

Forde House  
Newton Abbot

E-mail: [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk)

26 November 2018

## EXECUTIVE

Dear Councillor

You are invited to a meeting of the above Committee which will take place on **Tuesday, 4th December, 2018** in the **Council Chamber - Forde House** at **10.00 am**

Yours sincerely

PHIL SHEARS  
Managing Director

Distribution:

- |  |  |
|--|--|
| (1) The Members of the Executive:              |  |
| Councillor Jeremy Christophers<br>(Leader)     | The Leader and Portfolio Holder for Strategic<br>Direction |
| Councillor Humphrey Clemens<br>(Deputy Leader) | Portfolio Holder for Planning & Housing                    |
| Councillor Phil Bullivant                      | Portfolio Holder for Recreation & Leisure                  |
| Councillor Stuart Barker                       | Portfolio Holder for Corporate Resources                   |
| Councillor Timothy Golder                      | Portfolio Holder for Economy, Skills and Tourism           |
| Councillor John Goodey                         | Portfolio Holder for Community Neighbourhoods              |
| Councillor Kevin Lake                          | Portfolio Holder for Environment Services                  |
| Councillor Sylvia Russell                      | Portfolio Holder for Health & Well-being                   |

A link to the agenda on the Council's website is emailed FOR INFORMATION (less reports (if any) containing Exempt Information referred to in Part II of the agenda), to:

- (1) All other Members of the Council
- (2) Representatives of the Press
- (3) Requesting Town and Parish Councils

**If Councillors have any questions relating to predetermination or interests in items on this Agenda, please contact the Monitoring Officer in advance of the meeting**

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- Reports in Parts I and III of this agenda are for public information. Any reports in Part II are exempt from publication due to the information included, under the provisions of the Local Government Act 1972.

## AGENDA

### Part I

1. Apologies for absence
2. Agreement of the Agenda between Parts I and II
3. Matters of urgency/matters of report brought forward with the permission of the Chairman
4. Declarations of Interest
5. To note action taken under delegated powers as set out in Part III of the agenda (if any)
6. Public Questions (if any)
7. Notice of Motion under Council Procedure Rule 4.5(I) (Pages 1 - 6)  
To consider the Notice of Motion at the Council meeting on 15 October 2018 regarding Heathfield Farm landfill site.
8. Call-in of Executive decision Public Spaces Protection Order for Dog Control in Teignbridge (Pages 7 - 28)  
To consider the report for the Public Spaces Protection Order for Dog Control in Teignbridge following call-in and consideration by Overview & Scrutiny Committee 19 November 2018.

9. Quarterly budget monitoring including capital and treasury management mid-year review (Pages 29 - 54)  
To consider the report on the Quarterly budget monitoring including capital and treasury management mid-year review.
10. Council Tax Reduction scheme for 2019/20 (Pages 55 - 224)  
To consider the report on the Council tax support/reduction scheme.
11. Council Tax premium for long term empty (Pages 225 - 230)  
To consider the report on the Council Tax premium for long term empty.
12. Asset Management Strategy and associated policy documents (Pages 231 - 332)  
To consider the report on the Asset Management Strategy and associated policy documents.
13. Letting of the Former Shelter (Goldfish Bowl), The Den, Teignmouth (Pages 333 - 340)  
To consider the report on the Goldfish Bowl, The Den, Teignmouth.
14. Devon Building Control Partnership Committee Minutes 9 November 2018 (Pages 341 - 342)  
Devon Building Control Partnership Committee Minutes 9 November 2018 for information.
15. Executive Forward Plan (Pages 343 - 348)  
To note forthcoming decisions anticipated to be made by the Executive over the next 12 months.
16. The Executive is recommended to approve the following resolution:  
That under Section 100(A)(4) of the Local Government Act 1972, the Press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1,2, 3 and 4 of Part 1 of Schedule 12A of the Act.

## **Part II**

**(Private) Items which may be taken in the absence of the Public and Press on the grounds that Exempt Information may be disclosed.**

17. Call-in of Portfolio Holder Decision 11-2018 - Funding Contribution for a Cirl Bunting Nature (Pages 349 - 360)  
To consider the report on the Call-in of Portfolio Holder Decision 11-2018 - Funding Contribution for a Cirl Bunting Nature.

18. Housing Needs Restructure (Pages 361 - 376)

To consider the report of Housing Needs Restructure.

**Part III**

**(FOR INFORMATION ONLY)**

**Nil.**

## EXECUTIVE

LEADER: Cllr Jeremy Christophers

PORTFOLIO HOLDER: Cllr Clemens &amp; Cllr Lake

**DATE:** 4 December 2018

**REPORT OF:** Ros Eastman: Business Manager Strategic Place

**SUBJECT:** Notice of Motion regarding re-opening of Heathfield Farm Landfill site

### PART I

#### RECOMMENDATION

The Executive is recommended to

Consider the report explaining the reasons for the decision made by Devon County Council as Waste Planning Authority

#### 1. PURPOSE

1.1 At its meeting of 15 October 2018, Council considered the following Notice of Motion:

*“The recent decision of Devon County Council to reopen the Heathfield Farm landfill site is a backward step for the local environment and reflects the failure of policy over the recent past. It is a blow to local residents to again face the environmental damage this will inevitably cause. We were told this site was to be closed permanently, residents have been badly let down.*

*Despite assurances to the contrary, litter will increase; muddy roads will return as will rats (both the land based and aerial variety). Seasonal smells will be noted but perhaps even more significant will be the environmental damage caused as materials that should be recycled are buried.*

*Teignbridge Council consequently unites to criticise this decision of Devon County Council and will convey that view to the County Council urging a more proactive approach to waste reduction.”*

1.2 It was resolved that:

*“The Notice of Motion stand adjourned and be referred to the Executive to consider a report to explain in detail the reasons behind Devon County Council decision to reopen the Heathfield Farm landfill”*

1.3 This Report is provided in response.

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### 2. BACKGROUND

2.1 Planning Application reference DCC/4041/2018 was received by Devon County Council in its role as Minerals and Waste Planning Authority in January 2018.

2.2 The application was reported to Devon County Council's 19 September 2018 Development Management Committee. A copy of the Report considered by that Committee is included as Appendix 1 to this Report. In summary it notes:

*"1.1 This application is for the variation of conditions 3 and 5 of planning permission 05/3070/04 to allow for a further 5 years to utilise the permitted landfill capacity at the site and consequential variation of the phasing and restoration plans.*

*1.2 It is considered that the main material planning consideration in the determination of this planning application are the consideration against waste planning policy; nature conservation and habitats; local highway network; the amenity of local residents; and landscape."*

2.3 The recommendation was:

*"subject to the signing of a legal agreement containing a requirement that the heathland areas on land within the planning permission boundary are appropriately managed for a period of ten years, planning permission to vary conditions 3 and 5 of planning permission 05/3070/04 is granted subject to the conditions set out in Appendix 1 to this report (with any subsequent non-material changes to the wording of the conditions and being agreed in consultation with the Chair and local member)."*

2.4 Subject to some minor changes to condition wording, the recommendation was carried.

2.5 As the Council responsible for the area within which the site is located, Teignbridge's Development Management team was consulted on the application. The Consultation request was received in early February and included on the relevant "weekly list" of all applications received. No comment was received from any party and a response of "no objection" was sent to Devon County Council by the Development Management team in late February 2018. Environmental Health also provided comment – but no objection to the application.

2.6 The conclusion of the DCC Committee report sets out that:

*7.2 In conclusion it is considered that the extension of time to allow for further tipping to utilise the remaining capacity is acceptable and that any potential impacts can be adequately mitigated and controlled through planning conditions, a legal agreement and through the site monitoring process. Taking the material considerations into account, it is considered appropriate to grant temporary planning permission in accordance with the recommendation to this report.*

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*7.3 The alternative option would be to refuse this application and require the operator to continue with restoration of the site under the provisions on the original consent. This option would risk Devon having insufficient landfill capacity to meet its anticipated needs”*

2.7 There is a clear need at the County level to ensure adequate provision for waste disposal is made County wide and, in the County Planning Authority’s view, this proposal represents the most sensible option for achieving that provision.

2.8 It is understood that the facility is not likely to be used for any significant quantity of the Devon Districts’ residual waste but it could offer the County Council (as Waste Disposal Authority) some local contingency to cover any periods where the Energy from Waste facilities in Exeter and Plymouth (which are contracted long term to deal with Teignbridge’s residual waste) become unavailable.

2.9 A decision is expected to be issued on the application by the end of November / Early December.

**Cllrs Clemens & Lake  
Portfolio Holders for  
Housing & Planning and Environment  
Services**

<b>Wards affected</b>	All / Kingsteignton West
<b>Contact for any more information</b>	Ros Eastman EXT 5745
<b>Background Papers (For Part I reports only)</b>	N/A
<b>Key Decision</b>	N
<b>In Forward Plan</b>	Y
<b>In O&amp;S Work Programme</b>	N/A
<b>Community Impact Assessment attached:</b>	N
<b>Appendices attached:</b>	1: Report to DCC Development Management Committee

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## DEVELOPMENT MANAGEMENT COMMITTEE

19 September 2018

Present:-

County Councillors

Councillors J Brook (Chair), Y Atkinson, S Aves, R Bloxham, J Hook, G Gribble, I Hall, L Hellyer, J Hodgson, R Hosking, T Inch, P Sanders, C Slade and J Yabsley

Member attending in accordance with Standing Order 25:-

Councillor A Davis

Apologies:-

Councillor A Connett

\* 59

**Minutes**

**RESOLVED** that the Minutes of the meeting held on 25 July 2018 be signed as a correct record.

\* 60

**Items Requiring Urgent Attention**

There was no item raised as a matter of urgency.

\* 61

**County Matter: Waste: Teignbridge District: Variation of conditions 3 and 5 of planning permission 05/3070/04 (integrated waste management facility consisting of dry recyclate and commercial and industrial waste materials recycling facilities, incorporating small vehicle transfer station, enclosed composting facility, fitters' workshop and associated infrastructure together with 3 million cubic metres of additional residual waste disposal capacity and the change of use of Heathfield Farmhouse and existing offices and workshops) relating to the re-opening of the landfill only.**  
**Location: Heathfield Landfill, John Acres Lane, Fosterville, Kingsteignton**

(Councillor Gribble declared a Personal Interest in this item by virtue of being a Member of Teignbridge District Council)

Councillor A Davis (for the Waste Disposal Authority, Devon County Council) and Mr C Herbert (on behalf of the applicant) attended under the Council's Public Participation Scheme and spoke to this item in support of the application).

The Committee considered the Report of the Chief Planner (PTE/18/42) on an application for the variation of conditions 3 and 5 of planning permission 05/3070/04 to allow for a further 5 years to utilise the permitted landfill capacity at the site and consequential variation of the phasing and restoration plans.

The Chief Planner's Report gave a reasoned assessment of the proposal, referring to all relevant policies and summarising the comments and views of interested parties received prior to the meeting. He also reported recent representations from Councillor J Christophers, Councillor R Keeling (both Teignbridge District Council) and a local resident objecting to the application. The Chief Planner also reported and circulated details of proposed amendments

to planning conditions 1 (Temporary Permission); 5 a and b (Hours of Operation) and 9 (Noise); and 12 (Restoration and Aftercare (original conditions 12 and 13 combined)).

The matter having been debated and having regard to the main material planning policies and requirements,

it was **MOVED** by Councillor Brook, **SECONDED** by Councillor Sanders and

**RESOLVED** that, subject to the signing of a legal agreement containing a requirement that the heathland areas on land within the planning permission boundary are appropriately managed for a period of ten years, planning permission to vary conditions 3 and 5 of planning permission 05/3070/04 be granted subject to the conditions set out in Appendix I (as amended to incorporate the changes as circulated at the meeting) to the Report with any subsequent non-material changes to the wording of the conditions being agreed in consultation with the Chair and the local County Councillor.

\* **62** **Delegated Action - Schedules (to include ROMPS Actions) and Summary Schedule**

The Committee received the report of the Chief Planner (PTE/18/43) of action taken under delegated powers.

**\*DENOTES DELEGATED MATTER WITH POWER TO ACT**

The Meeting started at 2.15 pm and finished at 3.00 pm

## EXECUTIVE

LEADER: Cllr Jeremy Christophers

PORTFOLIO HOLDER: Cllr Sylvia Russell

**DATE:** 4<sup>th</sup> December 2018

**REPORT OF:** David Eaton  
Environmental Protection Manager

**SUBJECT:** Call In - Implementation of a Public Spaces Protection Order for responsible dog ownership

### PART I

### RECOMMENDATIONS

The Executive is asked to resolve the following recommendations:-

(1) Consider and approve the implementation of a Public Space Protection Order (PSPO) for Responsible Dog Ownership under ss59 to 75 of the Anti-Social Crime and Policing Act 2014, taking into account the recommendations of the Overview and Scrutiny Committee 19<sup>th</sup> November 2018 below;

- (a) That the number of dogs that any one individual can walk at any one time be a maximum of six.
- (b) That the annual period of restriction on beaches be reconsidered.

(2) Authorise the Council's Solicitor to draft and make the order.

(3) Authorise the Council's Environmental Protection Manager to issue fixed penalty notices under the PSPO.

### 1. PURPOSE

Reconsider the Executive Decision on 30 October 2018 on the Public Spaces Protection Order for Dog Control in Teignbridge which was called in by Councillor Cox and supported by Councillors Connett, Dewhirst, Eden, Nutley and Wrigley.

### 2. BACKGROUND

#### 2.1 Minutes of Executive 30<sup>th</sup> October 2018

The Environmental Protection Manager presented the report on the Implementation of a Public Spaces Protection Order (PSPO) for responsible dog ownership. Members were advised on the purpose of a PSPO and of the two conditions that

## TEIGNBRIDGE DISTRICT COUNCIL

the local authority must be satisfied on reasonable grounds that are met. An officer working group had reviewed the project and there had been an extensive consultation. The eight suggested controls were outlined, these included existing control, improvements on existing controls and new controls. Members were advised that there was no specific statutory guidance to assist when setting a restriction on the number of dogs that could be walked by a single individual on or off a lead. Members were asked to recommend setting the restriction on the number of dogs and attention was brought to the comments in the consultation on this matter and the responses from interested organisations.

During discussion, Members raised the following points:-

- Should the seasonal dog exclusion date commence from 1 April on beaches? Not just Dawlish Warren Beach
- The majority of dog owners were responsible it was just those few irresponsible owners that caused the issues
- How would enforcement be undertaken and by whom?
- How would public evidence of an offence be acted on?
- There was an issue with dogs being left to roam
- Dog fouling was a real issue in the parishes across the District
- Concerns about working dogs in rural areas; these should be excluded
- What about the existing bye laws?
- How were children play areas defined?
- There was an issue with dog walkers putting dog faeces in bags and hanging on hedges in rural areas
- The maximum number of dogs on a lead should be four.

The Environmental Protection Manager clarified the following:-

- cycle paths, both those adjacent and not adjacent to a Highway, would be covered by the PSPO
- The three Community Environment Wardens would undertake the role of enforcement
- Complaints could be reported on-line
- Hotspots would be targeted
- Walking patterns of offenders would be identified
- Recording of car number plates would help to trace offenders - this would be a non-confrontational way of reporting an offence
- The existing bye laws would remain in place
- Would investigate if Dawlish Town Council Water Fowl Wardens would be able to enforce the PSPO
- There would be a publicity plan to make the public aware of the order and its contents
- The Community Environment Wardens work patterns do vary to cover different times of the day to address issues.

Executive Members discussed the seasonal dog exclusion dates on the beaches, the needs for signage to be clear and the number of dogs that could be walked by a single individual.

## TEIGNBRIDGE DISTRICT COUNCIL

**RESOLVED** that the:-

(1) implementation of a Public Space Protection Order (PSPO) for Responsible Dog Ownership under ss59 to 75 of the Anti-Social Crime and Policing Act 2014 be approved subject to the inclusion of:-

- Cycle paths to be added as a highway
- working dogs to be added to the existing list of exemptions - farm dogs moving livestock on the highway are not expected to be on a lead
- the maximum number of dogs permissible on or off a lead with a single individual to be four;

(2) Council's Solicitor be authorised to draft and make the Order;

(3) Council's Environmental Protection Manager be authorised to issue fixed penalty notices under the PSPO; and

(4) seasonal dog exclusion areas on beaches from 1 April to 30 September be approved. This to be reviewed in 12 months.

### **2.2 Minutes of Overview and Scrutiny Committee 19<sup>th</sup> November 2018**

Consideration was given to the call-in of an Executive decision made on 30 October 2018 relating to the Public Spaces Protection Order for Dog Control in Teignbridge. The decision seeks the implementation of a Public Space Protection Order (PSPO) for Responsible Dog Ownership under ss59 to 75 of the Anti-Social Crime and Policing Act 2014.

The decision has been called in by Councillor Cox and supported by Councillors Connett, Dewhirst, Eden, Nutley and Wrigley. Councillor Cox's reasons for call-in are:

1. To clarify the Executive's proposals to extend the dog ban on Ness Beach and Holcombe Beach as it now seems they were included in error.
2. To examine the decision to have only four as the maximum number of dogs on a lead in the light of the decision by East Devon District Council and the comments from the Kennel Club, the Dogs Trust and the Peoples Dispensary for Sick Animals.

Since the Executive meeting on 30 October 2018 there has been a large public response to the decision. Members in considering the call-in should note the number of responses to the decision balanced with the number of people who responded to the consultation. The Environmental Protection Manager gave an update of the number of correspondence received which amounted to approximately 180, and a summary of the key points.

The consultation with the public covered maintaining the existing seasonal dog exclusion areas. The Ness Beach and Holcombe Beach are not covered by the existing seasonal dog ban. It was not the intention that the PSPO restricted access to these beaches.

The Executive report detailed the outcome of the public consultation and included a number of comments from interested organisations. Overall the consultation results did not provide a consensus on the number of dogs a single individual should walk.

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In support of the call-in, Councillor Cox submitted that six was an acceptable number of dogs for any one individual to walk. The support for this was that this would be consistent with East Devon District Council, public liability insurance covers six dogs, for many dog walking businesses this is their only income and limiting the number of dogs to four could result in their businesses folding. He added that a Review Group should be set up to work with responsible dog owners/walkers, to identify volunteers to assist the Council wardens in engaging with offending and irresponsible dog owners/walkers to become more responsible, keep their dogs under control, and always clear up dog faeces from the dogs for which they have responsibility.

The period of the dog ban on beaches for inclusion in the PSPO was not part of the call-in. However the Chairman agreed that this issue could be discussed.

In response to a question on the details of the PSPO at agenda page 14, the Environmental Protection Manager advised that the 'reasonable excuse' under (i) of the heading No more than 'x' dogs, would be at the officer's discretion. In response to further questions, the Environmental Protection Manager advised that highways, cycle paths, and Dawlish Warren Nature Reserve were included in the PSPO.

Resolved

That the following recommendations from this Committee be referred to Executive:-

- (c) That the number of dogs that any one individual can walk at any one time be a maximum of six.
- (d) That the annual period of restriction on beaches be reconsidered.

That a Review Group be set up to primarily work with responsible dog owners/walkers, to identify volunteers to assist the Council wardens in engaging with offending and irresponsible dog owners/walkers to become more responsible, keep their dogs under control, and always clear up dog faeces from the dogs for which they have responsibility, and review the implementation of the PSPO in the first 12 months.

### 2.3 CLARIFICATION

In reconsidering the restriction on the number of dogs that can be walked by a single individual, members should be aware of the results of the public consultation. This showed that 57% of those consulted were in agreement with this control, 30% of those consulted disagreed with this control and 13% of those consulted didn't know.

Of those in agreement with this control the consultation results did not provide a consensus on the number of dogs a single individual should walk.

Number	Number	Percentage
3	588	50%
4	267	23%
5	24	2%
6	18	2%
Other	272	23%

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It is also worth noting that 63% of those responding to the consultation were either a dog owner or walker.

The original consultation of the Seasonal Dog Exclusion Areas (Beaches) was based on the existing controls that between

- 1 May and 30 September or
- 1 April and 30 September in Dawlish Warren

a person in charge of a dog shall not take a dog onto, or permit a dog to enter or to remain on, any beach designated as a dog ban area. Appendix 4 contains the specific details of the controls that currently exist. 96% of those consulted were in agreement with this control.

### **3. MAIN IMPLICATIONS**

A PSPO would introduce a clear and simple set of rules that all dog owners would need to comply with across the Teignbridge district. Enforcement would be targeted and graduated to ensure that the irresponsible dog owner is dealt with.

### **4. TIME-SCALE**

The order lasts for not more than three years. It can be extended under s60 (2) by the Council if it is satisfied on reasonable grounds that it is necessary to extend the order to prevent:

- Occurrence or recurrence after that time of the activities identified in the order, or
- An increase in the frequency or seriousness of those activities after that time.

The PSPO can also be discharged and varied by the Council.

### **5. JUSTIFICATION**

The order is required to effectively tackle irresponsible dog ownership within the Teignbridge District.

### **6. DATE OF IMPLEMENTATION (CONFIRMATION OF DECISION SUBJECT TO CALL-IN)**

10.00 a.m. on 11 December 2018

**David Eaton**  
Environmental Protection Manager

**Cllr Sylvia Russell**  
Portfolio Holder for Health and Wellbeing

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<b>Wards affected</b>	All
<b>Contact for any more information</b>	David Eaton 01626 215064 Sarah Selway 01626 215159
<b>Background Papers (For Part I reports only)</b>	None
<b>Key Decision</b>	Y
<b>In Forward Plan</b>	Y
<b>In O&amp;S Work Programme</b>	Y Part of the Council Strategy
<b>Community Impact Assessment attached:</b>	N – Completed for the Council Strategy and the proposed controls prior to the Consultation.
<b>Appendices attached:</b>	<ol style="list-style-type: none"><li>1. Executive Report dated 30<sup>th</sup> October 2018</li><li>2. Draft Public Spaces Protection Order Controls</li><li>3. Consultation Summary</li><li>4. Existing Seasonal Dog Exclusion Areas on beaches</li></ol>

## EXECUTIVE

LEADER: Cllr Jeremy Christophers

PORTFOLIO HOLDER: Cllr Sylvia Russell

**DATE:** 30<sup>th</sup> October 2018

**REPORT OF:** Environmental Protection Manager and  
Portfolio Holder for Health and Wellbeing

**SUBJECT:** Implementation of a Public Spaces Protection Order  
for responsible dog ownership

### PART I

#### RECOMMENDATIONS

The Executive is recommended to

**A Consider and approve the implementation of a Public Space Protection Order (PSPO) for Responsible Dog Ownership under ss59 to 75 of the Anti-Social Crime and Policing Act 2014.**

**B Authorise the Council's Solicitor to draft and make the order.**

**C Authorise the Council's Environmental Protection Manager to issue fixed penalty notices under the PSPO.**

#### 1. PURPOSE

The purpose of a Public Spaces Protection Order (PSPO) is to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life. It can be used to deal with existing problems and problems that are likely to arise in the future.

The definition of a PSPO is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

Only a local authority can make a PSPO in respect of a public place within its area. The definition of a 'local authority' in England under Section 74(1) is (amongst others) a district council. Parish and Town Councils do not have the power to issue PSPO's. The local authority must be satisfied on reasonable grounds that two conditions are met.

The first condition is that:

- Activities carried out in a public place within the authority's area **have had** a detrimental effect on the quality of life of those in the locality, or

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- It is **likely** that activities will be carried out in a public place within that area and that will have such an effect.

The second condition is that:

- It is or is likely to be of a **persistent or continuing nature**
- Is or is likely to be, such to make the activities **unreasonable**; and
- Justifies the restrictions imposed by the notice.

The broad aim is to keep public spaces welcoming to law abiding people and communities and not simply to restrict access.

### **2. BACKGROUND**

Within the Clean Scene Programme of works in the Teignbridge Council Strategy 2016 – 2025 is an action to “Review council policies on dog fouling and restricted access across Teignbridge’s open spaces and beaches.” An Officer Working Group has reviewed the current situation, undertaken a wide ranging public consultation and recommends the implementation of a Public Spaces Protection Order to deal with the issues around irresponsible dog ownership. This project started in October 2016 and progress has been reported to Overview and Scrutiny Committee on a quarterly basis.

The PSPO will enhance the existing controls; the law in the past on dog control has been patchy, so a PSPO will help the council deal with the minority of irresponsible dog owners who don’t clear up after their dog or control it. A frustration to officers and members has been the inability to deal with dog fouling on roads that do not have a national speed limit of less than 40mph. This means that many of our rural areas had no controls on dog fouling on the highway.

Currently officers are able to prosecute offenders who breach a dog byelaw. Under the proposed PSPO a range of enforcement options would be available to officers and are described in section 6.

It should be noted that the legislation for dealing with stray dogs will remain and is sufficient and is therefore not included in the proposed PSPO.

For the many responsible dog owners who pick up after their dog wherever they go, nothing will change. Inconsiderate dog owners would be targeted through awareness and enforcement. Registered blind people and assistance dog users will be exempt.

### **3. MAIN IMPLICATIONS**

A PSPO would introduce a clear and simple set of rules that all dog owners would need to comply with across the Teignbridge district. Enforcement would be targeted and graduated to ensure that the irresponsible dog owner is dealt with.

### **4. GROUPS CONSULTED**

Section 72(4) of the act defines what necessary consultation means:

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1. The chief officer of police and the local policing body for the police area that includes the restricted area;
2. Whatever community representatives the local authority thinks is appropriate to consult with; and
3. The owner or occupier of land within the restricted area, if, or to the extent that is reasonably practicable to consult with the owner.

The Statutory Guidance recommends that the council engages in an open and public consultation to give the users of the public space the opportunity to comment on whether the proposed restriction or restrictions are appropriate, proportionate or needed at all.

It also recommends that the Council should also ensure that specific groups likely to have a particular interest are consulted, such as a local residents association, or regular users of the open space or those involved in specific activities in the area.

Consultation was undertaken between June 2017 and the 2nd October 2017. Officers consulted the following groups and organisations;

- Existing Licenced businesses
- All Teignbridge District Councillors
- Town and Parish Councils
- Police and Crime Commissioner for Devon and Cornwall
- National Organisations involved in the welfare of dogs including the Kennel Club.
- Attending a number of community events in the District
- Online survey promoted via local newspaper articles, TV and Social Media.

Overall we received 2055 returns with over 1179 specific comments made. The majority of respondents supported the control and requested that the Council provided sufficient resources to target the irresponsible dog owners. Concerns were raised about how the controls would be enforced and that they should be applied with common sense.

There were those who felt that the controls were too restrictive and others who requested more stringent controls. A detailed summary is available in Appendix B.

### **5. SUGGESTED CONTROLS AND CONSULTATION RESPONSES**

The proposed PSPO would contain eight controls, some of which are an enhancement of existing controls whilst others are new. The first seven proposed controls show a significant majority of those consulted agreeing with the proposal.

The eighth control, the maximum number of dogs that can be walked is less clear with a number of differing views.

**FOULING** – making it an offence if a person in charge of a dog fails to pick up its faeces straight away.

- Improvement of an existing control

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- 99% of those consulted in agreement with this control

**MEANS TO PICK UP-** making it an offence if a person in charge of a dog does not carry a bag or other means of clearing up after their dog at all times.

- New Control
- 84% of those consulted in agreement with this control

**DOG EXCLUSION AREAS (EXCEPT BEACHES)** – making it an offence for a person in charge of a dog, to let a dog be in dog ban area (e.g. Children’s play park).

- Existing control
- 96% of those consulted in agreement with this control

**SEASONAL DOG EXCLUSION AREAS (BEACHES)** - an offence for a person in charge of a dog, between 1 May and 30 September or 1 April and 30 September in Dawlish Warren to take the dog onto, or permit the dog to enter or to remain on, any beach designated as a dog ban area. The beaches are Dawlish Warran, Dawlish Town, Dawlish Coryton Cove, Holcombe, Teignmouth Town, Shaldon and The Ness.

- Existing control
- 96% of those consulted in agreement with this control

**DOGS ON LEAD AREAS** - an offence if a person in charge of a dog at any time does not keep the dog on a lead on land designated as a dog on lead area.

- Existing control
- 88% of those consulted in agreement with this control

**DOG(S) ON LEAD ON THE HIGHWAY** – an offence if, at any time, a person in charge of a dog does not keep the dog on a lead, whilst on a road or footpaths adjacent to a road.

- New control
- 80% of those consulted in agreement with this control

**DOG(S) ON LEAD BY DIRECTION** - an offence if at any time within a dog ban area, a person in charge of a dog does not comply with a direction given to him by an authorised officer of the council or police officer to put and keep the dog on a lead.

- Existing control
- 91% of those consulted in agreement with this control

**RESTRICTION ON THE NUMBER OF DOGS** - restrict the number of dogs that can be walked by a single individual on or off the lead

- New Control
- 57% of those consulted in agreement with this control
- 30% of those consulted disagree with this control

## TEIGNBRIDGE DISTRICT COUNCIL

- 13% of those consulted don't know

Of those in agreement with this control how many dogs should the single individual should walk on or off a lead at any one time?

Number	Number	Percentage
3	588	50%
4	267	23%
5	24	2%
6	18	2%
Other	272	23%

Whilst there is no statutory guidance to assist when setting the numbers the following advice has been considered.

- Comments in the consultation suggest that the numbers of dogs relates to the circumstances such as dog size, with, behaviour, strength and ability of the owner to control the dogs.
- Kennel Club feel that an arbitrary figure is an inappropriate approach and will simply displace and intensify the problem in other areas.
- Dogs Trust states that the behaviour of the dogs and the competency of the owner needs to be taken into consideration. Research from 2010 shows that 95% of dog owners have up to 3 dogs and therefore the number of dogs would not normally be expected to exceed 4 dogs.
- PDSA commented that the control may not have the desired effect as owners abilities vary.
- East Devon District Council have recently introduced a similar PSPO for dog control and they have limited the number of dogs to no more than 6 dogs.
- The recently issued Guidance notes for Conditions for providing home boarding for dogs, October 2018 states that "no more than four dogs must be walked at the same time" this is to ensure dogs are exercised at least once daily as appropriate for its age and health.

Members are asked to consider setting the restriction on the number of dogs.

When drafting the controls the potential negative impacts they may have on vulnerable groups and ensuring we meet the requirements under the Equality Act 2010 were considered.

Nothing in the proposed PSPO would apply to a person who –

(a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 if they are alone with the dog; or

(b) a person with a disability affecting their mobility, manual dexterity, physical coordination or ability to lift, carry or move everyday objects or who relies upon a dog trained by a prescribed charity (and is clearly identified) for assistance if they are alone with the dog.

(c) any police dog or fire dog.

## TEIGNBRIDGE DISTRICT COUNCIL

### 6. ENFORCEMENT

The aim is not to penalise responsible dog owners but to target persistent offenders who refuse to comply with the proposed controls. Consideration will be given to the ability of the owner to exercise control over the dogs before taking enforcement action.

A person observed not to be complying with the PSPO is liable to receive a fixed penalty notice. This can be up to £100 and we are recommending that the fine is set at £100. Officers also have powers to issue Community Protection Notices or prosecute if the offence warrants the sanction.

A poster and awareness campaign is planned should the PSPO be approved to inform the public about the controls and how to report incidents online.

### 7. TIME-SCALE

The order lasts for not more than three years. It can be extended under s60 (2) by the Council if it is satisfied on reasonable grounds that it is necessary to extend the order to prevent:

- Occurrence or recurrence after that time of the activities identified in the order, or
- An increase in the frequency or seriousness of those activities after that time.

The PSPO can also be discharged and varied by the Council.

### 8. JUSTIFICATION

The order is required to effectively tackle irresponsible dog ownership within the Teignbridge District.

### 9. DATE OF IMPLEMENTATION (CONFIRMATION OF DECISION SUBJECT TO CALL-IN)

10.00 a.m. on 6 November 2018

**Officer- David Eaton**

**Designation–Environmental Protection Manager**

**Cllr Sylvia Russell**

**Portfolio Holder for Health and Wellbeing**

<b>Wards affected</b>	All
<b>Contact for any more information</b>	David Eaton, Environmental Protection Manager <a href="mailto:david.eaton@teignbridge.gov.uk">david.eaton@teignbridge.gov.uk</a> 01626 215064
<b>Background Papers (For Part I reports only)</b>	None
<b>Key Decision</b>	Y
<b>In Forward Plan</b>	Y
<b>In O&amp;S Work Programme</b>	Y Part of the Council Strategy
<b>Community Impact Assessment attached:</b>	N – Completed for the Council Strategy and the proposed controls prior to the Consultation.
<b>Appendices attached:</b>	A: Draft Public Spaces Protection Order Controls B: Consultation Summary

# Public Spaces Protection Order

## Fouling

If within the restricted area a dog defecates at any time on land to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, and a person who is in charge of the dog at the time fails to remove the faeces from the land forthwith and properly dispose of it, that person shall be guilty of an offence unless

- (i) he has reasonable excuse for failing to do so: or
- (ii) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
- iii) Taking the faeces away from the land for proper disposal elsewhere or placing the faeces in a receptacle on the land, either a litter bin or dog waste bin, shall be sufficient removal from the land.
- iv) Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.

## Dog Exclusion Areas (except Beaches)

A person in charge of a dog must not take it into or keep it within a fenced/enclosed children's play area and signed at its entrance(s) as a "dog exclusion area" (whether the sign uses those particular words or words and/or symbols having like effect) which is designated and marked for children's play unless

- (i) he has reasonable excuse for failing to do so: or
- (ii) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

## Seasonal Dog Exclusion Areas (Beaches)

A person in charge of a dog shall be guilty of an offence if, between, 1st May and 30th September in any year or 1 April and 30 September in Dawlish Warren, he takes the dog onto, or permits the dog to enter or to remain on, any land designated as a Dog Exclusion Area detailed in Schedule 1, unless

- (i) he has reasonable excuse for failing to do so, or
- (ii) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

## Dogs on lead Areas

A person in charge of a dog shall be guilty of an offence if, at any time on land designated as a Dogs on Lead Area detailed in Schedule 1 below, he does not keep the dog on a lead unless

- (i) he has reasonable excuse for failing to do so, or
- (ii) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so
- (iii) failing to have a lead in his/her possession shall not be a reasonable excuse for failing to do so

## **Dog(s) on lead on the highway**

A person in charge of a dog shall be guilty of an offence if, at any time within the restricted area, he does not keep his dog on a lead less than 2m in length whilst on the public highway or on footpaths adjacent to the highway, unless he has reasonable excuse for failing to do so.

- (i) Failing to have a lead in his possession at the time shall not be a reasonable excuse for failing to do so.

## **Dog(s) on lead by direction**

A person in charge of a dog shall be guilty of an offence if, at any time within the restricted area, he does not comply with a direction given to him by an authorised officer of the council or a Police Officer to put and keep the dog on a lead unless

- (i) he has reasonable excuse for failing to do so: or
- (ii) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

An authorised officer or Police Officer may only give a direction under the order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or danger to any other person or to a bird or another animal

Failing to have a lead in his possession at the time shall not be a reasonable excuse for failing to do so.

## **No more than X dogs**

On land to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, the maximum number of dogs which a person may take onto the land is x unless

- (i) he has reasonable excuse for failing to do so; or
- (ii) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

## **Means to pick up**

A person in charge of a dog on land to which this order applies must have with him an appropriate means to pick up dog faeces deposited by that dog unless

- (a) he has reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

The obligation is complied with if, after a request from an authorised officer, the person in charge of the dog produces an appropriate means to pick up dog faeces.

## **Exemptions**

Nothing in this order shall apply to a person who –

- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 if they are alone with the dog; or
- (b) a person with a disability affecting their mobility, manual dexterity, physical coordination or ability to lift, carry or move everyday objects or who relies upon a dog

trained by a prescribed charity (and is clearly identified) for assistance if they are alone with the dog.

A “prescribed charity” is:

- Dogs for the Disabled (Registered Charity no. 700454)
- Support Dogs (Registered Charity no.1088281)
- Canine Partners for Independence (Registered Charity no. 803680)

(c) any police dog or fire dog. The term “police dog” or “fire dog” is deemed to be any dog, which is trained, or is undergoing structured training on behalf of the Chief Police Officer or Chief Fire Officer for the relevant service’s dog unit. All reference to the term ‘dog’ also includes bitches and puppies belonging to that service that are subject to any separate contractual conditions and arrangements.

(d) farm dogs moving livestock on the highway are not expected to be on a lead.

## **Explanations**

For the purpose of this order:

- A person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
- Placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be sufficient removal from the land;
- Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces
- A highway will have the interpretation as stated in the Highways Act 1980, this includes cycle paths.
- “an authorised officer of the Authority” means an employee, partnership agency or contractor of Teignbridge District Council who is authorised in writing by Teignbridge District Council for the purposes of giving directions under the Order.

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## PSPO Dog fouling survey 2017

From: June 2017

To: 2<sup>nd</sup> October 2017

Total number of returns: 2055

Comments made: 270

### Fouling

**Q1** The council has existing powers which make it an offence if a person in charge of a dog fails to pick up its faeces straight away. Would you like this to carry on?

Agree?	Number	Percentage
Yes	2028	99%
No	19	1%
No reply	8	na

**Q2** The council would like to have an offence if a person in charge of a dog does not carry a bag or other means of clearing up after their dog at all times. Do you agree?

Agree?	Number	Percentage
Yes	1719	84%
No	326	16%
No reply	10	na

### Dog ban areas (except beaches)

**Q3** The council would like to continue to have it as an offence for a person in charge of a dog, to let a dog be in dog ban area (e.g. Children's play park). Do you agree?

Agree?	Number	Percentage
Yes	1966	96%
No	82	4%
No reply	8	na

### Beaches - Seasonal dog ban area

**Q4** The council would like to continue to have an offence for a person in charge of a dog, between 1 May and 30 September or 1 April and 30 September in Dawlish Warren to take the dog onto, or permit the dog to enter or to remain on, any beach designated as a dog ban area. Do you agree?

Agree?	Number	Percentage
Yes	1966	96%
No	82	4%
No reply	11	na

### Dogs on leads

**Q5** The council would like to continue to have an offence if a person in charge of a dog at any time does not keep the dog on a lead on land designated as a dog on lead area. Would you like to see this?

Agree?	Number	Percentage
Yes	1796	88%
No	249	12%
No reply	10	na

**Q6** The council would like to have an offence if, at any time, a person in charge of a dog does not keep the dog on a lead, whilst on a road or footpaths adjacent to a road. Do you agree?

Agree?	Number	Percentage
Yes	1631	80%
No	412	20%
No reply	12	na

**Q7** The council is planning on introducing an offence if at any time within a dog ban area, a person in charge of a dog does not comply with a direction given to him by an authorised officer of the council or police officer to put and keep the dog on a lead. Do you agree?

Agree?	Number	Percentage
Yes	1862	91%
No	181	9%
No reply	12	na

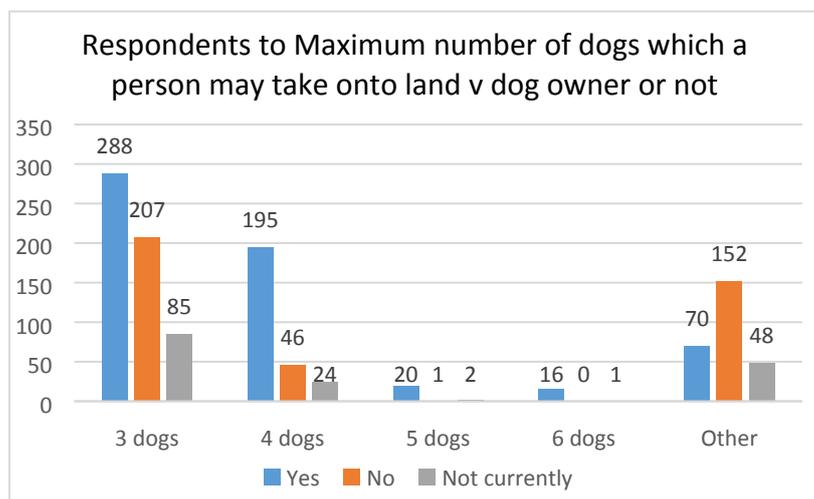
### Maximum number of dogs which a person may take onto land

**Q8** Would you like to see the introduction of a new control under the PSPO to restrict the number of dogs that can be walked by a single individual on or off the lead. Do you agree?

Agree?	Number	Percentage
Yes	1173	57%
No	608	30%
Don't know	266	13%
No reply	8	na

**Q8a** If yes, how many dogs do you think the single individual should walk on or off a lead at any one time?

Number	Number	Percentage
3	588	50%
4	267	23%
5	24	2%
6	18	2%
Other	272	23%



**Q9** What is your post code?

1810 postcodes provided

**Q10** Are you a dog owner/walker?

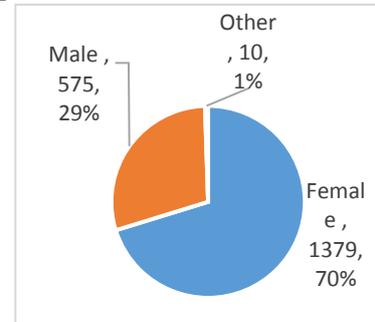
Agree?	Number	Percentage
Yes	1273	63%
No	504	25%
Not currently	236	12%
No reply	42	na

**Q11** Does your work involve you caring for dogs?

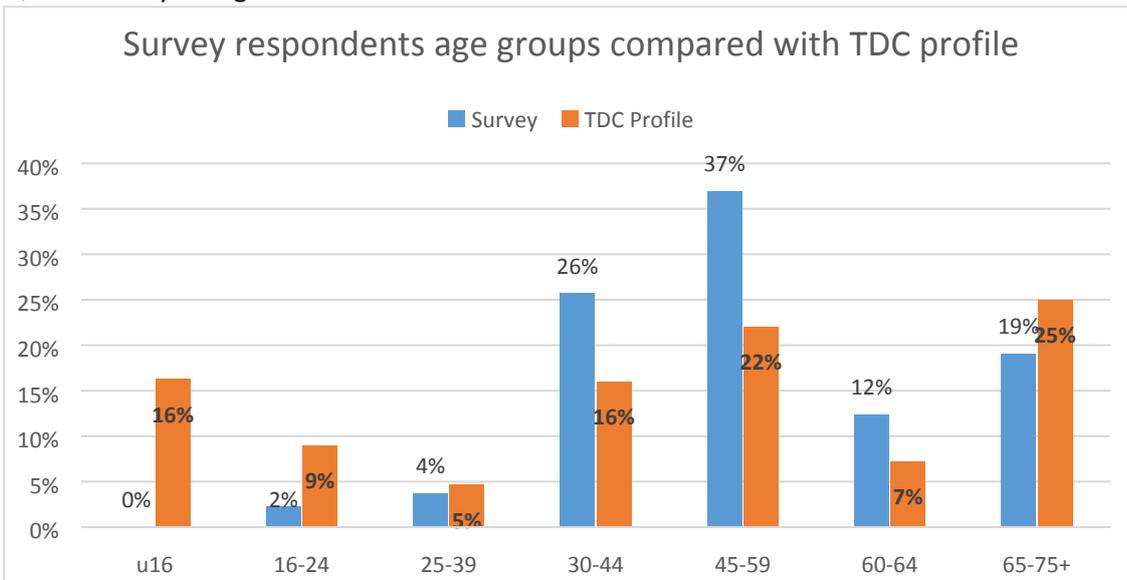
?	Number	Percentage
Boarding	31	7%
Dog walking for £	28	6%
Pet sales	6	78%
Training	18	1%
Vet services	20	4%
Other	368	4%

**Q12** What is your gender?

?	Number	Percentage	TDC profile
Male	575	29%	48%
Female	1379	70%	52%
Other	10	1%	na



**Q13** What is your age?



**Q14** Do you consider yourself to have a limiting long term illness or condition that requires you to have an assistance dog provided by a recognised charity?

Agree?	Number	Percentage
Yes	17	0.8%
No	1984	99.2%
No reply	27	na

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## **Existing Seasonal Dog Exclusion Areas on Beaches**

The current byelaws allow the following access for dogs to the beaches.

### **River Beach, Teignmouth**

- dogs are permitted all year round

### **Ness Cove, Shaldon**

- dogs are permitted all year round

### **Holcombe Beach - East Cliff Slipway, Teignmouth**

- dogs are permitted all year round

### **Teignmouth Beach**

- dogs are not permitted from 1 May to 30 September along the seashore between the slipway at Eastcliff and the Lighthouse at the Point. Dogs are to be kept on a lead in and around the Den and Promenade

### **Shaldon Beach**

- dogs are not permitted from 1 May to 30 September along the seashore between the Clipper Quay and the steps to the beach approximately 410 metres south east of the Clipper Quay

### **Dawlish Town Beach and Coryton Cove**

- dogs are permitted along the seashore from the slipway adjacent to the Railway Station until 230 metres before Red Rock at Dawlish Warren
- dogs are not permitted along the seashore from the slipway to Coryton Cove from 1 May to 30 September

### **Dawlish Warren**

Dogs are not permitted:

- from 1 April to 30 September between the lifeguard tower and groyne 3 on the beach.
- from 1 May to 30 September on a 230 metre section of the beach, west of Red Rock Café (follow seawall from Dawlish Warren – Dawlish), nor beyond groyne 9 main beach (all year round).

Dogs are permitted:

- all year round on the section of the beach directly to the right of the lifeguard tower (tidal beach) and between groyne 3 and 9 on the main beach.

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## **EXECUTIVE**

**LEADER:** Cllr Jeremy Christophers

**PORTFOLIO HOLDER:** Cllr Stuart Barker

**DATE:** 4 December 2018

**REPORT OF:** Chief Finance Officer

**SUBJECT:** **BUDGET MONITORING – REVENUE & CAPITAL,  
TREASURY MANAGEMENT LENDING LIST**

### **PART I**

#### **RECOMMENDATIONS**

**The Executive is recommended to**

#### **Resolve**

- (a) To approve the revenue budget variations as shown at appendix 1.**
- (b) To approve the updated capital programme as shown at appendix 2.**
- (c) To note the updated lending list as shown at appendix 3**

**The Executive recommends to Council**

- (a) To note the mid-year review of treasury management at appendix 4**

#### **1. PURPOSE**

- To identify the principal areas where there are likely to be departures from the approved 2018/19 budget and summarise the likely overall variation based on the information available to the end of October 2018. Also to inform Members of progress that has been made with achieving savings and efficiencies. All shown at Appendix 1.
- To update Members on progress with the capital programme and funding and bring the latest details for members' approval as shown in Appendix 2.
- To update Members on the lending list for treasury management purposes as shown in Appendix 3.
- To bring the mid-year treasury management review for information as shown at appendix 4.

