accepting that any projections for next year carry a very high level of uncertainty pending the introduction of a completely new local government finance system from 1<sup>st</sup> April for which details are still awaited from the Government. Proposals to generate these savings were set out in section 3.3 and detailed proposals would be presented to Cabinet in September. It was stressed that projections for 2013/14 were being treated very cautiously as there was a high degree of uncertainty about the Local Government Finance system and level of funding which was unlikely to become clearer until late November/early December.

The report summarised the principles and approach to future service and financial strategy planning with the aim of limiting the impact on front-line services as far as possible although given the level of costs already stripped out in low service impact areas such as procurement, staffing and property rationalisation it was becoming more difficult to find savings in these areas. The approach included:

- Long-term planned service redesign based around priorities - not just a “quick fix” approach
- To support business growth as a “business winning” Council, and encourage residential and commercial development which would generate income from the New Homes Bonus Scheme and business rates. As part of the review of Local Government Finance, the proposals for local authorities to retain business rates had been scaled back so authorities would retain only 50%. Although Telford & Wrekin did not have the advantage of an Enterprise Zone in the borough to subsidise new business, it did have the advantage of significant amounts of land available for development.
- To generate new non-traditional sources of income. At the last Council meeting, the Leader had announced the creation of a Commercial Enterprise Manager post to lead this work with the aim of reducing dependency on grant funding.
- The active pursuit of Invest to Save projects funded by the £1m reserve to generate ongoing revenue savings.

Impact assessments and engagement activities for savings proposals for 2013/14 and 2014/15 were being scoped, and with Cabinet approval would be carried out over the coming months, starting well in advance of previous years’ engagement activities. Work was ongoing to identify further savings and income streams, and to review the assumptions in the budget around the New Homes Bonus Scheme, Continuing Healthcare and savings from procurement. Further reports would be brought to members in the autumn.

Cllr. McClements highlighted the situation around CHC funding as an ongoing

concern. The level of CHC funding had reduced dramatically from £13.9m in 2009/10 to £3.8m in 2011/12, leaving the Council or self-funders to fill the gap. The Scrutiny Officer informed members that the issue of CHC funding withdrawal had been put forward as a suggestion for the Health & Adult Care Scrutiny Committee to look at. The Chairman had written to commissioners expressing concern about the negative impact on vulnerable people and the belief that the change in the interpretation and application of the national criteria for CHC funding constituted a substantial variation of service and requesting details of consultation and impact assessments carried out prior to making the change.

The Cabinet Member and Assistant Director then gave the following additional information in response to members' questions and comments:

- In response to a question about the timescale for consultation on the budget proposals, although engagement activities would start much earlier this year, the Council would not receive clarity from the government on funding until November or December so the full budget strategy would possibly not be approved by Cabinet for consultation until late December 2012 or early January 2013.
- Cllr. Sloan expressed the view that generating £2.7m savings from the proposals set out in section 3.3 was challenging, and felt there was scope for slippage.
- The Council was waiting for confirmation of the final figure for the proceeds of the sale of the WMS office supplies business. £1.5m had been paid on account and there would be some limited further proceeds from the sale, but the Council would lose the dividend payments. The budget had assumed that all income from WMS would be lost, but there should be around £200k income from the energy supply part of the business which had not been sold.
- Cllr. Mollett commented that it would be useful to see more detail in the report about the strategic approach outlined in the report including ideas for creating income in the borough. The Assistant Director explained that the strategic principles are set out in section 3.1 of this report, but more detailed proposals would be presented in the Cabinet report in September on the elements included in the summary table on page 3.
- In response to a question about the risks around the non-achievement of projected capital receipts, members received assurances that receipts were monitored very closely and variances were reported to Members through the Financial Monitoring reports. Members were referred to the 2012/13 Financial Monitoring Report, circulated as Appendix B3, which reported that while there had been some changes since the budget was set, total receipts were on track. If receipts did not come in, projects could be reassessed and re-phased or scaled back, and did not necessarily imply that the Council would have to increase its borrowing although this would be an option. It was not possible to provide itemised figures on expected or agreed sale prices as these were commercially confidential and in some cases contractually restricted. The financial Outturn report showed works

which had been funded by capital receipts, and a report on capital receipts would be taken to the Audit Committee on 25<sup>th</sup> September which members of the Budget & Finance Scrutiny Committee had been invited to attend.

The **2012/13 Financial Monitoring Report** circulated as Appendix B2 had been presented to Cabinet in July and recommendations would go to Council in September. This showed revenue spending for the year projected to be within budget at year end. The report included proposals for the use of £2.6m of the overall budgeted combined contingencies of £7.4m, leaving over £4m remaining. Pressure continued on the care placement and children's safeguarding budgets with a combined variation of £1.9m as of the end of June, and the adult care budget projected to overspend by £0.32m after off-setting the anticipated one-off funding of £4.7m from the NHS. As discussed previously, the overspend was mainly due to the withdrawal of CHC funding. The capital programme totalled £112.7m after the re-phasing approved as part of the outturn. As noted earlier at this meeting, capital receipts currently remained on-track. Collection of business rates was ahead of target.

Cllr. McClements commented on the continuing pressure on the children in care placements and safeguarding budgets. This had been discussed by Cabinet and it was felt that a positive outcome would be to reduce overspend to under £1.97m by year end as a downward trend would indicate progress was being made on measures to reduce costs, but it was not expected that the overspend would be eradicated by the end of the year. A lot of work had gone into measures to reduce costs including the review of Jigsaw provision and strategies to tackle reliance on agency social workers, agency foster carers and private residential care. 45% of placement costs were from private residential care and 35% from agency fostering. The weekly unit cost for agency foster care was around £809 compared to local authority foster care at around £274. Consideration was being given to increasing the foster care allowance to convert agency placements to internal placements. Investment in the service had been directed towards early intervention measures which would reduce costs in the long term by reducing the need to take children into care.

