



West Devon
Borough
Council

West Devon Council

Title:	Summons																																													
Date:	Tuesday, 12th February, 2019																																													
Time:	4.00 pm																																													
Venue:	Chamber - Kilworthy Park																																													
Full Members:	<p style="text-align: center;">Mayor Cllr Davies Deputy Mayor Cllr Leech</p> <p><i>Members:</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Cllr Baldwin</td> <td style="width: 33%;">Cllr Musgrave</td> <td style="width: 33%;"></td> </tr> <tr> <td>Cllr Ball</td> <td>Cllr Oxborough</td> <td></td> </tr> <tr> <td>Cllr Cann OBE</td> <td>Cllr Parker</td> <td></td> </tr> <tr> <td>Cllr Cheadle</td> <td>Cllr Pearce</td> <td></td> </tr> <tr> <td>Cllr Cloke</td> <td>Cllr Ridgers</td> <td></td> </tr> <tr> <td>Cllr Edmonds</td> <td>Cllr Roberts</td> <td></td> </tr> <tr> <td>Cllr Evans</td> <td>Cllr Sampson</td> <td></td> </tr> <tr> <td>Cllr Hockridge</td> <td>Cllr Samuel</td> <td></td> </tr> <tr> <td>Cllr Jory</td> <td>Cllr Sanders</td> <td></td> </tr> <tr> <td>Cllr Kimber</td> <td>Cllr Sellis</td> <td></td> </tr> <tr> <td>Cllr Lamb</td> <td>Cllr Sheldon</td> <td></td> </tr> <tr> <td>Cllr McInnes</td> <td>Cllr Stephens</td> <td></td> </tr> <tr> <td>Cllr Moody</td> <td>Cllr Watts</td> <td></td> </tr> <tr> <td>Cllr Mott</td> <td>Cllr Yelland</td> <td></td> </tr> <tr> <td>Cllr Moyse</td> <td></td> <td></td> </tr> </table>	Cllr Baldwin	Cllr Musgrave		Cllr Ball	Cllr Oxborough		Cllr Cann OBE	Cllr Parker		Cllr Cheadle	Cllr Pearce		Cllr Cloke	Cllr Ridgers		Cllr Edmonds	Cllr Roberts		Cllr Evans	Cllr Sampson		Cllr Hockridge	Cllr Samuel		Cllr Jory	Cllr Sanders		Cllr Kimber	Cllr Sellis		Cllr Lamb	Cllr Sheldon		Cllr McInnes	Cllr Stephens		Cllr Moody	Cllr Watts		Cllr Mott	Cllr Yelland		Cllr Moyse		
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Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.																																													
Committee administrator:	Member.Services@swdevon.gov.uk																																													

- 1. Apologies for Absence**
- 2. Confirmation of Minutes** **1 - 8**
To approve and adopt as a correct record the Minutes of the Meeting of Council held on 4 December 2018
- 3. Declarations of Interest**
Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.
If Councillors have any questions relating to predetermination, bias or interests in items on this Summons, then please contact the Monitoring Officer in advance of the meeting.
- 4. To receive communications from the Mayor or person presiding**
- 5. Business brought forward by or with the consent of the Mayor**
- 6. The Mayor or the person presiding to answer questions which people in West Devon can ask and to receive deputations or petitions under Council Procedure Rule 21**
- 7. To consider (any) question submitted under Council Procedure Rule 21**
- 8. To consider (any) motions of which notice has been duly submitted by Members in accordance with Council Procedure Rule 15**
- 9. To receive the Minutes of the following Committees to note the delegated decisions and to consider the adoptions of those Unstarred Minutes which require approval** **9 - 66**

- (i) Hub Committee**
Meeting held on 4 December 2018

Unstarred Minute to agree:

HC 57 Revenue Budget Monitoring 2018/19

That the Council be **RECOMMENDED** to transfer £100,000 of the additional planning income into the Planning Policy and Major Developments Earmarked Reserve at the end of the 2018/19 Financial Year.

Meeting held on 29 January 2019

Unstarred Minutes to agree:

HC 67 Capital Budget Monitoring 2018/19

That the Council be **RECOMMENDED** to fund the capital requirement of the Public Conveniences Pay on Entry equipment of up to £50,000 from the Strategic Change Earmarked Reserve.

HC 70 Business Continuity Management Strategy and Work Programme

That the Council be **RECOMMENDED** that the Management Strategy and Work Programme be adopted.

HC 73 Commercial Development Financing

That the Council be **RECOMMENDED** to:

1. undertake prudential borrowing of £10.631 million to fund the Commercial Developments as set out in Exempt Appendix A of the presented agenda report to the Hub Committee meeting;
2. allocate £468,700 of Section 106 funding (as described in paragraph 3.26 of the presented agenda report to the Hub Committee meeting) to part fund the Tavistock temporary accommodation development;
3. utilise £139,000 of Affordable Housing budget to part fund the Tavistock temporary accommodation development;
4. utilise the £100,000 Okehampton capital receipt to part fund the Okehampton retail hospitality pod development; and
5. fund the £502,385 upfront borrowing costs during the construction period of the projects (as set out in Exempt Appendix A of the presented agenda report to the Hub Committee meeting).

(Members will note that Unstarred Minutes HC 68 'Budget Proposals 2019-20 Onwards Update Report')

and HC 74 'Capital Budget Proposals 2019/20' are to be considered later in the Summons under agenda items 10 and 11 respectively)

(ii) Development Management and Licensing Committee

Meeting held on 11 December 2018

(iii) Overview and Scrutiny Committee

Meeting held on 15 January 2019

(iv) Audit Committee

Meeting held on 22 January 2019

Unstarred Minute to agree:

AC 32 Review of the Council's Constitution: Rules of Procedure and Members' Planning Code of Practice

That Council be **RECOMMENDED** that:

1. the amendments to Part 4 (Rules of Procedure) of the West Devon Borough Council Constitution (as summarised in paragraph 2.5 of the agenda report presented to the Hub Committee and fully outlined at Appendix A to these minutes) be approved and formally adopted; and
2. the draft Members' Code of Good Practice – Planning' (as attached at Appendix B to these minutes) be adopted.

10. Budget Proposals 2019-20 Onwards Update Report	67 - 118
11. Capital Budget Proposals for 2019/20	119 - 132
12. Establishment Review	133 - 146
13. Peer Challenge Report	147 - 170
14. Draft Calendar of Meetings 2019/20	171 - 174
15. Council Tax Reduction Scheme	175 - 322
16. Tamar Valley AONB Management Plan Review 2019-2024 Final Draft	323 - 350

Dated this 4th of February 2019

Sophie Hosking
Head of Paid Service

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Agenda Item 2

At the Meeting of the **WEST DEVON BOROUGH COUNCIL** held in the **COUNCIL CHAMBER, KILWORTHY PARK, TAVISTOCK** on **TUESDAY** the **4th** day of **DECEMBER 2018** at **4.00pm** pursuant to Notice given and Summons duly served.

Present

Cllr M Davies – Mayor (In the Chair)
Cllr A F Leech – Deputy Mayor

Cllr R E Baldwin Cllr K Ball
Cllr R Cheadle Cllr D W Cloke
Cllr C Edmonds Cllr J Evans
Cllr L J G Hockridge Cllr N Jory
Cllr P Kimber Cllr B Lamb
Cllr J R McInnes Cllr J B Moody
Cllr C Mott Cllr D E Moyse
Cllr C R Musgrave Cllr R J Oxborough
Cllr G Parker Cllr T G Pearce
Cllr P J Ridgers Cllr A Roberts
Cllr R F D Sampson Cllr L Samuel
Cllr P R Sanders Cllr J Sheldon
Cllr J Yelland

Head of Paid Service
Acting Lead Specialist Legal
Senior Specialist – Democratic Services
Section 151 Officer
Group Manager – Business Development

CM 35

ROS RICE

Since this was the first Council meeting since Ros Rice (a longstanding member of staff) had sadly passed away, the Council proceeded to observe a moment's reflection in her memory.

CM 36

APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs W G Cann OBE, D K A Sellis, B Stephens and L Watts.

CM 37

CONFIRMATION OF MINUTES

It was moved by Cllr P R Sanders, seconded by Cllr L Samuel and upon the motion being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that the Council agree the Minutes of the Meeting held on 25 September 2018 as a true record.”

CM 38 DECLARATION OF INTEREST

The Mayor invited Members to declare any interests in the items of business to be considered during the course of the meeting. These were recorded as follows:

Cllr C Edmonds declared a personal interest in agenda item 13: ‘Supporting the Formation of South West Mutual’ (Minute CM 44 below refers) by virtue of one of the Trustee Directors being a former bank colleague and living near him and he remained in the meeting and took part in the debate and vote thereon.

CM 39 MAYOR’S ANNOUNCEMENTS

The Mayor made the following announcements:-

1. Mayor’s Christmas Tea

The Mayor reminded the Council that his Christmas Tea was taking place upon the rising of this meeting and all Members were welcome to attend.

2. Mrs Sue Nightingale

The Mayor advised the Council that this was to be the last Council meeting before Mrs Nightingale left the employ of the Borough Council. In thanking her for her hard work and support during her time with the Council, he wished her every success in her future career. These sentiments were echoed by the wider membership.

CM 40 MINUTES OF COMMITTEES

a. Overview and Scrutiny Committee – 2 October 2018 and 6 November 2018

It was moved by Cllr J Yelland, seconded by Cllr R Cheadle and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 2 October 2018 and 6 November 2018 meetings be received and noted”. Specifically with regard to Unstarred Minutes O&S 67 and O&S 68, it was confirmed that these were scheduled for consideration as standalone agenda items later in the meeting (Minutes CM 46 and CM 47 respectively refer)”.

b. Audit Committee – 9 October 2018

It was moved by Cllr M Davies, seconded by Cllr K Ball and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 9 October 2018 meeting be received and noted, with the exception of Unstarred Minute AC 21”.

In respect of the Unstarred Minute:

i. **AC 21 Six Monthly Update – Strategic Risk Assessment**

It was moved by Cllr M Davies, seconded by Cllr K Ball and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that:

1. The strategic risks (as outlined at Appendix 1 of the agenda report presented to the Committee) had been reviewed and that no further action should be considered;
2. The Risk & Opportunity Management Strategy (as outlined at Appendix 3 of the agenda report presented to the Committee) be adopted; and
3. The Joint Management Policy 2012 and the Joint Risk Management Strategy 2013 be rescinded.

c. **Development Management and Licensing Committee – 16 October 2018 and 13 November 2018**

It was moved by Cllr P R Sanders, seconded by Cllr A Roberts and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 16 October 2018 and 13 November 2018 meetings be received and noted, with the exception of Unstarred Minutes DM&L 26 and DM&L 28”.

In respect of the remaining Unstarred Minutes:

ii. **DM&L 26 Three Yearly Review of Gambling Statement of Licensing Principles**

It was moved by Cllr P R Sanders, seconded by Cllr A Roberts and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the draft Statement of Principles, as amended, be adopted for the period 31 January 2019 to 30 January 2022.”

iii. **DM&L 28 Planning Scheme of Delegation**

It was moved by Cllr P R Sanders, seconded by Cllr A Roberts and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the amended Planning Scheme of Delegation (as set out in Appendix A of the agenda report presented to the Committee) be approved.”

d. **Hub Committee – 16 October 2018 and 20 November 2018**

It was moved by Cllr P R Sanders, seconded by Cllr L Samuel and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 16 October 2018 and 20 November 2018 be received and noted, with the exception of Unstarred Minutes HC 46, HC 48, HC 51 and HC 52. Specifically with regard to Unstarred Minutes HC 51 and HC 52, it was confirmed that these were scheduled for consideration as standalone agenda items later in the meeting (Minutes CM 44 and CM 45 respectively refer)”.

In respect of the remaining Unstarred Minutes:

- i. **HC 46 Annual Review of Health and Safety Policy Statement**
Having been moved by Cllr P R Sanders and seconded by Cllr L Samuel, it was confirmed that the requests that were made during the debate at the Hub Committee meeting had now been incorporated into the draft Policy Statement.

It was then submitted to the Meeting and declared to be **CARRIED** and “**RESOLVED** that the revised policy be adopted and signed by the Head of Paid Service and the Leader of the Council.”

- ii. **HC 48 Brook Street Car Park Refurbishment Contract**
It was moved by Cllr P R Sanders, seconded by Cllr N Jory and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that, subject to the approval of the Section 151 Officer, in consultation with the lead Hub Committee Member, that the:

1. contract be awarded to the Bidder who scores highest during evaluation; and
2. 40% share of costs payable by the Council is funded from the Car Parking Maintenance Earmarked Reserve.”

CM 41 EXCLUSION OF PUBLIC AND PRESS

It was moved by Cllr R F D Sampson, seconded by Cllr T G Pearce and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business as the likely disclosure of exempt information as defined in paragraphs 3 and 5 of Schedule 12A to the Act is involved.”

CM 42 FRONTLINE SERVICES (WASTE AND CLEANSING) PROCUREMENT

Consideration was given to an exempt report that detailed the Final Tender Stage of the Frontline Services (Waste and Cleansing) Procurement process.

In discussion, a number of Members paid tribute to the work undertaken by lead officers and the Members who had served on the Frontline Services Project Board. In expressing their support for the proposed way forward, these Members felt that the project should be held up as an example of best practice.

It was then moved by Cllr R F D Sampson, seconded by Cllr L Samuel and, upon being submitted to the Meeting, was declared to be **CARRIED** and “**RESOLVED** that the Council:-

1. approve the recommendation of the Frontline Services Project Board to award the waste collection, recycling and cleansing services (Lot 3) to Bidder ‘A’. In the event that a Lot 3 partnership award cannot be made, then it is recommended that a Lot 1 award is made to Bidder ‘A’;
2. approve the recommendation of the Frontline Services Project Board to adopt the outline mobilisation plan (as set out at exempt Appendix D of the presented agenda report);
3. approve the recommendation of the Frontline Services Project Board to accept a Bond as outlined at exempt paragraph 4.2 of the presented agenda report;
4. approve the recommendation of the Frontline Services Project Board to make an annual contribution of £50,000 into a Vehicle Replacement Earmarked Reserve. It is further recommended that the amounts from the Strategic Change Earmarked Reserve (as set out in exempt Appendix B of the presented agenda report) are also allocated to the Vehicle Replacement Earmarked Reserve;
5. include a Capital Budget of £150,000 within the 2019/20 Capital Programme for the Depot upgrade outlined in exempt paragraph 1.6 of Appendix B of the presented agenda report and that this is funded from the Innovation Fund (Invest to Earn) Earmarked Reserve;
6. approve the recommendation of the Frontline Services Project Board to set up a Strategic Waste Earmarked Reserve (as set out at exempt paragraph 4.6 of the presented agenda report);
7. approve the continuation of the Frontline Services Waste Project Board, with revised Terms of Reference, for the duration of the mobilisation period; and
8. instruct officers to work with the successful bidder on the implementation of a three-weekly residual waste collection trial as soon as is practicable, subject to a report detailing potential savings and timescales being approved by the Hub Committee. (NB. the report will be presented within three months of the contract start date).”

CM 43

RE-ADMITTANCE OF PUBLIC AND PRESS

It was moved by Cllr R F D Sampson, seconded by Cllr T G Pearce and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the public and press be re-admitted to the meeting.”

CM 44

SUPPORTING THE FORMATION OF SOUTH WEST MUTUAL

A report was considered that sought to approve the granting of £49,995 from the 2018/19 Business Rate Pilot gain in order to support the formation of South West Mutual.

During his introduction, the lead Hub Committee Member for Economy stated that, whilst there were risks associated with the proposal, he was of the view that these would be outweighed by the potential benefits. As a consequence, the Member encouraged the wider membership to consider the proposed £49,995 expenditure to be (at this stage) a grant instead of an investment.

In discussion, the following points were raised:-

- (a) When questioned, the Leader informed that there was already interest in the proposal from a number of other neighbouring local authorities that included: Cornwall Council; Exeter City Council; East Devon District Council; Mid Devon District Council; and South Hams District Council;
- (b) A Member expressed some concerns and advised that he would be more supportive of the proposal if there was a guarantee that the required initial funding had been secured;
- (c) Officers reminded the Council that the 2018/19 Business Rate Pilot Bid that was submitted to Central Government had been focused around economic regeneration objectives and this proposal met this intention;
- (d) With regard to the local economy, a number of Members felt that the Council had recently struggled to support the local West Devon economy and this proposal provided an opportunity to address one of the major barriers to economic growth and was therefore a risk worth taking.

It was then moved by Cllr P R Sanders, seconded by Cllr L Samuel and, upon being submitted to the Meeting, was declared to be **CARRIED** and **“RESOLVED** that:

- 1. the granting of £49,995 be approved from the 2018/19 Business Rate Pilot gain in order to support the formation of South West Mutual (as detailed in Section 3 and Appendix 2 of the presented agenda report);
- 2. authority be delegated to the Group Manager (Business Development) to conclude the ordinary share acquisition; and
- 3. where possible, officers support the formation of the Mutual by promoting it to local authorities within the South West.

HEART OF THE SOUTH WEST JOINT COMMITTEE UPDATE

The Council considered a report that summarised the progress made by the Joint Committee over recent months in key areas of activity and that set out actions proposed in the coming months.

In discussion, particular reference was made to:-

- (a) the Housing agenda. Members requested that consideration be given to the Council having an officer representative on the Housing Sector Task Force. The Leader also informed that he had circulated to all Members a copy of the minutes arising from the last Joint Committee because these outlined the latest position on the Housing agenda;
- (b) the Heart of the South West Partnership's key strategic asks of Government. In light of a request, the Head of Paid Service committed to providing a response outside of the meeting that indicated how many of those asks (as listed in Appendix A of the presented agenda report) were included in the Autumn Budget and how many were still being lobbied on by the Partnership.

It was then moved by Cllr P R Sanders, seconded by Cllr L Samuel and, upon being submitted to the Meeting, was declared to be **CARRIED** and **"RESOLVED** that:

1. the progress report setting out the work of the Heart of the South West (HotSW) Joint Committee since its establishment in March 2018 be noted;
2. agreement be given to delegating the development and endorsement of the HotSW Local Industrial Strategy (LIS) to the HotSW Joint Committee (noting that final approval of the HotSW LIS rests with the HotSW Local Enterprise Partnership and the Government);
3. the Heart of the South West Joint Committee Budget statement for 2018/19 (as set out in Appendix B of the presented agenda report) be noted. That, in accordance with the decisions taken at the time the Committee was established, the Council also note that it will be asked to make an annual budgetary provision (£1,400 for the Borough Council) to meet the support costs of the Joint Committee in line with the 2018/19 contribution. (NB. final clarification on any additional 2019/20 Heart of the South West Joint Committee budget requirement will be provided following the completion of the review of the Joint Committee's role, function and management support arrangements and development of its Work Programme for 2019/20); and
4. the Budget and Cost-sharing Agreement (as set out in Appendix B of the presented agenda report) be agreed.

CM 46 GENERAL DATA PROTECTION REGULATION (GDPR) AND DATA PROTECTION POLICY

Consideration was given to a report that sought to approve an amended Data Protection Policy.

With no discussion ensuing, it was then moved by Cllr C Edmonds, seconded by Cllr R F D Sampson and, upon being submitted to the Meeting, was declared to be **CARRIED** and “**RESOLVED** that:

1. the amended Data Protection Policy (as detailed in Appendix A of the presented agenda report) be approved;
2. approval of the related Codes of Practice and Protocol documents (as summarised in Section 3 of the presented agenda report) be delegated to the Council’s Data Protection Officer; and
3. the approach and progress made by the Information Governance Group towards GDPR readiness be noted and supported.”

CM 47 REGULATION OF INVESTIGATORY POWERS ACT 2000 POLICY AND UPDATE

The Council considered a report that:

- reviewed the Council’s Regulation of Investigatory Powers Act (RIPA) Policy;
- updated Members on the use of RIPA; and
- reported on training for officers.

During his introduction, the lead Hub Committee Member highlighted his wish to propose an adjustment to part 3 of the report recommendation.

With no debate ensuing, it was then moved by Cllr C Edmonds, seconded by Cllr R F D Sampson and, upon being submitted to the Meeting, was declared to be **CARRIED** and “**RESOLVED** that:

1. the IPCO report and recommendations (as detailed at Appendix A of the presented agenda report) be noted;
2. the updated Policy (as attached at Appendix B of the presented agenda report) be approved;
3. it be noted that there have been no RIPA Authorisations between September 2017 and November 2018; and
4. the amendments to the RIPA Act 2000 (that came into effect from 1 November 2018) be noted.

(The Meeting terminated at 5.40 pm)

Mayor

Agenda Item 9

At a Meeting of the **HUB COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **4th** day of **DECEMBER, 2018** at **10.00am**

Present: Cllr P R Sanders – Chairman
Cllr L Samuel – Vice Chairman

Cllr C Edmonds	Cllr N Jory
Cllr A F Leech	Cllr C Mott
Cllr A Roberts	Cllr R F D Sampson

In attendance: Head of Paid Service
Group Manager Customer First and Support Services
Section 151 Officer
COP Lead Housing, Revenue and Benefits
Housing Benefit Specialist
Specialist Democratic Services

Other Members in attendance:
Cllrs Lamb, Moyse and Yelland.

***HC 54 APOLOGIES**

Apologies for absence were received from Cllr Oxborough.

***HC 55 DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be discussed but none were made.

***HC 56 MINUTES**

The Minutes of the Hub Committee meeting held on 20 November 2018 were confirmed and signed by the Chairman as a correct record.

HC 57 REVENUE BUDGET MONITORING 2018/19

Members were presented with a report that enabled Members to monitor income and expenditure variations against the approved budget for 2018/19, and provided a forecast for the year end position.

The Lead Member for Performance and Resources introduced the report. During discussion, one Member congratulated the HR team on the income they had generated, and the Head of Paid Service confirmed that officers hoped this would continue in future by working with consultants as their associates who specialised in that area of work. In response to a query regarding the car park income figures, the Head of Paid Service advised that charges had been introduced mid year, but that the Environment Services Manager was optimistic to be on budget by the end of the year.

It was then **RESOLVED:**

- i. That the forecast income and expenditure variations for the 2018/19 financial year and the overall projected underspend of £57,000 be noted; and

ii. To **RECOMMEND** to Council to transfer £100,000 of the additional planning income into the Planning Policy and Major Developments Earmarked Reserve at the end of the 2018/19 financial year.

***HC 48**

CAPITAL BUDGET MONITORING 2018/19

Members were presented with a report that advised them of the financial position as at 30 September 2018 for the purposes of budget monitoring. All capital projects are within the individual capital budgets approved by Members therefore capital schemes were within budget.

The Lead Member for Performance and Resources introduced the report. There were questions regarding the underspent budget on DFGs to which the s151 officer responded that a further £49,000 was committed to be spent and £255,000 set aside in statement of need.

Another Member sought clarity over the installation of the turnstile at the Parklands Leisure Centre, as it prevented those using the café from accessing the public conveniences. In response, a local Ward Member advised that the public convenience that could be accessed which had been a male toilet, should have been converted to a unisex toilet.

Finally, the Head of Paid Service confirmed that the proposal to install pay on entry machines at specific public conveniences intended those machines to take both card and cash.

It was then **RESOLVED** that the contents of the report be endorsed.

***HC 49**

BUDGET PROPOSALS 2019-20 ONWARDS UPDATE REPORT

Members were presented with a report that updated them on the forecast budget gap for 2019/20 and set out the current options and timescales for closing the budget gap to achieve long term financial sustainability.

The Leader advised that he would not introduce the report in detail but sought questions from other Members.

During discussion, Members discussed whether the Financial Stability Review Group was the right group to progress budget options with the forthcoming budget deficit in mind. Members generally concluded that the Group was the right vehicle and whilst there was a view that the Leader should be included in the membership rather than have the Group report to him, it was felt that the current membership of the Group was made up of Members with the right qualifications to undertake the role.

Members were disappointed that only 17 Members had completed the online budget survey. Whilst it was accepted that not every Member could attend every meeting, there was no reason not to complete a budget survey. Some Members were concerned that there might be a lack of understanding amongst Members regarding the seriousness of the budget situation.

Finally, the Deputy Leader asked that thanks be noted to staff following the recent Peer Review, as in her view officers worked tirelessly.

It was then **RESOLVED** that:

- (i) the forecast budget gap for 2019/20 of £0.269 million and the position for future years be noted;
- (ii) the current options identified and timescales for closing the budget gap in 2019/20 and future years, to achieve long term financial sustainability be noted; and
- (iii) the recommendations of the Financial Stability Review Group on Earmarked Reserves (10.2 and 10.3) be approved and that these be recommended in the final Budget Proposals report for 2019-20, presented to Council on 12th February 2019, be agreed.

***HC 50**

COUNCIL TAX REDUCTION SCHEME 2019/20

Members were presented with a report in line with the annual requirement for Councils to revisit their existing council tax support schemes and make a decision as to whether to replace or revise them.

The Housing Benefit Specialist outlined the background to the report by explaining the current means tested scheme and the proposed 4 band scheme. The Lead Member for Health and Wellbeing then introduced the report.

Members asked a number of detailed questions and as a result, some Members felt that a briefing for the wider membership would be appropriate, prior to the scheme being presented to full Council. Officers did reiterate that whilst a small number of people may be disadvantaged by the introduction of the proposed scheme, it did align better with Universal Credit that had now been rolled out across the Borough, so would be better both from a customer perspective and for the Council. In addition, measures were in place in the form of the Exceptional Hardship Fund, which was a discretionary fund for those in specific need.

It was then **RESOLVED** that:

1. the results to date of the Public Consultation for the Council Tax Reduction Scheme in Section 4 of the report be noted, and
2. the proposed approach (to adopt a 4 band scheme ranging from 85% to 25%) for the allocation and management of the new Council Tax Reduction strategy be endorsed.

(The meeting terminated at 11.40 am)

Chairman

**(NOTE: THESE DECISIONS, WITH THE EXCEPTION OF
HC57 (2) WHICH IS A RECOMMENDATION TO FULL COUNCIL
ON 15 JANUARY 2019 WILL BECOME EFFECTIVE
FROM WEDNESDAY 12 DECEMBER 2018 UNLESS CALLED IN,
IN ACCORDANCE WITH SCRUTINY PROCEDURE RULE 18).**

At a Meeting of the **DEVELOPMENT MANAGEMENT & LICENSING COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **11th** day of **DECEMBER 2018** at **10.00am**

Present: Cllr P R Sanders – Chairman
Cllr A Roberts – Vice Chairman

Cllr R E Baldwin	Cllr W G Cann OBE
Cllr J Evans	Cllr J Hockridge
Cllr C Mott	Cllr D E Moyse
Cllr T G Pearce	Cllr J Yelland

COP Lead Development Management (PW)
Planning Specialists (IL, CS)
Specialist Place Making (AW)
Solicitor (SN)
Specialist Democratic Services (KT)

***DM&L 29 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllr G Parker for whom Cllr J Evans substituted.

***DM&L 30 DECLARATION OF INTEREST**

Members were invited to declare any interests in the items of business to be considered and the following were made.

Cllr T G Pearce declared a personal interest in all applications by virtue of being a Member of the Devon Building Control Partnership. He remained in the meeting and took part in the debate and vote on the item.

***DM&L 31 CONFIRMATION OF MINUTES**

The Minutes of the Development Management and Licensing Committee Meeting held on 13 November 2018 were confirmed and signed by the Chairman as a correct record.

***DM&L 32 PLANNING, LISTED BUILDING, TREE PRESERVATION ORDER AND ENFORCEMENT REPORTS**

The Committee considered the applications prepared by the Development Management Specialists and considered also the comments of Town and Parish Councils together with other representations received, which were listed within the presented agenda reports and summarised below, and **RESOLVED:**

(a) Application No: 4261/17/FUL Ward: Buckland Monachorum

Site Address: West Harrow, Crapstone, Devon PL20 7PW

Application for construction of new detached 4 bedroom dwelling with integral double garage

Case Officer Update: None

Speakers included: Objector – Dr Rich Reed: Supporter – Mr Tom Rogers: local Ward Member – Cllr Sanders

RECOMMENDATION: Conditional Approval

COMMITTEE DECISION: Conditional Approval

[Please note: This application was approved by virtue of Chairman's casting vote]

(b) Application No: 2138/18/FUL Ward: Tavistock South East

Site Address: Land adjacent to Breckland, Down Road, Tavistock

Erection of two dwellings

Case Officer Update: Plot 2 would be 12 metres from the boundary with Deer Leap and no 12 was then a further 11 metres away, so 23 metres in total; the ridge height would be 148.78, whereas the neighbouring property 'The Bedfords' ridge height was 153.34; main modifications had been submitted in respect of the Joint Local Plan Policy STP3: provision of new homes, and moderate weight could be afforded to that policy.

Speakers included: Objector – Ms Pauline Marsh: Parish Council Representative – Cllr Paul Ward: Supporter – Mr Peter Rowan: local Ward Member – Cllr Oxborough, Cllr Sellis (statement read)

RECOMMENDATION: Conditional Approval

COMMITTEE DECISION: Conditional Approval

***DM&L 33 PLANNING APPEALS UPDATE**

The Committee received and noted the updated list of Planning Appeals including Enforcement Appeals. The Specialist Place Making provided more detail regarding the appeal decision related to the Tree Preservation Order.

(The Meeting terminated at 12.30pm)

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At a Meeting of the **OVERVIEW & SCRUTINY COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **15th** day of **JANUARY 2019** at **2.00 pm**.

Present: Cllr R Cheadle – Vice-Chairman

Cllr R E Baldwin	Cllr D W Cloke
Cllr P Kimber	Cllr J B Moody
Cllr D E Moyse	Cllr C R Musgrave
Cllr G Parker	Cllr T G Pearce
Cllr P J Ridgers	Cllr D K A Sellis
Cllr J Sheldon	

Group Manager – Customer First and Support Services
Group Manager – Business Development
Section 151 Officer
Commissioning Manager
Head of Devon Building Control Partnership
Senior Specialist – Democratic Services

Also in Attendance: Cllrs W G Cann OBE, C Edmonds, B Lamb, C Mott, A Roberts, R F D Sampson, L Samuel and P R Sanders

- * **O&S 75** **APOLOGIES FOR ABSENCE**
Apologies for absence for this meeting were received from Cllrs J Evans, J R McInnes and J Yelland.
- * **O&S 76** **CONFIRMATION OF MINUTES**
The minutes of the Meeting of the Overview and Scrutiny Committee held on 6 November 2018 were confirmed and signed by the Chairman as a true and correct record, subject to inclusion of the following amendment:

For minute number O&S 69 ‘Quarter 2 Performance Measures’, the introductory sentence be amended to read: ‘The Lead Member for *Resources and Performance* presented a report.....’
- * **O&S 77** **DECLARATIONS OF INTEREST**
Members and officers were invited to declare any interests in the items of business to be considered during the course of this meeting, but there were none made.
- * **O&S 78** **PUBLIC FORUM**
There were no issues raised during the Public Forum session.

*** O&S 79 HUB COMMITTEE FORWARD PLAN**

Members considered the latest version of the Hub Committee Forward Plan. In so doing, the following points were made:-

- (a) The Committee asked that the Leader of Council give consideration to his Forward Plan being updated to outline each of his and the Deputy Leader's roles and responsibilities;
- (b) With regard to the 'Joint Local Plan (JLP) Working Arrangements after Adoption' future agenda item, it was noted that this report would now be included with the JLP adoption report that would be bypassing the Hub Committee and presented straight to the Council meeting on 26 March 2019.

*** O&S 80 DEVON BUILDING CONTROL PARTNERSHIP UPDATE**

The Committee considered a report that provided an overview of the performance of the Devon Building Control Partnership.

In the ensuing discussion, the following points were raised:-

- (a) The Head of the Partnership confirmed that the service continued to strive to be as financially self-sufficient as was practically possible. With regard to the non-chargeable work (i.e. the work costed back to the Council), Members noted that this amounted to approximately 25% of the Partnership's total workload and recent trends suggested that this percentage continued to decrease;
- (b) The Committee was advised that the Business Plan that underpinned the Partnership was committed to investigating the potential for expansion (provided that it was of benefit to the existing three partners). In addition, Members were advised that the Partnership worked closely with colleagues in neighbouring local authorities and discussed with potential additional partners remained ongoing;
- (c) With regard to the reduction in building standards in large scale developments, the Head of the Partnership recognised that this was an issue that was replicated across the country. In advising that the Partnership had a lack of control over quality, the representative informed that the Local Authority Building Control (LABC) organisation was making representations nationally in an attempt to reverse this trend. The point was also made that Members should be lobbying their local MPs to exert some influence;

Moreover, it was felt that, as the Local Planning Authority, the Council also had a role to play in this regard and it was felt that consideration should be given by both Members to adopt an appropriate Design Policy and the Partnership to develop closer working relationships with the Council's Planning and Enforcement Officers;

- (d) The representative informed that the overwhelming majority of customer feedback received by the service was positive. This was felt to be mainly as a result of the Partnership operating in a very competitive market and the consequent emphasis that was given to delivering good customer service;
- (e) Whilst the adoption of the Joint Local Plan could present a number of business opportunities to the Partnership, a further barrier was that national large scale developers tended to choose their Building Inspectors at a national level thereby overlooking the local service providers.

In conclusion, the Committee was of the view that the Partnership delivered an excellent service and the representative was thanked for his agenda report and informative responses to Member questions.

It was then:

RESOLVED

That the Committee:

1. welcomes the report and is of the view that the Partnership provides a very good service;
2. requests that the Partnership look at developing closer working relationships with other neighbouring local authorities; and
3. requests that the Partnership look at developing closer working relationships with the Development Management Community of Practice.

*** O&S 81 BUDGET PROPOSALS 2019/20 ONWARDS UPDATE**

Members were presented with a report that asked for consideration of the draft Budget proposals for 2019-20 and onwards.

The Leader of Council introduced the report and specifically highlighted the updates to the Budget position since the Hub Committee meeting had considered the matter at its meeting on 4 December 2018 (Minute HC *49 refers).

In the ensuing debate, particular reference was made to:-

- (a) confirmation that the monies allocated from the Better Care Fund were sufficient to finance Disabled Facilities Grants;

- (b) income from investments in Commercial Property. In response to a question, officers advised that the proposed £120,000 Year 4 (2022/23) income could consist of a combination of potential commercial development in the Borough and property acquisitions outside of West Devon;
- (c) delivery of rural services. The Leader informed that the Rural Services Network and Local Government Association continued to rigorously lobby Central Government to point out the distinct differences between rural and urban service delivery;
- (d) the waste collection service. The Section 151 Officer confirmed that trials would be needed to inform the level of savings achievable from a three weekly waste collection and a report would be presented to the Hub Committee by the end of June 2019;
- (e) the future Budget gap. Whilst the Council was facing severe challenges to fill its Budget gap, Members made reference to a number of the measures that had already been implemented. These, coupled with some of the future proposals and the findings of the recent Peer Review, left some Members confident that the Council would have options and the ability to close its future Budget gap;
- (f) the proposed Community Grant reductions. Whilst he would reluctantly support the recommendation, a Member did express his disappointment over the proposed grant reductions to some Community Groups. For clarity, it was confirmed that there was currently no intention to recommend a reduction in grant awarded to Citizens' Advice.

It was then:

RESOLVED

That, as part of the 2019/20 Budget Setting process, the Hub Committee take into account that the Overview and Scrutiny Committee support:

1. the proposed increase in Council Tax for 2019/20 of 2.99% (Band D of £231.63 for 2019/20 – an increase of 13 pence per week or £6.72 per year);
2. the proposed financial pressures of £420,000 (as shown in Appendix A of the presented agenda report);
3. the proposed contributions to Earmarked Reserves of £120,000 and transfer of the one-off 2019/20 Budget Surplus of £73,135 into the Future Financial Stability Earmarked Reserve to assist in meeting the predicted Budget gap of £504,242 in 2020/21;

4. the proposed savings of £684,700 (as shown in Appendix A of the presented agenda report);
5. the proposed use of £375,000 of New Homes Bonus funding to fund the 2019/20 Revenue Budget (as set out in Section 4.6 of the presented agenda report); and
6. the recommendations of the Financial Stability Review Group on Earmarked Reserves (as set out in paragraphs 10.2 and 10.3 of the presented agenda report) and agree that these should be recommended in the final Budget Proposals report for 2019/20 (to be presented to the Council meeting on 12 February 2019).

O&S 82 CORPORATE STRATEGY KEY PERFORMANCE INDICATORS

The Committee was presented with a report that detailed progress made to date in developing Key Performance Indicators. In addition, the report recommended next steps to improve reporting mechanisms on the Corporate Strategy.

During discussion, reference was made to:-

- (a) Hub Committee Member feedback. A Member reiterated her previous concerns that there were still some Hub Committee Members who were not providing any feedback to the wider membership on their areas of responsibility;
- (b) resources required to deliver the Strategy. Members highlighted the capacity issues being experienced across the Council and therefore emphasised the importance of managing expectations in honing the Strategy. This view was acknowledged by officers and it was felt that this should be borne in mind throughout the Member Workshop that had been scheduled for 5 February 2019.

It was then:

RESOLVED

That the Hub Committee be **RECOMMENDED** to endorse the proposed actions as detailed in Section 5 of the presented agenda report.