## TEIGNBRIDGE DISTRICT COUNCIL

### 2. SUMMARY

- 2.1 Opening general reserves for the year are £1.9 million plus earmarked reserves of nearly £4.6 million for specific grants, contributions and carry forwards. The 2017/18 external audit is complete and no changes were made to the Teignbridge figures. There is a deficit of £16,370 forecast for 2018/19 arising from variations to the original budget.
- 2.2 A summary of revenue budget variations by service identified to date for the current year is shown below with favourable variations indicated by a minus sign as per the details shown in Appendix 1.

Service	Variance £
Development management	71,700
Corporate services	-44,300
Economy & assets	-24,750
Environment	37,350
Leisure	4,280
General	-27,910
<b>TOTAL ADVERSE BUDGET VARIATION TO DATE</b>	<b>16,370</b>

- 2.3 A contribution to capital of £0.55 million is assumed in the current year enabled through new homes bonus receipts but these reduce in later years. A further £0.36 million is anticipated towards specific IT, economic development and car parking schemes. Estimated rates retention above the baseline and pooling gain is assumed to grow until the end of 2019/20 however a reset of the baseline is due in 2020/21 which could eliminate a significant element of the gains made. The business rates retention reserve holds £1 million to assist with this eventuality in 2020/21. Likely shortfalls for future years after 2020/21 will need to be addressed as part of the budget setting and monitoring process this year and next year. The revenue contributions to capital reserve now holds £3.0 million towards current year and future years' capital projects.

### 3. BACKGROUND

- 3.1 A report on the variations to the 2018/19 budget as identified at the end of August was brought to members on 2 October 2018. At that time an updated capital programme was also approved and updated lending list noted. The external auditors are currently checking the £33 million housing benefits claim in time to certify it by the deadline of 30 November. Their findings will be reported to the next Audit Scrutiny Committee.

### 4. VARIATIONS BY SERVICE (revenue shown in appendix 1 and capital in appendix 2)

#### 4.1 Building control

- At the end of October fee income is forecast to be 11% higher than the target budget of £361,000. Any surplus/shortfall at the year end will be charged to the building control reserve so will not affect Teignbridge's general reserve. Income received to date is also up on that at the same time last year.

## TEIGNBRIDGE DISTRICT COUNCIL

- Teignbridge became the Lead Authority fully hosting The Devon Building Control Partnership with South Hams and West Devon councils from 1 April 2017 and holds the partnership earmarked reserves on behalf of the partners.

### 4.2 Development management including land charges

- At the end of October planning application income is forecast to be £55,700 down on the original budget of £900,000 and significantly up on last year. Planning application numbers are 1% down at the end of October as compared with last year.
- The Executive of 30 May 2017 agreed the introduction of charges for pre-application planning advice from 1 July. At the end of October we were £9,000 up compared to the estimated income of £26,000 for the year.
- Planning public enquiry costs are likely to be in the region of £25,000 this year
- Land charges income is forecast to be marginally below the projected budget of £211,000. The number of searches is 9% down on last year. A search can be a full or part search or individual questions.

### 4.3 Corporate leadership team & corporate services

The corporate leadership team is currently under review. The deputy chief executive has been appointed head of paid service with a job title of Managing Director. The remaining Business Lead has ceased employment with the Council and an interim Strategic Leadership team is in place until a permanent restructure is confirmed and approved. It is anticipated that a new permanent structure can deliver significant savings for the council.

#### Democratic services

Portfolio holder decision 14 - 2018 was approved on 16 August to contribute just over £10,000 to the County Council elector fund. This has to come from reserves as it was unknown at the time of the budget whether county would be continuing with the scheme.

#### Finance

- Net interest is forecast to be up £64,700 on the base net income budget of £31,700 as we have not had to undertake long term borrowing. Base rates increased from 0.5% to 0.75% in August. Call account rates continue to be low because of the changes to bank regulations over the past few years. Our average lending rate to the end of September is 0.61% which is well above the average benchmark 7 day London Interbank Bid rate of 0.52% in the same period.

In April we arranged lending of -

£1 million to Close Brothers at 1.00% for 346 days to 15 March 2019

## TEIGNBRIDGE DISTRICT COUNCIL

£8 million to the Debt Management Office at 0.25% for 4 days to 20 April 2018  
and we had £8.3 million lent out or in call accounts at the end of the month.

In May we arranged lending of -

£1 million to Nottingham BS at 0.55% for 87 days to 10 August 2018  
£1 million to Coventry BS at 0.70% for 178 days to 9 November 2018  
£1 million to the Debt Management Office at 0.25% for 6 days to 21 May 2018

and we had £5.5 million lent out or in call accounts at the end of the month.

In June we arranged lending of -

£1 million to the Debt Management Office at 0.25% for 4 days to 19 June 2018  
and we had £12.9 million lent out or in call accounts at the end of the month.

In July we arranged lending of –

£1 million to the Debt Management Office at 0.25% for 2 days to 4 July 2018  
£2 million to the Debt Management Office at 0.25% for 3 days to 19 July 2018  
£1 million to Nationwide BS at 0.71% for 252 days to 25 March 2019  
£1 million to Nationwide BS at 0.69% for 179 days to 11 January 2019

and we had £14.4 million lent out or in call accounts at the end of the month.

In August we arranged lending of –

£3 million to the Debt Management Office at 0.45% for 8 days to 9 August 2018  
£1 million to Santander at 0.90% for 216 days to 19 March 2019  
£2 million to the Debt Management Office at 0.5% for 5 days to 20 August 2018

and we had £15.0 million lent out or in call accounts at the end of the month.

In September we arranged lending of –

£1 million to the Debt Management Office at 0.5% for 14 days to 17 September 2018  
£1 million to Thorrock Council at 0.9% for 193 days to 15 March 2019  
£1 million to the Debt Management Office at 0.5% for 1 day to 7 September 2018  
£1 million to the Debt Management Office at 0.5% for 10 days to 17 September 2018

and we had £11.8 million lent out or in call accounts at the end of the month.

In October we arranged lending of –

£1,000,000 to Santander at 0.85% for 163 days to 14 March 2019  
£5,000,000 to the Debt Management Office at 0.5% for 7 days to 22 October 2019

## TEIGNBRIDGE DISTRICT COUNCIL

and we had £12.0 million lent out or in call accounts at the end of the month.

- Municipal Mutual Insurance (MMI) provided insurance for the Council until early 1993 when policies were transferred to Zurich Municipal. MMI experienced financial difficulties in 1992 and a scheme of arrangement was agreed by local authority creditors to facilitate the solvent run-off of the company. The scheme has been triggered and we have to pay a percentage of our potential liability of £341,000.

In 2013/14 a provision was made for the first levy notice of 15% or £51,000 which the administrator issued in April 2013 and was billed and paid early in 2014. A further reserve of 35% or £119,000 for likely claims in future years was also set up. Together these allowed for a total 50% of the potential liability as recommended by the broker. MMI's accounts to 30 June 2015 were published and we paid a second levy of 10% or £34,000 in April 2016.

We were not required to pay any more after publication of the accounts to 30 June 2017 and 2018. We still have £85,000 in reserve for the potential remaining 25%.

- **Human resources, legal and procurement**

The additional costs of providing GDPR officer support have been investigated. An interim arrangement is being implemented using officers within Internal Audit and back funding audit work with the Devon Audit Partnership. This is likely to be in the region of £15,000 per annum.

#### **4.4 Economy & assets**

- Repairs and maintenance are on target to be within the budget of £871,000. Actual spend to the end of October is £415,000.
- General rental income has seen some adverse variances due to renewed leases but some favourable variations offset this resulting in an overall adverse variance of £32,000. Market income is forecast to be down by £13,000. These variations are minor compared to the total property income budget of £2.7 million.
- There is a favourable variation in car parking income of £70,000 compared with the original budget of £3.5 million. The increase is due to higher visitor numbers and good weather experienced over the Summer.

#### **Capital**

- Council of 6 June 2016 resolved to commit funding to the Superfast Broadband Connecting Devon and Somerset phase 2 programme. An investment of £250,000 financed from capital receipts was confirmed and the collaboration agreement signed. This is now anticipated to be paid in 2019/20.

## TEIGNBRIDGE DISTRICT COUNCIL

- The Forde House refurbishment works to relocate internal departments and accommodate the Department for Works and Pensions were completed within budget.
- The £2.1 million glass canopy and fascia redevelopment works at Market Walk were recently unveiled and progress continues on the remaining works.
- The £220,000 resurfacing and drainage works at Dawlish Warren car park, funded from capital receipts and revenue contribution have reached practical completion.
- Following Council on 25 April 2018, the Minerva Building on the Brunel Industrial Estate was purchased for £2 million plus £125,000 costs. Further works totalling £1.75 million are anticipated prior to the building being leased. Funding for this project is a combination of grant and prudential borrowing. To date, no long-term external borrowing has been required.
- At Executive on 4 September consideration was given to the alternative uses for the Brunswick Street site in Teignmouth including the ongoing provision of car parking. Resolutions in relation to the site will be brought to Full Council in due course.

### **Capital - coastal & drainage**

The current year's programme is fully funded by budgeted grants of £1.7 million from the Environment Agency for regional coastal monitoring and flood alleviation and prevention. Of this £770,000 was received in the previous year, £402,000 has been received to date in 2018/19, with the remainder anticipated in the current financial year. Teignmouth sea defence wall construction works at the Point car park were completed in 2017/18.

### **4.5 Environment**

- A waste savings sharing agreement with county was approved last year. An extra £26,000 is expected to be received this year and further contributions in future years which will cover the costs of implementing and on-going costs of extra waste and recycling rounds.
- Executive approved the adjustment to wage rates for waste on 30 October 2018. This will cost just under £9,000 this year but will amount to in excess of £90,000 for a full year after identified savings. Further savings will be explored as part of the annual budget process.
- The rural skip service is likely to continue to cost an extra £29,000 this year due to increases in contractors costs to deliver the service.

### **4.6 Housing**

- Teignbridge has been allocated a flexible homelessness support grant of nearly £186,000 for the current year with just over £266,000 next year. This is to fund additional costs due to changes in homelessness legislation in 2017. Current rent

## TEIGNBRIDGE DISTRICT COUNCIL

support, young persons homeless prevention and money advice services continue. Also extra and improved staffing resources will be required long term to prevent and deal with homelessness and these will be funded by the grant.

- Teignbridge was also allocated a significant community housing fund grant of just over £581,000 towards the end of 2016/17. This is to enable local people to play a leading and lasting role in solving housing problems, creating genuinely affordable homes and strong communities in ways that are difficult to achieve through mainstream housing. Funds have been allocated to staffing and project costs and grant funding for communities. This allows communities to bid for funds towards community engagement, technical support and capital costs.

- **Capital**

We received £1.193 million of the government Better Care capital funding for 2018/19 towards statutory disabled facilities and other discretionary grants in July via Devon County Council. We also have £513,000 carried over from last year giving a total £1.706 million for the current year. £700,000 is now anticipated and budgeted each year for right to buy receipts towards the affordable housing programme. We received £630,000 for last year in April 2018 and were due £173,000 for 2018/19 as at 11 September. No previously paid renovation grants over the capital receipts de minimus of £10,000 have so far been recovered by Teignbridge this year. £27,000 of smaller repayments have been received in revenue.

#### 4.7 Leisure

- Leisure has experienced growth in their membership income for a number of years. Actual numbers are slightly up on last year with a favourable variation of £10,000.
- Swimming lesson income is predicted to be down by £14,000 by the end of the year.
- There is a predicted staff saving in year of around £40,000. These savings have been used as part of the corporate vacancy management target of £200,000.
- We currently have £9.5 million available in S106 receipts to date. These are over many services and parishes but the majority is for leisure including open spaces, sports provision and play

#### 4.8 Licensing

Licensing income looks to be on target to achieve the budget of £202,210. Income to date is slightly less than last year.

#### 4.9 Revenue & benefits plus customer services

- Universal Credit started for Teignbridge from 9 November 2015 for new single job seekers with the full service rolling out from September 2018. There has been some help from the department for work and pensions in connection with the transition but the specific funding received this year is relatively low at £24,682.
- The impact of Universal Credit is likely to make collection of housing benefit overpayments more difficult. There will be a greater number which will need to be recovered via a sundry debtor account rather than recovering from ongoing benefit as a gradual switchover of cases arises. This may impact on our bad debt provision going forward. These numbers will be monitored and adjustments made as evidence comes forward as part of our budgeting for the medium term financial plan.

#### 4.10 Spatial planning

We received the first payments of community infrastructure levy (CIL) in 2015/16. The money is being coded by town/parish and any payments due to them are made half-yearly. Teignbridge has recognised £5.6 million of usable CIL to date after payments due to parishes. £2.8 million has been spent on infrastructure, with the remainder committed to existing approved projects including Suitable Alternative Natural Green Space (SANGS), green infrastructure and provisions for local transport, education and sports. As CIL may be paid in instalments, the actual cash balance after parish payments and expenditure is £0.5 million.

##### Capital

- Council approved the purchase of land at Dawlish on 4 July 2016 and following instatement works, the 65 acre countryside park was opened to the public on 3 September 2017. At Council on 25 September 2017, the acquisition of approximately 38 hectares of land at South West Exeter for the creation of SANGS was approved, which is likely to occur in phases. At Council on 2 October 2018, funding was approved for the establishment and ongoing maintenance of the South West Exeter SANGS.
- Council of 26 September 2016 approved that Teignbridge becomes a shareholder of the public sector Energy Services Company. This will involve providing up to £98,000 of revenue support towards procurement from an identified revenue carry forward. In the longer term capital investment of up to £177,000 is expected into the Joint Venture Company, currently anticipated in 2019/20 with net revenue returns expected from 2034/35.

#### 4.11 General revenue

- Council tax support cost continues to go down and was just under £8.85 million at the end of October which is £334,000 below the original estimate of £9.2 million. Council tax support falls directly to Teignbridge including parishes (12.6% together), county, fire and police and is being monitored monthly.

## TEIGNBRIDGE DISTRICT COUNCIL

- Our business rateable value (RV) has increased slightly and stands at just over £85.1 million. The number of assessed businesses has increased from 5,294 to 5,303. These are the end of October 2018 figures as compared to the beginning of the current year. We still seem to be on target to achieve the total budget of £5.5 million business rates retention income for the year (including rolled in RSG). We are also producing more regular monitoring reports of our business rates income and reliefs to identify any variations on the predicted additional income as a result of being a business rate pilot for 2018/19.

### 4.12 General savings progress

- Following Executive of 22 July 2014, Council approved on 31 July 2014 the implementation of a shared ICT service between Exeter, Teignbridge and East Devon district councils. This is through a stand-alone limited company called Strata Service Solutions Ltd which was launched on 1 November.

The current year budget included a savings target of £90,000. This is expected to be at least £104,000 this year thus a favourable variance of £14,000 per annum.

- Salary vacancy savings at the end of October look to be in line with the required budget target of £200,000. We will continue to work towards this target. The changes in the management structure, departures and interim arrangements for the strategic leadership team and other staffing adjustments result in an adverse variance in 2018/19 £103,000. This is after allowing for the full costs of the pay award. There is a requirement to pay holiday pay on overtime and this will cost at least £18,000 this year and ongoing. We had already provided £17,000 in the current year for this. It is anticipated there will be significant ongoing savings in future years.
- Utility costs for gas, electricity and water are showing a small favourable variance of £23,000 as at the end of October. It is predicted this saving will be ongoing.
- The latest BEST 2020 review is being finalized in conjunction with the review of service business plans and any identified savings will be fed into the annual budget process.
- We have received confirmation that the grant received from Government in relation to council tax annex discounts is payable to the general fund. This amounts to £39,000 per annum.

### 4.13 Future years

- Council tax has been closed down and balanced for 2017/18 and a surplus of £1 million is available for sharing with county, fire and police in 2019/20. This has arisen mainly because of the reduction in council tax support. Teignbridge will get £126,000.
- The number of dwellings in Teignbridge on the valuation list is monitored monthly and the data feeds into the new homes bonus (NHB) calculation. At 10 September there were 62,406 dwellings which is 751 more towards the next NHB

## TEIGNBRIDGE DISTRICT COUNCIL

payment for 2019/20. We are therefore 131 above the target estimated 620 growth in homes. We have also reduced the number of empty homes by the 1 October deadline. The reduction was 23 over the same time last year. It is expected that government will amend the 0.4% baseline deduction as they have intimated such changes are likely in the forthcoming provisional settlement. It is not known at this stage what this will mean. As growth is around 1.2% that means new homes bonus is reduced by one third plus whatever changes are stated later in the year.

- Consultation has taken place on future funding settlements. The New Homes Bonus baseline is anticipated to change as highlighted above and it is proposed to abolish New Homes Bonus from the end of 2019/20 and replace with an alternative form of housing delivery funding in 2020/21. This is significant for the Council as we receive over £2 million from this source of income. No details of the proposed changes are available at present. Business rates baseline funding will be reset in 2020/21. It had been considered likely that we will lose the majority of the business rate growth retention income we have received in recent years as a result of this reset. These losses will be significant for future budget setting and financial planning. We have recently been notified that the Local Government Funding Reform Steering Group are now favouring a partial or phased reset which, if followed through will be better news for us as it will mean less of our growth is taken away in 2020/21. We hold £1 million in the business rates earmarked reserve to help cushion the impact of any initial losses of income as a result of the baseline reset. Bids can be made to become a business rate pilot for 2019/20. The Devon pilot group has submitted a bid for 2019/20 however the Government have stated that they will need fewer pilots next year.
- The impact of the eventual Brexit deal between the UK and the EU is still unknown. Therefore drawing any conclusions about its impact for local government is not possible at this stage. We will continue to monitor any information we receive in relation to the draft deal which requires Parliamentary approval as part of our risk and financial management.
- The Chancellor presented his Autumn Budget 2018 statement on 29 October. The statement suggested no further significant cuts in funding however the changes already highlighted in this report in respect of business rates and New Homes Bonus are still to be clarified. The Budget statement provided some help for small businesses by reducing their business rates payable by one third together with a mandatory relief for public conveniences business rates which will be fully funded by grant. Savings will be costed into future budget planning. The statement also offered funding pots for which bids could be made towards housing, disabled facilities grants and future high street funding. Specific detail on the impact of our core funding for next years budget setting process will be provided in the provisional settlement which is due to be announced on 6 December.
- The medium term financial plan currently assumes a £5 council tax increase for 2019/20 and thereafter. A shortfall of £71,680 is currently estimated for that year from the original budget papers in February 2018. The current variations above suggest there will be savings of £104,880 to eliminate this deficit. Further work will be carried out to review other pressures – mainly in relation to the changes to

## TEIGNBRIDGE DISTRICT COUNCIL

New Homes Bonus and business rates baseline highlighted above as we progress the initial budget proposals for 2019/20, 2020/21 and 2021/22. Savings will need to be worked up and identified to offset the likely significant reductions in funding from Government in 2020/21 and thereafter through Business Plans and the BEST2020 process.

- The draft council tax base has been estimated for next year. This shows a volume increase of 1.3% for council tax income. These figures will be fed into the initial budget proposals for 2019/20 to be considered at Executive on 8 January 2019.

### 5. TREASURY MANAGEMENT

#### 5.1 Lending list (appendix 3)

The authorised treasury management list was approved at the 2018 February budget meeting and updated at Executive on 17 July and 2 October. There have been no changes since then to the tiered ratings for UK banks and building societies.

The previous Standard Life sterling liquidity fund (money market fund) merged on 5 October 2018 into the Aberdeen Liquidity Fund under Aberdeen Standard Investments. This follows the merger between Standard Life plc and Aberdeen Asset Management in August 2017. The new fund operates on the same instant access principles as the Standard Life fund and has the same AAmmf rating. It is larger in size and scale than the previous fund. This continues to provide a good match with the Council's treasury management strategy.

#### 5.2 Mid year review

The mid year review of performance which is required to be noted by Council is attached as appendix 4. This shows good returns of 0.61% being in excess of the benchmark London interbank bid rate of 0.52%. Interest earned to the end of September is £40,472, more than last year due to higher interest rates. The forecast for the year is £96,450, an increase of £56,610 compared to 2017/18. This reflects the base rate rise on 2 August 2018 to 0.75% and to a lesser extent, an increase in funds available for lending out.

### 6. MAIN IMPLICATION

The main implication members need to be aware of is as follows:

#### Resources

The report notes an overall adverse revenue variation of £16,370 identified this year to the end of October. Cash flow is forecast to be positive over the next twelve months apart from any borrowing for significant new projects. Revenue

## TEIGNBRIDGE DISTRICT COUNCIL

reserves are considered to be sufficient to sustain the council over the three year financial plan period. Capital is funded over the medium term.

### 7. TIME-SCALE

This report covers the year 2018/19 but also refers to the accounts for 2017/18 and the financial plan for 2018/19 to 2020/21.

### 8. JUSTIFICATION

Regular budget monitoring is required by the Council's Constitution and Financial Rules.

### 9. DATE OF IMPLEMENTATION (CONFIRMATION OF DECISION SUBJECT TO CALL-IN)

10.00 a.m. on 11 December 2018

**Martin Flitcroft**  
**Chief Finance Officer**  
**Interim Head of Corporate Services**

<b>Wards affected</b>	All
<b>Contact for more information</b>	Martin Flitcroft 01626 215246 or Claire Moors 01626 215242
<b>Background Papers (For Part I reports only)</b>	Current year budget monitoring files; Capital files; Latest year end files;
<b>Key Decision</b>	Yes
<b>In Forward Plan</b>	Yes
<b>In O&amp;S Work Programme</b>	No
<b>Appendices</b>	App 1 – Revenue variations App 2 – Capital programme App 3 – Treasury management lending list App 4 - Treasury management mid year review

Description	Forecast 2018/19	Forecast 2019/20	Forecast 2020/21
<b>UPDATED BUDGET 22.2.18</b>	<b>16,613,480</b>	<b>15,598,830</b>	<b>15,586,630</b>
<b>Major budget variations :</b>			
Development management pre-planning application charging - increase in income	(9,000)	(9,000)	(9,000)
- reduction in planning income	55,700	55,700	55,700
Planning public enquiry costs	25,000	0	0
Corporate services - Elector Fund contribution	10,400	0	0
- GDPR - additional resourcing costs	10,000	15,000	15,000
- net finance investment extra income projected at end of October	(64,700)	(9,000)	(9,000)
Economy & assets - general rental income decrease in income forecast at end of October	32,250	32,250	32,250
- markets shortfall in income forecast at end of October	13,000	13,000	13,000
- car parking surplus income at end of October	(70,000)	(35,000)	(35,000)
Environment - cleansing/waste costs - extra rounds/implementation	25,660	65,660	67,520
- waste savings sharing agreement with county from 1 April 2017 - additional income	(25,660)	(65,660)	(67,520)
- waste salary adjustments - agreed Executive October 2018	40,860	138,420	147,870
- waste savings sharing agreement with county - additional income and other savings	(32,070)	(47,170)	(57,810)
- other income variations - recycling/sales	0	0	0
- rural skip service - increase in costs	28,560	29,360	30,160
Leisure - membership income at end of October	(10,000)	(10,000)	(10,000)
- swimming lesson income end of October	14,280	14,280	14,280
Strata savings from 1 April 2018 compared to budget	(13,770)	(13,770)	(13,770)
Estimated salary vacancy/other savings/pressures	103,130	(108,530)	(103,270)
Holiday pay agreed on overtime less provision	17,890	17,890	17,890
Agreed BEST 2020 savings	0	0	0
Council tax annex discount grant payable to general fund	(39,160)	(39,160)	(39,160)
Council tax surplus 2017/18 Teignbridge share for 2019/20	0	(126,150)	0
Utility cost savings	(23,000)	(23,000)	(23,000)
Use previous year extra reserves to reduce shortfall	(73,000)	0	0
<b>ESTIMATED -SURPLUS/SHORTFALL</b>	<b>16,370</b>	<b>(104,880)</b>	<b>26,140</b>

**Note :**

In addition there is £1.0 million available in the business rates reserve as a buffer against budget shortfalls and income fluctuations

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TEIGNBRIDGE DISTRICT COUNCIL  
CAPITAL PROGRAMME 2018-19 TO 2020-21

Appendix 2

			35,142	26,255	31,756	14,696	Totals (£'000)
Code /bid no.	Asset/Service Area	Description	ORIGINAL	LATEST	LATEST	LATEST	Teignbridge 10
			BUDGET	BUDGET	BUDGET	BUDGET	
			2018-19	2018-19	2019-20	2020-21	
			£'000	£'000	£'000	£'000	
			(Inc Fees)	(Inc Fees)	(Inc Fees)	(Inc Fees)	
Bid 52	* Bakers Park	Provision for Bakers Park development (S106)	489		489		8. Out and about and active
KW4	Bishopsteignton	Bishops Avenue improvements (RS)	-	20			9. Strong communities
KL1	Broadband	Contribution to Superfast Broadband (CR)	-	-	250		6. Investing in prosperity
Bid 28	* Broadmeadow Sports Centre	Provision for Broadmeadow Sports Centre Asbestos (CR)	-		101		8. Out and about and active
Bid 31	* Broadmeadow Sports Centre	Provision for Broadmeadow Sports Centre central boiler installation (CR)	45		45		8. Out and about and active
Bid 4	* Broadmeadow Sports Centre	Provision for Broadmeadow Sports Centre Improvement Plan (S106/BC).	1,545		1,545		8. Out and about and active
K1	Broadmeadow Sports Centre	Broadmeadow Sports Centre Roof (CR)	68		68		8. Out and about and active
KM8	Car parks	Multi-storey office facilities (RS)	-	33			3. Going to town
KM9	Car parks	Point Car Park Machinery (RS)	-	20			3. Going to town
Bid 229e	* Carbon Management	Provision for Carbon Management Programme (CR)	340	-	340		10. Zero heroes
KY5	Carbon Management	Energy/Utility Reduction (RS)	75	308			10. Zero heroes
Bid 245	* Churchyards	Provision for Churchyards (CR)	-	-	45		4. Great places to live & work
KD4	Churchyards	Closed Churchyards (RS)		57			4. Great places to live & work
KR3	Coastal Monitoring	SW Regional Coastal Monitoring Programme. (GG,EC)	732	1,123	798	724	9. Strong communities
KR5	Coastal Monitoring	Coastal asset review: project management support (EC)	-	176			9. Strong communities
KR6	Coastal Monitoring	Coastal asset review (EC)	200	327			9. Strong communities
KW2	Collett Way	Collett Way - re-lay to adoption standard (RS)	-	52			6. Investing in prosperity
K18	Combeinteignhead	Combeinteignhead (Env.Agency)	155	10	140		9. Strong communities
KW3	Cricketfield	UTC Cricketfield Footpath (CR)	-	-	45		3. Going to town
Bid 211	* Cycle paths	Provision for Other cycling (CIL)	50	-	280	100	7. Moving up a gear
Bid 211	* Cycle paths	Provision for Dawlish/Teignmouth Cycle Schemes (later years) (CIL)	-			65	7. Moving up a gear
Bid 211	* Cycle paths	Provision for Heart of Teignbridge cycling (later years) (CIL)	-			115	7. Moving up a gear
KG8	Cycle paths	(Updated) Dawlish/Teignmouth Cycle Schemes (CIL)	30	60	180	140	7. Moving up a gear
KG8	Cycle paths	(Updated) Heart of Teignbridge Cycle Provision (CIL)	120	-	180	50	7. Moving up a gear
Bid 1	* Dawlish Leisure Centre	Provision for Dawlish Leisure Centre Playing Pitch Improvement Plan (S106)	175		350		8. Out and about and active
Bid 2	* Dawlish Leisure Centre	Provision for Dawlish Leisure Centre Improvement Plan (CIL).	-			435	8. Out and about and active

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				BUDGET	BUDGET	BUDGET	BUDGET	
				2018-19	2018-19	2019-20	2020-21	
				£'000	£'000	£'000	£'000	
				(Inc Fees)	(Inc Fees)	(Inc Fees)	(Inc Fees)	
Bid 7	* Dawlish Leisure Centre	Provision for Dawlish Leisure Centre Drainage Overhaul & Improve (CR)	40		40			8. Out and about and active
<b>KR7</b>	<b>Dawlish Warren</b>	<b>Contribution to Dawlish Warren Beach Management Scheme (EC)</b>		20				9. Strong communities
KM1	Dawlish Warren	Dawlish Warren Car Park Renovations (RS,CR)	200	220				3. Going to town
KS5	Dawlish Warren	Dawlish Warren Toilets (RS)	-	12				4. Great places to live & work
Bid 78	* Dawlish Warren Visitor Centre	Provision for Dawlish Warren Visitor Centre (HRA/S106/CIL,EA,HLF,EC)	-		1,464			4. Great places to live & work
KB4	Dawlish Warren	Fencing (EC)	-	11				4. Great places to live & work
KP2	Dawlish Water	Wall Repair (RS)	-	25				4. Great places to live & work
Bid 46	* Play area equipment/refurb	Provision for Decoy refurb (S106/CIL)	-	-	150			8. Out and about and active
KL4	Employment Land	Purchase of Minerva Building (GG,PB)	-	3,876				6. Investing in prosperity
KL5b	* Employment Land	Provision for other employment land purchase and infrastructure (BC: Prudential Borrowing)	-	2,000				6. Investing in prosperity
K34	Energy Company	Energy Company (CIL)	177	-	177			9. Strong communities
Bid 125a	* Forde Road Depot	Provision for Forde Road depot concrete repairs (RS)	-	46				5. Health at the heart
Bid 297	* Heart of Teignbridge	Provision for Heart of Teignbridge Employment Sites (BC: Prudential Borrowing; CR)	-		5,350			6. Investing in prosperity
Bid 297	* Heart of Teignbridge	Provision for Heart of Teignbridge Employment Sites (BC: Prudential Borrowing; CR)	-		200			6. Investing in prosperity
Bid 87	* Heart of Teignbridge	Provision for A382 Improvements (CIL) (2020-26)	-			1,000		7. Moving up a gear
KW6	Heart of Teignbridge	Kingsteignton/Kingskerswell Education Provision (CIL)	1,250	1,250				4. Great places to live & work
KW8	Heart of Teignbridge	Houghton Barton land (EC)	-	23	134			4. Great places to live & work
J1	Housing	Discretionary - Disrepair Loans & Grants (GG/CR)	105	50	50	50		1. A roof over our heads
JW4a	Housing	Statutory - Disabled Facilities (GG)	1,000	1,706	1,000	1,000		1. A roof over our heads
JY3	Housing	Broadhempston Community Land Trust (CR)	-	60				1. A roof over our heads
JY3	Housing	Exception site Starcross (CR)	-	65				1. A roof over our heads
JY3	Housing	Exception site Denbury (CR)	-	50				1. A roof over our heads
JY3	Housing	Downsizer initiative Shutterton Dawlish Warren (CR)	-	180				1. A roof over our heads
JY3	Housing	Surplus TDC sites in Newton Abbot (East St) (CR)	-	5				1. A roof over our heads
JY3	Housing	Surplus TDC sites in Teignbridge (Drake Rd) (CR)	-	5				1. A roof over our heads
JY3	Housing	Longstone Cross Ashburton (CR)	-	-	100			1. A roof over our heads
JY3	Housing	Compulsory purchase/Empty Homes Projects (CR)	314	-	300			1. A roof over our heads
JY3	Housing	Shared Equity Scheme (CR)	-	105				1. A roof over our heads
JY3	Housing	Jubilee Close, Teignmouth (CR)	-	-				1. A roof over our heads
JY3	Housing	Affordable Housing unallocated (CR)	86	-	296	200		1. A roof over our heads
JY5	Housing	Additional plots Haldon (S106,CR)	44	278				1. A roof over our heads

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			BUDGET	BUDGET	BUDGET	BUDGET	
			2018-19	2018-19	2019-20	2020-21	
			£'000	£'000	£'000	£'000	
			(Inc Fees)	(Inc Fees)	(Inc Fees)	(Inc Fees)	
Bid 80	* HRA contribution	Provision for HRA (CIL)	35		118	61	4. Great places to live & work
KV1	IT - Committee	Replacement IT Equipment/ Committee Mgt (RS)	-	21			What else we will do
KV3	IT - provision for Mobile Working	Mobile Working (RS,CR)	-	55	68		What else we will do
KV4	IT - Customer Services	Customer Portal (RS)	-	189			What else we will do
KV6	IT - Convergence	Strata projects: Convergence Projects (RS)	-	40			What else we will do
KV6	IT 17-18 Strata projects	Strata business plan (RS)	-	81			What else we will do
KV6	IT - Car parks	(Updated) Car Park systems upgrade (RS)	-	11			3. Going to town
KV7	IT - Planning	Strata projects: Uniform Implementation (RS)	-	58			What else we will do
KV8	IT - Capital contribution	Ongoing contributions towards Strata (RS)	41	41	41	41	What else we will do
KV9	IT - HR	Strata projects: Human Resources (RS)	-	31			What else we will do
KW1	IT - Customer Services	Reception Management (RS)	-	28			What else we will do
KW7	IT - Customer Services	Open channel/open access (RS)	-	11			What else we will do
KP3	Kenton	Kenton Watercourse (Env.Agency)	-	100			4. Great places to live & work
Bid 300	* Kingsteignton	Provision for Kingsteignton Open Space (S106)	60	60			8. Out and about and active
KG9	Leisure	CCTV (RS)	-	40			8. Out and about and active
K11	Marsh Barton	Marsh Barton Station (CIL) now £1.3 million by March 2021	-			1,300	7. Moving up a gear
Bid 43	* Michaels Field	Provision for Michaels Field Phase 2 (S106/grant)	-		136		8. Out and about and active
Bid 23	* Newton Abbot Leisure Centre	Provision for Newton Abbot Leisure Centre fire alarm control panel (2021-26)(CR)	30				8. Out and about and active
Bid 236a/b & 237	* Newton Abbot Leisure Centre	Provision for Newton Abbot Leisure Centre AC Unit (CR), Accoustic main sports hall & sports hall cooling system. (2021-26)	90				5. Health at the heart
Bid 3	* Newton Abbot Leisure Centre	Provision for Newton Abbot Leisure Centre Improvement Plan (S106) (2021-26)	350				8. Out and about and active
KG6	Newton Abbot Leisure Centre	Newton Abbot Leisure Centre lift refurbishment (RS)	-	41			8. Out and about and active
KF5	Newton Abbot Leisure Centre	Newton Abbot Leisure Centre Gym Equipment (RS)	40	109	40	40	8. Out and about and active
Bid 299	* Newton Abbot Town Centre	Provision for Newton Abbot Town Centre Improvements (BC: Prudential Borrowing;CR)	18,000	2,100	13,800	4,500	3. Going to town
KL6	Newton Abbot Town Centre	Market Walk improvement works (CR, RS, Prudential Borrowing)	-	1,950			3. Going to town
KL9	Newton Abbot Town Centre	Cattle Market Enabling Works (RS)	-	200			3. Going to town
KL7	Newton Abbot Town Centre	Bradley Lane Enabling Works (RS)	-	153			3. Going to town
KW5	Open Spaces	Cirl bunting land (S106)	-	134			4. Great places to live & work
KB3	Open Spaces	Purchase of Gator (EC)	-	13			4. Great places to live & work
KS4	Pavilions Teignmouth	Pavilions, Teignmouth (RS)	-	64			3. Going to town
K7	Penns Mount Park	Penns Mount Hilltop Park (CIL)	-			400	4. Great places to live & work
Bid 44	* Play area equipment/refurb	Provision for Dawlish play space refurb provision (S106)	-	-	75		8. Out and about and active

TEIGNBRIDGE DISTRICT COUNCIL  
CAPITAL PROGRAMME 2018-19 TO 2020-21

Appendix 2

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				BUDGET	BUDGET	BUDGET	BUDGET	
				2018-19	2018-19	2019-20	2020-21	
				£'000 (Inc Fees)	£'000 (Inc Fees)	£'000 (Inc Fees)	£'000 (Inc Fees)	
Bid 45	* Play area equipment/refurb	Provision for Powderham Newton Abbot play space equipment (S106)	30	30				8. Out and about and active
Bid 47	* Play area equipment/refurb	Provision for Darracombe Newton Abbot (S106)	74	74				8. Out and about and active
<b>KJ1</b>	* Play area equipment/refurb	Coombe Valley Play Area (S106)	-	50				8. Out and about and active
Bid 49	* Play area equipment/refurb	Provision for Den, Teignmouth play area overhaul (2020-25) (S106/CIL)	200		200			8. Out and about and active
Bid 50	* Play area equipment/refurb	Provision for Higher Woodway, Teignmouth play area refurb (S106)	30	30				8. Out and about and active
Bid 51	* Play area equipment/refurb	Provision for Meadow Centre Teignmouth play area major refurb (S106)	30	30				8. Out and about and active
Bid 58	* Play area equipment/refurb	Provision for Palace Meadow, Chudleigh play space overhaul (2020-25) (S106)	-			15		8. Out and about and active
Bid 67	* Play area equipment/refurb	Provision for Teignbridge-funded play area refurb/equipment (CR)	114		114			8. Out and about and active
KJ2	Play area equipment/refurb	Ogwell play area (S106)	-	43				8. Out and about and active
KS1	* Public Conveniences	Provision for Wallgate Replacements (RS)	75	82				2. Clean scene
KP1	Sandygate	Sandygate, Kingsteignton (Env.Agency)	-	-				9. Strong communities
Bid 79	* SANGS/Open Spaces	Provision for SANGS/Open spaces (CIL)	-					4. Great places to live & work
KB1	SANGS/Open Spaces	SANGS land purchase (GG; CIL)	700	190	475			4. Great places to live & work
<b>KB1</b>	<b>SANGS/Open Spaces</b>	<b>SANGS instatement (GG; CIL)</b>			<b>298</b>			4. Great places to live & work
KB7	SANGS/Open Spaces	SANGS: Dawlish (CIL)	-	177	-			4. Great places to live & work
Bid 95	* South West Exeter	Provision for South West Exeter Transport (2020-25) (CIL)	-			50		7. Moving up a gear
K13	South West Exeter	(Updated) SW Exeter Education Provision (CIL)	-	-	1,000	1,950		4. Great places to live & work
Bid 5	* Sport & Leisure	Provision for Sports Provision (CIL)	-		65	311		8. Out and about and active
Bid 72	* Sport & Leisure	Provision for Outdoor sport facility to serve Newton Abbot area (S106)	460	230	230			8. Out and about and active
K6	Sport & Leisure	Sports allocation (CIL)	358	-	358			8. Out and about and active
Bid 90	* Teignbridge	Provision for Education (CIL)	-			2,050		4. Great places to live & work
Bid 40	* Teignmouth Lido	Provision for Teignmouth Lido boiler replacement (CR)	100	100				8. Out and about and active
KM7	* Teignmouth Point	Point Upper, Teignmouth Resurface (GG;RS)	-	62				3. Going to town
Bid 227	* Sport & Leisure	Provision for Water Users' Facility (CR)	30	-	30			8. Out and about and active
Bid 228	Teignmouth Town Centre	Provision for Teignmouth Town Centre Improvements (BC: Prudential Borrowing)	6,900	6,900				6. Investing in prosperity
KL5	Teignmouth	Beachcomber café (RS)		130				3. Going to town
Bid 77	* Teignmouth	Provision for Teignmouth open space (S106)	50		50			4. Great places to live & work
Bid 116	* Waste Management	Provision for Bulking Station - replace telehandlers (2020-25) (CR)	-					2. Clean scene
KS8	Waste Management	Bulking Station - baler (RS)	-	205				2. Clean scene
Bid 118	* Waste Management	Provision for Bulking Station - replace Sortline (2020-25) (CR)	-					2. Clean scene
Bid 119	* Waste Management	Provision for Waste vehicles - additional RCV (CR)	-		142			2. Clean scene
Bid 120	* Waste Management	Provision for Waste vehicles - additional recycling (CR)	-		200			2. Clean scene
Bid 121	* Waste Management	Provision for: Replace kerbsider (CR)	50	50	100			2. Clean scene

**TEIGNBRIDGE DISTRICT COUNCIL  
CAPITAL PROGRAMME 2018-19 TO 2020-21**

**Appendix 2**

			35,142	26,255	31,756	14,696	Totals (£'000)
Code /bid no.	Asset/Service Area	Description	ORIGINAL	LATEST	LATEST	LATEST	Teignbridge 10
			BUDGET	BUDGET	BUDGET	BUDGET	
			2018-19	2018-19	2019-20	2020-21	
			£'000	£'000	£'000	£'000	
			(Inc Fees)	(Inc Fees)	(Inc Fees)	(Inc Fees)	
KT7	Waste Management	Replace forklift (CR)	-	-			2. Clean scene
KS0	Waste Management	Purchase of Wheeled Bins (RS)	99	99	99	99	2. Clean scene
KT6	Waste Management	Bulking Station Expansion or Relocation & Vehicle Space (RS)	-	70			2. Clean scene
			<b>35,142</b>	<b>26,255</b>	<b>31,756</b>	<b>14,696</b>	

		35,142	26,255	31,756	14,696	Totals (£'000)	
Code /bid no.	Asset/Service Area	Description	ORIGINAL	LATEST	LATEST	LATEST	Teignbridge 10
		BUDGET	BUDGET	BUDGET	BUDGET		
		2018-19	2018-19	2019-20	2020-21		
		£'000	£'000	£'000	£'000		
		(Inc Fees)	(Inc Fees)	(Inc Fees)	(Inc Fees)		
		<b>FUNDING GENERAL</b>					
		Capital Receipts Unapplied - Brought forward	(3,494)	(3,275)	(2,935)	(1,616)	
		Capital Receipts - Anticipated	(100)	(311)	(650)	-	
		Budgeted Revenue Contribution plus additional for specific schemes.	(550)	(3,901)	-	-	
		Government Grants	(987)	(3,836)	(1,919)	(724)	
		S106	(1,780)	(681)	(1,442)	(15)	
		Other External Contributions	(1,400)	(245)	(1,844)	-	
		Community Infrastructure Levy	(2,909)	(1,500)	(3,461)	(8,027)	
		Internal Borrowing	-	(83)	-	-	
		Capital Receipts Unapplied - Carried forward	1,183	2,935	1,616	1,436	
		Business cases: Prudential borrowing	(23,600)	(12,854)	(19,375)	(4,500)	
		Shortfall		-	-		
		<b>HOUSING</b>					
		Capital Receipts Unapplied - Brought forward	(758)	(1,296)	(1,516)	(1,520)	
		Capital Receipts - Anticipated	(50)	(60)	(50)	(50)	
		Capital Receipts - Right to Buy	(700)	(700)	(700)	(700)	
		Better Care Funding and other government grants.	(1,000)	(1,706)	(1,000)	(1,000)	
		Other External Contributions		(258)	-	-	
		Internal Borrowing					
		Budgeted Revenue Contribution plus additional for specific schemes.		-	-	-	
		Capital Receipts Unapplied - Carried forward	1,003	1,516	1,520	2,020	
		Shortfall		-	-		
		<b>TOTAL FUNDING</b>	<b>(35,142)</b>	<b>(26,255)</b>	<b>(31,756)</b>	<b>(14,696)</b>	
		Revenue contribution re: previous years' expenditure	(771)	-	(205)	(424)	
		<b>Programme Funding</b>					
		Budgeted Revenue Contribution	(550)	(552)	-	-	
		Additional Revenue Contributions towards specific schemes.		(361)			
		Revenue Contributions earmarked reserve.		(2,988)			
		Capital Receipts	(2,916)	(1,191)	(2,714)	(430)	
		Section 106	(1,780)	(939)	(1,442)	(15)	
		Other External Contribution	(1,400)	(245)	(1,844)	-	
		Grant	(1,987)	(5,542)	(2,920)	(1,724)	
		Community Infrastructure Levy	(2,909)	(1,500)	(3,461)	(8,027)	
		Internal borrowing		(83)	-	-	
		Business cases: Prudential borrowing	(23,600)	(12,854)	(19,375)	(4,500)	
		<b>Total</b>	<b>(35,142)</b>	<b>(26,255)</b>	<b>(31,756)</b>	<b>(14,696)</b>	
		Balance of capital receipts	(2,186)	(4,450)	(3,136)	(3,456)	

Key:

EC - External Contributions  
GG - Government Grant  
CR - Capital Receipt  
RS - Revenue Savings  
BC - Business Case  
\* - Provisional scheme, pending full approval  
**Denotes a change in the programme**

**Bold**

**TEIGNBRIDGE DISTRICT COUNCIL TREASURY MANAGEMENT:  
AUTHORISED LENDING LIST FROM 4 DECEMBER 2018**

**Lending list**

The current authorised lending list has been updated to take account of changes in ratings and is shown below for approval.

<b>Type of Lender</b>	<b>Details</b>	
1. Current Banker	Lloyds Bank	£3,000,000 limit
2. Local Authorities	All	£3,000,000 limit
3. UK Debt Management Office Deposit Facility (UK government AA/Aa2/AA rated) no limit.		
4. UK Treasury Bills (UK government AA/Aa2/AA rated) no limit.		
5. Public Sector Deposit Fund	AAAmmf	£3,000,000 limit
6. Aberdeen Liquidity Fund	AAAmmf	£3,000,000 limit
7. Top UK-registered Banks and Building Societies, subject to satisfactory ratings.		

<b>Institution</b>	<b>Tier</b>	<b>90 day limit</b>	<b>180 day limit</b>	<b>364 day limit</b>	<b>Overall limit</b>
		£	£	£	£
Close Brothers Ltd	1	3,000,000	2,000,000	1,000,000	3,000,000
Santander UK plc	1	3,000,000	2,000,000	1,000,000	3,000,000
Nationwide Building Society	1	3,000,000	2,000,000	1,000,000	3,000,000
Lloyds Bank plc and Bank of Scotland plc	1	3,000,000	2,000,000	1,000,000	3,000,000
Coventry Building Society	2	2,000,000	1,000,000		2,000,000
National Westminster Bank	2	2,000,000	1,000,000		2,000,000
Leeds Building Society	3	1,000,000			1,000,000
Clydesdale Bank	3	1,000,000			1,000,000
Nottingham Building Society	3	1,000,000			1,000,000
Principality Building Society	3	1,000,000			1,000,000
Royal Bank of Scotland	3	1,000,000			1,000,000
Skipton Building Society	3	1,000,000			1,000,000
Yorkshire Building Society	3	1,000,000			1,000,000

There are no changes to the tiered ratings for UK banks and building societies.