There was then a discussion about the report during which the following points were made:

- Cllr. Sloan said that the Committee had previously applauded the approach to shift investment towards early intervention, but he remained concerned about how quickly and to what extent this would have an impact on costs to the point when the service would be £2m cheaper. Members agreed that placement costs should be reviewed in-depth to look at the foster carer allowance, how foster carers are valued, trained and supported, costs around provision of out of county placements. Cllr. Smith pointed out that there were also children from other authority areas placed in Telford & Wrekin who were in Telford & Wrekin schools that needed to be considered. The Scrutiny Officer informed members that the Children & Young People (CYP) Scrutiny Committee would be carrying out an in-depth review of the Children in Care Placement Strategy, and this could be done jointly with the Budget & Finance Scrutiny Committee so that the costs elements are balanced with issues of quality and safety. The CYP Scrutiny Committee would be receiving

a report on the Care Placement Strategy on 18<sup>th</sup> September and the Committee was invited to nominate members to attend this meeting. It was agreed that members would e-mail the Scrutiny Officer to express an interest and the details would be confirmed in due course.

- Members questioned the overspend of £0.3m on specialist education. The SEN reforms had not been enacted yet, and specialist education was funded from the Direct Schools Grant so reduced costs would not impact on the general fund but would mean funding could be freed up for other school activities.
- Regarding the timetable for early consultation on budget proposals, the list of early proposals in the budget for 2013/14 were ready to go out to consultation and the further details of the process would be presented to Cabinet in the September report. The report would be published around mid-September and would be available for scrutiny any time after this.

At the end of the three reports and discussions, the Chairman commended the work of officers on the stringent financial management and on bringing the 2011/12 budget in with an under spend in such a challenging year and her comments were supported by the Committee. Cllr. Smith further congratulated the Council on joining up services as part of the restructure to eliminate duplication of work and save costs across service areas.

## **BFSC-5      WORK PROGRAMME**

The Scrutiny Officer tabled a report on the Work Programme and summarised the key points and proposed schedule of meetings.

The Scrutiny Management Board had agreed on 4<sup>th</sup> July that the scrutiny work programme should be a two year programme, refreshed after 12 months, had allocated resources to the Committees as a benchmark of 6 formal meetings per Committee per year, and had agreed the allocation of scrutiny suggestions to the Scrutiny Committees as shown in Appendix 1 of the report. The Scrutiny Management Board's work programme would include "holding to account" sessions with each of the Cabinet Members which would provide another layer to the role of scrutiny in holding the Executive to account and members may wish to attend these meetings.

The proposed schedule of meetings had taken into account the items carried over from last year's work programme, new scrutiny suggestions, the timetable for consultation on budget proposals and the areas of duplication of work with other Committees of the Council. Although consultation on savings proposals was starting earlier than in previous years, the Council was not expected to receive confirmation of its settlement until November or December meaning the final budget proposals would not be published until late December 2012 or early January 2013, and for this reason the Committee's work would be concentrated around January and early February. During the meeting, the Committee had noted that a report on budget proposals and

the result of early consultation would be presented to Cabinet in September, and provision to scrutinise these reports would be built into the work programme. The Committee also noted the Audit Committee meeting on 25<sup>th</sup> September which all members were invited to attend, and the CYP Scrutiny Committee meeting on 18<sup>th</sup> September about which the Scrutiny Officer would confirm further details.

The Scrutiny Officer emphasised that the proposed schedule of meetings aimed to provide a framework for the Committee's work, but that this was flexible and it was up to the Committee to decide when it met and what it wanted to scrutinise.

The Committee then noted the report and endorsed the proposed schedule. A number of provisional meeting dates were agreed subject to final confirmation once the dates for the publication of the Service & Financial Planning Strategy 2013/14 was known.

**RESOLVED:**

- **That the proposed work plan be endorsed**
- **Provisional meeting dates be noted subject to final confirmation**

The meeting ended at 7.50 p.m.

**Chairman:**.....

**Date:**.....

## **CHILDREN AND YOUNG PEOPLE SCRUTINY COMMITTEE**

### **Minutes of a meeting of the Children and Young People Scrutiny Committee held on Tuesday, 18<sup>th</sup> September 2012 at 6.00 pm at Short Wood School, Limekiln Lane, Telford**

**PRESENT:** Councillors M. Ion (Chair), S. Burrell, G. Green, J. Greenaway, A. Mackenzie, C. Turley and Co-optees A. Atkinson, R. Aveley, S. Harris, S. Rayner, M. Ward

**Attending:** K. Perry, Interim Assistant Director Children's Safeguarding; V. McKay, Group Manager Commissioning, Procurement & Brokerage (CYP); M. White, Service Delivery Manager Child Protection & Assessment; S. Jones, Scrutiny Officer.

The meeting opened with a tour of Short Wood school by Sue Harris, Head Teacher, and Reg Snell, Chair of the Board of Governors. They also briefed members on some of the challenges facing a Head Teacher and Governors in leading and managing a primary school, making the following points:

- Short Wood Primary and Wrekin View Primary schools were moving towards becoming a co-operative learning community which meant changing category from a community to a foundation school, and acquiring charitable status as a co-operative Trust. They were the first schools to move ahead as a co-operative learning community and other schools were now looking at the model.
- School results should not be taken at face value without looking at the story behind the figures. Cohorts can vary dramatically from one year to the next, and members need to be aware of the specific cohort reasons for results. There was high mobility within the school and 47% of the children were bi-lingual which presented challenges. 15 children with very limited or no English had joined the school last year, and this had had an impact on the results for that year. There was a diverse range of nationalities in the school, the largest being Mirpuri at 6%, and there were further challenges because of the different dialects within the language and the fact that some cultures did not have a reading culture which meant children started from a lower base line.
- A number of children with complex physical needs had joined the school so adaptations such as hoists and changing facilities had been made.
- Sue Harris emphasised the importance of break-out spaces for sessions with Learning Mentors, Inclusion Managers, volunteer readers or other learning support, and felt this was important for the design of BSF schools.

The Chairman thanked Sue Harris and Reg Snell for the tour and for hosting the meeting, and Mr. Snell extended an invitation to members to re-visit during school hours.

Before the official business of the meeting began, Cllr. Ion welcomed two new co-opted members to the Committee. Steve Rayner had been nominated to represent the Anglican Diocese and Mr. Roger Aveley had been appointed as a Town & Parish Council representative.