O&S 83 CUSTOMER SATISFACTION PROGRESS UPDATE

In line with the request for 'Customer Satisfaction Progress Updates' to become a standing agenda item for the Committee (Minute *HC 50 refers), the lead Hub Committee Member for Customer First made reference to:-

- officers having begun implementing the actions arising from the recently approved Improvement Plan;

- overall call volumes continuing to reduce. As a result, the Member informed that call answering performance had improved. To expand upon the point, the Contact Centre had received 7,500 calls last month (2,000 less than the same period last year) and this was the lowest monthly figure ever recorded. Of these calls, 91% were answered (with 85% of these in less than 5 minutes). The Member advised that historical trend analysis illustrated that for the year to date (April to December 2018), the Contact Centre had received 20,000 less calls in comparison to April to December 2017 and an astonishing 72,000 less than April to December 2016;
- the creation of a customer feedback button on the Council website. Within the next month, the Member advised that the Council would be rolling out the feedback part as part of online forms and processes. As a consequence, users completing a request for service online would be able to advise whether or not it had worked for them and/or was easy to complete;
- work was ongoing to investigate solutions to contact customers after a service had been delivered in order to measure their satisfaction;
- Specialists and Managers had been allocated to focus on improving the Council's high volume priority areas: Waste and Planning;
- in Waste, officers had been working with the Communications Team to simplify messaging which had reduced demand on Garden Waste and Christmas Collections. Whilst the statistics were not yet available, the Member advised that volumes of customer reports and calls appeared to have been significantly reduced in comparison to previous years;
- officers had started work on reviewing and improving the Council's missed collection process. The lead Member informed that she would report back on this work at the next meeting of the Committee;
- in Development Management, officers were working on introducing more communication with the customer so that (s)he was kept informed at every step of the planning process. The IT was currently being configured and testing was expected to commence during the week commencing Monday, 21 January 2019. If this testing went to plan, it was intended that it would go live before the end of January 2019. The next step with the Development Management service was to provide more detail and status updates within the online search function and the target was to achieve this in March 2019;
- objectives had been rolled out for the Case Management teams. By the end of January 2019, teams would be reviewing all complaints received within their work areas and would be focusing on fixing the issues that had generated the complaints in the first place. The Member proceeded to advise of her intention to show the complaints received (and the fixes that had been implemented) to the Committee in the upcoming months; and

- the Council had successfully rolled out a pilot to the Council Tax Case Management team that automatically prioritised work against the resources available. Members were advised that this had reduced the workload significantly and, by the end of January, this pilot would be extended into the Housing Benefits service area and officers were working on a roll-out plan for all service areas.

In the ensuing discussion, the following points were raised:

- (a) In light of the current senior officer absences in Development Management, remedial measures were being put in place to mitigate the impact as far as was practically possible. Furthermore, officers informed that they were monitoring the impact of these absences on a daily basis;
- (b) It was noted that the draft Members Code of Planning Practice was to be presented, in the first instance, to the Audit Committee at its meeting on 22 January 2019;
- (c) Some Members commented that the reductions in call volume suggested that the onus that was being placed on Channel Shift was starting to reap benefits.

*** O&S 84 JOINT LOCAL PLAN: STANDING AGENDA ITEM**

By way of an update, the lead Hub Committee Member advised that:

- the Council was still working towards the Joint Local Plan being presented to the Council meeting on 26 March 2019 for adoption;
- the Joint Steering Group was hoping that the draft version of the Development Planning Document (DPD) on Settlement Boundaries would be presented to the Hub Committee meeting on 19 March 2019. In referring to the importance of this DPD to Neighbourhood Planning Groups, Members welcomed this target date;
- the proposed Design Guide would be prepared during the 2019/20 Municipal Year. In light of the comments made earlier in the meeting during consideration of the Devon Building Control Partnership agenda item (Minute *O&S 80 above refers), some Members felt that greater priority and emphasis should be given to adoption of this Guide.

*** O&S 85 TASK AND FINISH GROUP UPDATES**

(a) Northern Link Area Outreach Services

The Committee was presented with the concluding report of the Northern Link Area Outreach Services Task and Finish Group.

In the ensuing debate, the following points were raised:-

- (i) In light of some concerns being raised at the lack of evidence based recommendations that were contained within the Group report, it was **PROPOSED** and **SECONDED** and on being put to the vote declared **CARRIED** that:

‘That the Task and Finish Group be reconvened to produce a number of evidence based recommendations that will then be reported back to a future meeting of the Overview and Scrutiny Committee.’

- (ii) When considering that there were not many visitors to the Ockment Centre and the recent Peer Review had concluded that the Council should look at switching off some of its contact channels, some Members questioned whether the Outreach Service was in fact providing value for money for the Council and its services.

It was then:

RESOLVED

That the Task and Finish Group be reconvened to produce a number of evidence based recommendations that will then be reported back to a future meeting of the Overview and Scrutiny Committee.

* **O&S 86 ANNUAL WORK PROGRAMME 2018/19**

The Chairman introduced the latest version of the Work Programme for the next 12 months and noted its content without any further debate.

* **O&S 87 MEMBER LEARNING AND DEVELOPMENT OPPORTUNITIES ARISING FROM THIS MEETING**

In discussion, the Committee was reminded that the Corporate Strategy Member Workshop had been arranged to take place at 2.00pm on Tuesday, 5 February 2019.

(The meeting terminated at 4.25 pm)

Chairman

At a Meeting of the **AUDIT COMMITTEE** held in the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **22nd** day of **January 2019** at **2.00pm**

Present: Cllr M Davies (Chairman)

Cllr K Ball
Cllr B Lamb
Cllr B Stephens

Officers in attendance:

Section 151 Officer
Internal Auditor Manager
Specialist – Democratic Services
Senior Case Officer –Democratic Services

Also in attendance: Cllr C Edmonds (lead Hub Committee Member)

* **AC 25** **APOLOGIES FOR ABSENCE**
Apologies for absence were received from Cllrs W Cann OBE, L J G Hockridge and L Watts.

* **AC 26** **CONFIRMATION OF MINUTES**
The Minutes of the Committee Meeting held on 9 October 2018 were confirmed and signed by the Chairman as a correct record.

* **AC 27** **GRANT THORNTON EXTERNAL AUDIT PLAN**
Steve Johnson introduced the report on the external audit plan. He specifically pointed out identified risk areas being shared services with South Hams and investment property. Independent valuations would be commissioned each year on investment properties with authority owned property being valued every five years. The waste contract would be monitored as part of their value for money audit opinion, as would the leisure contract.

It was then **RESOLVED** that:

The report be noted

* **AC 28** **WEST DEVON BC –CERTIFICATE OF CLAIMS AND RETURNS – ANNUAL REPORT 2017/18**
The S151 Officer stated the Housing Benefit claim had received an unqualified audit opinion and that the Housing Benefits team had won Team of the Year in last year's staff awards. The Audit Committee thanked the Housing Benefits team for their hard work.

It was then **RESOLVED** that:

The report be noted

- * **AC 29** **UPDATE OF PROGRESS ON THE 2018/19 INTERNAL AUDIT PLAN**
The Internal Auditor gave an update on the 2018/19 Internal Audit Plan, explaining that direction of travel was upward. There was likely to be a review of the Single Persons Discount to confirm eligibility. The identified issue with Northgate system should be sorted within 12 the next 12 months. Finally the Waste contract had been awarded and was progressing well.

It was then **RESOLVED** that:

The progress made against the 2018/19 internal audit plan was APPROVED.

- * **AC 30** **TREASURY MANAGEMENT MID-YEAR REVIEW**

Cllr Edmonds, Lead Member for Performance & Resources presented the Treasury Management Mid-Year Review. He reported that three investment properties had been bought, and exchange had been made on a fourth. MRP Provision was for 50 years, the life of the building that the Council would own.

It was then **RESOLVED** that:

The content of this report be endorsed.

- * **AC 31** **PENSION STRATEGY (TRIENNIAL ACTUARIAL REEVALUATION)**

The Committee considered a report that presented the specialist pension advice that had been received and outlined options for Members to consider.

In light of the Committee wishing to raise issues on Appendix A, it was moved and seconded and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVE** that, in accordance with Section 100 (A) (4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the appendix as the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A to the Act is involved.”

Once all Members were satisfied that they had no further questions or issues to raise on the Appendix, it was then moved and seconded and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the public and press be re-admitted to the Meeting”

It was then **RESOLVED** that:

The Audit Committee noted the contents of Appendix A and instructed officers to engage in early dialogue with the Devon Pensions Fund and the actuaries (Barnett Waddingham), ahead of the next Triennial Revaluation in 2019 to further assess the Council's options.

AC 32 REVIEW OF THE COUNCIL'S CONSTITUTION: RULES OF PROCEDURE AND MEMBERS' PLANNING CODE OF PRACTICE

Cllr Edmonds presented the review of the Council's Constitution. A discussion arose over whether meetings should be advertised on the notice board outside the council offices as well as on the website. The final decision on this was deferred to the full Council meeting on 12 February, 2019, however, the Audit Committee recommendation was that officers should continue to ensure that agendas were displayed in the cabinet on the outside of the building. The Planning Code of Good Practice was to be applied to all West Devon Members. Members of the Audit Committee made minor amendments to the presented scheme. There would be a new induction programme in place for newly elected Members in May 2019.

It was then **RESOLVED** that:

The Audit Committee recommended to full Council that:

1. The amendments to Part 4 (Rules of Procedure) of the West Devon Borough Council Constitution (as summarised in paragraph 2.5 of the report and fully outlined at Appendix A) be approved and formally adopted; and
2. The draft Members' Code of Good Practice – planning (as attached at Appendix B) be adopted.

*** AC 33 AUDIT COMMITTEE WORK PROGRAMME 2018/19**

The S151 Officer took members through the work Programme 2018/19 and its contents were noted without any debate.

(The Meeting terminated at 3.40 pm)

Dated this

Chairman

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4 (2)

Access to Information Procedure Rules

[Go to Contents](#)

Access to Information Procedure Rules

1. **Scope**

These rules apply to all meetings of the Council and its Committees.

2. **Rights to attend meetings**

Members of the public may attend all meetings subject only to the exceptions in these rules.

3. **Notices of meeting**

The Council will give at least **five clear** days notice of any meeting by posting details of the meeting at West Devon Borough Council offices (Kilworthy Park, Drake Road, Tavistock, Devon, PL19 0BZ) and on its website (www.westdevon.gov.uk).

4. **Access to Agenda and reports before the meeting**

The Council will make copies of the agenda and reports open to the public available

for inspection at the designated offices at least **five clear days** before the meeting. If

an item is added to the agenda later, ~~the revised agenda will be open to inspection~~

~~from the time the item was added to the agenda. Where reports are prepared after~~

~~the agenda has been sent out~~, the Head of Paid Service shall make each such report

available to the public as soon as the report is completed by uploading onto the Council website and sent to Councillors.

5. **Supply of copies**

The Council will supply copies of:

(a) any agenda and reports which are open to public inspection;

~~(b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and~~

(c) any other documents (already supplied to Councillors in connection with an item), if the Head of Paid Service or Monitoring Officer thinks fit, to any member of the public,
~~person~~

on payment of a charge for postage and any other costs.

6. **Access to Minutes etc after the meeting**

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

7. Background Papers

7.1 List of Background Papers

The ~~relevant report author~~ ~~Head of Paid Service~~ will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report.

This list does not include published works or those which disclose exempt or confidential information (as defined in Rule 9).

7.2 Public Inspection of Background Papers

The Council will make available for public inspection for six years after the date of the meeting one copy of each of the documents on the list of background papers.

8. The Constitution

A copy of this Constitution shall be ~~kept available to the public at the Council Offices, Kilworthy Park, Drake Road, Tavistock, Devon PL19 0BZ and~~ available on the Council's website at www.westdevon.gov.uk

9. Exclusion of access by the public to meetings

9.1 Confidential Information - Requirement to Exclude Public

The public **must** be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

9.2 **Meaning of Confidential Information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

9.3 **Exempt Information - Discretion to Exclude Public**

The public **may** be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of the Human Rights Act 1998.

9.4 **Meaning of Exempt Information**

Exempt information means information falling within the following 10 categories (subject to any conditions):

Table of the exempt categories in Schedule 12A

Description of exempt information	Condition
1. Information relating to any individual.	Information relating to individuals is covered by the Data Protection Act 1998.
2. Information which is likely to reveal the identity of an individual.	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	"Financial or business affairs" includes contemplated as well as past or current activities.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office-holders under the authority.	"Labour relations matters" are as specified in paragraph (a) to (g) of section 29(1) of the trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6. Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	
Qualifications	
8. Information falling within paragraph 3 is not exempt if it must be registered under the Companies Act, Friendly Societies Acts, Industrial and Provident Societies Acts, the Building Societies Act or the Charities Act.	
9. Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.	
10. Information which: <ul style="list-style-type: none">• falls within paragraphs 1 to 7 and• is not prevented from being exempt by virtue of paragraphs 8 and 9 is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.	

10. **Exclusion of access by the public to reports**

If the Head of Paid Service thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 9, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" together with the category of information likely to be disclosed.

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4 (4)

Overview and Scrutiny Procedure Rules

[Go to Contents](#)

Overview and Scrutiny Procedure Rules

~~The Council Procedure Rules as set out in Part 4(1) of this Constitution shall apply to the Overview & Scrutiny Committees and sub-committees unless otherwise specified by these Rules.~~

1. Overview and Scrutiny Committee

1.1 The Council will appoint ~~one~~**two** Overview & Scrutiny Committee as set out in Article ~~xs~~ as set out in the terms of reference in Part 3.

2. Terms of Reference

~~2.1 The terms of reference of the Overview & Scrutiny Committees shall be:~~

2.2 The performance of all overview and scrutiny functions on behalf of the Council are specified in including those functions specified in the terms of reference set in the Part 3 of this Constitution.

3. Membership and Composition

3.1 **Number:** ~~The Each~~ Committee shall consist of ~~fifteen~~**eleven** Members of the Council appointed in accordance with Council Procedure Rule 7.

3.2 **Eligibility:** All Members of the Council, with the **exception** of Members of the Hub Committee and Audit Committee will~~shall be eligible to~~ be members of the Overview & Scrutiny Committees. However, no Member shall be involved in scrutinising a decision taken by a committee of which, at the time of the decision, s/he is a voting member.

3.3 **Chairman:** The Chairmen and Vice Chairmen shall be appointed by Council in accordance with the Council Procedure Rules in Part 4 of the Constitution. The Chairmen of the Overview & Scrutiny Committees cannot also be the Chairman of the Audit Committee.

3.4 **Co-optees:** The Committee shall be entitled to recommend to the Council the appointment of co-opted members (including members of the public).

7. Meetings

7.1 **Frequency:** There shall be at least **five meetings** of the Committee in each year. In addition, other meetings may be called in accordance with the Council's Procedure Rules as set out in Part 4 of this Constitution.

7.2 **Quorum:** The quorum for the Committee shall be ~~seven~~**four** members.

7.3 **Substitution** is not permitted on the Overview & Scrutiny Committees (see Procedure Rule 10).

8.03 Annual report

The Overview & Scrutiny Committees shall report annually to Council on their workings and make evidence based recommendations for future work programmes and amended working methods if appropriate.

1. Powers and Duties

- 4.1 **Sub-Committees:** The Overview and Scrutiny Committee shall have the power to appoint such sub-committees as it considers appropriate to discharge its functions. These Procedure Rules, including those on eligibility for membership, shall apply to any such sub-committee.
- 4.2 **Task and Finish Groups:** The Committees shall have the power to appoint and discontinue Task and Finish Groups.
- 4.2.1 The Task and Finish Groups shall be appointed to undertake such work and within such time-scales as may be specified by the Committees.
- 4.2.2 All Members of the Council are eligible for membership of the Task and Finish Groups.
- 4.2.3 The Committees ~~(in consultation with leaders of the political groups)~~ shall establish the membership of the Task and Finish Groups.
- 4.2.4 A Task and Finish Group shall report to the Overview & Scrutiny Committee which appointed it.
- 4.3 **Work programmes:** ~~Each~~ Overview & Scrutiny Committee shall be responsible for setting its own work programme.
- ~~4.5 The Committees may call that a joint meeting is held to discuss the Work Programme~~
- 4.6 **Agenda Items:** Any member of the Committees shall be entitled to give notice to the Chairman that s/he wishes an item to be included on the next appropriate agenda and the Chairman shall arrange for this to be done.
- 4.7 **Consideration of Overview and Scrutiny Reports:** The Head of Paid Service

will ensure that reports of the Overview & Scrutiny Committee are placed on the agenda for the appropriate committee or Council Summons if appropriate for consideration, ~~and in the case of a joint committee referred to that committee.~~

- 4.8 Members or Officers may propose that Overview & Scrutiny consider a particular matter by completing a Scrutiny Proposal Form (which can be obtained from member.services.Darryl.White@swdevon.gov.uk). See below for rules on Public Forum

5. Overview

~~5.1 The terms of reference in relation to overview functions are set out in the terms of reference in Part 3.~~

5.2 **Policy Review/Development:** In relation to the review or development of Council policies, the Overview & Scrutiny Committees may make proposals for consideration by the relevant committees, joint committees or Council if appropriate.

5.3 The Overview & Scrutiny Committees may receive requests from the Council and committees to review particular areas of Council activity. The Committees, having regard to their work programme, shall consider and respond to such requests.

5.4 The Overview & Scrutiny Committees may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist it in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.

6. Scrutiny

~~6.1 The terms of reference in relation to scrutiny functions are set out in the terms of reference in Part 3.~~

~~6.2 **Proposed decisions:** To assist with the function of scrutiny, members of the Overview & Scrutiny Committees shall be sent copies of the Council Summons and agenda of all committees.~~

6.3 **Call-in of decisions:** Call-in should only be used in exceptional circumstances, e.g. where members of the Overview & Scrutiny Committees have evidence which suggests that the Hub Committee did not take the decision in accordance

with the principles set out in Article 6 (Decision Making). Call-in may be exercised only by the Committee who remit covers the decision in question.

6.3.1 Call-in will **not apply** to decisions of individual applications under development control, licensing, standards, registration, consents or other permissions where there is a statutory right of appeal.

6.3.2 Within **two days** (where reasonably practicable) of a meeting of the Hub Committee:

- the minutes of that meeting shall be published on the council website and Members advised ~~(where possible by electronic means) and shall be available at the main offices of the Council~~
- ~~copies of the minutes will be sent to all Members.~~

6.3.3 The minutes (as referred to in 6.3.2) will specify that any decision will come into force (and may then be implemented) on the **expiry of three working days** after the publication of the minutes, **unless** ~~the~~ Overview & Scrutiny Committee calls it in.

6.3.4 Before the **expiry of the three working days**, the Head of Paid Service shall call-in a decision for scrutiny by an Overview & Scrutiny Committee if so requested by the Chairman or any three members of the relevant Overview & Scrutiny Committee. The Head of Paid Service will notify all Members of the call-in of the decision.

6.3.5 The Head of Paid Service shall call a meeting of the relevant Overview & Scrutiny Committee on such date as he may determine (where possible after agreement with the Chairman of the Committee) and in any case within **five working days** of the decision to call-in.

6.3.6 If, having considered the decision, the Overview & Scrutiny Committee remains concerned about it then the Committee may set out in writing the nature of its concerns and:

- refer the decision back to the relevant committee for re-consideration, or
- refer the matter to Council for determination.

If the matter is referred back to a Committee or Council, that body shall determine at the earliest practicable opportunity whether or not to amend the decision.

6.3.7 If, following a call-in of a decision, the Overview & Scrutiny Committee:

- does not meet in the period set out above, or

- does meet but does not refer the matter back to the relevant Committee or to Council)

the decision shall take effect on the date of the Overview & Scrutiny meeting or the expiry of that further five working day period, whichever is the earlier.

- 6.4 **Urgency:** The call-in procedure set out above shall not apply where the decision being taken by a committee is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest. Where the record of the decision, and notice by which it is made public, states that in the opinion of the Head of Paid Service the decision is an urgent one, it will not be subject to the call-in process.

~~7. Meetings~~

~~7.1 **Frequency:** There shall be at least five meetings of the Committee in each year. In addition, other meetings may be called in accordance with the Council's Procedure Rules as set out in Part 4 of this Constitution.~~

~~7.2 **Quorum:** The quorum for the Committee shall be four members.~~

~~7.3 **Substitution** is not permitted on the Overview & Scrutiny Committees (see Procedure Rule 10).~~

7.4 **Attendance by Others:** ~~Each~~ Overview & Scrutiny Committee may:

- (i) require Hub Members, members and Senior Officers of the Council to attend a meeting to answer questions and it is the duty of those persons to attend if so requested;
- (ii) request, but not compel, officers from partnership organisations to attend if so required;
- (iii) invite any person to attend to address the Committee or to discuss issues of local concern and/or to answer questions;
- ~~(iv) pay any person attending a reasonable fee and expenses for doing so.~~

7.5 **Party Whip:** When considering any matter in respect of which a member of the Committee is subject to a party whip, the member must declare the existence of the whip and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

7.6 **Procedure:** Each Overview & Scrutiny Committees shall consider the following business:

- (i) minutes of the last meeting;
- (ii) declarations of interest (including whipping declaration);
- (iii) the Hub Forward Plan
- (iv) consideration of any matter referred to the Committee for a decision in relation to the calling in of a decision;
- (v) responses of the committees to reports of the Overview & Scrutiny Committee; and
- (vi) the business otherwise set out on the agenda for the meeting.

Reports on policy proposals or investigations

7.6.1 The Committee may adopt its own procedures as it so chooses when carrying out a review or conducting an investigation.

7.6.2 Following any investigation or review, the Committee shall prepare a report, for submission to the relevant committee, joint committee and/or Council as appropriate.

8. Public Forum Procedures

a) General

Members of the public may raise issues and ask questions at meetings of the Overview and Scrutiny Committee. This session will last for up to fifteen minutes at the beginning of each meeting.

(b) Notice of Questions

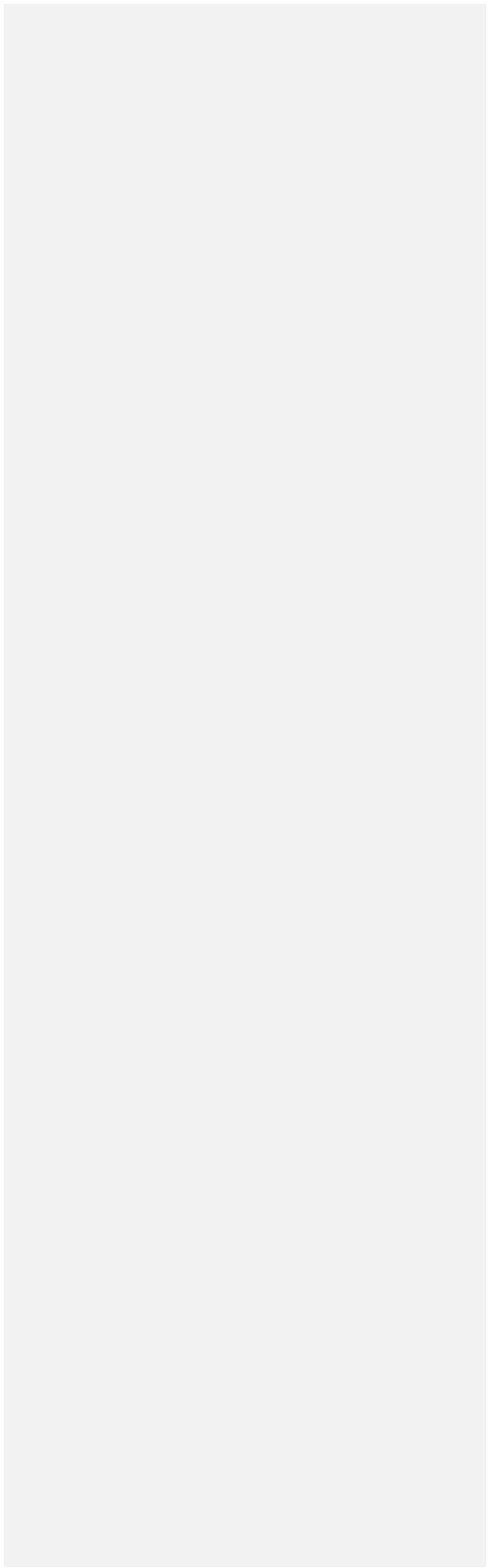
An issue or question may only be raised by a member of the public provided that they have given written notice (which may be by electronic mail) to ~~Darryl White~~ (member.servicedarryl.white@swdevon.gov.uk) by 5.00pm on the Thursday, prior to the relevant meeting.

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(c) Scope of Questions

An issue may be rejected by the Monitoring Officer if:

- it relates to a matter within the functions of the Planning & Licensing Committee;
- it is not about a matter for which the local authority has a responsibility or which affects the district
- it is offensive, frivolous or defamatory;
- it is substantially the same as a question which has previously been put in the past six months; or
- it requires the disclosure of confidential or exempt information.



4

Hub Committee Procedure Rules

[Go to Contents](#)

Hub Committee Procedure Rules

1. HOW DOES THE HUB COMMITTEE OPERATE?

1.1 Who may make Hub Committee decisions?

1.1.1 The role, form, and composition of the Hub Committee are as laid out in

Article 6 of the Council's Constitution.

1.1.2 Hub Committee functions may be discharged by:

- i) the Hub Committee as a whole;
- iii) a committee of the Hub Committee;
- iv) an officer; or
- v) another local authority, whether under joint arrangements or otherwise.

1.5 Conflicts of Interest

1.5.1 Where the Leader of the Council has a conflict of interest this should be dealt with as set out in the Council's Members' Code of Conduct in Part 5 of this Constitution.

1.5.2 If every Member of the Hub Committee has a conflict of interest this should be dealt with as set out in the Council's Members' Code of Conduct in Part 5 of this Constitution.

1.5.3 If the exercise of an Hub Committee function has been delegated to a committee of the Hub Committee, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the Hub Committee and otherwise as set out in the Council's Members' Code of Conduct in Part 5 of this Constitution.

1.6 Hub Committee meetings

- 1.6.1 The Hub Committee will meet at least 8 times per year.
- 1.6.2 The Head of Paid Service may also call for additional meetings at his or her discretion.
- 1.6.3 The Monitoring Officer and/or the Section 151 Officer may call an additional meeting if either believes it is necessary so to do in order to fulfil their statutory duties.
- 1.6.4 In other circumstances where any of the Head of Paid Service, Section 151 Officer and Monitoring Officer are of the opinion that a meeting of the Hub Committee needs to be called to consider a matter that requires a decision he/she will have the right to call such a meeting.
- 1.6.5 The Hub Committee shall meet at the Council's main offices or another location to be agreed by the Leader of the Council.

1.7 Public or private meetings of the Hub Committee?

- 1.7.1 The Hub Committee will normally meet in public in line with the principles set out in Article 11. The exception will be when considering exempt or confidential items.
- 1.7.2 It may also choose to meet on occasion in informal sessions and those sessions may be in private.

1.8 Quorum

- 1.8.1 The number of Members of the Hub Committee shall be nine including the Leader of the Council and Deputy Leader of the Council.
- 1.8.2 The quorum for a meeting of the Hub Committee shall be four.
- 1.8.3 In the event that both the Leader and the Deputy Leader of the Council are prevented from attending a meeting of the Hub Committee, in circumstances which any two of the statutory officers consider to be exceptional, the quorum at a meeting of the Hub Committee will be 50% plus one of the Hub Committee membership.
- 1.8.4 The quorum at a meeting of a sub committee of the Hub Committee shall be two members.

1.9 How are decisions to be taken by the Hub Committee?

1.9.1 Hub Committee decisions which are to be taken by the Hub Committee as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

1.9.2 Where decisions are taken by a Committee of the Hub Committee, the rules applying to Hub Committee decisions taken by them, shall be the same as those applying to those taken by the Hub Committee as a whole.

2. HOW ARE HUB COMMITTEE MEETINGS CONDUCTED?

2.1 Who presides?

If the Leader of the Council is present he/she will preside. In his/her absence, then the Deputy Leader of the Council shall preside. In the exceptional circumstances contemplated in paragraph 1.8 (Quorum) then a person appointed to do so by those present at the meeting will preside.

2.2 Who may attend?

2.2.1 All borough councillors can attend meetings of the Hub Committee or a committee of the Hub Committee.

2.2.2 The press and public can attend meetings of the Hub Committee or a committee of the Hub Committee subject to the Access to Information Procedure Rules.

2.2.3 On occasion the Hub Committee may wish to meet informally for discussion purposes only and those informal sessions will be held in private. Informal sessions will not constitute meetings of the Hub Committee.

2.2.4 The Hub Committee will actively encourage wherever possible the involvement of the specific expertise or knowledge of other borough councillors as part of the deliberations of the Hub Committee whether those deliberations are at meetings of the Hub Committee or a committee of the Hub Committee or at informal sessions.

2.3 Who may speak and vote?

2.3.1 All borough councillors can attend and speak, subject to adherence to the Council Rules of Debate. Only Hub Committee Members may vote.

2.3.2 Members of the public may speak only to ask questions at the start of the meeting in accordance with Article 3 of the Council's Constitution and the guidance currently in place.

2.4 What business?

At each meeting of the Hub Committee, the following business will be conducted:

- i) consideration of the minutes of the last meeting;
- ii) declarations of interest, if any;
- iii) public questions;
- iv) the Hub Committee Forward Plan
- v) matters referred to the Hub Committee (whether by Scrutiny or by the Council) for reconsideration by the Hub Committee in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- vi) consideration of reports from any non-Hub Committee body of the Council; and
- vii) matters set out in the agenda for the meeting.

Commented [KT1]: This will be included on future Hub Committee agendas

2.5 Consultation

2.5.1 All reports to the Hub Committee from any Member of the Hub Committee or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant non-Hub Committee bodies of the Council, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.6 Who can put items on the Hub Committee agenda?

2.6.1 The Leader of the Council will decide upon the schedule for the meetings of the Hub Committee. He/she may put on the agenda of any Hub Committee meeting any matter which he/she wishes, whether or not authority has been delegated to the Hub Committee, or officer or another local authority in respect of that matter. The Monitoring Officer will comply with the Leader of the Council's requests in this respect.

2.6 Who can put items on the Hub Committee agenda? (cont'd)

- 2.6.2 Any Member of the Hub Committee may require the Monitoring Officer to make sure that an item is placed on the agenda of the next available meeting of the Hub Committee for consideration. If he/she receives such a request the Monitoring Officer will comply.
- 2.6.3 Full Council may require any item to be placed on the agenda of the next reasonably available meeting of the Hub Committee.
- 2.6.5 Any Member of the Council may ask the Leader of the Council to put an item on the agenda of an Hub Committee meeting for consideration, and if the Leader of the Council agrees the item will be considered at the next reasonably available meeting of the Hub Committee. The notice of the meeting will give the name of the Councillor who asked for the item to be considered.
- 2.6.6 The Head of Paid Service, or any Senior Officer may include an item for consideration on the agenda of an Hub Committee meeting. In addition, the Monitoring Officer and the Section 151 Officer may put an item on the agenda if either believes it is necessary to do so to carry out his or her statutory duties.

Part 4
**Rules for Other Bodies of
the Council**

Rules for other Bodies of the Council

1. AUDIT COMMITTEE

1.1 Membership

The Audit Committee shall have seven Councillors.

1.2 Quorum

The Quorum shall be three Councillors.

1.3 Meetings

The Committee shall normally meet at least four times per year.

1.4 Training

- a. All Members of the Committee will be expected to attend Audit training refresher sessions as and when they are provided;

2. DEVELOPMENT MANAGEMENT AND LICENSING COMMITTEE

DEVELOPMENT MANAGEMENT

2.1 Membership

The Development Management and Licensing Committee shall have ten Councillors.

2.2 Training

- a. All Members will be expected to attend planning and licensing training refresher sessions as and when they are provided;
- b. Newly elected Members will have to attend appropriate induction Planning and Licensing Training before they can take part in the decision making process;
- c. Repeat sessions will be held in conjunction with South Hams District Council to provide additional opportunities for Members to meet the requirement to attend the induction training;
- d. If they so wish, re-elected Members will be welcome to attend the induction sessions.

2.3 Quorum

The Quorum shall be four councillors adjusted annually if necessary.

2. DEVELOPMENT MANAGEMENT AND LICENSING COMMITTEE (cont'd)

2.4 Rules of Debate

The Rules of Debate, as outlined under Council Procedure Rule XX, apply with one exception. The exception is as follows:-

In the event of a Member wishing to propose a motion which is contrary to the case officer recommendation, the Member must give their reasons for this proposal at the time of making it.

2.5 Voting

In view of the quasi – judicial nature of much of the business of the Committee there is a general obligation for Councillors to remain for the whole of the debate or to have participated in any previous consideration on any particular application and certainly to refrain from voting if either of these essential requirements have not been achieved.

2.6 Meetings

The Development Management and Licensing Committee shall normally meet every four weeks.

Eligibility

Every Member of Council is eligible to be a Member of the Development Management and Licensing Committee. The Leader of Council cannot be Chairman of Development Management and Licensing Committee.

4. LICENSING SUB-COMMITTEES

Licensing Sub Committees will be convened to hear licensing applications in accordance with the Delegation Scheme and the Rules as set out below. Members of the Development Management and Licensing Committee will include substitute Members of that committee who will have undertaken the same training as full Committee Members.

1. Licensing Sub-Committees shall be established to hear applications under the Licensing Act 2003.

4.1 Membership

Each Licensing Sub-Committee shall have three councillors, drawn from the Development Management & Licensing Committee. Local Members will not be appointed onto a sub- committee to consider any applications which are located within their local ward.

4.2 **Quorum**

The Quorum shall be three councillors.

4.3 **Meetings**

The Licensing Sub-Committees meet as required.

2. Licensing Sub-Committees shall be established to hear applications under the Gambling Act 2005.

4.1 **Membership**

Each Licensing Sub-Committee shall have three councillors, drawn from the Development Management & Licensing Committee. Local Members will not be appointed onto a sub-committee to consider any applications which are located within their local ward.

4.2 **Quorum**

The Quorum shall be three councillors.

4.3 **Meetings**

The Licensing Sub-Committees meet as required.

3. Licensing Sub-Committees shall be established to hear applications under the Taxi Licensing Legislation.

4.1 **Membership**

Each Licensing Sub-Committee shall have three councillors, drawn from the Development Management & Licensing Committee.

4.2 **Quorum**

The Quorum shall be three councillors.

4.3 **Meetings**

The Licensing Sub-Committees meet as required.

5. **COUNCIL TAX SETTING PANEL**

5.1 **Membership**

The Council Tax Setting Panel shall consist of four Members and comprises:-

- Leader of Council
- Deputy Leader of the Council
- Mayor of Council

Leader of the Independent Group

5.2 **Meetings**

The Council Tax Setting Panel shall meet annually, following the Council's agreement of the budget for the forthcoming municipal year and notification from Devon County Council, the Devon and Cornwall Police Authority, Devon and Somerset Fire and Rescue Service, the Dartmoor National Park Authority and each Parish/Town Council of their individual precepting requirements.

6. **STANDARDS COMMITTEE**

The Standards Committee will have a specific role in the determination of Member Code of Conduct Complaints (including Town and Parish Council Members) in accordance with the Council's adopted procedure for dealing with Code of Conduct complaints.

4.1 **Membership**

The Standards Committee shall have five councillors.

4.2 **Quorum**

The Quorum shall be three councillors.

4.3 **Meetings**

The Standards Committee must meet at least once each year.

WEST DEVON BOROUGH COUNCIL

Members' Code of Good Practice - Planning

Introduction

- 1. Relationship to the Members' Code of Conduct**
- 2. Development Proposals and Interests under the Members' Code of Conduct**
- 3. Fettering Discretion in the Planning Process**
- 4. Contact with Applicants, Developers and Objectors**
- 5. Lobbying of Councillors**
- 6. Lobbying by Councillors**
- 7. Site Visits**
- 8. Public Speaking at Meetings**
- 9. Officers**
- 10. Decision Making**
- 11. Training**

WEST DEVON BOROUGH COUNCIL

Members' Planning Code of Good Practice

Introduction

The aim of this Code is to promote good practice: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way, and to set out the standards of conduct required of **all** Members in dealing with planning matters including applications, policy development and enforcement.

Your role as a Member of the Local Planning Authority: to make planning decisions openly, impartially, with a sound judgement and for justifiable reasons. You are also a democratically accountable decision taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions provided that you have considered all material considerations and have given fair consideration to relevant points raised.

When the Code of Good Practice applies: this Code applies to Members at all times when involving themselves in the planning process. (This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

1. Relationship to the Members' Code of Conduct

- 1.1 **You should** apply the rules in the adopted Members' Code of Conduct first, which must always be complied with.
- 1.2 **You should** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning. If you do not abide by this Code of Good Practice, you may put:
 - the Council at risk of legal challenge ; and
 - yourself at risk of either being named in a Code of Conduct Complaint and report made to the Standards Committee or Council, or if the failure is also likely to be a breach of the interest provisions of Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

2. Development Proposals and Interests under the Members' Code

- 2.1 **You should** disclose the existence and nature of your interest as required by the Authority's Code of Conduct, at any relevant meeting, including in informal meetings or discussions with officers and other Members, so that everyone taking part in the meeting, whether it is formal or informal, is aware of your interest. Disclose your interest at the beginning of the meeting.
- 2.2 **You should not** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think that you are receiving preferential treatment, because of your position as an elected Member. (This would include, where you have a personal or Disclosable Pecuniary Interest (DPI) in a proposal, using your position to discuss that proposal with officers or fellow Members when other members of the public would not have the same opportunity to do so).
- 2.3 **You should** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal or DP Interest to an appropriate officer, in person or in writing, the Code places greater limitations on you in representing that proposal than would apply to a normal member of the public. (For example, where you have a DPI in a proposal to be put before a meeting, you will have to withdraw from the room or Chamber whilst the meeting considers it, whereas an ordinary member of the public would be able to make use of the Council's public participation scheme to address the meeting in either objection or support of the proposal and observe the meeting's consideration of it from the public gallery).
- 2.4 **You should** notify the Monitoring Officer in writing where it is clear to you that you have a DPI or personal conflict of interest, by application or objection, or for any other reason, and note that:
- You should send the notification no later than submission of that application where you can
 - **On** your own applications note that:
 - Any proposal made by or on behalf of any Member of Council will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
 - you must not get involved in the processing of the application; and
 - it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee.