The previous Standard Life sterling liquidity fund (money market fund) merged on 5 October 2018 into the Aberdeen Liquidity Fund under Aberdeen Standard Investments. This follows the merger between Standard Life plc and Aberdeen Asset Management in August 2017. The new fund operates on the same instant access principles as the Standard Life fund and has the same AAAmmf rating. It is larger in size and scale than the previous fund. It is based in Luxembourg, whereas the Standard Life fund was based in the Republic of Ireland. However there are no material differences in dealing procedures or the rights of shareholders. The fund's investment objective is to maximise income consistent with the preservation of principal and liquidity by investing in a diversified portfolio of high quality Sterling denominated short term debt and debt related instruments. This continues to provide a good match with the Council's treasury management strategy.

**TEIGNBRIDGE DISTRICT COUNCIL TREASURY MANAGEMENT:  
AUTHORISED LENDING LIST FROM 4 DECEMBER 2018**

Officers will continue to seek the best rate, balanced against risk, at the time of investment. Use of call and notice accounts with Santander, Lloyds and Clydesdale continue. These accounts provide access to flexible deposits, with a range of access options and interest rates. Treasury Bills, an AA/Aa2/AA (very securely) rated, short dated form of Government debt which are issued by the Debt Management Office via a weekly tender are also included on the lending list, offering the Council an additional secure investment option.

## Teignbridge District Council Treasury Management Mid-Year Review 2018-19

Teignbridge District Council has adopted CIPFA's *Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes 2017 Edition*. One of the requirements is the provision of a mid-year review of treasury management activities.

Activities Undertaken: Daily lending and borrowing from 1 April to 30 September 2018:

### Fixed-term lending

<b>Borrower</b>	<b>Terms %</b>	<b>Amount Lent £</b>	<b>Dates</b>	<b>Total Days Lent in year</b>	<b>Interest Earned in year £</b>
Close Brothers	1.00%	1,000,000	03/04/18 – 15/03/19	346	9,479.45
DMO	0.25%	8,000,000	16/04/18 – 20/04/18	4	219.18
Nottingham Building Society	0.55%	1,000,000	15/05/18 – 10/08/18	87	1,310.96
Coventry Building Society	0.70%	1,000,000	15/05/18 – 09/11/18	178	3,413.70
DMO	0.25%	1,000,000	15/05/18 – 21/05/18	6	41.10
DMO	0.25%	1,000,000	15/06/18 – 19/06/18	4	27.40
DMO	0.25%	1,000,000	02/07/18 – 04/07/18	2	13.70
DMO	0.25%	2,000,000	16/07/18 – 19/07/18	3	41.10
Nationwide Building Society	0.71%	1,000,000	16/07/18 – 25/03/19	252	4,901.92
Nationwide Building Society	0.69%	1,000,000	16/07/18 – 11/01/19	179	3,383.84
DMO	0.45%	3,000,000	01/08/18 – 09/08/18	8	295.89
Santander	0.90%	1,000,000	15/08/18 – 19/03/19	216	5,326.03
DMO	0.50%	2,000,000	15/08/18 – 20/08/18	5	136.99
DMO	0.50%	1,000,000	03/09/18 – 17/09/18	14	191.78
Thorrock Council	0.90%	1,000,000	03/09/18 – 15/03/19	193	4,758.90
DMO	0.50%	1,000,000	06/09/18 – 07/09/18	1	13.70
DMO	0.50%	1,000,000	07/09/18 – 17/09/18	10	136.99

Deposits were also made into the following call accounts, dependent upon cash flow:

<b>Bank</b>	<b>Account terms</b>	<b>Interest Earned £</b>
Barclays Bank plc	0.32% instant access	1.48
Barclays 95-day notice	0.50% to 0.70% 95-day notice	2,422.87
Clydesdale Bank	0.10% 30 days' notice	0.27
Clydesdale Bank	0.35% instant access	86.46
Royal Bank of Scotland	0.05% instant access	0.24
Santander UK plc	0.25% to 0.40% instant access	929.73
Public Sector Deposit Fund	0.46% to 0.69% instant access	8,341.31
Lloyds plc 175-day notice	0.75% to 1.00% 175-day notice	5,255.31
Lloyds plc	0.40% to 0.65% current account	130.45
Lloyds plc Deposit account	0.40% to 0.65% instant access	2,315.74
Aberdeen Standard (formerly Standard Life)	0.41% to 0.62% instant access	5,679.55

Temporary Borrowing 1 April to 30 September 2018:

Lender	Terms %	Amount lent £	Dates	Days lent in year	Interest paid in year £
Lloyds Bank	Base + 10		Overdraft agreement	0	0
Vale of Glamorgan Council	0.42%	1,000,000	29/05/18 – 01/06/18	3	34.52

**Teignbridge District Council  
Interim Performance Report for the Period 1 April to 30 September 2018**

	Apr-Sep 2017-18	Apr-Sep 2018-19
<b>(i) Short Term Funds Invested</b>		
Interest received and receivable for the period	£13,497	£40,472
Maximum period of investment on any one loan made in the period	308 days	346 days
“Fixed” investment rates in period.	0.10% – 0.65%	0.25% - 1.00%
<b>(ii) Short Term Funds Borrowed</b>		
Interest paid and payable for the period	£4.71	£34.52
Number of new loans borrowed in the period	0	1
Maximum period of borrowing on any one loan borrowed in the period.	n/a	3 days
“Fixed” borrowing rates.	n/a	0.42%
<b>(iii) Average Net Interest Rate Earned</b>	0.26%	0.61%
<b>(iv) Average Short Term Net Lending</b>	£10,392,330	£13,254,937

Regular Monitoring

Two monthly reports are prepared for the Chief Finance Officer: a forecast of interest receivable for the year, and an investment comparison, which shows the sum available for investment compared to the previous year. The Chief Finance Officer presents a monthly report to CMT and updates the Executive Committee on a quarterly basis. These reports include any policy updates, such as changes to the official lending list, based on the latest ratings information. Full council receives an annual review and strategy statement and a mid-year review.

## Appendix 4

The interest forecast is currently predicting a total net interest receivable for the year of £96,449.74. This takes into account the base rate rise on 2 August 2018 and compares to £39,839.52 in 2017-18. This forecast increase is mainly due to higher interest rates (an average of 0.61% for the first half of the year, compared to 0.26% in 2017-18), although there has also been an increase in the funds available for lending out (average daily lending is slightly higher in the first half of 2018-19 at £13.3 million compared to £10.4 million at the same stage in 2017-18). Average benchmark 7-day LIBID rate to the end of September 2018 was 0.52%.

### Treasury Management Indicators

These are part of the Prudential Indicators, as agreed at Full Council on 22 February 2018. They are available on request or on the Teignbridge website agenda for that meeting.

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**TEIGNBRIDGE DISTRICT COUNCIL**

**EXECUTIVE**

**LEADER:** Cllr Jeremy Christophers

**PORTFOLIO HOLDER:** Cllr Stuart Barker

**DATE:** 4<sup>th</sup> December 2018

**REPORT OF:** Tracey Hooper  
Revenue, Benefits and Fraud Manager

**SUBJECT:** Council Tax Reduction Scheme for 2019-20

**PART I**

**RECOMMENDATIONS**

The Executive is recommended to consider the Council Tax Reduction Scheme for 2019-20 (unchanged from 2018-19) and recommend its adoption to Council on 14<sup>th</sup> January 2019.

**1. PURPOSE**

1.1 To provide members with an update on the operation of our local scheme during 2018-19 attached at appendix A and to request the continuation of the scheme for 2019-20 be recommended to Council.

**2. BACKGROUND**

2.1 The national council tax benefit scheme was abolished with effect from 1 April 2013 and replaced with locally agreed council tax reduction schemes. Pensionable age claimants were protected from any change but, from 1 April 2013, the extent of reduction for working age claimants could be determined locally. At the same time government funding for the scheme was reduced by 10%.

2.2 Teignbridge worked in collaboration with the other Devon authorities to design and implement a locally devised framework within which each scheme could be adapted to suit the individual requirements of respective authorities. It was agreed across the Devon authorities, including County, Police and Fire, that each billing authority would strive to deliver a 'cost-neutral' scheme.

2.3 In 2013-14 Teignbridge achieved this by reducing the level of discount given to second homes and empty properties, and removing second adult rebate,

## TEIGNBRIDGE DISTRICT COUNCIL

supplemented by a central government transitional grant. This grant was paid for one year only.

- 2.4 In 2014-15, to offset the loss of the transitional grant, two new measures were introduced: Band D restriction and a £6,000 capital limit.
- 2.5 No changes were made to the scheme in 2015-16 or 2016-17 but, in order to align with changes made by central government to other welfare benefits, a number of changes were made in 2017-18. Three of these changes were financial, but only one of these, the Minimum Income Floor for self-employed claimants, reduced the amount of award currently being received by claimants.
- 2.6 No changes were made to the scheme in 2018-19
- 2.7 We are the only local authority in Devon, and one of only around 37 nationally that continues to pay up to 100% of council tax liability.

### **3. SCHEME COSTS AND FUNDING**

- 3.1 Council tax support cost continues to go down and was just under £8.85 million at the end of October which is £334,000 below the original estimate of £9.2 million. Council tax support falls directly to Teignbridge including parishes (12.6% together), county, fire and police and is being monitored monthly.
- 3.2 We have current high levels of employment which has led to a drop in the number of claimants requiring support. Improved initiatives for detecting fraud and error, and the scheme changes outlined in section 2 of this report have also contributed to the reduction in spend. Changes in unemployment or economic downturn could reverse the numbers.
- 3.3 Although the cost of the scheme has reduced, over recent years the funding which was rolled into RSG has disappeared as RSG has been eliminated for future years. The only funding we receive is to help support the administrative cost of the scheme.

### **4. EXCEPTIONAL HARDSHIP POLICY (EHP)**

- 4.1 Because of the changes made to our scheme in 2017-18, members approved the adoption of an EHP. The purpose of this policy is to mitigate against any hardships experienced by claimants.
- 4.2 It allows for a discretionary payment to be made to any claimant who receives less or no CTR as a result of changes to the scheme and who is unable to meet their council tax liability as a consequence of this.
- 4.3 In 2017-18 we made 29 awards of EHP, totalling just under £14,000. At the end of Quarter 2 2018-19 we had awarded £1,376. Because we continue to pay up to 100% support the demand for EHP is low. The cost of awarding relief is shared equally by Teignbridge and its major preceptors.

## TEIGNBRIDGE DISTRICT COUNCIL

### 5. REASONS FOR RETAINING CURRENT SCHEME

- 5.1 The current scheme is working well, costs are dropping, and demand for exceptional hardship is low. Also, our collection rates remain high – 98.6% in 2017-18 and performance to date for 2018-19 is similarly high.
- 5.2 The precepting authorities, who are directly financially affected by the cost of the scheme are not asking for savings to be made from the current scheme
- 5.3 There has been little in the way of significant welfare reform from central government in the past 12 months. There is therefore no need to align our local scheme with national changes which already provides for the annual uprating of allowances in line with the prescribed requirements legislation.
- 5.4 Universal Credit Full Service began rollout in Teignbridge from 5<sup>th</sup> September 2018. The impact of this major reform is not yet known and it is too soon to determine how the CTS scheme should change in response.

### 6. MAIN IMPLICATIONS

- 6.1 Legal - Schedule 1A of the Local Government Finance Act 1992 requires that the Council must decide, for each financial year, whether to revise its scheme or to replace it with another scheme.
- 6.2 Equalities – A full impact assessment was carried out in 2017-18 when changes were last made to the scheme. This was reviewed in January 2018 and remains relevant as no further changes have been made. See background papers.
- 6.3 Finance – The cost of the scheme falls on the Council and its major preceptors in proportion to their share of the collection fund. As no changes to the scheme are proposed any increase or decrease in spend will be determined by demand.

### 7. GROUPS CONSULTED

- 7.1 County, Police and Fire have all been consulted via representation on the Devon Benefit Officers Group and all are content with the current scheme and propose no changes.
- 7.2 The S.151 officer has also been consulted on and is in agreement with the proposals and the respective costs are being built into the budget proposals for 2019-20

### 8. TIME-SCALE

- 8.1 To ensure statutory deadline is met, members must review and agree a CTS scheme by 11 March of the preceding financial year.

## TEIGNBRIDGE DISTRICT COUNCIL

### 9. JUSTIFICATION

- 9.1 To comply with Schedule 1A of the Local Government Finance Act 2012 which requires each billing authority to consider whether to revise its scheme or replace it with another scheme before 11<sup>th</sup> March in the year preceding the financial year to which the scheme applies.

### 10. DATE OF IMPLEMENTATION (CONFIRMATION OF DECISION SUBJECT TO CALL-IN)

N/A – Decision will be made by Council on 14<sup>th</sup> January 2019

**Tracey Hooper**  
Revenue, Benefits and Fraud Manager

**Cllr Stuart Barker**  
Portfolio Holder for Corporate Resources

<b>Wards affected</b>	All
<b>Contact for any more information</b>	Tracey Hooper Ext 5266
<b>Background Papers (For Part I reports only)</b>	Business Impact Assessment 2018-19 Exceptional Hardship Policy Teignbridge Vulnerability Statement
<b>Key Decision</b>	Y
<b>In Forward Plan</b>	Y
<b>In O&amp;S Work Programme</b>	N
<b>Community Impact Assessment attached:</b>	Y
<b>Appendices attached:</b>	A: CTR Scheme for 2018-19 (online)

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<sup>i</sup> National Policy Institute Report April 2017

**Teignbridge District Council**  
**Council Tax Reduction Scheme**  
S13A and Schedule 1a of the Local Government Finance Act 1992

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## **1.0 Introduction to the Council Tax Reduction Scheme**

- 1.1 The following has been adopted by the Council and details the Council Tax Reduction scheme for the period from 1<sup>st</sup> April 2018.
- 1.2 This document details how the scheme will operate for both pension credit age and working age applicants and in accordance with Section 13A of the Local Government Finance Act 1992 specifies the classes of person who are to be entitled to a reduction under the scheme and is effective from 1<sup>st</sup> April 2018 for a period of one financial year.
- 1.3 The scheme in respect of pension age applicants is defined by Central Government within the following:
- Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012;
  - Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (England) (Amendment) Regulations 2012;
  - Council Tax Reduction Schemes (Transitional Provision) (England) Regulations 2013;
  - Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013;
  - Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2013;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) (No. 2) Regulations 2014;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2015;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2016;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2017 and
  - Local Government Finance Act 1992 (as amended by the Local Government Finance Act 2012).

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

- 1.4 There are three main classes under the prescribed pension credit age scheme, for each of which there are a number of qualifying criteria. In all cases individuals must not be of a prescribed class exempted from reduction, such as a person subject to immigration control with limited leave to remain. The definition of a pension credit age person is a person who;
- a. has attained the qualifying age for state pension credit; and
  - b. is not, or, if he has a partner, his partner is not;
    - i. a person on income support, on an income-based jobseeker’s allowance or on an income-related employment and support allowance; or
    - ii. a person with an award of universal credit

The three prescribed classes are as follows;

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

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

- a. who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- b. who, subject to paragraph 5 of Schedule 1 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, is not absent from the dwelling throughout the day; in respect of whom a maximum Council Tax Reduction amount can be calculated;
- c. 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;
- d. 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;
- e. not have capital savings above £16,000; 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 1 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, is not absent from the dwelling throughout the day; in respect of whom a maximum Council Tax Reduction amount can be calculated;
- c. 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;
- d. 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;
- e. in respect of whom amount A exceeds amount B where;
  - (i) amount A is the maximum Council Tax Reduction in respect of the day in the applicant's case; and
  - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount;
- g. not have capital savings above £16,000; and
- h. who has made an application for a reduction under the authority's scheme.

**Class C: alternative maximum Council Tax Reduction**

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

- a. who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- b. who, subject to paragraph 5 of Schedule 1 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, is not absent from the dwelling throughout the day;
- c. in respect of whom a maximum Council Tax Reduction amount can be calculated;
- d. who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act and excluded from the authority's scheme;
- e. who has made an application for a reduction under the authority's scheme; and
- f. in relation to whom the condition below is met.

The condition referred to in sub-paragraph f. is that no other resident of the dwelling is liable to pay rent to the applicant in respect of the dwelling and there is an alternative maximum Council Tax Reduction in respect of the day in the case of that person which is derived from the income, or aggregate income, of one or more residents to whom this sub-paragraph applies.

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

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

- d. is not a person who, jointly with the applicant, falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or
- e. is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

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

- 1.5 For those who have reached the qualifying age for state pension credit, the Council has resolved to enhance the government scheme (as defined by the Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012 to disregard in full the following:
- a. a war disablement pension;
  - b. a war widow's pension or war widower's pension;
  - c. a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
  - d. a guaranteed income payment;
  - e. a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
  - f. a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
  - g. pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

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

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

- 1.6 The adopted scheme for working age applicants is a means test, which compares income against an assessment of *applicable amounts* (unless otherwise stated). Full details of the working age scheme of the authority are contained within this document from section 2 onwards. The authority is required to specify a scheme for working age and therefore this scheme only applies to a person who;
- a. has not attained the qualifying age for state pension credit; or
  - b. has attained the qualifying age for state pension credit if he, and his partner, is a person on income support, on an income-based jobseeker's allowance, on an income-related employment and support allowance or on universal credit.
- 1.7 The Council has resolved that there will be *two* classes of persons who will receive a reduction in line with adopted scheme. There will be *two* main classes prescribed for, for each of which there will be a number of qualifying criteria. In all cases individuals must not be of a prescribed class exempted from reduction as specified within section 7 of this scheme.

#### **Class D**

To obtain reduction the individual (or partner) must:

- a. have not attained the qualifying age for state pension credit<sup>1</sup>; or
- b. he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is a person on income support, on income-based jobseeker's allowance or an income-related employment and support allowance; or a person with an award of universal credit.
- c. be liable to pay council tax in respect of a dwelling in which he is solely or mainly resident;
- d. is not deemed to be absent from the dwelling;

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

- e. not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- f. be somebody in respect of whom a maximum Council Tax Reduction<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 *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 reduction<sup>6</sup>.

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

#### Class E

To obtain reduction the individual (or partner) must:

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Council Tax Reduction Scheme**

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

**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 the Employment and Training Act 1973;

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

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

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

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

**‘an AFIP’** means an armed forces independence payment payable in accordance with an armed and reserve forces compensation scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004

**‘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;

**‘application’** means an application for a reduction under this scheme:

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

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

**‘the authority’** means a billing authority in relation to whose area this scheme has effect by virtue of paragraph 4(6) of Schedule 1A to the 1992 Act;

**‘Back to Work scheme(s)’** means any scheme defined within the Jobseekers (Back to Work Schemes) Act 2013 or Jobseeker’s Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013;

**‘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 (SSBA) and the Jobseekers Act 1995 and the Welfare Reform Act 2007;

**‘board and lodging accommodation’** means accommodation provided to a family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises;

**‘care home’** 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 benefit'** has the meaning given by section 141 of the SSCBA as amended by The Child Benefit (General), Child Tax Credit (Amendment) Regulations 2014 and The Child Benefit (General) (Amendment) Regulations 2015;

**'child tax credit'** means a child tax credit under section 8 of the Tax Credits Act 2002;

**'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 an allowance under Part 1 of the Welfare Reform Act 2007 as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012 that remove references to an income-related allowance and a contributory allowance under Part 1 of the Welfare Reform Act 2007 as that Part has effect apart from those provisions;

**'converted employment and support allowance'** means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations;

**'council tax benefit'** means council tax benefit under Part 7 of the SSCBA;

**'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 treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes. The above includes the Marriage (Same Sex Couples) Act 2013 and The Marriage (Same Sex Couples) Act 2013 (Commencement No. 3) Order 2014;

**'date of claim'** means the date on which the 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 and the Employment and Support Regulations 2013 as appropriate;

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

**'the Employment, Skills and Enterprise Scheme'** means a scheme under section 17A (schemes for assisting persons to obtain employment; 'work for your benefit' schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist applicants to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search). This also includes schemes covered by The Jobseekers Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011 as amended by the Jobseekers (Back to Work Schemes) Act 2013 – see **'Back to Work Schemes'**;

**'employment zone'** means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999 and 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 and Section 9 of this scheme;

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

**'a guaranteed income payment'** means a payment made under article 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 and Jobseeker’s Allowance Regulations 2013 as appropriate;

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

**‘limited capability for work-related activity’** has the meaning given in section 2(5) of the Welfare Reform Act 2007;

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

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

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

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

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

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

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

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

**‘member of a couple’** means a member of a married or unmarried couple;

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

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

**‘mover’** means an 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, and 61C the dwelling to which a applicant has moved, or is about to move, in which the applicant is or will be resident;

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

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

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

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

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

**'partner'** means—

- (a) where an applicant is a member of a couple, the other member of that couple; or
- (b) where an applicant 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;

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

**'pensionable age'** has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 as amended by the Public Services Pension Act 2013 and Pensions Act 2014;

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

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

**'person affected'** shall be construed as a person to whom the authority decides is affected by any decision made by the council;

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

**'personal independence payment'** has the meaning given by Part 4 of the Welfare Reform Act 2012 and the Social Security (Personal Independence Payments) 2013;

**'personal pension scheme'** means—

- a. a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993 as amended by the Public Service Pension Act 2013;
- b. an annuity contractor trust scheme approved under section 20 or 21 of the Income and Corporation Taxes Act 1988 or a substituted contract within the meaning of section 622(3) or that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 of the Finance Act 2004<sup>13</sup>;
- 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;

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<sup>13</sup> As amended by the Finance Act 2014

**'qualifying contributory benefit'** means;

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

**'qualifying course'** means a qualifying course as defined for the purposes of Parts 2 and 4 of the Job Seeker's Allowance Regulations 1996

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

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

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

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

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

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

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

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

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

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

**'Scottish basic rate'** means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007;

**'Scottish taxpayer'** has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998

**'second adult'** has the meaning given to it in Schedule 2;

**'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;
- (d) a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013;
- (e) Back to Work scheme.

**'Service User'** references in this scheme to an applicant participating as a service user are to

- a. a person who is being consulted by or on behalf of—
  - (i) the Secretary of State in relation to any of the Secretary of State's functions in the field of social security or child support or under section 2 of the Employment and Training Act 1973; or
  - (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such functions in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person; or
- b. the carer of a person consulted as described in sub-paragraph (a) where the carer is not being consulted as described in that sub-paragraph h;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**'Up-rating Act'** means the Welfare Benefit Up-rating Act 2013, the Welfare Benefits Up-rating Order 2014 and the Welfare Benefits Up-rating Order 2015;

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

**'war disablement pension'** means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003;

**'war pension'** means a war disablement pension, a war widow's pension or a war widower's pension;

**'war widow's pension'** means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

**'war widower's pension'** means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

**'water charges'** means;

(a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991,

(b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002, in so far as such charges are in respect of the dwelling which a person occupies as his home;

**‘week’** means a period of seven days beginning with a Monday;  
**‘Welfare Reform Act’** means the Welfare Reform Act 2007;  
**‘Working Tax Credit Regulations’** means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 as amended<sup>14</sup>; 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).

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<sup>14</sup> The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2013; The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2015

### **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>15</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

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<sup>15</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- b. the person makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated and the application for reduction is accompanied by evidence of the application and information to enable it to be allocated.

4.3 Paragraph 4.2 shall not apply–

- a. in the case of a child or young person in respect of whom council tax 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 scheme; and
  - iv. has not previously been allocated a national insurance number.

**5.0 Persons who have attained the qualifying age for state pension credit**

5.1 This scheme applies to a person if:

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

**6.0 Remunerative work**

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

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

- a. if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
- b. in any other case, the period of 5 weeks immediately prior to that date of claim, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately,

6.3 Where, for the purposes of paragraph 6.2 a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work shall be disregarded in establishing the average hours for which he is engaged in work.

6.4 Where no recognisable cycle has been established in respect of a person's work, regard shall be had to the number of hours or, where those hours will fluctuate, the average of the hours, which he is expected to work in a week.

6.5 A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph 6.1 if the absence is either without good cause or by reason of a recognised customary or other holiday.

- 6.6 A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any reduction week shall be treated as not being in remunerative work in that week.
- 6.7 A person shall not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave, or is absent from work because he is ill.
- 6.8 A person shall not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which;
- a. a sports award has been made, or is to be made, to him; and
  - b. no other payment is made or is expected to be made to him.

**7.0 Persons treated as not being in Great Britain and Persons Subject to Immigration Control**

**Persons treated as not being in Great Britain**

- 7.1 Persons treated as not being in Great Britain are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in an authority's scheme.
- 7.2 Except where a person falls within paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.
- 7.3 A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.
- 7.4 For the purposes of paragraph (3), a right to reside does not include a right, which exists by virtue of, or in accordance with—
- (a) regulation 13 of the EEA Regulations or Article 6 of Council Directive 2004/38/EC;
  - (aa) regulation 14 of the EEA Regulations, but only in a case where the right exists under that regulation because the person is—
    - (i) a jobseeker for the purpose of the definition of "qualified person" in regulation 6(1) of those Regulations, or
    - (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker;
  - (ab) Article 45 of the Treaty on the functioning of the European Union (in a case where the person is seeking work in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland); or
  - (b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen).
- 7.5 A person falls within this paragraph if the person is—
- (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
  - (b) a family member of a person referred to in sub-paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
  - (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
  - (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;

- (e) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971<sup>16</sup> where that leave is—
  - (i) discretionary leave to enter or remain in the United Kingdom,
  - (ii) leave to remain under the Destitution Domestic Violence concession which came into effect on 1st April 2012, or
  - (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005.
- (f) a person who has humanitarian protection granted under those rules;
- (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom;
- (h) in receipt of income support or on an income-related employment and support allowance;
- (ha) in receipt of an income-based jobseeker's allowance and has a right to reside other than a right to reside falling within paragraph (4) or
- (i) a person who is treated as a worker for the purpose of the definition of "qualified person" in regulation 6(1) of the EEA Regulations pursuant to regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an "accession State national subject to worker authorisation")

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

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

7.8 In this regulation—  
 "claim for asylum" has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999;  
 "Crown servant" means a person holding an office or employment under the Crown;  
 "EEA Regulations" means the Immigration (European Economic Area) Regulations 2006; and  
 and the The Immigration (European Economic Area) (Amendment) (No. 2) Regulations 2014;  
 and  
 "Her Majesty's forces" has the same meaning as in the Armed Forces Act 2006.

#### **Persons subject to immigration control**

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

7.10 A person who is a national of a state which has ratified the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953) or a state which has ratified the Council of Europe Social Charter (signed in Turin on 18th October 1961) and who is lawfully present in the United Kingdom is not a person subject to immigration control for the purpose of paragraph 7.9

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

#### **7A.0 Transitional provision**

7A.1 The above does not apply to a person who, on 31st March 2015—

- (a) is liable to pay council tax at a reduced rate by virtue of a council tax reduction under an authority's scheme established under section 13A(2) of the Act; and

<sup>16</sup> As amended by the Immigration Act 2014 and the Immigration Act 2014 (Commencement No. 2) Order 2014

- (b) is entitled to an income-based jobseeker's allowance, until the first of the events in paragraph 7A.2 occurs.

7A.2 The events are—

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

7A.3 In this section "the Act" means the Local Government Finance Act 1992..

## **8.0 Temporary Absence (period of absence)**

8.1 A person is not absent from a dwelling in relation to any day which falls within a period of temporary absence from that dwelling.

8.2 In sub-paragraph (1), a "period of temporary absence" means:

(a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as:

- (i) the person resides in that accommodation in Great Britain;
- (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
- (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,

where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;

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

- (i) the person intends to return to the dwelling;
- (ii) the part of the dwelling in which he usually resided is not let or sub-let;
- (iii) that period is unlikely to exceed 13 weeks; and

(c) a period of absence within Great Britain not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as:

- (i) the person intends to return to the dwelling;
- (ii) the part of the dwelling in which he usually resided is not let or sub-let;
- (iii) the person is a person to whom sub-paragraph (3) applies; and
- (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period and

(d) subject to sub-paragraphs (2F), (3C), (3E) and (3G) and where sub-paragraph (2E) applies, a period of absence outside Great Britain not exceeding 4 weeks, beginning with the first day of that absence from Great Britain where and for so long as:

- (i) the person intends to return to the dwelling;
- (ii) the part of the dwelling in which he usually resides is not let or sub-let; and
- (iii) the period of absence from Great Britain is unlikely to exceed 4 weeks.

8.2A The period of 13 weeks referred to in sub-paragraph (2)(b) shall run or continue to run during any period of absence from Great Britain.

8.2B Where:

- (a) a person returns to Great Britain after a period of absence from Great Britain (period A);
- (b) that person has been absent from the dwelling, including any absence within Great Britain, for less than 13 weeks beginning with the first day of absence from that dwelling; and
- (c) at the outset of, or during, period A, period A ceased to be treated as a period of temporary absence,

then any day that follows period A and precedes the person's return to the dwelling, shall not be treated as a period of temporary absence under sub-paragraph (2)(b).

8.2C The period of 52 weeks referred to in sub-paragraph (2)(c) shall run or continue to run during any period of absence from Great Britain.

8.2D Where:

- (a) a person returns to Great Britain after a period of absence from Great Britain (period A);
- (b) that person has been absent from the dwelling, including any absence within Great Britain, for less than 52 weeks beginning with the first day of absence from that dwelling; and
- (c) at the outset of, or during, period A, period A ceased to be treated as a period of temporary absence,

then, any day that follows period A and precedes the person's return to the dwelling, shall not be treated as a period of temporary absence under sub-paragraph (2)(c).

8.2E This sub-paragraph applies where:

- (a) a person is temporarily absent from Great Britain;
- (b) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.

8.2F If the temporary absence referred to in sub-paragraph (2)(d) is in connection with the death of:

- (a) the person's partner or a child or young person for whom the person or the person's partner is responsible;
- (b) the person's close relative;
- (c) the close relative of the person's partner; or
- (d) the close relative of a child or young person for whom the person or the person's partner is responsible,

then the period of 4 weeks in the opening words of sub-paragraph (2)(d) may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return to Great Britain within the first 4 weeks (and the reference in sub-paragraph (iii) of that paragraph to a period of 4 weeks shall, where the period is extended, be taken as referring to the period as so extended).

8.3 This sub-paragraph applies to a person who—

(a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—

(i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or

(ii) in premises approved under section 13 of the Offender Management Act 2007, or is detained in custody pending sentence upon conviction;

(b) is resident in a hospital or similar institution as a patient;

(c) is undergoing, or whose partner or dependent child is undergoing, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;

(d) is following, a training course;

(e) is undertaking medically approved care of a person;

(f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;

(g) is receiving medically approved care provided in accommodation other than residential accommodation;

(h) is a student;

- (i) is receiving care provided in residential accommodation and is not a person to whom sub-paragraph (2)(a) applies; or
- (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.

- 8.3A This sub-paragraph applies to a person (“P”) who is:
- (a) detained in custody on remand pending trial;
  - (b) detained pending sentence upon conviction; or
  - (c) as a condition of bail required to reside—
    - (i) in a dwelling, other than a dwelling P occupies as P’s home; or
    - (ii) in premises approved under section 13 of the Offender Management Act 2007(7), and who is not also detained in custody following sentence upon conviction.
- 8.3B This sub-paragraph applies where:
- (a) a person is temporarily absent from Great Britain;
  - (b) the person is a member of Her Majesty’s forces posted overseas, a mariner or a continental shelf worker;
  - (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
- 8.3C Where sub-paragraph (3B) applies, a period of absence from Great Britain not exceeding 26 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as:
- (a) the person intends to return to the dwelling;
  - (b) the part of the dwelling in which he usually resided is not let or sub-let;
  - (c) the period of absence from Great Britain is unlikely to exceed 26 weeks.
- 8.3D This sub-paragraph applies where—
- (a) a person is temporarily absent from Great Britain;
  - (b) the person is a person described in any of paragraphs (b), (c), (g) or (j) of sub-paragraph (3);
  - (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
- 8.3E Where sub-paragraph (3D) applies, a period of absence from Great Britain not exceeding 26 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as:
- (a) the person intends to return to the dwelling;
  - (b) the part of the dwelling in which he usually resided is not let or sub-let;
  - (c) the period of absence is unlikely to exceed 26 weeks, or in exceptional circumstances, is unlikely substantially to exceed that period.
- 8.3F This sub-paragraph applies where:
- (a) a person is temporarily absent from Great Britain;
  - (b) the person is a person described in any of paragraphs (a), (d), (e), (f), (h) or (i) of sub-paragraph (3);
  - (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
- 8.3G Where sub-paragraph (3F) applies, a period of absence from Great Britain not exceeding 4 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as:
- (a) the person intends to return to the dwelling;
  - (b) the part of the dwelling in which he usually resided is not let or sub-let;

(c) the period of absence is unlikely to exceed 4 weeks, or in exceptional circumstances, is unlikely substantially to exceed that period.”;

8.4 This sub-paragraph applies to a person who is—

- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995 or, in Northern Ireland, under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986); and
- (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989.

8.5 Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—

- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he must be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
- (b) for the purposes of sub-paragraph (3A), he must be treated as if he remains in detention;
- (c) if he does not fall within paragraph (a), he is not to be considered to be a person who is liable to pay council tax in respect of a dwelling of which he is a resident.

8.6 In this paragraph—

“continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any of the activities mentioned in section 11(2) of the Petroleum Act 1998;

“designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964 as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

“mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where—

- (a) the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;”;

“medically approved” means certified by a medical practitioner;

“member of Her Majesty’s forces posted overseas” means a person who is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006(10)), who is absent from the main dwelling because the person has been posted outside of Great Britain to perform the duties of a member of Her Majesty’s regular forces or reserve forces;

“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;

“prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;”

“residential accommodation” means accommodation which is provided in:

- (a) a care home;
- (b) an independent hospital;

(c) an Abbeyfield Home; or

(d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;

“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State

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

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

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

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

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

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

ii. in any other case the person who has the primary responsibility for him.

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

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

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

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

- a. placed with the applicant or his partner by a local authority under section 23(2)(a) of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the applicant or his partner under a relevant enactment; or
- b. placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
- c. placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 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<sup>17</sup> or the Adoption Agencies (Scotland) Regulations 2009; or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes).

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

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

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

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<sup>17</sup> The Adoption and Children Act 2002 (Commencement No. 12) Order 2014

**Sections 12 – 14 & Schedule 1**  
**Applicable Amounts for Council Tax Support purposes**

## 12.0 Applicable amounts

12.1 Subject to sections 13 and 14, an applicant's weekly applicable amount shall be aggregate of such of the following amounts as may apply in his case:

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

## 13.0 Polygamous marriages

13.1 Subject to section 14, where an applicant is a member of a polygamous marriage, his weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case:

- a. the amount applicable to him and one of his partners determined in accordance with paragraph 1 of Schedule 1 of this scheme as if he and that partner were a couple;
- b. an amount equal to the amount within paragraph 1 (3) (c) of Schedule 1 of this scheme in respect of each of his other partners;
- c. an amount determined in accordance with paragraph 2 of Schedule 1 of this scheme (applicable amounts) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;
- d. if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of Schedule 1 (family premium). **No family premium will be awarded where an application for reduction is received on or after 1<sup>st</sup> April 2017.**
  - i) Sub paragraph (d) shall not apply to a person who, on 31<sup>st</sup> March 2017, is entitled to Council Tax Reduction and is:
    - a. a member of a family of which at least one member is a child or young person; or
    - b. a partner in a polygamous marriage, where he or she, or another partner of the polygamous marriage, is responsible for a child or young person who is a member of

the same household.

(i) above does not apply if—

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

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

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

**14.0 Applicable amount: persons who 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 may use the calculation or estimate of the maximum amount of the applicant, or the applicant and his partner jointly (as the case may be), subject to the adjustment described in sub-paragraph (2).

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

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

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

**Definition and the treatment of income for Council Tax 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 scheme 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 scheme 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 scheme 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 may, 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 may adjust the amount referred to in sub-paragraph (1) to take account of

- (a) income consisting of the award of universal credit, determined in accordance with subparagraph (3);
- (b) any sum to be disregarded under paragraphs of Schedule 3 to this scheme (sums to be disregarded in the calculation of earnings: persons who are not pensioners);
- (c) any sum to be disregarded under paragraphs of Schedule 4 to this scheme (sums to be disregarded in the calculation of income other than earnings: persons who are not pensioners);
- (d) section 33 (circumstances in which income and capital of non-dependant is to be treated as applicant's), if the authority determines that the provision applies in the applicant's case;
- (e) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable).

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

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

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

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

an award of universal credit, the authority may 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 scheme as if it were a reference to that non-dependant.

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

17.1 For the purposes of this scheme and in line with regulation 34 of the Housing Benefit Regulations 2006 (disregard to changes in tax, contributions etc.), the income of an applicant shall be calculated on a weekly basis;

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

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

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

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

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

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

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

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

- a. is a lone parent and is engaged in remunerative work;
  - b. is a member of a couple both of whom are engaged in remunerative work; or
  - c. is a member of a couple where one member is engaged in remunerative work and the other;
    - i. is incapacitated;
    - ii. is an in-patient in hospital; or
    - iii. is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).
- 18.2 For the purposes of paragraph 18.1 and subject to paragraph 18.4, a person to whom paragraph 18.3 applies shall be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he—
- a. is paid statutory sick pay;
  - b. is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the Act;
  - c. is paid an employment and support allowance;
  - d. is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support Regulations 1987; or
  - e. is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.
- 18.3 This paragraph applies to a person who was engaged in remunerative work immediately before
- a. the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
  - b. the first day of the period in respect of which earnings are credited, as the case may be.
- 18.4 In a case to which paragraph 18.2 d) or e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.
- 18.5 Relevant child care charges are those charges for care to which paragraphs 18.6 and 18.7 apply, and shall be calculated on a weekly basis in accordance with paragraph 18.10.
- 18.6 The charges are paid by the applicant for care, which is provided
- a. in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or
  - b. in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.
- 18.7 The charges are paid for care, which is provided by one, or more of the care providers listed in paragraph 18.8 and are not paid—
- a. in respect of the child's compulsory education;
  - b. by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with section 10 (circumstances in which a person is treated as responsible or not responsible for another); or
  - c. in respect of care provided by a relative of the child wholly or mainly in the child's home.
- 18.8 The care to which paragraph 18.7 refers may be provided;
- a. out of school hours, by a school on school premises or by a local authority;
    - i. for children who are not disabled in respect of the period beginning on their eight birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or
    - ii. for children who are disabled in respect of the period beginning on their eight birthday and ending on the day preceding the first Monday in September

- following their sixteenth birthday; or
- b. by a child care provider approved in accordance with by the Tax Credit (New Category of Child Care Provider) Regulations 1999;
  - c. by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or
  - d. by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) order 2010; or
  - e. by;
    - i. persons registered under section 59(1) of the Public Services Reform Scotland Act 2010; or
    - ii. local authorities registered under section 8(1) of that Act, where the care provided is child minding or 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

- d. Allowance Regulations 2008 or Employment and Support Regulations 2013; the applicant (within the meaning of this scheme) is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
- e. the applicant (within the meaning of this scheme) has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 or Employment and Support Regulations 2013 for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
- f. there is payable in respect of him one or more of the following pensions or allowances—
  - i. long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the Act;
  - ii. attendance allowance under section 64 of the Act;
  - iii. severe disablement allowance under section 68 of the Act;
  - iv. disability living allowance under section 71 of the Act;
  - v. personal independence payment under the Welfare Reform Act 2012;
  - vi. an AFIP;
  - vii. increase of disablement pension under section 104 of the Act;
  - viii. a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under head (ii), (iv) or (vii) above;
  - ix. main phase employment and support allowance;
- g. a pension or allowance to which head (ii), (iv), (vi) or (viii) of sub-paragraph (f) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this section shall mean a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of social security (Hospital In-Patients) Regulations 2005.
- h. an AFIP would be payable to that person but for any suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
- i. paragraphs (f) or (g) would apply to him if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
- j. he has an invalid carriage or other vehicle provided to him by the Secretary of State under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.

18.12 For the purposes of paragraph 18.11 once paragraph 18.11d) applies to the applicant, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.

18.12A For the purposes of paragraph 18.11, once paragraph 18.11e) applies to the applicant, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter apply to him for so long as he has, or is treated as having, limited capability for work.

- 18.13 For the purposes of paragraphs 18.6 and 18.8 a), a person is disabled if he is a person—
- a. in respect of whom disability living allowance or personal independence payment is payable, or has ceased to be payable solely because he is a patient;
  - b. who is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
  - c. who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.

- 18.14 For the purposes of paragraph 18.1 a 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 shared parental leave effective from 5/4/2015 or adoption leave began she was in remunerative work 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 virtue of section 171ZL of the Act, maternity allowance under section 35 of the Act or qualifying support.

- 18.15 For the purposes of paragraph 18.14 the relevant period shall begin on the day on which the person's maternity, paternity leave or adoption leave commences and shall end on—
- a. the date that leave ends;
  - b. if no child care element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support, statutory maternity pay, statutory paternity pay or statutory adoption pay ends, the date that entitlement ends; or
  - c. if a child care element of working tax credit is in payment on the date that entitlement to maternity allowance or qualifying support, statutory maternity pay or statutory adoption pay ends, the date that entitlement to that award of the child care element of the working tax credits ends.

whichever shall occur first.

- 18.16 In paragraphs 18.14 and 18.15
- a. '**qualifying support**' means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support Regulations 1987; and
  - b. '**child care element**' of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act (child care element) 2002.

- 18.17 In this section 'applicant' does not include an applicant;
- a. who has, or
  - b. who (jointly with his partner) has,
- an award of universal credit

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

- 19.1 Where an applicant's income consists of earnings from employment as an employed earner his average weekly earnings shall be estimated by reference to his earnings from that employment—
- a. over a period immediately preceding the reduction week in which the claim is made or treated as made and being a period of
    - i. 5 weeks, if he is paid weekly; or
    - ii. 2 months, if he is paid monthly; or
  - b. whether or not sub-paragraph 19.1a i) or ii) applies, where an applicant's earnings fluctuate,

over such other period preceding the reduction week in which the claim is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;

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

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

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

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

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

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

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

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

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

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

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

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

- a. any bonus or commission;
- b. any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
- c. any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- d. any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
- e. any payment by way of a retainer;

- f. any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
- g. (i) travelling expenses incurred by the applicant between his home and his place of employment;  
(ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
- h. any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
- i. any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
- j. any such sum as is referred to in section 112 of the Act (certain sums to be earnings for social security purposes);
- k. any statutory sick pay, statutory maternity pay, statutory paternity pay, shared parental pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
- l. any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave, shared parental pay or adoption leave or is absent from work because he is ill;
- m. the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001 as amended<sup>18</sup>.

25.2 Earnings shall not include—

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

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

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

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

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

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

- a. any amount deducted from those earnings by way of
  - i) income tax;
  - ii) primary Class 1 contributions under the Act;
- b. one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
- c. one-half of the amount calculated in accordance with paragraph 26.5 in respect of any qualifying contribution payable by the applicant; and

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<sup>18</sup> Social Security (Contributions)(Amendment) Regulations 2013, Social Security (Contributions)(Amendment No.2) Regulations 2013 and Social Security (Contributions)(Amendment No.2) Regulations 2013

- 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 or in the case of a Scottish taxpayer, the Scottish 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 or in the case of a Scottish taxpayer, the Scottish basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis;
- b. an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable; and
- c. one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

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

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

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

27.3 This paragraph applies to—

- a. royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
- b. any payment in respect of any—
  - (i) book registered under the Public Lending Right Scheme 1982; or

(ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982, where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book of work concerned.

27.4 Where the applicant's earnings consist of any items to which paragraph 27.3 applies, those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of council tax 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 national insurance contributions payable under the Act calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
  - ii. one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

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

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

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

28.4 For the purposes of paragraph 28.1b) 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. national insurance contributions payable under the Act, calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
  - c. one-half of the amount calculated in accordance with paragraph 28.1 in respect of any qualifying contribution
- 28.10 For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.
- 28.11 The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this section the daily amount of the qualifying premium shall be determined
- a. where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and divided the product by 365;
  - b. in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.
- 28.12 In this section, ‘qualifying premium’ means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of claim.
- 29.0 Deduction of tax and contributions of self-employed earners**
- 29.1 The amount to be deducted in respect of income tax under section 28.1b) 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 or in the case of a Scottish taxpayer, the Scottish 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 or in the case of a Scottish taxpayer, the Scottish basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph shall be calculated on a pro rata basis.

29.2 The amount to be deducted in respect of national insurance contributions under paragraphs 28.1 1 b(i); 28.3 b ii) or 28.9 a shall be the total of—

- a. the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Act at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of the Act (small profits threshold) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year shall be reduced pro rata; and
- b. the amount of Class 4 contributions (if any) which would be payable under section 15 of the Act (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits shall be reduced pro rata.

29.3 In this section 'chargeable income' means—

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

#### **29A.0 Minimum Income Floor**

29 A.1 Where no start up period (as defined within 29A.2) applies to the applicant or partner, the income used by the Council in the calculation of their award will be the gross amount declared by the applicant or a substituted amount whichever is the higher. This substituted amount shall not be less than 35 hours multiplied by the national living wage (or national minimum wage as appropriate) From that, the Council will deduct only an estimate for tax, national insurance and half a pension contribution (where a pension contribution is being made).

29 A.2 The Council shall determine an appropriate start up period for the employment activity being conducted by the applicant or partner. This will normally be one year from the date of commencement of the employment activity. During this period, no Minimum Income Floor shall be applied. The start-up period ends where the person is no longer in gainful self-employment.

29 A.3 Where an applicant or partner holds a position in a company that is analogous to that of a sole owner or partner in the business of that company, he shall be treated as if he were such sole owner or partner and in such a case be subject to the substituted amount where appropriate.

29 A.4 No start-up period may be applied in relation to an applicant where a start-up period has previously been applied, whether in relation to a current or previous award of a Council Tax Reduction.

29 A.5 In order to establish whether to award a start up period, the applicant must satisfy the Council that the employment is

- Genuine and effective. The Council must be satisfied that the employment activity is being conducted; and

- Being conducted with the intention of increasing the income received to the level that would be conducive with that form of employment.

29 A.6 For the purposes of determining whether an applicant is in gainful self-employment or meets the conditions for a start up-period, the Council will require the applicant to provide such evidence or information that it reasonably requires to make that decision, the Council may also require the self employed person to attend an interview for the purpose of establishing whether the employment is gainful or whether the conditions for a start up period are met.

### **30.0 Calculation of income other than earnings**

30.1 For the purposes of section 21 (average weekly income other than earnings), the income of an applicant which does not consist of earnings to be taken into account shall, subject to paragraphs 27.2 to 27.4, be his gross income and any capital treated as income under section 31 (capital treated as income).