#### **CYPSC-1    MINUTES**

**RESOLVED** – that the minutes of the meeting of the Children and Young People

**Scrutiny Committee held on 22<sup>nd</sup> May 2012 be confirmed and signed by the Chairman.**

**CYPSC-2     APOLOGIES FOR ABSENCE**

Cllrs. J. Loveridge, M. Smith; Co-optee S. Ali.

**CYPSC-3     DECLARATIONS OF INTEREST**

None

**CYPSC-4     CHILDREN IN CARE PLACEMENT STRATEGY**

The Chairman began by suggesting three key questions that the Committee should address during the review of the children in care placement strategy over a series of meetings:

- Do current policies, procedures and practices keep children and young people in the Council's care safe?
- Does the Council's strategy and processes for care placements offer the best value for money?
- What responsibility, if any, does the Council have for children placed in care in the borough by other authorities?

Reports had been circulated with the agenda on the children in care commissioning strategy and sufficiency duty; quality assurance processes for residential care providers and foster care agencies; arrangements for monitoring the safety and progress of children placed out of borough and a summary of costs and performance indicators relating to children in care. Additional papers were tabled at the meeting to show the placement procedure, and the distribution of children placed outside the borough.

Officers presented key points from the reports and members asked questions to probe the information in more detail. The following additional information was provided in response to questions:

- The placement procedure and factors affecting placement decisions was described. The need to place is usually identified by the social work team after initial assessment, or as a result of a placement breakdown. Permission to accommodate must be granted by the relevant Service Delivery Manager, unless it is a placement breakdown. Social workers assess the needs of the child and sibling groups against a range of criteria to determine the type of placement and location needed. Factors assessed include presenting and historic behaviour, placement history, ethnicity, disability, bail conditions, siblings, age, SEN, transport, physical and mental health needs, contact with family, gender, and locations preferred or to avoid. Requests are referred to the Brokerage team who match the requirements with available provision from the database. If foster care is required, the internal foster care register is always checked first, and external placements (agency foster care or residential care) are only made if an internal foster placement that matches the needs of the child cannot be found, or if foster care is not suitable for the child. All external placements must be approved by the

Interim Assistant Director, Children's Safeguarding. Searches are done via the West Midlands database through our framework contracts initially, and best options are given to the social worker for decision. The placement is made via a contractual arrangement which take account of quality and cost and the placement and contract is monitored through planning meetings, CIC reviews and quality monitoring review and visits and contract review.

- External (agency) foster care is purchased in the vast majority of cases through a West Midlands framework contract set up in April 2011 following a tender process. Telford & Wrekin contracts with 42 independent agencies through the framework. Where a suitable placement is not sourced through the framework contract, then spot placements are purchased via a West Midlands spot contract. Residential care is purchased either through a block contract (4 beds at Jigsaw) or through a West Midlands residential framework contract set up in May 2012. There are 144 providers in the framework. The framework contracts have driven down the cost of external placements and also improved the validation and quality assurance of providers. Providers are tiered by quality and cost on the database, and the top tier is searched first. The number of providers in each tier was not available at the meeting but could be provided, but members were assured that there was a considerable number in the top tier.
- Members asked about foster care capacity, and whether children are ever placed in residential care because of a lack of foster carers. The Assistant Director replied that because of the high costs of external residential care, placement decisions are always challenged to see how else provision could be found, and the internal foster carers were used as flexibly as possible. For example, the foster care bedroom-sharing policy could be varied and exemptions made for a few days without going to panel, to avoid the need to use external care. In these cases, careful matching is critical if the foster carer has their own children. Sometimes, it is not possible to find a foster care placement suitable to the needs of the child and the child has to be placed in residential care that closely matches their needs.
- Members asked how placements with residential providers are negotiated and were informed that an initial minimum period is usually agreed depending on the circumstances of the child. The initial contract is usually a month but can extend to a much longer placement. Once a child is settled, consideration has to be given to the impact of disruption in moving the child on.
- Members wanted to know about arrangements for authorising external placements in the absence of the Assistant Director Children's Safeguarding, and it was explained that if she is away, the Assistant Directors for Family & Communities or Social Care, or the Director of Children's Services, approve the placement. External placements cannot be made without approval at AD level or above and all staff are aware of the authorisation process.
- There were questions about the coverage of services out of hours or at peak referral times. The process is that child protection concerns are referred to the safeguarding duty team. Social workers make an initial response to establish whether there is any immediate risk of harm to the child, for example if a child has



been injured. A full assessment is carried out which includes looking at the needs of the child, the family situation, contact etc. Even if serious concerns are substantiated then the result is still more likely to be a child protection plan, rather than the child being taken into care. If a placement is needed, the social worker passes all the assessment information and any concerns to the Brokerage team via a referral form to source a suitable placement. The speed with which a child is taken into care depends on the situation - ideally it is a planned process, but there are emergencies when the child needs to be taken into care the same day which can be challenging. There are patterns in referrals with slightly more during holidays, at the end of the week or late in the day. Once a referral is made, the team carries on working until a placement is made. There is an out-of-hours service for late or weekend emergency referrals.

- Officers gave some scenarios to demonstrate the specialised or highly complex care needs of some children or sibling groups. This showed that although referrals are matched with internal foster carers in the first instance (where the child is suitable for fostering), it is not always possible to source an internal placement and a wider search is necessary. It is especially challenging when sibling groups with different needs are involved, and efforts are made to keep siblings together unless there is a good reason for separation. Most placements remain stable, but breakdown can happen especially when a child exhibits previously unknown behaviour, such as sexually inappropriate behaviour, which may put the carers' own children at risk. Foster carers are required to give 28 days notice to terminate a placement, but this is difficult to apply if carers are concerned about their own children.
- Members wanted to know more about children placed out of the borough - where they are, the factors affecting placement location, how the quality of provision is checked and how the placements are monitored. Information was tabled which showed that as of 18<sup>th</sup> September 2012, 127 children were placed outside the Telford & Wrekin boundary, of which, 85.83% were within a 50 mile radius of their home address, 7.87% between 50-100 miles and 6.3% over 100 miles. Of the children outside Telford & Wrekin, there were 1-4 children placed in 17 other authority areas (32 in total), and five or more placed in Shropshire, Herefordshire, Staffordshire, Worcestershire and Thurrock, with the majority being in Shropshire. Overall, 61.7% of all looked after children were placed within the Shropshire county boundary. The types of out of borough placements included internal foster carers (where carers live outside the boundary or had moved and the children had moved with them), private foster care, residential homes, hostels, and a small number placed with friends/relatives, hospital, residential schools or a secure unit.
- The figures showed that most children are placed locally or where their education and family contact can be maintained - it is very important for the children to maintain on-going relationships. The policy is to place children as close to home as possible unless there is a safety issue and placement locations were always sought where the child's education would not be disrupted. Of the 65 children placed in the Shropshire authority area, most continued to go to school in Telford and Wrekin. Of the 85% within a 50 mile radius of home, some were still attending school in Telford and Wrekin. Travel or taxi costs for school were built into the cost of placements. Of the 6.3% placements over 100 miles radius, some were