3. Fettering Discretion in the Planning Process

- 3.1 Fettering your discretion is a specific term that means you are not approaching the decision with an open mind. You should participate in planning decision making at this Council with an open mind, and should not appear to have already made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

- 3.2 You should be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.
- 3.3 You should keep at the front of your mind that when you come to make the decision, you:
- ❑ Have a duty, under planning legislation, to apply the policies of the Development Plan unless material considerations indicate otherwise;
 - ❑ Are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
 - ❑ Must keep an open mind and hear all of the evidence before you, both the officers presentation of the facts and their advice as well as the arguments from all sides;
 - ❑ Are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a members, in giving fair consideration to points raised; and
 - ❑ Are to come to a decision after giving what you feel is the right weight to the Development Plan and relevant material considerations
- 3.4 **You should** be aware that you are likely to have ‘fettered your discretion’ where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief or major advocate for the proposal. (NB: This is more than a matter of membership of both the proposing committee and the Development Management and Licensing committee, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits)
- 3.5 **You** will be able to take part in the debate at a meeting of the Council on a proposal when acting as part of a consultee body (where you are also a member of the town or parish council, for example) provided:
- ❑ the proposal does not substantially affect the well being or financial standing of the consultee body;
 - ❑ you make it clear to the consultee body that:
 - your views are expressed only on the limited information before you at that time;
 - you can reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before a Committee and you hear all of the relevant information; and
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the meeting; and
 - ❑ you disclose the personal interest regarding your membership or role when the meeting comes to consider the proposal.
- 3.6 **You should not** speak and vote on a proposal where you do not have an open mind. You do not also have to withdraw, but you may prefer to do so for the sake of appearances or abstain from voting

3.7 **You should** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.

3.8 **You should** take the opportunity to exercise your separate speaking rights as a Ward/Local Member (*where this has granted by the authority's standing orders or by the consent of the Chairman and Committee*) where you have represented your views or those of local electors and 'fettered your discretion', but do not have a personal and disclosable pecuniary interest. Where you do have a disclosable pecuniary interest:

- advise the proper officer or Chairman that you wish to speak in this capacity before commencement of the item; and
- remove yourself from the room for the duration of that item; and ensure that your actions are recorded in the published minutes of that meeting.

4. **Contact with Applicants, Developers and Objectors**

4.1 **You should** refer those who approach you for planning, procedural or technical advice to officers.

4.2 **You should not** agree to any formal meeting with applicants, developers or groups of objectors without first discussing with the planning case officer and agreeing a course of action in writing.

Where you feel that a formal meeting would be useful in clarifying the issues, unless agreed otherwise with the officer, you should not seek to arrange that meeting yourself but should request the **Planning Case Officer** to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

4.3 **You should** otherwise:

- follow the rules on lobbying (section 5);
- always make notes when contacted; and
- report in writing to the **Head of Development Management Practice** any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition in respect of presentations by applicants/developers:

4.4 You are able to attend a planning presentation at a town or parish council meeting, or a public meeting. When attending public meetings, including town and parish council meetings, Councillors should take great care to maintain their impartial role as a Councillor, listen to all the points of view expressed by the speaker and public and not state a conclusive decision on any pre-application proposals and submitted planning applications.

- 4.5 **You should** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- 4.6 **You should** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee.
- 4.7 **You should** be aware that a presentation is a form of lobbying and you must not express any strong view or indicate how you or other Members might vote.

5. Lobbying of Councillors

- 5.1 **You should** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, to express an intention to vote one way or another, or such a firm point of view that it amounts to the same thing, prejudices your impartiality and therefore your ability to participate in the Committee's decision making.
- 5.2 **You should** remember that your overriding duty is to the whole community not just to the people in your ward/local area and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 5.3 **You should not** accept gifts or hospitality from any person involved in or affected by a planning proposal.
- 5.4 **You should** copy or pass on any lobbying correspondence you receive to the **Planning Case Officer** at the earliest opportunity
- 5.5 **You should** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- 5.6 **You should** note that, unless you have a DPI, you will not have breached this Planning Code of Good Practice through:
- ❑ listening or receiving viewpoints from residents or other interested parties;
 - ❑ making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - ❑ seeking information through appropriate channels; or
 - ❑ being a vehicle for the expression of opinion or speaking at the meeting as a Ward/Local Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

6. Lobbying by Councillors

- 6.1 **You should not** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and disclosable pecuniary interest and have to withdraw.

- 6.2 **You can** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- 6.3 **You should not** lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- 6.4 **You should not** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

7. Site Visits

- 7.1 Do try to attend site visits organised by the Council where possible. The Site Inspection Protocol is attached at Appendix A.
- 7.2 **You should not** enter a site which is subject to a proposal other than as part of an official site visit (either a Borough council site visit or a town/parish council site visit), even in response to an invitation, as this may give the impression of bias **unless**:
- ❑ you feel it is essential for you to visit the site other than through attending the official site visit,
 - ❑ you have first spoken to the **Head of Development Management Practice** about your intention to do so and why (which will be recorded on the file) and
 - ❑ you can ensure you will comply with these good practice rules on site visits.
- 7.3 **You should not** request a site visit unless you feel it is strictly necessary because:
- ❑ particular site factors are significant in terms of the weight attached to them relative to other factors, or the difficulty of their assessment in the absence of a site inspection; or
 - ❑ there are significant policy or precedent implications and specific site factors need to be carefully addressed.

8. Public Speaking at Meetings

- 8.1 **You should not** allow members of the public to communicate with Committee Members during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- 8.2 **You should** ensure that you comply with the Council's procedures in respect of public speaking at the Development Management and Licensing Committee.

9. Officers

- 9.1 **You should not** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the **Head of Development Management Practice**, which may be incorporated into any committee report).
- 9.2 **You should** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with the **Head of Development Management Practice** or those officers who are authorised to deal with the proposal at a Member level, ie. the appropriate **Planning Case Officer**.
- 9.3 **You should** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

10. Decision Making

- 10.1 **You should** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded, and repeated in the report to Committee.
- 10.2 In the event of a Member referring an application to Committee, there will be an expectation for that Member (unless in exceptional circumstances) to attend the relevant Committee meeting and explain the **material planning reasons** behind their referral. This requirement applies to all Members irrespective of whether or not they are Members of the Committee.
- 10.3 **You should** come to meetings with an open mind and demonstrate that you are open-minded.
- 10.4 **You should** comply with Section 38(6) of the Planning & Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- 10.5 **You should** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer.
- 10.6 **You should not** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 10.7 **You should** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the **material planning reasons** leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that the Council may have to justify the resulting decision in the event of any challenge.
- 10.8 When taking part as a substitute at the DM&L Committee, you are entitled to come to your own view on an application, and are not bound to reflect the views of the Committee Member that you are replacing.

11. Training

- 11.1 **You will not be able to** participate in decision making at meetings dealing with planning matters if you have not attended all mandatory planning training sessions prescribed by the Council.
- 11.2 **You should** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- 11.3 **You should** participate in annual refresher training and periodic reviews of samples of planning decisions and appeals to ensure that judgements have been based on proper planning considerations and sound decision making.

SITE INSPECTION PROTOCOL

DECEMBER 2016

Purpose:

The purpose of site visits is to enable Members to view particular aspects of an application in context. No decision is reached on site and there is no debate as to outcome at the site meeting.

Attendees:

In addition to the Council's officers and advisors (eg. County Highways), those who are entitled to attend and take part and who make up the Site Inspection Panel are:

- a. All Development Management and Licensing Committee Members, and
- b. The WDBC Member(s) representing the Ward in which the site is located

The applicant/agent may attend the site meeting but not participate, however, they will be expected to 'peg out' the proposed development.

Representatives of the respective Parish/Town Council may attend the site meeting but not participate.

At the discretion of the Chairman, the applicant or agent, and one representative from the Parish/Town Council, may be allowed to answer questions of clarity. Specific requests to view the proposal from a particular place (e.g. objector's home) may be accommodated at the Chairman's discretion.

Procedure on Site:

1. The site inspection will be chaired by the Chairman (or in his absence, the Vice Chairman) who will formally open the site inspection with introductions and then invite the Planning Officer to describe the application
2. The Planning Officer then describes the proposal and relevant site specific considerations, and guides the Members to appropriate vantage points which may be within and/or outside the site
3. The Chairman will invite questions from Members to seek clarification but not opinion from the Planning Officer and advisors. At the Chairman's discretion, and in exceptional circumstances, questions may be asked of the applicant/agent or one of the representatives of the Parish/Town Council

4. Any questions that the Case Officer is unable to answer will be listed and a full response given by the Case Officer at the Committee meeting the following week
5. Chairman formally closes the meeting

To request a site inspection:

The Scheme of Delegation sets out the circumstances when a Member can call an application to Committee. At that point, if the Member feels a site inspection should take place, the request should be made in writing to Head of Development Management Practice giving material planning reasons

At the DM&L Briefing meeting held the week prior to the publication of the agenda, which is attended by the Chairman, Vice Chairman, Head of Development Management Practice and Specialist Democratic Services, the Chairman and Vice Chairman will discuss with the Head of Development Management Practice which applications should be referred for site inspection

The site inspection itinerary will be prepared by the Specialist Democratic Services and circulated one week prior to the site inspections taking place. The itinerary will be included as part of the agenda

The site inspection will take place on the Thursday prior to the Committee date, and will receive their agenda papers prior to the site inspection taking place

Report to: **Council**

Date: **12 February 2019**

Title: **Budget Proposals 2019-20 onwards
update report**

Portfolio Area: **Cllr P R Sanders - Budget Setting Process**

Wards Affected: **All**

Relevant Scrutiny Committee: **Overview and Scrutiny
Committee**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Author: **Lisa Buckle** Role: **Group Manager for
Strategic Finance
(S151 Officer)**

Contact: **Tel. 01803 861413**
Email: lisa.buckle@swdevon.gov.uk

RECOMMENDATIONS

It is **RECOMMENDED** to Council:-

- i) To set an increase in Council Tax for 2019/20 of 2.99% (Band D of £231.63 for 2019/20 – an increase of 13 pence per week or £6.72 per year). This equates to a Council Tax Requirement of £4,673,499 as per Appendix B.
- ii) That the financial pressures shown in Appendix A of £454,500 are approved
- iii) That the contributions to Earmarked Reserves of £120,000 and transferring the one-off 2019-20 budget surplus of £43,635 into the Future Financial Stability Earmarked Reserve to assist in meeting the predicted budget gap of £533,741 in 2020/21 are approved.
- iv) That the savings of £689,700 as shown in Appendix A are

approved.

- v) That £375,000 of New Homes Bonus funding is used to fund the 2019/20 Revenue Budget as set out in 4.6 of the report.
- vi) That the recommendations of the Financial Stability Review Group on Earmarked Reserves (set out in 10.2 and 10.3) are approved.
- (vii) To delegate to the S151 Officer, in consultation with the Leader and Deputy Leader to agree the final amount of New Homes Bonus funding for the Dartmoor National Park for 2019/20.
- (viii) That a collection fund surplus of £84,000 is utilised in 2019-20.
- (ix) That the Total Net Expenditure of the Council is £7,078,595 for 2019-20.
- (x) That the Council Tax Support Grant paid to Town and Parish Councils is reduced by 8.6% for 2019/20 as per Appendix A.
- (xi) That the fees and charges set out in Appendix D (Planning) and E (Environmental Health) for 2019/20 are approved.
- (xii) That the recommendation of the Waste Working Group, to commence the garden waste subscription period from the 1st April 2019 instead of the current October renewal date is approved. (Current subscriptions will be extended until the 1st April 2020 without additional charge.) Any shortfall income from 2019/20 and 2020/21 whilst service growth is achieved should be covered from reserves (the Strategic Waste Earmarked Reserve) and paid back through increased income generated in future years. (This is set out in 4.21 to 4.26 of the report).
- (xiii) That the level of reserves as set out within this report and the assessment of their adequacy and the robustness of budget estimates be noted (Section 10). This is a requirement of Part 2 of the Local Government Act 2003. It is also recommended to retain the minimum level of Unearmarked Reserves at £750,000.

1. Executive summary

- 1.1 The Council approved its Medium Term Financial Strategy (MTFS) for 2019/20 to 2023/24 at Council on 25th September 2018 (Minute CM33). This is based on a financial forecast over a rolling five year timeframe to 2023/24. The Council, along with other local authorities, has faced unprecedented reductions in Government funding since the Comprehensive Spending Review 2010. Between 2009/10 and

2019/20, the Council's Core Government funding has reduced by £3 million.

- 1.2 West Devon has continued to work in partnership with South Hams District Council which has allowed West Devon Borough Council to achieve annual savings of £2.2 million and more importantly protect all statutory front line services.
- 1.3 Between both Councils the annual shared services savings being achieved are over £6 million. However, the Councils continue to face considerable financial challenges as a result of uncertainty in the wider economy and constraints on public sector spending.
- 1.4 ***West Devon Borough Council is currently forecasting a £533,741 budget gap by 2020/21. The report attached sets out proposals for the Council to achieve a balanced budget in 2019/20, as shown in Appendix B.***
- 1.5 The Draft Local Government Finance Settlement was published on 13th December 2018 and there has been an increase in the allocation of Rural Services Delivery Grant from £372,638 for 19/20 to £464,365 – an increase of £91,727. It is important to note that this additional funding for the provision of rural services has only been confirmed for one year (2019/20). This extra funding, alongside other changes to the budget position which was reported to the Hub Committee on 4th December (set out in Section 2), has resulted in a one-off budget surplus for 2019/20 of £43,635. This is recommended to be transferred to the Future Financial Stability Earmarked Reserve to assist in meeting the predicted budget gap of £533,741 in 2020/21.
- 1.6 It is important to note that the MTFs set out the budget strategy for the Council for the next five years, with annual reviews and updates when items are further known or are announced by the Government. The MTFs approved at Council in September 2018 was the starting point for developing a meaningful five year strategy that has set out the strategic intention for all of the different strands of funding available to the Council. The Council is now able to rely on this to inform future decisions.
- 1.7 A Cross Party Member Working Group (Financial Stability Review Group) was set up in November 2017 with defined Terms of Reference to look at the Medium Term Financial Strategy and to further look at options for securing financial stability for the longer term. The Group regularly reports to the Hub Committee and the Overview and Scrutiny Committee and has made recommendations on Reserves in 10.2 and 10.3 of this report.

2 CHANGES TO THE 2019/20 BUDGET REPORT SINCE THE HUB COMMITTEE MEETING OF 4th DECEMBER 2018

Draft Local Government Finance Settlement for 2019/20

- 2.1 On 13th December 2018, the Government announced the draft Finance Settlement for 2019/20 for consultation. Appendix C sets out an analysis of the finance settlement over the four years from 2016/17. Overall over the four year funding settlement from 2016/17 to 2019/20, it can be seen that West Devon Borough Council has had a 38.2% reduction in Government funding. This compares against 38.8% for the average for Shire District Councils. The key points from the Finance Settlement are below.
- 2.2 The Council Tax Referendum limits for District Councils will remain the same (the higher of £5 or 2.99%). For Police and Crime Commissioners the potential annual increase to their council tax will be increased to £24 per annum.
- 2.3 Negative Revenue Support Grant (RSG) for 2019/20 will be eliminated by the Government. There has been no news on what will happen to negative RSG from 2020/21 onwards and therefore the modelling in this report has assumed negative RSG will remain for 2020/21 onwards in some form (e.g. as part of the business rates baseline reset). It is currently estimated to be £293,000 per annum which would be deducted off the Council's business rates funding and represents negative Government grant (it is effectively the Council's further predicted funding cuts).
- 2.4 For 2019/20 there are no changes to the New Homes Bonus baseline of 0.4% (the previous concern was that this could be increased to 0.6%). The baseline is the proportion of housing growth which is deducted as 'natural growth as such' before New Homes Bonus is paid to a Council. The Council's New Homes Bonus allocation for 2019/20 has been announced at £500,595.
- 2.5 Rural Service Delivery Grant (RSDG) in 2019/20 will increase to £81m; an increase of £16m on the previously planned £65m allocation. This has increased West Devon's allocation from £372,638 for 19/20 to £464,365 – an increase of £91,727. This additional funding has only been confirmed for 2019/20 (so only confirmed for one year). It is not known how much RSDG the Council will receive for 2020/21 onwards and the same level of £464,365 has been assumed in the modelling.
- 2.6 Proposals for new 75% Business Rates Pilots in 2019/20 have been approved for 15 areas and these are in Berkshire, Buckinghamshire, East Sussex, Hertfordshire, Lancashire, Leicestershire, Norfolk, Northamptonshire, North and West Yorkshire, North of the Tyne,

Solent, Somerset, Staffordshire and Stoke, West Sussex and Worcestershire; Unfortunately Devon wasn't successful in being a Business Rates Pilot for 2019/20 but most of the Pilots announced are new Pilot areas for 2019/20. Devon is already a Pilot for 2018/19. This will mean that West Devon Borough Council will continue to be part of a Devonwide Business Rates Pool for 2019/20.

- 2.7 In addition to the local government finance settlement, two consultation papers have been published on the Fair Funding Review and Business Rates Retention. Officers have attended local seminars on this during January and February and will circulate a consultation response to all Members and our local MPs.
- 2.8 During 2016/17 the Government offered Local Authorities the opportunity to apply for a four year agreed funding settlement, subject to the production of an efficiency plan. The Council applied and was accepted for the four year agreement. From 2018/19 onwards, the Council has received no Government funding (Revenue Support Grant, RSG) and the Council will need to be self-sufficient. Although the four year settlement offered no Revenue Support Grant, it did guarantee the Council its allocations of Rural Services Delivery Grant over the four year period. The Finance Settlement for 2019/20 only covered the last year of the four year settlement. The point is being made by the Local Government Association (LGA) that Councils need more certainty of their funding longer term post 2020.
- 2.9 There is a one-off amount of £25,000 being paid to the Council from the surplus national business rates funding held in the Government Levy Account (WDBC's share)

Other updates to the Budget report since the Hub Committee meeting of 4th December 2018

- 2.10 On 4th December 2018, Council approved the recommendation of the Frontline Services Project Board to award a contract (Lot 3) for the waste collection, recycling and cleansing services (Minute CM42). This has generated a saving from a Lot 3 award of £254,000 per annum. It was also approved to contribute £50,000 per annum into a Vehicle Replacement Earmarked Reserve. Officers were also instructed to work with the successful bidder on the implementation of a three-weekly residual waste collection trial as soon as is practicable, subject to a report detailing potential savings and timescales being approved by the Hub Committee. (NB. the report will be presented within three months of the contract start date).
- 2.11 The TaxBase for 2019/20 was approved by the Senior Leadership Team on 17th December and has been confirmed at 20,176.57 – This is an increase of 58.72 Band D Equivalent properties. (The increase is less than the previously modelled assumption that the number of properties would increase by 160 per annum). The S151 Officer has

asked officers within the strategic planning team for the latest estimates from information from the Joint Local Plan.

- 2.12 The Draft Budget Proposals were considered by the Overview and Scrutiny Committee at their meeting on 15th January. A copy of the minute from their meeting is below:

*** O&S 81 BUDGET PROPOSALS 2019/20 ONWARDS UPDATE**

Members were presented with a report that asked for consideration of the draft Budget proposals for 2019-20 and onwards. The Leader of Council introduced the report and specifically highlighted the updates to the Budget position since the Hub Committee meeting had considered the matter at its meeting on 4 December 2018 (Minute HC *49 refers).

In the ensuing debate, particular reference was made to:-

- (a) confirmation that the monies allocated from the Better Care Fund were sufficient to finance Disabled Facilities Grants;
- (b) income from investments in Commercial Property. In response to a question, officers advised that the proposed £120,000 Year 4 (2022/23) income could consist of a combination of potential commercial development in the Borough and property acquisitions outside of West Devon;
- (c) delivery of rural services. The Leader informed that the Rural Services Network and Local Government Association continued to rigorously lobby Central Government to point out the distinct differences between rural and urban service delivery;
- (d) the waste collection service. The S151 Officer confirmed that trials would be needed to inform the level of savings achievable from a three weekly waste collection and a report would be presented to the Hub Committee by the end of June 2019;
- (e) the future Budget gap. Whilst the Council was facing severe challenges to fill its Budget gap, Members made reference to a number of the measures that had already been implemented. These, coupled with some of the future proposals and the findings of the recent Peer Review, left some Members confident that the Council would have options and the ability to close its future Budget gap;
- (f) the proposed Community Grant reductions. Whilst he would reluctantly support the recommendation, a Member did express his disappointment over the proposed grant reductions to some Community Groups. For clarity, it was

confirmed that there was currently no intention to recommend a reduction in grant awarded to Citizens' Advice.

It was then **RESOLVED:**

That, as part of the 2019/20 Budget Setting process, the Hub Committee take into account that the Overview and Scrutiny Committee support:

1. the proposed increase in Council Tax for 2019/20 of 2.99% (Band D of £231.63 for 2019/20 – an increase of 13 pence per week or £6.72 per year);
2. the proposed financial pressures of £420,000 (as shown in Appendix A of the presented agenda report);
3. the proposed contributions to Earmarked Reserves of £120,000 and transfer of the one-off 2019/20 Budget Surplus of £73,135 into the Future Financial Stability Earmarked Reserve to assist in meeting the predicted Budget gap of £504,242 in 2020/21;
4. the proposed savings of £684,700 (as shown in Appendix A of the presented agenda report);
5. the proposed use of £375,000 of New Homes Bonus funding to fund the 2019/20 Revenue Budget (as set out in Section 4.6 of the presented agenda report); and
6. the recommendations of the Financial Stability Review Group on Earmarked Reserves (as set out in paragraphs 10.2 and 10.3 of the presented agenda report) and agree that these should be recommended in the final Budget Proposals report for 2019/20 (to be presented to the Council meeting on 12 February 2019).

2.13 The Budget Proposals were considered by the Hub Committee on 29th January 2019 (Minute HC67 refers). The Leader advised Members that there were two updates since the publication of the report, being a proposal to increase the establishment by one Level 5 Planning officer and that Devon County Council (DCC) had confirmed that the Communities Together Fund (a Fund whereby DCC allocated £1 per resident and WDBC allocated 10p per resident) would cease. The result was a budget pressure for the WDBC allocation of the Planning officer post and a saving of approximately £5,000 from the Communities Together Fund, as the previous papers had included this allocation.

In light of the loss of the Communities Together Fund, and the difficulties Members faced in reducing grants to community groups and partnerships, Members discussed the possibility of creating a moderate fund (e.g. £500 per Member) for each Member to be able to allocate to a specific purpose within their ward. The rules of the

fund could enable pooling to create a larger grant. It was agreed that such a scheme should be proposed for consideration.

2.14 The table below shows the summary of changes:-

	Total (£)
Budget Surplus for 2019/20 reported to the Hub Committee meeting on 29th January 2019	(73,135)
This was recommended to be transferred to the Future Financial Stability Earmarked Reserve to assist in meeting the predicted budget gap of £533,741 in 2019/20	
<i>Additional Income/Savings</i>	
Cessation of Communities Together Fund	(5,000)
<i>Reduction in savings or income modelled</i>	
Addition of a Level 5 Planning Specialist post (wdbc share of costs = £19,000)	19,000
Member Locality Fund (£500 per Member)	15,500
Revised Budget Surplus for 2019/20 (reported February 2019) – This is recommended to be transferred to the Future Financial Stability Earmarked Reserve to assist in meeting the predicted budget gap of £533,741 in 2019/20	(43,635)

3 ASSUMPTIONS FOR FINANCIAL MODELLING PURPOSES

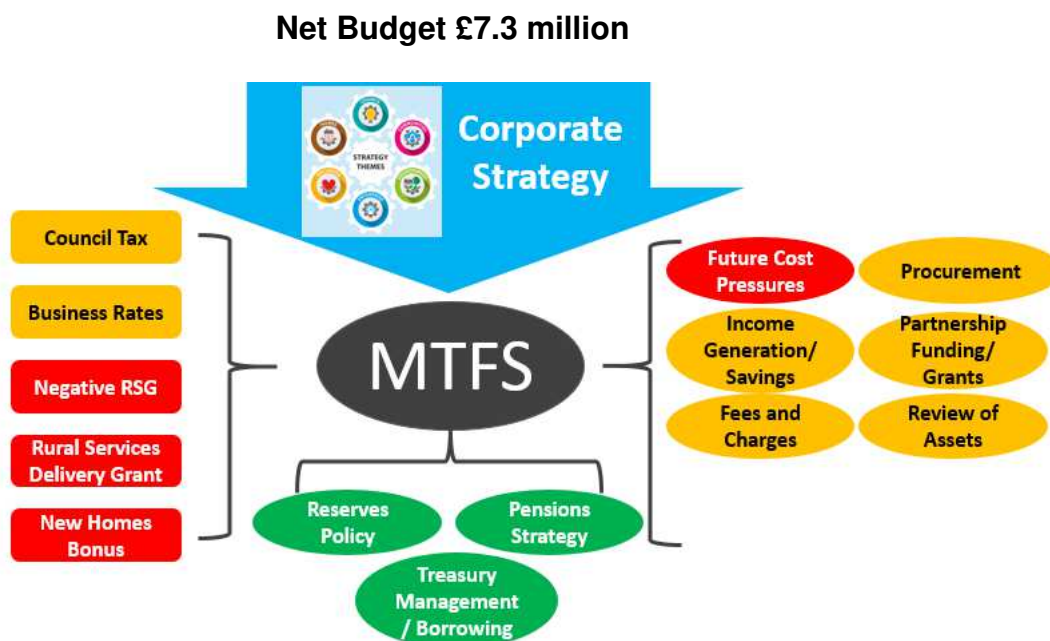
- 3.1 The National Employers made a final pay offer covering 1 April 2018 to 31 March 2020. The majority of employees (those on salaries starting at £19,430 p.a.) have received an uplift of 2% on 1/4/18 and a further 2% on 1/4/19, with those on lower salaries receiving higher increases. The cost of this was £85,000 in 2018/19 and a further £95,000 in 2019/20. This has been reflected in Appendix A. The Medium Term Financial Strategy is not an expression of Council Policy on pay awards, but a means of ensuring an appropriate provision is made as part of the overall financial planning of the Council.
- 3.2 This report assumes inflation will run at 2% over the five year period. The Consumer Prices Index (CPI) was 2.4% in October 2018.
- 3.3 The predicted interest rate forecast from our treasury management advisors, Link Services, is that interest rates will remain at 0.75% up to June 2019. By December 2020 the bank base rate is predicted to increase to 1.5%.
- 3.4 An increase in council tax of 2.99% for the next five years has been modelled for council tax purposes. This strategic principle was approved as part of the Medium Term Financial Strategy (Minute CM33). This would equate to a Band D council tax for West Devon of £231.63 in 2019/20 as shown in Appendix B (an increase of £6.72 for the year which equates to 2.99%).

3.5 It has been assumed that the number of properties within the Borough will increase by 160 per annum from 2020/21 onwards – this is an increase of approx. 0.8%. (see note 2.11 for the 2019/20 increase of 59 Band D Equivalent properties and Members may wish to decrease this estimate in the future).

4. THE COMPONENTS MAKING UP A MEDIUM TERM FINANCIAL STRATEGY (MTFS)

4.1 The Diagram below sets out all of the component parts which constitute the make-up of a Medium Term Financial Strategy. Appendix C of the MTFS report to Council on 25th September 2018 went through each of these components in detail and made recommendations where appropriate.

Items in Green denote those elements where the Council has a large degree of control over the setting of policies and strategies. Items in Amber denote those components of the MTFS where the Council has a degree of control. Red items signal components where the Council has hardly any control over funding allocations which are decided by the Government and future cost pressures which can largely be outside of the Council’s control or influence.



Council Tax

4.2 Council on 25th September 2018 (Minute CM33) has set the strategic intention to raise council tax by the maximum allowed in any given year, without triggering a council tax referendum, to endeavour to continue to deliver services. The actual council tax for any given year

will be decided by Council in the preceding February. (The council tax for 2019/20 will be set at this Council meeting on 12th February 2019).

Business Rates

4.3 The income from Business Rates which West Devon Borough Council retained in 2017/18 was the funding baseline of £1,538,973 plus the pooling gain of £82,000. Estimates have been made of the Baseline funding Level for 2019/20 onwards as set out in Appendix B. This is £1.62m for 2019/20 and £1.66m for 2020/21. Negative RSG of £293,000 per annum from 2020/21 has been assumed to be deducted from the business rates funding as set out in 2.3.

New Homes Bonus (NHB)

4.4 The Government has stated that 2019/20 represents the final year of NHB funding and from 2020 onwards they will explore how to incentivise housing growth most effectively and will consult on this issue. The financial modelling has included using £375,000 of New Homes Bonus funding for 2019/20 to fund the revenue base budget and this has then been reduced to £100,000 by 2020/21 and £50,000 by 2021/22 for modelling purposes.

4.5 For 2019/20 there are no changes to the New Homes Bonus baseline of 0.4% (the previous concern was that this could be increased to 0.6%). The baseline is the proportion of housing growth which is deducted as 'natural growth as such' before New Homes Bonus is paid to a Council. The Council's New Homes Bonus allocation for 2019/20 has been confirmed at £500,595.

4.6 The table below sets out the suggested use of New Homes Bonus funding for 2019/20:-

NHB	Amount (£)
New Homes Bonus 2019-20 allocation	500,595
Suggested allocation:-	
To fund the Revenue Base Budget	(375,000)
To fund the Capital Programme for 2019/20* (This is mainly a £50,000 allocation for affordable housing)	(80,000)
Dartmoor National Park allocation**	TBA
Amount remaining unallocated	45,595

*The Capital Programme Bids for 2019/20 are a separate report on this Council agenda

**Dartmoor National Park (DNP) – On an annual basis Dartmoor National Park request a share of the New Homes Bonus to reflect new homes delivered within the Park. The money is used to support a local community fund and, for example, joint work through the rural housing

enabler. Members consider this on an annual basis as part of the Budget process.

- 4.7 District Councils such as West Devon have also suffered a large reduction in their New Homes Bonus funding (£0.5 million in 17/18) due to the number of years payments being reduced from six years to five years in 17/18 and four years from 18/19 onwards. The New Homes Bonus funding being released is to contribute towards adult social care costs, a function carried out by Unitary and County Councils.

Pensions Strategy (Actuarial Valuation)

- 4.8 The Council has taken specialist pension advice on the options for the Council's Pension position (informing the actuarial valuation), with the aim of reducing the current deficit contributions, increasing affordability, whilst best managing the pension deficit. Options have been presented to the Council's Audit Committee on 22nd January and this work is being progressed by the S151 Officer.

Treasury Management and Borrowing Strategy

- 4.9 The Council has taken external treasury management advice on the Council's overall borrowing levels and debt levels. The Council set an Upper Limit on External Borrowing (for all Council services) as part of the Medium Term Financial Strategy of £50 million. In March 2019, the Council will consider its Capital Strategy and Treasury Management Strategy which will contain the new requirements issued by MHCLG in February 2018 of the new guidance.

Partnership Funding/Grants

- 4.10 Following reports to both the Overview and Scrutiny Committee (26th June) and the Hub Committee, it has been approved by Council (Minute CM24 – Council 24th July 2018) to reduce funding to Partnerships by £14,000 for 2019/20.

Commercial Property and Review of Assets

- 4.11 The Invest to Earn Group are considering commercial property business cases within the Commercial Property acquisition strategy. A report on the funding for the initial years of the development projects has been presented to the Hub Committee. The recommendations have been made to Council in February 2019.
- 4.12 The Council's Asset Base is £22.3 million at 31 March 2018. The Council will continually review and challenge its asset base in order to deliver the optimum value for money from the Council's Assets.

Results of the Members' Budget Survey 2018

- 4.13 A Members' Budget Workshop was held on 8th October and the budget reductions which were supported from the results of the Members' Budget Survey (which were attached in Exempt Appendix C of the report to the Hub Committee in December 2018) have been reflected within the savings schedule of this budget report. The budget savings have been highlighted in grey in Appendix A.

Planning Fees and Charges for 2019/20

- 4.14 Appendix D sets out the Planning Fees and Charges for 2019/20. The first five fees/charges were introduced this year and to date take up has been very low, further consultation is taking place with the planning agents to ascertain why the service is not being used and whether the charge is a major factor. Given the low take up so far it is not proposed to alter the fees at this point.
- 4.15 Charging for the Duty Planning service was introduced in April 2018. A budget target of £6,500 was set based on a conservative forecast of income due to the unknown uptake. Uptake has been higher than predicted and together with a rise in the fee from £30 to £40 it is predicted that an income of £10,000 is achievable in 2019/20 (an increase of £3,500).
- 4.16 The fees for planning pre-application advice were revised at the beginning of this financial year with some of the fees significantly rising and the introduction of a fee for a scoping meeting for larger development. It was anticipated that the change in fee structure would be broadly neutral, however this year's projected income of £20,000 will be met. Given the rise in the pre-application fees last year (2018/19) it is not considered reasonable to raise them again this year.

Environmental Health Fees and Charges for 2019/20

- 4.17 Appendix E sets out proposals for Environmental Health Charges for 2019/20. Environmental Health charges were reviewed for 2016/17 to ensure that the Council charges were consistent across WDBC and SHDC and complied with the legislation in terms of the maximum charge being full cost recovery. The charges were changed to reflect this requirement and the review of charges for 2019/20 reflects the full cost recovery concept and the proposal is to increase most charges by

3% to reflect inflation and the additional cost to the Council of providing these services.

- 4.18 The setting of fees for the issuing of licences for Hackney Carriage and Private Hire Vehicles, as well as Private Hire operators is governed by the Local Government (Miscellaneous Provisions) Act 1976, this requires that where the fee set is proposed to be greater than £25 the Council must advertise these changes for a period of 28 days, and publish a notice in the local newspaper. Due to the cost of the advertisement of fees it is not economically beneficial to the local authority to increase these fees by inflation each year. Fees for these licences will be reviewed on a 3 yearly basis to ensure that the Council is not subsidising the delivery of the service substantially.
- 4.19 In terms of additional income, the changes to existing Environmental Health and Licensing charges shouldn't be significant since the increases are merely incremental.
- 4.20 The new charge for ECO declaration certification is an administrative charge for the processing of applications, this is in line with other Councils who charge for the Council's administrative costs of the scheme. The estimated additional income from the proposed new fee is £10,000 and this has already been built into this Council report.

Garden Waste Service

- 4.21 The opt-in garden waste service began on 31st July 2017 and the subscription year was set at October to September. This was due to the timetable for decision making with a Spring service start date always being the preferred option.
- 4.22 The participation and subscription rates were based on that experienced by other Councils with similar demographics and set at 35% and £40 respectively. From this, the net income forecast was £67,500 in the first year with £190,000 for each subsequent year. In 2017-18, and in the current financial year, the actual number of subscriptions was around 20%. Currently the target net income has been met in both years, largely due to savings on forecasted expenditure - the lower subscription rate has meant fewer sacks and deliveries were required. However, currently no surplus is left for future replacement of sacks and the Council misses the opportunity of boosting income considerably on an ongoing basis if a higher subscription target can be met.
- 4.23 Officers have carried out a range of promotions to boost subscriptions and are currently updating the payment system and associated webpages to make the process more customer-friendly. However, the number of actual subscriptions has remained consistent with no significant increase achieved. Trends from other Councils would

indicate this to be linked to the subscription year starting in October which is at the end of the growing season.

- 4.24 A number of options have been considered, and it is the request of the Waste Working Group that the subscription year is moved from 1 October to the 1 April with effect from 1 April 2019. This is expected to increase participation by aligning with the start of the growing season and ensure a greater level of income from the service in the future. Residents currently subscribing (October 2018 – September 2019) year would have their service extended for 6 months to align from 1 April 2020 without additional charge. A dual subscription year, i.e. 1 April 2019 – 31 March 2020 running in tandem with a 6 months subscription from 1 October 2019 – 31 March 2020 has been considered, however this increases both operational and administrative complexity ongoing.
- 4.25 The proposal will mean a fall in income for the 2019-20 financial year. If the original target of 35% participation (which was based on the uptake in other similar local authorities and has been exceeded by many) is met, the loss of income in 2019-20 would be around £20,000. However, the uptake of new subscribers is difficult to accurately predict as some non-subscribing residents may have made other arrangements over the past year of charging, such as home composting. Projections are therefore based upon a 2 year recovery and growth period.
- 4.26 This approach for garden waste was considered by the Hub Committee on 29th January and is recommended to Council.

5 BUDGET PRESSURES, SAVINGS AND INCOME GENERATION

- 5.1 Financial modelling has been undertaken for the next five years to predict the Council's financial situation for the short and medium term.
- 5.2 **Appendix A** to the Medium Term Financial Position sets out the Budget Pressures forecast for the next five years and the additional savings and income forecast. ***These figures in Appendix A show the changes to the existing base budget.***

(As set out in Appendix A)	2019/20	2020/21	2021/22	2022/23	2023/24
Cost Pressures	£454,500	£465,000	£260,000	£260,000	£335,000
Contributions to Earmarked Reserves	£120,000	£120,000	£120,000	£120,000	£120,000
Savings and additional income	(689,700)	(266,200)	(171,200)	(391,200)	(1,200)

6. OVERALL POSITION – BUDGET GAP

6.1 Appendix B illustrates the overall financial forecast for the forthcoming five years. The Council's Net Budget is £7.3 million in 2018/19. A Summary forecast is shown below of the potential budget situation if all of the budget pressures and the savings and income generation in Appendix A were approved. It also shows the situation if the Council Tax is increased by 2.99% (shown in Appendix B).