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

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

30.4 Where the applicant or, where he is a member of a couple, his partner is receiving a contributory employment and support allowance and that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations, 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—

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

D

Where

A = the total amount of the relevant payment which that person would have received had he remained a student until he 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 30.1  
a. any payment to which paragraph 25.2 (payments not earnings) applies; or  
b. in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.

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

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

- b. 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 scheme shall apply for the purposes of calculating the amount of that income as if a payment has actually been made and as if it were actual income which he does possess.
- 32.12 Where an applicant is treated as possessing any earnings under paragraph 32.9 the foregoing provisions of this scheme shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph (3) of section 26 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account those earnings which he is treated as possessing, less;
- a. an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the starting rate or, as the case may be, the starting rate and the basic rate or in the case of a Scottish taxpayer, the Scottish basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the starting rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rate basis;
  - b. an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable; and
  - c. one-half of any sum payable by the applicant by way of a contribution towards an occupational or personal pension scheme.
- 32.13 Paragraphs (32.1), (32.2), (32.6) and (32.9) shall not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant's participation as a service user.

**Sections 33 – 42 & Schedule 5**

**Definition and the treatment of capital for Council Tax 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 scheme, the capital of an applicant to be taken into account shall, subject to paragraph (34.2), be the whole of his capital calculated in accordance with this scheme and any income treated as capital under section 36 (income treated as capital).

34.2 There shall be disregarded from the calculation of an applicant's capital under paragraph (34.1), any capital, where applicable, specified in Schedule 5.

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

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

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

36.1 Any bounty derived from employment to which paragraph 8 of Schedule 3 applies and paid at intervals of at least one year shall be treated as capital.

36.2 Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.

36.3 Any holiday pay which is not earnings under section 25(1)(d) (earnings of employed earners) shall be treated as capital.

36.4 Except any income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or 25 to 28, 47 or 48 of Schedule 5, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the applicant's account.

36.5 In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer shall be treated as capital.

36.6 Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Charitable Relief Fund, shall be treated as capital.

36.7 There shall be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account during the period in which that person was receiving such assistance.

36.8 Any arrears of subsistence allowance which are paid to an applicant as a lump sum shall be treated as capital.

36.9 Any arrears of working tax credit or child tax credit shall be treated as capital.

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

37.1 Capital which an applicant possesses in the United Kingdom shall be calculated at its current market or surrender value less—

- a. where there would be expenses attributable to the sale, 10 per cent.; and
- b. the amount of any encumbrance secured on it;

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

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

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

### **39.0 Notional capital**

39.1 An applicant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to council tax 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 subparagraph (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;
  - c. in respect of a person's participation in the Mandatory Work Activity Scheme;
  - d. Enterprise Scheme;
  - e. in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme or Back to Work Scheme;
  - f. under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
    - i. a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
    - ii. the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
    - iii. the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.
- 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 is 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 scheme, which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income-based jobseeker's allowance to which

- he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7; and
- e. if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations, have been entitled to an income-related employment and support allowance in respect of the reduction week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this subparagraph, 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 he last ceased to be entitled to council tax support, whichever last occurred; and
- b. the applicant would have been entitled to council tax support but for paragraph 39.1.
- 40.7 The amount as re-determined pursuant to paragraph 40.5 shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.
- 40.8 For the purposes of this section
- a. ‘part-week’
- (i) in paragraph 40.4(a) means a period of less than a week for which council tax 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<sup>19</sup>**

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<sup>19</sup> Amounts shown in sections 43 to 56 will be uprated in line with the Housing Benefit Regulations 2006 (as amended)

### 43.0 Student related definitions

43.1 In this scheme the following definitions apply;

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

**'access funds'** means;

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

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

**'contribution'** means;

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

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

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

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

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

- a. is not funded in whole or in part by the Secretary of State under section 14 of the 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 43.2, the period referred to in that sub-paragraph shall include;
- a. where a person has failed examinations or has failed to successfully complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
  - b. any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

#### **44.0 Treatment of students**

44.1 The following sections relate to students who claim Council Tax 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 D and E of the Council's reduction scheme.

45.2 To be eligible for support, the student must be liable for Council Tax under Section 6 of the Local Government Finance Act 1992 and they must not be deemed to be a full time student or a persons from abroad within the meaning of section 7 of this scheme (persons from aboard).

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.
- The above figures will be increased annually in line with the Housing Benefit Regulations 2006 (as amended).
- 46.4 There shall also be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.
- 46.5 Subject to paragraphs 46.6 and 46.7, a student's grant income shall be apportioned;
- (a) subject to paragraph 46.8, in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study;
  - (b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.
- 46.6 Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2004 shall be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.
- 46.7 In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither paragraph 46.6 nor section 50 (other amounts to be disregarded) apply, shall be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.
- 46.8 In the case if a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student's grant income shall be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which immediately follows the last day of the period of experience and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study.
- 47.0 Calculation of covenant income where a contribution is assessed**
- 47.1 Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following shall be the whole amount of the covenant income less, subject to paragraph 47.3, the amount of the contribution.
- 47.2 The weekly amount of the student's covenant shall be determined—
- (a) by dividing the amount of income which falls to be taken into account under paragraph

- 47.1 by 52 or 53, whichever is reasonable in the circumstances; and
- (b) by disregarding from the resulting amount, £5.

47.3 For the purposes of paragraph 47.1, the contribution shall be treated as increased by the amount (if any) by which the amount excluded under paragraph 46.2(g) (calculation of grant income) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

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

48.1 Where a student is not in receipt of income by way of a grant the amount of his covenant income shall be calculated as follows;

- (a) any sums intended for any expenditure specified in paragraph 46.2 (a) to (e) (calculation of grant income) necessary as a result of his attendance on the course shall be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, shall be apportioned equally between the weeks of the period of study;
- (c) there shall be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 46.2(f) and 46.3 (calculation of grant income) had the student been in receipt of the standard maintenance grant; and
- (d) the balance, if any, shall be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 shall be disregarded.

48.2 Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income shall be calculated in accordance with sub-paragraphs (a) to (d) of paragraph 48.1, except that;

- (a) the value of the standard maintenance grant shall be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 46.2 (a) to (e); and
- (b) the amount to be disregarded under paragraph 48.1(c) shall be abated by an amount equal to the amount of any sums disregarded under paragraph 46.2(f) and (g) and 46.3.

#### **49.0 Student Covenant Income and Grant income – non disregard**

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

#### **50.0 Other amounts to be disregarded**

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

#### **51.0 Treatment of student loans**

51.1 A student loan shall be treated as income.

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

- (a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period shall be apportioned equally between the weeks in the period beginning with;
- (i) except in a case where (ii) applies, the reduction week, the first day of which coincides

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

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

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

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

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

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

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

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

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

#### **51A.0 Treatment of fee loans**

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

#### **52.0 Treatment of payments from access funds**

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

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

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

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

52.4 Where a payment from access funds is made—

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

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.

**56A.0 Special Provisions for Students who would receive Second Adult Reductions**

56A.1 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) as defined within this scheme who is liable to pay council tax, a reduction amounting to 100% of the maximum council tax liability (as calculated in accordance with paragraph 57.1) will be granted.

**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 **lower** of either;
  - i. amount set by the appropriate authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; or
  - ii. the amount set by the appropriate authority as the council tax for the relevant financial year in respect of a dwelling within Band D subject to any discount which may be appropriate to the person's circumstances; and
- (b) B is the number of days in that financial year,

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

In this paragraph "relevant financial year" means, in relation to any particular day, financial year within which the day in question falls.

57.2 In calculating a person's maximum council tax 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

## **58.0 Non-dependant deductions<sup>20</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 reduction) shall be;

- (a) in respect of a non-dependant aged 18 or over in remunerative work, £11.90 x 1/7;
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £3.90 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 £202.85, the deduction to be made under this paragraph shall be that specified in paragraph 58.1(b);
- (b) not less than £202.85, but less than £351.65, the deduction to be made under this section shall be £7.90 x 1/7
- (c) not less than £351.65, but less than £436.90, the deduction to be made under this section shall be £9.95 x 1/7;

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<sup>20</sup> The amounts shown within this section shall be updated in line with the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012

- 58.3 Only one deduction shall be made under this section in respect of a couple or, as the case may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.
- 58.4 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 9 of Schedule 1 (additional condition for the disability premium); or
  - b. receiving in respect of himself:
    - attendance allowance, or would be receiving that allowance but for:
      - i. a suspension of benefit in accordance with regulations under section 113(2) of The Act; or
      - ii. an abatement as a result of hospitalisation; or
    - the care component of the disability living allowance, or would be receiving that component but for:
      - i. a suspension of benefit in accordance with regulations under section 113(2) of The Act; or
      - ii. an abatement as a result of hospitalisation; or
  - c. the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
  - d. an AFIP, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allows for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
- 58.7 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;
  - e. 'patient' has the meaning given within this scheme, and
  - f. 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;
  - g. he is not residing with the claimant because he is a member of the armed forces away on

operations

- 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;
  - (b) to whom Schedule 1 of the 1992 Act applies (persons disregarded for purposes of discount) but this sub-paragraph shall not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers;
  - (c) who is entitled to an award of universal credit where the award is calculated on the basis that the person does not have any earned income.”;
    - a. For the purposes of sub-paragraph (c), “earned income” has the meaning given in regulation 52 of the Universal Credit Regulations 2013.
- 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 or an AFIP received by him;
  - b. any payment made under or by the Trusts, the Fund, the Eileen Trust , MFET Limited, the Skipton Fund, the Caxton Foundation 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 E)**

- 59.1 The prescribed daily percentage for the purpose of calculating support as a percentage of excess of income over the applicable amount which is deducted from maximum council tax 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 scheme

#### **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 into the authority's area<sup>21</sup>**

**61E.1** Where;

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

**62.0 - 63.0 Not Used**

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<sup>21</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

**Sections 64 – 67**

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

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

**Sections 68– 74A**

**Claiming and the treatment of claims for Council Tax Support purposes**

**68.0 Making an application**<sup>22</sup>

68.1 In the case of a couple or members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by 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 claim, or as the case may be, receive benefit on his behalf; or
- (b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on his behalf; or
- (c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,

that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.

68.3 Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to him, the authority may, upon written application made to them by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under the authority's scheme and to receive and deal on his behalf with any sums payable to him.

68.4 Where a person who is liable to pay council tax in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on his behalf under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act), the authority may if that person agrees, treat him as if he had been appointed by them under sub-paragraph (3).

68.5 Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4);

- (a) it may at any time revoke the appointment;
- (b) the person appointed may resign his office after having given 4 weeks notice in writing to the authority of his intention to do so;
- (c) any such appointment terminates when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).

68.6 Anything required by the authority's scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.

68.7 The authority must;

- (a) inform any person making an application of the duty imposed by paragraph 9(1)(a);
- (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
- (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

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<sup>22</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

**69.0 Procedure by which a person may apply for a reduction under the authority's scheme<sup>23</sup>**

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

69.2. An application may be made;

- (a) in writing,
- (b) by means of an electronic communication in accordance with Part 4 of this Schedule, or
- (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.

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

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

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

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

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

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

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

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

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

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

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

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

69.9 Where an applicant ('C')—

- (a) makes a claim which includes (or which C subsequently requests should include) a period before the claim is made; and
- (b) from a day, in that period, up to the date when C made the claim (or subsequently

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<sup>23</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

requested that the claim should include a past period), C had continuous good cause for failing to make a claim (or request that the claim should include that period), the claim is to be treated as made on the date determined in accordance with paragraph 69.10

69.10 The date is the latest of–

- (a) the first day from which C had continuous good cause;
- (b) the day 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 an application is made**

69A.1 Subject to sub-paragraph (7), the date on which an application is made is;

(a) in a case where;

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

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

(b) in a case where

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

the date on which the change takes place;

(c) in a case where;

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

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

(d) in a case where;

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

the date on which the change takes place;

(e) in a case where;

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

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

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

- 69A.2 For the purposes only of sub-paragraph (1)(c) a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for regulations made under;
- (a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act 1995 (waiting days); or
  - (b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act 2007 (waiting days),
- have been entitled to that allowance.
- 69A.3 Where there is a defect in an applications by telephone;
- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance;
  - (b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide the application.
- 69A.4 The authority is to treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.
- 69A.5 The conditions are that—
- (a) where the authority receives the properly completed application or the information requested to complete it or the evidence within one month of the request, or such longer period as the authority may consider reasonable; or
  - (b) where an application is not on approved form or further information requested by authority applies;
    - (i) the approved form sent to the applicant is received at the offices of the authority properly completed within one month of it having been sent to him; or, as the case may be;
    - (ii) the applicant supplies whatever information or evidence was requested within one month of the request; or,
- in either case, within such longer period as the authority may consider reasonable; or
- (c) where the authority has requested further information, the authority receives at its offices the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.
- 69A.6 Except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for council tax to the authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under that authority's scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority must treat the application as having been made on the day on which the liability for the tax arises.
- 69A.7 Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under the authority's scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under its scheme for a period beginning not later than;
- (a) in the case of an application made by;
    - (i) a pensioner, or
    - (ii) a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit,

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

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

69A.8 In this paragraph “appropriate DWP office” means an office of the Department for Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of claims of income support, a job seekers allowance or an employment and support allowance.

#### **70.0 Submission of evidence electronically**

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

#### **71.0 Use of telephone provided evidence**

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

#### **72.0 Information and evidence<sup>24</sup>**

72.1 Subject to sub-paragraph (3), a person who makes an application for a reduction under an authority’s scheme must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.

72.2 This sub-paragraph is satisfied in relation to a person if—

(a) the application is accompanied by;

- (i) a statement of the person’s national insurance number and information or evidence establishing that that number has been allocated to the person; or
- (ii) information or evidence enabling the authority to ascertain the national insurance number that has been allocated to the person; or

(b) the person has made an application for a national insurance number to be allocated to him and the application for the reduction is accompanied by;

- (i) evidence of the application for a national insurance number to be so allocated; and
- (ii) the information or evidence enabling it to be so allocated.

72.3 Sub-paragraph (2) does not apply;

(a) in the case of a child or young person in respect of whom an application for a reduction is made;

(b) to a person who;

- (i) is a person treated as not being in Great Britain for the purposes of this scheme;
- (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and
- (iii) has not previously been allocated a national insurance number.

72.4 Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under the authority’s scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by that authority in order to determine that person’s entitlement to, or continuing entitlement

<sup>24</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

to a reduction under its scheme and must do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.

- 72.5 Nothing in this paragraph requires a person who is a pensioner to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.
- 72.6 Where the authority makes a request under sub-paragraph (4), it must;
- (a) inform the applicant or the person to whom a reduction under its scheme has been awarded of his duty under paragraph 9 (duty to notify change of circumstances) to notify the authority of any change of circumstances; and
  - (b) without prejudice to the extent of the duty owed under paragraph 9, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which must be notified.
- 72.7 This sub-paragraph applies to any of the following payments;
- (a) a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
  - (b) a payment which is disregarded under paragraph 24 of Schedule 5, other than a payment under the Independent Living Fund (2006);
  - (c) a payment which is disregarded under paragraph 58.9.
- 72.8 Where an applicant or a person to whom a reduction under the authority's scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, he must where the authority so requires furnish the following information;
- (a) the name and address of the pension fund holder;
  - (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.
- 73.0 Amendment and withdrawal of application<sup>25</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 designated office.
- 73.2 Where the application was made by telephone the amendment may also be made by telephone.
- 73.3 Any application amended is to be treated as if it had been amended in the first instance.
- 73.4 A person who has made an application may withdraw it by notice to the designated office at any time before a decision has been made on it.
- 73.5 Where the application was made by telephone, the withdrawal may also be made by telephone.
- 73.6 Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.
- 73.7 Where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

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<sup>25</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

#### **74.0 Duty to notify changes of circumstances<sup>26</sup>**

- 74.1 Subject to sub-paragraphs (3), (6) and (7), an applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time;
- (a) between the making of an application and a decision being made on it, or
  - (b) after the decision is made (where the decision is that the applicant is entitled to a reduction under the authority's scheme) including at any time while the applicant is in receipt of such a reduction.
- 74.2 The applicant (or any person acting on his behalf) must notify any change of circumstances which the applicant (or that person) might reasonably be expected to know might affect his entitlement to, or the amount of, a reduction under the authority's scheme (a "relevant change of circumstances") by giving notice to the authority;
- (a) in writing; or
  - (b) by telephone—
    - (i) where the authority has published a telephone number for that purpose unless the authority determines that in any particular case or class of case notification may not be given by telephone; or
    - (ii) in any case or class of case where the authority determines that notice may be given by telephone; or
  - (c) by any other means which the authority agrees to accept in any particular case, within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.
- 74.3 The duty imposed on a person by sub-paragraph (1) does not extend to notifying
- (a) changes in the amount of council tax payable to the authority;
  - (b) changes in the age of the applicant or that of any member of his family;
  - (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under the authority's scheme to which he is entitled, other than the cessation of that entitlement to the benefit.
- 74.4 For the purposes of sub-paragraph (3)(c) "relevant benefit" means income support, an income-based jobseeker's allowance or an income-related employment and support allowance or universal credit.
- 74.5 Notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by sub-paragraph (1) to notify the authority of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he has ceased to be a child or young person.
- 74.6 A person who has been awarded a reduction under the authority's scheme who is also on state pension credit must report;
- (a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides;
  - (b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.
- 74.7 In addition to the changes required to be reported under sub-paragraph (7), a person whose state pension credit comprises only a savings credit must also report—
- (a) changes affecting a child living with him which may result in a change in the amount of reduction under the authority's scheme allowed in his case, but not changes in the age of the child;
  - (b) any change in the amount of the applicant's capital to be taken into account which does

<sup>26</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

or may take the amount of his capital to more than £6,000;

(c) any change in the income or capital of;

(i) a non-dependant whose income and capital are treated as belonging to the applicant; or

(ii) a person to whom their partner is treated as member of the household, and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.

74.8 A person who is entitled to a reduction under the authority's scheme and on state pension credit need only report to the authority the changes specified in sub-paragraphs (7) and (8).

74.9 All changes in circumstances should be notified to the authority in writing (or by whatever format agreed by the authority) within one calendar month of the happening of the event or change in circumstance. This timescale may be extended at the discretion of the authority. Where such a change is not received within that timescale and where the change would increase the level of reduction payable, the authority may use a date later than the actual change of circumstances

**Sections 75- 90**

**Decisions, decision notices and awards of Council Tax Support**

**75.0 Decisions by the authority<sup>27</sup>**

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

**76.0 Notification of decision<sup>28</sup>**

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

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

(b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.

76.2 Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement;

(a) informing the person affected of the duty imposed by paragraph 9(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 Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement as to how that entitlement is to be discharged.

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

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

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

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

76.8 This sub-paragraph applies to—

(a) the applicant;

(b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act;

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

(ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000(3) 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,

<sup>27</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>28</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,

(c) a person appointed by the authority to act for a person unable to act.

#### **77.0 Time and manner of granting council tax support<sup>29</sup>**

77.1 Where a person is entitled to a reduction under this authority's scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year ("the chargeable year"), the authority must discharge his entitlement;

- (a) by reducing, so far as possible, the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992 refers; or
- (b) where;
  - (i) such a reduction is not possible; or
  - (ii) such a reduction would be insufficient to discharge the entitlement to a reduction under the authority's scheme; or
  - (iii) the person entitled to the reduction is jointly and severally liable for the council tax and the authority determines that such a reduction would be inappropriate, by making payment to him of the amount of reduction to which he is entitled, rounded where necessary to the nearest penny.

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

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

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

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

#### **78.0 Persons to whom support is to be paid<sup>30</sup>**

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

78.2 Where a person other than a person who is entitled to a reduction under this authority's scheme

<sup>29</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>30</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

made the application for the reduction and that first person is a person acting pursuant to an appointment or is treated as having been so appointed, the amount of the reduction may be paid to that person.

#### **79.0 Shortfall in support / reduction<sup>31</sup>**

79.1 Where, on the revision of a decision allowing a reduction under the authority's scheme to a person, it is determined that the amount allowed was less than the amount to which that person was entitled, the authority must either;

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

#### **80.0 Payment on the death of the person entitled<sup>32</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<sup>31</sup> 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.

#### **82.0 Payment where there is joint and several liability<sup>33</sup>**

82.1 Where;

- (a) a person is entitled to a reduction under the authority's scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year;
  - (b) the person entitled to the reduction is jointly and severally liable for the council tax; and
  - (c) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992(7) refers would be inappropriate,
- it may make a payment to him of the amount of the reduction to which he is entitled, rounded where necessary to the nearest penny.

82.2 Subject to sub-paragraph (3) any payment made under sub-paragraph (1) must be made to the person who is entitled to the reduction.

82.3 Where a person other than a person who is entitled to a reduction under the authority's scheme made the application and that first person is a person acting pursuant to an

<sup>31</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>32</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>33</sup> Inserted by Schedule 8 of the Council Tax Reductions Scheme (Prescribed Requirements) (England) Regulations 2012

appointment under paragraph 4(3) or is treated as having been so appointed by virtue of paragraph 4(4), the amount of the reduction may be paid to that person.

**83.0 – 90.0      Not used**

**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 Reduction, council tax liability, billing, administration and enforcement as outlined within Schedule 2 of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012 and the Social Security (Information-sharing in relation to Welfare Services etc.) (Amendment) Regulations 2013

91.2 Where required by the relevant department and where required by law, the authority will share information obtained for Council Tax Reduction with the DWP or HMRC as appropriate and in accordance with Data Protections requirements<sup>34</sup>..

**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.

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<sup>34</sup> Data Retention and Investigatory Powers Act 2014 and Data Retention Regulations 2014

**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 where that person is;

- a. an applicant;
- b. in the case of a person who is liable to make payments in respect of a dwelling and is unable for the time being to act
  - (i) a Deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit or 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 scheme;

## **96.0 Revisions of Decisions**

96.1 Subject to the provisions in this scheme, a relevant decision ('the original decision') may be revised or further revised by the authority, which made the decision where the person affected makes an application for a revision within;

- (i) one month of the date of notification of the original decision; or
- (ii) such extended time as the authority may allow.

96.2 The authority may revise or further revise that original decision at any time. Where further information is required from the person affected, the authority shall request such information and evidence as it feels is reasonable. Such information must be supplied within;

- i) one month of the date of notification of the additional information; or
- (ii) such extended time as the authority may allow

## **97.0 Written Statements**

97.1 Subject to the provisions in the scheme, the authority may upon a written request issue a written statement to a person affected to further explain the decision of the authority in relation to Council Tax 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>35</sup>**

- 99.1 .A person who is aggrieved by a decision of the authority, which affects;
- (a) the person's entitlement to a reduction under its scheme, or
  - (b) the amount of any reduction to which that person is entitled,
- may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.
- 99.2 The authority must
- (a) consider the matter to which the notice relates;
  - (b) notify the aggrieved person in writing;
    - (i) that the ground is not well founded, giving reasons for that belief; or
    - (ii) that steps have been taken to deal with the grievance, stating the steps taken.
- 99.3 Where, following notification under sub-paragraph (2)(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with sub-paragraph (2)(b) within two months of the service of his notice, he may appeal to the valuation tribunal under section 16 of the 1992 Act<sup>36</sup>.

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<sup>35</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>36</sup> As amended by the Tribunal Procedure (Amendment No 3 ) Rules 2014

**Section 100**

**Procedure for applying for a discretionary reduction**

**100.0 Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act<sup>37</sup>**

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

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<sup>37</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

**Section 101 – 106A<sup>38</sup>**  
**Electronic Communication**

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<sup>38</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) (England) Regulations 2012

### **101.0 Interpretation**

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

### **102.0 Conditions for the use of electronic communication**

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

### **103.0 Use of intermediaries**

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

### **104.0 Effect of delivering information by means of electronic communication**

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

are satisfied.

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

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

#### **105.0 Proof of identity of sender or recipient of information**

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

#### **106.0 Proof of delivery of information**

106.1 If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this is presumed to have been the case where;

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

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

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

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

#### **106A.0 Proof of content of information**

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

**Section 107**  
**Counter Fraud and Compliance**

### **107.0 Counter Fraud and compliance**

107.1 In order to protect the finances of the authority and also in the interests of all council taxpayers, the authority will undertake such actions as allowed by law to;

- a. Prevent and detect fraudulent claims and actions in respect of Council Tax 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 scheme;
- d. will co-operate with the Department for Work and Pensions (DWP), Her Majesty's Revenues and Customs and take part in joint working including prosecutions; and
- e. will in all cases seek to recover all outstanding council tax.

107.3 The authority shall put into place such administrative policies, procedures and processes as are necessary to ensure that the actions outlined within paragraph 107.1 and 107.2 can be carried out successfully. In particular the authority shall undertake actions provided by the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.

**Schedule 1**  
**Applicable Amounts<sup>39</sup>**

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<sup>39</sup> <sup>39</sup> The amounts shown within this schedule shall be updated in line with the Housing Benefit Regulations 2006 as amended

**Personal Allowance**

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

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

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

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

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

Column 1 Child or Young Person	Column 2
Person in respect of the period–	£66.90
(a) beginning on that person’s date of birth and ending on the day preceding the first Monday in September following that person’s sixteenth birthday;	
(b) beginning on the first Monday in September following that person’s sixteenth birthday and ending on the day preceding that person’s twentieth birthday.	£66.90
(c) third or subsequent dependent child or young person whose date of birth falls on or after 1 <sup>st</sup> April 2017. This shall not apply where the third or subsequent child is:	NIL
i. children born in a multiple birth if there were previously fewer than two children or qualifying young people in the household at 31 <sup>st</sup> March 2017;	
ii. where a child is born on or after 1 <sup>st</sup> April 2017 living with friends or family because they are unable to live with their parents, (the friend or family carer will need to provide evidence from a social worker which supports this);	

<p>iii. Child within the household becomes the parent of a child; and</p> <p>Evidence from a professional third party, that the circumstances are consistent with those of a person who has had intercourse without consenting to it (at a time when the conception of her third or subsequent child might have resulted). It will be a requirement for eligibility for the exception that the claimant confirms that she is not living with the alleged perpetrator.</p>	
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(2) In column (1) of the table in paragraph (1), “the first Monday in September” means the Monday which first occurs in the month of September in any year.

### Family Premiums

3. (1) The amount for the purposes of this scheme in respect of a family of which at least one member is a child or young person shall be
- a. where the applicant is a lone parent to whom sub-paragraph (3) of Schedule 3 of the Housing Benefit Regulations 2006 applies, £22.20;
  - b. in any other case, £17.45;
  - c. **No family premium will be awarded where an application for reduction is received on or after 1<sup>st</sup> April 2017.**
    - i) Sub paragraph (c) shall not apply to a person who, on 31<sup>st</sup> March 2017, is entitled to Council Tax Reduction and is:
      - a. a member of a family of which at least one member is a child or young person; or
      - b. a partner in a polygamous marriage, where he or she, or another partner of the polygamous marriage, is responsible for a child or young person who is a member of the same household.
    - (c) (i) above does not apply if—
      - (a) sub-paragraph 3 c (i) (a) or (b) of that paragraph ceases to apply; or
      - (b) the person makes a new claim for Council Tax Reduction;

### Premiums

4. Except as provided in paragraph 5, the premiums specified this Schedule shall, for the purposes of this scheme, be applicable to an applicant who satisfies the condition specified in paragraphs 4 to 16 in respect of that premium.
5. Subject to paragraph 6, where an applicant satisfies the conditions in respect of more than one premium in this this Schedule, only one premium shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.
- 6 (1) The following premiums, namely—
- a. severe disability premium to which paragraph 10 applies;
  - b. an enhanced disability premium to which paragraph 11 applies;
  - c. a disabled child premium to which paragraph 12 applies; and a
  - d. carer premium to which paragraph 13 applies,
- may be applicable in addition to any other premium which may apply under this Schedule
7. (1) Subject to sub-paragraph (2), for the purposes of this Schedule, once a premium is applicable to an applicant under this Part, a person shall be treated as being in receipt of any benefit for
- a. in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
  - b. any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the 1973 Act or by Skills

Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under or section 2 of the Enterprise and New Towns(Scotland) Act 1990 for any period during which he is in receipt of a training allowance.

(2) For the purposes of the carer premium, a person shall be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act or the daily living component of the personal independence payment under the Welfare Reform Act 2012 or an AFIP.

#### Disability Premium

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

#### Additional Condition for the Disability Premiums

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

#### Severe Disability Premiums

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

#### Enhanced Disability Premium

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

#### Disabled Child Premium

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

#### Carer Premium

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

#### Persons in receipt of concessionary payments

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

#### Persons in receipt of benefit for another

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

#### Amounts of Premium

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

Premium	Amount
<b>Disability Premium</b>	<b>£33.55</b>
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	<b>£47.80</b>
<b>Severe Disability Premium</b>	<b>£64.30</b>
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	<b>£64.30</b>

<p>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);</p>	
<p>ii. in a case where there is no one in receipt of such an allowance</p>	<p>£128.60</p>
<p><b>Disabled Child Premium</b></p>	<p>£62.86 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</p>
<p><b>Carer Premium</b></p>	<p>£36.00 in respect of each person who satisfies the condition specified in paragraph 17 of Part 3 of Schedule 3 Housing Benefit Regulations 2006</p>
<p><b>Enhanced Disability Premium</b></p>	<p>(a) £25.48 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;          (b) £16.40 in respect of each person who is neither—          (i) a child or young person; nor          (ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 15 are satisfied;          (c) £23.55 where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 15 of Part 3 of Schedule 3 Housing Benefit Regulations 2006 are satisfied in respect of a member of that couple or polygamous marriage.</p>

**The components**

- 17. The condition (s) to be met is contained in Schedule 3 (21 -24) Housing Benefit Regulations 2006 as amended by the Social Security (Miscellaneous Amendments) Regulations 2013
- 18. The amount of the work-related activity component is £29.05. No work-related activity component will be awarded where the applicant or partner makes a new claim for Employment and Support Allowance on or after 1<sup>st</sup> April 2017. The amount of the support component is £37.65

**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<sup>40</sup>

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<sup>40</sup> All amounts within this schedule will be amended in line with the Housing Benefit Regulations 2006 (as amended)

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) he is a member of a couple and his applicable amount includes an amount by way of the disability premium; and
  - (b) he or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.
- (4)–(5) Not used
4. In a case where the applicant is a lone parent, £25.
5. (1) In a case to which neither paragraph 3 nor paragraph 4 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium, £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with this scheme as being in receipt of carer's allowance.
- (2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £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 is not in receipt of Universal Credit** 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<sup>41</sup>

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<sup>41</sup> Any amounts shown in this schedule will be uprated in line with the Housing Benefit Regulations 2006 as amended

1. Any amount paid by way of tax on income, which is to be taken into account under section 30 (calculation of income other than earnings).
- A2. Any payment made to the claim and in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.
- A3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme or Back to Work Scheme, but only for 52 weeks beginning with the date of receipt of the payment.
2. Any payment in respect of any expenses incurred or to be incurred by an applicant who is–
  - (a) engaged by a charitable or voluntary organisation, or
  - (b) volunteer,
 if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under section 32.0 (notional income).
- 2A. Any payment in respect of expenses arising out of the applicant’s participation 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 or AFIP
8. Any concessionary payment made to compensate for the non-payment of;
  - (a) any payment specified in paragraph 7 or 10;
  - (b) income support;
  - (c) an income-based jobseeker’s allowance.
  - (d) an income-related employment and support allowance.
9. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
10. Any attendance allowance.
11. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.
12. (1) Any payment–
  - (a) by way of an education maintenance allowance made pursuant to;

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

- (e) a payment (not falling within sub-paragraphs (a) to (d) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.
- (2) Sub-paragraph (1) shall not apply to a payment, which is made or due to be made by–
  - (a) a former partner of the applicant, or a former partner of any member of the applicant’s family; or
  - (b) the parent of a child or young person where that child or young person is a member of the applicant’s family.
- 16.** 100% of any of the following, namely
  - (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 9 or 10);
  - (b) a war widow’s pension or war widower’s pension;
  - (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
  - (d) a guaranteed income payment paid to a member of the armed forces of the Crown or their widow, widower or surviving civil partner;
  - (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, that student’s award;
  - (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student’s bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or
  - (c) the student’s student loan,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

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

which there is a prohibition against the transfer to the United Kingdom of that income.

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

- (Scotland) Act 1995(local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ('A') which A passes on to the applicant.
- (2) Sub-paragraph (1) applies only where A;
- (a) was formerly in the applicant's care, and
  - (b) is aged 18 or over, and
  - (c) continues to live with the applicant.
- 30.** (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments;
- (a) on a loan which is secured on the dwelling which the applicant occupies as his home; or
  - (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.
- (2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—
- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (b); and
  - (b) meet any amount due by way of premiums on—
    - (i) that policy; or
    - (ii) in a case to which sub-paragraph(1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).
- 31.** Any payment of income which, by virtue of section 36 (income treated as capital) is to be treated as capital.
- 32.** Any social fund payment made pursuant to Part 8 of the Act (the Social Fund) or any local welfare provision as defined by the Social Security (Miscellaneous Amendments) Regulations 2013
- 33.** Any payment under Part 10 of the Act (Christmas bonus for pensioners).
- 34.** Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
- 35.** The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under paragraph 15.2 (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph 47.2(b) and paragraph 48.1(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 51(2) (treatment of student loans), paragraph 52(3) (treatment of payments from access funds) and paragraphs 16 and 17 shall in no case exceed £20 per week.
- 36.** (1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or

(c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of;

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where;

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either;
  - (i) to that person's parent or step-parent, or
  - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where;

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either
  - (i) to that person's parent or step-parent, or
  - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

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

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.

**37.** Any housing benefit.

**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.** Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)
- 66.** Any payment of child benefit.

**Schedule 5**  
**Capital to be disregarded<sup>42</sup>**

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<sup>42</sup> Any amounts shown in this schedule will be uprated in line with the Housing Benefit Regulations 2006 as amended

1. The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular 5, in Scotland, any croft land on which the dwelling is situated; but, notwithstanding section 15 (calculation of income and capital of members of applicant's family and of polygamous marriage), only one dwelling shall be disregarded under this paragraph.
- A2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.
- A3. Any payment made to the applicant in respect of any travel or other expenses incurred or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme or Back to Work Scheme but only for 52 weeks beginning with the date of receipt of the payment but only for 52 weeks beginning with the date of receipt of payment.
2. Any premises acquired for occupation by the applicant, which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
3. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the applicant to complete the purchase.
4. Any premises occupied in whole or in part—
  - (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
  - (b) by the former partner of the applicant as his home; but this provision shall not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
5. – 6. Not used
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 subparagraph (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 (as amended by the Civil Procedure (Amendment No. 7 ) Rule 2013) or by the Court of Protection;  
 (b) which can only be disposed of by order or direction of any such court; or  
 (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.  
 (2) This sub-paragraph applies to a sum of capital which is derived from;  
 (a) an award of damages for a personal injury to that person; or  
 (b) compensation for the death of one or both parents where the person concerned is under the age of 18
- 48.** Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules, where such sum derives from  
 (a) award of damages for a personal injury to that person; or  
 (b) compensation for the death of one or both parents where the person concerned is under the age of 18.
- 49.** Any payment to the applicant as holder of the Victoria Cross or George Cross.
- 50.** Not used
- 51.** In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.
- 52.** (1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).  
 (2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that

applicant or member is liable.

(3) For the purposes of sub-paragraph (2) 'food' does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

- 53.** (1) Any payment;
- (a) by way of an education maintenance allowance made pursuant to—
    - (i) regulations made under section 518 of the Education Act 1996;
    - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
    - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
  - (b) corresponding to such an education maintenance allowance, made pursuant to;
    - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
    - (ii) regulations made under section 181 of that Act ;

or in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to;
- (a) regulations made under section 518 of the Education Act 1996;
  - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
  - (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992, in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

**53A.-53B.** Not used

**54.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

**55.** Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.

**56.** Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or interment of—

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

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

**57.** (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is

- (a) a diagnosed person;
- (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at

the date of the diagnosed person's death.

- (2) Where a trust payment is made to;
  - (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
  - (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending—
    - (i) two years after that date; or
    - (ii) on the day before the day on which that person—
      - (aa) ceases receiving full-time education; or
      - (bb) attains the age of 20,whichever is the latest.
- (3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is—
  - (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
  - (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
  - (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death, but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.
- (4) Where a payment as referred to in sub-paragraph (3) is made to—
  - (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date; or
  - (c) person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending—
    - (i) two years after that date; or
    - (ii) on the day before the day on which that person
      - (aa) ceases receiving full-time education; or
      - (bb) attains the age of 20,whichever is the latest.
- (5) In this paragraph, a reference to a person—
  - (a) being the diagnosed person's partner;
  - (b) being a member of a diagnosed person's family;
  - (c) acting in place of the diagnosed person's parents,at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.
- (6) In this paragraph— 'diagnosed person' means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld- Jakob disease;  
'relevant trust' means a trust established out of funds provided by the Secretary of State

in respect of persons who suffered, or who are suffering, from variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions; 'trust payment' means a payment under a relevant trust.

- 58.** The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant's partner, the applicant's deceased spouse or deceased civil partner or the applicant's partner's deceased spouse or deceased civil partner
- (a) was a slave labourer or a forced labourer;
  - (b) had suffered property loss or had suffered personal injury; or
  - (c) was a parent of a child who had died,
- during the Second World War.
- 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).
- 63.** Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)



**TEIGNBRIDGE DISTRICT  
COUNCIL**

**COUNCIL TAX SUPPORT  
SCHEME**

**VULNERABILITY/  
INCENTIVISING WORK STATEMENT**

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## **1. INTRODUCTION**

Section 9 of The Local Government Finance Bill 2011 (which is currently passing through parliament) amends s13A of the Local Government Finance Act 1992 and requires all local authorities working within this legislative framework to design their own council tax reduction scheme, Teignbridge District Council's scheme is called the Council Tax Support Scheme.

With effect from 1 April 2013 a local Council Tax Support scheme will replace the national Council Tax Benefit statutory scheme (Statutory Instrument 2006/215) as the method of supporting low income households to pay their council tax. In designing this new scheme Teignbridge District Council has adopted the core elements of the Council Tax Benefit scheme, which is a proven and robust system of support, which affords financial support to the most vulnerable.

The Government has been clear that, in developing local Council Tax Support schemes, vulnerable groups should be protected. Other than statutory protection for low income pensioners the Government has not prescribed other groups that local Councils should support. Each Council must tailor their schemes to take account of the various statutes that currently protect vulnerable people.

## **2. PURPOSE OF THE VULNERABILITY STATEMENT**

This statement sets out Teignbridge District Council's approach to defining and assisting those deemed as vulnerable. In doing so it seeks to:

- Protect those who are state pension credit age
- Ensure the main protections and support provided for vulnerable persons within the national council tax benefit scheme are adopted into its Council Tax Support Scheme
- Encourage and support people both into employment and those already in employment

## **3. ACCESSIBILITY OF THE COUNCIL TAX SUPPORT SCHEME**

In order to ensure that all customers have equal access to Council Tax Support, the Council has adopted an Access to Services Strategy which aims to reach all vulnerable and hard to reach customers in our communities.

In doing this, we will ensure that:

- We aim to make all information about our Council Tax Support scheme available in alternative formats and languages.
- Claim forms for Council Tax Support will be available on line, by post or by visiting one of our offices.
- Customers can contact us by telephone or email, or have face-to-face contact at one of our offices.
- Additional information about our Council Tax Support scheme will be available on our website and will be publicised in leaflets.

- We will work closely with welfare groups and other agencies who support customers to ensure customers can access the Council Tax Support they are entitled to.

#### **4. STATUTORY FRAMEWORK AND OTHER CONSIDERATIONS**

In developing this policy the Council has taken account of the following statutes:

- Local Government Finance Bill 2011 (protection for low income pensioners)
- Equality Act 2010 (public sector equality duty)
- Child Poverty Act 2010 (duty to mitigate the effects of child poverty)
- Housing Act 1996 (the duty to prevent homelessness)

It also takes account of:

- Work incentive principles set out in the Welfare Reform Act 2012
- Armed Forces Covenant 2011

#### **5. LOCAL GOVERNMENT FINANCE BILL 2011 – STATE PENSION CREDIT AGE APPLICANTS**

##### **5.1 DEFINITION**

The Local Government Finance Bill 2011 sets out that the requirement to fully protect the support provided under the current Council Tax Benefit statutory scheme (S.I. 2006/216) to low income pensioners in the Council Tax Support scheme:

##### **5.2 ELIGIBILITY UNDER THE LOCAL GOVERNMENT FINANCE BILL & DRAFT COUNCIL TAX REDUCTION SCHEMES (PRESCRIBED REQUIREMENTS) REGULATIONS**

- Applicants in receipt of guaranteed pension credit and who have income below their applicable amount will receive full council tax support subject to non-dependent deductions (Class A)
- Those applicants who have income in excess of their applicable amount will have 20% of the excess income deducted from their maximum support and will also be subject to non-dependent deductions (Class B).
- Someone who has attained the qualifying age for state pension credit and has at least one second adult living with them will qualify for Second Adult Rebate. A second adult is someone who is not the applicant's partner and not someone who pays rent on a commercial basis. Typically a second adult is an adult friend or relative who is on a low wage and/or other welfare benefits (Class C).
- Council Tax Support for state pension credit age applicants and Second Adult Rebate cannot be paid together; it will be the highest entitlement that will determine which support is paid.

#### **6. EQUALITY ACT 2010 (PROTECTED CHARACTERISTICS INCLUDING APPLICANTS DEFINED AS CHRONICALLY SICK AND DISABLED)**

##### **6.1 DEFINITION**

As part of the Equality Act 2010 (section 149) the Council has paid due regard to the following in designing its Council Tax Support scheme:

- Eliminate unlawful discrimination (harassment, victimisation and any other prohibited conduct)
- Advance equality of opportunity between those people who share a relevant protected characteristic and people who do not share it
- Foster good relations between those who share a relevant protected characteristic and people who do not share it

The relevant protected characteristics, as defined by the Equality Duty, are:

- Age (including children and young people):
- Disability:
- Gender reassignment:
- Pregnancy and maternity:
- Race:
- Religion or belief:
- Sex:
- Sexual orientation:
- Marriage or civil partnership status (in respect of the requirement to have due regard to eliminate discrimination)

In developing the Council Tax Support scheme and this statement Teignbridge District Council has undertaken an Equality Impact Needs Assessment and given 'due regard' to its findings to ensure it does not lead to unlawful discrimination.

The definition of disability is set out in the following statutes:

- Disabled Persons (Services, Consultations and Representation) Act 1986
- Chronically Sick and Disabled Persons Act 1970
- Disability Discrimination Act 1995 (s.1 and Sch 1)
- Equality Act 2010

## **6.2 HOW THE COUNCIL'S STATEMENT ADDRESSES THE ISSUES OF DISABILITY**

Teignbridge District Council's Council Tax Support Scheme will maintain the key elements of the Council Tax Benefit scheme, and as such provides protection in the overall calculation of support for disabled customers.

Our Council Tax Support scheme will continue to disregard income received specifically relating to disability in the financial assessment as defined in the current Council Tax Benefit statutory scheme. This means that all income received from Disability Living Allowance and Personal Independence Payments will not be included. The effect of this is that these customers will be able to retain more of their income before their Council Tax Support is reduced.

In addition to this, the calculation of support will also include all of the premiums which existed under the Council Tax Benefit statutory schemes:

- Disability Premium – awarded when a customer or their partner (if any) is classed as disabled and receives either a qualifying disability benefit or meet defined disability criteria or long-term sick.
- Enhanced Disability Premium – awarded where either the customer or their partner (if any) are in receipt of Higher Rate Disability Living Allowance Care Component or where the customer receives the Support Component of Employment and Support Allowance;
- Severe Disability Premium – awarded when both customer or their partner (if any) are both severely disabled and receive either a qualifying disability benefit or meet defined disability criteria:
- Work related activity component – where this component is awarded to a customer or their partner’s Employment and Support Allowance:
- Support component – where this component is awarded to the customer or their partner’s Employment and Support Allowance

In all situations where a customer or their partner (if any) is classed as disabled under the scheme, then no non-dependant deductions will be made where the customer or their partner is registered blind or where they are in receipt of the Care Component of Disability Living Allowance/Personal Independence Payments.

## **7. CHILD POVERTY ACT 2010**

### **7.1 DEFINITION**

The Child Poverty Act 2010 places the following duties on local authorities and their partners to:

- Co-operate to tackle child poverty in their area
- Prepare and publish a local child poverty needs assessment
- Prepare a joint local child poverty strategy
- Take child poverty into account when preparing or revising their Sustainable Communities Strategy

In partnership, Devon County Council and all the district councils, including Teignbridge has signed up to the Devon Strategic Partnership’s Child Poverty Strategy. In developing the Council Tax Support scheme and this statement Teignbridge District Council has taken into account the Devon Strategic Partnership’s Child Poverty Strategy.

Furthermore, Teignbridge District Council has taken account of the Government’s National Strategy for tackling child poverty: *Tackling the causes of disadvantage and transforming families’ lives published in April 2011*. The Council Tax Support scheme therefore supports the key measures within this strategy to strengthen families, encourage responsibility, promote work and guarantee fairness and provide support to the most vulnerable.

The definition used within this policy is as follows:

- Households with children in which income is less than 60% of the national median

The authority is mindful of the proportion of dependant children within its area who live in households whose equivalised income is below 60% of the national median.

## **7.2 HOW THE COUNCIL'S STATEMENT ADDRESSES THE ISSUE OF CHILD POVERTY**

Teignbridge District Council recognises the importance of maintaining the components within the Council Tax Benefit statutory scheme that gives additional protection to families.

These allow for the following incomes not to be included in the financial assessment of Council Tax Support:

- All Child Benefit
- All Child Maintenance
- All other income payable to children
- Up to £175.00 per week for one child and £300.00 per week for two or more children towards childcare payments, for working families under defined criteria.

When assessing a claim for Council Tax Support a family's income will be compared to their applicable amount (living allowances). The applicable amounts (living allowances) will copy the provisions defined within the current Council Tax Benefit statutory scheme. The applicable amount will contain the following elements:

- Child personal allowances – an allowance for each dependant child in the applicant's household.
- Family Premium – where there is at least one child in the household.
- Disabled Child Premium – where a child is in receipt of any component of Disability Living Allowance or a comparable component of Personal Independence Payments or is blind or is treated as registered blind.
- Enhanced Disability Premium – where a child is in receipt of the highest rate of the care component of Disability Living Allowance or the equivalent component of Personal Independence Payments. (PIP will not be applicable for children under 16 as they will remain on DLA.)