deliberate for safety reasons, or were necessary because the children had very complex needs for which there is no local provision. There was a particular problem with finding Tier 4 (hospital provision) CAMHS provision.

- Members asked whether children be moved around the country. Children are only moved if a placement breaks down, if the provision is found not to be right or if circumstances change, for example when a child is ready to move from residential care to foster care. Moves need to be considered carefully because of the disruption to the child, siblings and education.
- Members asked questions about how residential homes were quality assured. The tender process for the West Midlands framework contract had been a big exercise and providers had been put through a comprehensive and rigorous quality assurance process which included financial/insurance validation, Ofsted reports and the Councils' own quality evaluation which had involved young people. All Ofsted reports are uploaded to the West Midlands database and providers must update the database with any new judgements. The latest judgements are checked by the brokerage team before a placement is made, and the social worker may visit a home prior to placement to check the unit is suitable for the child in terms of the other young people there. Providers must have an "Outstanding" or "Good" rating to be included within the framework contract. If a provider's rating is downgraded to "Unsatisfactory" or worse while a child is placed in the home, the Ofsted findings and the home's response to recommendations are considered to determine what course of action to take. If a home has failed an inspection, the home is visited to find out what happened and what actions have been put in place to address the issues, and progress against the action plan would continue to be monitored. Depending on the nature of the findings, the child would not be moved if this would create unnecessary disruption unless Ofsted had suspended the service or we considered the placement unsafe. No further placements would be made until standards had improved. In addition to statutory inspection reports, the West Midlands authorities share quality intelligence.
- Members wanted to know more about how the progress, experience and care setting of children outside the borough are monitored and whether there is a danger of "out of sight, out of mind". The statutory requirements for visiting children in care apply to all children regardless of location, and members were assured that these are carried out. The statutory minimum is to visit within one week of placement, then at 6 weekly intervals during the first year. Visits are likely to be more frequent in the early days of a placement or if needed by the child. There is clear guidance on the purpose of the visits and the social worker must write up a report for each statutory visit.
- In terms of monitoring the child's progress in school, the social worker is responsible for drawing up a care plan for each child and arranging regular care plan reviews. The review meetings are run by an independent reviewing officer and involve all parties involved in the care plan including the child (if they wish) and parents, and through the review process there are links to schools so the child's progress and any changes can be monitored.

- In terms of increasing local capacity, through the West Midlands commissioning framework, the Council was trying to develop the market by encouraging the Tier 1 (top quality/cost) residential providers to open facilities in the borough and one of the providers was looking at properties. The same approach was taken to foster care agencies.
- Officers were asked about accountability and whether there was one officer with an overview of all the children in care. Within the Child Protection & Assessment Service Delivery Area, there are 3 Team Managers managing social workers and each social worker has their own case load. The social workers have detailed knowledge of their caseload, the Team Managers have a good overview of the key issues for each child in the caseloads of the social workers in their team, and the responsible Service Delivery Manager has an overview of the children in care within their area as a whole. The most complex cases are discussed with the Interim Assistant Director.
- Members wanted to know whether there are any reciprocal arrangements with other local authorities where children are placed, for example, so a local social worker visits the child. This is where distance is more of an issue because of the practicalities of visits. There had been examples of arrangements with other authorities but this is a judgment call - a key issue for the safety and progress of the child is the strength of relationships with partners. Social workers in Telford & Wrekin have built strong teams around the child which they are looking to replicate around the country and this would be lost by using other authorities' social workers. Local placements are not necessarily safer for some children with particular behaviours and needs.

At the end of the discussion, the Chairman reminded members that the role of the Committee was not to look at the mechanics of the processes, but to ask whether the policies and processes that are in place kept children in care as safe as possible, particularly in the light of the Rochdale cases which had been in the media. The Chairman sought assurances from officers on the following points;

- That the statutory visits to all children in care happen regardless of location
- That there is as much continuity of social workers for each child as possible
- That the visits are documented
- That monitoring is robust and that the systems keep children and young people in the Council's care as safe as possible.

Officers assured members that the systems in place are adhered to, and that they keep children as safe as possible. It was not always possible to get things right first time and sometimes placements needed to be reassessed, but the monitoring that was in place meant that problems were picked up and could be resolved. For example it could be difficult to get CAMHS to recognise mental health problems and there had been commissioning issues with the service.

The Chairman thanked members for their positive responses to his recommendation circulated by e-mail that the Council should seek to hold regular - every year or every two years - briefings for all elected members on their responsibilities as corporate parents and that councillors' attendance or non-attendance at

these briefings are published on the Council's website on an annual basis. Having gained the support of the Committee, the Chairman would pursue the recommendation through the appropriate channels.

Due to the lateness of the hour, the Chairman deferred the discussion about value for money issues until the next meeting on 5<sup>th</sup> November, and invited members to put forward their questions in advance of the meeting.

#### **CYPSC-5     EDUCATION PERFORMANCE UPDATE**

A table showing the attainment of children in care at Key Stages 2 and 4 between 2007/08 to 2010/11 compared to Telford & Wrekin and national averages had been circulated with the agenda for the meeting. The Chairman explained that this had been circulated for information, and would come back to the next meeting with the full results for the borough for 2011/12.