6.2 The following table illustrates the predicted budget gap from 2019/20 onwards for the Council as shown in Appendix B:

Cumulative Budget Gap	2019/20 £	2020/21 £	2021/22 £	2022/23 £	2023/24 £	Total Aggregated Budget Gap £
Modelling as set out in Appendix B (See Note 1 below)	Nil – A balanced Budget is set out in these budget proposals	533,741	445,232	77,104	172,840	1,228,917

Note 1 - The Draft Local Government Finance Settlement was published on 13th December 2018 and there has been an increase in the allocation of Rural Services Delivery Grant from £372,638 for 19/20 to £464,365 – an increase of £91,727.

It is important to note that this additional funding for the provision of rural services has only been confirmed for one year (2019/20). This extra funding, alongside other changes to the budget position which was reported to the Hub Committee on 4th December (set out in Section 2), has resulted in a one-off budget surplus for 2019/20 of £43,635. This is recommended to be transferred to the Future Financial Stability Earmarked Reserve to assist in meeting the predicted budget gap of £533,741 in 2020/21.

6.3 In the Modelling in Appendix B, the total budget gap is £533,741 in 2020/21 and this is predicted to decrease to £445,232 in 2021/22 (the £445,232 assumes the budget gap in 20/21 of £533,741 has not been closed). The aggregated Budget Gap is £1.29 million.

7 FINANCIAL SUSTAINABILITY AND TIMESCALES

7.1 The Council is progressing various options for closing the budget gap for 2020/21 onwards, to achieve long term financial sustainability. The table below sets out a timescale for those options and the various strands that the Council is exploring.

Option	Possible Budget Impact	Timescale
<p>Public Conveniences A budget saving of £50,000 in 2019/20 has been included within the total budget savings modelled.</p>	£50,000	A further update report was on the Hub Committee agenda for the 29 th January 2019.
<p>Pensions Strategy (Actuarial Valuation) The Council has received specialist pensions advice on its Pensions position (informing the actuarial valuation). Options were reported to the January Audit Committee and the S151 Officer is progressing this work.</p>	To be quantified (could be up to £100,000 or more)	Report to the Audit Committee 22 nd January 2019.
<p>Waste Procurement The savings (£254,000 per annum) from the waste procurement are now included within the modelling within this budget report. As per Council Minute CM42 (4th December 2018), Officers were also instructed to work with the successful bidder on the implementation of a three-weekly residual waste collection trial as soon as is practicable, subject to a report detailing potential savings and timescales being approved by the Hub Committee. (NB. the report will be presented within three months of the contract start date).</p>	To be quantified	By the end of June 2019
<p>Council Tax Reduction Scheme The grant to Town and Parish Councils has been reduced by 8.6% over the four year period of the finance settlement. Members have</p>	£59,000 for 2020/21 onwards	To be considered as part of the 2020/21 Budget process - Early

Option	Possible Budget Impact	Timescale
an option over whether to withdraw funding in 2020/21.		consideration by Summer 2019
<p>Asset Review The Invest to Earn Group are considering commercial property business cases within the Commercial Property acquisition strategy. A report on the funding for the initial years of the development projects was presented to the Hub Committee on 29th January 2019.</p>	To be quantified	29th January 2019 – Recommendation made to Council.
Funding Options		
<p>Negative Revenue Support Grant (RSG) The draft Finance Settlement published in December 2018 confirmed the Government's intention that negative RSG will be withdrawn in 2019/20.</p> <p>This budget report has already factored in that there will be no negative RSG for 2019-20. It is assumed that negative RSG of £293,000 per annum will continue to happen for 2020/21 onwards.</p> <p>See Section 2.3 for more explanation</p>	Negative RSG of £293,000 for 2020/21 onwards has been built into this budget report.	<p>The draft Finance Settlement for 2019/20 has only confirmed that negative RSG will be withdrawn for 2019/20 only.</p> <p>The position for 2020/21 onwards is not known and it is assumed that negative RSG of £293,000 per annum will be in place.</p>
<p>New Homes Bonus allocations for 2020/21 onwards</p> <p>The Government has stated that 2019/20 represents the final year of NHB funding and from 2020 onwards they will explore how to incentivise housing growth most effectively and will consult on this issue.</p>	To be assessed	Awaiting further announcements from the Government

Option	Possible Budget Impact	Timescale
<p>New Homes Bonus allocations for 2020/21 onwards (continued)</p> <p>The financial modelling has included using £375,000 of New Homes Bonus funding for 2019/20 to fund the revenue base budget and this has then been reduced to £100,000 by 2020/21 and £50,000 by 2021/22 for modelling purposes.</p> <p>This remains a risk for the Council.</p>	<p>It is not known what NHB allocations (or a similar scheme) will be in future years when the NHB scheme is replaced.</p>	
<p>Use of Reserves as a temporary measure</p> <p>The Council could temporarily utilise Reserves to balance an element of the 2020/21 budget, whilst longer term solutions are being implemented.</p> <p>This would be a very short term solution though.</p>	<p>To be assessed</p>	<p>To be decided as part of the Budget Process</p>

7.2 Through the Financial Stability Review Group, further measures are being considered to balance the 2020/21 onwards budget positions.

- 7.3 The diagram below shows the Government timetable of key dates. The key dates will be in May 2019 when more details will be known about the Funding Reform and Spending Review 2019. In November 2019, the baseline funding for business rates and the impact of the transitional arrangements will be known.



8 CAPITAL PROGRAMME AND PRUDENTIAL BORROWING

- 8.1 The Capital Programme is set by the Council and may be funded by sale proceeds from the disposal of assets (capital receipts), external grants and contributions, directly from revenue or from borrowing. There is a separate report on this Council agenda for the Capital Programme Bids for 2019/20, totalling £6,053,000.
- 8.2 **Commercial Property Acquisition Strategy** – The Council has agreed a commercial property acquisition strategy of up to £37.45 million. To date, four investment properties have been purchased with a value of £22 million in aggregate. Purchases made within the strategy will be capital expenditure. The Invest to Earn Group are considering commercial property business cases within the Commercial Property acquisition strategy. A report on the funding for the initial years of the development projects was presented to the Hub Committee on 29th January 2019.
- 8.3 **Prudential Borrowing** - The Council will consider the use of prudential borrowing to support capital investment to deliver services and will ensure that the full costs of borrowing are taken into account when investment decisions are made.

9. Sensitivity analysis and risk analysis

9.1 The Council carries out sensitivity analysis and risk analysis of its Budget Proposals and this is shown in Appendix H.

10. Earmarked and Unearmarked Reserves

10.1 The current levels of Reserves are £1.2 million Unearmarked Reserves and Earmarked Reserves of £3.2 million. The Council's Net Budget is £7.3 million for 2018/19. Therefore Unearmarked Reserves equate to 16% of the Council's Net Budget. A full list of Reserves is attached in Appendix F. It is recommended to retain a minimum level of Unearmarked Reserves at £750,000.

10.2 The Financial Stability Review Group has reviewed the Earmarked Reserves and has identified several historic lower value Earmarked reserves which have no current commitments and no recent expenditure. These are listed below and they total £84,937. It is recommended that this amount is allocated instead to the ICT Reserve which is currently depleted and has no resource remaining.

- W0901 – Grounds Maintenance Reserve - £49,068
- W0909 – Millwood Homes Reserve - £15,000
- W0923 – CLG Assets Community Value - £7,855
- W0898 – Landscaping - £5,220
- W0907 - New Burdens Reserve - £3,294
- W0908 – World Heritage - £4,500
- **TOTAL £84,937**

10.3 The annual contributions to Reserves of £25,000 to the Planning Earmarked Reserve and £25,000 to the ICT Reserve were supported by the Financial Stability Review Group (FSRG). The FSRG were also of the opinion that the cost pressure for Elections of £50,000 could be removed, in light of the amount held in Reserves of £24,000 for Elections. It was agreed to remove the £50,000 cost pressure in 2019/20 and replace this with an annual contribution to the Elections Earmarked Reserve of £20,000.

10.4 On 4th December 2018 (Minute CM42), Council approved a contribution of £50,000 per annum into a Vehicle Replacement Earmarked Reserve for the waste collection, recycling and cleansing services contract.

10.5 **Budget Monitoring** – The latest Quarter 3 Budget Monitoring report shows the actual net revenue expenditure is forecast to be under budget by £65,000 when compared against the total budget set for 2018/19. This is mainly due to additional planning income following the receipt of several large planning applications in the second quarter of 2018/19.

11 **NEXT STEPS**

- 11.1 This MTFS is the starting point for developing a meaningful five year strategy that sets out the strategic intention for all of the different strands of funding available to the Council. This was approved at Council in September 2018. The Council is now able to rely on this to inform future decisions.
- 11.2 Officers will continue to work with the Cross Party Member Working Group (Financial Stability Review Group) and the results of this will be incorporated into future Budget reports. Section 7 sets out the potential timescales against the areas identified.
- 11.3 The table below shows the budget timetable for the budget meetings in 2019 for the 2019/20 Budget.

29 th January 2019	Hub Committee recommended Final Budget Proposals to Council for 2019/20
7th February 19	Date which Council Procedure Rule 16 applies
12th February 19	Full Council – To approve Final Budget Proposals for 2019/20 and set the WDBC share of the Council Tax
19th February 19	Council Tax Resolution Panel – to agree the Council Tax Resolution for 2019/20 (This is WDBC share plus all other precepting authorities share).

Note 1- Council Procedure Rule 16 states that ‘Where a member intends to move a motion or amendment in relation to the Budget, the text of that motion or amendment must be put in writing and submitted to the Head of Paid Service by 9am on the third working day before the meeting, in order that officers may have sufficient time to consider and advise the Council of the financial implications of any such motion or amendment’. As per the timetable above, this would need to be submitted by 9am on Thursday 7th February 19.

12. IMPLICATIONS

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>The Hub Committee is responsible for recommending to Council the budgetary framework. It is the role of the Overview and Scrutiny Committee to scrutinise the Budget proposals being proposed by the Council. In accordance with the Financial Procedure Rules, Council must decide the general level of Reserves and the use of Earmarked Reserves.</p> <p>The preparation of the Budget report is evidence that the Council has considered and taken into account all relevant information and proper advice when determining its financial arrangements in accordance with statutory requirements, and in particular, that it will set a lawful budget.</p>
Financial	Y	In the Modelling in Appendix B, the total budget gap is £533,741 in 2020/21 and this is predicted to decrease to £445,232 in 2021/22 (the £445,232 assumes the budget gap in 20/21 of £533,741 has not been closed). The aggregated Budget Gap is £1.29 million.
Risk	Y	Each of the budget options taken forward by Members will consider the risks of the option.
Comprehensive Impact Assessment Implications		
Equality and Diversity		Equality Impact Assessments are completed for the budget proposals.
Safeguarding		None directly arising from this report.
Community Safety, Crime and Disorder		None directly arising from this report.
Health, Safety and Wellbeing		None directly arising from this report.
Other implications		None directly arising from this report.

Supporting Information

Appendices:

Appendix A – Budget pressures and savings

Appendix B – Modelling of the Budget Position

Appendix C – Local Government Finance Settlement analysis

Appendix D – Planning Fees for 2019/20

Appendix E – Environmental Health Fees for 2019/20

Appendix F – Revenue Reserves (Earmarked and Unearmarked)

Appendix G – Draft Revenue Budget Proposals for 2019/20

Appendix H – Sensitivity Analysis

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WEST DEVON BOROUGH COUNCIL

	BASE 2018/19 £	Yr1 2019/20 £	Yr2 2020/21 £	Yr3 2021/22 £	Yr4 2022/23 £	Yr5 2023/24 £
BUDGET PRESSURES						
Waste collection, recycling and cleansing contract (estimate)	190,000	70,000	70,000	70,000	70,000	70,000
Inflation on the street cleaning and public conveniences	10,000	10,000	10,000	10,000	10,000	10,000
ICT future service provision	0	0	150,000	0	0	0
Triennial Pension revaluation	25,000	0	75,000	0	0	75,000
Inflation on goods and services	70,000	70,000	70,000	70,000	70,000	70,000
Increase in salaries - increments and pay and grading	40,000	40,000	40,000	40,000	40,000	40,000
Increase in salaries - pay increase at 2% modelled (1% for 20/21 onwards)	85,000	95,000	40,000	40,000	40,000	40,000
Maintenance of trees	40,000	0	(20,000)	0	0	0
Reduction in Recycling credits	25,000	0	0	0	0	0
ICT support contracts - increase the budget to better align to actual expenditure	65,000	95,000	0	0	0	0
Reduce income target for Kilworthy Park to align to actual income received	25,000	0	0	0	0	0
Reduction in Housing Benefit administration subsidy	16,500	20,000	10,000	10,000	10,000	10,000
National Insurance and National Living Wage	20,000	20,000	20,000	20,000	20,000	20,000
Additional Level 5 Planning Specialist post (wdbc share of costs 40%)	0	19,000	0	0	0	0
Provision for salary costs for steady state review	20,000	0	0	0	0	0
IT - replace ageing network switches	15,000	0	0	0	0	0
Waste - lease renewal	15,000	0	0	0	0	0
Member Locality Fund (£500 per Member)	0	15,500	0	0	0	0
Revenue implication of the waste capital bid in 2017/18 capital programme	13,000	0	0	0	0	0
TOTAL IDENTIFIED BUDGET PRESSURES	674,500	454,500	465,000	260,000	260,000	335,000

WEST DEVON BOROUGH COUNCIL

	BASE 2018/19 £	Yr1 2019/20 £	Yr2 2020/21 £	Yr3 2021/22 £	Yr4 2022/23 £	Yr5 2022/23 £
Contribution to Earmarked Reserves (This line shows the annual contributions into the Reserve)						
Contribution to IT Development Reserve (£25K per annum)	25,000	25,000	25,000	25,000	25,000	25,000
Contribution to Planning Reserve (£25K per annum)	25,000	25,000	25,000	25,000	25,000	25,000
Contribution to Elections Reserve (20K per annum)	0	20,000	20,000	20,000	20,000	20,000
Contribution to Vehicles Replacement Reserve (£50K per annum) - see 10.4 - Minute CM42	0	50,000	50,000	50,000	50,000	50,000
Transformation Project (T18) - Approved at 9th December 2014 Council (One-off investment costs) Contribution to Strategic Change Reserve to meet redundancy and pension costs - Contributions reduce to zero in 2019/20	10,000	0	0	0	0	0
Total Contribution to Earmarked Reserves	60,000	120,000	120,000	120,000	120,000	120,000

SAVINGS AND INCOME GENERATION IDENTIFIED

	BASE 2018/19 £	Yr1 2019/20 £	Yr2 2020/21 £	Yr3 2021/22 £	Yr4 2022/23 £	Yr5 2023/24 £
Income from investments in commercial property	100,000	100,000	20,000	40,000	120,000	0
Re-procurement of contracts (e.g. savings from Leisure contract)	0	0	100,000	130,000	270,000	0
Re-procurement of waste collection, recycling and cleansing contract (The £50K contribution to the Vehicle Replacement Earmarked Reserve is deducted from these savings to give a net saving of £254,000 per annum as per 2.10)	0	304,000	0	0	0	0
Opt-in charged garden waste service	122,500	0	0	0	0	0
Car parking income from a review of charges	180,000	0	0	0	0	0
Additional car parking income (to reflect current increase in use in 2017/18)	40,000	0	0	0	0	0
Public Conveniences	0	50,000	0	0	0	0
Review of Accommodation/Office requirements (effective 1 April 2018)	82,000	0	0	0	0	0
Kilworthy Park - reduction in operating costs	0	0	50,000	0	0	0
Housing Benefit recoveries of overpayments (increase income target to reflect actual income being achieved)	85,000	50,000	0	0	0	0
Cessation of accepting cash and cheques (effective 1 April 2018)	35,000	0	0	0	0	0
Planning Fees (increase income target to reflect actual income being achieved)	15,000	50,000	0	0	0	0
Senior Leadership Team - Interim arrangement	0	34,000	0	0	0	0
Reduction in Partnership funding (Minute CM24 - Council 24th July 2018)	15,330	14,000	0	0	0	0
Extra treasury management income	20,000	0	20,000	0	0	0
Trade waste income	15,000	0	0	0	0	0
Corporate consultancy income	0	20,000	0	0	0	0
Introduction of Direct Lets Scheme	10,000	12,000	0	0	0	0
Energy Certification for Eco Schemes	0	10,000	0	0	0	0
Paperless Committee agendas	3,500	0	0	0	0	0
Cessation of Communities Together Fund	0	5,000	0	0	0	0
Council Tax Reduction Scheme - 8.6% reduction in Town and Parish Grant	6,100	5,500	59,000	0	0	0
Charging for duty planning service	6,500	3,500	0	0	0	0
Advertising on websites and e-bulletins	0	3,500	0	0	0	0
Charging for food advice/ environmental health fees and charges	5,000	0	0	0	0	0
Savings from the re-procurement of the Insurance contract	35,000	0	0	0	0	0
Review corporate training budgets	0	15,000	0	0	0	0
Reduction in ICT contracts	0	12,000	16,000	0	0	0
Implement e-billing in council tax	0	1,200	1,200	1,200	1,200	1,200
Saving on external audit fees for 2018-19	8,000	0	0	0	0	0
TOTAL SAVINGS AND INCOME GENERATION	783,930	689,700	266,200	171,200	391,200	1,200

Note - Items shaded in Grey denote the savings and additional income considered at the Members' Budget Workshop which have received support from the Members' Budget Survey (Exempt Appendix C of the report to the Hub Committee in December 2018)

Modelling assumptions: Assumes Council Tax is increased by 2.99% annually and that negative Revenue Support Grant is eliminated in 19/20 (as proposed in the 2019/20 Finance Settlement)						
Line	BASE	Yr1	Yr2	Yr3	Yr 4	Yr5
No.	2018/19 £	2019/20 £	2020/21 £	2021/22 £	2022/23	2023/24 £
No. Modelling for the financial years 2018/19 onwards						
1	7,423,225	7,313,795	7,078,595	6,743,654	6,920,962	7,157,890
2	674,500	454,500	465,000	260,000	260,000	335,000
3	(783,930)	(689,700)	(266,200)	(171,200)	(391,200)	(1,200)
4	7,313,795	7,078,595	7,277,395	6,832,454	6,789,762	7,491,690
Funded By:-						
5	4,524,706	4,673,499	4,851,289	5,035,597	5,226,525	5,424,590
Council Tax income - Modelling a 2.99% increase in council tax each year (Taxbase 19/20 = 20,176.57 Band D Equivalent properties)						
6	96,000	84,000	80,000	80,000	80,000	80,000
Collection Fund Surplus						
7	0	0	0	0	0	0
Revenue Support Grant (Nil from 2018/19 onwards)						
8	2,049,573	1,620,367	1,661,000	1,704,000	1,750,000	1,790,000
Localised Business Rates (baseline funding level - includes Rural Services Delivery Grant of £464,365 in 2018/19 due to Pilot status)						
9	0	0	(293,000)	(293,000)	(293,000)	(293,000)
Tariff/Top Up Adjustment amount (negative RSG - assume Nil in 19/20)						
10	460,000	0	0	0	0	0
Business Rates - Pilot Gain						
11	0	464,365	464,365	464,365	464,365	464,365
Funding from Rural Services Delivery Grant (included in line 8 for 2018/19)						
12	560,000	375,000	100,000	50,000	50,000	50,000
Funding from New Homes Bonus						
13	-60,000	-120,000	-120,000	-120,000	-120,000	-120,000
Less: Contribution to Earmarked Reserves						
14	0	25,000	0	0	0	0
WDBC share of national Business Rates Levy surplus (one-off for 19/20)						
15	-316,484	-43,635				
Less: Contribution to Future Financial Stability Earmarked Reserve						
16	7,313,795	7,078,595	6,743,654	6,920,962	7,157,890	7,395,955
Total Projected Funding Sources						
Budget gap/(surplus) per year						
17	0	0	533,741	-88,509	-368,128	95,735
(Projected Expenditure line 4 - Projected Funding line 16)						
0						
Actual Predicted Cumulative Budget Gap						
0						
Aggregated Budget Gap (if no action is taken in each individual year to close the budget gap annually)						
0						

Modelling Assumptions: (Assumes an increase in Band D Equivalent properties of 160 per annum)						
Council Tax (Band D) (an increase of 2.99% per annum has been modelled)	224.91	231.63	238.55	245.68	253.02	260.59
Council TaxBase	20,117.85	20,176.57	20,336.57	20,496.57	20,656.57	20,816.57

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Local Government Finance Settlement analysis for West Devon Borough Council

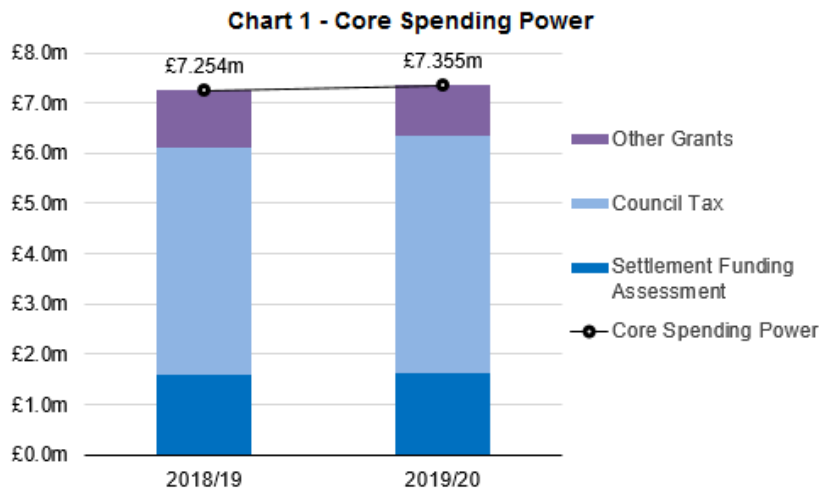
West Devon - Core Spending Power (£m)

Core Spending Power	2018/2019 (£m)	2019/2020 (£m)	Change %
TOTAL	7.254	7.355	1.4%
Breakdown of amounts:			
Business Rates	1.585	1.622	2.3%
Revenue Support Grant	Nil	Nil	-
Assumed Council Tax (this is a Government assumed figure, not the actual council tax raised)	4.525	4.716	4.2%
Other Grants	1.144	1.017	-11.1%
(Includes Rural Services Delivery Grant of £0.464m each year and the New Homes Bonus allocation which has decreased from £0.643m in 18/19 to £0.501m in 19/20)			
Other: Levy surplus returned (National Business Rates surplus money)		0.025	(not part of the Core Spending Power calculation)

The figures quoted in the Finance Settlement will be on the basis of Core Spending Power (the terminology used by the Government) and therefore it will be stated in the finance settlement that West Devon Borough Council has had a 1.4% increase in funding.

However from the analysis of the calculation, it can be seen that the majority of this increase in funding is coming from an assumed Council Tax increase of 4.2%. (This Government figure will be based on the assumption that Councils will increase their council tax by the limit of 2.99%, plus building in some property growth).

The rest of the increase is mainly due to an increase in Business Rates funding for 2019/20, less a reduction in New Homes Bonus funding.



How much has West Devon’s Government funding decreased by over the last four years?

Answer: 38.2% since 2016/17, as shown below. The chart shows how much reduction in funding the Council has had since 2016/17. This shows the reduction in Revenue Support Grant (to Nil in 2018/19 onwards) and funding from Business Rates. Council Tax funding is excluded from these calculations.

Chart 2 – Reduction in Funding Charts - Change in Settlement Funding Assessment (Business Rates and Revenue Support Grant) by class of Local Authority

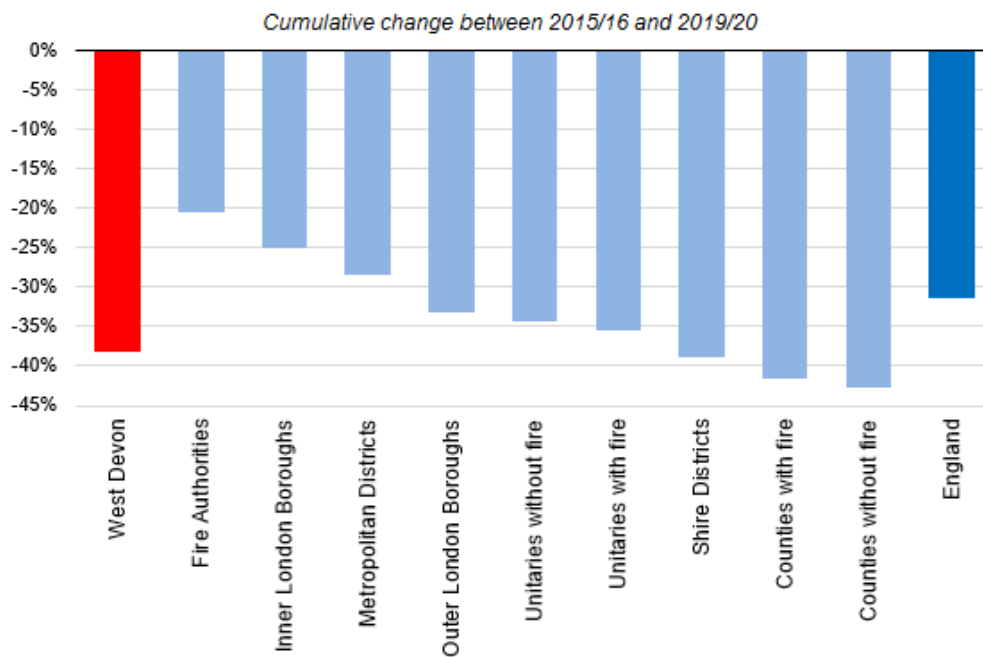
Overall over the four year funding settlement, it can be seen that West Devon has had a 38.2% reduction in Government funding. This compares against 38.8% for the average for Shire Districts.

Note: The reason that West Devon is showing an increase of 2.3% in its Government funding in 2019/20 is because in both of the years 18/19 and 19/20, the Council received Nil Revenue Support Grant and therefore the chart just shows the 2.3% increase in the Business Rates Baseline. (There is no reduction in the Revenue Support Grant (RSG) to offset this, as the RSG is already Nil in both years).

Authority group	Services			Change in SFA from previous year				Cumulative change since 2015/16
	Lower tier	Upper tier	Fire	2016/17	2017/18	2018/19	2019/20	
West Devon	✓			-18.7%	-17.3%	-10.0%	2.3%	-38.2%
Unitaries without fire	✓	✓		-13.6%	-11.5%	-7.1%	-7.5%	-34.4%
Metropolitan Districts	✓	✓		-10.9%	-9.0%	-5.6%	-6.4%	-28.4%
Inner London Boroughs	✓	✓		-9.6%	-7.8%	-4.7%	-5.6%	-25.1%
Outer London Boroughs	✓	✓		-13.0%	-11.0%	-6.8%	-7.4%	-33.2%
Unitaries with fire	✓	✓	✓	-13.6%	-11.8%	-7.4%	-8.4%	-35.4%
Counties with fire		✓	✓	-16.7%	-15.1%	-9.9%	-8.6%	-41.7%
Counties without fire		✓		-17.0%	-15.0%	-9.9%	-9.9%	-42.7%
Shire Districts	✓			-16.9%	-15.0%	-8.0%	-5.8%	-38.8%
Fire Authorities			✓	-6.8%	-8.9%	-4.1%	-2.4%	-20.6%
England				-12.4%	-10.6%	-6.3%	-6.5%	-31.4%

Reduction in SFA (Settlement Funding Assessment) between 2015/16 and 2019/20

Note: Settlement Funding Assessment is made up of Business Rates funding and Revenue Support Grant (Government Grant) – Revenue Support Grant was reduced to Nil in 2018/19 for West Devon Borough Council



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Activity	Current Fee £ (2018/19)	Proposed Fee £ (2019/20)	Comments
Confirmation of closure of enforcement case where it was found not expedient to take action. (available for a 12 month period following closure of the case)	£60	£60	If the Council has been in contact with you recently to investigate a breach of planning control and determined not to take any action you will be verbally advised of the outcome. Use this service if you require a letter of comfort confirming the Council's decision on the matter on a case closed in the last 12 months.
Confirmation of compliance with Enforcement Notice or Breach of Condition Notice (including site visit)	£300	£300	Includes a site visit, full check of the enforcement case and written confirmation of the outcome. Use this service if you require confirmation that an Enforcement Notice served by the Local Planning Authority has been complied with.
Confirmation of compliance with listed building consent (available for a 12 month period following completion of the development)	£300	£300	Includes a site visit to compare the development against the plans and written confirmation of our findings. Only available within 12 months of completion. Use this service if you have completed a listed building project and you wish to sell the property. If the completion was over 12 months ago, use the 'help resolving conveyancing issues' service detailed below

Activity	Current Fee £ (2018/19)	Proposed Fee £ (2019/20)	Comments
Help resolving planning history questions	£500	£500	Includes a full check of the planning and planning enforcement history, a site visit to view the development, a 1 hour meeting if it is deemed necessary by the case officer, any necessary in house consultations, written confirmation of the outcome, a formal decision as to whether enforcement action will be taken and/or confirmation of steps required to remedy the situation, if any. Response will be provided in 20 working days in most cases (can be extended by agreement if further consultation or investigation is required). Use this quick service if you are buying or selling a property/land and a planning query arises through the conveyancing process. For example, unauthorised works have been discovered or planning conditions have not been complied with.
Confirmation of compliance with section 106 planning obligations (desktop assessment)	£160 plus additional £115 if site visit needed	£160 plus additional £115 if site visit needed	This is a desktop check of the Council's records. If the clause in the agreement requires something to be undertaken on site it would be necessary to undertake a site visit for which there will be an additional charge. Use this service if you require confirmation that the clauses of the agreement have been complied with

Activity	Current Fee £ (2018/19)	Proposed Fee £ (2019/20)	Comments
Duty Planner	£30	£40	This is a 30 minute appointment with one of the Development Management planners by telephone or face to face.
The Validation checking service fee is in addition to the planning for processing. This will include an assessment of whether an application is valid, fee queries, and technical questions regarding what type of application is needed. There are three fee levels based on the complexity of the development. This would be undertaken on an appointment basis.			The Validation checking service fee is in addition to the planning for processing. This will include an assessment of whether an application is valid, fee queries, and technical questions regarding what type of application is needed. There are three fee levels based on the complexity of the development. This would be undertaken on an appointment basis.
Major Development - This will include 1 validation check of the application at plus 1 re-check	£85	£85	
Minor Development - This will include 1 validation check of the application at plus 1 re-check	£50	£50	

Activity	Current Fee £ (2018/19)	Proposed Fee £ (2019/20)	Comments
Householder and Other Development - This will include 1 validation check of the application at plus 1 re-check	£40	£40	
Pre-Application Fees	£180 plus £180 for any additional meeting/response required	£180 plus £180 for any additional meeting/response required	Householder/Listed Building/Advertisements one meeting with a written response
	£180 £420 (£240 if it follows a scoping meeting) plus £180 for any additional meeting or response	£180 £420 (£240 if it follows a scoping meeting) plus £180 for any additional meeting or response	Small Minor (1-2 Dwellings or non-residential floor space up to 499 sqm, telecommunications, Lawful development Certificate Advice and changes or use except dwellings, where there is no operational development) One Scoping meeting with agreed notes from the meeting Full pre-app – one meeting plus a written response.

Activity	Current Fee £ (2018/19)	Proposed Fee £ (2019/20)	Comments
	<p>£240</p> <p>£600 (£360 if it follows a scoping meeting) plus £180 for any additional meeting or response</p>	<p>£240</p> <p>£600 (£360 if it follows a scoping meeting) plus £180 for any additional meeting or response</p>	<p>Minor Development (between 3 – 9 dwellings or non-residential floor space between 500 – 999 sqm or a site area up to 1 Ha)</p> <p>One Scoping meeting with agreed notes from the meeting</p> <p>Full pre-app – one meeting plus a written response.</p>
	<p>£480</p>	<p>£480</p>	<p>Small Scale Majors (up to 30 dwellings or Non-Residential floor space between 1000 – 4999 sqm or a site area between 1 – 2 Ha)</p> <p>One Scoping meeting with agreed notes from the meeting</p>

Activity	Current Fee £ (2018/19)	Proposed Fee £ (2019/20)	Comments
	£1800 (£1320 if it follows a scoping meeting). Or a specific PPA.	£1800 (£1320 if it follows a scoping meeting). Or a specific PPA.	Full pre-app – two meetings plus a written response. If more than two meetings are required the pre-app will be the subject of a specific PPA.
	£720 Specific PPA	£720 Specific PPA	<p>Large Majors (Over 31 dwellings or Non-Residential floor space over 500sqm or a site area over 2 Ha all renewable energy proposals unless a domestic scale and all development that requires an EIA)</p> <p>One Scoping meeting with agreed notes from the meeting</p> <p>Full Pre-app</p>
Exemptions:	No Charge	No Charge	100% Affordable Housing schemes
	No Charge	No Charge	Facilities for the disabled
	No Charge	No Charge	Parish/Town Council

Activity	Current Fee £ (2018/19)	Proposed Fee £ (2019/20)	Comments
Pre-App Charges Notes:			Floor space refers to gross external floor space The fee stated are inclusive of VAT For the purposes of pre-app fees flats and holiday accommodation are considered as dwellings. Fees will be the subject of review

The first five fees/charges were introduced this year and to date take up has been very low, further consultation is taking place with the planning agents to ascertain why the service is not being used and whether the charge is a major factor. Given the low take up so far it is not proposed to alter the fees at this point.

Charging for the Duty Planning service was introduced in April 2018. A budget target of £6,500 was set based on a conservative forecast of income due to the unknown uptake. Uptake has been higher than predicted and together with a rise in the fee from £30 to £40 it is predicted that an income of £10,000 is achievable in 2019/20 (an increase of £3,500).

The fees for planning pre-application advice were revised at the beginning of this financial year with some of the fees significantly rising and the introduction of a fee for a scoping meeting for larger development. It was anticipated that the change in fee structure would be broadly neutral, however this year’s projected income of £20,000 will be met. Given the rise in the pre-application fees last year (2018/19) it is not considered reasonable to raise them again this year.