### **CHILD CARE DISREGARDS**

To support families who are working and going into work, allowances can be made from earnings and other benefits in respect of eligible childcare costs when defined criteria (below) are met and the childcare is provided by a registered childcare provider or after school club.

A weekly child care disregard will be applied under the following criteria:

Where a customer is a lone parent and works 16 or more hours each week:

Where a couple both work 16 hours or more each week:

Where one partner works 16 or more hours each week and the other partner is incapacitated, a hospital in-patient or is in prison.

Where a customer is a lone parent or part of a couple and either the lone parent works 16 or more hours; or both members of the couple work 16 hours or more or where one of the couple is incapacitated, a maximum weekly disregard will be set annually.

## **8. PREVENTION OF HOMELESSNESS**

### **8.1 DEFINITION**

Under the Housing Act Teignbridge District Council has a duty to help homeless people defined as in priority need within vulnerable groups. Where people apply to Teignbridge District Council for assistance we will give careful consideration to the circumstances that have led to homelessness and make our decisions on accommodation provision accordingly. Under the Homelessness Act 2002 Teignbridge District Council has a duty to prevent homelessness and provide a homelessness advice service. Further information on this can be found in *A Housing Strategy for Teignbridge 2010-2015*.

Teignbridge District Council has given consideration to the threat of homelessness in the development of the local Council Tax Support scheme.

### **8.2 HOW THE COUNCIL'S STATEMENT ADDRESSES THE ISSUES WITHIN THE HOUSING & HOMELESSNESS ACTS**

- Teignbridge District Council will ensure that any applicant who is supported under our Homelessness Policy, will also be supported to apply for Council Tax Support once they have secured accommodation
- Teignbridge District Council will ensure that any applicant at risk of homelessness and who is vulnerable will be assisted to apply for Council Tax Support

## **9. ARMED FORCES COVENANT 2011**

### **9.1 DEFINITION**

In 2011 the Government launched the tri-service armed services covenant which it intends to enshrine in the Armed Forces Bill

A Community Covenant is a voluntary statement of mutual support between a civilian community and its local Armed Forces Community. It is intended to complement, at local level, the Armed Forces Covenant, which outlines the moral obligation between the Nation, the Government and the Armed Forces.

The aims of the Armed Forces Community Covenant are to:

- encourage local communities to support the Armed Forces community in their areas
- nurture public understanding and awareness amongst the public of issues affecting the Armed Forces community
- recognise and remember the sacrifices faced by the Armed Forces Community
- encourage activities which help to integrate the Armed Forces Community into local life
- to encourage the Armed Forces Community to help and support the wider community, whether through participation in events and joint projects, or other forms of engagement

(Above extract from <http://devonarmedforces.wordpress.com/covenant/>)

Teignbridge District Council has signed up to the Armed Forces Covenant and has considered this obligation in developing the Council Tax Support scheme

## **9.2 HOW THE COUNCIL'S STATEMENT MEETS THE ARMED FORCES COVENANT**

- Teignbridge District Council will continue to disregard War Disablement Pension or War Widows payments from the calculation of Council Tax Support under the provision of s.139 of the Social Security Administration Act 1992 as currently applied under the Council Tax Benefit statutory scheme.

## **10. WORK INCENTIVE**

### **10.1 DEFINITION**

As part of the Council Tax Support scheme Teignbridge District Council wishes to support and provide incentives for applicants to return to work or to support those already working to increase the hours they work, wherever possible.

The Council Tax Support scheme reflects the following principles:

- People should get more overall income in work than out of work.
- People should get more overall income from working more and earning more.
- People should be confident that support will be provided whether they are in or out of work, that it will be timely and correct and that claiming will not be a complicated and frustrating experience.

### **10.2 HOW THE COUNCIL'S STATEMENT PROVIDES WORK INCENTIVES**

Teignbridge District Council is keen to support applicants back into work. The Council Tax Support scheme will achieve this by supporting both customers in receipt of benefits or on low income.

The Council is retaining the core elements within the Council Tax Benefit statutory scheme which means that support is reduced based upon a 20% withdrawal rate. This means that where a customer's income exceeds their applicable amount a deduction of 20p for every £1 will be made from Council Tax Support.

- When calculating weekly earned income a net figure will be used, this will be gross earnings less all Income Tax, National Insurance and half of any pension contribution. In addition, a further disregard will be applied:
  - First £5.00 of weekly earnings for single customers
  - First £10.00 of weekly earnings for couples
  - First £20.00 of weekly earnings for people who are disabled or long term sick, carers or part-time fire fighters, auxiliary coast guards, part-time life boat workers and member of the Territorial Army

- First £25.00 of weekly earnings for lone parents
- Where the applicant or their partner is able to undertake work on or above a defined number of hours then an additional earnings disregard may be applied;
- A childcare costs disregard of up to £175.00 for one child or up to £300.00 for two or more children can be given where the applicant or their partner is working and meet the specified criteria. Please see Childcare Disregards above.
- An additional four week extended payment of support can be awarded when the customer moves into work, and meets specified conditions. The extended payment will give support at the pre-work entitlement to allow for additional costs incurred when starting work.

## **11 COUNCIL TAX SUPPORT EXCEPTIONAL HARDSHIP**

Teignbridge District Council recognises that there may be exceptional circumstances where customers are unable to meet the shortfall between their Council Tax and the Council Tax Support they receive.

For these exceptional cases Teignbridge District Council has discretionary powers under S13A(1)(c) Local Government Finance Act 1992 to award a reduction in council tax where it considers it appropriate to do so. For further information please refer to the Council's *Local Council Tax Discount Policy*.

Is this a review of an existing BIA?	Y
Is this a new proposal and a new BIA?	N

Ref No: *CTR/TMH/2017-18 review*

Proposal: Council Tax Reduction Scheme (CTR)

## Business Impact Assessment Review

Conducted by: Tracey Hooper

Date: November 2017

### Aims of the Proposal

To review the impact of changes made to the Council's CTR scheme in 2017-18 and the effectiveness of the Exceptional Hardship Scheme.

### Background

Following abolition of the national Council Tax Benefit (CTB) scheme in 2013, Teignbridge adopted a local Council Tax Reduction (CTR) scheme. This scheme retained the essential features of the means-tested CTB scheme aligning it with the prescribed CTR scheme for pensioners, and the Housing Benefit (HB) scheme.

An Equality Impact Assessment of the move to local schemes was undertaken at a national level by the Department for Communities and Local Government. The report is available [here](#).

At the same time that CTB was abolished, funding was cut by 10% and Teignbridge had to consider whether or not to pass on this cut in funding to claimants. Following a consultation exercise Teignbridge resolved to protect its most vulnerable residents and offset the loss of funding by making changes to council tax discounts on empty properties and second homes, supplemented by a transitional grant from government. Together with the abolition of second adult rebate, these measures offset the loss in funding and meant that the majority of claimants were protected from the cut in funding.

Further cuts followed in 2014-15, including the loss of transitional grant. Teignbridge made two further changes to the scheme to offset this loss in funding: introducing a savings limit of £6,000, and a Band D restriction.

Teignbridge's scheme was re-adopted in 2015-16 and 2016-17 with no change to the level of support provided to claimants.

The Government subsequently introduced a number of changes into Housing Benefit; CTR for pensioners; and Universal Credit. In order to bring our scheme into alignment, as well as to streamline administration, we mirrored these changes, introducing them to our working age CTR scheme in 2017-18.

These changes are listed below:

1. Remove the Family Premium for all new working age applicants
2. Reduce backdating for new claims to 1 month
3. Base CTR on a set minimum income for self-employed earners after 1 year's self-employment
4. Reduce the period a person can be absent from Great Britain, and still receive CTR, to 4 weeks (previously 13 weeks, or 52 in certain circumstances).
5. Remove the 'work-related activity component' in the calculation of the current Scheme for new Employment and Support Allowance applicants.
6. Limit the number of dependant children within the calculation for CTR to a maximum of two for third or subsequent children born after 1 April 2017
7. Where another person is already paid UC (Carers Element) to look after someone with a disability, remove entitlement to the Severe Disability Premium.
8. Remove the additional earnings disregard and apply the standard disregards irrespective of hours worked to those applicants also claiming UC.

No changes are proposed for the year 2018-19

## Environment impacts

The proposal indicated no environmental impacts.

## Value and financial impacts

The proposal indicated the following financial impacts.

	<i>Please score</i>
	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <span style="color: green; font-weight: bold;">+3</span> ← <span style="font-weight: bold;">0</span> → <span style="color: red; font-weight: bold;">-3</span> </div>
Jobs or training opportunities	0
Business investment within the area	0
Tourism	0
The supply or quality of housing	0
Access to services and benefits	-1
Reduce cost or increase income	+1
Increase capital receipts/funding	0

## Financial impact on Teignbridge District Council

The grant allocation for CTR is no longer separately identified on an annual basis so it is not possible to calculate the net cost of the scheme. It is for billing authorities to determine the level of support to provide, bearing in mind the cost of the scheme is shared between the preceptors (County, Police and Fire) in proportion to their respective shares of the overall council tax bill.

Only three of the changes introduced in 2017-18 have any financial impact. These are:

- Removal of the family premium for new applicants
- Introduction of a minimum income floor for self-employed earners after 1 year's trading
- A limit on the number of dependent children within the calculation for CTR to a maximum of two for children born after 1 April 2017

These changes were forecast to reduce costs by a maximum of £42,000.

The only change that can be measured with any degree of accuracy is the minimum income for self-employed earners. This is because it is the only change that directly affected the amount of support in payment. Based on Q2 data, extrapolated to the end of the financial year, we expect to achieve a reduction in cost of £28.5K. This is slightly lower than the £31.5K.

## **Financial impact on Teignbridge claimants**

Pensioners are protected from any changes to the scheme so the proposals applied to claimants of working age only. Our CTR caseload as at Q2 is 8,696 made up of 4,010 working age claimants (46.11%) and 4,686 pensioner claimants (53.89%).

Of the 4,010 working age claimants, only 393 of these (the claimants affected by the Minimum Income Floor - MIF) have received a cut in the level of support they were receiving.

The other changes affected only new claimants or those claimants who experienced a particular change in circumstances after 2017-18. Each of the changes introduced is detailed below with information on impacts, if any, on the claimant.

### *Removal of Family Premium*

This change removed the additional allowance given to households with dependent children. These households still receive more support than households without children but whereas claimants previously received up to an additional £3.49 support per week, new claimants do not. Persons on 'passported' claims e.g. job seekers allowance, income support, employment support allowance etc. were not affected by this change. 'Passported' people generally being the most in need.

Based on number of claims received last year and composition of our current caseload, we estimated that around 330 new claims would be affected in 2017-18. Latest figures indicate that 215 new claims of this type have been received to date which is largely in line with the estimate for the full year. These cases will have received up to £3.49 per week less council tax support than those making a claim before 1<sup>st</sup> April 2017.

We have received no claims for exceptional hardship relief nor any complaints as a result of this change.

### *Reduction in backdating*

This change reduced the maximum period a claim can be backdated from six months to one month. There are so few cases these can be easily managed through the Exceptional Hardship Relief Scheme. To date there have been no applications for this relief, nor any complaints as a result of this change.

### *Introduce a minimum income for self-employed claimants*

This change applies to both existing and new claimants and takes effect after one year of self-employment. This change aligned our scheme with UC which assumes a notional income for self-employed claimants equal to 35 hours work at the National Living Wage or National Minimum Wage depending on age.

Initially we wrote to all of our self-employed claimants to tell them about the change and how it would affect them. We also invited them to claim under our Exceptional Hardship Scheme. Anyone who failed to contact us but went on to accrue council tax arrears was contacted by telephone to discuss their situation and was offered support as appropriate.

This approach has proven highly effective and we have been able to offer tailored support including the setting up of special payment arrangements, helping claimants to prioritise debts, signposting where necessary, and assisting with Exceptional Hardship applications.

We have actively encouraged claims for Exceptional Hardship and have received 78 claims in total. Each of these claims was considered on its merits with a full appraisal of the claimant circumstances resulting in 26 claimants being awarded a reduction in the amount of council tax they had to pay.

By the end of Q1 we had awarded £10,156 in Exceptional Hardship and £2,295 by the end of Q2 – a total of £12,451. This cost is shared across all major preceptors and represents a cost to Teignbridge of just over £1,000.

At the end of Q2, the vast majority of the original 393 claimants affected were up to date with their council tax payments. Only 13 cases were subject to liability orders and 2 were with enforcement agents. These 15 cases have been closely monitored and we know that none of them has any disability or caring responsibilities. Most have a previous history of non-payment and/or are not gainfully employed but could reasonably take steps to become so.

We were particularly mindful of households with disability and carer premiums in place and have broken down the impact on this group according to type of premium received. Details are shown in the table below.

	No. of households	EHF awarded	Paying	Reminder	Summons
Severe/enhanced disability premium	12	0	9	3	0
Disabled Child Premium	24	2	19	3	0
Disability premium	19	2	14	3	0
Carer Premium	3	0	2	0	1 (paying on arrangement)

We continue to monitor the effects of the MIF on a quarterly basis and will provide advice and support as and when necessary. Anyone identified as falling behind on their council tax payments will be contacted and appropriate support mechanisms put in place.

We have received one complaint about the Introduction of the Minimum Income Floor and this was resolved at Stage 1.

## Demographics of Self-Employed Claims and All Working Age CTS Claimants (December 2017)

Gender	Self-Employed Claims Affected	All Working Age CTS
Single - Male	53 (13.4%)	840 (19.5%)
Single - Female	42 (10.6%)	844 (19.6%)
Couple	20 (5.0%)	341 (7.9%)
Lone Parent - Male	16 (4.0%)	82 (1.9%)
Lone Parent - Female	144 (36.4%)	1393 (32.3%)
Couple with children	121 (30.6%)	810 (18.8%)
<b>Total</b>	<b>396</b>	<b>4310</b>

Number of Children	Self-Employed Claims Affected	All Working Age CTS
0	115 (29.0%)	2025 (47.0%)
1	118 (29.8%)	923 (21.4%)
2	102 (25.8%)	792 (18.4%)
3	47 (11.9%)	405 (9.4%)
4	9 (2.3%)	107 (2.4%)
5	4 (1.0%)	43 (1.0%)
6	1 (0.3%)	11 (0.3%)
7	0 (0.0%)	2 (0.05%)
8	0 (0.0%)	1 (0.02%)
9	0 (0.0%)	1 (0.02%)
<b>Total</b>	<b>396</b>	<b>4310</b>

Age	Self-Employed Claims Affected	All Working Age CTS
18 - 24	4 (1.0%)	277 (6.4%)
25 - 29	34 (8.6%)	463 (10.7%)
30 - 44	181 (45.7%)	1527 (35.4%)
45 - 59	155 (39.1%)	1660 (38.5%)
60 - 64	22 (5.6%)	383 (8.9%)
<b>Total</b>	<b>396</b>	<b>4310</b>

Council Tax Band	Self-Employed Claims Affected	All Working Age CTS
A	62 (15.7%)	1307 (30.3%)
B	152 (38.4%)	1805 (41.9%)
C	112 (28.3%)	850 (19.7%)
D	47 (11.9%)	235 (5.5%)
E (limited to D)	16 (4.0%)	83 (1.9%)
F (limited to D)	5 (1.3%)	22 (0.5%)
G (limited to D)	2 (0.5%)	8 (0.2%)
H (limited to D)	0 (0.0%)	0 (0.0%)
<b>Total</b>	<b>396</b>	<b>4310</b>

Disability and Carer premiums	No. affected	All Working Age CTS
Disability Premium / Severe Disability Premium	33 (8.3%)	228 (5.3%)
Disabled Child Premium	25 (6.3%)	122 (2.8%)
Carer Premium	25 (6.3%)	137 (3.2%)

NB: Many claims are in at least 2 of these 3 categories, ie the 3 categories should not be added together.

### *Reduce the period a person can be absent from Great Britain*

This change reduced the period claimants can be absent from their homes from 13 weeks (52 in certain circumstances) to 4 weeks without stopping their council tax support. There are exceptions for certain occupations such as mariners and the armed forces. There is also provision for this to be extended to 8 weeks in specific circumstances, such as the death of a close relative.

We do not hold any data on these cases so are unable to measure any impacts. Non UK nationals and those with family outside the country are more likely to be affected. This could indicate a greater impact on minority ethnic groups.

The change would affect very few people overall and is easily managed through the exceptional hardship scheme. To date we have had no applications for relief nor any complaints about this change.

### *Remove the work related activity component for new Employment and Support Allowance (ESA) applicants*

This change aligned with changes made by central government to HB and the Pensioner Age CTR scheme. Claimants are not impacted by this change to the scheme.

### *Limit the number of dependant children within the calculation for CTR*

This change mirrors the changes made by central government to housing benefit and tax credits.

It affects only those households, not already receiving maximum support, which have a third or subsequent child born on or after 1<sup>st</sup> April 2017 and there are exceptions, e.g. multiple births. A dependent addition is made for each child within the calculation of the household needs (applicable amounts). This addition is made for the first and second child but the birth of subsequent children no longer gives rise to an increase in the applicable amount.

We estimated around 100 claimants would be affected by this change with a possible maximum weekly 'loss' of £13.38 per claim. We are not able to produce data on numbers actually affected by this change but have received no complaints or any exceptional hardship requests as a result of this.

### *Remove the entitlement to the Severe Disability Premium where someone else is already paid UC (Carers Element)*

This change aligned our scheme with Central Government changes to HB and has no impact on claimant.

### *Remove the additional earnings disregard for claimants on UC*

This change was introduced to align with Universal Credit and simplifies the administration of claims for those in receipt of UC. Prior to this change, an additional amount of earnings could be disregarded if a customer worked sufficient hours. This additional disregard doesn't exist in UC.

## Social impacts and duties

The proposal indicates the following social impacts.

	<p>Please score</p> <p>+3 ← 0 → -3</p>
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<b>Age Children</b> (Under 16) – 16%	0
<b>Young</b> (16-24) – 9.6%	-1
<b>Working age</b> (25-59) – 43%	-3
<b>Older</b> (60+) - 31%	-1
<b>Men</b> – 48%	-1
<b>Women</b> – 52%	-3
<b>Transgender</b> – c1%	0
<b>BAME (Black, Asian, minority ethnic)</b> – 4%	-1
<b>LGB (lesbian, gay, bisexual)</b> – c. 5%	0
<b>Marriage and Civil Partnership</b> - 52%	0
<b>Religion and belief (or none)</b> - 72%	0
<b>Disabilities</b> – 21%	-1
<b>Pregnancy and Maternity b n/a</b>	-1
Rural – 27%	0
Economic Deprivation – 21.8%	-2

\* **Bold** = 'Protected characteristics'

### Protected characteristics impact

CTR exists to support people on low incomes and as such any change to the working age scheme will impact on households on low incomes which will include:

- Those in a lower socio-economic position

And may include:

- Families with children
- Lone parents
- Carers
- Full-time and part-time workers/self-employed
- Single people and childless couples

However, our most vulnerable claimants and those on the lowest incomes will typically be on a passported benefit e.g. Job Seekers Allowance, Income Support, Employment and Support Allowance etc. and will therefore be unaffected by changes to the scheme. Claimants on passported benefits and lowest incomes continue to receive 100% support under Teignbridge's CTR scheme.

- **Young People**  
may be affected indirectly by reduced CTR for families.

#### **Working Age People**

Changes to the scheme only impact on working age population. Pensioners are protected from changes made to local schemes as their entitlement is assessed under the prescribed national CTR scheme.

- **Older People**  
The Teignbridge scheme does not affect people of pension credit age unless they are the partner of a working age claimant. Pensioners are protected from changes made to local schemes as their entitlement is assessed under the prescribed national CTR scheme.
- **Men**  
The scheme does not differentiate on gender.
- **Women**  
The scheme does not intend to differentiate on gender, however it has been identified that a significant proportion of single parents are women. There is also a disproportionate amount of women claiming CTR to that of the population at large.
- **Transgender**  
The scheme does not differentiate on gender.
- **BAME**  
The scheme does not differentiate on race but it is possible that the limit on the the amount of time spent away from Great Britain could disproportionately affect ethnic minority groups.
- **LGB**  
The scheme does not differentiate on sexuality
- **Married/Civil partnership**  
The scheme does not differentiate on those households who are married or in a civil partnership.
- **Religion**  
The scheme does not differentiate on religious grounds.
- **Disabilities**  
The scheme continues to provide, the following additional protections for this group:
  - A disregard of Disability Living Allowance (DLA), Personal Independence Payments (PIP) and Attendance Allowance (AA) from the CTR calculation
  - Disability premiums for disabled children and claimants and partners which increase entitlement to CTR
  - No non-dependant deductions are made for claimants and partners in receipt of DLA care, daily living component of PIP or AA
  - A carers premium for claimants and partners who receive Carers Allowance

Households with a disabled occupant may be affected by changes to the scheme but this is less likely given the fact that the applicable amounts are higher and many will continue to receive 100% protection.
- **Pregnancy/Maternity**  
Households where a third or subsequent child is born later than 1<sup>st</sup> April 2017 will not receive any additional CTR as a result of increasing the size of their family. Households on passported benefits, generally considered to be those most in need, will however continue to receive 100% support.
- **Rural**  
The scheme will not impact on members of the rural community in any particular aspect
- **Economic Deprivation**  
The fact that applicants receiving CTR meet the means testing criteria puts them within the lowest earning brackets in Teignbridge. This means that any change to the scheme has the potential to impact. However, those on the very lowest incomes, and on passported claims, will

continue to receive 100% reduction. The Council introduced an Exceptional Hardship Policy in 2017-18 to directly assist anyone in 'exceptional need' who did not qualify for 100% reduction.

Any adverse impacts are justified by positive impacts of the scheme which create stronger incentives for people who are able to work do so and supports the positive work incentives that are inherent within the Government's Universal Credit scheme

### **Protections in the existing council tax reduction scheme**

The Council Tax Reduction Scheme exists as a local scheme to provide assistance to low income taxpayers. It is a robust and complex system and, as it is currently based on the now obsolete Council Tax Benefit Scheme, it has protections for vulnerable groups built in.

The structure of the means test ensures that vulnerable groups are recognised and protected. This works in the following ways:

- Personal allowances are higher for families with children
- Additional premiums for disabled household members and carers
- Income disregards for certain disability benefits, child benefit and child maintenance
- Earned income disregards; higher rates apply for full time work, disabled workers, certain part-time emergency workers and single parent workers
- Childcare costs disregard for workers with children
- Local disregard of War Pension income

The local scheme maintains the protections and work incentives that have been refined over many years.

### **Exceptional Hardship Policy - extra protection for claimants**

Our scheme, which continues to pay up to 100% reduction for those on the lowest incomes, remains the most generous in Devon. Changes to the scheme introduced in 2017-18 do not impact on anyone receiving a passported benefit. These claimants will continue to receive support at 100% of council tax liability.

Any claimant not in receipt of 100% support, meaning they are required to pay part, or all, of their council tax liability may ask for assistance under the Council's Exceptional Hardship Policy. This Policy was introduced last year to provide a safety net for anyone experiencing significant financial hardship and may be used to remit part or all of an individual's council tax liability.

The Policy provides for consideration of the merits of each individual application and ensures those in greatest need receive the most support. This is considered preferable to introducing a 'blanket-policy' approach to discounting council tax which does not take individual circumstances into account and cannot therefore be adequately targeted at those experiencing exceptional need.

Following introduction of the changes in 2017-18 we have actively encouraged claims for Exceptional Hardship and have received 78 claims in total. Each of these claims was considered on its merits with a full appraisal of the claimant circumstances resulting in 26 claimants being awarded a reduction in the amount of council tax they had to pay.

By the end of Q1 we had awarded £10,156 in Exceptional Hardship and £2,295 by the end of Q2 – a total of £12,451. This cost is shared across all major preceptors and represents a cost to Teignbridge of just over £1,000.

## Council Tax debt recovery

We take a sensitive but pro-active approach to council tax debt recovery and try to quickly identify any taxpayer experiencing difficulty paying their council tax in order to provide timely support. We recognise that some taxpayers are reluctant to engage or seek help when they fall into debt and because of this we supplement the issue of statutory notices with text messages and outbound telephone calls to encourage taxpayers to seek help and find solutions. This may be via the exceptional hardship scheme and/or, money management and budgeting advice as appropriate.

### Duties

Under the Equality Act 2010 s.149 the Council must annually publish what actions we have taken in response to our 3 equality duties.

#### This proposal contributes to the duties in the following ways:

1) The elimination of discrimination, harassment, victimisation and other prohibited conduct by .....

It does not contribute positively or negatively to this objective

2) The advancement of equality of opportunity by .....

It does not contribute positively or negatively to this objective

3) The fostering of good relations between people by .....

It does not contribute positively or negatively to this objective

### Managers' evaluation

- No major change required.
- Adjustments have been made to better advance equality.
- Continue despite having identified some potential for adverse impacts.  
(Please detail your justification here.)
- Cease the proposal. It shows actual or potential unlawful discrimination.

### Recommended Actions

The CTR Scheme must be formally adopted each year and any proposed changes subject to major preceptor and public consultation. In conjunction with the Devon Benefit Officers Group we will continue to review the scheme each year and consider the impacts of any future proposed changes.

#### Sign Off

<b>Service Manager</b>	 Signed Tracey Hooper _____	Date: 04.01.18 _____
<b>BID</b>	 Signed Kay O'Flaherty _____	Date 04.01.18 _____
	Date the BIA should be reviewed/renewed	Date: Annually _____



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**TEIGNBRIDGE DISTRICT COUNCIL**

**EXECUTIVE**

**LEADER: Cllr Jeremy Christophers**

**PORTFOLIO HOLDER: Stuart Barker**

**DATE: 4<sup>th</sup> December 2018**

**REPORT OF: Tracey Hooper, Revenue, Benefit & Fraud Manager**

**SUBJECT: Council Tax premium for long term empty homes**

**PART I**

**RECOMMENDATIONS**

That Executive recommends to Council on 14 January 2019 to raise the premiums being charged on long term empty properties as follows:

- From April 2019 onwards to increase the premium up to the maximum of 100% for properties that have been empty for more than 2 years
- From April 2020 onwards to increase this to 200% for properties that have been empty for more than 5 years
- From April 2021 onwards to increase this to 300% for properties that have been empty for more than 10 years

**1. PURPOSE**

- 1.1 To advise members that legislation has recently been passed that will allow billing authorities to increase the long term empty homes council tax premium from 50% and to request that members make a recommendation to Council on the level of premiums to be applied with effect from 1<sup>st</sup> April 2019.

**2. BACKGROUND**

- 2.1 Since 1 April 2013, local authorities in England have been able to charge a premium of 50% on the full council tax charge. In the 2017 Autumn Budget, the Government announced its intention to legislate to give local authorities the power to increase this further. The legislation allowing this to happen

## TEIGNBRIDGE DISTRICT COUNCIL

became law on 1 November 2018 and is contained in the Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018.

- 2.2 The Government is keen to encourage owners of empty properties to bring their properties back into use. This is because:
- there are currently 200,000 properties standing empty in England
  - empty properties attract squatters, vandalism and anti-social behaviour; can be a blight on the local community; and can affect the value of the properties around them
  - when 1.6 million households are on social housing waiting lists, long term empty properties are a wasted resource.
- 2.3 An empty property for council tax purpose is defined as a property that is 'unoccupied and substantially unfurnished'.
- 2.4 As noted above there are currently just over 200,000 long-term empty dwellings in England. This compares to 300,000 in 2010. The number has reduced since 2013, when councils were given powers to charge a 50% premium, indicating that applying a premium has been a successful incentive in tackling empty homes.
- 2.5 The Government has introduced the following incremental increases that can be applied to reflect the length of time that properties have been empty:

Financial year beginning	Length of time property has been empty	Maximum % premium that can be charged
1 April 2019	More than 2 years	100%
1 April 2020	More than 2 years but less than 5 years	100%
	More than 5 years	200%
1 April 2021	More than 2 years but less than 5 years	100%
	More than 5 years but less than 10 years	200%
	More than 10 years	300%

- 2.6 It is for each Billing Authority to determine the percentage level up to the maximum amounts as outlined above.
- 2.7 The Government does not propose to change the qualifying period of two years believing it strikes a balance between providing a strong incentive for bringing empty homes back into use, and giving home-owners sufficient opportunity to sell or rent out their properties, or to complete any major renovations that might be required.

## TEIGNBRIDGE DISTRICT COUNCIL

2.8 Within the existing legislation there are certain classes of properties where a premium cannot be applied, these are:

- Dwelling which would be the sole or main residence of a person residing in armed forces accommodation (Class E)
- Annexes forming part of the main dwelling (Class F)

2.9 Teignbridge currently has 87 properties that are subject to the 50% empty homes premium.

The number of properties that would fall into the three categories, based on current data, is as follows:

Council Tax Band	2-5 years	5-10 years	10 years +	Total
A	22	3	2	<b>27</b>
B	11	5	7	<b>23</b>
C	8	5	4	<b>17</b>
D	3	1	0	<b>4</b>
E	3	3	3	<b>9</b>
F	1	1	0	<b>2</b>
G	3	1	0	<b>4</b>
H	0	1	0	<b>1</b>

2.10 Assuming the maximum percentages are adopted, the additional council tax that could be generated based on these properties is as follows:

Year	Additional Council tax £	Teignbridge's share £
2019/20	68,584.40	6,404
2020/21	128,915.10	12,039
2021/22	153,676.24	14,351

*Above figures are based on 2018/19 average council tax charge*

2.11 The additional income is relatively small in relation to the overall council tax raised but is significant from a relatively small number of properties. However, the focus of this initiative is to bring more empty properties back into use.

## TEIGNBRIDGE DISTRICT COUNCIL

### 3 MAIN IMPLICATIONS

- 3.1 Legal –The administration and collection of Council Tax is a statutory function. The level of premium available to local authorities is set down in primary legislation and provision has been made in the Rating (Property in Common Occupation) and Council Tax Empty Dwellings Act 2018 for premiums to increase in prescribed circumstances to the maximum levels outlined earlier in the report.
- 3.2 Equalities – No adverse impacts identified. The proposal could have positive impact by bringing more properties back into use.
- 3.3 Financial - There is a risk that some of these homeowners may struggle financially to pay additional amounts of council tax. However, this could provide an opportunity for the Empty Homes Officer to engage with owners who will be affected from April 2019 regarding how the property could be brought back into use.
- 3.2 Billing authorities have discretion to reduce or remit council tax in exceptional circumstances. This provides an appropriate safety net and can be used to provide support on a case by case basis for any deserving cases which are not subject to the statutory exemptions.

### 4. GROUPS CONSULTED

- 4.1 The Council's Housing Enablement and Development Manager has been consulted and has made the following comments:
- 4.2 Housing Services consider empty homes as a wasted resource and therefore support any intervention to bring empty homes back into use or alternatively raise income.
- 4.3 Housing Services have worked with Departments across the Council to reduce empty homes year on year for the past 10 years and support this proposal as yet another intervention to assist the Council in this aim.

### 5. TIME-SCALE

- 5.1 To commence higher premium of 100% with effect from 1<sup>st</sup> April 2019. This will be reflected in 2019/20 Council tax bills to be sent in March 2019. With incremental increases in 2020/21 and 2021/22. Owners will be contacted as soon as any decision is made to enable them to consider their position prior to the premium falling due.

### 6. JUSTIFICATION

- 6.1 The premium is not applied until the property has been empty for more than two years which strikes a balance between providing a strong incentive for

## TEIGNBRIDGE DISTRICT COUNCIL

bringing empty homes back into use, and giving home-owners sufficient opportunity to sell or rent out their properties, or to complete any major renovations that might be required.

### 7. DATE OF IMPLEMENTATION (CONFIRMATION OF DECISION SUBJECT TO CALL-IN)

N/A - Decision to be taken by Council on 14 January 2019

**Alison Spargo**  
Revenue Manager

**Cllr Stuart Barker**  
Portfolio Holder for Assets and  
Resources

BELOW TO BE FILLED IN BY REPORT AUTHOR:

<b>Wards affected</b>	Potential for all wards to be affected but negligible impact
<b>Contact for any more information</b>	Ali Spargo Ext 5230 or Tracey Hooper Ext 5266
<b>Background Papers (For Part I reports only)</b>	Link to regulations: <a href="#">Rating (Property in Common Occupation) and Council Tax Empty Dwellings Act 1918</a>
<b>Key Decision</b>	N
<b>In Forward Plan</b>	N
<b>In O&amp;S Work Programme</b>	N
<b>Community Impact Assessment attached:</b>	N
<b>Appendices attached:</b>	N/A

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# EXECUTIVE

LEADER: Cllr Jeremy Christophers

PORTFOLIO HOLDER: Cllr Timothy Golder

**DATE: 4<sup>th</sup> December 2018**

**REPORT OF: Tony Watson, Interim Head of Commercial Service and Cllr Timothy Golder, Portfolio Holder for Economy Skills and Tourism**

**SUBJECT: Asset Management Strategy**

## PART I

### RECOMMENDATIONS

- 1) The Executive is recommended to adopt the Teignbridge District Council
  - i. Asset Management Strategy;
  - ii. Land and Buildings Disposal Policy;
  - iii. Land and Buildings Acquisition Policy.
- 2) The Executive is recommended to consider the draft Town and Parish Council Service Devolution & Asset Transfer Policy for comment prior to consultation with the Teignbridge Association of Local Councils

### 1.0 PURPOSE

- 1.1 Asset management is about supporting the delivery of strategic goals and objectives through the use of property assets. The Asset Management Strategy captures roles and responsibilities within the authority, what we are seeking to achieve and, how we intend to do it. It is envisaged that the proposed Asset Management Strategy and Overview (Appendix A) be incorporated into the Capital Strategy the Council is required to produce annually under the CIPFA<sup>1</sup> Prudential Code.
- 1.2 The Strategy needs to be supported by the appropriate processes, governance mechanisms and policy frameworks. To this end, associated policies have been drafted for adoption in three key areas: property disposal, acquisition and transfer to town and parish councils.

### 2.0 BACKGROUND

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<sup>1</sup> Chartered Institute of Public Finance & Accountancy

## TEIGNBRIDGE DISTRICT COUNCIL

- 2.1 The Council's Asset Management Plan was last updated in 2012. Rather than merely update an existing plan, a fresh look has been taken at the approach to asset management and the documents required.
- 2.2 The Asset Management Strategy provides a high-level statement of the overall approach to providing property to meet the organisation's needs. It seeks to make clear, in general terms, the strategic aim, asset priorities, how the priorities are met, how we keep track of progress and performance and by whom the work is led. An overview has been captured on one page so that the cohesive message is conveyed in a straight forward and visual manner, as opposed to a lengthy written document.
- 2.3 The property policies are designed to make sure that the property asset strategy is reflected in the decisions of all parts of the organisation. They set down the 'rules of behaviour' for the organisation, as far as property decision-making is concerned to establish:-
- i. What the corporate approach or attitude is to its property assets;
  - ii. What behaviours are expected; and
  - iii. What principles are going to be followed.
  - iv.
- 2.4 It is recommended that the 'Town and Parish Council Service Devolution & Asset Transfer Policy', is shared with the Teign Association of Local Councils for consultation with a view to the document being brought back to the Executive for future adoption.
- 2.5 Thought has been given to the creation of a property asset management action plan. This would provide clear and measurable actions that will be implemented over the short term, as part of delivering the property asset management strategy. This would set out what we need to do to deliver the strategy and the specific activities or actions to be taken. These would generally be categorised into the following groups:
- Policy development
  - Organisational arrangements
  - Property specific activities
- 2.6 Given that these activities are already incorporated and monitored within the Spar risk register, through the capital programme and service plans, a separate asset management action plan is not recommended at this time.

### **3.0 MAIN IMPLICATIONS**

- 3.1 Research by CIPFA Property and the Royal Institution of Chartered Surveyors (RICS) has found that where strategic property asset management has effectively been put in place, it has brought real and tangible benefits for the organisations concerned. These benefits have been captured by CIPFA property and are attached at Appendix B.
- 3.2 The main implications for the new Policy documents are detailed in turn below.

### **4.0 Land and Buildings Disposal Policy (Appendix C)**

## TEIGNBRIDGE DISTRICT COUNCIL

- 4.1 At present, there is no framework or guidelines relating to the disposal of property. The policy document primarily sets out clarity around procedures and the impact of legislation on practices. However, there are some new concepts introduced or/and areas of the policy that should be highlighted.
- 4.2 **Identification of surplus and under-used property** (Paragraph 5). This introduces responsibility for each service, through its annual service business planning, to identify property that is under-used or surplus to their individual service delivery requirements. This property will then be referred to the Economy and Assets Service to consider any other potential uses for the property, including operational use by an alternative service. Where a surplus asset is not deemed as having an alternative potential use, a recommendation to the Capital Review Groups will be made to establish the property as surplus for disposal.
- 4.3 The purpose of introducing this more strategic discipline is to embed a more corporate and efficient use of Council owned assets.
- 4.4 **Direct approaches to acquire property interests from the Council** (Paragraph 7). The Council regularly receives enquiries from third parties wishing to acquire an interest in Council owned property. This can range from people wanting a scaffold licence or to run an event, to asking if they can buy a freehold interest.
- 4.5 This policy introduces an application process for these enquiries with application forms made available on the website. The purpose is to introduce a clear and transparent process for applicants and to help manage expectations. In addition, some application forms will carry a small administration fee and a schedule is set out below:-

Purchase of freehold or lease	£150
Temporary use of council land up to 28 days	£75
Easements over land	£50

- 4.6 All proposed fee charges for 2019-20 are set out in Appendix G of the policy document and are subject to agreement by Full Council (February 2019). It is anticipated that as part of the One Teignbridge programme, online applications and payment will be made available to our customers.
- 4.7 **Member Involvement (Paragraph 8.7)**. The section sets out guidance to members in relation to property negotiations. The purpose is to set clear boundaries to which members can refer.

### 5.0 LAND AND BUILDINGS ACQUISITION POLICY (APPENDIX D)

## TEIGNBRIDGE DISTRICT COUNCIL

5.1 This policy document is to be followed when considering the acquisition by the Council of an interest in property. The purpose is to adopt procedures that are consistent and which ensure maximum benefit from the effective purchase and subsequent management of the Council owned property assets.

5.2 The document intends to instil the premis that the acquisition of property is considered a capital project and that as such, the adopted project management framework should be followed. This should ensure a clear appraisal and funding approval process. In addition, the policy seeks to ensure that the relevant property expertise, in the form of the Council's chartered surveyors, are brought in at an early stage to safeguard that, amongst other things, the land and/or buildings are suitable and the right price.

### **6.0 TOWN AND PARISH COUNCIL SERVICE DEVOLUTION AND ASSET TRANSFER POLICY (APPENDIX E)**

6.1 The Council recognises that the devolution of assets and associated services to town and parish councils can make a significant contribution to enabling them to be a stronger, more resilient and sustainable local communities. This is not a new concept and the Council has already supported local communities by undertaking such transfers in the past.

6.2 The Council has a requirement to be able to balance the aspirations of local communities to take on the guardianship of public property assets and delivery of services, with the duty of care it must have in safeguarding the best interests of Teignbridge residents. The introduction of this policy and application procedure set out within this policy is intended to establish a clear approach and governance to service devolution and asset transfer.

6.3 In addition, town and parish councils currently remain unrestricted by central government in the setting of their precepts to fund planned spending. Given the Council's own projected spending pressures, there may come a time when it will be forced to consider reducing existing services provided or disposing of land and buildings connected with current service delivery. Where town and parish councils deem those local services particularly important to their local community, they may wish to apply to take those on themselves. In such cases, an established clear policy and procedure will assist this process.

### **6.0 GROUPS CONSULTED**

6.1 Services across the Council have been consulted, and contributed, to the preparation of the Asset Management Strategy and the policy documents. These have included Housing, Open Spaces and Resorts, Leisure, Legal, Planning and Finance.

6.2 Consultation with the Teignbridge Association of Local Councils is recommended in respect of:-

- The Town and Parish Council Service Devolution & Asset Transfer Policy

## TEIGNBRIDGE DISTRICT COUNCIL

6.3 The Asset Management Strategy and the supporting policy documents we presented at a Member Briefing held 12 November 2018 and to Overview & Scrutiny 19 November. The documents were received positively.

### 5.0 TIME-SCALE

5.1 The strategy and policy content can be adopted immediately. However, where new fees and charges are being introduced as from 2019/2020, this will need the approval of Full Council in February 2019. In addition, the introduction on on-line applications and payments will be subject to the One Teignbridge programme.

5.2 The Teignbridge Town and Parish Council Service Devolution and Asset Transfer Policy will be considered for adoption by the Executive at a future date and following consultation with the Teignbridge Association of Local Councils.

### 6.0 DATE OF IMPLEMENTATION (CONFIRMATION OF DECISION SUBJECT TO CALL-IN)

10.00 a.m. on 11 December 2018

**Tony Watson**  
Interim Head of Commercial Services

**Cllr Timothy Golder**  
Portfolio Holder for Economy Skills and Tourism

BELOW TO BE FILLED IN BY REPORT AUTHOR:

<b>Wards affected</b>	All
<b>Contact for any more information</b>	Donna Best, Estates & Development Officer
<b>Background Papers (For Part I reports only)</b>	N/A
<b>Key Decision</b>	Y
<b>In Forward Plan</b>	Y
<b>In O&amp;S Work Programme</b>	Y
<b>Community Impact Assessment attached:</b>	N
<b>Appendices attached:</b>	A: Asset Management Strategy and Overview B: Cipfa Property: Benefits of strategic asset management C: Draft Land & Buildings Disposal Policy D: Draft Land & Buildings Acquisition Policy E: Draft Town & Parish Council Service Devolution and Asset Transfer Policy

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## 1.5 Asset Management Strategy

The Leader is the Executive member with responsibility for assets. The Head of Commercial Services is the current designated Corporate Property Officer (CPO). The CPO is authorised to take the lead on asset management planning across all services thus ensuring that property assets are regarded throughout the Council as corporate assets.

This strategic approach ensures that the Council's business and property plans support its key objectives and inform its spending decisions. The alignment of the corporate vision with service business plans, the Medium Term Financial Plan and Capital Strategy provides a stable context in which to make informed decisions and deliver the right outcomes. Further, it provides the opportunity to shape the property portfolio to efficiently support the delivery of services and to hold, acquire or occupy only those properties that support the aims of the Council. Property assets represent the Council's largest physical resource in financial terms and they underpin all service activities;

- a) For the purpose of direct service delivery (such as parks, gardens and leisure centres);
- b) To support service delivery (for example administrative offices and depots); and
- c) To support the Council's wider policy objectives. This part of the portfolio is varied: Many assets have been made available for social or sporting purposes or are retained for a range of reasons such as a potential to contribute to future regeneration schemes or provide workspace for local employment provision. In addition, the portfolio provides a valuable revenue income, (approx. £8.43 million 2017/18), which in turn helps to support the Council in delivering important services to its residents.

The Council's corporate property function sits as part of the Economy and Assets Service and is overseen and supported by the Capital Review Group. The overview below summarises the Council's strategic property aims, asset priorities and how they are managed and monitored.

## TEIGNBRIDGE COUNCIL CORPORATE ASSET MANAGEMENT OVERVIEW

Our Strategic Property aim is:

ENSURE THAT TDC LAND AND BUILDING ASSETS ARE EFFICIENTLY MANAGED, MAINTAINED, REDEVELOPED, ACQUIRED AND DISPOSED OF IN A CONSISTENT, STRATEGIC MANNER THAT SUPPORTS CORPORATE OBJECTIVES AND SERVICE DELIVERY

Our asset priorities are:

Understand our assets and how they perform	Challenge whether we have the right assets in the right place and in a condition to meet service delivery needs	Dispose of the assets we no longer need	Acquire new assets if we need them	Maintain and invest in property	Make assets more efficient to run	Reduce the carbon footprint of our assets	Make the most of our assets
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We deliver these priorities by:

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Retention of a Corporate Asset Database with continued programme to rationalise property information into one place	Asset Challenge Review	Compliance with Property Disposal & Acquisition Policy and Procedures	Investing in a prioritised programme of Planned Maintenance and Capital Programme projects	Proactive estates management
Measuring and monitoring asset data and information to show how our assets perform	Service Business Planning		Delivery of a prioritised programme of strategic property projects set out in the <b>Capital Programme</b>	Ensuring 'best consideration' in all our property transactions
	One Teignbridge Transformation Programme		Compliance with statutory and health & safety legislation	Clear <b>Property Policies</b> and Procedures

We keep track of progress & performance with:

Capital Programme - monitoring of delivery by the Capital Review Group					
Performance indicators					
Budget monitoring/ SPAR risk register					
	An Asset Review Schedule	Asset Disposal	Asset Acquisition	Capital Programme monitoring	Capital receipts and revenue income
				Planned & Reactive Maintenance monitoring	
				Property Inspection Regimes	

This work is led by:

The Corporate Property Officer (Head of Commercial Services)				
Economy & Assets Housing & Health Environment & Leisure	All Services	Economy & Assets - Estates	Economy & Assets Housing & Health Environment & Leisure	Economy & Assets

## Appendix B

### The benefits of strategic property asset management

#### CIPFA Property

Where strategic property asset management has been effectively put in place it has brought real and tangible benefits for the organisations concerned, in the following areas.

##### **Being corporate**

- Establishing a strategic property group (or board) where corporate discussions can take place.
- Putting into place a corporate landlord governance model.
- Appreciating that long-term change was needed which relies on a corporate approach.
- Increasing the desire for a corporate solution.
- Enabling common priorities to be agreed and adopted.
- Enabling the establishment of corporate standards for assets, for example in asset condition or utilisation.

##### **Awareness**

- Raising profile of property assets and brought senior leadership buy-in.
- Showing that things had to change.
- Knowing more about their assets.
- Improving engagement with elected members.
- Increasing understanding of how assets enable an organisation and services to deliver.
- Putting property at the top table.

##### **Service delivery**

- Improving engagement between property team and services.
- Development of department asset strategies or incorporating asset strategies within departmental business planning approaches.
- Supporting services to challenge their service delivery operating models.

##### **Finances**

- Improving financial forecasting.
- Identifying procurement cost savings.
- Analysing and aligning budgets.
- Demonstrating savings, delivering efficiencies or spending money more wisely.
- Taking a more commercial attitude to services and to property assets, and driven value from the portfolio.
- Focussing staff and finance where biggest difference can be made.
- Initiated a capital and disposal strategy.
- Developing an investment strategy.