#### **CYPSC-6     WORK PROGRAMME**

Members considered the report of the Scrutiny Officer on the priorities for the work programme. The report set out the proposed priorities based on feedback from consultation and informal discussion with members. Members agreed the priorities set out in the report. The Chairman assured Cllr. Burrell that the Action Plan arising from the findings of the Ofsted inspection would be scrutinised by the Committee and informed Cllr. Greenaway that he intended to meet the Chairman of the Local Children's Safeguarding Board (LCSB) to discuss links with scrutiny. Steve Rayner said that the LCSB should be required to report at least annually to scrutiny.

#### **RESOLVED**

- **That the work programme set out in section 5.3-5.6 of the report be agreed**
- **That the decisions of the Scrutiny management Board on 4<sup>th</sup> July be noted.**

The meeting ended at 8.30 pm.

**Chairman:**

**Date:**

## **CO-OPERATIVE & COMMUNITIES SCRUTINY COMMITTEE**

**Minutes of a meeting of the Co-operative & Communities Scrutiny Committee held on Wednesday, 8<sup>th</sup> August 2012 at 6.00pm in the Scrutiny Meeting Room, Civic Offices, Telford**

**PRESENT:** Councillors A. McClements, N. England, T. Hope, A. Jhawar, J. Loveridge, G. Reynolds, K. Tomlinson.

Also attending: Cllr. S. Davies, Cabinet Member Neighbourhood Services & Co-operative Council; F. Mercer, Policy & Strategy Manager, and D. Byle, Project Officer, Co-operative Council Delivery Team; S. Jones, Scrutiny Officer.

### **CCSC-1      MINUTES**

**RESOLVED** – that the minutes of the meeting of the Co-operative & Communities Scrutiny Committee held on 21<sup>st</sup> March 2012 be confirmed and signed by the Chairman.

### **CCSC-2      APOLOGIES FOR ABSENCE**

Cllr. J. Greenaway.

### **CCSC-3      DECLARATIONS OF INTEREST**

None

### **CCSC-4      CO-OPERATIVE COUNCIL UPDATES**

The Chairman welcomed members to the first meeting of the Committee of the municipal year and welcomed new members to the group. The Cabinet member and officers had been invited to the meeting to provide a short update on the Co-operative Council work-streams, to answer questions and to help the Committee identify areas of work where scrutiny could add value through its work programme. The Co-operative Council Update Cabinet report had been circulated to members prior to the meeting by way of background information and a short summary presentation was tabled at the meeting. The key points highlighted from the presentation were:

- The essence of being a Co-operative Council was to develop a new relationship with residents, partners and local organisations so that there was collective involvement in the planning, running and resourcing of services so that people get what they need at the right time and the right place.
- The Co-operative Values (Ownership, Openness & Honesty, Involvement, Fairness & Respect) developed by the Co-operative Commission's Values &

Communications Sub-group had been endorsed by Council in May. The values underpinned how the Council and its employees would behave, and work would be done over the next 12 months to embed and bring the values to life, starting with employees and then moving outward. The Commission Sub-group had recognised that there was a role for scrutiny to be involved in reviewing and monitoring progress.

- The presentation summarised the key achievements to date on the implementation of the Adopter projects and the recommendations of the Co-operative and Employee Commissions which were set out in more detail in the Cabinet report.

There was then a discussion and questions about the report during which the following points were made:

- Referring to the suggestions for the work programme, shown in Appendix 1 of the report circulated as Appendix B, the Chairman suggested that should the Committee choose to include a review of the Employee Commission in the work programme, this could be joined up with reviewing how the Co-operative Values are being embedded with employees across the organisation. Cllr. McClements also suggested that as the Committee had already met members of the Employee Commission who were very positive and committed, a review should also hear from staff who had not joined the Commission to hear their views. Officers pointed out that it had been a specific recommendation of the Commission's Sub-group that scrutiny should provide an independent view on the implementation of the Co-operative Values.
- Cllr. Hope asked whether the Environmental Action Team project would be rolled out to other wards. Cllr. Davies explained that this was a match-funded scheme with the Town & Parish Councils (TPCs). All TPCs had been invited to express an interest and three had initially come forward. Teams had been set up in Madeley, Great Dawley, St. George's and Priorslee. Further announcements would be made about the extension of the scheme and solutions were being sought for smaller TPCs less able to resource a scheme. Cllr. Davies invited members who were also elected onto Town & Parish Councils to raise this locally and contact him with any expressions of interest.
- Replying to a question about how local people had been involved and how they had influenced projects, Cllr. Davies gave some specific examples such as the devolution of Ward Co-operative Fund (previously known as Your Money, Your Projects) to local level, the Street Champions and Snow Wardens projects, and the extensive consultation involving over 3,000 people on the budget proposals.
- Cllr. Davies explained that the Street Champions were volunteers involved in environmental projects. In Brookside, volunteers had been involved in delivering materials which helped to engage more people locally as well as saving money. In the Nedge, volunteers were taking responsibility for looking after green space which engaged local people and helped to save money on the Council's maintenance contract. Cllr. Tomlinson asked whether there was scope to expand

the Street Champions' role – or to develop a similar project – as a co-operative “Neighbourhood Watch” type scheme as these had lapsed following the move of the police contact to Shropshire. Cllr. Davies replied that this was a good idea but would depend on having the necessary resources.

- There was a lengthy discussion about how members could explain to residents what being a “Co-operative Council” meant. It was suggested that the best way was to give practical examples of co-operative working of which there were numerous examples such as litter-picking schemes, the projects discussed earlier, the small business loans fund through which £75k had already been lent to small local businesses, the involvement of external people in the Co-operative Commission, and the development of a new settlement with the community and voluntary sector. The co-operative movement was not new, and the present context for co-operative working was reduced budgets and the need to work with TPCs, partners and residents to encourage collaborative working and self-help to mitigate the impact of cuts. It was also about people seeing what the Council is doing and there were regular press releases and updates in Your Voice.

The network of Co-operative Councils had grown from 13 original members to 21 and was on the increase with some large authorities such as Lambeth, Liverpool, Newcastle, Oldham, Stoke and Sunderland as members. Within the network, Telford & Wrekin was in a minority of Councils which had positively branded itself as “Co-operative”. Other authorities had adopted co-operative ways of working without using the “co-operative” banner – it was about the reality of how they work and what they do for local people and not about whether people recognised the co-operative label.