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Appendix E - Environmental Health Charges Proposed for 2019/20		
	Current Fee 2018/19	Proposed Fee 2019/20
<u>Acupuncture, Tattooing, Ear-piercing & Electrolysis</u>		
Register of Person	£112.00	£115.00
Register of Premises	£112.00	£115.00
Changes to Premises registration particulars	£40.00	£41.00
<u>Animal Licence</u>		
Single licensable activity	£234.00	£234.00
Each additional licensable activity	£87.00	£87.00
Rescore visit	£120.00	£120.00
Vets and fees expenses	Actual Cost	Actual Cost
<u>Dangerous Wild Animal Licence</u>		
Licence Fee (initial and renewal)	£394.00	£394.00
Plus vets fees and expenses	Actual cost	Actual cost
<u>Eco Certificate</u>	N/A	£100.00
<u>Film Classification Licence</u>		
Licence per film	£100.00	£103.00
Licence per festival	£500.00	£515.00
<u>Food Export Certificate</u>		
Export Certificate initial set up	£149.00	£153.00
Export Certificate renewal	£59.00	£61.00
Amendment to existing certificate (in addition to renewal fee)	£21.00	£22.00
<u>Food Hygiene Score Revisit inspection fee</u>		
Food Hygiene Score Revisit inspection fee	£120.00 per visit	£130.00 per visit
Food Hygiene Advice visit	£130 first hour , £65 per hour thereafter	£130 first hour , £65 per hour thereafter
Safer Food Better Business pack	£20 for the Catering SFBB Pack plus a years diary. £6 for a years diary	£20 for the Catering SFBB Pack plus a years diary. £6 for a years diary
<u>Food Premises Register</u>		
Food Premises Register (Full copy)	£295.00	£304.00
Food Premises Register (Part copy)	£100.00	£103.00
<u>Food Safety</u>		
Issue of unfit food certificate	£98.00	£101.00
<u>Hackney Carriage and Private Hire</u>		
Hackney Carriage Vehicle - fully wheelchair accessible	£20.00	£20.00
Hackney Carriage Vehicle - non wheelchair accessible	£181.00	£181.00
Private Hire Vehicle - fully wheelchair accessible	£20.00	£20.00
Private Hire Vehicle - non wheelchair accessible	£160.00	£160.00
Driving Licence (1 year)	£105.00	£110.00
Driving Licence initial application fee	£109.00	£109.00
Knowledge test	£50.00	£50.00
DBS	£60.00	£60.00
Driving Licence (3 years)	£266.00	£281.00
Replacement Plate	£20.00	£20.00
Transfer of ownership of vehicle	£50.00	£50.00
Operator Licence (Private Hire Only) 1 year	£125.00	£125.00

Appendix E - Environmental Health Charges Proposed for 2019/20		
	Current Fee 2018/19	Proposed Fee 2019/20
Operator Licence (Private Hire Only) 5 years	£472.00	£472.00
Replacement Driver's Badge	£15.00	£15.00
<u>Homes in Multiple Occupation</u>		
New Applications (new properties/change of ownership)	£361.00	£372.00
Renewals (every 5 years)	£361.00	£372.00
<u>Housing Act Enforcement Notice fee</u>		
Housing Act Enforcement Notice fee	£40.00 per hour	£41.00 per hour
<u>Housing Suitability (Immigration Inspection Certificate)</u>		
Housing Suitability (Immigration Inspection Certificate)	£78.00	£80.00
Depositing site rules with the Local Authority	£77.00	£79.00
<u>Hypnotism Authorisation</u>		
	£56.00	£58.00
<u>Private Water Supply</u>		
Private Water Supply Sampling Fee	£70.00	£72.00
Private Water Supply Risk Assessment	£206.00 per risk assessment	£212.00 per risk assessment
<u>Residential Mobile Home/Caravan Site Licences</u>		
Annual Fee (£13 per pitch with a minimum of 5 pitches)	£65.00	£65.00
Transfer of Licence	£100.00	£100.00
Standard amendment	£200.00	£200.00
Site Expansion Amendment (Standard Amendment fee plus £10 per pitch)	£200.00 plus £10.00 per pitch	£200.00 plus £10.00 per pitch
Initial Licence (5 pitch site plus £10 per pitch thereafter)	£200.00	£200.00
Replacement Licence (due to loss)	£10.50	£10.50
Deposit of Site Rules	£77.00	£77.00
Service of Enforcement Notice	£40.00 per hour	£40.00 per hour
<u>Scrap Metal Dealer Licence</u>		
Grant of a Site Licence	£180.00	£185.00
Renewal of a Site Licence	£130.00	£134.00
Transfer from a Site to a Collector Licence	£75.00	£77.00
Grant of a Collector Licence	£130.00	£134.00
Renewal of a Collector Licence	£85.00	£88.00
Transfer from a Collector to a Site Licence	£80.00	£82.00
Change of Licence Holder's details	£15.00	£16.00
Change of Licensed site	£80.00	£82.00
Change of Site Manager	£43.00	£44.00
<u>Sex Establishments</u>		
New Application (Inclusive of first year annual licence)	£4,600.00	£4,600.00
Annual Renewal Fee	£450.00	£450.00
Transfer or Variation	£1,300.00	£1,300.00
Plus Premises Licence / Club Premises Certificate	Statutory Cost	Statutory Cost
<u>Zoo Licence</u>		
Grant of Licence (Valid 4 years)	£818.00	£818.00

Appendix E - Environmental Health Charges Proposed for 2019/20		
	Current Fee 2018/19	Proposed Fee 2019/20
Renewal of Licence (Valid for 6 years)	£717.00	£717.00
Transfer of Licence	£370.00	£370.00
Partially exempt premises	70% of above fees	70% of above fees
Inspection	Actual Cost	Actual Cost

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RESERVES - PROJECTED BALANCES					APPENDIX F
	Opening balance 1.4.2018 £'000	Additions to the Reserve £'000	Predicted spend £'000	Projected balance 31.3.2019 £'000	Comments
EARMARKED RESERVES					
Specific Reserves - General Fund					
Business Rates Retention Scheme	(509)	(150)		(659)	This relates to a timing issue on the accounting adjustments required for the localisation of business rates. This reserve also deals with any volatility in Business Rate income e.g. due to appeals.
Financial Stability Reserve	0	(316)	50	(266)	A new reserve created in 2018/19 from the Business Rates Pilot funding. The commitment relates to the South West Mutual Bank contribution. There will be a further recommendation to use the remainder of this reserve (£266,000) for the upfront borrowing costs on commercial development opportunities within the Borough.
Car Parking Maintenance	(386)	0	205	(181)	Commitment relates to statutory tree work and Brook Street Car Park as well as £30,000 for Council Owned Asset Investment & Development (minute ref HC 4).
2016/17 Budget Surplus Contingency	(382)	0	148	(234)	This is the Budget Surplus from 2016/17 which was put into an Earmarked Reserve. Commitment of £76,000 relates to the balance of the JSG funding and £65,000 capital funding.
Innovation Fund (Invest to Earn)	(724)	0	288	(436)	Commitment relates to purchase of land & survey Costs, Okehampton £279,000 and Lottery set up costs £6,500. There will be a further recommendation to use part of this reserve (£236,385) for the upfront borrowing costs on commercial development opportunities within the Borough.
T18 Strategic Change	(287)	(10)	129	(168)	Commitment includes pension strain costs from the T18 Transformation Programme and £30,000 JLP contribution. In addition the capital monitoring report being considered at the January Hub Committee includes a recommendation of up to £50,000 for the capital requirement of the Public Toilets pay on entry review.
Cannons Meadow, Tavistock	(13)	0	3	(10)	Written down to revenue annually
Elections	(24)	0	0	(24)	
Neighbourhood Planning Grants	(47)	0	4	(43)	Examiner fees in 2018/19
Economic Grant Initiatives	(23)	0	0	(23)	
Flood Works	(15)	0	2	(13)	
Homelessness Prevention	(95)	0	0	(95)	
New Homes Bonus	(225)	(643)	850	(18)	Commitment includes £560,000 to fund the 2018/19 Revenue budget and £252,000 for the Capital Programme
Planning Policy and Major Developments	(44)	(155)	79	(120)	Joint Local Plan Funding transferred to a separate reserve. The additions to the reserve include £100,000 extra planning income from 2018/19 following a recommendation in the Quarter 2 revenue monitoring report considered by the Hub Committee in December (minute HC57 refers)
Invest to Save	(27)	0	23	(4)	The commitment relates to the Council Owned Asset Investment and Development (minute ref HC 4)
ICT Development	(30)	(110)	68	(72)	£85,000 has been transferred to the ICT Development reserve from other earmarked reserves following a review by the Financial Stability Working Group. This was considered by the Hub Committee in December (minute HC59 refers).
Waste & Cleansing Options Review	(80)	0	0	(80)	To cover the cost of procurement and waste initiatives
Community Housing Fund	(243)	0	60	(183)	Community Housing Projects
Leisure Services	(231)	0	174	(57)	Leisure Centre investment
Maintenance Fund (Estates)	(223)	0	37	(186)	
Revenue Grants	(220)	0	8	(212)	
Support Services Trading Opportunities	(8)	0	0	(8)	
Grounds Maintenance	(49)	0	49	0	The balance on this reserve has been transferred to the ICT Development Reserve following a review of earmarked reserves by the Financial Stability Working Group. This was considered by the Hub Committee in December (minute HC59 refers).
Outdoor Sports & Recreation Grants	(18)	0	0	(18)	
Environmental Health	(20)	0	0	(20)	
Section 106 Monitoring	(19)	0	0	(19)	
Joint Local Plan	0	(86)	86	0	New reserve for Joint Local Plan Funding
Other Reserves below £15,000	(73)	0	36	(37)	£36,000 has been transferred from five earmarked reserves to the ICT Development reserve following a review of earmarked reserves by the Financial Stability Working Group. This was considered by the Hub Committee in December (minute HC59 refers).
TOTAL EARMARKED RESERVES	(4,015)	(1,470)	2,299	(3,186)	
TOTAL UNEARMARKED RESERVES	(1,197)	(65)	0	(1,262)	Projected underspend of £65,000 for 2018/19 (As per Quarter 3 Revenue Budget Monitoring report)
TOTAL REVENUE RESERVES (EARMARKED AND UNEARMARKED RESERVES)	(5,212)	(1,535)	2,299	(4,448)	

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	18/19 Base Net Budget	18/19 Virements	18/19 Revised Net Budget	19/20 Pressures (Savings)	19/20 Inflation Allocation	19/20 Draft Net Budget
	£'s	£'s	£'s	£'s	£'s	£'s
a) Customer First	2,535,372	(943,550)	1,591,822	(121,800)	18,800	1,488,822
b) Strategy and Commissioning	692,729	11,315	704,044	33,000	0	737,044
c) Commercial Services	2,208,080	(322,000)	1,886,080	(257,000)	21,700	1,650,780
d) Support Services	2,431,802	1,254,235	3,686,037	110,600	(40,500)	3,756,137
	7,867,983	0	7,867,983	(235,200)	0	7,632,783
Reversal of Depreciation	(554,188)					(554,188)
Net Budget Total	7,313,795	0	7,867,983	(235,200)	0	7,078,595
Funded by:						
Localised Business Rates	2,049,573					1,620,367
Business Rates Pilot Gain	460,000					0
Council Tax (assuming an increase of 2.99% in 19/20)	4,524,706					4,673,499
Collection Fund Surplus	96,000					84,000
Rural Services Delivery Grant (note 1)	0					464,365
New Homes Bonus	560,000					375,000
National Business Rates Levy Surplus	0					25,000
Less: Contribution to Earmarked Reserves	(60,000)					(120,000)
Less: Contribution to Future Financial Stability Earmarked Reserve	(316,484)					(43,635)
	7,313,795					7,078,595

Note 1 - Rural Services Delivery Grant of £464,364 has been included within the business rates baseline as part of the business rates pilot for 2018-19

a)	Customer First	18/19 Base Net Budget	18/19 Virements	18/19 Revised Net Budget	19/20 Pressures (Savings)	19/20 Draft Net Budget
		£'s	£'s	£'s	£'s	£'s
W1010	Customer Contact Centre	223,500		223,500	7,700	231,200
W1013	Localities	227,500		227,500	9,500	238,300
W1014	Case Management	945,006	20,000	965,006	23,000	988,006
W1015	Specialists	775,320	2,990	778,310	48,600	826,910
W1020	Planning Applications & Advice	(301,295)		(301,295)	(53,500)	(354,795)
W1021	Development Control - Enforcement	0		0		0
W1030	Economic Development	63,862		63,862		63,862
W1034	Planning Policy	0		0		0
W1040	Local Land Charges	(88,806)		(88,806)		(88,806)
W1060	Community Development	51,400		51,400	(8,900)	42,500
W1070	Environmental Initiatives	0		0		0
W1102	Tamar Valley Trust	48,082		48,082		900
W1104	Land & Investment Properties	0	(971,000)	(971,000)	(100,000)	(1,071,000)
W1161	Kilworthy Park Offices	274,351		274,351	3,900	289,151
W1200	Public Transport Assistance	20,785		20,785	(7,600)	13,185
W1250	CoP Leads & Group Manager	138,600	2,960	141,560	10,000	151,560
W1306	Countryside Recreation	10,080		10,080		10,080
W1310	Leisure Centres	390,343		390,343		390,343
W1311	Outdoor Sports and Recreation	16,510		16,510	(1,700)	14,810
W1400	Other Employment Estates	(10,528)		(10,528)		3,900
W1501	General Health	14,970		14,970	(800)	14,170
W1503	Public Health	(9,700)	9,700	0		0
W1531	Licensing	(84,351)	(6,200)	(90,551)		(90,551)
W1533	Pest Control	14,493		14,493		1,000
W1534	Pollution Control	(3,471)		(3,471)		800
W1535	Food Safety	5,698	(5,000)	698		698
W1536	Health and Safety at Work	0		0		0
W1536	Health & Safety at Work	0	1,500	1,500		1,500
W1544	Community Safety	5,000	1,500	6,500		6,500
W1545	Emergency Planning	5,370		5,370		5,370
W1550	Housing Standards	0		0		0
W1551	Homelessness	128,547		128,547	(12,000)	116,547
W1552	Housing Advice	1,200		1,200		1,200
W1553	Housing Enabling	240		240		240
W1555	Private Sector Housing Renewal	15,700		15,700	(10,000)	5,700
W1558	Housing Strategy	0		0		0
W1565	Housing Benefit Payments	100,953		100,953	(50,000)	50,953
W1568	Housing Benefit Administration	(113,487)		(113,487)	20,000	(93,487)
W1571	Council Tax Collection	(274,500)		(274,500)		(274,500)
W1574	Council Tax Support	(56,000)		(56,000)		(56,000)
		2,535,372	(943,550)	1,591,822	(121,800)	18,800

b)	Strategy & Commissioning	18/19 Base Net Budget	18/19 Virements	18/19 Revised Net Budget	19/20 Pressures (Savings)	19/20 Draft Net Budget
		£'s	£'s	£'s	£'s	£'s
W3001	Electoral Registration	92,145		92,145	2,700	94,845
W3030	Staff Forum	0	5,000	5,000		5,000
W3041	Communications & Media CoP	58,130		58,130	(1,100)	57,030
W3050	Democratic Representation & Management	242,035		242,035		242,035

W3051	Member Support & Democratic Services	71,950		71,950	17,000		88,950
W3075	Waste & Place Strategy	59,700		59,700	5,000		64,700
W4501	Performance & Intelligence	130,300	6,315	136,615	9,400		146,015
W4511	Other Building Control Work	38,469		38,469			38,469
		692,729	11,315	704,044	33,000	0	737,044

c) Commercial Services		18/19 Base Net Budget	18/19 Virements	18/19 Revised Net Budget	19/20 Pressures (Savings)		19/20 Draft Net Budget
		£'s	£'s	£'s	£'s		£'s
W2017	Street Cleaning	482,681		482,681	8,200		490,881
W2101	Parking Overhead Account	(726,428)		(726,428)		11,800	(714,628)
W2300	Landscape Maintenance	139,727		139,727		6,200	145,927
W2310	Dog Warden Service	3,122		3,122		200	3,322
W2400	Public Conveniences Overheads Account	180,737		180,737	(48,200)	3,500	136,037
W2701	Waste Contract (note 2)	2,033,827	(337,000)	1,696,827	(234,000)		1,462,827
W2713	Trade Waste	(15,000)		(15,000)			(15,000)
W2715	Garden Waste Collection	(190,000)		(190,000)			(190,000)
W2720	Waste & Recycling Services	91,700		91,700	6,900		98,600
W2721	Waste Depots	49,814	15,000	64,814			64,814
W2733	Other Commercial Services , Street Scene	157,900		157,900	10,100		168,000
		2,208,080	(322,000)	1,886,080	(257,000)	21,700	1,650,780

Note 2 - The £337,000 relates to the interest and MRP costs of the borrowing for the waste fleet (shown in W6040).

d) Support Services		18/19 Base Net Budget	18/19 Virements	18/19 Revised Net Budget	19/20 Pressures (Savings)		19/20 Draft Net Budget
		£'s	£'s	£'s	£'s		£'s
W4001	Executive Directors	129,825	(20,105)	109,720	(28,700)		81,020
W4004	Corporate Training & Occ Health	22,183	(4,000)	18,183	(15,000)		3,183
W4009	Non Distributed Costs (Pension Costs)	652,000	(36,058)	615,942			615,942
W4010	Inflation Provision	14,472	(14,472)	0	70,000	(70,000)	0
W4020	Invest to Earn Initiatives	(100,000)	100,000	0			0
W4041	Internal Audit	17,500		17,500			17,500
W4082	Landlines	27,970	(6,970)	21,000			21,000
W4084	ICT Software & Support Contracts	298,333	2,100	300,433	83,000	21,800	405,233
W4085	Mobile Phones	14,000		14,000			14,000
W4086	Client Hardware Replacement	42,084		42,084			42,084
W4087	Photocopiers	0	10,000	10,000			10,000
W4100	Human Resources CoP	40,640		40,640	(20,000)		20,640
W4101	Legal CoP	134,500		134,500	6,900		141,400
W4102	Design CoP	23,300		23,300			23,300
W4103	Finance CoP	161,263		161,263	3,400		164,663
W4104	ICT CoP	267,479		267,479	3,600		271,079
W4150	Support Services Case Management	281,200	6,664	287,864	9,700		297,564
W4160	Corporate Management	66,984		66,984		2,500	69,484
W4163	LACC Project Support	0		0			0
W4180	Support Services Mgmt & O' Heads	116,864	(3,924)	112,940	2,400		115,340
W4196	Customer Support	55,600		55,600	800		56,400
W4199	Central Service Overheads	10,642	(2,500)	8,142			8,142
W4200	Insurance	41,531	30,500	72,031		5,200	77,231
W6021	Parish Support Grant and overheads	106,753		106,753	(5,500)		101,253
W6040	Borrowing Costs (Interest costs and MRP)	97,000	1,193,000	1,290,000			1,290,000
W6050	Investment Income received	(90,321)		(90,321)			(90,321)
		2,431,802	1,254,235	3,686,037	110,600	(40,500)	3,756,137

Sensitivity analysis and risk analysis of the Budget Proposals 2019-20

1. The budget assumes approximately £3 million of income from fees and charges, recycling and investments. Whilst this assumption is realistic, given the position of the economy there is a risk that income could fall or be less than anticipated. A 5% reduction in income would result in a loss of £150,000.
2. The Budget Proposals rely on proposed savings over the next 5 years of £1.52 million. A 5% reduction in the savings would equate to £76,000.
3. The Budget Proposals assume budget pressures over the next 5 years of £1.77 million. A 5% increase in the budget pressures would equate to £88,500.
4. Council Tax Income and New Homes Bonus have been modelled based on an extra 160 Band D Equivalent properties per annum increase. Each extra property attracts 1,272 in NHB. If this figure were to actually be say 100 properties (i.e. 60 properties less in future years), this would mean that Council Tax Income would be £14,000 less and New Homes Bonus income would be £76,000 less (although NHB will cease in 2020 and it is unknown what any future scheme might look like).
5. Council Tax has been assumed in the Budget Proposals to increase by £6.72 to £231.63 in 2019/20. The additional council tax income this would generate is £136,000. If council tax for 2019/20 were to remain at £224.91, the income from council tax would be overstated by this amount in the Budget Proposals.
6. If Council Tax income collection fell by 1% (collection in 17/18 was 97.6%), this would mean a reduction of council tax income of £47,000. Similarly if Business Rates income collection fell by 1% (collection in 17/18 was 98.0%), this would mean a reduction in business rates income of £16,000.
7. Income from investments has been assumed to increase in line with the expected interest rate forecasts in Section 3. A 0.25% variation in interest rates on investment income equates to £20,000.
8. An allowance of 2% for inflation is included in the budget. Inflation costs are being managed through cost effective procurement.

9. The proposed capital programme for 2019-20 is funded by prudential borrowing, capital receipts, grants, S106 receipts and contributions. Realistic assumptions about these have been made for the future.
10. Known liabilities have been provided for and there are no significant outstanding claims.
11. **Borrowing Levels**

Exempt Appendix G to the Medium Term Financial Strategy (MTFS) in September 2018 gave advice on the borrowing level for the Council and the Interest payments on the borrowing as a percentage of available Reserves. The Council set an Upper Limit on External Borrowing (for all Council services) as part of the MTFS of £50 million. The tables below show the impact that a change of Interest payable at 2.5% on borrowing to 3% on borrowing has on this Indicator.

Total Borrowing	Interest repayments at 2.5%	Level of Reserves £4.4m (£1.2m Unearmarked and £3.2m Earmarked)	Interest payments (at 2.5%) as % of available Reserves
£50m	£1,250,000	£4.4m	28.4%

Total Borrowing	Interest repayments at 3%	Level of Reserves £4.4m (£1.2m Unearmarked and £3.2m Earmarked)	Interest payments (at 3%) as % of available Reserves
£50m	£1,500,000	£4.4m	34.1%

Summary & conclusion

Sensitivity analysis and risks are identified above with a potential total adverse revenue effect for 2019/20 of £623,500. However, revenue reserves are recommended to be maintained at a minimum of £750,000. I therefore confirm the robustness of the Budget Proposals and the adequacy of the reserves.

Mrs Lisa Buckle, Strategic Finance Lead (S151 Officer)

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NOT FOR PUBLICATION

Appendices B & C contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972

Report to: **Council**
Date: **12 February 2019**
Title: **Capital Budget Proposals for 2019/20**
Portfolio Area: **Budget Proposals – Cllr P R Sanders**
Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Author: **Lisa Buckle** Role: **Strategic Finance Lead (S151 Officer)**

Contact: **Tel. 01803 861413**
Email: lisa.buckle@swdevon.gov.uk

Recommendations:

It is recommended to Council to:-

- 1. approve the Capital Programme Proposals for 2019/20, which total £500,000 (Appendix A)**
- 2. approve the Capital Programme Proposals for 2019/20, which total £5,553,000 (Exempt Appendix C)**
- 3. finance the 2019/20 Capital Programme of £6,053,000 from the funding sources set out in Section 4.**

1. Executive summary

1.1 The report sets out the Capital Bids to the 2019/20 Capital Programme totalling £6,053,000 and a suggested way that these Bids can be funded. All items in this proposed Capital Programme are based on budget estimates and will be subject to the normal project appraisal procedures.

1.2 The Council has limited resources, in the form of capital receipts, to fund Capital Projects in 2019/20.

Consideration needs to be given to the funding options for the 2019/20 Capital Programme. The Capital Programme is set by the Council and may be funded by sale proceeds from the disposal of assets (capital receipts), external grants and contributions, directly from revenue or from borrowing.

1.3 The Prudential Code for capital, which came into effect from 1st April 2004, replaced the previous Government regulated limits on capital expenditure and borrowing. In its place Councils now have the power to determine their own appropriate levels of capital expenditure and borrowing for capital purposes, based on the principles of affordability, prudence and sustainability.

1.4 The Code requires the Council, in setting its capital spending plans, to assess the impact on its revenue account and council tax levels. Section 4 demonstrates that there are sufficient capital funds (which includes PWLB borrowing for commercial acquisitions) in 2019/20 to fund the bids which have been submitted by project officers within the Council.

2. Background

2.1 The capital programme for 2018/19 was approved by Council on 20 February 2018 (CM57 and HC61 refer).

2.2 A new Capital Programme is proposed for 2019/20. The Head of Finance Practice invited bids for capital funding from all service areas, for a new capital programme during July 2018 on the strict proviso that all bids must go towards meeting a strategic priority. All capital bids received would be ranked against a prescribed priority criteria set out in the bid process.

2.3 The submitted capital bids have now been assessed against the categories in each priority. Priority 1 categories include meeting strategic priorities and statutory obligations (e.g. Health and Safety, DDA etc) and other capital works required to ensure the existing Council property assets remain open. Priority 2 categories link to good asset management whereby the capital work proposed would either generate capital/revenue income or reduce revenue spending. A capital bid that will enable rationalised service delivery or improvement is also considered a Priority 2 category to meet the Council's aims and objectives.

2.4 The programme outlines the principles of the projects proposed for capital expenditure and includes an estimate of predicted costs including fees. All projects will be subject to project appraisals as required under the Council's Asset Strategy.

3. Outcomes/outputs

Members are requested to give their views on the proposals for the Capital Programme for 2019/20. Appendix A and exempt Appendix C set out the bids which total £6,053,000.

3.1 Capital Programme 2019/20

3.2 Community Project Grants

There is sufficient underspend in the 2018/19 Capital Programme on this project which can be rolled forward into 2019/20. Therefore no new budget allocation is required for 2019/20 however an allocation of £36,000 per annum has been modelled for 20/21 onwards.

3.3 Affordable Housing

Within the last year, the capital programme has helped to support the following schemes:

- Cannonsmead Cottages, South Tawton. This is a scheme of 6 units of rented accommodation owned and managed by Rural Specialists Hastoe Housing. The properties have been advertised through Devon Home Choice and are now occupied by people with a local connection to South Tawton. A final contribution of £50,000 was made to Hastoe on completion and occupation of the development.

- Walkham Meadows, Horrabridge. This scheme is 10 units all of which are for affordable rent. The scheme is being owned and managed by Live West who also own the properties on the adjacent scheme. The properties were advertised through Devon Home Choice and are now occupied.

In terms of the capital programme, housing officers would like to ask for £50k to support schemes similar to those above. Further developments have not yet been identified but this amount is requested to enable affordable housing developments to come forward.

3.4 Private Sector Renewals (including Disabled Facilities Grants)

This budget is used to fund Private Sector Renewals, primarily Disabled Facilities Grants (DFG's). DFG's are mandatory, means tested and enable people to live independently within their own home. Adaptations range from simple stair lifts and Level Access Showers through to full extensions. The budget of £450,000 will be funded from the Better Care Fund (Government Grant). The demand for DFG's is not under our control and cannot be predicted at this stage.

3.5 Hayedown Depot, Tavistock – upgrade

Details of this capital proposal are included in exempt Appendix B.

3.6 Hayedown Depot, Tavistock – new drainage system

Details of this capital proposal are included in exempt Appendix B.

3.7 Waste Fleet Replacement

A report on Frontline Services (Waste and Cleansing Procurement) was presented to Council in December 2018. Council resolved to approve the upfront costs of vehicle purchases required in 2019/20 (CM42 refers). A detailed fleet procurement programme for the future will be presented to Members early in 2019.

3.8 Development Opportunities

Details of development opportunity capital schemes are included in exempt Appendix B. A separate report from the Group Manager for Business Development was also on the January 2019 Hub Committee Agenda, which gives further information.

4 FINANCING THE CAPITAL PROGRAMME

4.1 Capital bids shown in Appendix A total £500,000 with the total of bids in exempt Appendix C being £5,553,000. Funding of £6,053,000 is therefore required. The table below shows the recommended way that these projects are financed:-

Capital Programme 2019/20 <i>Appendix A (£500,000) and exempt Appendix C bids (£5,553,000)</i>	£ 6,053,000
Funded By:	
Innovation (Invest to Earn) Reserve*	150,000
Strategic Change Reserve*	167,000
Vehicle & Plant Renewals Reserve*	50,000
16/17 Budget Surplus Contingency Reserve*	179,000
Better Care Grant funding towards Disabled Facilities Grants (estimated)	450,000
New Homes Bonus	80,000
S106 receipts(up until 31/3/2020)	408,000
Capital receipts	100,000
Borrowing (this is a proportion of the total PWLB borrowing for the projects shown within the West Devon Commercial Developments report and relates to the capital expenditure up to the 19/20 year only)	4,469,000
TOTAL	6,053,000

*These amounts of funding have already been approved by Council on 4th December 2018 as part of the report on Frontline Services (Waste and Cleansing Procurement)

5. IMPLICATIONS

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/ Governance	Y	The Hub Committee is responsible for control of the Council's capital expenditure. The Hub Committee recommends the Capital Programme to Council in February 2019. The Heads of Finance and Assets Practices are responsible for providing Capital Monitoring reports to the Hub Committee, detailing the latest position of the Council's Capital Programme.

		<p>Council is responsible for setting the Capital Programme and approving the Capital Budget, following consideration and recommendation from the Hub Committee.</p> <p>Since there is commercially sensitive information in Appendices B and C, regarding the budgets for individual projects, there are grounds for the publication of these Appendices to be restricted, and considered in exempt session.</p> <p>The public interest has been assessed and it is considered that the public interest will be better served by not disclosing the information in the Appendices. Accordingly this report contains exempt Information as defined in paragraph 3 of Schedule 12A to the Local Government Act 1972.</p>
Financial	Y	<p>The report sets out the Capital Bids to the 2019/20 Capital Programme totalling £6,053,000 and a suggested way that these bids can be funded. All items in this proposed Capital Programme are based on budget estimates and will be subject to the normal project appraisal procedures.</p> <p>Section 4 demonstrates that there are sufficient capital funds (which includes PWLB borrowing for commercial acquisitions) in 2019/20 to fund the bids which have been submitted by project officers within the Council.</p>
Risk	Y	<p>There is a risk that the Capital Programme does not meet the Council's strategic priorities in line with the Council's Asset Strategy and the opportunity to assess emerging projects, which could contribute to the Council's priorities. The mitigation is that there is a project appraisal for each proposal. This is taken into account when assessing possible implementation timescales. Complex capital programmes have a relatively long lead-in period.</p>

		<p>The Council demonstrates that capital investment contributes to strategic priorities, provides value for money and takes account of the revenue implications of the investment. Regular monitoring of the capital programme and consideration of new pressures enables Members to control the programme and secure appropriate mitigation where problems arise.</p> <p>There is regular quarterly monitoring of the Capital Programme to Members where any cost overruns are identified at an early stage.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity		None directly arising from this report.
Safeguarding		None directly arising from this report.
Community Safety, Crime and Disorder		None directly arising from this report.
Health, Safety and Wellbeing		None directly arising from this report.
Other implications		None directly arising from this report.

Supporting Information

Appendices:

Appendix A – Summary of Capital Bids for 2019/2020

EXEMPT – Appendix B – Details of exempt Capital Bids

EXEMPT - Appendix C – Summary of exempt Capital Bids for 2019/2020 (table)

Background papers

Capital Programme for 2018/19 - Council 20 February 2018 (CM57 and HC61 refer)

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Appendix A

Proposed Capital Projects 2019/20 - 2021/22 - PART I							
Priority Criteria							
Statutory Obligations	1		Compliance, H&S, DDA				
	2		Essential to keep Operational Assets open				
Good Asset Management	3		Rationalise service delivery or service improvement				
	4		Generate income, capital value or reduce revenue costs				
Service	Site	Project	Lead officer	Proposed 2019/20 £'000	Proposed 2020/21 £'000	Proposed 2021/22 £'000	Priority code / notes
Placemaking	Community Project Grants		RS	0	36	36	1,3
Affordable Housing			AR	50	50	50	3,4
Public Sector Renewals (inc Disabled Facility Grants)			IL	450			1
Totals				500	86	86	

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Report to: **Council**
Date: **12 February 2019**
Title: **Review of the Staffing Establishment**
Portfolio Area: **The Leader**

Wards Affected: **All**

Relevant Scrutiny Committee: Overview and Scrutiny Committee

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: **N/A**
(e.g. referral on of recommendation or implementation of substantive decision)

Author: **Andy Wilson** Role: **Head of Human Resources Practice**

Contact: **Andy.wilson@swdevon.gov.uk**

Recommendations:

That the Council:

- 1. Notes the impact of the T18 Transformation programme on the Establishment.**
- 2. AGREES that the Roles identified at paragraph 3.13 are added to the Establishment with effect from 21 February 2019.**
- 3. AGREES to the appointment of the current Executive Director for Service Delivery and Head of Paid Service in to the role of Chief Executive with effect from 21 February 2019.**
- 4. AGREES to extend the interim senior management arrangements and for a Report to be brought to Council recommending a new structure within 6 months of the 2019 Council elections.**

5. Notes the current approach to staff appraisals and the outcome of the recent steadier state review of roles and salaries.

6. Approves the new pay and grading structure in line with new national pay spines

1. Executive summary

- 1.1. There are a number of reasons for bringing this report to Members:
- 1.1.1. To highlight the significant changes in the Council's staffing Establishment since the T18 Transformation programme.
 - 1.1.2. To ask Council to approve an increase to the Establishment in a number of cases where the funding stream for the activities is secure and the creation of a permanent role will increase the Councils' ability to appoint and/or retain the employees with the right level of skills, experience and behaviours.
 - 1.1.3. To request the Council to approve the appointment of the current Executive Director for Service Delivery and Head of Paid Service into the role of Chief Executive and an extension to the current interim Senior Management arrangements.
 - 1.1.4. To provide a brief summary of the 'steadier state review' that was undertaken in autumn of 2018 to ensure that the Council has the right number of roles in the right activity areas and that employees are paid at the right level.
 - 1.1.5. To highlight the current approach to staff appraisals to support all employees to make a positive impact.
 - 1.1.6. To request the Council to approve the new pay and grading structure due to be implemented in April 2019 as a result of national pay bargaining.

2. Background

- 2.1. Under the provisions of section 4.2 of the Local Government and Housing Act 1989, the Council's Head of Paid Service has a duty (where s/he considers it appropriate to do so) to prepare a report setting out proposals for the organisational structure, number and grades of staff required by the authority for the discharge of their functions.
- 2.2. Following the formal closure of the T18 Transformation programme in July 2018, it is appropriate to report to Council on the current staffing structure and to consider changes to the

Council's Establishment to support the effective delivery of services to our customers and communities.

3. Outcomes/outputs

The impact of the T18 Transformation Programme on the Council's staffing Establishment

3.1. The following table shows the number of employees employed by South Hams District Council and West Devon Borough Council by full-time equivalent roles (FTE) and by the total number of roles on the budgeted Establishment at the following three periods:

- In July 2014 before the start of the T18 Transformation programme
- In June 2016 after the conclusion of the main Phase 2 of T18
- In December 2018 to reflect the current position

	FTE Budget	FTE Actual
July 14	553.8	496.97
June 16	455.4	425.62
Dec 18	451.7	443.56

3.2. The table shows that the budgeted shared Establishment reduced by 102.1 FTE posts between the start and finish of T18.

3.3. The current difference between the FTE Budget and FTE Actual is attributable to use of temporary agency workers use to fill vacant posts pending recruitment and roles held vacant pending the commencement of the Waste contract.

3.4. The table below 1 shows the current distribution of employees by Grade/Level.

Combined	FTE Budget	Head count	FTE Actual
Level 1	2	1	1
Level 2	4	4	4
Level 3	19	19	18.73
Level 4	32.6	36	33.21
Level 5	60.5	65	61.02
Level 6	69.6	72	67.21
Level 7	56.9	72	62.56
Level 8	151.3	152	139.25
Level 9	55.8	62	56.58
	451.7	483	443.56

3.5. The high concentration of employees within Level 9 is because of the significant majority of the Commercial Services workforce (in South Hams) are paid a spot salary within the Level 9 pay range.

3.6. The table below shows the current distribution of the shared workforce by activity area.

Activity/ Area	FTE Budget	FTE Actual
Exec Director	2	1
AONB	5.3	5.4
Customer Contact	25.9	20.82
Support Desk	6.5	3.54
Localities	16	16.46
Customer First Specialists	58.2	60.14
Customer First Case Management	73	77.98
Commercial Services	184.8	177.66
Strategy & Commissioning Specialists	11.7	12.26
Strategy & Commissioning Case Management	6.5	7.31
Support Services Specialist	37.8	37.63
Support Services Case Management	24	23.36
	451.7	443.56

3.7. Since the implementation of T18, there has been movement of employees between the different activity areas and senior officers keep the distribution of resources under review and are able to use the greater flexibility built into the new operating model and employee terms and conditions of employment to make sure resources are allocated appropriately.

3.8. The T18 Closedown Report approved by South Hams Council on 14 June and by West Devon Council on 5 June 2018 identified that the reduction was mainly achieved through a voluntary redundancy programme that was put in place to reduce the need to make compulsory redundancies.

3.9. In total, 137 employees left the Councils' employment. This compared to 110 anticipated at the start of the Transformation Programme. The Councils experienced some resourcing challenges as rationalisation meant that some key skills were no longer available or limited during implementation. This led to the engagement of some transitional resources and the appointment of new employees to certain key roles that remained vacant after the T18 selection process.

3.10. The T18 Closedown Report also identified that in 2014/15, South Hams achieved £290,000 of T18 salary savings. In 2015/16 the salary savings achieved were £1.2 million. By 2016/17, the T18 salary savings realised totalled £2.54 million. The £2.54 million is an annual salary saving from 16/17 onwards.

3.11. In 2014/15, West Devon achieved £160,000 of T18 salary savings. In 2015/16 the salary savings achieved were £700,000. By 2016/17, the T18 salary savings realised totalled £1.385 million. The £1.385 million is an annual salary saving from 16/17 onwards.

3.12. The current Establishment at South Hams will be significantly reduced following the TUPE transfer of employees on 1 April 2019 as a consequence of awarding the new Waste contract.

Approval for new posts on the Establishment

3.13. A number of roles are currently filled on a temporary basis and following review of those roles, Council is asked to approve the transfer of the following temporary roles onto the Councils' permanent Establishment:

3.14. Table A shows posts that were outside of the T18 programme

3.15. Table B shows posts that were part of the T18 programme

3.16. Table C show an additional post that has been included in the 19/20 budget proposals.

Table A

Service Area / Role	Rationale	FTE
Commercial Services – Grounds Maintenance (SH roles only, WD not affected)	<p>There are currently five temporary roles in Grounds Maintenance (ES636, ES637, ES614, ES615, and ES616). Two of the roles are seasonal gardeners to meet the increased demand in the summer season and the remaining three roles are apprenticeships.</p> <p>Historically these posts have been filled by agency workers however this is not a long-term solution and is a more expensive option.</p> <p>The two gardener roles will remain seasonal and we will continue to bring in apprentices as the incumbent apprentices complete their qualification</p>	5 FTE

	<p><u>Funding and Risk</u> This report requests that these posts are added to the establishment as there will be no increase in overall cost to the Councils (the agency budget would be reduced and the Salaries budget increased). Apprenticeships are short term and therefore they do not attract the same contractual rights as permanent employees.</p>	
	Total posts proposed to add to establishment	5.0 FTE

Table B

Service Area / Role	Rationale	FTE
Customer First – Case Management Export Licences (SH role only. WD not affected)	<p>This post is currently filled by an employee at Level 8 on a fixed term contract to administer the Export License service and other environmental health case management functions within the Environmental Health function.</p> <p><u>Funding and Risk</u> This post is funded by the revenue generated by charging customers for the export license. Members are asked to add the role to the permanent establishment. This will enable the Council to offer a permanent contract to the post holder and reduce the risk of losing their experience and skills to more secure employment.</p> <p>In the event of the funding ending, the post holder is entitled to the same contractual rights as permanent employees and therefore the financial risk to the Council is not increased.</p>	1 FTE
Customer First – Assets	<p>Assets Specialist This temporary post is managing the re-negotiation of commercial leases for the Councils’ property estate.</p> <p>The successful re-negotiation of leases has generated recurring additional income and further recurring income will be</p>	1 FTE

	<p>generated from the re-negotiation of further commercial contracts</p> <p>Assets Case Manager To support the work of the Assets Specialists, Two part-time Case Managers have also been providing temporary support (total 1.1FTE). Of this, 0.4 FTE budget is already available within post CF412, therefore 0.7 FTE is required to be funded from the additional income generated from re-negotiating commercial contracts.</p> <p><u>Funding and Risk</u> Transferring these posts to the permanent establishment will ensure that we have the right resources to ensure leases are regularly reviewed. As such the additional income received from the renegotiated leases will fund these posts in the future with no additional pressure on the budget.</p>	0.7 FTE
Customer First – Case Management	<p><u>Disabled Facilities Grants</u> We currently employ 1.5 Level 7 FTE temporary resource to support Disabled Facilities Grants schemes.</p> <p>It is anticipated that this work will increase over the two next financial years and funding is available through the Better Care Fund.</p> <p><u>Funding and Risk</u> The funding for these posts would be from the Better Care Fund which is to continue in the future.</p> <p>In the event of the funding ending, these post holders are entitled to the same contractual rights as permanent employees and therefore the financial risk to the Council is not increased.</p>	1.5 FTE
Customer First – Case Management (Housing)	<p><u>Devon Home Choice</u> We currently employ 0.8 FTE temporary resource at Level 8 to manage the Council housing responsibilities through Devon Home Choice. This is a statutory responsibility and there is therefore a</p>	0.8 FTE

	<p>continuing requirement that the Council will need to resource.</p> <p><u>Funding and Risk</u> The funding for these posts is from Young Person's funding.</p> <p>In the event of the funding ending, the post holder would already be entitled to the same contractual rights as permanent employees and therefore the financial risk to the Council is not increased.</p>	
	Total posts proposed to add to establishment	5.0 FTE

Table C

Service Area / Role	Rationale	FTE
Customer First – Development Management	<p>As a result of a review into the team's capacity, the need for an additional L5 specialist has been identified to meet predicted work levels and improve customer satisfaction with the service.</p> <p><u>Funding and risk</u> The post will be funded by planning income and is included in the budget proposals presently under consideration by Council.</p>	1.0FTE
	Total posts proposed to add to establishment	1.0 FTE

Interim Senior Leadership arrangements

3.17. Following the resignation of the former Executive Director in February 2018, Council approved interim senior management arrangements, including additional responsibilities for three members of ELT, until May 2019. The interim arrangements were reviewed on 1 November 2018 and were found to be fulfilling the responsibilities required.