##### **Efficiency**

- Realising the need and value of data in improving efficiency and in making decisions.
- Understanding costs.
- Highlighting property performance:
  - energy
  - maintenance
  - compliance
  - fitness for purpose.

- Achieving better and fewer assets.
- Enabling the development of a repair and maintenance programme.
- Supporting asset review, rationalisation and asset challenge.

#### **Delivering corporate objectives**

- Delivering better return (social and financial) through formal decision making platforms.
- Driving regeneration.
- Driving organisational policy on Community Asset Transfer.

#### **Partnerships**

- Improving collaboration and brought organisations together, including neighbouring local authorities, blue light services, health, central government etc.
- Supporting area reviews and co-location strategies.
- Developing better links with other council strategies.
- Promoting and delivering Internal shared use of assets.

### **Why the benefits are sometimes not seen**

For some organisations, attempts to adopt a strategic approach to property asset management do not get sufficient traction or at various points go 'off the rails'. Sometimes this is due to the organisation writing their asset management framework before they have put in place the necessary and important foundations. There can be a number of other reasons why strategic property asset management does not deliver what was intended. These can include:

- Lack of understanding as to what it is all about.
- High level policy change or shift in political priorities.
- Other plans and strategies change.
- Inconsistencies in approaches.
- Approaches to changing priorities or strategies is not fed through to property asset implications and need to adapt.
- The asset management framework becomes too bulky and cumbersome.
- The asset management framework results in being nothing more than a position statement instead of being forward-looking and strategic.
- The organisation lacks a culture of taking a corporate approach to decision making.
- Political overrule of adopted strategy in certain cases.
- Struggle to achieve engagement with all senior management and services.
- Heavy operational workload resulting in diversion of resources from strategic activities.
- Lack of adequate property-related data.
- No clarity around service delivery models.
- Timeframes, objectives or funding arrangements of partners out of alignment.
- Amount of time, money and people available to deliver.
- Ward councillors can sometimes concentrate on local issues rather than bigger picture.
- Dependence on internal drivers for change which is not always there.
- The property team lacks status within the organisation.

# Teignbridge District Council

## Land and Buildings Disposal Policy

Date: June 2018

Teignbridge District Council  
Forde House  
Brunel Road  
Newton Abbot  
Devon  
TQ12 4XX  
Tel. 01626-215856  
[www.teignbridge.gov.uk](http://www.teignbridge.gov.uk)



# Teignbridge District Council

## Land and Buildings Disposal Policy

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**Teignbridge District Council**  
**Land & Buildings Disposal Policy**

**1.0 Introduction**

- 1.1 Unlike private property owners, local authorities are subject to constraints when they come to dispose of land or buildings in their ownership. Some of these constraints are enshrined in law; others arise because of a general expectation that local authorities should be seen to act fairly when disposing of land and ensure the best outcome for their residents.
- 1.2 Changing requirements and regular review of property assets will at times lead to them being deemed surplus. In addition, there may be circumstances in which a disposal is considered the best way to achieve one or more the objectives of the Council. The purpose of this policy is to provide a framework for the disposal of such property assets.
- 1.3 In order to comply with legislation and best practice it is essential that the procedures adopted for land disposal are directed to obtaining the best terms reasonably available:
- a) Allowing all interested parties an equal opportunity to lease or purchase, and;
  - b) Avoiding partiality or bias

**2.0 Legal Framework**

- 2.1 The Council may dispose of surplus land and property having regard to the provisions in section 123 of the Local Government Act 1972 (**Appendix A**) and the General Disposal Consent 2003 (**Appendix B**). This legislation ensures that property is disposed of at the best price obtainable subject to certain exceptions.

**3.0 What is a disposal?**

- 3.1 For the purposes of this policy, a disposal of property is considered to be a disposal if it consists of
- a) A freehold transfer; or
  - b) The grant of an interest in Council owned land and/or buildings

**4.0 Reasons for the Council holding property**

- 4.1 Delivery of public services and property assets are intrinsically linked: The reasons for the Council holding property, as set out in the Capital & Asset Management Strategy are:-
- a) For the purpose of direct service delivery (such as parks and gardens)
  - b) To support service delivery (for example administrative offices and depots)
  - c) To support the Council's wider policy objectives. This part of the portfolio is varied: Many assets have been made available for social or sporting purposes or are retained for a range of reasons such as a potential to contribute to future regeneration schemes or provide workspace for local employment provision. In addition, the portfolio provides

a valuable revenue income which in turn helps to support the Council in delivering important services to its residents.

- 4.2 The strategic property aim is to ensure that Teignbridge land and building assets are efficiently managed, maintained, redeveloped, acquired and disposed of in a consistent, strategic manner that supports corporate objectives and service delivery.

## **5.0 Identification of surplus and under used property**

- 5.1 Property will be identified as surplus if it does not fulfil any of the reasons or objectives for the council holding property assets as set out above.
- 5.2 It is the responsibility of each service, through its annual Service Business planning, to identify any property or part thereof, that is under used or surplus to their individual service delivery requirements. Following the identification of surplus property, or part thereof, it should be referred to the Economy and Assets Service to consider any other potential uses for the property, including operational use by an alternative service.
- 5.3 Where a surplus asset is not deemed as having an alternative potential use, a recommendation to the Capital Review Group will be made to establish the property as surplus for disposal.
- 5.3 As well as identification by a service area, surplus land and property may be identified by the following methods:
- Asset Challenge Review
  - Following a direct approach from an interested party
- These methods are explored further below.

## **6.0 Asset Challenge Review**

- 6.1 The Council owns a wide range of assets within its property portfolio. These are a valuable resource and one which should be managed in an efficient and effective way in line with the Council's strategic property aim. If the resource is not managed well, there is potential for wasting revenue on operating and maintaining assets that are either ineffective or inefficient. Equally there is a capital value locked into assets which if the asset is no longer required, could be realised, and capital liabilities that could be avoided.
- 6.2 Where assets are still required, then the wrong asset in the wrong location can make a difference to the efficiency of services delivered and impact negatively on customer access to those services. If property assets are not well maintained, this affects the customer experience and can impact negatively on the Council's reputation in the community.
- 6.3 The Council undertakes a regular asset challenge process which enables the Council to understand what assets they own, what these cost, what benefit is derived from them and whether there are opportunities that can be exploited from the asset base.

## **7.0 Direct approaches to acquire property interests from the Council**

- 7.1 The Council regularly receives enquiries from third parties wishing to acquire an interest in Council owned property. This can range from acquiring a scaffold licence or running an event, to acquiring a freehold interest.

7.2 There are application processes in place for these enquiries. Application forms are available online or can be obtained from Economy and Assets. There is a draft 'Frequently asked Questions and Answers' page for our website at Appendix G which provides further details in relation to the process. Events are managed by the Green Spaces and Resorts teams. As part of the One Teignbridge digitalisation programme, it is anticipated that online applications will be the method of submission in the future.

7.3 Some types of applications carry a small administration fee and a schedule is set out below:-

Purchase of freehold or lease	£150
Temporary use of council land up to 28 days	£75
Easement over land	£50

7.4 The fees are a contribution towards the cost of administering the applications and are non-refundable unless the enquiry leads to the open marketing of the property.

7.5 Utility companies have legal rights to acquire wayleaves or easements over land and are processed on a case by case basis.

7.6 The Council also receives applications from town and parish councils for the devolution of services and associated assets. It is widely recognised that the devolution of services and associated assets to local communities can make a significant contribution to enabling them to be stronger, more resilient and sustainable. There are potential benefits to be had in empowering local communities to develop facilities based on local needs and preferences, and to retain the services most important to those neighbourhoods. The framework for these transfers is set out in the Council's Service Devolution and Asset Transfer Policy.

## 8.0 Property Disposal Responsibilities

8.1 All proposed freehold and leasehold property disposals are managed by the Council's Estates Team.

8.2 The Estates Team will advise on the appropriate method of disposal (Appendix D) and follow the relevant property disposal procedures. These procedures are all based on the assumption that the Estates Team ensure that market value/ the best price achievable (whether by way of freehold or leasehold) is attained.

8.3 The table below outlines the financial thresholds for decisions relating to the disposal of land and buildings as detailed in the Council's Financial Instructions<sup>1</sup>:-

Capital Receipt Value or annual rent (up to 10 years)	Decision Authority
£0 - £10,000	Business Manager – Economy & Assets
£10,001 - £50,000	Business Manager – Economy and Assets in consultation with the Portfolio Holder,

<sup>1</sup> <https://www.teignbridge.gov.uk/media/6164/agenda-14-dec-2017.pdf>

	Head of Paid Service, Business Lease and Chief Financial Officer.  The Business Manager and Chief Finance Officer will sign the Decision Note for the disposal to evidence their agreement.
£50,001 & above	Portfolio Holder Decision.
<p>These instructions are subject to the provisions of the Council's Constitution with regard to key decisions as well as the Council's Asset Disposal Policy.</p> <p>Decisions will be reported retrospectively to the next Executive Committee.</p> <p>The decision to agree to the disposal <b>by Lease</b>, where the period of the lease does not exceed <b>10 years</b>, may be made by the Business Manager – Economy and Assets, having regard to the requirements of the Land &amp; Buildings Disposal Policy, and where it does not prejudice existing land holdings or future development proposals.</p> <p>Lease decisions which commit the Council to periods in <b>excess of 10 years</b> must be approved by the Executive.</p>	

8.4 Where an urgent decision is required to safeguard the interests of the Council and a decision is not within the approved budget or policy framework, under Part 3.2 Budget and Policy Framework Procedure Rules paragraph 2.4 of the Council's Constitution<sup>2</sup>,

*“The Executive, a Committee of the Executive, an individual Member of the Executive or officers, area committees or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken:*

- *if it is not practical to convene a quorate meeting of the Full Council;*
- and*
- *if the Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.*

*The reasons why it is not practical to convene a quorate meeting of Full Council and the Chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.*

*In the absence of the Chairman of the Overview and Scrutiny Committee, the consent of the Chairman of the Council, and in the absence of both, the Vice Chairman, will be sufficient.*

*Following the decision, the decision-taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and*

<sup>2</sup> [https://www.teignbridge.gov.uk/media/1144/budget\\_and\\_policy\\_framework.pdf](https://www.teignbridge.gov.uk/media/1144/budget_and_policy_framework.pdf)

*why the decision was treated as a matter of urgency”.*

## **8.5 Minor Disposals**

8.5.1 A minor disposal generally arises when an application is received from adjacent or neighbouring owner (s) to purchase the freehold or leasehold interest (in excess of seven years) of a small or inconsequential area of land in the Council's ownership where the land

- a. Is surplus to requirements;
- b. Has no development value;
- c. No open market opportunity; and
- d. A market value of less than £10,000.

8.5.2 It is permissible in these cases to open 'confined' negotiations with the adjacent or neighbouring owner to achieve the most advantageous financial result or for reasons of good estate management; eg if the land is 'landlocked' or is difficult or expensive to maintain. These owners are considered 'special purchasers'. A special purchaser is a particular buyer for whom a particular asset has special value because of advantages arising from its ownership that would not be available to other buyers in a market.

8.5.3 There may also be circumstances where it is in the Council's interest to initiate a minor disposal. However, departure from open marketing should only be considered in the circumstances as outlined in this section and on the advice of the Estates Team.

## **8.6 Major Disposals**

8.6.1 A major disposal is any disposal not covered by the minor disposal definition above. The Estates team will advise on the appropriate method of disposal.

## **8.7 Member Involvement**

8.7.1 Members should not be involved in negotiations on land and property transactions with third parties. Member involvement in the discussion of initial scheme proposals (eg the assessment of schemes at expression of interest or formal tender stage) will occasionally be necessary but this should only be in the format of proper meeting and presentations organised in consultation with the relevant Portfolio Holder. Where a third party attempts to involve a Member in negotiations, the Member shall refer the same to the Managing Director or to such other officer as the Managing Director may direct, and have no further part in the transactions concerned.

## **9.0 Disposing of a property assets for less than best consideration**

9.1 The Council may dispose of surplus land and property having regard to the provisions in section 123 of the Local Government Act 1972 (Appendix A) and the General Disposal Consent 2003 (Appendix B). This legislation ensures that property is disposed of (otherwise than by way of a short tenancy,) at the best price obtainable. As a first principal, an asset identified as being surplus for disposal will be marketed openly.

9.2 The Council may sell an interest in property at less than best price where it is considered that the purpose of the disposal will achieve the promotion or improvement of the economic, social or environmental well-being for the area and/or local residents.

- 9.3 Valuation advice should be reported to set out the unrestricted (best price obtainable) and restricted values, together with the value of conditions. This will ensure that the monetary value to the authority of any voluntary conditions can be taken account. Control over the sale of land and property at an under value is important because of the possible impact on the capital programme if capital receipts are lower than they would otherwise be if the land was sold at best consideration.
- 9.4 The undervalue must be £2,000,000 or less, and the land must not be held for planning purposes, otherwise the Secretary of State's specific consent is needed. However, even where the Secretary of State consents to a disposal at less than the best consideration that can reasonably be obtained, the disposal must still comply with EU State aid rules.
- 9.5 While this exception may be made, it is the Council's policy that all disposals achieve best consideration (market value). Only in very exceptional circumstances will the Council consider the use of its powers under the General Disposal Consent 2003. In all cases where disposal is proposed on terms at a less than best consideration basis, then delegation to Officers shall not apply and approval will be sought from Members of the Executive Committee. This is to ensure that the legal requirement to ensure that the Council is satisfied that the "well being test" is met and that the amount of "under value" is tested by the Council's valuers.
- 9.6 Any freehold disposal made below market value is subject to the Council having a first call on the property should the asset become surplus to the transferee/purchaser's requirements and a decision taken to dispose of the premises. This is based on the Council paying no more than the original transfer amount.
- 9.7 Should the Council wish to waive its right to buy back the asset, a clawback overage provision will protect the Council's original interest should the site be sold on the open market and permission granted for a higher value use. Such provision will be made for a 25 year period and a 50% share in the increase in the value of the land from the transfer price to the value with the benefit of planning permission. The trigger dates will be the date of the sale of the land with the benefit of planning permission.
- 9.8 The most likely circumstances in which the Council will consider a sale at less than best value are:-
- i. Where an asset (and the associated service) is to be transferred to a town or parish council. (The framework for these transfers is set out in the Council's Service Devolution and Asset Transfer Policy.)
  - ii. Where the disposal will meet the strategic aspirations of the Council. For example, will enable the Council to acquire housing allocations.
  - iii. Where the freehold interest of an asset is to be transferred to a social enterprise ie a business which has social, charitable or community based objectives that help people or communities.
- 9.9 This policy now supersedes the 'Policy for disposals at less than best consideration' previously adopted by the Executive Committee 18 April 2006.

## **10.0 EU State Aid Rules**

- 10.1 When a local authority disposes of land at less than best consideration, it provides a subsidy to the purchaser. The nature and amount of subsidy must comply with the rules in relation to State aid, particularly if there is no element of competition in the sale

process. Failure to comply with the state aid rules will mean that the subsidy is unlawful, and may result in the benefit being recovered (with interest) from the facility.

10.2 State aid requirements are set out in Article 107 (1) of the treaty on the Functioning of the European Union (TFEU: “Save as otherwise provided in the treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

10.3 In order to avoid triggering the state aid rules when disposing of publically owned property, it is necessary to ensure that the purchaser pays a market price.

## **11.0 Open Space**

11.1 The Council will not normally dispose of any core recreational open spaces by way of freehold interests.

11.2 The Council will consult its relevant services, such as Spatial Planning and Green Spaces and Active Leisure Services to ensure that disposal of an open space asset would not prevent or put at risk other plans or strategies.

11.3 The Council will consider applications for the disposal of ‘incidental open space’ and areas of landscaping or parts of these – particularly where it will improve the management of the land benefiting the wider public, will reduce an unacceptable and significant impact on a neighbouring property resulting from misuse of open space and/or clears up anomalies of past land sales, acquisitions and transfers.

11.4 The legal requirements of the Council to advertise proposed disposal of public open space and consider objections must all be complied with. Open Space is defined as any land “laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground”. The Council is obliged to give notice of the intention to dispose by placing a public notice in the local newspaper for two consecutive weeks. Any objections must be considered. Applicants will be requested to meet the costs of advertising the proposed transfer. All potential purchasers will have to meet the costs of advertising the proposed sale.

11.5 The Council will not agree disposals where it judges that the personal safety for users of the remainder of nearby open space will be detrimentally affected eg where a narrow alleyway is created. Neither will the Council contemplate sales which lead to the wholesale loss of, or detract from the visual quality/ of the surrounding area. It may apply covenants on sales to retain the open nature of landscaped area and/or to require the provision of certain standards of new boundary fencing, walling or delineation.

11.6 Consideration of any detrimental impact of such disposals on neighbouring properties not financially involved in nor benefiting from the sale will also be given and this may be grounds to the Council refusing an application to acquire an interest in the asset.

## **12.0 Events on Council Owned Land**

12.1 Events are an important part of Teignbridge’s cultural offer. Events make a major contribution to the community cohesion and well-being, as well as making a positive contribution to the economic well-being of the area.

12.2 The hire of Council land for events is managed, and licences issued by, the Open Spaces and Resorts teams.

12.3 Temporary Event Notices or Premises licence may also require serving for certain events to permit licensable activities such as regulated entertainment or the sale of alcohol. These applications are processed and served by the Licensing Service.

## **12.0 Property Disposal Procedure**

12.1 Once a property is deemed surplus for disposal by the Capital Review Group, the Estates Team will determine the appropriate method of disposal. While there are minor variations relating to the differing types of disposal method, the following principles generally apply to all freehold sales of property:-

### **12.2 Pre-Marketing**

1. Internal consultation – To give Business Leads a further opportunity to provide any comment or express an interest in use of the asset within a time limit of 21 days. This will ensure that the disposal will not prevent or put at risk other plans or strategies. The consultation includes circulation to relevant ward members.
2. Legal consultation – To report fully on the Council's title and any rights or obligations which might affect it. Where it is intended to include covenants or conditions, legal advice should be obtained prior to negotiations.
3. Former Owner – Consider if there is an obligation under the Crichel Down Rules to offer the land back to a former owner. A summary of these rules and procedures is at Appendix C.
4. Where development potential has been identified, pre-application advice will be sought from the Planning Team to establish clarity around potential uses, density of development etc
5. Where the property has been registered as an asset of community value under the Localism Act 2011 Right to Bid legislation, the Council's Spatial Planning and Delivery Service must be advised by way of a completed Section 95 Notice. Following receipt of this notice there will be a statutory interim moratorium period and possibly a full moratorium period, during which the property will not be disposed.
6. Consideration of method of disposal – See Appendix D which considers the options available. Appendix E provides guidance aimed at minimising or addressing the difficulties presented by late or revised bids.

### **12.3 Preparation for marketing (Based on in-house marketing)**

1. Pre-marketing inspection by Property & Design Team if property includes a building. Condition survey and energy performance certificate to be obtained. Health and safety related works will be considered.
2. Marketing inspection by Estates Team. To include inspection for valuation report and to acquire information for marketing literature.
3. VAT position established (Finance).
4. Marketing literature prepared. Sales/letting details and press release
5. For sale or to let board erected where relevant

6. At the discretion of the Estates & Development Manager, external agents may be appointed to undertake the marketing on the Council's behalf where deemed appropriate.

## 12.4 Marketing

1. Marketing literature, as a minimum, forwarded to:-

- Relevant ward members
- Council website page ([Property to let or for sale](#))
- Enquiries Log relevant potential buyers/tenants
- Relevant town or parish council clerk
- Devon County Council (Estates & Assets)
- Devon & Somerset Fire Service (Estates & Assets)
- Devon & Cornwall Police (Estates & Assets)
- NHS Property Services (South West Team)
- Commercial Register – Exeter Heart of Devon

This list is not exhaustive, and the Estates Team will determine other appropriate recipients on a case by case basis to ensure as broad exposure as possible.

2. Press release sent to local newspapers. Message to be posted on Twitter and Facebook. Adverts placed in relevant media eg Local newspaper, Estates Gazette, CoStar.
3. Negotiation of terms (except where disposed by auction or formal tender)
4. Where bids are assessed by way of an informal or formal tender process, officers undertaking assessment of those bids sign Declaration of Interest Canvassing Confidentiality form.
5. Relevant anti-money laundering checks undertaken
5. Where the purchaser is a social enterprise or charity, Social Enterprise and Charities checks undertaken as detailed in Appendix F.
6. Heads of terms for a purchase agreed (subject to contract) and signed by potential purchaser.
8. Relevant authority acquired to proceed.
9. Decision to be reported retrospectively to the next meeting of the Executive (where relevant authority is not the Executive).
6. Website/ Marketing Boards updated – 'under offer'
10. Legal Team instructed by Estates Team to prepare relevant legal documentation.

## 12.5 Sale complete

1. Post completion tasks undertaken. These include:-
  - Website updated – marketing literature removed
  - Business Rates advised

- Insurance officer advised
- Asset register and GISMO software updated
- Issue of press release (where relevant)

12.6 Based on the Disposal Policy framework, officers work within procedure guidelines which include those specifically adapted for the types of set out below. Where these are not in place at the time of adoption of the Policy, they will be established within 12 months.

- Disposal marketed
- Disposal not marketed
- Lease marketed
- Lease not marketed
- Easements
- Wayleave requests
- Temporary Licence
- Concession marketed
- Concession not marketed
- Events

## Appendix A

### s.123 Local Government Act 1972 (as amended)<sup>3</sup>

- (1) Subject to the following provisions of this section, a principal council may dispose of land held by them in any manner they wish.
- (2) Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.
  - (2A) A principal council may not dispose under subsection (1) above of any land consisting or forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.
  - (2B) Where by virtue of subsection (2A) above a council dispose of land which is held—
    - (a) for the purpose of section 164 of the Public Health Act 1875 (pleasure grounds); or
    - (b) in accordance with section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),  
the land shall by virtue of the disposal be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with the said section 164 or, as the case may be, the said section 10.
- (3)—(6) (Repealed)
- (7) For the purposes of this section a disposal of land is a disposal by way of a short tenancy if it consists—
  - (a) of the grant of a term not exceeding seven years, or
  - (b) of the assignment of a term which at the date of the assignment has not more than seven years to run, and in this section “public trust land” has the meaning assigned to it by section 122(6) above.

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<sup>3</sup> <http://www.legislation.gov.uk/ukpga/1972/70/section/123>

## Appendix B

### The Local government Act 1972: General Disposal Consent (England) 2003<sup>4</sup>

1. The First Secretary of State ("the Secretary of State"), in exercise of the powers conferred by sections 123(2), 127(2) and 128(1) of the Local Government Act 1972, hereby gives consent to a disposal of land<sup>2</sup> otherwise than by way of a short tenancy<sup>3</sup> by a local authority in England in the circumstances specified in paragraph 2 below.
2. The specified circumstances are:
  - a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
    - i) the promotion or improvement of economic well-being;
    - ii) the promotion or improvement of social well-being;
    - iii) the promotion or improvement of environmental well-being; and
  - b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).

#### Interpretation and savings

3. (1) In this instrument -  
"local authority" means:
  - i) London borough council;
  - ii) a county council;
  - iii) a district council;
  - iv) a parish council and parish trustees acting with the consent of a parish meeting;
  - v) a National Park authority;
  - vi) a Metropolitan Borough Council
  - vii) a joint authority established under Part IV of the Local Government Act 1985;
  - viii) a police authority established under section 3 of the Police Act 1996;
  - ix) the Metropolitan Policy Authority;

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<sup>4</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/7690/462483.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7690/462483.pdf)

x) the London Fire and Emergency Planning Authority;

xi) the Broads Authority;

xii) the Council of the Isles of Scilly;

and any other person to whom, by virtue of statute, section 123(2) or section 127(2) of the Local Government Act 1972 applies;

"unrestricted value" means the best price reasonably obtainable for the property on terms that are intended to maximise the consideration, assessed in accordance with the procedures set out in the Technical Appendix.

**(2)** Nothing in this instrument shall be construed as giving consent to a disposal for any purpose for which the consent of the Secretary of State is required by virtue of section 25(1) of the Local Government Act 1988, section 133(1) of the Housing Act 1988, section 32(2) or section 43(1) of the Housing Act 1985, or otherwise as having effect as a consent for any purposes other than those of Part 7 of the Local Government Act 1972.

#### **Citation and revocation**

**4. (1)** This instrument may be cited as the Local Government Act 1972 General Disposal Consent (England) 2003 and shall come into effect on 4 August 2003.

**(2)** The Local Government Act 1972 General Disposal Consents 1998 are hereby revoked insofar as they apply to England.

Signed by authority of the First Secretary of State

**Lisette Simcock**

30 July 2003 Divisional Manager

Plans, International, Compensation and Assessment Division

## Technical Appendix

Valuations For The Purpose Of Determining Whether Proposed Land Disposals Under The Terms Of The Local Government Act 1972 Fall Within The Provisions Of The General Disposal Consent 2003

### The Valuation Report

1. An application to the Secretary of State for a specific consent to dispose of land under the terms of Part 7 of the Local Government Act 1972 for less than the best consideration reasonably obtainable must be supported by a report prepared and signed by a qualified valuer (a member of the RICS), providing the following information.

### Valuations

2. The report should set out the unrestricted and restricted values together with the value of conditions. Where any of these is nil this should be expressly stated. The valuer should also describe the assumptions made. These might include, for example, existing or alternative uses that might be permitted by the local planning authority, the level of demand and the terms of the transaction. The effect on value of the existence of a purchaser with a special interest (a special purchaser) should be described.

3. The Consent removes the requirement for authorities to seek specific consent from the Secretary of State where the difference between the unrestricted value of the land to be disposed of and the consideration accepted is £2,000,000 or less. The purpose of requiring the restricted value and the value of conditions to be reported as well as the unrestricted value is to ensure that the monetary value to the authority of any voluntary conditions can be taken into account when applications for specific consent are considered by the Secretary of State.

4. The valuer should take into account the requirements of the RICS Appraisal and Valuation Standards (Fifth Edition), ("the Red Book"), including UK Guidance Note 54. All values should be assessed in capital, not rental, terms; and where a lease is to be granted, or is assumed by the valuer to be granted, the valuer should express the value of the consideration as a capital sum.

#### *Unrestricted value*

5. The unrestricted value is the best price reasonably obtainable for the property and should be expressed in capital terms. It is the market value of the land as currently defined by the RICS Red Book (Practice Statement 3.2)5, except that it should take into account any additional amount which is or might reasonably be expected to be available from a purchaser with a special interest (a "special purchaser"). When assessing unrestricted value, the valuer must ignore the reduction in value caused by any voluntary condition imposed by the authority. In other words, unrestricted value is the amount that would be paid for the property if the voluntary condition were not imposed (or it is the value of the property subject to a lease without the restriction).

**6.** In general terms, unrestricted value is intended to be the amount which would be received for the disposal of the property where the principal aim was to maximise the value of the receipt. Apart from the inclusion of bids from a purchaser with a special interest it is defined in the same way as market value. For example, the valuer should take account of whatever uses might be permitted by the local planning authority insofar as these would be reflected by the market rather than having regard only to the use or uses intended by the parties to the proposed disposal.

**7.** The valuer should assume that the freehold disposal is made, or the lease is granted, on terms that are intended to maximise the consideration. For example, where unrestricted value is based on the hypothetical grant of a lease at a rack rent, or a ground rent with or without a premium, the valuer should assume that the lease would contain those covenants that a prudent landlord would normally include. The valuer should also assume that the lease would not include any unusual or onerous covenants that would reduce the consideration, unless these had to be included as a matter of law.

**8.** In the case of a proposed disposal of a leasehold interest, or where the valuer has assumed that a lease would be granted, the unrestricted value should be assessed by valuing the authority's interest after the lease has been granted plus any premium payable for its grant. This will usually be the value of the authority's interest subject to the proposed or assumed lease. In other words, it will be the value of the right to receive the rent and other payments under the lease plus the value of the reversion when the lease expires.

**9.** Where an authority has invited tenders and is comparing bids, the unrestricted value is normally the highest bid. But where, on the advice of the authority's professionally qualified valuer, the authority considers that the highest submitted tender is unrealistically high, or is too low, the unrestricted value may be assessed by the valuer.

#### *Restricted value*

**10.** The restricted value is the market value of the property having regard to the terms of the proposed transaction. It is defined in the same way as unrestricted value except that it should take into account the effect on value of any voluntary condition(s).

**11.** Where the authority has invited tenders and is comparing bids, the restricted value is normally the amount offered by the authority's preferred transferee. In other cases it is normally the proposed purchase price.

**12.** In cases where the proposed consideration is more or less than the restricted value both figures need to be given.

#### *Voluntary conditions*

**13.** A voluntary condition is any term or condition of the proposed transaction which the authority chooses to impose. It does not include any term or condition which the authority is obliged to impose, (for example, as a matter of statute), or which runs with the land. Nor does it include any term or condition relating to a matter which is a discretionary rather than a statutory duty of the authority.

**14.** The value of voluntary conditions is the total of the capital values of voluntary conditions imposed by the authority as terms of the disposal or under agreements linked to the disposal that produce a direct or indirect benefit to the authority which can be assessed in monetary terms. It is not the reduction in value (if any) caused by the imposition of voluntary conditions and any adverse effect these may have on value should not be included in this figure.

**15.** The proposed disposal, or an agreement linked with it, may give rise to non-property benefits to the authority. For example, these might include operational savings or income generated as a result of the transaction where the authority has an associated statutory duty. The monetary value of these benefits to the authority should be included in the value of voluntary conditions.

**16.** Where the status in law of a voluntary condition is unclear, the authority may need to seek legal advice as to whether the condition is such that its value to the authority can form part, or all, of the consideration. Conversely, there may be cases where, in law, the condition can form part, or all, of the consideration but it has no quantifiable value to the authority.

**17.** Where the valuer is not qualified to assess the value of any benefits (for example, of share options) the report should make clear the extent to which the valuer accepts liability for the figures. Where the valuer does not accept full responsibility the report should make it clear by whom the remainder of the figures have been assessed, and copies of any valuations or advice received from accountants or other professional advisers should be annexed.

**18.** All the values given should be in capital, not rental, terms; and the values of individual conditions as well as the total should be provided. Where there are no conditions, or their value is nil, this should be stated.

### **Valuation of Options**

**19.** A discount may occur in connection with the consideration for either the grant of an option or the exercise of an option, or both. Where the consideration is less than the best price that can reasonably be obtained, (or where the valuer considers that if the option were to be exercised its terms would require the authority to accept less than the best consideration that can reasonably be obtained), the valuations described in paragraphs 20 and 21 below must be provided in support of an application for disposal consent.

#### *Payment for the grant of an option*

**20.** In explaining the basis for calculating the consideration for the grant of an option, the valuer's report needs to include the following information, based on the most likely date for the exercise of the option:

- a)** the unrestricted value of the option to be granted;
- b)** the proposed cash consideration for the option to be granted (which may be nominal or nil); and

- c) the value to the authority of any terms or conditions which, in the valuer's opinion, form part of the consideration for the option to be granted.

The grant of an option will then be at an undervalue where the unrestricted value at (a) exceeds the proposed cash consideration at (b) plus the value of any conditions at (c) (ie: where  $a > (b+c)$ ).

#### *Consideration for the exercise of an option*

**21.** In explaining the basis for calculating the consideration for the interest to be disposed of under an option, the valuer's report should include the following information, based on the most likely date for the exercise of the option:

- a) the unrestricted value of the interest to be disposed of under the option, disregarding the effect of the option;
- b) the proposed cash consideration for the interest to be disposed of under the option (which may have been specified in the terms and conditions for the granting of the option); and
- c) the value to the authority of any terms or conditions which, in the valuer's opinion, form part of the consideration for the interest to be disposed of under the option.

The disposal of an interest pursuant to an option will then be at an undervalue where the unrestricted value of the interest at (a) exceeds the proposed cash consideration at (b) plus the value of any conditions at (c) (ie: where  $a > (b+c)$ ).

#### **Development Land**

**22.** In cases where there is no detailed scheme, the valuer should make reasonable assumptions about the form of the development.

#### *Negative Development Value*

**23.** Where the value of the completed scheme is less than the development cost, (for example, where there is low demand or high costs associated with land reclamation or decontamination), the valuer should assess the unrestricted value by making reasonable assumptions about such matters as alternative uses that might be permitted by the local planning authority and the level of demand. Where the proposed scheme is the most profitable but still produces a negative development value the unrestricted value will be nil and therefore a disposal at nil consideration will not be at an undervalue. But where land with a negative development value has a positive value for some other use the disposal would be at an undervalue.

#### *General Effect Of Grants On Values*

**24.** The valuer should consider whether the value of the site is in any way affected by the prospect of grant and take this into account in the valuation. If the valuation is based on

assumptions that disregard the effect of grant then this should be stated in the valuation report. When assessing a value for a use other than that for which a grant has been approved, the valuer should consider the likelihood of any such use achieving planning consent.

1 For the purposes of the 1972 and 1990 Acts 'open space' is defined in section 336(1) of the latter Act.

2 By section 270, land includes any interest in land, and any easement or right in, to or over land.

3 By sections 123(7) and 127(5), a short tenancy is a tenancy, which is granted for seven years or less, or the assignment of a term, which has not more than seven years to run. Disposals by way of a short tenancy do not need consent, see sections 123(2) and 127(2) of the 1972 Act.

4 RICS Appraisal and Valuation Standards (Fifth Edition), UK Guidance Note 5: 'Local authority disposals at an undervalue' published 1 May 2003

5 [see above]

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## Appendix C

### Former owners' rights (Crichel Down rules)

The Crichel down rules require the Council to offer land or property that has become surplus to its requirements back to the original owner under certain circumstances.

The rules apply to land or property that was originally acquired compulsorily or under threat of compulsion.

The rules do not apply to:

- Land that was up for sale at the time of the acquisition
- Agricultural land acquired prior to 1 January 1935
- Agricultural land acquired on and after 30 October 1992 which becomes surplus and available for disposal more than 25 years after acquisition
- Non-agricultural land and property acquired more than 25 years before disposal
- Land and property whose character has changed during the period of ownership, e.g. by development or extensive alteration (the cost of reinstatement will be a factor in determining this issue)
- Disposals comprising a development site of two or more former land holdings or part of a site that has been changed and where a sale in parts would not achieve best value
- Disposals that are effectively de minimis
- Various circumstances, with specific ministerial approval, where the land is still required for some other public sector purpose

The Estates & Development Manager, in consultation with the legal department shall determine whether the Crichel Down rules apply.

If the Crichel Down rules do apply, the Council shall:

- Establish the identity and location of the former owner or successor
- Assess the terms of the offer and method of fixing the price
- Give the former owner two months to agree the basic terms and a further six weeks to agree the price (with such extensions as appropriate) - if agreement is not reached within the timescale, the land or property may be sold on the open market

Special consideration will apply where best value can only be determined by extensive planning work or exposure to the marketplace.

## Appendix D

### Disposal Methods

There are four principal methods of disposal available and are outlined within this appendix.

1. **Private Treaty** – After a reasonable period of exposure to the market, negotiations are carried out between the seller and prospective buyers (or their respective agents) privately and in comparative secrecy, normally without any limit on the time within which they must be completed before contracts are exchanged. In the event that two or more interested buyers are identified the Council may consider moving on to the Informal Tender method (see method 4 below).

#### Advantages:

- allows a flexible approach;
- time pressures are seldom imposed on either the seller or buyer; and
- it is widely understood and accepted by the general public.

#### Disadvantage:

- the proceedings cannot always overcome suspicions of unfair dealings, and it is therefore a method to be used with caution.
- there is no firm contract at the point of offer and acceptance.

2. **Formal Tender** – Requires a great deal of preparations, as the tender document forms the contract for sale. A full appraisal of the transaction needs to be carried out, including a valuation which may be used to provide a guide price in order to have a baseline against which to assess the tenders when they are returned.

#### Advantages:

- The disposal can be concluded quickly where it is unconditional;
- The Council does not need to accept any tender if the offer is not satisfactory;
- The tender procedure should guarantee complete fairness; and
- As bids are not public, tenderers should put forward their best offer.

#### Disadvantages:

- Potential purchasers are often put off by the procedure whereby they commit themselves contractually upon making any financial offer:
- There is little for discussion about the scheme itself, and this method is too robust and inflexible to take account of any conditional offers eg to be made subject to planning.

In view of the inflexibility and disadvantages of the formal tender procedure there should, in normal circumstances, be a presumption against this method for the disposal of property.

In the event of a disposal by formal tender Financial Instructions should be followed.

3. **Auction** - Public auctions are best suited to disposals where it is reasonable to expect keen interest from prospective purchasers, where it is difficult to establish a clear idea of value, and where there is an ambition to bring a clear end date to on-going ownership

Sale by auction requires preparation of all contractual details beforehand in order that a binding contract may be effected immediately a bid is accepted.

**Advantages:**

- Certainty: contracts are exchanged on the fall of the hammer;
- Open process of competitive bidding may lead to a price in excess of that by private treaty;
- Regional/national marketing by the auction house.

**Disadvantages:**

- the seller has no control over who buys;
- funds to meet the sale price must be available within a specified period, and this may put off purchasers who need to raise finance;
- potential purchasers have to consider the transaction during the marketing period, with no opportunity to discuss alternative ways to structure the deal;
- the winning bid need only be marginally more than the second highest bid, and need not represent the maximum the purchaser would have been willing to pay;

4. **Informal Tender** – Informal tendering is a process whereby offers are invited, usually in the form of expressions of interest, with or without a firm closing date.

**Advantages:**

- the most advantageous terms for the Council can be formulated even in very complex cases;
- the Council does not need to accept any tender if the offer is not satisfactory;
- as bids are not public, tenderers should put forward their best offer. (Though not necessarily going to achieve best price because in an auction situation people are sometimes prepared to bid more than they had envisaged, particularly when they see others prepared to bid at that level)
- most useful as a tool for resolving competing interests following private treaty marketing.
- Is useful where the Council is seeking other benefits to a disposal in addition to the price or rent level proposed eg seeking a community benefit or specific type of use for the asset

**Disadvantages:**

- lacks the certainty of the Formal Tender procedure,
- can be frustrating since post-tender negotiations can be protracted and may not be successful; and

- the requirement to negotiate raises some of the disadvantages of a sale by private treaty.

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## **Appendix E**

### **Dealing with late or revised bids**

A difficult situation arises when the Council receives a higher offer after another offer has been accepted "subject to contract". Such difficulties are less likely to occur if exchange of contract takes place quickly after the decision has been made to whom to sell the property. When accepting an offer the Council's position should be made clear, in writing, that in the event of any higher offer being received before a contract is exchanged it may be obliged to consider it.

There are very good reasons for laying down strict rules of compliance with the procedures, particularly time-scales. This is to ensure that all interested parties are treated equally and that the Council operates in an efficient and cost effective manner by reducing uncertainty and delay. Above all, the principle that parties should not benefit from the tactic of an intentional late bid is paramount. Nevertheless, there may be, at times, genuine late bids and where the proposed disposal involves a substantial capital receipt the Council must be able to make decisions that avoid foregoing significant increases in sums achievable.

Whilst it may be appropriate to maintain a policy of disregarding any late bids in a tender exercise, the Council may find itself missing the opportunity to secure best consideration where a late bid substantially exceeds bids received on time. Indeed, case law suggests that Councils can be found to fall short of achieving best consideration if rival bids are not investigated.

Where a higher offer is received after one has been accepted, the applicant should be advised that an earlier offer has been accepted, subject to contract. Unless there is a particular reason why the higher offer should be accepted, e.g. an ability to proceed immediately when the original bidder was not able to do so, then the first applicant (whose offer has been accepted) should, at least, be given the opportunity of matching the higher offer.

### **Dealing with Revised Bids**

The Council may be faced with the successful bidder from an informal auction seeking to substitute a lower bid. This process might also be repeated as the successful bidder in effect explores to find the level of the next bid below his or her own believing that the Council will be prepared to accept any offer above that next bid. The general obligation to obtain the best price which can reasonably be obtained for the land may mean that these bids have to be considered.

## Appendix F

### Social Enterprise and Charities Checklist

Where the Council is disposing of property to a social enterprise or charity, it has a duty of care to both its residents and to the organisation to ensure, in so far as it can, that the organisation has the capacity and skill sets required to care for the asset.

The proposed purchaser or tenant should therefore be assessed against the following criteria:-

- a. A Voluntary and Community Sector organisation must be a legal entity which:
  - is non-governmental - not part of the statutory sector;
  - is non-profit distributing - it must reinvest any surpluses to further its social aims/ community benefits;
  - has community benefit objectives
- b. Be appropriately constituted, for example, a registered charity, a community interest company or a charitable incorporated organisation, a not for profit company or a co-operative. The applicant's constitution should allow for the management/ownership of buildings and/or provision of services
- c. Demonstrate good governance by operating through open and accountable co-operative processes, with adequate monitoring, evaluation and financial management systems
- d. Demonstrate management experience and/or expertise
- e. Demonstrate that the organisation is sustainable with the provision of the organisation's most recent set of accounts where available
- f. Demonstrate a track record of delivering services, or in the case of a new organisation a track record of key individuals and a robust business case
- g. The organisation has a clear purpose and understanding of the activities it wishes to deliver
- h. Can demonstrate it has the skills and capacity within, or available to, its managing body to effectively maintain and manage the asset. (Where significant works are to be undertaken to a property, the details and CV of the overseeing project manager/ clerk of works should be provided).
- i. Where property is to be leased - Provide a management proposal that includes a specific plan on health and safety issues and compliance with legislation/statutory requirements arising from ownership or management of the building and/or running a service.

## Appendix G

### Questions and Answers: Purchasing Council property & acquiring other interests in Council owned land

This document contains common questions and answers about purchasing Council property and provides information on other interests, such as applications for:

1. Leasing Council owned land;
2. Obtaining wayleaves over Council owned land;
3. Obtaining easements over Council owned land;
4. Operating concessions on Council owned land;
5. Obtaining licences to occupy Council owned land;
6. Varying or extinguishing covenants on land formerly owned by the Council;
7. Obtaining access agreements over Council owned land;
8. Siting builders compounds on Council owned land; and
9. Temporary use of Council owned land

#### **What do I do if I want to purchase Council owned property or wish to apply to the Council regarding other Council owned land and property matters?**

Submit an application form. Forms are available from the Council's website (details at the end of this document). Once completed, the application form should be returned to Economy & Assets, together with the non-refundable administration fee.

#### **What fee do I submit with my application?**

**Fee 1 (£150)** will be payable in respect of all applications other than those below.

Or

If your application is for **temporary consent to use Council land for less than 28 days**, please submit your application with **Fee 2 (£75.00)** and the appropriate licence fee. Examples of temporary uses include erection of scaffolding, placement of skips and access for works.

Or

**Fee 3 (£50)** Application for an easement or renewal of an existing concession (land, beach or passenger boat concessions)

Or

**Fee 4** For hire of land to run an event

Small event (up to 499 attendees)	£45
Medium event (500-999 attendees)	£75
Large event (1000-4999 attendees)	£100
Major event (5000+)	Details on request

**Please note:** that the Council reserves the right to refuse any application.

**All fees are non-refundable unless the enquiry leads to the open marketing of the property.**

**How do I find out if the Council owns a piece of land?**

Check with the Land Registry.

**Land Registry**

Seaton Court  
2 William Prance Rd  
Plymouth  
Devon  
PL6 5WS

Tel: 0844 892 1111

[www.landregistry.gov.uk](http://www.landregistry.gov.uk)

An on-line mapping service showing Council owned land is also available on the Council's website at <http://gis.teignbridge.gov.uk/AssetRegisterOnline/Map.aspx>

**Planning enquiries**

If your request to purchase land also involves changing the use of that land (for example, from open space to private garden), then it's recommended that you seek advice from the Council's Planning Service before you submit your application by emailing [planning@teignbridge.gov.uk](mailto:planning@teignbridge.gov.uk) or finding out more at <https://www.teignbridge.gov.uk/planning/planning-applications-and-appeals/applying-and-guidance-for-planning-applications/>

**What if I can't provide a plan showing the area I want?**

If you are unable to provide a plan or sketch plan, the Council can provide an Ordnance Survey map, subject to a fee charge.

## **What will happen once I have sent in my application?**

Your application will be passed to a surveyor working in the Economy & Assets Team and who will consult with the relevant Council departments.

### **Decision Making**

The process for deciding whether to accept your application is governed by the Council's constitution and depends on the nature and value of the transaction. The following is a summary of the most frequently encountered decision making processes following relevant consultation:

- If the transaction value is up to £10,000 then the Economy & Assets Business Manager will make the decision.
- If the transaction value is between £10,001 and £50,000, then the Economy & Assets Business Manager and the Chief Finance Officer will make the decision.
- If the transaction value is above £50,001, then the decision will be taken by the Portfolio Holder.
- Lease decisions which commit the Council to periods in excess of 10 years must be approved by the Executive.

You will then be advised in writing of the decision.

This part of the process will take approximately 12 weeks, but can take longer.

If the decision is one that must be made by the Executive, then it will take up to a further 6 weeks. Further details regarding the [Executive](#) can be obtained from the Council's website.

Please note that information regarding your application may be made available to this public meeting unless it contains sensitive information that is considered exempt (as defined in Part 1 of Schedule 12A to the Local Government Act, 1972).

### **Who/What is a Ward Member?**

Each Ward in the District of Teignbridge has up to 3 elected Councillors who are Ward Members. To find out who your ward member is, please visit our website page <https://www.teignbridge.gov.uk/council-and-democracy/district-councillors/who-is-my-councillor/>

### **Who/What is a Portfolio Holder?**

Many Council functions are delegated to the Executive and some of the councillors who make up the Executive are known as Portfolio Holders. There are currently eight Portfolio Holders; each is responsible for specific areas.

The Portfolio Holder for Economy Skills & Tourism is responsible for  
Economic Development  
Regeneration  
Assets & Estates  
Property Maintenance  
Tourism

### **What happens once a decision is made?**

If the decision is to refuse your application, you will be advised in writing.

If the decision is to approve your application, the Estates Team will then make contact with you to agree terms and conditions. The negotiating surveyor may also make a site visit in the course of the negotiations.

Additional information may be required from you such as insurance documents or relevant licences if you are applying for (or renewing) a concession.

Once all the terms and conditions have been agreed with you, the Council's Legal Services team will be instructed, by the Property Services Team, to prepare the legal documents.

At this stage you may want to contact your own solicitor.

### **If my application is refused, can I appeal?**

**There is no appeals procedure.** However, if you feel that you have additional information, or justification to support your application that has not already been considered, or if you amend your application in some way, the Council may be able to process your application again, based on the new information.

Please note that you may be charged a further administration fee if your revised application involves repeating the consultation process.