The Cabinet member said that the Co-operative Commissioners wanted to see how the Council is delivering on its values after 12 months, what difference it has made, and how the Council is held to account for its performance. It was suggested that scrutiny could usefully carry out an independent review, and perhaps find out how other authorities in the Co-operative network are looking at this, or opportunities for Telford & Wrekin to share its good practice with other authorities as an exemplar of co-operative working.

- Regarding the Supporting Families task force, this was about targeting early intervention support at the most troubled families to prevent breakdown and crisis which may then require expensive interventions. The approach was based on research which showed that peer support and peer mentoring could be more effective than intervention solely by professionals. The aim was for professionals to work with and support residents who could help break down barriers and support struggling families. Many of these families were already known to the Council, and the challenge now was to identify local volunteers with whom the Council could work to support them.

There was a discussion about volunteers, and Cllr. Hope wanted to find out what training and support the Council provided to volunteers. Cllr. Reynolds informed members that she was the Commission Councillor on the Civic Pride and

Volunteering and the Employee Volunteering working groups which were overseeing the implementation of the Commissions' sub-groups' recommendations. Cllr. England was the Member sponsor on the Employee Commission's Social Responsibility sub-group. Both these groups were involved in volunteering and would be looking at the issues raised by Cllr. Hope. The Commissions' working groups made two-weekly reports to the Senior Management Team and to Cabinet in Update reports. Information was also available on the intranet. Additionally, Cllr. Davies told members that the Co-operative and Employee Commissions would meet again on 12<sup>th</sup> and 19<sup>th</sup> October respectively to monitor progress on implementing their recommendations and to take stock of their future roles. Scrutiny members were invited to attend the meetings to hear the discussions and ask questions, and may wish to offer an independent view on the future role of the Commissions.

Details of the governance arrangements and member/officer leads for the Commissions' working groups would be circulated to the Committee after the meeting, and the Project Officer offered to help members scope work around the Commissions should this be included in the work programme.

The Chairman thanked the Cabinet member and officers for attending the meeting and providing information to the Committee.

## **CCSC-5      2012/14 WORK PROGRAMME**

This part of the meeting was for members to agree topics for the work programme in the light of the previous discussion.

The Scrutiny Officer summarised the key points in the report on the 2012/14 Work Programme which had been circulated as Appendix B. Members noted the decisions made by the Scrutiny Management Board on 4<sup>th</sup> July regarding the allocation of suggestions and resources to the Scrutiny Committees and the recommendation that the Committees should focus on a small number of topics to review in-depth so that scrutiny remains focused and has greater impact. Appendix 1 of the report set out the suggestions with comments and issues for the Committee to consider and the Chairman's preferred topics.

The Chairman invited views from the Committee on her recommended topics and method of scrutiny which were:

- The welfare benefit reforms which was strongly recommended for in-depth review.
- The Employee Commission incorporating how the Co-operative Values were being embedded with employees as an in-depth review and including hearing the views of staff in outreach locations and satellite offices.
- First Point for Business and changes to the leisure concessions policy as update reports at a Committee meeting.

Members agreed with the inclusion of these items in the work programme and made the following points during the discussion:



- Cllr. Reynolds suggested the review of the Employee Commission should include looking at the concentration of employee members from across the Council, representation of staff in outreach locations and issues for staff without PCs or Council log-ins and whether there were disadvantages pockets across the organisation.
- Cllr. Hope wanted to look at support for volunteers, particularly around environmental projects, and it was agreed that members could in the first instance receive reports of the Civic Pride & Volunteering working group which was working with the Ironbridge Gorge Museum Trust to create a model of best practice for volunteers. It was agreed the Committee would review reports on this on-going work before deciding whether this would be added to the work programme for further scrutiny as members should be mindful of duplicating work that is already being done.
- The Chairman noted that work was on-going to develop a Customer Care Strategy and Action Plan, and this could be something the Committee might want to monitor in future but in the light of other priorities suggested that should not be included in the work programme at this stage.
- The Scrutiny Officer noted the suggestion to look at Social Deprivation could potentially overlap with work agreed by the Children & Young People (CYP) Scrutiny Committee on the impact of early intervention programmes, Strengthening Families and Family Connect, and members of this Committee could attend the CYP meetings rather than duplicate work.
- The suggestion about funding for the Citizens' Advice Bureau (CAB) was discussed and it was agreed that a review could not focus on one organisation but would need to be a broader review of funding for the voluntary sector. Work was on-going by the Voluntary and Community Sector (VCS) working group to implement the Commission sub-group's recommendations to develop a revised approach to how the Council works with and spends with the VCS. It was therefore agreed that this would not be included in the work programme, although the Committee could receive the group's reports. It was also agreed that the CAB and other relevant organisations would be consulted as part of the review of the welfare reforms.
- Regarding the Welfare Benefit reforms, the committee noted that the options for the Telford & Wrekin Council Tax support scheme would be developed by mid-August, and agreed that a meeting would be held at the beginning of September early on in the consultation period to review the options. The Scrutiny Officer would circulate date options to the Committee.
- The Commercial opportunities (possible new income streams) had been put forward as a suggestion, but the Chairman felt that this may be a matter for the Scrutiny Management Board as the future direction of the Council as a more commercially driven organisation was a key strategic issue, and individual ideas for income streams could come from service area within the remit of the other Scrutiny Committees. This was therefore not included in the work programme.
- The suggestion about working with Town & Parish Councils was discussed, but this was not included in the work programme because there was already on-going work on the development of the Parish Charter and review of the Parish Forum.
- The Scrutiny Officer explained to Cllr. Tomlinson that suggestions about Alley

Gating and the Adoption of Unadopted Estates had been allocated to the Housing, Economy & Infrastructure Scrutiny Committee to consider for the work programme.

- The suggestion to look at support for victims of Domestic Abuse had been allocated to the Scrutiny Management Board as this was the designated body for scrutiny of the Safer Communities Partnership, and the topic would fit within the scope of this wider work. Cllrs. Tomlinson and McClements had taken part in an earlier review of support for Domestic Violence which highlighted issues including support for the children of victims and the need to work with private landlords on security issues and wanted to see these picked up as part of the review. Cllr. Tomlinson expressed the strong view that this highlighted the need for scrutiny to follow-up on previous work.