3.18. The Review Panel, consisting of the Leaders of each Council and senior Members recommend that the previous structure incorporating two Executive Directors be replaced with a Chief Executive officer. The Panel further recommends that the

remaining incumbent Executive Director, Mrs Sophie Hosking, is appointed to the role of Chief Executive.

- 3.19. The Panel recommends that once in post, the Chief Executive brings forward a proposed new senior leadership structure that builds upon the recommendations of the Peer Review and will be along the lines of:
- i. Director of Customer Service and Delivery
 - ii. Director of Place and Enterprise
 - iii. Director of Governance
 - iv. Director of Strategic Finance
- 3.20. The proposed new senior leadership structure will be further developed in consultation with senior officers and Members to determine the allocation of responsibilities and delegated authority and a report brought to Council within 6 months of the Council elections due to be held in May 2019 and prior to the appointment of candidates to the new senior leadership team.
- 3.21. The Review Panel also recommends that the Group Manager for Customer First and Support Services be retitled Interim Deputy Chief Executive to reflect the additional responsibilities being undertaken.
- 3.22. The impact of any restructure will be almost entirely limited to the Senior and Extended Leadership Teams and to where particular functions are positioned within the organisation.
- 3.23. The Review Panel also agreed to accept an offer of fully funded consultancy time from the Local Government Association to support a review of a permanent new senior leadership structure, including remuneration, and to commission further external support as necessary. The review will be widened to consider the structure for ELT. Members of the current ELT have been asked for their views on a new leadership structure that will inform the review.

Steadier State Review

- 3.24. In October 2018, a review of the current staffing arrangements was undertaken in conjunction with the ELT. The purpose of the review was to examine how the staffing structure had evolved since T18 and to make sure we had the right number of roles in the right activity areas and paid at the right level.
- 3.25. The 'steadier state' review involved ELT and line managers presenting a business case to the HR Panel (consisting of the Head of Paid Service and two others members of SLT) to support any proposed changes. Individual employees were also afforded the opportunity to present a case for re-grading.

- 3.26. As a result of the Steadier State Review a small number of changes were agreed within the existing staffing budget.
- 3.27. SLT also took the opportunity to realign some service areas within the Councils' structure in light of the decision not to set up a wholly owned company. This led to the transfer of line management reporting responsibilities for Member Services, Elections and Communications to the Support Services Specialist Manager and the transfer of the supporting case management team into the Customer First structure.
- 3.28. The HR Panel continues to evaluate requests from managers to make changes within the budget to the staffing structures, such as the transfer of funding from one post to another or re-grade a particular role because of a change in responsibilities and/or duties.

New approach to staff appraisals

- 3.29. Following a review by iESE and in line with emerging best practice, the annual appraisal scheme was reviewed and is being replaced with a regular 1:1 discussion between employees and the appropriate manager.
- 3.30. This reflects the matrix management approach adopted since T18 and enables employees to have structured discussions with the right managers. For example, a Specialist will have discussions about professional issues with the Community of Practice Lead Specialist but will have discussions about career development with the Specialist Manager. The matrix management approach has been successful and has developed naturally as employees understand the management arrangements.
- 3.31. The new approach to staff performance management is known as 'Personal Continual Improvement (PCI)' and is designed to allow staff to raise issues about health and well-being, career progression, make suggestions for continual improvement in service delivery. The PCI is also the opportunity to discuss progress against targets and discuss and mitigate any barrier to meeting objectives and agreed delivery outcomes. The objective of the PCI discussions is to help employees make a positive impact.
- 3.32. The Head of Human Resources Practice will monitor the impact of PCI and make an initial report to SLT in April 2019.

New pay and grading scheme

- 3.33. The 2016/2017 national pay negotiations resulted in the adoption of a new National Joint Council pay spine. The new structure sought to address the impact of the increasing national living wage on the bottom points of the national pay spine and also consolidated some current pay points to new single point to

address inconsistencies in the financial progression between spinal column points. The national agreement also awarded a 2% pay increase across all pay points, with further 'bottom loading' to give additional increases to staff employed at the lower spinal pay points.

3.34. As a result, the Councils' have migrated its existing pay and grading structure to the new national pay spine. This has been achieved without adding significant costs to the overall budget and without adversely affecting any individual employee. The proposal has the support of the recognised trade unions. The new pay structure will come into effect from 1 April 2019.

3.35. The proposed new pay and grading structure is shown at Appendix 1.

4. Proposed Way Forward

4.1. Senior Officers will continue to keep the Establishment under review and make sure employees and resources are allocated flexibly and in response to Council priorities, fluctuations in demand and to deliver new commercial opportunities.

4.2. The new operating model implemented as part of T18 provide greater opportunity for the flexible deployment of employees and resources. This enables officers to mitigate risks to specific service areas during periods of heightened demand or system failure and to meet changes in Council priorities.

5. Implications

Implications	Relevant to proposals Y/N	
Legal/Governance		An increase in the Council's Establishment requires the approval of Council. The Report is brought before the Council under the provisions of the Local Government and Housing Act 1989 which requires the Head of Paid Service to bring a report to Council (where she considers to appropriate) to consider proposals on the number and grade of staff required by the Council to discharge its functions.
Financial		The report identifies in paragraph 3.13 the source of funding for the additional roles to be added to the Establishment.

		The roles are funded from within existing funding sources and therefore do not impact negatively on the Councils MTFS
Risk		The transfer of the identified roles onto the Establishment will reduce the risk of being unable to attract and retain appropriate employees to deliver the services because the offer of a permanent role is more attractive to employees seeking security. Additionally it is important to note that when temporary employees complete 2 years' service with the Council, they are entitled to the same benefits around redundancy etc.
Comprehensive Impact Assessment Implications		
Equality and Diversity		There are no Equality and Diversity implications.
Safeguarding		There are no Safeguarding implications.
Community Safety, Crime and Disorder		There is no potential positive or negative impact on crime and disorder reduction.
Health, Safety and Wellbeing		There are no significant implications for Health, Safety and Wellbeing
Other implications		There are no other implications

Supporting Information

Appendices:

Appendix 1: New pay and structure

Background Papers:

Local Government and Housing Act 1989

T18 Closedown Report to Council – O & S.112/17c (South Hams), Hub HC8 (West Devon)

	SPINAL COLUMN POINT 2018-2019 (WEF 01/04/2018)			SPINAL COLUMN POINTS 2019-2020 (WEF 01/04/2019)				
	SCP	ANNUAL SALARY	MONTHLY RATE	HOURLY RATE	SCP	ANNUAL SALARY	MONTHLY RATE	HOURLY RATE
Scale 1	6	16,394	1366.17	8.50	1	17,364	1447.00	9.00
	7	16,495	1374.58	8.55				
	8	16,626	1385.50	8.62				
	9	16,755	1396.25	8.68				
	10	16,863	1405.25	8.74				
9	11	17,007	1417.25	8.82	3	18,065	1505.42	9.36
	12	17,173	1431.08	8.90				
	13	17,391	1449.25	9.01				
	14	17,681	1473.42	9.16				
	15	17,972	1497.67	9.32				
8	16	18,319	1526.58	9.50	6	19,171	1597.58	9.94
	17	18,672	1556.00	9.68				
	18	18,870	1572.50	9.78				
	19	19,446	1620.50	10.08				
	20	19,819	1651.58	10.27				
7	21	20,541	1711.75	10.65	11	21,166	1763.83	10.97
	22	21,074	1756.17	10.92				
	23	21,693	1807.75	11.24				
	24	22,401	1866.75	11.61				
	25	23,111	1925.92	11.98				
6	26	23,866	1988.83	12.37	18	24,313	2026.08	12.60
	27	24,657	2054.75	12.78				
	28	25,463	2121.92	13.20				
	29	26,470	2205.83	13.72				
	30	27,358	2279.83	14.18				
N/A	31	28,221	2351.75	14.63	25	28,785	2398.75	14.92
	32	29,055	2421.25	15.06				
	33	29,909	2492.42	15.50				
	34	30,756	2563.00	15.94				
	35	31,401	2616.75	16.28				
5	36	32,233	2686.08	16.71	30	32,878	2739.83	17.04
	37	33,136	2761.33	17.18				
	38	34,106	2842.17	17.68				
	39	35,229	2935.75	18.26				
	40	36,153	3012.75	18.74				
4	41	37,107	3092.25	19.23	35	37,849	3154.08	19.62
	42	38,052	3171.00	19.72				
	43	39,002	3250.17	20.22				
	44	39,961	3330.08	20.71				
	45	40,858	3404.83	21.18				
N/A	46	41,846	3487.17	21.69	40	42,683	3556.92	22.12
	47	42,806	3567.17	22.19				
	48	43,757	3646.42	22.68				
	49	44,967	3747.25	23.31				
	50	45,812	3817.69	23.75				
3	51	46,964	3913.66	24.34	45	47,903	3991.94	24.83

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Report to: **Council**

Date: **12 February 2019**

Title: **Peer Challenge Report**

Portfolio Area: **Leader of the Council**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Author: Neil Hawke Role: **Support Services Specialist Manager**

Contact: **01803 861323** neil.hawke@swdevon.gov.uk

RECOMMENDATION

- 1. That Council endorses the recommendations set out in the Peer Challenge report attached as Appendix A;**
- 2. That Council agrees to form a Member/Officer Working Group, jointly with South Hams District Council, with delegated authority being given to the Leader of the Council to nominate the Member representatives for West Devon Borough Council; and**
- 3. That the draft action plan be presented to Hub Committee for approval at its meeting on 19 March 2019 with responsibility for the ongoing monitoring of progress against the action plan being allocated to the Overview and Scrutiny Committee.**

1. Executive summary

- 1.1 All Councils are able to access a fully funded sector-led Corporate Peer Challenge every 4 to 5 years.
- 1.2 The Council requested that the Local Government Association ("LGA") undertake a Peer Challenge of West Devon Borough

Council and South Hams District Council in order to identify their strengths and any areas for improvement.

- 1.3 A team from the LGA spent 4 days on site during November 2018 during which time they spoke to more than 115 people including Council staff Councillors, external partners and stakeholders.
- 1.4 The week concluded with the Peer Team presenting their initial findings to Councillors and staff.
- 1.5 This report sets out a summary of the Peer Team's findings and sets out what happens next with regard to developing an action plan for considering and implementing the Peer Team's recommendations.

2. Background

- 2.1 The Council last commissioned an LGA Peer Challenge in October 2012 prior to the implementation of the current operating model (known as T18).
- 2.2 Corporate Peer Challenges are fully funded and have been designed to assist the continuous improvement approach adopted across local government. The Peer Challenge programme is sector-led (delivered by local government colleagues and Members from other local authorities).
- 2.3 It is recommended that councils undertake a Peer Challenge every 4-5 years. As the Councils' new operating model has been implemented and embedded over the last four years, now was the right time to commission a Peer Challenge.
- 2.4 As the Council shares services with South Hams District Council, the Peer Challenge was a joint review but with individual recommendations for the Governance and Political element of the Council.
- 2.5 The Peer Challenge core components are:-
 - 2.5.1 Understanding of the local place and priority setting
 - 2.5.2 Leadership of Place
 - 2.5.3 Organisational leadership and governance
 - 2.5.4 Financial planning and viability
 - 2.5.5 Capacity to deliver
- 2.6 In addition to the core components, we specifically asked the Peer Challenge to focus on:
 - 2.6.1 Options to secure the financial sustainability of the two Councils
 - 2.6.2 Resource pressures for both Councils and the implication for the delivery of non-statutory services
 - 2.6.3 Proposed plans for investment and commercial delivery
 - 2.6.4 The extent to which the Council has embraced the use of e-technology
 - 2.6.5 Ability to deliver economic growth and housing
 - 2.6.6 Working arrangements of elected Members across the two Councils and how these may be improved

- 2.7 Ahead of the Peer Challenge, the Council provided the Peer Team with a self-assessment of our current position which contained key facts, figures and background information for both Councils.
- 2.8 During the 4 days on site, the Peer Challenge Team met with more than 115 stakeholders including:
- Elected Members
 - Staff & the Leadership Team
 - Town and Parish Councils
 - Partner organisations
 - Members of the public
- 2.9 Overall, 260 hours of interviews and assessment have been brought together into a report setting out the Peer Challenge Team's findings and recommendations (Appendix A – Peer Challenge Report).

3 Options available and consideration of risk.

- 3.1 The Peer Challenge Report provides a positive endorsement of the resilience and dedication of Members and Officers in implementing the current operating model. It also highlights exemplar pieces of work such as the Joint Local Plan and the recent Leisure and Waste procurements.
- 3.2 The Report does set out a number of observations and recommendations for the Council to consider.
- 3.2.1 Ensure there is both sufficient strategic capacity and direction to enable the Councils to effectively plan for and deliver their aspirations into the medium term
- 3.2.2 Strengthen the Councils' political governance arrangements
- 3.2.3 Ensure there is a continued organisational focus on achieving financial sustainability
- 3.2.4 Prepare a viable accommodation strategy for future service delivery
- 3.2.5 Clarify partnership priorities and seek to strengthen key sub-regional partnerships
- 3.2.6 Clarify what new IT solutions are required for the future
- 3.3 It is important to note that the Council is already taking steps to implement actions which will address many of the Peer Team's recommendations:
- 3.3.1 A review of the Senior Leadership and Extended Leadership structure has commenced with the intention that a revised structure is implemented within 6 months of the new Council
- 3.3.2 The Council is already developing Corporate Theme delivery plans with drafts being considered at Member workshops in February and the final plans being considered in May/June 2019

- 3.3.3 A robust Member induction programme has been approved, with ongoing Member training and support being a core focus
- 3.3.4 Accommodation Strategy proposals for the Council are being developed for consideration by the Hub Committee in March 2019
- 3.3.5 Project plan for the future IT platform is in development with an external assessment of requirements due to be undertaken in March 2019
- 3.4 In addition to the recommendations above, the Peer Review report clearly sets out that restarting joint working between the two Councils should be a focus for the coming months. As the Peer Review was a joint report, with some joint recommendations, it is recommended that a joint Member and officer group develops a detailed action plan for approval by each Council and with ongoing monitoring by the Overview & Scrutiny function.
- 3.5 It is proposed that the Group includes provision for six elected Members (three Members from each Council) and, in the event of South Hams District Council also approving this proposal at its meeting on 21 February 2019, it is then recommended that the Leader of Council be given delegated authority to nominate the Council's three Member representatives

4 Proposed Way Forward

- 4.1 To develop a joint action plan with South Hams District Council to address the recommendations of the Peer Challenge Team for consideration by the Hub Committee in March 2019 through a joint working group of Members and officers.
- 4.2 Provide quarterly update reports on progress against the action plan to the Overview and Scrutiny Committee.
- 4.3 Arrange an LGA Peer review follow up visit to take place, no later than the end of 2020 to assess progress made against the recommendations in the Peer Challenge Report.

5. Implications

Implications	Relevant to proposals Y/N	
Legal/Governance	Y	There are no direct legal implications to this report but any Constitutional changes that are proposed in the action plan will be brought back to Members.
Financial	N	There are no direct financial implications to this report.

Risk	Y	<ol style="list-style-type: none"> 1. That the report is not adequately considered to assist in our continuous improvement activities <ol style="list-style-type: none"> a. Sufficient time needs to be provided to enable consideration of the recommendations and develop an action plan 2. The process is not considered to have been worthwhile <ol style="list-style-type: none"> a. Follow up with all individuals that took part in the process and share the recommendations with them b. Public engagement through press release with key findings c. Ensure resulting action plan also made publically available 3. Insufficient resources to deliver action plan <ol style="list-style-type: none"> a. Prioritisation of resources through programme board / SLT
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	None
Safeguarding	N	None
Community Safety, Crime and Disorder	N	None
Health, Safety and Wellbeing	N	None
Other implications	N	None

Supporting Information

Appendix A – Peer Challenge report and recommendations

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Corporate Peer Challenge **South Hams District Council and West Devon Borough Council**

27 – 30 November 2018

Feedback Report

1. Executive Summary

South Hams and West Devon councils have been characterised by their energy and creativity, promoted by the political commitment to drive change. The decision to work together, beginning in 2007 with a shared Chief Executive, is one of the earliest examples in local government and was consolidated by the move to a shared management team and services in place by 2012. The record of shared working and services provides annual savings of more than £6m across both councils.

The councils' transformation programme T18 – transformation 2018 – was bold and required firm political leadership. It has secured the councils' immediate financial future with essential savings of £1.5m at West Devon and £2.93m per year at South Hams. The programme of change, running from 2013 to 2018, involved huge upheaval and, as expected, a dip in performance in some areas as new approaches were implemented, but now performance in key areas has recovered and continues on an upward trend.

In addition to the savings achieved, T18 has led to a more agile organisation, with morale having turned the corner – the latter confirmed by improving staff survey trends over the last 3 years. It has contributed towards improving service performance through re-mapping business processes. It is to the credit of the head of paid service and the senior leadership team (SLT) that they have steered this organisational transformation, during a difficult period, to achieve the original objectives set, and to create the springboard for the future.

Both councils recognise they need to plan for the next phase of change but, at the moment, this is proving difficult to progress. Senior members need to take the initiative, working with the advice and support of SLT, to develop a future vision. This will need to be ready shortly after May 2019, when all-out elections at both councils will produce new council administrations for the four years to 2023. The vision will set the direction for the next phase of the councils' shared working.

Bringing members from both councils together, to start laying the groundworks for the new vision, is vital and the best vehicle for this would be a version of the former Joint Steering Group. In 2017 the councils worked up outline proposals to join together as one council. In October 2017 South Hams voted for the proposal and West Devon against. This led to, what is acknowledged to be, a period of strained relations between members of the two councils and the end to meetings of the Joint Steering Group. As a result joint working has stalled at a senior member level as illustrated by work on the revised corporate strategy which failed to gain full member commitment and support. Reconvening a version of the Joint Steering Group, with senior officer support, will be essential to begin work on a proposed vision, in readiness for the May 2019 elections, so that the new administrations can move with confidence and assurance in the new direction set.

In common with many other local authorities, both councils continue to have financial pressures with South Hams facing a cumulative gap of £1.8m and West Devon £724k by 2023-24¹. Although this is challenging, and will require sustained focus, it certainly is not

¹ This was the position at September 2018 are set out in the councils' Medium Term Financial Strategies.

parlous and the councils have a number of options available that should guide them to a more secure and sustainable financial future. These include the savings projected from the recent leisure contract, proposals for the waste and recycling contract and income generation from investment in property. Members will have an important role to play to ensure that the councils' savings programme delivers a sustainable future.

The councils need to review the senior management structure to ensure it is fit for the future and to fill gaps in capacity in priority areas. The current structure reflects previous plans to develop a hard client/ contractor split, which were not pursued. This will need to be looked at again to provide clarity and ensure the councils have the leadership and skills they need to deliver against their new corporate strategy priorities.

In reviewing the senior structure the councils need to consider whether to re-establish the position of chief executive. T18 and the commissioning model proposed two executive directors, one of whom left in early 2018. The councils have continued to operate effectively with the remaining executive director acting as head of paid service. The intention is that this be reviewed, along with the senior management structure, in 2019. The peer team recommend that the councils consider the option of reverting back to the chief executive model.

There is a strengthened relationship with Plymouth City Council (PCC). The success of the two councils, with PCC, to produce the Plymouth and South West Devon Joint Local Plan (JLP), in less than 3 years is a remarkable achievement. It provides a powerful demonstration of the benefits of effective partnership working. The relationship with PCC provides an important platform for future growth that can also be built on for mutual benefit. Other external partners are encouraging the councils to work more with them to lever and harness resources for mutual benefit and to deliver shared priorities.

Ensuring that residents are able to easily access the services they need, including through streamlined on-line processes, is important. The councils have recently undertaken a benchmarking exercise to test the customer experience and are committed to ensuring a stronger customer focus in the next phase of transformation.

2. Key recommendations

There are a range of suggestions and observations within the main section of the report that will inform some 'quick wins' and practical actions, in addition to the conversations onsite, many of which provided ideas and examples of practice from other organisations. The following are the peer team's key recommendations to the councils:

- 1. Ensure there is both sufficient strategic capacity and direction to enable the councils to effectively plan for and deliver their aspirations into the medium-term. Specifically to:**
 - a. Initiate member/officer arrangements to agree the building blocks for a new councils' vision from May 2019.** Setting aside current member relationship issues will enable the councils to consider the next phase of shared work and to pass on proposals to the new councils' administrations after all-out elections in May 2019.

- b. **Link the work on the new vision to a refresh of corporate and business planning arrangements.** Corporate planning is essential to set out a vision and a strategy and the means to achieve this. It enables resources to be aligned to objectives and provides clarity for members and staff on what the councils are working towards
 - c. **Reconvene the Joint Steering Group** to provide strategic political direction and oversight for the two councils.
 - d. **Consider the appointment of a new post of Chief Executive**, instead of the current two Executive Directors model, to provide the managerial leadership to drive through the next phase of the councils' strategic plans and operating model.
2. **Strengthen the councils' political governance arrangements.** This report describes how current practices are adversely affecting decision-making, backbencher engagement, group management and relationships between members and officers.
 3. **Ensure a continued organisational focus on achieving financial sustainability.** The councils have a challenging financial two year period ahead in 2019-20 and 2020-21. Both councils - members and staff - will need to maintain focus and further define detailed savings plans and implement them effectively in order to achieve longer-term financial sustainability.
 4. **Prepare a viable future accommodation strategy.** In the short-term this should investigate the disposal and the alternative use value of both councils' headquarters and test with members the desire for greater use of shared accommodation and a reduction in member-only accommodation. In the longer-term consideration should be given to the councils moving to a new purpose-built shared accommodation. This could assist the councils' finances and make a powerful statement in terms of working together.
 5. **Clarify partnership priorities and seek to strengthen key sub-regional partnerships.** The councils have not surprisingly concentrated on the internal change programmes that have demanded attention. Now is the moment to re-engage with partnership working to leverage additional capacity to deliver on councils' and partners' shared objectives. A partner strategy would map out potential partnerships and evaluate those that have most to offer.
 6. **It will be essential to ensure clarity on what the new IT is expected to provide and confidence that it will deliver this.** It will be vital that a thorough assessment is undertaken as to what IT is retained and what new IT will be required to complement this. This will require a clear understanding of what the priorities are for the councils, for example case management, customer care, the extension of 'channel shift', mobile working and the needs of members etc.

3. Summary of the Peer Challenge approach

The peer team

Peer challenges are delivered by experienced elected member and officer peers. The make-up of the peer team reflected your requirements and the focus of the peer

challenge. Peers were selected on the basis of their relevant experience and expertise and agreed with you. The peers who delivered the peer challenge at South Hams and West Devon were:

- Alan Goodrum, former Chief Executive of Chiltern and South Bucks Councils
- Councillor Michelle Lowe, Deputy Leader, Sevenoaks District Council
- Councillor Paul Middlebrough, Wychavon District Council
- Sue Nelson, Service Director, Revenues, Benefits and Customer Services, Luton Borough Council
- Andy Wood, Projects Director, Exeter and East Devon Growth Point Team, East Devon District Council
- Clive Mason, Head of Resources (including Chief Financial Officer), Huntingdonshire District Council
- Emma Cooper, Senior Transformation Advisor, Cambridgeshire County Council and National Graduate Development Programme (NGDP)
- Andrew Winfield, Peer Challenge Manager, LGA.

Scope and focus

The peer team considered the following five questions which form the core components looked at by all Corporate Peer Challenges cover. These are the areas we believe are critical to councils' performance and improvement:

1. Understanding of the local place and priority setting: Does the council understand its local context and place and use that to inform a clear vision and set of priorities?
2. Leadership of Place: Does the council provide effective leadership of place through its elected members, officers and constructive relationships and partnerships with external stakeholders?
3. Organisational leadership and governance: Is there effective political and managerial leadership supported by good governance and decision-making arrangements that respond to key challenges and enable change and transformation to be implemented?
4. Financial planning and viability: Does the council have a financial plan in place to ensure long term viability and is there evidence that it is being implemented successfully?
5. Capacity to deliver: Is organisational capacity aligned with priorities and does the council influence, enable and leverage external capacity to focus on agreed outcomes?

In addition to these questions, you asked the peer team to consider/review/provide feedback on the:

- various options to secure the financial sustainability of the two councils

- resource pressures for both councils and the implication for the delivery of non-statutory services and how the councils may manage this in the future?
- proposed plans for investment and commercial delivery across both councils
- extent that organisational change has embraced the use of e-technology across the two councils
- priority of both councils for economic growth and housing and their ability to deliver on this. In particular to consider the opportunities for West Devon which is constrained by 45 per cent of land in the area forms part of Dartmoor National Park.
- working arrangements of elected members across the two councils and how these may be improved.

The peer challenge process

It is important to stress that this was not an inspection. Peer challenges are improvement focused and tailored to meet individual councils' needs. They are designed to complement and add value to a council's own performance and improvement. The process is not designed to provide an in-depth or technical assessment of plans and proposals. The peer team used their experience and knowledge of local government to reflect on the information presented to them by people they met, things they saw and material that they read.

The current LGA sector-led improvement support offer includes an expectation that all councils will have a Corporate Peer Challenge every 4 to 5 years. South Hams and West Devon councils had a Corporate Peer Challenge in 2012. Where relevant to do so, findings from that previous peer challenge have been referenced in this report.

The peer team prepared for the peer challenge by reviewing a range of documents and information in order to ensure they were familiar with the councils and the challenges it is facing. The team then spent 4 days onsite at South Hams and West Devon, during which they:

- spoke to more than 115 people including a range of council staff together with councillors and external partners and stakeholders.
- gathered information and views from more than 55 meetings and focus groups and additional research and reading.
- collectively spent more than 260 hours to determine their findings – the equivalent of one person spending more than 7 weeks at the two councils.

This report provides a summary of the peer team's findings. It builds on the feedback presentation provided by the peer team at the end of their on-site visit on 30 November 2018. In presenting feedback to you, they have done so as fellow local government officers and members, not professional consultants or inspectors. By its nature, the peer challenge is a snapshot in time. We appreciate that some of the feedback may be about things you are already addressing and progressing.

Feedback

3.1 Understanding of the local place and priority setting

South Hams and West Devon are both essentially rural areas located adjacent to the city of Plymouth. As is often the case for rural areas economic growth and housing are important and both areas have an ageing population with its own needs.

The councils use Devon County Council's (DCC) analysis of census data, along with other local data and intelligence, to identify local needs. This is used to inform the councils in the development of corporate priorities. In early 2018 the councils reviewed their priorities and produced new corporate strategies, each with the identical strategy themes of:

1. Council - delivering efficient and effective services
2. Homes - enabling homes that meet the needs of all
3. Enterprise - creating places for enterprise to thrive and business to grow
4. Communities - council and residents working together to create strong and empowered communities
5. Wellbeing - supporting positive, safe and healthy lifestyles and helping those most in need
6. Environment - protecting, conserving and enhancing our built and natural environment

This work is to be applauded but there is more to be done to confirm and then embed corporate planning to ensure agreed priorities drive councils' activity. For example, more work is needed – from political leaders and senior managers - to ensure fuller member engagement, and a stronger understanding, of the importance of corporate planning. The above work to recently refresh the councils' corporate plans had only limited member buy-in which has weakened its effectiveness by reducing the understanding of corporate priorities and progress on service planning.

A more detailed corporate strategy, with associated business plans, will be needed to direct activity and provide clarity on who does what. It will be important that this work is undertaken in advance of the elections in May 2019 and would benefit from being informed by: a resident's survey, the development of district profiles, work on priority themes, the development of key performance indicators (KPIs) and performance management arrangements. This should produce a strategy that sets out: objectives and outcomes for residents and businesses from service delivery; aligns resources to these objectives and outcomes; and specifies the means for measuring success.

Housing is a key strategic theme/priority for both councils with the ratio of average housing cost to average salaries being 13.3:1 in the South Hams and 10.7:1 in West Devon. There is a Community Housing Prospectus to secure the development of 90 homes in South Hams and 29 in West Devon over the next five year period, partly funded through the Community Housing Fund.

However, the peer team found that this priority lacks strategic direction and no structured means for delivering a longer-term housing programme. As a consequence activity may not always be directed to areas of priority and may be opportunistic rather

than strategic. It is recommended that a housing strategy be produced, in association with partners, to set out: housing need, delivery plans, funding, partner roles etc. so that this can be effectively addressed.

It will be important for both councils to demonstrate housing delivery because this will demonstrate a commitment to Homes England (HE) who are inclined to fund areas of need and with a record of delivery. This will be essential so as to increase the likelihood of future funding. HE is targeting housing areas with high ratios of average housing cost to average salaries, a criterion which South Hams and West Devon both meet.

It will be essential for both councils to be aware and open to emerging housing options. Housing is a government priority and nationally this is a fast-moving landscape. Both councils have given consideration to establishing a housing company but decided it was not necessary at this time. With the recent relaxation of the Housing Revenue Account (HRA) borrowing cap, and depending on the success in delivering the above community housing programme, the councils may choose to review this once they reach the threshold of building that would require a HRA². As outlined above the councils are recommended to develop a housing strategy that not only sets out future proposals but also draws together all the initiatives underway across the councils.

Economic growth is important to develop a higher value economy that will attract inward investment and provide opportunities for residents. Both councils have economic growth as a strategic theme/priority but we found no strategy to plan for the future economy, inward investment, skills development, land assembly, commercial use and investment etc. There are substantial employment allocations in the urban fringe area for example which, given the right approach, have the potential to support not just large-scale employment growth but also new and productive sectors in the economy. This would benefit residents but also the councils through the financial dividend from growth in terms of the uplift in the business rate base. The peer team recommend that an economic growth strategy be developed in association with partners, aligned to the Local Industrial Strategy, being prepared for the wider Heart of the South West area.

Both councils need to work closely with businesses that already operate in their areas as these form the basis for the current and future economy. There is always the potential for economic shocks - for example two large local businesses are both facing possible closure with high job losses (350 and 200) - and councils have a key role, along with other partners, in responding to and mitigating the impact of these. In a similar vein it is important that the councils maintain a continuing dialogue with the business sector so that they can be aware of those businesses seeking to expand and how they may be able to assist this.

Many of the partners we spoke with value working with the councils and want to be more engaged. Partnership working has suffered in recent years with the councils' internal focus understandably being on a massive change programme. It is now time to rebuild partnership working and to be clear on which partnerships derive the greatest value, leveraging the key themes and priorities the councils are setting to help determine this and then once confirmed, ensuring those most relevant receive appropriate resource commitment and contribute in the delivery of shared priorities.

² Councils can build up to 200 traditional social rented council homes outside of an HRA before government will require them to open an HRA for those homes.

One area that lends itself to this is the ageing population at South Hams and West Devon that will require increased strategic partnership working. The proportion of the population over 65 years around 24 per cent for both councils - significantly higher than the national average of 17 per cent. This will add future pressures on health, housing and care needs and reinforces the need to build on work with DCC and the Clinical Commissioning Group (CCG) on health and related matters.

3.2 Leadership of Place

South Hams and West Devon have worked together, with Plymouth City Council (PCC) to produce a Joint Local Plan (JLP) that provides a strategic framework to support growth delivery. The JLP is a clear demonstration of commitment to produce a spatial strategy to support delivery of the councils' ambitions for economic growth and housing. The success in producing this in under 3 years is a remarkable achievement and testament to the close working of the three councils. The JLP is expected to be adopted in spring 2019 and has gained £820k capacity funding from the Homes and Communities Agency (HCA).

Members and officers from South Hams and West Devon worked together with PCC to produce the JLP. The councils established effective governance arrangements involving a Joint Member Steering Group, a Joint Local Plan team and a Senior Management Team, along with close collaboration at officer level. The strength of these arrangements were key to ensure progress.

There is the opportunity to build on the achievement of the JLP and be involved in more joint work with PCC for the future delivery of housing and economic growth. An example of what is possible is provided by the current development of a new market town at Sherford which will provide a community and facilities for 12,000 people on completion with most of the development land being located in South Hams.

It will be important for the councils to develop such opportunities. The three councils share a travel to work area, a housing market and functioning economy that means a considerable overlap of interests with the prospect that joint working could offer considerable added value. This is already beginning with joint activity on the Urban Fringe and Local Plan teams but consideration could also be given to: shared strategies around economic growth and housing; sub-regional growth funding bids; joint arrangements around inward investment and shared resources, for example on shared specialist areas. The JLP provides an ideal foundation from which many more opportunities could be built on for the benefit of both councils and their residents.

It is important to recognise that South Hams and West Devon contribute a unique offer - coast, countryside, towns and villages full of character. Some members told the peer team that they perceive themselves to be junior partners to the JLP. However, it is clear that PCC see the two councils as essential partners who are important for Plymouth to enhance the overall inward investment offer. Evidence of this is provided by the JLP's Urban Fringe team focusing on delivering key strategic sites, including the 5,000 homes at Sherford and 2,000 homes at Woolwell. Both are important sites to accommodate Plymouth's housing growth and are mostly located within South Hams.

There is a lack of a longer-term political vision for the two councils which needs to be addressed. This may be attributable, in part, to the fall-out resulting from the collapse of the One Council proposal and deteriorating member relations across the two councils. It may also be due to some members feeling the councils' financial positions were so parlous that there was little the councils could do to manage the future. This perception held by some members is misplaced – although the financial pressures are challenging, they are certainly not insurmountable. The councils' members need to begin immediate work on the future vision, and use this as the basis to engage with residents and businesses on its proposals. In developing this officers will need to support members by setting out what this might look like, based on evidence of need, to inform the production of options.

The relationship with the Dartmoor National Park Authority (DNPA) has many strengths but further work is needed to gain improved outcomes from it. The peer team heard of good joint working where the three authorities had collaborated on the roll out of superfast broadband. However, while the team were also told of strong member relationships with the DNPA these were more distant for officers. The reasons for this were not clear but could be due to the inward looking working of the two councils in recent years and the effect on partnership. Given that 45 per cent of West Devon's area falling within the DNPA boundaries of responsibility, this is a principal relationship. This has meant that some of the key benefits that should be realised, for example working together on issues of shared importance such as housing, economic growth and tourism – the latter important with the park attracting 2m visitors a year - are not being fully exploited.

Adopting a more proactive approach with partners will have benefits across the piece. For example, we found that partnerships with the voluntary sector tend to be traditional in that they are generally grant-based rather than commissioned. More value could be gained by conducting a dialogue on what services the voluntary sector is able to offer and how well this matches what the councils require. The extent of alignment would indicate the levels of funding support the councils might then provide. Another example was provided by town and parish councils who felt that the relationship was somewhat one-sided. Some told the peer team that they were only asked to run services when the councils were considering closing them, instead of being involved in discussions early enough to effect real change.

3.3 Organisational leadership and governance

The councils will need to review the organisational structure to ensure it is fit for the future and to fill gaps in capacity in priority areas. The current structure reflects previous intentions to develop a hard client/ contractor split, which were not pursued.

In reviewing the senior structure the councils will need to consider whether to re-establish the position of chief executive. T18 and the commissioning model (now discarded) proposed two executive directors, one of whom left in 2018. The councils have continued to operate effectively with the remaining executive director who has managed a highly challenging T18 programme and provided strategic oversight of both councils. The peer team recommend that the councils consider the option of reverting back to the chief executive model as this would provide the:

- drive to work with senior elected members on the councils' future direction and to guide the organisation accordingly to deliver on the councils' priorities

- strategic managerial leadership that two councils require
- focus necessary to engage effectively with principal partners on matters of strategic importance and an identifiable lead for partners to engage with the councils.