### **Do I have to use a solicitor?**

It's not a legal requirement but is advisable to ensure protection of your own interests. The Council's Legal Services team cannot advise or assist you as they are employed to protect the Council's interests in the transaction.

### **What do solicitors do?**

You should talk to your solicitor directly about the services he/she offers, but generally it will involve consideration of the draft contract and undertaking a local land charges search (and other searches).

In the sale of a property, once the contract terms are agreed, the contract can be signed and formally exchanged. At the point of exchange of contracts you are likely to have to pay a deposit to the Council through your solicitor; usually this is 10% of the sale price.

The signed contract will include a completion date. This is the date when the land/property becomes yours, subject to the Council receiving payment of the completion monies.

For other transactions, such as leases and concessions, a start date for the contract will be agreed and the legal document executed by each party.

### **What else happens between exchange of contracts and the completion stage of the sale of property?**

Your solicitor will prepare the Transfer. This is the document that will enable you to be recorded as the new legal owner of the property at HM Land Registry. The Transfer will be sent to the Council's Legal Services team who will arrange for it to be sealed on behalf of the Council, in readiness for completion. On the day of completion, on receipt of the completion monies, the Transfer will be dated and then forwarded to your solicitor. The Estates Team will liaise with you on the release of any keys.

### **If I want to have an update with regard to my purchase of the property interest, who should I ask?**

Once the Council's Legal Services team has been instructed, you should contact your own solicitor regarding progress, or the Estates Team.

### **All this seems very complicated and to take a long time. Is there a quicker system for approval of applications?**

Unfortunately not. The Council has legal obligations in the sale of land/property and other land transactions.

### **When will I need to insure the land/property?**

Your solicitor will advise you. If you are acquiring the freehold of a property, it should be from the date of exchange of contracts, as the Council's insurance policy will not cover it from that time.

For other property transaction types, you will need to refer to the specific terms of your legal agreement.

## Do I need to do anything after completion?

Completion on a freehold purchase marks the end of the process so far as the Council is concerned but there are still some matters for you and your solicitor to deal with before the property can be properly regarded as being yours, including submission of a Stamp Duty Land Transaction Return to HM Revenue & Customs, payment of Stamp Duty Land Tax (if appropriate) and registration of the Transfer at the Land Registry.

For other property transactions, you will need to refer to the specific terms of your legal agreement.

### Important points that you should be aware of:

- 1) **Public open space:** If you wish to purchase or lease land which is held as open space, the Local Government Act 1972 requires the Council to publicise its disposal in a local newspaper for two consecutive weeks and to consider any objections received. You will have to pay for the cost of the public notice and will be given a quotation for the cost at the time. You will be requested to pay these costs before the Council will request publication of these notices. If the Council receive any objections to the disposal, these will have to be considered before a decision is made as to whether or not the Council will proceed with the disposal.
- 2) **Open market sale:** The Council is, with certain exceptions, obliged by law under the Local Government Act 1972, to sell land for the best price reasonably obtainable. This means that in some cases if, following consultation, it is considered that the land you have asked to purchase could be of interest to other parties or could be sold for development land, the Council must advertise it for sale on the open market. In such a case you will be sent sales details once prepared and will be able to make an offer for the land along with any other interested party. Please note that in such cases, your administration fee **will** be refundable.
- 3) **Administration fee:** Before the Council can start work on your application, you will need to pay the appropriate non-refundable administration fee. It is payable to offset some of the costs involved in processing your application, but it does not cover the full cost. Payment of the fee **will not** guarantee that your application is approved and it is entirely separate to the valuation of the land.

This fee is reviewed each year and effective from 1 April. There are no exemptions.

- 4) **Planning consent:** Planning consent may be needed for change of use or development of the land, or for other matters such as fencing and boundary treatment. You are responsible for checking if planning consent is required and you should make your own enquiries about this aspect of your proposals with the Planning Service.

It is your responsibility to ensure that you obtain any required consents. Should you submit a planning application to include Council owned land, you must serve the appropriate statutory notice to the Council's Estates Team. Please note that the Council's role as a land owner is completely separate from that of Planning Authority. Therefore, although you may be granted planning consent, this does not guarantee that your application to the Council, as landowner, will be approved.

- 5) **Variation to restrictive covenants:** You may need to seek consent from the Council, as former landowner, to a variation of a restrictive covenant affecting your title to land. This consent should be sought well in advance of any plans you may have to (re)develop etc. your land.
- 6) **Other Fees:** Once a sale has been agreed, you will be required to pay the Council's surveyors fees and a contribution towards the Council's legal fees, before the Council's Legal Services team prepare any documentation. For guidance please refer to the fee list attached to this document.

**For further information please contact the Economy & Assets Service**  
**01626 215481 [economyandassets@teignbridge.gov.uk](mailto:economyandassets@teignbridge.gov.uk)**

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## Fee Charges from 1 April 2019 – 31 March 2020

### Non-refundable administration fees (to consider an application)

Item	Fee (Excluding VAT)	Total (Including VAT)
<b>Fee 1</b> (All applications except those attracting Fee 2 or Fee 3.)	£125.00	£150.00
<b>Fee 2</b> (Temporary consent - Plus licence fee as below)	£62.50	£75.00
Licence Fee up to 12 sq m 1 week	£ 41.67	£50.00
Licence Fee up to 24 sq m 1 week	£ 83.33	£100.00
Licence Fee up to 36 sq m 1 week	£ 125.00	£150.00
Licence fees for larger areas will be charged based on 12 sq m increments at £50.00		
<b>Fee 3</b> (Easement or Renewal of an existing concession)	£41.67	£50.00

- **Other non-refundable fees payable** (if application is approved, but before legal documentation is prepared)

<b>Surveyor's fees</b>	From £200.00 plus VAT
<b>Contribution towards legal fees</b>	From £100.00 plus VAT and disbursements

*Surveyors and solicitors fees are based on the nature of the transaction, land value, rent/licence fee payable and/or on the complexity of the transaction. In most instances, they will not apply to those transactions requiring a temporary licence only. Disbursements will include obtaining title information from the Land Registry.*

- **Cost of statutory publication of proposed disposals of open space** (Please refer to the earlier sections of this document for clarification as to when this will apply).

<b>Publication costs</b>	£400.00*
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*\*This is an approximate guide. This fee is set by the newspaper and is beyond the Council's control. A quote will be provided. Payment must be received before the notices can be published and will be non-refundable.*

**Fee charges for event hire and markets are not included in this document.**

**If you require this information in a different format, please contact the Economy and Assets Service on 01626 215481.**

# Teignbridge District Council

## Land and Buildings Acquisition Policy

Date: March 2018

Teignbridge District Council  
Forde House  
Brunel Road  
Newton Abbot  
Devon  
TQ12 4XX  
Tel. 01626-215856  
[www.teignbridge.gov.uk](http://www.teignbridge.gov.uk)



# Teignbridge District Council

## Land and Buildings Acquisition Policy

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## Teignbridge District Council

### Land & Buildings Acquisition Policy

#### 1.0 Introduction

- 1.1 This policy document is to be followed when considering the acquisition by the Council of an interest in property. For the purpose of this policy, reference to “property” includes any property constructed on land or land or an interest in land itself. It applies to the acquisition by the Council of all interests in property including freeholds, leaseholds (including capitalised leases), restrictive covenants, easements and options.
- 1.2 Property is a corporate resource and the Council’s Capital & Asset Strategy sets out the strategic property aims of the Council. These aims are to be applied in managing the property portfolio.
- 1.3 This policy places emphasis on adopting procedures that are consistent and which ensure maximum benefit from the effective purchase and subsequent management of the Council’s property assets. Within this framework, the policy will help ensure that the Council achieves best value, acts within the appropriate legal framework and considers whole life costs.

#### 2.0 Council powers and constitution

- 2.1 The powers under which the Council acquires property assets can be general or specific.
- 2.2 General Powers to acquire land and property stem from the Local Government Act 1972 (Section 120). These enable local authorities to acquire property for any of their functions, or for the benefit, improvement or development of their area. Local Authorities are empowered to acquire land notwithstanding that the land was not immediately required for that purpose.
- 2.3 The Local Government Act 2000 introduced additional ‘wellbeing’ powers which provide councils with the power to do anything which they consider is likely to achieve the promotion or improvement of the economic, social or environmental wellbeing of their area. This includes the power to incur expenditure, including land acquisition.
- 2.4 There are more specific powers that support acquisitions for capital programmes or specific projects. As an authority possessing compulsory purchase powers, the Council may also make compulsory purchase orders which, if approved, allow the Council to acquire by compulsion where acquisition by agreement has not proven possible. Further detail is provided at Appendix A.

#### 3.0 What is an acquisition?

- 3.1 For the purposes of this policy, an acquisition of property is considered to consist of
- a. A freehold interest in land and/or buildings

- b. The grant of an interest to the Council in land and/or buildings

#### **4.0 Reasons for the acquisition of property**

- 4.1 Delivery of public services and property assets are intrinsically linked: The reasons for the Council holding property, as set out in the Capital & Asset Management Strategy are:-
  - a) For the purpose of direct service delivery (such as parks and gardens)
  - b) To support service delivery (for example administrative offices and depots)
  - c) To support the Council's wider policy objectives.
- 4.2 The strategic asset management aim, as set out in the Capital Strategy, is to ensure that TDC land and building assets are efficiently managed, maintained, redeveloped, acquired and disposed of in a consistent, strategic manner that supports corporate objectives and service delivery. The adoption of this policy will support these aims.
- 4.3 The Council continues to seek optimal utilisation of its property portfolio, improve retained stock and generate increases in revenue income. Before embarking on property acquisition, it must be ensured that there are no suitable under-utilised assets held in the portfolio that could accommodate the specific service requirement.
- 4.4 To ensure utilisation, the Economy and Assets Service will undertake a thorough process of option appraisal before acquiring property for operational use. This process seeks to optimise service provision efficiently through delivery of quality assets for the best cost.
- 4.5 Unless there are exceptional circumstances, the Council will only acquire property where the following objectives are served:
  - i. It contributes towards the provision of Council services
  - ii. There is a direct link to improving the economic, social and environmental well-being of the community
  - iii. It leads to strategic benefits to the authority in relation to regeneration or redevelopment proposals
  - iv. The property is already maintained by the Council (and there is an advantage in owning it)
  - v. Revenue income generation and/or capital growth

#### **5.0 Appraisal and funding approval process**

- 5.1 Acquisition of property is considered a capital project and the Council has adopted a project management framework. A Reporting Flow Diagram illustrates the approval process at Appendix B.
- 5.2 Following initial discussions with relevant colleagues and Portfolio Holder, any project will commence with the Presentation of a Capital Project Outline Proposal Form (Appendix B) to the Capital Review Group (CRG). The CRG comprises the following officer posts:-

<b>Post</b>	<b>Current Post Holder</b>
Business Manager – Economy & Assets	Tony Watson (Chairman)
Managing Director	Phil Shears
Chief Finance Manager	Martin Flitcroft
Business Manager – Housing & Health	Amanda Pujol
Business Manager – Environment & Leisure	Lorraine Montgomery
Audit Manager	Sue Heath
Projects Manger	Leigh Florence
Accountant	Andrea Snape
Accountant	Steve Wotton

- 5.3 Subject to initial approval by the CRG for further development, all projects involving the acquisition of land or buildings, or an interest in land or buildings, are referred to the Assets & Economy Service at this early stage. The appropriately qualified staff within the service are required to assess value to establish appropriate land and/or building values, assess any estimated development or refurbishment costs, estimate whole life costs and undertake any required negotiation. Where appropriate, independent advice may be sought and managed by the service. This work is undertaken in partnership with other relevant services such as Finance, Legal and Planning.
- 5.4 A project initiation document (PID) Project Brief (Appendix C) is then considered by the CRG. This sets out the full detail of the proposal. If approved, the Strategic Leadership Team (SLT) will then in turn consider for further approval.
- 5.5 Property acquisition shall be prioritised in accordance with the Council's approved Capital and Asset Management Strategy. Where land is to be acquired to facilitate a non-Council development, this will normally be to meet agreed planning policies.
- 5.6 The Council can fund an acquisition through a range of options, for example, borrowing, partnership with the public or private sectors, s.106 receipts, Community Infrastructure Levy (CIL), blending funding or existing budgets. The best option will vary in each case but without exception, any acquisition must be of a property that is appropriate for its intended purpose with affordable maintenance costs.
- 5.7 All acquisitions shall have the necessary budgetary and relevant committee or delegated approval before the acquisition is completed.
- 5.8 Committee and Financial Approval requirements are set out in the Council's Financial Instructions. This is subject to provisions of the Council's Constitution with regard to key decisions. The regulations define a key decision to mean an Executive decision which is likely

*“To result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates.*

*For this purpose significant expenditure or savings shall mean*

- *Revenue – Any contract or proposal with an annual payment of more than £50,000*
- *Capital – Any project with a value in excess of £125,000; or*
- *To be significant in terms of its effects on communities living or working in an area comprising two or more wards in the opinion of the Managing Director”<sup>1</sup>*

5.9 Any project with a value in excess of £250,000 requires the approval of Full Council.

5.10 Any project with a value less than £125,000 may be made by the Portfolio Holder (subject to ‘key decision’) and the following exemption applies to minor acquisitions:-

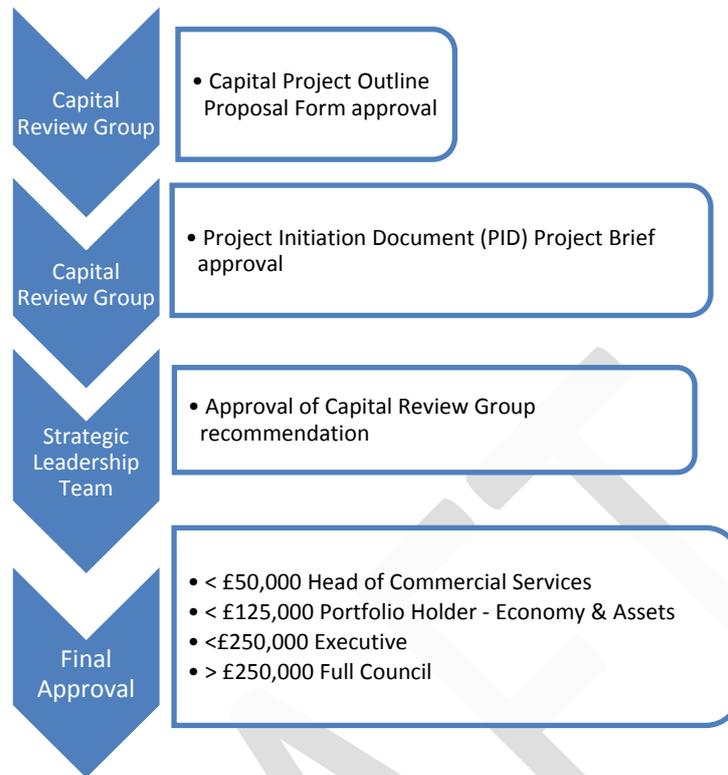
*“Minor acquisitions up to £50,000 in value may be approved by the Business Manager – Economy and Assets, in consultation with the Portfolio Holder, the Head of Paid Service, the Business Lead, and Chief Finance Officer. The Business Manager – Economy and Assets and Chief Finance Officer will sign the Decision Notice for the acquisition to evidence their agreement”<sup>2</sup>*

5.11 The approval process is summarised below:-

---

<sup>1</sup> <https://www.teignbridge.gov.uk/media/1177/article-15-decision-making.pdf>

<sup>2</sup> Financial Instructions



## 6.0 Property Assessment & Search

- 6.1 If a need for property acquisition is identified, a Capital Project Outline Proposal Form should be approved by the Capital Review Group (CRG). If approved, the Council's Economy & Assets Service will then investigate whether there is any suitable land or property currently held by the Council. If that proves unsuccessful, the Estates Team will establish if there is any suitable property available on the market. In some instances, the property to be considered for acquisition may have already been identified at the initial proposal phase.
- 6.2 Where a number of potentially suitable properties exist in the market, comparison will be made to establish which is the most suitable in terms of the Council's needs.
- 6.3 The following criteria can be used in the decision process:-
- i. Suitable price
  - ii. Availability of the land and or building
  - iii. Condition of any buildings
  - iv. Cost of developing for Council purposes
  - v. Nature of the interest being offered i.e. freehold or leasehold
  - vi. Any potential liabilities such as land contamination, asbestos
  - vii. Any restrictions on use eg Mineral rights

- viii. Sustainability eg the energy performance of a building
  - ix. In relation to a strategic acquisition, the locational advantages of the property
  - x. Return on investment
  - xi. Whole life cost
- 6.4 After the identification of a potentially suitable property, relevant statutory authorities, along with Legal Services, will be consulted by the Estates Team to establish whether there may be constraints on the development or use of the property. The Site Acquisition Due Diligence document attached at Appendix E is a useful checklist when undertaking a suitability assessment.
- 6.5 Valuation advice will be provided by a professionally qualified member of the Council's Estates Team or, where the advice required is specialist or, if thought appropriate, by another suitably qualified surveyor appointed by the Estates Manager.
- 6.6 A financial appraisal will be prepared by the Estates Team in conjunction with Finance Team to establish the financial and budgetary implications of acquiring the property at the negotiated price - linked to the core purpose for the acquisition. This is to be submitted to the Capital Review Group at the Project Initiation Document (PID) Project Brief stage.
- 6.7 Financial appraisal is a method used to evaluate the viability of a proposed acquisition. Viability is evaluated by assessing funding sources, calculating performance and assessing the value of predicted future net income/cashflows. This appraisal should be agreed by the Chief Finance Officer prior to the PID Project Brief being submitted to the Capital Review Group.

- 6.8 The PID Project Brief to be submitted for approval by the Council's Capital Review Group is based on the "five case" model<sup>3</sup> covering Strategic, Economic, Commercial, Financial and Management parameters and thus includes core topics such as:
1. Demonstrating how the spending proposal fits in relation to policies, strategies and plans and furthers the required outcomes
  2. Demonstrating that the spending proposal optimises value to the public purse and outlines both cash and non-cashable benefits or outcomes
  3. Setting out how the "preferred option" will be procured competitively, in accordance with current regulations for public sector procurement
  4. Setting out the capital and revenue requirement for the spending proposal over the expected life span of the asset or service, together with an assessment of any wider impact upon the balance sheet or income and expenditure accounts of the Council. Unless the acquisition is related to direct operational service delivery, a minimum 1% return after costs is required.
  5. Demonstrating that the spending proposal is being implemented, where appropriate, in accordance with recognised Programme and Project Management methodologies, and that there are robust arrangements in place for monitoring progress, managing change (exceptions), and managing and mitigating risk.
- 6.9 A business case will also highlight any consultation process undertaken and include an Equalities Impact Assessment, where required.
- 7.0 Negotiation of property acquisition**
- 7.1 Following preliminary investigations and the possibility of an acquisition proposal having been approved by the CRG, the Estates Team will commence negotiations for acquisition. It will sometimes be appropriate for the project manager and the Estates Team to agree a bespoke approach to negotiations. However, the Estates Team will ordinarily initiate these activities and no other section should make any contact with the other party (the vendor or his agent) during active negotiations except under procedures agreed with the Estates Team.
- 7.2 All negotiations remain "without prejudice", "subject to contract", subject to the required authority and, if necessary, appropriate surveys and planning permissions. Terms for a transaction shall not be finalised unless supported by a written recommendation report from an appropriately qualified surveyor
- 7.3 Where it is proposed that the Council acquire land and/or buildings through s106 negotiations, the acquisition will be treated as any other acquisition. That is, the process starts with an Outline Proposal to the CRG.
- 7.4 When terms have been agreed for an acquisition, and the relevant financial approval authorised, the Estates Team will instruct the Legal Team to prepare the necessary legal

---

3

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/469317/green\\_book\\_guidance\\_public\\_sector\\_business\\_cases\\_2015\\_update.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/469317/green_book_guidance_public_sector_business_cases_2015_update.pdf)

documentation to facilitate the acquisition. Where deemed appropriate, the Legal Team may recommend the procurement of private solicitors. No other team may instruct the Legal Team or appoint solicitors to undertake property acquisition work unless agreed with the Estates & Development Manager.

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## Appendix A

### Compulsory Purchase Powers

1. Local authorities can only exercise functions which are authorised by statute. Specific legislation exists to enable the Council to acquire land that is required to perform its statutory functions and to implement proper planning proposals at the relevant time.
2. The council has the ability to utilise Compulsory Purchase Orders (CPO) to acquire land within the District for specified purposes. In the event that these powers are exercised compensation is payable to the landowner in accordance with the Land Compensation Act 1961.
3. The procedure for exercising CPO is, in most cases, directed by the Acquisition of Land Act 1981 and this statutory procedure must be strictly observed.
4. The Council may acquire land by agreement either as an alternative to CPO or in the general exercise of its statutory powers, and these efforts will always be encouraged. The ability to acquire land by agreement is provided by S227 of the Town & Country Planning Act 1990 in the case of a specific alternative to compulsory purchase and, more generally, by S120 of the Local Government Act 1972. Where the Council has the ability to acquire land compulsorily, acquisitions by agreement are often referred to as 'acquisitions under threat of CPO'. It will be assumed that the Council were prepared to utilise powers of CPO unless the land was publicly or privately offered for sale immediately before negotiations.

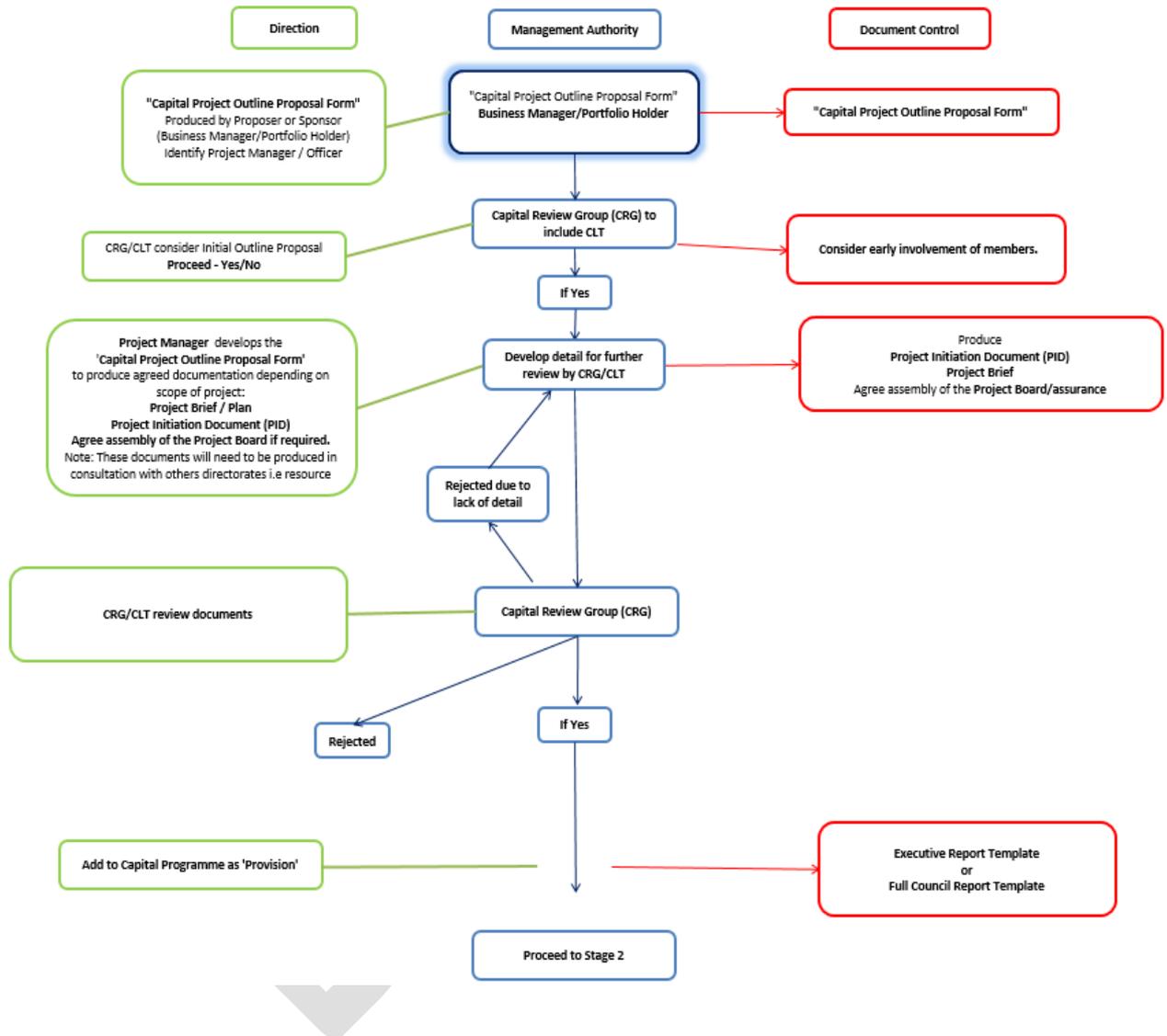
# Appendix B

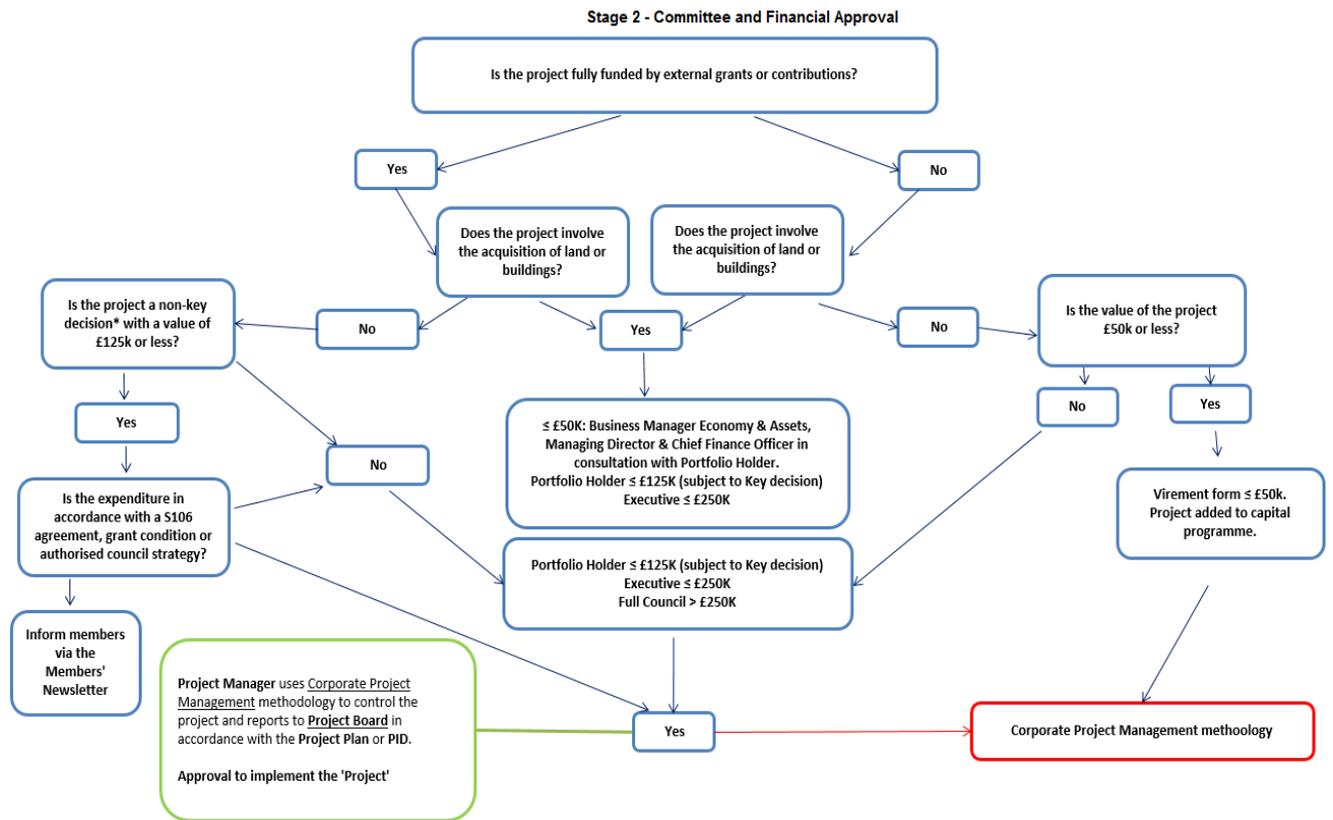
## Project Management – Reporting Flow Diagram

(Please note that there are some formatting issues owing to the document being an Excel Spreadsheet).

### Project Start Up Structure

#### Stage 1 – Internal Approval by Capital Review Group and CLT





## Appendix C

### Capital Project Online Proposal

(Please note that there are some formatting issues owing to the document being an Excel Spreadsheet)

Teignbridge District Council Capital Project Outline Proposal			
<p><i>This form is intended to provide the essential information required for the initial consideration of a capital project by the Capital Review Board. It is to ensure all projects are appraised consistently and are deliverable. Complete this form in time to allow support service managers a reasonable period to plan resources and to allow for Capital Review Board consideration and committee approval where necessary. This form may also be used to notify of support required for feasibility work. Indicate the purpose of the form below. For feasibility support, you may omit sections 2, 8, 11 and 12 and fill in section 7 only to the extent possible at this stage.</i></p>			
<p><b>Please use drop-down box to indicate whether form is being used for feasibility work or to submit capital project for appraisal.</b></p>			
<div style="border: 1px solid black; padding: 2px;">Feasibility</div>			
<b>1</b>	<b>Project Title</b>		
Project Nominator(s) (with day-to-day management responsibility)			
Project Sponsor/Owner (eg. your business manager)			
<b>2</b>	<b>Estimated Cost</b>	Please also see Financial Approval and Funding Sections below.	
<b>3</b>	Anticipated start date of project		
	Anticipated end date of project		
<b>4</b>	<b>Project support and delivery</b>	<p><i>You must name your main contact within any support departments involved and ensure that staff capacity has been confirmed for the named time period.</i></p>	
	Internal Support	Date confirmation provided	Tick once confirmed.
	Economy, Property & Assets		
	Finance		
	Planning		
	Building Control		
	Environmental Health		
	Legal		
	Leisure, Open Spaces, Resorts		
	Waste & Cleansing		
	Other (please detail)		
	Strata		
<p><i>Please describe the nature of the required internal support, giving an indication of any key deadlines. For example, this could include advice on engineering issues (eg. highways, drainage) design expertise, project management, financial appraisals, planning applications, surveys, valuation work, procurement, contracts, Strata business change requests, grant claims, financial monitoring and reporting.</i></p>			

5	Project Sponsor must sign to confirm that departmental and support capacity is available for the given dates.	
6	Further comments on delivery methods, such as any external project management arrangements, should also be included here:	
7	<b>Brief Description of Project</b>	
<p><i>This section is intended to demonstrate an outline business case for your project. Please state briefly how the project meets statutory or corporate objectives. Does it form part of a wider strategy or initiative, or impact upon other projects? Also include any possible negative effects. You should consider how the project offers value for money. For example, service improvements; extended asset life; additional income or savings; long-term running costs.</i></p>		
<p>Background: objectives, strategies, links to other projects and initiatives.</p>		
<p>Constraints/negative effects</p>		
<p>Value for money, financial and budget implications.</p>		
8	Please briefly describe options which have been considered, eg. doing nothing/the minimum/partnerships or any other approaches. Why is the chosen option the best?	

9 Priority Indicators & Strategic Alignment			
<i>Please select a category from the drop-down boxes. Scores will populate automatically. If available, please include further details in the boxes provided.</i>			
Select		Score	Further details
2022/23 onwards	Time sensitivity (select year)	1	
	Statutory or legal responsibility (yes or no).	#N/A	
	Health & Safety implications (select risk)	#N/A	
	Fulfils performance indicator or initiative (yes or no).	#N/A	
	Reputation or service issues (select priority/risk level).	#N/A	
No funding	How much of the project do you think will be externally funded, or funded over the first ten years by income generated (for example by rent or fees & charges)?	0	
	Total	#N/A	
	Priority Guidance	#N/A	
10 Teignbridge 10 (please select tick from drop-down box for those which apply)			
	A roof over our heads		Investing in prosperity
	Clean scene		Moving up a gear
	Going to town		Out and about and active
	Great places to live and work		Strong communities
	Health at the heart		Zero heroes
	What else we will do		
<i>Please describe in the box below how the Teignbridge 10 objectives identified above will be met.</i>			

<b>11 Financial approval required as per Teignbridge District Council's Financial Instructions.</b>		
<i>This is the approval required once the project has received the go-ahead from the Capital Review Board. Select gross project value from the drop-down box below (do not deduct external funding). Approval requirement will populate automatically.</i>		
		<b>Financial approval requirement</b>
		#N/A
<b>12 Anticipated Funding</b>		
Please provide details of how it is anticipated the project will be funded.		
	<b>Amount</b>	<b>Further Details</b>
Government/Agency grant		
External contribution/S.106		
Community Infrastructure Levy		
Contribution from revenue or reserves		
Capital Receipts (TDC "capital pot")		
Prudential Borrowing		
Total	-	
<b>13 Capital Indicators &amp; information</b>		
<i>Select tick from drop-down box for those which apply.</i>		<i>Provide details where possible.</i>
	Purchase of land or property	
	Construction of asset	
	Purchase of vehicles, plant, machinery or equipment	
	Purchase or creation of intangible asset eg. computer programme	
	Extends the life or service value of an existing asset	
	Provides economic benefit eg. rent, revenue or savings	
	Teignbridge asset?	
	Provision of loan, grant or financial assistance	
Approved by:		
CLT: Managing Director		
CLT: Director		
Capital Review Group date approved		

**Appendix D**  
**Project Initiation Document**

**PROJECT INITIATION DOCUMENT (PID)**

<b>Purpose:</b> <i>The PID forms the logical document that brings together all of the key information needed to start and run the project on a sound basis.</i>	
<b>Document Version Status:</b> <i>Draft</i>	<b>Document Ref:</b>
<b>Author:</b>	<b>Date:</b>
<b>Period covered:</b>	Month/Year
<b>Document Location:</b>	G:\Asset management\Asset management data\Projects\ (To be moved to global drive)

**Approvals Required:**

- o This document requires the following approvals: xxx
- o Signed approval forms are filed in the Management section of the project files.

Name	Signature	Title	Date of Issue	Version

*Document History*

Revision Date	Summary of changes	Version Issued	Project Sponsor sign-off

**Section 1**

**What is the background to this project**

--

**Section 2**

**About the project**

**Section 2.1**

--

**Objectives of the project**


**Section 2.2**

**Project approach** (identifies a sequence of steps to be completed)


**Section 2.2**

**Project deliverables** (what's the intended outcome)


### Section 3

#### Plan Status (Attach project programme / Gantt chart)

Has the project plan been input into the Master programme

Y/N

*With stages for obtaining approval.*

Milestone	Date	Approved by
Stage	MM/YYYY	
Stage	MM/YYYY	

### Section 4

#### Constraints (Resources, time budget etc)

### Section 5

#### Project Assumptions (Where full facts are not yet known)

##### Section 5.1

##### Section 5.2

Potential (financial, programme etc)

## Section 6

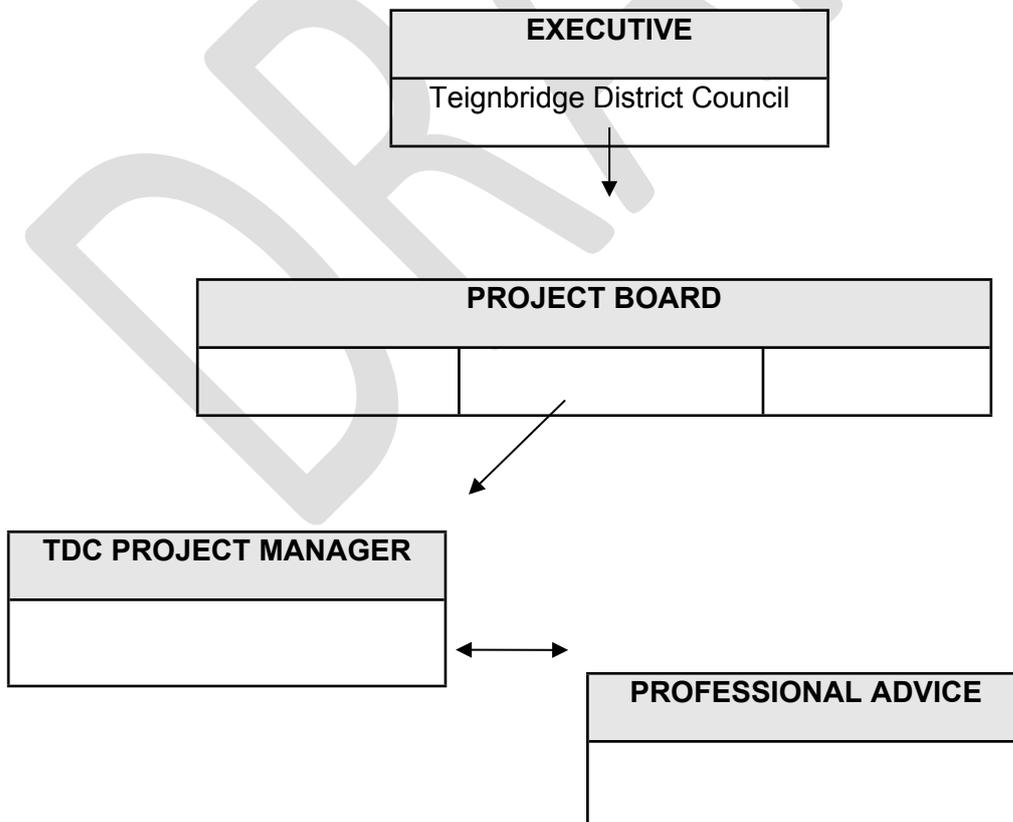
### Exceptions (How will exceptions be dealt with)

Exception report [PM ??] will be issued to the xxxxxxxxxxxxxxxx if urgent issue(s) arise that requires immediate action or there is a deviation from the project. The xxxxxxxxxxxxxxxx will liaise with the xxxxxxxxxxxxxxxx for a decision.

## Section 7

### Structure Diagram

*How will the project team be organised/ structured.*



| TEAM MANAGERS |
|---------------|---------------|---------------|---------------|---------------|
|               |               |               |               |               |
|               |               |               |               |               |

**Section 8**

**Communication Strategy** (How will everyone with an interest in the project be kept informed, i.e. who, when and how?)


**Section 9**

**Quality** (Customers expectations in respect of quality and value to the public purse)

**Section 9.1**

--

**Section 9.2**

**Plan for ensuring project quality**

--

**Section 10**

**Project Controls** (How will the project be controlled)

--

<b>Section 10.1</b>

<b>Section 10.2</b>
<b>Initial Project Risks</b>

<b>Section 11</b>
<b>Contingency Plans (Should the project fail)</b>

<b>Section 12</b>
<b>Detailed Costs &amp; Funding (Estimated cost of proposal)</b>

<b>Table One – Breakdown of Project costs:</b>	
(List key items – e.g. project manager, software licences, dissemination costs, etc)	
<b>Item</b>	<b>Total £</b>

**Professional fees (property & legal) – Monthly payments will be made to total the fees stated below.**


**Table Two – Project Funding:**

(List sources of funding for the project – e.g. grants, external contributions, etc)

Item	Amount £
<b>Total Project Funding</b>	

**Table Three – Breakdown of future / ongoing costs:**

(List any future / ongoing costs that will require funding – e.g. maintenance contracts, etc)

Item	Amount £
<b>Total Future / Ongoing Costs</b>	



## Appendix E Site Acquisition Due Diligence

Activities associated with site investigation

Activity	Action by
Site surveys	Land surveyor and structural engineer
Geotechnical investigation	Ground investigation specialist
Drainage and utilities survey	Civil engineering consultant
Contamination survey	Environmental and/or soil specialist
Traffic study	Transportation consultant
Adjacent property survey	Buildings/party walls/rights of light surveyors
Archaeological survey	Local museum or British Museum and other relevant sources
Sustainability issues	Specialist consultant
Legal aspects	Solicitor
Outlining planning permission	Architect

Confirmation that the activities have been successfully completed is the responsibility of the project manager.

Each task can be broken down into a number of specific elements.

- Site Surveys**
- location
  - Ordnance Survey reference

**Geotechnical  
investigation**

- ground levels/contours
- physical features (e.g. roads, railways, rivers, ditches, trees, pylons, buildings, old foundations, erosion)
- existing boundaries
- adjacent properties
- site access
- structural survey
- previous use of site,
- trial pits
- boreholes and borehole logs
- geology of site including underground workings
- laboratory soil tests
- site tests
- groundwater observation and pumping tests
- geophysical survey

**Drainage and utilities  
survey**

- existing site drainage (open ditch, culvert or piped system)
- extent of existing utilities on or nearest to the site (water, gas, electricity, telecoms)
- extent or any other services that may cross the site (e.g. telephone/data lines, oil/fuel pipelines).

**Contamination survey**

- asbestos
- methane
- toxic waste
- chemical tests
- radioactive substances

**Traffic survey**

- examination of traffic records from local authority
- traffic counts
- traffic patterns
- computer simulation of existing traffic flows
- delay analysis
- noise levels

**Adjacent property survey**

**Traffic survey**

- right of light
- party-wall agreements
- schedule of conditions
- foundations
- drainage
- access
- public utilities serving the property
- noise levels (e.g. airports, motorways, air-conditioning equipment)

**Archaeological survey**

- examination of records
- archaeological remains.

**Sustainability issues**

- effects of proposed development on local environment
- environmental impact assessment
- flood risk
- carbon dioxide emissions
- waste
- transport
- pollution
- ecology and biodiversity
- health and well-being
- social issues.

**Legal aspects**

- ownership of site
- restrictive covenants
- easements, e.g. rights of way, rights of light
- way-leaves
- boundaries
- party-wall agreements
- highways agreements
- local authority agreements
- air rights.

Minerals

**Outline planning  
permission**

- effect of local area plan.

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# Teignbridge District Council

## Town & Parish Council Service Devolution and Asset Transfer Policy

Date: March 2018

Teignbridge District Council  
Forde House  
Brunel Road  
Newton Abbot  
Devon  
TQ12 4XX  
Tel. 01626-215856  
[www.teignbridge.gov.uk](http://www.teignbridge.gov.uk)



# Teignbridge District Council

## Town & Parish Council Service Devolution and Asset Transfer Policy

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# Teignbridge District Council

## Service Devolution and Asset Transfer Policy

### 1.0 Introduction

- 1.1 The Council recognises that the devolution of assets and associated services to town and parish councils makes a significant contribution to enabling them to be stronger, more resilient and sustainable local communities
- 1.2 There are potential benefits to be had in empowering the local community to develop facilities based on local needs and preferences, and retain the services most important to those neighbourhoods. Further, this supports the Teignbridge Ten super project 'Strong Communities' and the action to encourage councillors to help develop and deliver local ideas.
- 1.3 This is not a new concept and the Council has already supported local communities by undertaking such transfers in the past.
- 1.4 The Council has a requirement to be able to balance the aspirations of local communities to take on the guardianship of public property assets and delivery of services, with the duty of care it must have in safeguarding the best interests of Teignbridge residents. The introduction of this policy and application procedure set out within this policy is intended to establish a clear approach and governance to service devolution and asset transfer.

### 2.0 Service Devolution and Asset Transfer

- 2.1 Teignbridge will promote and facilitate the transfer of assets (by way of freehold or leasehold) and devolve services to town and parish councils where it is deemed more appropriate for those assets and services to be delivered by third tier local government.
- 2.2 Delivery of services and property assets are intrinsically linked: Teignbridge has responsibility for land and buildings held for the following reasons:-
  - a) For the purpose of direct service delivery (such as parks and gardens)
  - b) To support service delivery (for example administrative offices and depots)
  - c) To support the Council's wider policy objectives. This part of the portfolio is varied: Many assets have been made available for social or sporting purposes or are retained for a range of reasons such as a potential to contribute to future regeneration schemes or provide workspace for local employment provision. In

addition, the portfolio provides a valuable revenue income which in turn helps to support the Council in delivering important services to its residents.

- 2.3 Where practicable, services and/or property types will be considered for transfer in a wholesale fashion rather than on an asset by asset basis. For example, if one area of amenity land is being proposed for transfer, all amenity land within the boundary should be included for consideration.

### **3.0 Service Devolution**

- 3.1 The transfer of both statutory and discretionary services can be facilitated; although where statutory services have been transferred the ultimate responsibility will remain with Teignbridge District Council. Responsibility for delivering the service may be transferred to a town or parish council under clear contractual arrangements. The town or parish council will then become responsible for the delivery of those services in accordance with the terms of a Service Delegation Agreement. In view of the Council's underlying statutory responsibility, the Council must be able to terminate the service delegation agreement at any given time.
- 3.2 Where responsibility for discretionary services is transferred, Teignbridge District Council will cease to be responsible and accountable for the delivery of these services. There is also no guarantee that the Council would consider re-assuming delivery of the service. A clear, written declaration must be made by the Council and accepted by the town or parish council to that effect.
- 3.3 There may be strategic reasons for Teignbridge District Council to retain ownership of the asset but where the responsibility to provide services could be devolved. In some cases, the transfer of the freehold of an asset may not be considered where:-
- a. Where there is a net income or a strategic benefit to the Council which would prevent the asset transfer but for the amenity maintenance services (see Appendix D). Examples might include Council depots, development sites, pay & display car parks.
  - b. The land is maintained for the benefit of the community by the Council and held on trust, but not owned beneficially by the Council
  - c. Where there is only a small area of Council owned land and the costs of transfer is prohibitive (unless the local town or parish council are prepared to fund the transfer).
  - d. Where there is a large number of small non-strategic open space land parcels. These are most efficiently and successfully managed via a service delegation agreement. In these cases, a fixed term tenancy of 7 years (less 5 days) will be granted. (A lease of this length is exempt from s123 "best consideration" tests.)

Should the town or parish council wish to have the freehold of these legally transferred, it will be the responsibility of that town or parish council to undertake all the required due diligence and fund all legal costs.