At the end of the discussion, it was agreed the Scrutiny Officer would draft a work programme based on what had been agreed to circulate to the Committee.

**RESOLVED:**

The meeting ended at 7.50 p.m.

**Chairman:**.....

**Date:**.....

## **SCRUTINY MANAGEMENT BOARD**

### **Minutes of the meeting of the Scrutiny Management Board held on Wednesday, 4<sup>th</sup> July 2012 at 6.00pm in the Reception Suite, Civic Offices, Telford**

**PRESENT:** Councillors D. White (Chairman), V. Fletcher, M. Ion, A. McClements, S. Reynolds, C. Turley.

**IN ATTENDANCE:** Cllrs. K. Sahota, R. Evans, I. Fletcher, G. Green, A. Jhawar, C. Mason, A. Meredith, G. Reynolds, J. Seymour, Scrutiny Co-optee Jean Gulliver; Richard Partington, Managing Director; Fiona Bottrill, Scrutiny Group Specialist; Stephanie Jones, Scrutiny Officer.

#### **SMB-4      MINUTES OF THE LAST MEETING**

**RESOLVED** – that the minutes of the meetings of the Scrutiny Management Board held on the 14<sup>th</sup> May 2012 and 16<sup>th</sup> May 2012 be confirmed and signed by the Chairman.

#### **SMB-5      APOLOGIES FOR ABSENCE**

Cllr. C. Mollett.

#### **SMB-6      DECLARATIONS OF INTEREST**

None.

#### **SMB-7      CHANGING THE COUNCIL & LOCAL COMMUNITIES TOGETHER – THE CO-OPERATIVE WAY**

The Chairman welcomed the Leader Cllr. Kuldip Sahota and Managing Director Richard Partington to the meeting, and explained they had been invited to give a presentation on the priorities for the Council going ahead and to answer scrutiny members' questions.

The Leader and Managing Director gave a presentation entitled "Changing the Council & Local Communities Together – the Co-operative Way" which highlighted the following points:

- Cuts in local government funding had reduced the Council's grant by 28% i.e. £27m, or £40m in real terms, to 2015. The government was reviewing local government finance and had given out the message that constraints on public spending would necessitate further severe cuts after 2015 and that local authorities should seek to reduce their reliance on government grants and look more towards income from business rates, the New Homes Bonus and generating other income streams. Adult social care costs remained a concern and the Leader had attended the Local

Government Association Conference the previous week which had urged action from the government.

- The Council had been pro-active in managing the budget reductions to minimise the impact on services for local people as far as possible to date. Savings had been made from a thorough re-design of services and restructure across the organisation, property rationalisation, efficiencies through procurement, reduced borrowing costs resulting from the “100-day budget” and the rise in Council Tax following consultation. Key shifts in approach were the investment in early intervention and prevention in children and family services with the Family Connect single point of contact, and in rehabilitation and re-ablement within adult care.
- The borough faced a number of problems including levels of disadvantage and deprivation (22% of households in poverty, 14 areas in the top 10% most deprived nationally), unemployment at 4.5% (JSA claimants) rising to 9.1% in one ward, youth unemployment at 10.4%, a low wage economy, land instability in the Gorge and the ageing New Town infrastructure.
- Key challenges included creating a positive image of Telford & Wrekin to attract inward investment, creating and safeguarding jobs, developing “affordable” housing, improving health and life expectancy, developing the infrastructure to support population growth and reducing reliance on public sector jobs at a time of contraction of the sector.
- Despite this, there were some big opportunities for the borough: attracting spin out investment into Telford from the i54 enterprise zone, the significant amount of serviceable development land either owned by the Council or managed by the Council for the HCA to encourage growth, income potential from the New Homes Bonus and collection of business rates, investment in Southwater, the Ice Rick and Town Park to attract local and regional visitors and investors, the BSF programme to drive aspiration and ambition, the strength of partnerships and the voluntary and community sector in the borough.
- The Council now needed to take the next steps to manage the changes ahead. Fundamental to this was developing the Co-operative approach, involving partners and local communities in developing and delivering Council services. A number of Co-operative projects had already been delivered collaboratively with partners such as the Health Hub with the PCT at First Point, the Employability Centre with TCAT, the Small Business Loans Fund with private sector partners, and the creation of 67 apprenticeship opportunities. The Co-operative Commission and the Employee Commission had already made recommendations to Cabinet about how things could be done differently in a number of areas. A set of Co-operative Values had been developed and the ambition was to create a Co-operative ethos for the borough so that the public were active participants rather than just recipients of services.
- Cllr. Sahota outlined a number of specific priorities for the Council including: budget efficiency so that the Council continues to give value for money to local people; reducing dependency on debt, and servicing debt, by realising capital receipts; the re-design and transformation of children’s and adult services; delivery of the BSF programme on time and within budget; relocation of Council staff to new accommodation by Christmas with the best access to Council services for the public; to create a

business-friendly Council to pro-actively attract and safeguard jobs in the borough; to promote Telford and continue to lobby for the M54/M6 road link and improved rail links; to embed a Co-operative culture within the organisation and continue to deliver the Adopter programme; to make the Council customer-focussed; to continue the physical and social regeneration of Oakengates, Hadley, Brookside and Sutton Hill; to develop a new strategy for Homelessness and to integrate public health into the authority.