- e. Adjoining/surrounding land is not to be transferred
  - f. There are historic and/or complex land issues which would make a freehold transfer resource prohibitive to both Teignbridge District Council and town or parish council. In these cases, a fixed term tenancy of 7 years (less 5 days) will be granted.
- 3.4 Following the date of transfer, Teignbridge District Council will not be responsible for delivery of any of the amenity maintenance services listed in Appendix D within the defined boundary. The town or parish council will perform the services within the boundary indefinitely on and from the transfer date to the minimum standards required by any relevant legislation. Any decision thereafter to provide enhanced service provision beyond legal requirements will be at the discretion of the relevant town or parish council. The town or parish council would take responsibility for all consequences: financial, contractual, safety or otherwise for the services delivered and the management of associated property assets.
- 3.5 The delegation of services will not affect any rights Teignbridge District Council may have to dispose of, transfer, assign, lease or otherwise deal with its land in its capacity as freehold owner.

#### **4.0 Asset Transfer**

- 4.1 Asset transfer relates to disposal by way of a freehold or leasehold arrangement at less than best consideration; that is at a price or rent below the market value. Any freehold transfer on this basis will be subject to the Council having a first call on the property should the asset become surplus to the transferee's requirement i.e. a future decision is made by the transferee to sell the premises. This will be based on the Council paying no more than the original transfer amount.
- 4.2 Should the Council wish to waive its right to buy back the asset, a clawback overage provision will protect the Council's original interest should the site be sold on the open market and permission granted for a higher value use. Such provision will be made for a 25 year period and a 50% share in the increase in the value of the land from the transfer price to the value with the benefit of planning permission. The trigger dates will be the date of the sale of the land with the benefit of planning permission or implementation of the planning permission.
- 4.3 A leasehold interest may be granted for a period of up to 125 years. A leasehold transfer can be a preferred method of disposal where the Council wish to exert continued control over the asset.
- 4.4 Property assets will be considered for transfer where one or more of the following benefits will be provided:-

- a) The transfer of the asset will provide social, economic or environmental well-being benefits to the local community. (For example through the ability to manage and regulate an open space at a local level)
- b) The transfer would be a 'tidying up' exercise, passing incidental pieces of land and landscaping, or parts of these, to a local level
- c) The asset has the potential to provide for a community facility which the parish or town council has demonstrated they have the skills, drive and access to resources to deliver (For example, a village hall)
- d) The transfer of the asset will enable the continuation of a service to the local community that TDC is no longer able to provide. (For example, public conveniences)
- e) A community partnership can be entered into based on public access to and use of an asset
- f) It is believed that the town or parish council would be able to secure grant funding and or have access to funding streams not available to the District Council.

4.5 Property assets unlikely to be considered for devolution include the following:-

- Assets that generate an immediate income to the Council and or are held to fulfil strategic priorities of the Council (e.g. Pay & display car parks and employment space)
- Assets held for future capital realisations
- Land held for future development of a Council or partner scheme
- Vacant land or buildings that can generate a capital receipt in excess of £10,000. This is the de-minimus level for capital accounting purposes

## **5.0 Disposing of a property asset for less than best consideration**

5.1 The Council may dispose of surplus land and property having regard to the provisions in section 123 of the Local Government Act 1972 (Appendix A) and the General Disposal Consent 2003 (Appendix B). This legislation ensures that property is disposed of at the best price obtainable subject to certain exceptions. Section 127 of the Local Government Act 1972 in respect of parish or community councils, or the parish trustees of a parish.

5.2 The exception is where the authority considers that the purpose of the disposal at less than best price will achieve the promotion or improvement of the economic, social or environmental well-being for the area and/or local residents. Valuation advice should be reported to set out the unrestricted (best price obtainable) and restricted values, together with the value of conditions. This will ensure that the monetary value to the authority can be taken account.

## **6.0 Mitigating the risk of an unsuccessful transfer**

6.1 It is proposed that town and parish councils will be able to apply for the delegation of service provision and/or transfer of property by submitting an Application Form (Appendix C). The application form includes a section titled 'General Considerations and Practicalities'. This section requests that applicants are clear about the following:-

- a) The aims and objectives for the land or building;
- b) the need and demand for the services proposed; and
- c) that the decision to take responsibility for a service and/or property asset should benefit the local community by allowing more effective service provision.

6.2 Where a property asset is to be transferred, the Practicalities section also requests consideration of premises costs and responsibilities and, the submission of a Premises Management Plan - detailing who will be responsible for decisions relating to the property, along with responsibilities for the day-to-day management of the premises and legislative compliance. Issues expected to be addressed will include cleaning, fire safety, health & safety, repairs, management of costs and income and, general administration.

6.3 By requiring the Premises Management Plan, it is anticipated that the implications of taking on the property and/or service management arrangements will have been given careful consideration by the applicant. This early planning will help to mitigate the risk of an unsuccessful transfer.

## 7.0 The Approval Process

7.1 On receipt of an application, Economy & Assets consult with:

- i. Finance
- ii. Legal
- iii. The relevant Portfolio Holder/s
- iv. Housing
- v. Environment & Leisure
- vi. Ward Members
- vii. HR (where application is in relation to an in-house run service that might result in TUPE or redundancies)

If there is a valid reason given that the service and or premises should not be transferred e.g. for operational reasons, the request will be refused.

7.2 If there are no objections raised against a proposed transfer of a property asset by the consultees, the property will be deemed surplus for disposal.

7.3 Ward Members consultation.

7.4 If it is proposed that the property be transferred at less than best consideration, a valuation will be undertaken to establish the under-value (the difference between the market value and restricted value). This 'under value' will be reported to the Executive Committee. In addition, the Executive Committee will satisfy itself that the 'well being' requirements have been met. This is to enable the Council to ensure compliance with the requirements of the Local Government Act 1972. Any costs incurred by the Council in seeking the relevant valuation advice will be met by the applicant.

7.5 When considering the disposal of public open space, the legal requirements of the Council to advertise proposed disposals and consider objections, must be complied with. Open Space is defined as "any land, laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground".

- 7.6 The Council is obliged to give notice of the intention to dispose by placing a public notice in the local newspaper for two consecutive weeks. Any objections must then be considered by the appropriate decision maker. Applicants will be required to meet the costs of advertising the proposed disposal.
- 7.7 Heads of Terms will be negotiated and agreed between the Estates Team and relevant town or parish council in relation to any property asset transfer. Service delegation agreements negotiated and agreed between the applicable service Business Lead and relevant town or parish council.
- 7.8 The relevant authority will be sought for approval of the transfer in line with the Council's Financial Instructions for disposal of land and buildings where a market value is being paid for the premises. Service delegation agreements will also be considered for approval.
- 7.9 The Legal Team will be instructed by the Estates Team to prepare and complete the relevant legal document/s for the transfer of any property (whether by leasehold or freehold). Relevant Business Leads will instruct the Legal Team in respect of Service delegation agreements.

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## Appendix A

### s.123 Local Government Act 1972 (as amended)<sup>1</sup>

- (1) Subject to the following provisions of this section, a principal council may dispose of land held by them in any manner they wish.
- (2) Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.
  - (2A) A principal council may not dispose under subsection (1) above of any land consisting or forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.
  - (2B) Where by virtue of subsection (2A) above a council dispose of land which is held—
    - (a) for the purpose of section 164 of the Public Health Act 1875 (pleasure grounds); or
    - (b) in accordance with section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),  
the land shall by virtue of the disposal be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with the said section 164 or, as the case may be, the said section 10.
- (3)—(6) (Repealed)
- (7) For the purposes of this section a disposal of land is a disposal by way of a short tenancy if it consists—
  - (a) of the grant of a term not exceeding seven years, or
  - (b) of the assignment of a term which at the date of the assignment has not more than seven years to run, and in this section “public trust land” has the meaning assigned to it by section 122(6) above.

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/1972/70/section/123>

## Appendix B

### The Local government Act 1972: General Disposal Consent (England) 2003<sup>2</sup>

1. The First Secretary of State ("the Secretary of State"), in exercise of the powers conferred by sections 123(2), 127(2) and 128(1) of the Local Government Act 1972, hereby gives consent to a disposal of land 2 otherwise than by way of a short tenancy 3 by a local authority in England in the circumstances specified in paragraph 2 below.
2. The specified circumstances are:
  - a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
    - i) the promotion or improvement of economic well-being;
    - ii) the promotion or improvement of social well-being;
    - iii) the promotion or improvement of environmental well-being; and
  - b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).

### Interpretation and savings

3. (1) In this instrument -  
"local authority" means:
  - i) London borough council;
  - ii) a county council;
  - iii) a district council;
  - iv) a parish council and parish trustees acting with the consent of a parish meeting;
  - v) a National Park authority;
  - vi) a Metropolitan Borough Council
  - vii) a joint authority established under Part IV of the Local Government Act 1985;
  - viii) a police authority established under section 3 of the Police Act 1996;
  - ix) the Metropolitan Policy Authority;

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<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/7690/462483.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7690/462483.pdf)

x) the London Fire and Emergency Planning Authority;

xi) the Broads Authority;

xii) the Council of the Isles of Scilly;

and any other person to whom, by virtue of statute, section 123(2) or section 127(2) of the Local Government Act 1972 applies;

"unrestricted value" means the best price reasonably obtainable for the property on terms that are intended to maximise the consideration, assessed in accordance with the procedures set out in the Technical Appendix.

**(2)** Nothing in this instrument shall be construed as giving consent to a disposal for any purpose for which the consent of the Secretary of State is required by virtue of section 25(1) of the Local Government Act 1988, section 133(1) of the Housing Act 1988, section 32(2) or section 43(1) of the Housing Act 1985, or otherwise as having effect as a consent for any purposes other than those of Part 7 of the Local Government Act 1972.

#### **Citation and revocation**

**4. (1)** This instrument may be cited as the Local Government Act 1972 General Disposal Consent (England) 2003 and shall come into effect on 4 August 2003.

**(2)** The Local Government Act 1972 General Disposal Consents 1998 are hereby revoked insofar as they apply to England.

Signed by authority of the First Secretary of State

**Lisette Simcock**

30 July 2003 Divisional Manager

Plans, International, Compensation and Assessment Division

## Technical Appendix

Valuations For The Purpose Of Determining Whether Proposed Land Disposals Under The Terms Of The Local Government Act 1972 Fall Within The Provisions Of The General Disposal Consent 2003

### The Valuation Report

1. An application to the Secretary of State for a specific consent to dispose of land under the terms of Part 7 of the Local Government Act 1972 for less than the best consideration reasonably obtainable must be supported by a report prepared and signed by a qualified valuer (a member of the RICS), providing the following information.

### Valuations

2. The report should set out the unrestricted and restricted values together with the value of conditions. Where any of these is nil this should be expressly stated. The valuer should also describe the assumptions made. These might include, for example, existing or alternative uses that might be permitted by the local planning authority, the level of demand and the terms of the transaction. The effect on value of the existence of a purchaser with a special interest (a special purchaser) should be described.

3. The Consent removes the requirement for authorities to seek specific consent from the Secretary of State where the difference between the unrestricted value of the land to be disposed of and the consideration accepted is £2,000,000 or less. The purpose of requiring the restricted value and the value of conditions to be reported as well as the unrestricted value is to ensure that the monetary value to the authority of any voluntary conditions can be taken into account when applications for specific consent are considered by the Secretary of State.

4. The valuer should take into account the requirements of the RICS Appraisal and Valuation Standards (Fifth Edition), ("the Red Book"), including UK Guidance Note 54. All values should be assessed in capital, not rental, terms; and where a lease is to be granted, or is assumed by the valuer to be granted, the valuer should express the value of the consideration as a capital sum.

#### *Unrestricted value*

5. The unrestricted value is the best price reasonably obtainable for the property and should be expressed in capital terms. It is the market value of the land as currently defined by the RICS Red Book (Practice Statement 3.2)5, except that it should take into account any additional amount which is or might reasonably be expected to be available from a purchaser with a special interest (a "special purchaser"). When assessing unrestricted value, the valuer must ignore the reduction in value caused by any voluntary condition imposed by the authority. In other words, unrestricted value is the amount that would be paid for the property if the voluntary condition were not imposed (or it is the value of the property subject to a lease without the restriction).

**6.** In general terms, unrestricted value is intended to be the amount which would be received for the disposal of the property where the principal aim was to maximise the value of the receipt. Apart from the inclusion of bids from a purchaser with a special interest it is defined in the same way as market value. For example, the valuer should take account of whatever uses might be permitted by the local planning authority insofar as these would be reflected by the market rather than having regard only to the use or uses intended by the parties to the proposed disposal.

**7.** The valuer should assume that the freehold disposal is made, or the lease is granted, on terms that are intended to maximise the consideration. For example, where unrestricted value is based on the hypothetical grant of a lease at a rack rent, or a ground rent with or without a premium, the valuer should assume that the lease would contain those covenants that a prudent landlord would normally include. The valuer should also assume that the lease would not include any unusual or onerous covenants that would reduce the consideration, unless these had to be included as a matter of law.

**8.** In the case of a proposed disposal of a leasehold interest, or where the valuer has assumed that a lease would be granted, the unrestricted value should be assessed by valuing the authority's interest after the lease has been granted plus any premium payable for its grant. This will usually be the value of the authority's interest subject to the proposed or assumed lease. In other words, it will be the value of the right to receive the rent and other payments under the lease plus the value of the reversion when the lease expires.

**9.** Where an authority has invited tenders and is comparing bids, the unrestricted value is normally the highest bid. But where, on the advice of the authority's professionally qualified valuer, the authority considers that the highest submitted tender is unrealistically high, or is too low, the unrestricted value may be assessed by the valuer.

#### *Restricted value*

**10.** The restricted value is the market value of the property having regard to the terms of the proposed transaction. It is defined in the same way as unrestricted value except that it should take into account the effect on value of any voluntary condition(s).

**11.** Where the authority has invited tenders and is comparing bids, the restricted value is normally the amount offered by the authority's preferred transferee. In other cases it is normally the proposed purchase price.

**12.** In cases where the proposed consideration is more or less than the restricted value both figures need to be given.

#### *Voluntary conditions*

**13.** A voluntary condition is any term or condition of the proposed transaction which the authority chooses to impose. It does not include any term or condition which the authority is obliged to impose, (for example, as a matter of statute), or which runs with the land. Nor does it include any term or condition relating to a matter which is a discretionary rather than a statutory duty of the authority.

**14.** The value of voluntary conditions is the total of the capital values of voluntary conditions imposed by the authority as terms of the disposal or under agreements linked to the disposal that produce a direct or indirect benefit to the authority which can be assessed in monetary terms. It is not the reduction in value (if any) caused by the imposition of voluntary conditions and any adverse effect these may have on value should not be included in this figure.

**15.** The proposed disposal, or an agreement linked with it, may give rise to non-property benefits to the authority. For example, these might include operational savings or income generated as a result of the transaction where the authority has an associated statutory duty. The monetary value of these benefits to the authority should be included in the value of voluntary conditions.

**16.** Where the status in law of a voluntary condition is unclear, the authority may need to seek legal advice as to whether the condition is such that its value to the authority can form part, or all, of the consideration. Conversely, there may be cases where, in law, the condition can form part, or all, of the consideration but it has no quantifiable value to the authority.

**17.** Where the valuer is not qualified to assess the value of any benefits (for example, of share options) the report should make clear the extent to which the valuer accepts liability for the figures. Where the valuer does not accept full responsibility the report should make it clear by whom the remainder of the figures have been assessed, and copies of any valuations or advice received from accountants or other professional advisers should be annexed.

**18.** All the values given should be in capital, not rental, terms; and the values of individual conditions as well as the total should be provided. Where there are no conditions, or their value is nil, this should be stated.

### **Valuation of Options**

**19.** A discount may occur in connection with the consideration for either the grant of an option or the exercise of an option, or both. Where the consideration is less than the best price that can reasonably be obtained, (or where the valuer considers that if the option were to be exercised its terms would require the authority to accept less than the best consideration that can reasonably be obtained), the valuations described in paragraphs 20 and 21 below must be provided in support of an application for disposal consent.

#### *Payment for the grant of an option*

**20.** In explaining the basis for calculating the consideration for the grant of an option, the valuer's report needs to include the following information, based on the most likely date for the exercise of the option:

- a)** the unrestricted value of the option to be granted;
- b)** the proposed cash consideration for the option to be granted (which may be nominal or nil); and

- c) the value to the authority of any terms or conditions which, in the valuer's opinion, form part of the consideration for the option to be granted.

The grant of an option will then be at an undervalue where the unrestricted value at (a) exceeds the proposed cash consideration at (b) plus the value of any conditions at (c) (ie: where  $a > (b+c)$ ).

#### *Consideration for the exercise of an option*

**21.** In explaining the basis for calculating the consideration for the interest to be disposed of under an option, the valuer's report should include the following information, based on the most likely date for the exercise of the option:

- a) the unrestricted value of the interest to be disposed of under the option, disregarding the effect of the option;
- b) the proposed cash consideration for the interest to be disposed of under the option (which may have been specified in the terms and conditions for the granting of the option); and
- c) the value to the authority of any terms or conditions which, in the valuer's opinion, form part of the consideration for the interest to be disposed of under the option.

The disposal of an interest pursuant to an option will then be at an undervalue where the unrestricted value of the interest at (a) exceeds the proposed cash consideration at (b) plus the value of any conditions at (c) (ie: where  $a > (b+c)$ ).

#### **Development Land**

**22.** In cases where there is no detailed scheme, the valuer should make reasonable assumptions about the form of the development.

#### *Negative Development Value*

**23.** Where the value of the completed scheme is less than the development cost, (for example, where there is low demand or high costs associated with land reclamation or decontamination), the valuer should assess the unrestricted value by making reasonable assumptions about such matters as alternative uses that might be permitted by the local planning authority and the level of demand. Where the proposed scheme is the most profitable but still produces a negative development value the unrestricted value will be nil and therefore a disposal at nil consideration will not be at an undervalue. But where land with a negative development value has a positive value for some other use the disposal would be at an undervalue.

#### *General Effect Of Grants On Values*

**24.** The valuer should consider whether the value of the site is in any way affected by the prospect of grant and take this into account in the valuation. If the valuation is based on

assumptions that disregard the effect of grant then this should be stated in the valuation report. When assessing a value for a use other than that for which a grant has been approved, the valuer should consider the likelihood of any such use achieving planning consent.

1 For the purposes of the 1972 and 1990 Acts 'open space' is defined in section 336(1) of the latter Act.

2 By section 270, land includes any interest in land, and any easement or right in, to or over land.

3 By sections 123(7) and 127(5), a short tenancy is a tenancy, which is granted for seven years or less, or the assignment of a term, which has not more than seven years to run. Disposals by way of a short tenancy do not need consent, see sections 123(2) and 127(2) of the 1972 Act.

4 RICS Appraisal and Valuation Standards (Fifth Edition), UK Guidance Note 5: 'Local authority disposals at an undervalue' published 1 May 2003

5 [see above]

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**Service Devolution & Transfer of  
Premises to  
Town and Parish Councils**

**Guidance & Application Form**

## Contents

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Application Form	4-8

## General Considerations

Before making an application to run a service or for the transfer of an asset from Teignbridge District Council (TDC), it is important to consider your options carefully. Below are some general aspects which should be considered before making an application.

The aims and objectives for the land or building. By having clear objectives it is possible to assess whether premises are needed, the amount of space and type of facilities required.

The need and demand for the services which are proposed.

The decision to take responsibility for a service and/or property asset should benefit the local community by allowing you to provide services more effectively. It is important to consider the monetary costs and time needed to maintain a building, as these additional responsibilities could reduce the efficiency of primary services.

## Practicalities

It is important to have a financial plan outlining the funding of the service and/or premises.

Where a property is to be transferred with the service, initial purchase/leasing costs may include surveying and legal costs. Each party will be expected to pay their own costs. It is also important to consider that a premises can generate a number of other ongoing costs. These may include:

- rates
- utilities (electricity, water etc)
- insurance – building, contents and public liability
- repairs – reactive and planned maintenance
- security

- administration
- alterations and/or adaptations
- Staff eg cleaning and caretaking

TDC will be able to provide limited information in this respect owing to accounting practicalities within the authority. In addition, there are efficiencies of scale from which it benefits owing to size of the organisation (eg insurance policies held) and the wide range of different skill sets accessible across the authority (eg lawyers, surveyors and accountants). It is therefore advised that independent advice is sought when considering the implications of acquiring and managing a property asset.

Where a property asset is proposed for transfer, a Premises Management Plan is required detailing who will be responsible for decisions relating to the property, along with responsibilities for the day-to-day management arrangements and compliance legislation. Issues which need to be addressed can include cleaning, fire safety, health and safety, security, repairs, general administration and managing costs. Teignbridge District Council reserves the right to challenge plans submitted.

Your organisation must also have the capacity to take on the delivery of a service and/or the ownership of property, along with the associated statutory considerations that can include but are not limited to:-

- Health and Safety at Work Act 1974 and subsequent regulations
- Regulatory Reform (Fire Safety) Order 2005
- Occupiers' Liability Act 1957
- Landlord and Tenant Act 1954
- Charities Act 2011
- Town and Country Planning Act 1990 and subsequent regulations
- Equality Act 2010
- Building Act 1994
- Defective Premises Act 1972
- Control of Asbestos Regulations 2012

Similar considerations will also need to be given where it is the proposed transfer of service delivery only proposed.

## **Application Guidance**

If you are satisfied that your council has a genuine need to take on the service and/or premises and the ability to do so, please complete the Application Form below.

When completing the application form(s) it is important that you provide as much information as possible so that we can assess your application. Please do not hesitate to write on additional sheets if required.

If you require any additional guidance on the process or help with the completion of the application forms please contact Economy & Assets on **01626 215233**. A copy of the Teignbridge District Council's Service Devolution & Asset Transfer Policy is also available on our website or by request.

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## SERVICE DEVOLUTION & ASSET TRANSFER APPLICATION FORM

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### Council Details

Name of Council	
Address of Council	
Post Code	
Telephone Number	
Fax Number	
Email Address	

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### Correspondent's Contact Details

Name of Correspondent	
Position Held	
Address (if different from above)	
Post Code	
Telephone Number(s)	
Email Address	

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**Solicitor's Contact Details (if available)**

Name of Solicitor	
Contact	
Address	
Post Code	
Telephone Number(s)	
Fax Number	
Email Address	
DX	

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Where assets are transferred for a nil or less than market consideration, the financial cost to TDC will be weighed against the community benefit. Please indicate which of the following community benefits will be provided by the transfer of this asset.

- The transfer of the asset will provide social, economic or environmental well-being benefits to the local community. For example, through the ability to manage and regulate an open space at local level
- The transfer would be a 'tidying up' exercise, passing incidental pieces of land and landscaping, or parts of these, to local level
- The property has the potential to provide for a community facility, for example a village hall, which the parish or town council has demonstrated they have the skills, drive and access to resources to deliver
- The transfer of the asset will enable the continuation of a service to the local community that the TDC are no longer able to provide e.g. public conveniences

- A community partnership can be entered into based on public access to and use of an asset
- It is believed that the applicant would be able to secure grant funding and or have access to funding streams not available to the District Council.

Name and address of Property to be transferred and Land Registry DN reference<sup>3</sup>

Proposed use of property

Means of transfer (i.e. lease or freehold)

The Council has the discretionary power under the General Disposal Consent (England) 2003 and S.123 of the Local Government Act, to consider disposals of surplus assets at less than best consideration where such disposal is likely to contribute to the promotion or improvement of the economic, social or the environmental well-being of the Teignbridge area or its residents. Please indicate below how this proposed transfer will contribute in any of these ways.

(Please note that the GDC will not apply in some limited circumstances such as housing land)

**Economic Benefits**

How will the transfer benefit the local economy?	
--	--

**Social Benefits**

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<sup>3</sup> <https://www.gov.uk/get-information-about-property-and-land/search-the-register>

How will the transfer provide social benefit to the community?	
--	--

**Environmental Benefits**

How will the transfer benefit the environment?	
--	--

Any other information to support the transfer	
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Should the Council consider that the transaction at less than best value will meet the requirements of the General Disposal Consent Act, a valuation of the property asset will be undertaken to determine best value. Any costs incurred by the Council in seeking the relevant valuation advice will be met by the applicant.

When considering the disposal of public open space, the legal requirements of the Council to advertise proposed disposals and consider objections must all be complied with. Applicants will be required to meet the costs of advertising the proposed disposal.

Where a service delegation agreement is sought without the transfer of any associated asset please specify below the service for which you are proposing to take on responsibility. Please include details of any reasons for the proposal, boundaries and conditions.

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## Declaration

I confirm that I am authorised to sign this application on behalf of (*name of council*)

and that, to the best of my knowledge and belief, all the information provided is true and correct. I confirm that I have considered all the financial implications of the property acquisition and that I am satisfied that the council is able to meet all anticipated costs.

I enclose copies of:-

- Plan outlining the property to be considered for transfer and/or service delegation boundary in red (required)
- Management Structure (required)
- Premises Management Plan (required where property to be transferred)
- Community Consultation (if available)
- Business Plan (if available)
- Any other documents you think may be helpful when we are assessing your application

Name (print)	
Position in council	
Date	

### Please return this completed form to:

Teignbridge District Council  
Economy & Assets  
Forde House  
Brunel Road  
Newton Abbot  
TQ12 4XX

Or email: [economyandassets@teignbridge.gov.uk](mailto:economyandassets@teignbridge.gov.uk)

**Appendix D**  
**Amenity Maintenance Services**

Task	Condition and comment
Litter Picking	To be carried out on amenity land  Examples include: <ul style="list-style-type: none"> <li>• Beverage and drinks containers</li> <li>• Food containers or utensils</li> <li>• Magazines and newspapers</li> <li>• Shopping and other bags</li> <li>• Illegal deposits of bagged commercial and household waste which shall be cleared as fly tipping</li> <li>• Removal of pigeon droppings from pathways and footways</li> <li>• Removal of fallen branches, wood, metal and plastic objects</li> <li>• Dog/ animal faeces</li> <li>• Cigarette waste and packets</li> <li>• Removal of leaf and blossom falls</li> </ul>
Emptying of Litter Bins	To be carried out on amenity land
Removal of Fly Tipping (but no enforcement related tasks)	Must be carried out on amenity land
Removal of Fly Posting (but no enforcement related tasks)	Must be carried out on amenity land
Graffiti removal (but no enforcement related tasks)	Must be carried out on amenity land
Balancing ponds, amenity footpaths and water courses	Must be carried out on amenity land  Monitor the condition and health and safety concerns on amenity footpaths, ponds, ditches and any amenity asset and effect their reasonable repair and maintenance
Park/ street furniture management	Must be carried out on amenity land  Monitor the condition of the furniture and any health and safety concerns and effect their reasonable repair, maintenance and replacement
Grounds Maintenance	Must be carried out on amenity land Maintenance of shrub beds, hedges, trees, herbaceous borders and any soft areas.
Grass maintenance	Must be carried out on amenity land
Sports pitch maintenance	Must be carried out on amenity land
Inspection and maintenance of play equipment	Must be carried out on amenity land

	Will include play areas, multiple use games areas (MUGAs) and skate parks
Allotments management	General up keep and maintenance including:- <ul style="list-style-type: none"> <li>• Boundary fencing</li> <li>• Gate and hedges</li> <li>• Tracks and footpaths</li> <li>• Car parks</li> <li>• Grass area</li> </ul>
Open Cemeteries and closed churchyard maintenance & upkeep	Must be carried out on all cemeteries and closed churchyards.  Includes memorial inspections
Weed control	Must be carried out on amenity land  Responsibility for all weeds on service delegated areas
Bus shelter maintenance	Litter collection and cleaning (graffiti, fly posting, moss etc. removal)

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## TEIGNBRIDGE DISTRICT COUNCIL

**EXECUTIVE**

LEADER: Cllr Jeremy Christophers

PORTFOLIO HOLDER: Cllr Timothy Golder

**DATE:** 4 December 2018

**REPORT OF:** Tony Watson, Interim Head of Commercial Service and Cllr Timothy Golder, Portfolio Holder for Economy, Skills and Tourism.

**SUBJECT:** Letting of the Former Shelter (Goldfish Bowl), The Den, Teignmouth

**PART I****RECOMMENDATIONS****The Executive is recommended to resolve:**

- 1) The grant of a 25 year lease.
- 2) The delegation of authority to finalise agreement of lease terms to the Interim Head of Commercial Service in conjunction with the Chief Finance Officer.

**1. PURPOSE**

- 1.1 The purpose of this report is to seek the correct approval to let the Former Shelter (Goldfish Bowl) building to a chosen applicant on a 25 year lease. This approval is required under the Council's Financial Instructions as this commits the Council to a period in excess of 10 years.
- 1.2 Approval is also sought to delegate the authority to sign off the yet to be finalised lease terms to the Interim Head of Commercial Services in conjunction with the Chief Finance Officer.

**2. BACKGROUND**

- 2.1 In Autumn 2017, the Estates team undertook a review of the former shelter known as the Goldfish Bowl. It was identified as being underutilised given its use as a store. Marketing of the property commenced in February 2018. Due to the known interest from at least one community group, the deadline for expressions of interest was extended and set for 22<sup>nd</sup> June 2018. This was to ensure that all parties had a reasonable time in which to prepare plans and secure relevant financing. A copy of the marketing details are attached at Appendix A.

## TEIGNBRIDGE DISTRICT COUNCIL

- 2.2 The expressions of interest were reviewed and scored against a scoring matrix by Donna Best (Estates Manager), Matheu Gladman (Graduate Estates Surveyor) and Cllr Timothy Golder (Portfolio Holder for Economy and Assets)..
- 2.3 The expressions of interest were narrowed down to three applicants who were invited for a discussion with the two surveyors and the Portfolio Holder. Following these discussions a preferred tenant was identified.
- 2.4 The building will be adapted to create a Mediterranean styled beach cafe providing an all-day catering offer that aims to enhance the current seafront offering for locals and visitors alike. The tenant is a local company made up of four local business people.

### **3. MAIN IMPLICATIONS**

#### **3.1 Length of Lease**

- 3.2 The 25 year lease length has been requested by the preferred tenant. The premises needs significant investment to bring this tired structure into an active use. As such, the tenant will need a 25 year lease length to ensure a return on their investment in the premises. It will also allow the new business to establish itself and build up what is anticipated to be a successful enterprise and a boon to the town's local economy.

#### **3.3 Financial**

- 3.4 The premises has, until recently, been used as an operational store. As well as the benefit of bringing new life and economic activity to this important seafront location, the grant of a lease will also bring new revenue income to the Council in the form of rent. In addition, once let, the Council will no longer be responsible for the premises business rates and maintenance costs.

#### **3.5 Legal**

- 3.6 Lease terms are yet to be finalised. However, in the terms to be negotiated will be on the basis of a 25 year business tenancy.

#### **3.7 Risk**

- 3.8 The main risk for the Council is that this will be a new venture for the chosen tenant. However, the experience of the business partners has been considered as part of the selection process, as well as the detailed business plan provided. Steps have therefore been taken to mitigate the risk to the venture.

### **4. GROUPS CONSULTED**

- Portfolio Holder for Economy, Skills and Tourism

## TEIGNBRIDGE DISTRICT COUNCIL

### 5. TIME-SCALE

- 5.1 Terms for a lease will initially be agreed subject to the grant of planning permission and premises licence. The lease will be completed at or around the planning decision date, currently anticipated early Spring 2019.

### 6. JUSTIFICATION

- 6.1 The recommendation for the grant of a 25 year lease is to enable the tenant to make the necessary investment in improvements to the premises and the establishment of a new business. The new tenant will be creating jobs and an attractive destination to enhance Teignmouth and the District as a whole.
- 6.2 Further, the scheme contributes to two Teignbridge 10 super projects - "investing in prosperity" and "going to town".

### 7. DATE OF IMPLEMENTATION (CONFIRMATION OF DECISION SUBJECT TO CALL-IN)

10.00 a.m. on Tuesday 11<sup>th</sup> December 2018

**Tony Watson**  
Interim Head of Commercial Services

**Cllr Timothy Golder**  
Portfolio Holder for Economy, Skills & Tourism

BELOW TO BE FILLED IN BY REPORT AUTHOR:

<b>Wards affected</b>	Teignmouth East
<b>Contact for any more information</b>	Matheu Gladman
<b>Background Papers (For Part I reports only)</b>	
<b>Key Decision</b>	N
<b>In Forward Plan</b>	Y
<b>In O&amp;S Work Programme</b>	N
<b>Community Impact Assessment attached:</b>	N
<b>Appendices attached:</b>	A: Marketing Particulars

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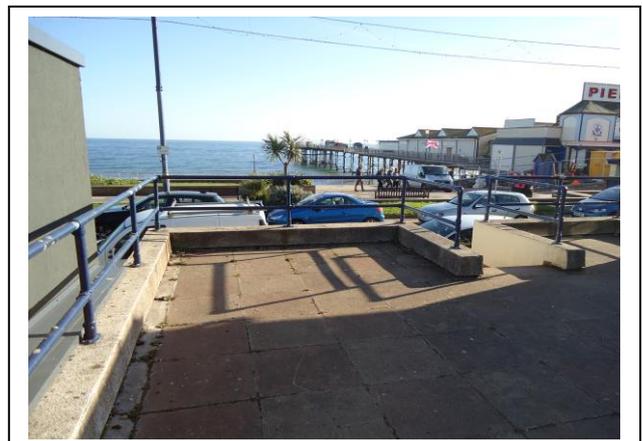
# TO LET

**Former Public Shelter (Goldfish Bowl)  
The Den  
Teignmouth  
Devon**



**64 sq.m (688 sq.ft) (net internal)**

- **Fantastic opportunity to transform a prominent sea front premises**
- **Popular beach front location directly opposite Teignmouth Pier and close to the Pavilions theatre**
- **Potential for a variety of uses subject to planning & landlord's consent**



## **Location**

The premises is located in a superb location with sea views and overlooking the Den and Teignmouth Promenade.

Teignmouth is a stunning coastal town with historic Georgian buildings, and the premises itself is within close proximity of visitor attractions including a sandy beach, Victorian Pier, Lido and Pavilions Theatre.

The immediate road networks link northward to the main A381 carriageway towards Newton Abbot and Dawlish, providing good access to Exeter and Plymouth. Located on the South West train line, Teignmouth is a straight forward journey to and from London, along with other regional and national destinations.

## **Description**

The premises is a single storey structure located above the Den Bowling Club and accessed from the seafront via steps at the south-eastern end of the building. The built structure could be augmented with the additional patio areas included within the proposed lease demise.

The building has the following approximate internal dimensions:-  
13.61 m x 4.69 m (44' 8" x 15'7")

## **Lease Terms**

The Council has an open mind to lease terms, including length of lease, rent and use of the premises.

Interested parties are invited to submit an Expression of Interest Form together with a completed Statement of Particulars Form to the council by midday on Friday 22<sup>nd</sup> June 2018.

These informal tenders should include a business plan outlining the proposed use, any relevant business experience, details of any proposed refurbishment or build works and a rental offer.

In assessing any offers received, consideration will be given to the financial offer and also the proposals for improving the site (such as active use, amenity value, links to the local community and attraction to visitors). Please note that the

Council is not duty bound to accept the highest or indeed any offer.

## **Services**

Western Power Distribution (South West) Plc quoted an estimated charge of £2,383 inc. VAT for electricity connection works 27 September 2017.

South West Water provided a quote for a new water connection to the premises of £973 inc. VAT as at 17 November 2017. This quote excludes drainage.

## **Rates**

The building is not currently assessed and will be valued by the Valuation Office once the new use is established.

The Tenant will be responsible for the payment of any business rates.

## **VAT**

All outgoings are exclusive of VAT which is chargeable.

## **Parking**

There is no dedicated parking with the premises.

## **Insurance**

The Council maintains a building insurance policy for the premises, and the tenant will be responsible for reimbursing the Council the insurance premium by way of additional rent. The tenant shall also maintain a Public Liability Indemnity insurance policy to the value of not less than £5,000,000 for any one claim. The Council reserves the right to vary this figure from time to time as and when deemed necessary.

## **Planning**

Interested parties will need to make their own enquiries with the Planning Department at Teignbridge District Council regarding change of use.

## **Energy Performance Certificate**

This building is exempt from the Regulations.

## Location Plan



## Legal Costs

Ingoing tenant to make a contribution of £250 plus VAT towards the Landlord's legal and administration costs.

## Viewing and Further Information

Viewing is recommended and available by prior appointment with the Estates Department Tel: 01626 215469

Data Protection Act 1998 – Teignbridge Council will use any data provided within this tender document for the purpose of deciding which bid to accept in order to grant this lease. It will only be disclosed to the client, in this case the Business Manager for Economy & Assets, or as required by law. All processing of this data will be done in accordance with the UK Data Protection Act 1998. & any subsequent legislation in force at the time

For information regarding your personal data ONLY please contact [dataprotection@teignbridge.gov.uk](mailto:dataprotection@teignbridge.gov.uk). If you need this information in a different language or format phone 01626 361101 or email [info@teignbridge.gov.uk](mailto:info@teignbridge.gov.uk)

Note: Teignbridge District Council as lessors give notice that:-

1. These particulars do not constitute any part of an offer as a contract.
2. All statements contained in these particulars as to this property are made without responsibility on the part of the Council or its Officers.
3. None of the statements contained in these particulars as to this property are to be relied upon as statements or representations of facts.
4. Any intending lessee must satisfy himself by inspection or otherwise as to the correctness of each of the statements contained in these particulars.
5. The Council and its employees do not have any authority to make or give any representations or warranty whatsoever in relation to this property.

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## **DEVON BUILDING CONTROL PARTNERSHIP COMMITTEE**

### **9 NOVEMBER 2018**

#### Present:

Councillors Pearce (Chair), Smith (Deputy Chair), Bastone, Steer, Kimber and Clemens

#### Officers in Attendance:

Phil Shears , Managing Director  
Darren Arulvasagam, Business Development Group Manager  
Andrew Carpenter, Business Manager, Head of Building Control Partnership  
Nicola Denton, Building Control Partnership Manager  
Sharon Sissons, Democratic Services Officer (Exeter City Council)

### **12. MINUTES**

The minutes of the meeting held on 27 July 2018 were approved as a correct record and signed by the Chairman.

### **13. DECLARATIONS OF INTEREST**

No declarations of interest were made.

### **14. HALF YEAR OPERATIONAL REPORT**

The Head of Building Control Partnership presented the detail of the half yearly operational report, which monitored the performance, service delivery, development and action plans of the Partnership, which covered the building control service across South Hams and Teignbridge District Councils and West Devon Borough Council, for the period up to the 30 September 2018.

He advised that staff had been trialling new mobile software through their iPads, and had noted particular benefits when working in the field and more remote locations. The final report of the Independent Review of the Building Regulations and Fire Safety was published in May and would provide a new regulatory framework, which will help to improve the focus on building safety during design, construction and refurbishment. A new regulatory framework has also been recommended for higher risk buildings, with implications for the Partnership, as for any local authority, to ensure there were staff who were formally qualified and with proven competencies to enable it to deliver in accordance with the new framework. The Local Authority Building Control (LABC) have also set up an independently audited Quality Management System, which the Partnership has signed up to, with formal registration likely to be confirmed by 2019.

An update was also provided on Brexit and how that would affect the building control system in terms of regulations detailing the built environment standards.

Resolved – The report be noted.

**15. EXCLUSION OF THE PRESS AND PUBLIC**

The Chairman moved the following resolution:

Resolved – That under Section 100 (A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A of the Act.

**16. HALF YEAR OPERATIONAL REPORT**

The Head of Building Control Partnership presented the detail of the half yearly operational report, which monitored the performance, service delivery, development and action plans of the Partnership for the period up to the 30 September 2018.

The Chairman referred to the recommendation for funding an extension of a temporary Technical Assistant post for six months, and he proposed that the post be extended to twelve months, but with a review after six months to establish the demand for the service. This was seconded by Councillor Robert Steer.

Resolved - The report be noted and the request for continued funding of the temporary Technical Services Assistant post to support the team be approved, for an additional period of twelve months, with a review after a period of six months to establish the demand of the service.

**17. HALF YEAR FINANCIAL MONITORING REPORT**

The Head of Building Control Partnership presented an update on the financial performance of the Partnership.

Resolved – The report be noted.

Chairman



## Public Notice and Annual Forward Plan

- 1 This is an Annual Forward Plan of the key decisions and other decisions the Leader of Teignbridge anticipates the Executive taking during the next 12 months. Key decisions are decisions which the Council consider significant having had regard to Government guidance. This Plan may include other decisions which are not key decisions to be taken by the Executive, including for example, where the Executive is to make a recommendation to the Council.
- 2 Details of the proposed decisions are attached.
3. The decisions which the Executive propose to take in private and the reasons why are detailed in the list together with a brief description of the matter to be decided. If you do not think the decisions should be taken in private please advise the Democratic Services Manager, with your reasons, at the address below or email [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk)
- 4 The documents which will be taken into account when making key decisions in the part of the meeting open to the public are available for inspection. Details are listed. Other documents may become available nearer the meeting. If you would like copies please contact the author of the report. Author's names and contact details are shown in the attached list. If you would like additional documents relating to a decision as they become available please contact the author and make this request.
5. Where possible, the District Council will attempt to keep to the dates shown in the Plan. It is quite likely, however, that some items will need to be rescheduled and new items added as new circumstances come to light.
6. This Plan will be updated on a monthly basis.
7. You are welcome to attend the meetings. They will take place in the Council Chamber at the address below. Agendas for Executive and other Council meetings are available on the Council's website.
- 8 You can ask questions regarding any item either in person or in writing. The deadline for the submission of questions is 12 Noon two working days prior to the meeting. You are advised to contact the Committee and Members' Services Section at the address below in advance of this time where assistance is available if required.
- 9 Should you wish to make the Councillors aware of any information in advance of a meeting you can make representations in writing. These can be made up

until the commencement of the meeting. You can also lobby Members of the Executive in advance of the meeting and for information on this or if you have any further queries, please contact the Committee Section, telephone 01626 215112 or email [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk)

- 10 The agendas for the meetings can be made available before the meetings. The documents listed in the right hand column of the attached plan are available for public inspection at the Council Offices between the hours of 9.00 am to 4.00 pm on Monday to Friday. The estimated dates of availability are indicated and are also available on the Council's website [www.teignbridge.gov.uk](http://www.teignbridge.gov.uk)

**Cllr JEREMY CHRISTOPHERS**  
**Leader of the Council**

Council Offices, Forde House, Newton Abbot TQ12 4XX

## TEIGNBRIDGE DISTRICT COUNCIL – EXECUTIVE FORWARD PLAN

Forward Plan of anticipated key decisions by the Executive for the next 12 months commencing 1 November 2018

*(R) indicates a recommendation to Council.*

Matter for Consideration	Date of Decision	Private Decision	Documents to be considered in preparing report	Report Author(s) & Contact Name & Number	Agenda inc. Report Published
<b>Newton Abbot Town Centre Redevelopment Proposals</b>	21/11/18	Part		Report of Tony Watson - Interim Head of Commercial Operations 01626 215828	13/11/2018
<b>Call-in of Executive decision Public Spaces Protection Order for Dog Control in Teignbridge</b>	04/12/2018	No		Report of David Eaton - Environmental Protection Manager – Contact 01626 215064	26/11/2018
<b>Asset Management Strategy and associated policy documents</b>	04/12/2018	No		Report of Donna Best Estates & Development Manager: 01626 265467	26/11/2018
<b>Council tax support/reduction scheme</b>	04/12/2018	No		Report of Tracey Hooper – Revenue, Benefits & Fraud Manager Contact: 01626215266	26/11/2018
<b>Council Tax premium for empty homes (R)</b>	04/12/2018	No		Report of Alison Spargo – Revenue Manager: Contact 01626 215230	26/11/2018
<b>Quarterly budget monitoring including capital and treasury management mid-year review</b>	04/12/2018	No		Report of Martin Flitcroft - Chief Finance Officer. Contact 01626 215246	26/11/2018
<b>Call-in of Portfolio Holder Decision 11-2018 - Funding Contribution for a Cirl Bunting Nature</b>	04/12/2018	Yes		Report of Rosalyn Eastman – Business Manager – Strategic Place. Contact: 01626 2151745	26/11/2018
<b>Notice of Motion - Heathfield Farm landfill</b>	04/12/2018	No		Report of Rosalyn Eastman – Business Manager – Strategic Place. Contact: 01626 2151745	26/11/2018

<b>Housing Needs Restructure</b>	04/12/2018	Yes		Report of Tony Mansour - Housing Needs Lead Contact - 01626 215 351	26/11/2018
<b>Goldfish Bowl, The Den, Teignmouth</b>	04/12/2018	No		Report of Matheu Gladman – Graduate Estates Surveyor Contact – 01626 215477	26/11/2018
<b>Initial Financial plan proposals 2019/20 to 2021/22 – to consider the initial financial plan proposals 2019/20 to 2021/22 and the council tax base 2019/20</b>	08/01/2019	No		Report of Martin Flitcroft - Chief Finance Officer. Contact 01626 215246	21/12/2018
<b>Final financial plan proposals 2019/20 to 2021/22 – to consider Teignbridge’s final budget proposals for the next three years</b>	07/02/2019	No		Report of Martin Flitcroft - Chief Finance Officer. Contact 01626 215246	30/01/2019
<b>Dawlish Warren Habitat Mitigation</b>	07/02/2019	No		Report of Fergus Pate - Principal Delivery Officer – Contact 01626 215466	30/01/2019
346					
<b>Restructure Proposals</b>	TBC	No		Report of Phil Shears – Managing Director Contact: 01626 215	TBC
<b>Affordable Housing Supplementary Planning Document and Starter Homes</b>	TBC	No		Report of Simon Thornley – Business Manager, Spatial Planning Contact: 01626 215706	TBC
<b>Teignbridge Car Park Plan – draft for consultation</b>	TBC	No		Report of Neil Blaney – Economy Manager. Contact: 01626 215233	TBC
<b>Leisure Strategy</b>	TBC	No		Report of Lorraine Montgomery – Interim Head of Operations James Teed Contact: 01626 215852	TBC

<b>Teignmouth Regeneration</b>	TBC	No		Report of Interim Head of Commercial Services Contact: 01626 215828	TBC
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## **PUBLIC NOTICE**

### **TEIGNBRIDGE DISTRICT COUNCIL**

#### **THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012**

An item has been added to the Executive agenda for 4 December 2018 at 10.00am:-

A report on the Public Spaces Protection Order for Dog Control in Teignbridge following the call-in of the decision made by Executive on 30 October 2018. The report will go to Overview and Scrutiny Committee 19 November 2018 and then back to Executive on 4 December 2018.

This has meant the Council has been unable to give 28 days notice through the Executive's Forward Plan.

Ω

 You have any queries or comments on this notice please contact.

Sarah Selway  
Democratic Services  
Council Offices  
Forde House  
Newton Abbot TQ12 4XX

14 November 2018

Distribution:  
Chairman of Overview & Scrutiny  
Council Website  
Main Reception

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