Following the presentation members commented on and asked questions about a number of issues:

- Relating to adult social care, it was explained that the re-ablement programme was an intensive time limited programme to help people discharged from hospital or referred for care to regain or retain independent living at home to reduce dependency on care packages and to prevent unnecessary hospital admissions. The programme was free of charge and a financial and care needs assessment was done at the end. Personalisation meant that people had a choice about whether to receive a direct payment so they could procure the care services of their choice, or whether to receive care from Council services.
- Members referred to the additional pressure on the social care budget from the withdrawal of NHS Continuing Healthcare (CHC) funding, and the Managing Director explained that the PCT had acknowledged that the extent of the withdrawal of CHC funding had been too extreme and needed to be re-balanced but the mechanism for doing this needed to be agreed.
- Members asked how the impact of changes to the benefit system were being managed by the Council. The Managing Director replied that the Council was working up options for a Council Tax benefit scheme and a report would be brought to Cabinet. The Council had looked at what other authorities were doing, and the scheme needed to be financially sustainable. There was a risk that the Council would be seen to be imposing cuts to Council Tax benefit as the administering body. Members were concerned that reductions in housing benefit and the introduction of one universal monthly payment meant there was a risk of people falling quickly into rent arrears. Members suggested that the voluntary sector had a role to play in advising and supporting people through the changes, but it was important that any such volunteers were properly trained to protect the employer organisation.
- Given the financial outlook beyond 2015 and the need for authorities to identify new income streams, Members wanted to know how the Managing Director saw the role of local authorities changing. He replied that there would be pressures but that it was important for the authority to retain its values. There had been discussions with Cabinet about the future direction of the Council and Cabinet members agreed the need to generate new income streams and ideas were being developed with

Cabinet.

- Members asked what could be done to make the existing business parks in the borough more attractive to potential investors. It was agreed that some of the sites were not high quality, but there was plenty of developable land around, and the Council would explore potential ways of attracting additional resources for example through the Business Improvement Districts or Community Infrastructure Levy. A priority for the Council was the need to attract and safeguard jobs in the borough.
- With regard to the role of the Director of Public Health, discussions were going on to look at how the role would fit into the Council's management structure, and there was an opportunity to look at how public health could be integrated into the local authority services.
- Members wanted to know what more the Council was doing in children's safeguarding when this was in the media spotlight and the service was being inspected by Ofsted. Cllr. Sahota said that this was the function of the Director of Children's services and would be discussed with Cabinet. Cllr. Ion commented that scrutiny had an important role to play in holding Cabinet and officers to account for outcomes and in helping to shape services for children. The findings of the Ofsted report would come to scrutiny as an early piece of work. Cllr. Green reminded Members as Corporate Parents that they also needed to be conscious about the safety of children placed out of the borough. Cllr. Ion said equally there was a need to keep children from other authorities placed in Telford & Wrekin safe.

The Chairman thanked Cllr. Sahota and Richard Partington for attending the meeting and answering questions.

## **SMB-8      SCRUTINY WORK PROGRAMME**

The Scrutiny Officer summarised the report on the Scrutiny Work Programme, making the following points:

- The Scrutiny Management Board had previously discussed the fact that with a 20% reduction in staff resource it was necessary for scrutiny to work closely with Assistant Directors so that resources for scrutiny could be planned into work loads.
- The Scrutiny Management Board had also agreed that with reduced resources it was more important than ever for scrutiny to add value, and the work programme should focus on fewer pieces of work but in more depth for greater impact.
- Appendix 1 outlined the process for agreeing the work programme.
- Appendix 2 listed the new suggestions and outstanding items from the previous year allocated to a proposed lead Scrutiny Committee. It was up to members to agree the work programme, but the Community Infrastructure Levy must be included as this had been referred to scrutiny

by Full Council.

- The proposed allocation of meetings to each Scrutiny Committee was 6 per year, with additional resources allocated to the Committees by the Scrutiny Management Board as deemed necessary to deliver the work programme.
- It was proposed that there is a two year work programme to allow for continuity of work.
- Members wanted to hold “Members-only” meetings to increase capacity, and it was proposed that this is piloted using the protocol in the Scrutiny Handbook and evaluated before rolling-out.
- It was noted that Call-in of decisions may impact on the work programme.
- Section 7 set out proposed items for the Scrutiny Management Board work programme which included responsibility for holding Cabinet members to account.

Members were asked to consider the report and agree the recommendations set out in Section 2:

- That the Scrutiny Work Programme should be a two year programme, refreshed after 12 months.
- To agree the allocation of suggestions to the Scrutiny Committees as shown in Appendix 2 for further consideration by each Scrutiny Committee.
- To endorse the recommendations made by the Scrutiny Committee Chairmen in Appendix 2 for further consideration by the Scrutiny Committees.
- To agree the indicative allocation of meetings to each Scrutiny Committee as set out in 6.3.
- To note the items for the Scrutiny Management Board work programme as set out in section 7.2.

There was a discussion about the work programme during which the following points were made:

- The Chair remarked that it was up to each Scrutiny Committee to agree which topics would be scrutinised, but that the Committees should identify clear priorities as it was not possible to look at all of the issues.
- The Chair stated that it was important for scrutiny to hear the view of partners, service users and the public, and Cllr. McClements expressed a commitment to this aim, including holding member-only meetings to increase capacity.
- The Chair suggested that all Scrutiny Chairs should sum up at the end of each item at meetings and the Committee should agree an outcome.
- Cllr. McClements reinforced the need for scrutiny to be involved as early as possible in policy development to have greater impact such as the work carried out by the Co-operative & Communities Scrutiny Committee on leisure concessions.

- Cllr. Fletcher emphasised the need for flexibility in the work programme to scrutinise important issues that arise at short notice.
- Cllr. Turley reaffirmed the agreement at the Call-in meeting on 21<sup>st</sup> June that the Waste Management Procurement would be included in the work programme.
- Cllr. Turley suggested that Scrutiny Chairmen should be appointed for a term of two years consistent with delivering a 2 year work programme.
- In response to a question about which Scrutiny Committee would be responsible for looking at benefit changes, the Chairman said the Co-operative & Communities Scrutiny Committee would be the lead Committee to look at the impact of the changes. Cllr. Reynolds reminded members that the Budget & Finance Scrutiny Committee would look at the setting of the Council Tax as part of the budget scrutiny, and could look at the financial impact of the benefit changes so there could be a joint scrutiny.

At the end of the discussion the Chair asked Members of the Board to consider the recommendations in the report, and all recommendations were agreed unanimously.

#### **RESOLVED:**

**That the recommendations in Section 2 of the report be agreed**

#### **SMB-9      TIME AND DATE OF NEXT MEETING**

The time and date of the next meeting at 9.00am on 14<sup>th</sup> September was noted.

The meeting ended at 7.50pm.

**Chairman:** .....

**Date:** .....