The Senior Leadership Team (SLT) contains a strong set of skills and is regarded by staff as both approachable and empowering. It has led effectively the officer cadre through the challenging T18 programme and has been important to deliver financial savings required. Achieving the latter has involved the councils moving into new areas of activity, with SLT guidance, for example in acquiring a commercial property portfolio to generate new income streams.

At this stage of the councils' development the peer team felt there was a need for more political ambition combined with a clearer strategic direction. The work required to ensure the ownership of the new corporate strategy and the vision for the next phase of the councils' shared working, are examples of this. A key challenge, primarily to the councils' respective political leadership but also the SLT, is that they now need to jointly engage more effectively to prompt a dialogue on the ways and means they will work together for this ambition to be developed.

The Extended Leadership Team (ELT) is a forum with great potential that has not yet been harnessed fully. In order to gain maximum benefit from this group of experienced officers ELT need a clearer remit to ensure that additional strategic capacity is released and, equally, a clearer relationship with SLT to align officer leadership, drive and influence. To illustrate this ELT has no terms of reference and no clarity on: its role and purpose; its reporting relationship to SLT; and what outcomes are sought from its work. Recalibrating these relationships will ensure that ELT becomes more involved in strategic planning to take forward ideas and initiatives.

The councils have demonstrated effective leadership through fundamental organisational change which means they are now unrecognisable from what existed before. The T18 programme was radical in outlook and has influenced many similar change programmes in English local government. It has produced a positive change in culture through new agile working arrangements, the use of technology and an entirely new way for customer access and delivery shaped by the distinction between specialists and case workers. The remapping of business processes has contributed to service improvements, for example, decisions on planning applications within target times improved greatly from 2012 to 2018. Similarly the processing times for new housing benefits claims improved from 2015 to 2018.

A success from the new customer access arrangements has been the introduction of the Localities Team. Based in the community, these staff take on a wide range of activities that were previously spread across all service areas and were costly and time-consuming to deliver. These activities can be as diverse as playground safety inspections, investigating fly tipping incidents, assisting residents with benefit applications, putting up formal planning notices and educating people on waste and recycling issues. This model is capable of being developed further and could be rolled out with partners to support other agencies' work in the community.

After the initial implementation difficulties of T18 there is strong evidence of improving staff morale, shown in the improving trend in the staff survey over the last 3 years.

Agile working has been embraced by the workforce and is widely valued in offering flexibility, better outputs and savings. An example is last winter's 'Beast from the East' cold snap which saw the councils successfully continue working and managing a bad weather response by officer and member planning through home working and the use of Skype. There is certainly potential to build on T18 and this is acknowledged by officers who are preparing for IT upgrades with additional functionality and offering new ways of providing customer access. This will need to be built into future planning on corporate strategies and the future vision for the two councils' next phase of shared services.

Member working arrangements across the two councils have worsened since the proposal for joining together as One Council collapsed in 2017 and needs attention. This may be a contributory factor to the lack of member engagement in the corporate strategy and planning process mentioned above. The importance of this is acknowledged with 'political commitment for change' listed as the highest rated risk in the councils' corporate risk report. With both councils having elections in May 2019, it will be essential for tangible progress to be made to rebuild relationships to shape the future vision in readiness for the new administrations.

It will be important to reconvene a revised version of the Joint Steering Group. The collapse of the One Council proposal led these meetings to fall in abeyance and member relations across the two councils have reached a point where there is little enthusiasm to meet. It is the view of the peer team that this forum is essential to plot the future strategic direction of both councils and that urgent steps – by senior members and SLT - should be taken to reconvene this.

The waste, recycling and leisure outsourced working arrangements have been important to achieve financial savings. This work has been a model for how members from both councils worked effectively together to assemble these contracts – just as was done for the JLP. This was conducted thoroughly to specify contract documentation, service and financial outcomes and contract monitoring arrangements and is one model for member working across both councils that could be replicated to good effect.

There is more work to be done to ensure that members are fully equipped to undertake their roles as effectively as possible. A number of members the peer team met did not appear to be able to balance their responsibility for council-wide and ward representation. Clearly members have a strong sense for the wards they represent, but this should not mean that this should have primacy over or be of greater importance than a corporate perspective of what may be the best for the council and the wider area they represent. Often these may be the same but there will be occasions when ward interests need to be aligned to support broader council and 'place' interests. This will be a key area for development for both councils.

There are a number of issues involving members at both councils. These cover the West Devon Hub³, political group management and liaison with senior members and backbenchers. Some of these include:

³The Hub is a hybrid of the executive and the committee models.

- the Hub comprises members of different political groups on a proportional basis and it is not always clear where the decisions, accountability and constructive challenge occur.
- although it is unusual for Hub decisions to be overturned at Full Council it has happened on some key issues, for example charging for garden waste, proposed cuts in partnership funding and budget decisions. If members of the Hub are voting differently in the Hub to Full Council that points to an issue in making and sticking to difficult decisions and/or group discipline.
- political group meetings serve generally as preparation for council meetings and miss opportunities to discuss the development of medium- and longer-term political aspirations
- both sets of backbencher members felt excluded from decision-making
- the Leader of West Devon also currently chairs the Development Management and Licensing Committee. The Planning Advisory Service has already commented on the potential risks, from this for the council and the Leader, through involvement in the determination of planning applications.

These are areas that could be addressed by various means, including:

- work to strengthen group working arrangements and discipline
- the use of Policy Advisory Groups where backbenchers can be usefully involved in policy development
- review the councils' constitution on committee membership and chairing arrangements.

Equally important will be for both councils to have ready a thorough induction programme to equip members in new positions and new members with the skills and confidence to be most effective.

3.4 Financial planning and viability

It is to the credit of both councils that frontline services have been “protected in the main” since austerity in 2010. Like the rest of the sector the councils have experienced significant financial pressures from cuts to government funding.

The financial situation going forward is challenging, especially for 2019-20 and 2020-21. The cumulative financial gap for South Hams to 2023-24 is £1.83m and for West Devon it is £724k. (This was the position as at September 2018 as set out in the councils' Medium Term Financial Strategies.) Some members the team spoke with expressed the view that this situation is dire but in the view of the peer team this is misplaced. Both councils have options available to meet budget gaps and move towards a more sustainable financial future. The s.151 officer and her team have a good grip on the finances of both councils, including the provision of prudent strategic financial advice and regular monitoring reports to both councils. They are to be congratulated on guiding the councils' finances to this point. However, it will also be important to avoid complacency and ensure that financial self-sufficiency becomes the byword over the medium term and focus is maintained to achieve this.

To enable confidence to be restored in the councils' respective financial positions their savings plans would benefit from having more detail. The councils have a good track

record from which to build - both have embraced innovation and generated considerable savings through joint management and T18. Overall these programmes have generated savings of £6.1m per year. To meet on-going financial challenges it will be important that the councils' savings plans for 2019/20 and beyond are now firmed up, along with the allocation of responsibility as to who leads on which savings elements. The objective should be to gain confidence in achieving itemised savings so that these become budget commitments incorporated within the Medium Term Financial Strategy (MTFS). This will assist future financial planning.

There are a number of options the councils are developing to further ensure their financial viability. These include:

- rationalising office accommodation - significant savings could be achieved without threatening the councils' identities or autonomy. It is recommended that a detailed options business case be developed and that members make a decision on this.
- outsourced contracts are delivering important savings. Waste and recycling and leisure contracts both expect to achieve strong savings with the leisure projected to save the councils £41m (between South Hams and West Devon) over the course of a 25 year contract and waste and recycling around £424k per year for South Hams and £254k for West Devon
- developing new income streams, for example through rental income derived from commercial property.

It will be important to drive investments and commercial opportunities further to ensure that returns and objectives are maximised. There is an ambitious commercial investment programme that addresses local priorities and generates revenue income. The commercial borrowing cap has been set at £60m for South Hams and £35m for West Devon. West Devon's portfolio is expected to achieve an income of £190k this year and projected to deliver £400-450k per year at full capacity. South Hams already has a substantial property portfolio but has yet to make any commercial investment through its investment strategy; although potential options are being considered, including a 79 bedroom hotel, a supermarket at Ivybridge and the purchase of commercial land at Sherford. At capacity the projected yields are £700k per year. This highlights the opportunities of investing in the local area that both benefits the local economy and in generating an income.

There are some risks involved in commercial investment acquisitions and the councils are actively working to manage and mitigate these. In the future it may be worth considering a joint investment strategy, possibly in association with PCC, which could invest for housing and economic growth within the JLP as well as generating a revenue return. For example, the phase 2 business park development at Langage is part of an investment portfolio for PCC that is creating jobs and estate rent income. Most of Langage falls within the South Hams area.

It will be important to capitalise on the growth dividend that can be realised from major new housing and commercial developments, for example those at Sherford, Woolwell and Langage. Unquestionably the councils are in a strong position to gain from economic growth driven by the Plymouth economy with this framed by the JLP in terms of housing, jobs and site allocations. This will grow the council tax and business rates

base and will add to the funding received from New Homes Bonus (NHB) and whatever funding mechanism is devised to replace NHB after 2020.

3.5 Capacity to deliver

The two councils have managed a complex, difficult and challenging T18 programme. This has successfully achieved the financial savings proposed at the outset, introduced new technology and, with this, new ways of working for example agile working and a new approach to customer access to services.

Delivering this programme has involved effective leadership of change. The work of the head of paid service, SLT and ELT, working closely with members, has been pivotal to oversee the process and ensure the programme's success.

Staff are passionate and committed to delivering high-quality services. The resilience of staff especially has been evidenced by the organisational delivery of the T18 programme. However, most staff told us that capacity is not sufficiently adequate and that while the structure enables the re-deployment of resources where needed even this flexibility fails to cover the gaps in capacity. The organisational restructure should be informed by an audit of capacity pressure points so that these issues can be picked up.

The councils have been able to leverage service resilience through pragmatically sharing services where appropriate. This has helped to build capacity and/or deliver financial benefits. For example, there are arrangements with Teignbridge District Council for building control services and a shared procurement function. The councils are part of the Devon Audit Partnership for internal audit services and, as already mentioned, are partners with PCC on the JLP. In addition, West Devon is re-procuring its contract for waste and recycling and South Hams is in the process of procuring this service for the first time; and both councils are already in contracts for leisure and their IT platform and software. An example of the open approach to shared services is the recent initiative to provide the Disabled Facilities Grant (DFG) programme at Torridge District Council until April 2019.

The new forms of customer access set in place - 'channel shift' - have been a success and this is an area that can go further. For example, there has been a steady decline in the number of phone calls and reception visitors since 2013. Since 2015 there has been a huge increase in online transactions, which are much less resource intensive. However, access data – showing still sizable numbers of phone calls and reception visitors - suggests 'channel shift' can go still further to obtain financial savings.

Unfortunately, the new ways of working that underpin customer 'channel shift' are still experiencing difficulties and this should be addressed. The principles of adopting a case management approach, as embodied in T18, are sound, but in practice are still problematic. For example:

- non-ELT staff – both specialists and case managers – struggle to know where to go to get things done in the current structure (roles and responsibilities are unclear)
- in many cases the advance preparation of scripts to underpin case management were written from the staff point of view and not the customer's perspective

- a significant number of IT forms which appear online but do not link successfully to the back office, leading to double-keying and unnecessary additional staff interventions in the back office
- end-to-end services have not been mapped out and those that have may need revisiting
- the practice of case management is inconsistent across the organisation, in some areas it is more like process administration not case management at all
- the casework model was designed to deliver a holistic customer experience, but this is not consistently happening. The recent pilot in Revenues and Benefits - to facilitate better customer outcomes - is an example of this need being recognised and addressed.

Good progress has been made over the last 3 years with new forms of customer access which has helped to release some, but not enough, capacity. As a result key questions now need to be asked about switching off transactional services once they are fully accessible via the web, in order to realise the efficiency/capacity improvements that these methods of access were designed to deliver.

Customer communication and engagement are acknowledged by the councils as an area for development. Recent work to review customer satisfaction, and discussions with staff, reveal that information on cases is not regularly fed back to customers. This 'customer gap' is confirmed in the recent Institute of Customer Service benchmarking report. As a member of staff told the peer team, "we're miles away from understanding what the public want..." At the same time residents don't have a good awareness of what the councils do and are responsible for. Both councils are aware of these shortcomings and are prioritising actions to address this but further work could be done to flesh out existing action plans.

There is an expectation that resolving IT issues, particularly around the IT platform, will resolve most capacity issues but there is a lack of evidence to support this. The current contract ends in 2021 and the councils are thinking ahead to future arrangements. The T18 IT implementation programme has been reviewed, which identified learning points that should be valuable for the next round of IT procurement. Budget provision has been made of £150k in each council for 2020-21 and, in the absence of information on what IT was needed and what this may cost, the peer team felt this may be an underestimate and recommend that work be conducted to specify future requirements and costs so that budget provision can be amended if necessary.

Without an audit it is impossible to gauge what capacity needs might be met from new IT systems and ways of working and what from other interventions. The peer team's work suggests that there may be other issues affecting capacity; with these being around under-developed partnership working, current decision-making arrangements, the organisational structure and the current interim working arrangements.

4. Next steps

Immediate next steps

We appreciate the senior managerial and political leadership will want to reflect on these findings and suggestions in order to determine how the organisation wishes to take things forward.

As part of the peer challenge process, there is an offer of further activity to support this. The LGA is well placed to provide additional support, advice and guidance on a number of the areas for development and improvement and we would be happy to discuss this. Andy Bates, Principal Adviser is the main contact between your authority and the Local Government Association (LGA). His contact details are andy.bates@local.gov.uk

In the meantime we are keen to continue the relationship we have formed with the council throughout the peer challenge. We will endeavour to provide signposting to examples of practice and further information and guidance about the issues we have raised in this report to help inform ongoing consideration.

Follow up visit

The LGA Corporate Peer Challenge process includes a follow up visit. The purpose of the visit is to help the councils assess the impact of the peer challenge and demonstrate the progress it has made against the areas of improvement and development identified by the peer team. It is a lighter-touch version of the original visit and does not necessarily involve all members of the original peer team. The timing of the visit is determined by the councils. Our expectation is that it will occur within the next 2 years.

Next Corporate Peer Challenge

The current LGA sector-led improvement support offer includes an expectation that all councils will have a Corporate Peer Challenge or Finance Peer Review every 4 to 5 years. It is therefore anticipated that the councils will commission their next Peer Challenge before November 2023.

Examples of good practice

1. The production of the Joint Local Plan (JLP) in less than three years is a remarkable achievement. In many other parts of England such joint plans have taken much longer to deliver.

Achieving this is testimony to the commitment of resources by all councils to push on delivery. This has involved a JLP Working Group with active involvement from members from South Hams and West Devon councils.

2. T18 has been in the vanguard in providing a new model for local government service design and delivery. Driven by the imperative of financial savings this has redefined the working of both councils and, alongside shared services savings (achieved prior to 2014), has made savings of £6.1m per annum.

With aggregated net budgets for both councils of £16.3m per annum these are important and significant savings.

3. The work of members across two councils, working closely with officers, to prepare for contracting out leisure and waste and recycling has been exemplary. This is particularly so when member relationships have been strained. These have been successfully concluded and derived significant financial benefits at a time when both councils have challenging financial gaps to bridge. This is a model for future working across the two councils.
4. The Localities Service was a completely new customer access concept developed in 2015 as part of an overall transformation programme. The Localities team are responsible for activities previously carried out by a range of specialists from service areas across the two councils.

The support provided ranges from environmental health to planning, council tax/benefits to environmental services, from attending community engagement events to interacting with residents and parishes about the councils' services. This is important as there continues to be a need for face-to-face service delivery and it is more efficient, and better for customers, if this is delivered within the locality. The service adds value by:

- avoiding duplication
- increasing the councils' visibility in the community and improving the their reputation
- reducing travel and staff time costs
- reducing the workloads of specialists enabling them to concentrate on specialist work
- being the first point of contact for councillors to help resolve or progress local issues.

Report to: **Council**

Date: **12 February 2019**

Title: **Calendar of Meetings 2019/2020**

Portfolio Area: **Support Services – Cllr Sanders**

Wards Affected: **All**

Relevant Scrutiny Committee: **Overview and Scrutiny Committee**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: **Immediately**

Author: **Kathryn Trant** Specialist - Democratic Services

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RECOMMENDATION

That Council be RECOMMENDED that the Calendar of Meetings for 2019/2020 as presented at Appendix A be approved.

1. Executive summary

- 1.1 Each year, the Council is required to approve a calendar of meetings for the forthcoming year.

2. Background

- 2.1 The Constitution sets out requirements relating to the number and frequency of meetings of Council Bodies. In setting the calendar of meetings each year, the Council can ensure that these requirements are met. It also enables forward planning and avoids meeting clashes.

3. Outcomes/outputs

- 3.1 Set out at Appendix A is the draft calendar of meetings for 2019-20.
- 3.2 In drawing up the calendar of meetings, a number of parameters are set which include:
- Constitutional requirements which, for some bodies, sets the number and frequency of meetings to be held annually
 - The wishes of Members that Tuesdays are seen as Member days and therefore as many meetings as possible are arranged to take place on this day;
 - The wishes of Members to avoid formal meetings during school holidays where possible;

- The significant impact of the Borough Council elections in May 2019
- The wish of Members to ensure, where possible, two weeks between Overview and Scrutiny Committee dates and Hub Committee dates

3.3 It should be noted that the calendar only lists those meetings which can or need to be programmed (for constitutional, financial or other reasons). Meetings of other Council bodies such as task and finish groups arising from the work of the Overview and Scrutiny Committee can be programmed on an ad-hoc basis.

4. Options available and consideration of risk

4.1 By approving the calendar of meetings each year, the Council will avoid potential Member meeting clashes and ensure that the Constitutional requirements are provided for, and Members wishes, where possible, are taken into account.

5. Proposed Way Forward

5.1 Approval of the calendar of meetings will prevent meeting clashes and ensure that Constitutional requirements are met.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Statutory Powers – Local Government Act 1972
Financial	N	There are no direct financial implications
Risk	N	These are addressed in the report
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	Not applicable
Safeguarding	N	Not applicable
Community Safety, Crime and Disorder	N	Not applicable
Health, Safety and Wellbeing	N	Not applicable

Supporting Information

Appendix A

Calendar of meetings 2019/2020

WEST DEVON DRAFT CALENDAR OF MEETINGS 2019/20

Committee	May 19	June 19	July 19	Aug 19	Sept 19	Oct 19	Nov 19	Dec 19	Jan 20	Feb 20	Mar 20	Apr 20	May 20	June 20	July 20	Aug 20	Sept 20
WD Council May – 11am Others – 4.00pm	21		23		17			10		18	24		12		21		22
WD CTSP 10.00am										21							
WD Hub – all at 2.00pm		4	16		10		5	3	28		17	21		9	14		15
<i>WD Hub Agenda Bfg</i>			2	27		22	19		14		3	7	26	30			1
<i>WD Informal Hub</i>			2	27		22	19		14	25		7	19		23		8
WD O&S – all at 2pm		11	9		3	8*	19		14	25*		7	19*	23	16		1*
WD Audit		25 2.00pm	23 10.00			29 2.00pm			21 2.00pm		26 2.00pm			25 2.00pm	23 2.00pm		
Standards Cttee											10						
WD Reserve dates		3*	1		2*	7	4*	2*	6	3*	2	6*		1*	6		7
TRAINING DATES			30 (DM)		24		12			4 (DM)		21			7		8
<i>WD Planning Briefing at 10 am</i>	Th 23	18	16	20	17	15	12	10	21	18	17	14	19	16	14	18	15
WD Site Inspections	30	27	25	29	26	24	21		2/30	27	26	23	28	25	23	27	24
WD Planning Cttee – all at 10.00am		4	2/30		3	1/29	26		7	4	3/31	28		2/30	28		1/29

Notes:

WD Informal Council dates – would use selected WD Reserve dates shown with *

WD Hub Agenda Briefing/WD Informal Hub/WD Planning Briefing are all internal dates and will not be published on the website

* dates for O&S are programmed for between 4 and 6 weeks after quarter end to allow presentation of PIs, except Sept dates which are 10 weeks (to avoid August)

Planning Committee for WD at 4 weekly intervals except Christmas/New Year, Aug-Sept 19, half term June 20, Aug-Sept 20

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Report to: **Council**
Date: **12 February 2019**
Title: **Council Tax Reduction Scheme 2019/20**
Portfolio Area: **Health and Wellbeing – Cllr Leech**

Wards Affected: **all**

Relevant Scrutiny Committee: **Overview & Scrutiny Committee**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken:
(e.g. referral on of recommendation or implementation of substantive decision)

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Recommendations:

That the Council adopts a new 4 banded Council Tax Reduction Scheme ranging from 85% to 25% as set out in Appendix 1 for 2019/20 from 1 April 2019.

1. Executive summary

- 1.1 It is an annual requirement for Councils to revisit their existing council tax support scheme and make a decision as to whether to replace or revise it.
- 1.2 Council will recall that this report has been discussed in detail at Hub Committee on the 4th December 2018 and at the Q&A session for Members at Informal Council on the 7th January 2019.
- 1.3 In order to make changes to our Scheme for 2019/20 the Council is required by law to:
 - Consult with the major precepting authorities

- Consult with other persons as it considers are likely to have an interest in the operation of the Scheme.

The Authority undertook a comprehensive consultation from the 25th October 2018 - 20th December 2018, the Council received 14 responses, which is typical nationally of a consultation on this subject. Residents were engaged in a variety of ways including:

- On line
- E-mail
- Social Media
- A short film was also completed on social media to encourage participation.

Devon County Council have stated that they do not have any objections to a change to the Council Tax Support Scheme that is broadly cost neutral.

The final Council Tax Reduction Scheme must be adopted by Full Council, and cannot be delegated to an officer or Committee.

2. Background

2.1 Council Tax Support (CTS also known as Council Tax Reduction – CTR) was introduced in April 2013 and replaced the national Council Tax Benefit Scheme, with a 10% funding reduction. The CTR scheme for working-age customers is a local scheme, however the scheme that exists for pension age recipients is a national scheme prescribed by regulations and cannot be varied locally. Therefore any savings to the Scheme must come from working age customers.

2.2 Local Schemes must take account of:

- Support work incentives and in particular avoid disincentives for those moving into work
- Our duties to protect vulnerable people (these duties already exist under the Equality Act 2010, The Care Act 2014, Child Poverty Act 2010, The Housing Act 1996)
- The Armed Forces Covenant.

3. Outcomes/outputs

3.1 Since 2013/14, funding for Council Tax Reduction has been included within the overall local government funding grant. The Authority therefore decides how much funding is available to support the Council Tax Reduction Scheme.

3.2 The aim of the local Scheme is to be 'cost neutral'. By this we mean that the level of Government grant would equal forecasted Council Tax Reduction expenditure for 2019/20

3.3 Then following table sets out the annual expenditure and caseload:

	Total caseload	Working age caseload	Pension age caseload	Working age expenditure £	Pension age expenditure £	Total West Devon BC expenditure £
April 14	3,805	1,817	1,988	1,371,905	1,997,878	3,369,783
April 15	3,732	1,801	1,931	1,344,328	1,932,119	3,276,447
April 16	3,482	1,683	1,799	1,283,718	1,830,880	3,114,598
April 17	3,438	1,690	1,748	1,375,750	1,871,267	3,247,017
April 18	3,421	1,727	1,694	1,451,567	1,905,121	3,356,688
April 19 *	3,343	1,700	1,643	1,418,483	1,833,802	3,252,285

* Estimated figures taken from current modelling.

- 3.4 The slight increase in expenditure is mainly due to the level of increase in council tax for 2018/19.
- 3.5 Over the four years from 2016/17 to 2019/20, the Council's Government funding (Settlement Funding Assessment – SFA) received from Central Government will be reduced by 37% over the four years.
- 3.6 The proposed Scheme is a radical new scheme, adopted by only a handful of Councils nationwide so far, although lots more are likely to adopt a similar scheme in the near future. The Scheme has been developed to support our most vulnerable customers in the ever-changing landscape of welfare reform.
- 3.7 West Devon is now a full service area for Universal Credit, and our existing means tested Council Tax Support Scheme is no longer fit for purpose. As income fluctuates through Universal Credit, this triggers a new council tax bill to the customer – under the current scheme this could mean the customer getting a new bill each month. This does not allow people to budget effectively adding stress and pressure on those already managing on a low income. The simplified Scheme will only trigger a new bill if there is a significant change to someone's income. This Scheme offers increased transparency and is much easier to understand.
- 3.8 Hand in hand with this new proposed Scheme is the Council's existing Exceptional Hardship Fund. This discretionary funding pot is designed to safeguard our most vulnerable who are struggling financially. There is also access to the Money Advice contract for those who need assistance with debt or claiming appropriate benefits.
- 3.9 The main driver for the Council to change its Scheme is to protect our most vulnerable residents, and by introducing a new scheme soon after the introduction of Universal Credit demonstrates that the Council is responding to the needs of people in West Devon.

4. Consultation Results

4.1 14 residents responded to the consultation survey, which is a significant improvement on the previous consultation. It should be noted that 5 of those respondents did not answer all the questions, so the % will not always add up to 100%. Whilst the results suggest that the respondents wish to retain the existing scheme, a significant number of the proposed changes received positive responses.

4.2 An analysis of the responses shows that;

- 43% (6 respondents) felt that the Council should keep the current scheme.
- 36% (3 respondents) disagreed
- 14% (2 respondents) didn't know

- 44% (4 respondents) agreed with a banded scheme
- 56% (5 respondents) disagreed

- 56% (5 respondents) agreed with limiting the number of dependent children to two
- 33% (3 respondents) disagreed
- 11% (1 respondent) didn't know

- 44.5% (4 respondents) agreed with the removal of Non Dependants
- 44.5% (4 respondents) disagreed

- 78% (7 respondents) agreed to us changing the claiming process for all claimants in receipt of Universal Credit.
- 78% (7 respondents) agreed with disregarding carer's allowance.
- 56% (5 respondents) agreed to removing the current earnings disregard and replacing with £5, £10 and £20
- 67% (6 respondents) agreed with disregarding the support element of Universal credit
- 78% (7 respondents) agreed with disregarding the housing element of Universal Credit
- 67% (6 respondents) agreed with using Minimum Income Floor for self-employed.
- 67% (6 respondents) agreed with setting the minimum level of council tax reduction at £1 per week
- 56% (5 respondents) agreed to reduce the capital limit from the existing £16,000 to £6,000

- 33% (3 respondents) disagreed

A question that asked whether the Council should consider any options rather than the proposed changes to the Council Tax Reduction Scheme was answered as follows;

- Increase the level of Council Tax to cover the additional administration costs?
44.44% (4 respondents) agreed
44.44% (4 respondents) disagreed
- Find the additional administration costs by cutting other Council Services?
100% disagreed
- Use the Council's reserves?
44.44% (4 respondents) agreed
55.6% (5 respondents) disagreed

5. Proposed Way Forward

Option 1 – New banded scheme

- 5.1 Introduce the banded Scheme which will assess the maximum level of Council Tax Reduction based on the net income of the claimant and partner.
- 5.2 To keep the Scheme simple where a customer receives a "passport benefit" such as;
 - Income Support
 - Jobseekers Allowance (IB)
 - Employment Support Allowance (IR)

They will automatically receive maximum support by being placed in the top band of the Scheme.

5.3 Therefore the income bands that will be used in the Scheme are as follows;

Council Tax Reduction Level	Passported	Single Income Band Weekly £	Couples' Income Band Weekly £	Family with one child Weekly £	* Family + Weekly £
Band 1 – 85%	Relevant Benefit	0.00 - 75.00	0.00 – 115.00	0.00 - 200.00	0.00 - 335.00
Band 2 – 80%	N/A	75.01 – 110.00	115.01 – 150.00	200.01 – 235.00	335.01 – 370.00
Band 3 – 50%	N/A	110.01 – 160.00	150.01 – 200.00	235.01 – 285.00	370.01 – 420.00
Band 4 – 25%	N/A	160.01 – 205.00	200.01 – 245.00	285.01 – 330.00	420.01 – 465.00

***Based on family with 3 children (average family 2.4 children)**

5.4 Main features:-

5.4.1 In this Scheme as part of our ongoing commitment to support disabled people the council will continue to disregard Disability Living Allowance, Personal Independence Payments and War Disablement Benefits for the income used in the assessment of Council Tax Reduction and the council continue to disregard Child Benefit and Child Maintenance Payments.

5.4.2 Working-age households will receive a percentage discount, depending on their level of income. These income bands are set out as above. The higher end of the band limit is increased depending on the size of the household. The rates have been based on the increases to personal allowances premiums in the current means tested scheme.

5.4.3 The following is a summary of the main elements of our proposed working age Council Tax Reduction Scheme:

5.4.3.1 Working-age people will receive a percentage discount of either 85%, 65%, 45% or 25%, depending on the level of income and the income band they fall into.

- 5.4.3.2 Anyone with savings of £6,000 or more will not qualify unless they are in receipt of a “passport benefit.”
- 5.4.3.3 Those in receipt of Income Support, Jobseekers Allowance (income-based) Employment Support Allowance (income-related) will automatically be placed into Band 1 (i.e. 85% reduction)
- 5.4.3.4 Net earnings will be taken into account when calculating Council Tax Reduction.
- 5.4.3.5 Application for Council Tax Reduction will be made online or through notification of an award to Income Support, Jobseekers Allowance (income-based), Employment and Support Allowance (income-related).
- 5.4.3.6 Income from Disability Living Allowance, Personal Independence Payments, Armed Forces Independence Payments, Child Benefit, Child Maintenance and War Disablement Benefits will continue to be disregarded when calculating Council Tax Reduction.
- 5.4.3.7 To support incentives to work, the Council will have earnings disregard of £5.00 for single people, £10.00 for couples and £20.00 for lone parents and disabled, this is the amount of earnings not taken into account.
- 5.4.3.8 To support incentives to work for those that work over 16 hours the Council will retain the weekly childcare disregard which will be applied to earnings of up to £175.00 for one child and £300 for two or more. (A disregard is an amount of earnings not taken into account in the calculation of net earnings).
- 5.4.3.9 Universal Credit – Where the Universal Credit payment is worked out based on wages, the Council will still take the wages into account after taking the relevant earnings disregard. The council will then add them to the Universal Credit payment to work out what band to use to calculate the Council Tax Reduction.
- 5.4.3.10 Deductions taken from Universal Credit by the Department for Works and Pensions (DWP) will not be removed.
- 5.4.3.11 The housing cost element of Universal Credit will be ignored.
- 5.4.3.12 Introduce a Minimum Income Floor (MIF) for self-employed after a 12 month start-up period. Linked to National Living

wage (£7.83) or National Minimum wage (£7.38 or £5.90 depending on age).

- 5.4.3.13 Applications from joint tenants will be assessed on their share of the liability.
- 5.4.3.14 No non-dependant deductions to be applied for any non-dependant. (This is where you have someone else living in your home who is not dependent on you).
- 5.4.3.15 Backdating is limited to six months and assessed on whether there is good cause to do this.
- 5.4.3.16 Payment of Council Tax Reduction would only be made if it is over £1 per week.
- 5.5 Pension age people are not affected by this change and they will continue to have council tax reduction assessed in the same way through the Government's Council Tax Reduction default scheme.
- 5.6 Through regulations, Government set allowances (applicable amounts), premiums and non-dependant deductions to be used when calculating whether a person of pension age is entitled to Council Tax Reduction. These amounts are uprated by government on an annual basis to reflect increase in cost of living.

Option 2 – Amend current scheme

- 5.7 In 2019/20 we are predicting a significant increase in our Council tax reduction workload as a result of Universal Credit. In order to reduce the impact on performance, collection rates, correspondence, re-billing and recovery we could look to introduce a tolerance figure, whereby we don't amend a person's income unless it is under or over a set amount.
- 5.8 This would slightly reduce the amount of administration work, but it wouldn't reduce the scheme expenditure, staff costs, customer queries, phone calls, and collection rates for working age claimants will reduce further once Universal Credit is fully rolled out.

Option 3 – Do nothing for 2019/20 and work with the other Devon Councils in developing a new scheme for 2020/2021.

- 5.9 West Devon and South Hams are the only two councils within Devon that are looking to introduce a new scheme in 2019/20.

- 5.10 We could stay with our current scheme for 2019/20 and work with the rest of Devon in developing a new scheme for 2020/21.
- 5.11 This option will have the same impact as option 2 without the reduction in administration.
- 5.12 Officers recommend that Council adopt Option 1, the banded scheme from 2019/20.

6. Supporting Information

- 6.1 Our approach to amending the council tax reduction scheme continues to support the Council's local policy priorities, in particular:-
- Reducing inequalities by protecting the most vulnerable people in our authority; as we continue to disregard child benefit, Disability Living Allowance and war pensions.
 - Supporting work incentives by increasing the weekly amount a person or couple can earn before their income is used in the assessment of council tax reduction.
- 6.2 The latest modelling shows that approximately over 1171 residents will see their Council Tax Reduction increase, these are mainly our most vulnerable residents.
- 6.3 Whilst most residents will be better off there will be some that are adversely impacted, the latest modelling shows that approximately 230 residents could potentially be worse off, this is mainly due to the changes with self-employed income and the introduction of the Minimum Income Floor (MIF), the Capital limit of £6,000. However these changes will bring us in line with the rest of Devon who have already implemented them.
- 6.4 The latest modelling shows that the Council have approximately 231 families with 2 or more children, 176 large families would benefit from the new scheme with 55 being adversely affected, testing shows that this is mainly due to the introduction of MIF.
- 6.5 The Authority still has an Exceptional Hardship Fund which is financed through the collection fund for those residents that find themselves requiring short term financial assistance.
- 6.6 The scheme will be far simpler for the claimant to understand, therefore less customer queries and calls, the Council won't be verifying information so this will reduce staff assessing time and speed up processing times.

- 6.7 The costs to administer the scheme should reduce significantly, but both Councils would have to agree to the banding scheme to realise all the efficiencies.

7. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Welfare Reform Act 2012 provided for the abolition of Council Tax Benefits and brought in instead, localisation of Council Tax Support under the Local Government & Finance Act 2012 from 1 April 2013. This Act made councils responsible for administering their own Council Tax Support Schemes. Councils are required to review their Schemes annually and Full Council must make a decision as to whether to revise or replace the Scheme.
Financial	Y	The Government funding (Settlement funding assessment - SFA) received from Central Government will be reduced by 37% over the four years. Council Tax Reduction funding is included within the SFA. The scheme is designed to be cost neutral and covers the shortfall in funding of over £0.5 million.
Risk	Y	<p>Failure to agree a scheme</p> <p>Both Councils will have to agree to the banding scheme to realise all the efficiencies.</p> <p>Detrimental impact on collection rates</p> <p>Business case in place with all preceptors agreeing financial support to fund extra resource to undertake early intervention and money advice.</p> <p>Future funding reductions could mean that the current scheme will not remain fit for purpose.</p> <p>Annual review and close monitoring of announcements and national forums.</p> <p>Business case in place with all preceptors agreeing financial support to provide Exceptional Hardship Fund to assist those in extreme financial need.</p>
Comprehensive Impact Assessment Implications		

Equality and Diversity	Y	An equality impact assessment has been completed. See Appendix 2.
Safeguarding	Y	Changes to a Banded scheme could be seen to have a positive impact on child poverty.
Community Safety, Crime and Disorder	Y	As above.
Health, Safety and Wellbeing	Y	Changes to a Banded scheme could be seen to have a positive impact on our poorest and most vulnerable families.
Other implications	Y	

Supporting Information

Appendices:

Appendix 1 Policy

Appendix 2 Equality Impact Assessment

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West Devon Borough Council
Council Tax Reduction Scheme Policy
S13A and Schedule 1a of the Local Government Finance Act 1992

1.0	Introduction to the Council Tax Reduction Scheme.....	6
2.0	Interpretation – an explanation of the terms used within this policy.....	12
3.0	Definition of non-dependant	19
4.0	Requirement to provide a National Insurance Number.....	20
5.0	Persons who have attained the qualifying age for state pension credit.....	21
6.0	Remunerative work.....	21
7.0	Persons treated as not being in Great Britain and Persons Subject to Immigration Control.....	22
	Persons subject to immigration control.....	23
7A.0.	Transitional provision.....	23
8.0	Temporary Absence (period of absence)	24
	Sections 9 - 11	26
	The family for Council Tax Support purposes.....	26
9.0	Membership of a family	27
10.0	Circumstances in which a person is to be treated as responsible (or not responsible) for a child or young person.	27
11.0	Circumstances in which a child or young person is to be treated as being or not being a member of the household	28
	Sections 15 – 32 & Schedules 3 & 4.....	29
	Definition and the treatment of income for Council Tax Support purposes	29
15.0	Calculation of income and capital of members of applicant’s family and of a polygamous marriage.....	30
16.0	Circumstances in which capital and income of non-dependant is to be treated as applicant’s	31
17.0	Calculation of income on a weekly basis.....	31
18.0	Treatment of child care charges.....	31
19.0	Average weekly earnings of employed earners	35
20.0	Average weekly earnings of self-employed earners	36
21.0	Average weekly income other than earnings.....	36
22.0	Calculation of average weekly income from tax credits	36
23.0	Calculation of weekly income	37
24.0	Disregard of changes in tax, contributions etc.....	37
25.0	Earnings of employed earners.....	37
26.0	Calculation of net earnings of employed earners	38
27.0	Earnings of self-employed earners.....	39
28.0	Calculation of net profit of self-employed earners	40
29.0	Deduction of tax and contributions of self-employed earners	42
29A.0	Minimum Income Floor.....	42
30.0	Calculation of income other than earnings.....	43
31.0	Capital treated as income	44

32.0	Notional income	45
	Sections 33 – 42 & Schedule 5.....	48
	Definition and the treatment of capital for Council Tax Support purposes	48
33.0	Capital limit	49
34.0	Calculation of capital.....	49
35.0	Disregard of capital of child and young person.....	49
36.0	Income treated as capital.....	49
37.0	Calculation of capital in the United Kingdom.....	49
38.0	Calculation of capital outside the United Kingdom.....	50
39.0	Notional capital	50
40.0	Diminishing notional capital rule.....	51
41.0	Capital jointly held	54
42.0	Not used	54
	Sections 43 - 56	55
	Definition and the treatment of students for Council Tax Support purposes	55
43.0	Student related definitions	56
44.0	Treatment of students	59
45.0	Students who are excluded from entitlement to council tax support	59
46.0	Calculation of grant income	60
47.0	Calculation of covenant income where a contribution is assessed.....	61
48.0	Covenant income where no grant income or no contribution is assessed	62
49.0	Student Covenant Income and Grant income – non disregard	62
50.0	Other amounts to be disregarded.....	62
51.0	Treatment of student loans.....	62
51A.0	Treatment of fee loans.....	64
52.0	Treatment of payments from access funds.....	64
53.0	Disregard of contribution.....	64
54.0	Further disregard of student’s income.....	64
55.0	Income treated as capital.....	64
56.0	Disregard of changes occurring during summer vacation.....	65
	Sections 57 – 63.....	66
	The calculation and amount of Council Tax Support.....	66
57.0	Maximum council tax support.....	67
58.0	Non-dependant deductions	67
59.0	Minimum Council Tax Reduction	67
60.0	Extended reductions	67
60A.0	Duration of extended reduction period	68
60B.0	Amount of extended reduction.....	68

60C.0	Extended reductions – movers.....	69
60D.0	Relationship between extended reduction and entitlement to council tax support under the general conditions of entitlement.....	69
61.0	Extended reductions (qualifying contributory benefits)	69
61A.0	Duration of extended reduction period (qualifying contributory benefits)	70
61B.0	Amount of extended reduction (qualifying contributory benefits).....	70
61C.0	Extended reductions (qualifying contributory benefits) – movers	71
61D.0	Relationship between extended reduction (qualifying contributory benefits) and entitlement to council tax support under the general conditions of entitlement	71
62.0 – 63.0	Not Used	71
Sections 64 – 67.....		72
	Dates on which entitlement and changes of circumstances are to take effect	72
64.0	Date on which entitlement is to begin.....	73
65.0 - 66.0	Not Used	73
67.0	Date on which change of circumstances is to take effect	73
	Date on which income consisting of earnings from employment as an employed earner are taken into account.....	74
Sections 68– 74A		75
	Claiming and the treatment of claims for Council Tax Support purposes	75
69.0	Procedure by which a person may apply for a reduction under the authority’s scheme.....	77
70.0	Submission of evidence electronically	80
71.0	Use of telephone provided evidence	80
72.0	Information and evidence	80
73.0	Amendment and withdrawal of application.....	81
74.0	Duty to notify changes of circumstances	82
Sections 75- 90		84
	Decisions, decision notices and awards of Council Tax Support	84
75.0	Decisions by the authority.....	85
76.0	Notification of decision	85
77.0	Time and manner of granting council tax support	86
78.0	Persons to whom support is to be paid	86
79.0	Shortfall in support / reduction.....	87
80.0	Payment on the death of the person entitled.....	87
81.0	Offsetting	87
82.0	Payment where there is joint and several liability	87
83.0 – 90.0	Not Used	87
Sections 91 – 94.....		88
	Collection, holding and forwarding of information for Council Tax Support purposes.....	88
91.0	Use of information from and to the Department of Work and Pensions (DWP) and Her Majesty’s Revenues and Customs (HMRC).....	89
92.0	Collection of information	89

93.0	Recording and holding information	89
94.0	Forwarding of information	89
	Sections 95 – 98.....	90
	Revisions, Written Statements, Termination of Council Tax Support	90
95.0	Persons affected by Decisions.....	91
96.0	Revisions of Decisions	91
97.0	Written Statements.....	91
98.0	Terminations	91
	Section 99	92
	Appeals against the authority’s decisions	92
99.0	Procedure by which a person may make an appeal against certain decisions of the authority ...	93
	Section 100 – 100A.....	94
	Procedure for applying for a discretionary reduction	94
100.0	Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act 95	
	Section 101 – 106A.....	96
	Electronic Communication	96
101.0	Interpretation.....	97
102.0	Conditions for the use of electronic communication.....	97
103.0	Use of intermediaries.....	97
104.0	Effect of delivering information by means of electronic communication.....	97
105.0	Proof of identity of sender or recipient of information	98
106.0	Proof of delivery of information.....	98
106A.0	Proof of content of information.....	98
	Section 107.....	99
	Counter Fraud and Compliance.....	99
107.0	Counter Fraud and compliance	100
	Schedule 1	101
	Class D101	
	Calculation of the amount of Council Tax Reduction in accordance with the Discount Scheme	101
	Schedule 2	103
	Not Used.....	103
	Schedule 3	104
	Sums to be disregarded in the calculation of earnings	104
	Schedule 4	109
	Sums to be disregarded in the calculation of income other than earnings.....	109
	Schedule 5	120
	Capital to be disregarded	120

1.0 Introduction to the Council Tax Reduction Scheme

- 1.1 The following has been adopted by the Council and details the Council Tax Reduction scheme for the period 1st April 2019 until 31st March 2020.
- 1.2 This document details how the scheme will operate for both pension credit age and working age applicants and in accordance with Section 13A of the Local Government Finance Act 1992 specifies the classes of person who are to be entitled to a reduction under the scheme and is effective from 1st April 2019 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;
 - Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2015;
 - Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2016;
 - Council Tax Reduction Schemes (Amendment) (England) Regulations 2017;
 - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2018; and
 - Local Government Finance Act 1992 (as amended by the Local Government Finance Act 2012).

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 an income discount-based scheme. 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 *one* class of persons who will receive a reduction in line with adopted scheme. 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; 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;
- 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 amount can be calculated;
 - g. not have capital savings above £6,000;
 - 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* falls within the levels for discount prescribed within Schedule 1 of this scheme; and
 - i. has made a valid application for reduction¹.

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

¹ 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 2019/20

Sections 2- 8
Definitions and interpretation

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

2.1 In this policy–

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

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

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

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

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

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

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

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

‘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;

‘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;

‘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;

‘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) and Child Tax Credit (Amendment) Regulations 2014;

'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;

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

‘net earnings’ means such earnings as are calculated in accordance with section 26;

‘net profit’ means such profit as is calculated in accordance with section 28;

‘the New Deal options’ means the employment programmes specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations and the training scheme specified in regulation

75(1)(b)(ii) of those Regulations;

'new dwelling' means, for the purposes of the definition of 'second authority' and sections 60C, and 61C the dwelling to which an 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;

'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;
- c. a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;

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

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

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

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

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

'qualifying contributory benefit' means;

- (a) severe disablement allowance;
- (b) incapacity benefit;

- (c) contributory employment and support allowance;
- 'qualifying 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 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. a body which has a statutory duty to provide services in the field of health, social care or social housing; or
- ii. a body which conducts research or undertakes monitoring for the purpose of planning or improving such services, in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or
- b. the carer of a person consulted as described in sub-paragraph (a) where the carer is not being consulted as described in that sub-paragraph;
- 'single applicant'** means an applicant who neither has a partner nor is a lone parent;
- 'the Skipton Fund'** means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme's provisions.
- '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, Universal Credit (Miscellaneous Amendments) Regulations 2013 and the Universal Credit (Transitional Provisions) Regulations 2014;

'Up-rating Act' means the Welfare Benefit Up-rating Act 2013 and The Welfare Benefits Up-rating Order 2014;

'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 amended²; and
'young person' has the meaning prescribed in section 9(1).

- 2.2 In this policy, references to an applicant occupying a dwelling or premises as his home shall be construed in accordance with regulation 7 of the Housing Benefit Regulations 2006.
- 2.3 In this policy, where an amount is to be rounded to the nearest penny, a fraction of a penny shall be disregarded if it is less than half a penny and shall otherwise be treated as a whole penny.
- 2.4 For the purpose of this policy, a person is on an income-based jobseeker's allowance on any day in respect of which an income-based jobseeker's allowance is payable to him and on any day;
- (a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker's allowance but where the allowance is not paid in accordance with regulation 27A of the Jobseeker's Allowance Regulations or section 19 or 20A or regulations made under section 17A of the Jobseekers Act (circumstances in which a jobseeker's allowance is not payable); or
 - (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker's allowance is payable to him or would be payable to him but for regulation 27A of the Jobseeker's Allowance Regulations or section 19 or 20A or regulations made under section 17A of that Act;
 - (c) in respect of which he is a member of a joint-claim couple for the purposes of the Jobseekers Act and no joint-claim jobseeker's allowance is payable in respect of that couple as a consequence of either member of that couple being subject to sanctions for the purposes of section 20A of that Act;
 - (d) in respect of which an income-based jobseeker's allowance or a joint-claim jobseeker's allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions).
- 2.4A For the purposes of this policy, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day;
- (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act disqualification; or
 - (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act.
- 2.5 For the purposes of this policy, two persons shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.
- 2.6 In this policy, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002 (small amounts of state pension credit).
- 3.0 Definition of non-dependant**
- 3.1 In this policy, 'non-dependant' means any person, except someone to whom paragraph 3.2 applies, who normally resides with an applicant or with whom an applicant normally resides.

² The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2013

- 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 Number³

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

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

4.3 Paragraph 4.2 shall not apply–

³ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- 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 1971⁴ 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

⁴ As amended by the Immigration Act 2014 and the Immigration Act 2014 (Commencement No. 2) Order 2014

(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
 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
- (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 1992.⁵

8.0 Temporary Absence (period of absence)

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

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

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

- a. a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as;
 - i. the person resides in that accommodation;
 - ii. the part of the dwelling in which he usually resided is not let or sub-let; and
 - iii. that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,

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

- b. a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as;
 - i. the person intends to return to the dwelling;
 - ii. the part of the dwelling in which he usually resided is not let or sub-let; and
 - iii. that period is unlikely to exceed 13 weeks; and
- c. a period of absence not exceeding 52 weeks, beginning with the first whole day of absence, where and for so long as
 - i. the person intends to return to the dwelling;
 - ii. the part of the dwelling in which he usually resided is not let or sub-let;
 - iii. the person is a person to whom paragraph 8.4 applies; and
 - iv. the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

8.4 This paragraph applies to a person who is;

- a. detained in custody on remand pending trial or required, as a condition of bail, to reside;
 - i. in a dwelling, other than the dwelling referred to in paragraph 8.1, or
 - ii. in premises approved under section 13 of the Offender Management Act 2007, or, detained in custody pending sentence upon conviction;
- b. resident in a hospital or similar institution as a patient;
- c. undergoing, or his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
- d. following, in the United Kingdom or elsewhere, a training course;
- e. undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
- f. undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care of medical treatment;
- g. in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
- h. a student;
- i. receiving care provided in residential accommodation other than a person to whom

paragraph 8.3a) applies; or

- j. has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.

8.5 This paragraph applies to a person who is:

- a. detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983 (as amended by the Mental Health (Discrimination) Act 2013), or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995) or, in Northern Ireland, under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986; and
- b. on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989

8.6 Where paragraph 8.5 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 paragraph 8.3 b) or c), he shall be treated, for the purposes of paragraph 8.1, as if he continues to be absent from the dwelling, despite any return to the dwelling;
- b. for the purposes of paragraph 8.4 a), he shall be treated as if he remains in detention;
- c. If he does not fall within sub-paragraph a), he is not considered to be a person who is liable to pay Council Tax in respect of a dwelling of which he is resident

8.7 In this section;

- ‘medically approved’ means certified by a medical practitioner;
- ‘patient’ means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution; ‘residential accommodation’ means accommodation which is provided;
 - a. in a care home;
 - b. in an independent hospital;
 - c. in an Abbeyfield Home; or
 - d. in an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;
- ‘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 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.

12.0 – 14.0 Not Used

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:
- a. an applicant; and
 - b. any partner of that applicant,

is to be calculated in accordance with the following provisions.

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

- 15.3 Where an applicant or the partner of an applicant is married polygamously to two or more members of his household:
- (a) the applicant must be treated as possessing capital and income belonging to each such member; and
 - (b) the income and capital of that member is to be calculated in accordance with the following provisions of this Part in like manner as for the applicant.

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

- 15A.1 In determining the income of an applicant
- a. who has, or
 - b. who (jointly with his partner) has,
- an award of universal credit the authority must, subject to the following provisions of this paragraph, use the calculation or estimate of the income of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.

- 15A.2 The authority must adjust the amount referred to in sub-paragraph (1) to take account of
- (a) income consisting of the award of universal credit, determined in accordance with subparagraph (3);
 - (b) any sum to be disregarded under paragraphs of Schedule 3 to this scheme (sums to be disregarded in the calculation of earnings);
 - (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);
 - (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 (power of billing authority to reduce amount of council tax payable);
 - (f) any sum determined by the authority as the award of housing costs within the universal credit award paid to the applicant.

- 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 must use the calculation or estimate of the capital of

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

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

16.1 Where it appears to the authority that a non-dependant and the applicant have entered into arrangements in order to take advantage of the council tax support scheme and the non-dependant has more capital and income than the applicant, that authority shall, except where the applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, treat the applicant as possessing capital and income belonging to that non-dependant, and, in such a case, shall disregard any capital and income which the applicant does possess.

16.2 Where an applicant is treated as possessing capital and income belonging to a non-dependant under paragraph 16.1 the capital and income of that non-dependant shall be calculated in accordance with the following provisions in like manner as for the applicant and any reference to the 'applicant' shall, except where the context otherwise requires, be construed for the purposes of this 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 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. **but for the application of this scheme**, 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. **but for the application of this scheme**, 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. **but for the application of this scheme**, the applicant's applicable amount would include

the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008 or Employment and Support Regulations 2013;

- d. the applicant (within the meaning of this scheme) is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
- e. the applicant (within the meaning of this scheme) has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 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 adoption leave began she was in remunerative work;
- b. the applicant is incurring relevant child care charges within the meaning of paragraph 18.5; and
- c. she is entitled to either statutory maternity pay under section 164 of the Act, statutory paternity pay by virtue of section 171ZA or 171ZB of the Act statutory adoption pay by of section 171ZL of the Act, maternity allowance under section 35 of the Act or qualifying support.

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

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

whichever shall occur first.

18.16 In paragraphs 18.14 and 18.15

- a. '**qualifying support**' means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support Regulations 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 earnings exception in relation to Class 2 contributions);
 - d. in the amount of tax payable as a result of an increase in the weekly rate of Category A, B, C or D retirement pension or any addition thereto or any graduated pension payable under the Act;
 - e. in the maximum rate of child tax credit or working tax credit,

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

25.0 Earnings of employed earners

- 25.1 Subject to paragraph 25.2, 'earnings' means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes–
- a. any bonus or commission;
 - b. any payment in lieu of remuneration except any periodic sum paid to an applicant on

- c. account of the termination of his employment by reason of redundancy;
- c. any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- d. any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
- e. any payment by way of a retainer;
- f. any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
- g. travelling expenses incurred by the applicant between his home and his place of employment 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 or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
- l. any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;
- m. the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations as amended⁶.

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

⁶ Social Security (Contributions)(Amendment) Regulations 2013, Social Security (Contributions)(Amendment No.2) Regulations 2013 and Social Security (Contributions)(Amendment No.2) Regulations 2013

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

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

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

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

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

- a. an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate 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 accommodate with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant's care) nor shall it include any sports award.

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

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

28.0 Calculation of net profit of self-employed earners

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

- a. in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- b. in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975, his share of the net profit derived from that employment, less—
 - i. an amount in respect of income tax and of 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 earnings exception) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year shall be reduced pro rata; and
 - b. the amount of Class 4 contributions (if any) which would be payable under section 15 of the Act (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits shall be reduced pro rata.
- 29.3 In this section 'chargeable income' means—
- a. except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph (28.3)(a) or, as the case may be, (28.4) of section 28;
 - b. in the case of employment as a child minder, one-third of the earnings of that employment.

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 the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under paragraph 51.5

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

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

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

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

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

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

a. in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;

b. in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes–

i. the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or

ii. the last day of the last quarter for which an instalment of the relevant payment was payable to that person.

whichever of those dates 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 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;
- (bb) in respect of a person's participation in the Mandatory Work Activity Scheme; Enterprise Scheme;
- (bc) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (c) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

39.5 Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case

- a. the value of his holding in that company shall, notwithstanding section 34 (calculation of capital) be disregarded; and
- b. he shall, subject to paragraph 39.6, be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Section shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

39.6 For so long as the applicant undertakes activities in the course of the business of the company, the amount which, he is treated as possessing under paragraph 39.5 shall be disregarded.

39.7 Where an applicant is treated as possessing capital under any of paragraphs 39.1 to 39.2 the foregoing provisions of this Section shall apply for the purposes of calculating its amount as if it were actual capital, which he does possess.

40.0 Diminishing notional capital rule

40.1 Where an applicant is treated as possessing capital under section 39.1 (notional capital), the amount which he is treated as possessing;

- a. in the case of a week that is subsequent to
 - (i) the relevant week in respect of which the conditions set out in paragraph 40.2 are satisfied; or
 - (ii) a week which follows that relevant week and which satisfies those conditions, shall be reduced by an amount determined under paragraph 40.3;
- b. in the case of a week in respect of which paragraph 40.1(a) does not apply but where
 - (i) that week is a week subsequent to the relevant week; and
 - (ii) that relevant week is a week in which the condition in paragraph 40.4 is satisfied, shall be reduced by the amount determined under paragraph 40.4.

40.2 This paragraph applies to a reduction week or part-week where the applicant satisfies the conditions that

- a. he is in receipt of council tax support; and

- b. but for paragraph 39.1, he would have received an additional amount of council tax support in that week.

40.3 In a case to which paragraph 40.2 applies, the amount of the reduction for the purposes of paragraph 40.1(a) shall be equal to the aggregate of

- a. the additional amount to which sub-paragraph 40.2 (b) refers;
- b. where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 40.2 refers but for the application of regulation 49(1) of the Housing Benefit Regulations (notional capital);
- c. where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 40.2 refers but for the application of regulation 51(1) of the Income Support Regulations (notional capital);
- d. where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 40.2 refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations (notional capital) and
- e. where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of reduction week to which paragraph 40.2 refers but for the application of regulation 115 of the Employment and Support Allowance Regulations (notional capital).

40.4 Subject to paragraph 40.5, for the purposes of paragraph 40.1(b) the condition is that the applicant would have been entitled to council tax support in the relevant week but for paragraph 39.1, and in such a case the amount of the reduction shall be equal to the aggregate of

- a. the amount of council tax support to which the applicant would have been entitled in the relevant week but for paragraph 39.1; and for the purposes of this sub-paragraph is the amount 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 sub-paragraph, if the amount is in respect of a part-week, that amount must be determined by dividing the amount of the income-related employment and support allowance to which he would have been so entitled by the number equal to the number of days in that part-week and multiplying the quotient so obtained by 7.

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

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

40.6 The conditions are that

- a. a further claim is made 26 or more weeks after
(i) the date on which the applicant made a claim for council tax support in respect of which he was first treated as possessing the capital in question under paragraph 39.1;
(ii) in a case where there has been at least one re-determination in accordance with paragraph 40.5, the date on which he last made a claim for council tax support which resulted in the weekly amount being re-determined, or
(iii) the date on which 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 purposes⁷

⁷ Amounts shown in sections 43 to 56 will be updated 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 Class D 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 person from abroad within the meaning of section 7 of this scheme (persons from abroad).

45.3 Paragraph 45.2 shall not apply to a student

(a) who is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance;

(b) who is a lone parent;

(c) **but for the application of this scheme**, whose applicable amount would, but for this section, include the disability premium or severe disability premium;

(d) **but for the application of this scheme**, 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 **but for the application of this scheme**, 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.

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/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

58.1 There shall be no deduction made for any non-dependant within this scheme.

59.0 Minimum Council Tax Reduction

59.1 Where the calculated reduction is £1.00 per week or less, **no council tax reduction shall be paid. whatsoever.**

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.0 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 area⁸

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 scheme by the amount of that extended reduction.

62.0 – 63.0 Not Used

⁸ 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.

Date on which income consisting of earnings from employment as an employed earner are taken into account

- 67.9.—(1) A applicant's average weekly earnings from employment shall be taken into account—
- (a) in the case of a claim, on the date that the claim was made or treated as made and the first day of each reduction week thereafter, regardless of whether those earnings were actually received in that week;
 - (b) in the case of a claim or award where the claimant commences employment, the first day of the reduction week following the date the claimant commences that employment, and the first day of each reduction week thereafter, regardless of whether those earnings were actually received in that week; or
 - (c) in the case of a claim or award where the applicant's average weekly earnings from employment change, the first day of the reduction week following the date of the change, and the beginning of each week thereafter, regardless of whether those earnings were actually received in that week

Sections 68– 74A

Claiming and the treatment of claims for Council Tax Support purposes

68.0 Making an application⁹

- 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.

⁹ 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 scheme¹⁰

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; or
- (d) by notification of any award of universal credit, income support, income-based jobseeker's allowance or income related employment and support allowance.

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

¹⁰ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- (b) from a day, in that period, up to the date when C made the claim (or subsequently requested that the claim should include a past period), C had continuous good cause for failing to make a claim (or request that the claim should include that period), the claim is to be treated as made on the date determined in accordance with paragraph 69.10

69.10 The date is the latest of–

- (a) the first day from which C had continuous good cause;
 (b) the day 6 months before the date the claim was made;
 (c) the day 6 months 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 any application by telephone;

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

(b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide 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 evidence¹¹

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

¹¹ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

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 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, the London Emergencies Trust, the We Love Manchester Emergency Fund, or the London Bombings Relief Charitable Fund;
- (b) a payment which is disregarded under paragraph 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 application¹²

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.

¹² Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

73.7 Where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

74.0 Duty to notify changes of circumstances¹³

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—

¹³ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- (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 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 authority¹⁴

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 decision¹⁵

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, 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,

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

¹⁵ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

(c) a person appointed by the authority to act for a person unable to act.

77.0 Time and manner of granting council tax support¹⁶

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 paid¹⁷

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 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

¹⁶ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

¹⁷ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

reduction may be paid to that person.

79.0 Shortfall in support / reduction¹⁸

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 entitled¹⁹

80.1 Where the person entitled to any reduction under this scheme has died and it is not possible to award the reduction which is due in the form of a reduction of the council tax for which he was liable, the authority must make payment of the amount of the reduction to his executor or administrator in accordance with regulation 58(4) of the Council Tax (Administration and Enforcement) Regulations 1992.

81.0 Offsetting

81.1 Where a person has been allowed or paid a sum of council tax support under a decision which is subsequently revised or further revised, any sum allowed or paid in respect of a period covered by the subsequent decision shall be offset against arrears of entitlement under the subsequent decision except to the extent that the sum exceeds the arrears and shall be treated as properly awarded or paid on account of them.

82.0 Payment where there is joint and several liability²⁰

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 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

¹⁸ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

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

²⁰ Inserted by Schedule 8 of the Council Tax Reductions Scheme (Prescribed Requirements) (England) Regulations 2012

Sections 91 – 94

Collection, holding and forwarding of information for Council Tax Support purposes

91.0 Use of information from and to the Department of Work and Pensions (DWP) and Her Majesty's Revenues and Customs (HMRC)

91.1 The authority will use information provided by the DWP and HMRC for the purposes of Council Tax 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 requirements²¹.

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.

²¹ 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 authority²²

- 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 Act²³.

²² Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

²³ As amended by the Tribunal Procedure (Amendment No 3) Rules 2014

Section 100 – 100A

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 Act²⁴

- 100.1 An application to the authority for a reduction under section 13A(1)(c)(1) of the 1992 Act may be made;
- (a) in writing,
 - (b) by means of an electronic communication in accordance with Part 4 of this Schedule, or
 - (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.
- 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).

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

Section 101 – 106A²⁵

Electronic Communication

²⁵ 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

Class D

Calculation of the amount of Council Tax Reduction in accordance with the Discount Scheme

- 1 The authority's Council Tax Reduction scheme from 2019/20 shall be calculated on the basis of the following Banded Discount Scheme:

Council Tax Reduction Level	Passported	Single Income Band Weekly £	Couples' Income Band Weekly £	Family with one child Weekly £	Family + Weekly £
Band 1 – 85%	Relevant Benefit	0.00 – 75.00	0.00 – 115.00	0.00 – 200.00	0.00 – 335.00
Band 2 – 80%	N/A	75.01 – 110.00	115.01 – 150.00	200.01 – 235.00	335.01 – 370.00
Band 3 – 50%	N/A	110.01 – 160.00	150.01 – 200.00	235.01 – 285.00	370.01 – 420.00
Band 4 – 25%	N/A	160.01 – 205.00	200.01 – 245.00	285.01 – 330.00	420.01 – 465.00

- 2 The amount of discount to be granted is to be based on the following factors:
- The maximum Council Tax Reduction as defined within this scheme;
 - The Council Tax family as defined within this scheme
 - The income of the applicant as defined within this scheme;
 - The capital of the applicant as defined within this scheme.
- 4 For the sake of clarity all incomes shown within the table above are weekly in accordance with the scheme requirements and definitions.
- 5 Discount bands vary depending on both weekly income and the household (family as defined within this scheme).
- 6 Any applicant who capital is greater than £6,000 shall not be entitled to any Council Tax Reductions whatsoever.
7. The authority may increase the level of incomes within the grid specified in paragraph 1 on an annual basis by the appropriate level of inflation measured by the Consumer Price Index (CPI) at 1st October preceding the effective financial year.
8. Where an applicant or partner is in receipt of a **relevant benefit** namely Income Support, Income Related Employment and Support Allowance or Income Based Jobseeker's Allowance, discount will be award at 85%

Schedule 2

Not Used

Schedule 3

Sums to be disregarded in the calculation of earnings²⁶

²⁶ 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 **but for the application of this scheme**, the applicant's applicable amount includes an amount by way of the disability premium, severe disability premium, work-related activity component or support component.
- (3) This paragraph applies where
 - (a) the is a member of a couple and **but for the application of this scheme**, his applicable amount includes an amount by way of the disability premium; and
 - (b) the or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.
- (4)–(5) Not used
4. In a case where the applicant is a lone parent, £20.
5. (1) In a case to which neither paragraph 3 nor paragraph 4 applies to the applicant and, subject to sub-paragraph (2), where **but for the application of this scheme**, 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 **but for the application of this scheme**, 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 **but for the application of this scheme** 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).
- (8) In this Schedule 'part-time employment' means employment in which the person is engaged on average for less than 16 hours a week.
- 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.

Schedule 4

Sums to be disregarded in the calculation of income other than earnings²⁷

²⁷ 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 as a service user
3. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.
4. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance the whole of his income.
5. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.
6. Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999 as in force at that date, the whole of his income.
7. Any disability living allowance or personal independence payment
8. Any concessionary payment made to compensate for the non-payment of;
 - (a) any payment specified in paragraph 7 or 10;
 - (b) income support;
 - (c) an income-based jobseeker's allowance.
 - (d) an income-related employment and support allowance.
9. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
10. Any attendance allowance.
11. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.
12. (1) Any payment—
 - (a) by way of an education maintenance allowance made pursuant to;
 - (i) regulations made under section 518 of the Education Act 1996 (payment of

- school expenses; grant of scholarships etc);
- (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);
- (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992
- (b) corresponding to such an education maintenance allowance, made pursuant to;
- (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
- (ii) regulations made under section 181 of that Act; or
- (iii) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.
- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to;
- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992, in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).
- 13.** Any payment made to the applicant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc.) Regulations 2002.
- 14**
- (1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment;
- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit, severe disablement allowance or an employment and support allowance;
- (b) of an allowance referred to in section 2(3) of the 1973 Act or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst an applicant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.
- (2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.
- 15**
- (1) Subject to sub-paragraph (2), any of the following payments;
- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within sub-paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the applicant;
- (d) a payment under an annuity purchased;
- (i) pursuant to any agreement or court order to make payments to the applicant; or
- (ii) from funds derived from a payment made, in consequence of any personal injury to the applicant; or

- (e) a payment (not falling within sub-paragraphs (a) to (d) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.
- (2) Sub-paragraph (1) shall not apply to a payment, which is made or due to be made by–
- (a) a former partner of the applicant, or a former partner of any member of the applicant’s family; or
 - (b) the parent of a child or young person where that child or young person is a member of the applicant’s family.
- 16.** 100% of any of the following except in so far as they form part of a private or occupational pension, 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;
 - (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
 - (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
 - (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.
- 17.** Subject to paragraph 35, £15 of any;
- (a) widowed mother’s allowance paid pursuant to section 37 of the Act;
 - (b) widowed parent’s allowance paid pursuant to section 39A of the Act.
- 18.** (1) Any income derived from capital to which the applicant is or is treated under section 41 (capital jointly held) as beneficially entitled but, subject to sub- paragraph (2), not income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or 25 to 28 of Schedule 5.
- (2) Income derived from capital disregarded under paragraphs 2, 4 or 25 to 28 of Schedule 5 but only to the extent of–
- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
 - (b) any council tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.
- (3) The definition of ‘water charges’ in paragraph 2(1) shall apply to sub-paragraph (2) of this paragraph with the omission of the words ‘in so far as such charges are in respect of the dwelling which a person occupies as his home’.
- 19.** Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating–
- (a) under, or pursuant to regulations made under powers conferred by, sections 1 or 2 of the Education Act 1962 or section 22 of the Teaching and Higher Education Act 1998(c), that student’s award;
 - (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student’s bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or

- (c) the student's student loan,
an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.
- 20.** (1) Where the applicant is the parent of a student aged under 25 in advanced education who either;
- (a) is not in receipt of any award, grant or student loan in respect of that education; or
 - (b) is in receipt of an award under section 2 of the Education Act 1962 (discretionary awards) or an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,
- and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 19, an amount specified in sub-paragraph (2) in respect of each week during the student's term.
- (2) For the purposes of sub-paragraph (1), the amount shall be equal to—
- (a) the weekly amount of the payments; or
 - (b) the amount by way of a personal allowance for a single applicant under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),
- whichever is less.
- 21.** Any payment made to the applicant by a child or young person or a non- dependant.
- 22.** Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 21 or 23 refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family—
- (a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or
 - (b) where the aggregate of any such payments is £20 or more per week, £20.
- 23.** (1) Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for which such accommodation is provided for the whole or any part of a week, equal to—
- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20.00, 100 per cent. of such payments;
 - (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50 per cent. of the excess over £20.00.
- (2) In this paragraph, 'board and lodging accommodation' means accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises.
- 24.** (1) Any income in kind, except where regulation 30(11)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act in the calculation of income other than earnings) applies.
- (2) The reference in sub-paragraph (1) to 'income in kind' does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

- 25.** Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.
- 26.** (1) Any payment made to the applicant in respect of a person who is a member of his family—
- (a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978(b) (schemes for payments of allowances to adopters); or in accordance with an Adoption Allowance Scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (Adoption Allowances Schemes)
 - (b) not used
 - (ba) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);
 - (c) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);
 - (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989(c) (special guardianship support services);
- (2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 27.** Any payment made to the applicant with whom a person is accommodated by virtue of arrangements made
- (a) by a local authority under—
 - (i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),
 - (ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or
 - (iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or
 - (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).
- 28.** Any payment made to the applicant or his partner for a person ('the person concerned'), who is not normally a member of the applicant's household but is temporarily in his care, by—
- (a) a health authority;
 - (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
 - (c) a voluntary organisation;
 - (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
 - (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
 - (f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006
- 29.** Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or section 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

- 29A.** (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989(e) or section 29 of the Children (Scotland) Act 1995(local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ('A') which A passes on to the applicant.
- (2) Sub-paragraph (1) applies only where A;
- (a) was formerly in the applicant's care, and
 - (b) is aged 18 or over, and
 - (c) continues to live with the applicant.
- 30.** (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments;
- (a) on a loan which is secured on the dwelling which the applicant occupies as his home; or
 - (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.
- (2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—
- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (b); and
 - (b) meet any amount due by way of premiums on—
 - (i) that policy; or
 - (ii) in a case to which sub-paragraph(1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).
- 31.** Any payment of income which, by virtue of section 36 (income treated as capital) is to be treated as capital.
- 32.** Any social fund payment made pursuant to Part 8 of the Act (the Social Fund) 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 **but for the application of this scheme**, 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
- 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.** Any payment of Carer's Allowance
- 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.
- 67.** An award of the support component of Employment and Support Allowance

Schedule 5
Capital to be disregarded²⁸

²⁸ 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. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his capital.
6. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and his partner is on income-based jobseeker's allowance, the whole of the applicant's capital.
7. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
8. (1) The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.
(2) The assets of any business owned in whole or in part by the applicant where—
 - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
 - (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business;

for a period of 26 weeks from the date on which the claim for council tax support is made,

or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

(3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

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

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

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

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as 'the relevant sum') and is

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations; and
- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of council tax support, for the remainder of that award if that is a longer period.

- (3) For the purposes of sub-paragraph(2), 'the award of council tax support' means–
- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
 - (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant;
 - (i) is the person who received the relevant sum; or
 - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death.

10. Any sum
- (a) paid to the applicant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or replacement; or
 - (b) acquired by the applicant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home, which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to

effect the repairs, replacement or improvement.

11. Any sum—
 - (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 or section 338(1) of the Housing (Scotland) Act 1987 as a condition of occupying the home;
 - (b) which was so deposited and which is to be used for the purchase of another home, for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the applicant to complete the purchase.
12. Any personal possessions except those which have been acquired by the applicant with the intention of reducing his capital in order to secure entitlement to council tax support or to increase the amount of that support.
13. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
14. Where the funds of a trust are derived from a payment made in consequence of any personal injury to the applicant or applicant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.
- 14A. (1) Any payment made to the applicant or the applicant's partner in consequence of any personal injury to the applicant or, as the case may be, the applicant's partner.
 - (2) But sub-paragraph (1)
 - (a) applies only for the period of 52 weeks beginning with the day on which the applicant first receives any payment in consequence of that personal injury;
 - (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
 - (c) ceases to apply to the payment or any part of the payment from the day on which the applicant no longer possesses it;
 - (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the applicant.
 - (3) For the purposes of sub-paragraph (2)(c), the circumstances in which an applicant no longer possesses a payment or a part of it include where the applicant has used a payment or part of it to purchase an asset.
 - (4) References in sub-paragraphs (2) and (3) to the applicant are to be construed as including references to his partner (where applicable).
15. The value of the right to receive any income under a life interest or from a life rent.
16. The value of the right to receive any income, which is disregarded under paragraph 13 of Schedule 3 or paragraph 25 of Schedule 4.
17. The surrender value of any policy of life insurance.
18. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
19. Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).
- 19A. (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority

in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ('A') which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A;

- (a) was formerly in the applicant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the applicant.

- 20.** Any social fund payment made pursuant to Part 8 of the Act.
- 21.** Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.
- 22.** Any capital which, by virtue of sections 31 or 51 (capital treated as income, treatment of student loans) is to be treated as income.
- 23.** Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
- 24.** (1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the Charitable Fund.
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
 - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) the person who is suffering from haemophilia or who is a qualifying person;
 - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—
- (a) that person has no partner or former partner from whom he is not estranged or

divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and

(b) the payment is made either;

(i) to that person's parent or step-parent; or

(ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or any of the Trusts to which sub-paragraph (1) refers, where

(a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and

(b) the payment is made either;

(i) to that person's parent or step-parent; or

(ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose support payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited the Skipton Fund, the Caxton Foundation, and the London Bombings Relief Charitable Fund.

25. (1) Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph 'dwelling' includes any garage, garden and outbuildings, which were formerly occupied by the applicant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.

26. Any premises where the applicant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

27. Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

28. Any premises which the applicant intends to occupy as his home to which essential repairs or

alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.

29. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
30. Not used
31. The value of the right to receive an occupational or personal pension.
32. The value of any funds held under a personal pension scheme
33. The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.
34. Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
35. Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.
36. Not used.
37. Any payment in consequence of a reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992 (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.
38. Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988 or section 66 of the Housing (Scotland) Act 1988 (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—
 - (a) to purchase premises intended for occupation as his home; or
 - (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,
 for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of those premises as his home.
39. Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.
40. (1) Any payment or repayment made—
 - (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
 - (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
 - (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),
 but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers, which is analogous to a payment, or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of the receipt of the payment or repayment.

- 41.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.
- 41A.** Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).
- 42.** Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.
- 43.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.
- 44.** Not used
- 45.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958 to homeworkers assisted under the Blind Homeworkers' Scheme.
- 46.** (1) Subject to sub-paragraph (2), where an applicant satisfies the conditions in section 131(3) and (6) of the Act (entitlement to alternative maximum council tax support), the whole of his capital.
(2) Where in addition to satisfying the conditions in section 131(3) and (6) of the Act the applicant also satisfies the conditions in section 131(4) and (5) of the Act (entitlement to the maximum council tax support), sub-paragraph (1) shall not have effect.
- 47.** (1) Any sum of capital to which sub-paragraph (2) applies and
(a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;
(b) which can only be disposed of by order or direction of any such court; or
(c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.
(2) This sub-paragraph applies to a sum of capital which is derived from;
(a) an award of damages for a personal injury to that person; or
(b) compensation for the death of one or both parents where the person concerned is under the age of 18.
- 48.** Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules, where such sum derives from
(a) award of damages for a personal injury to that person; or
(b) compensation for the death of one or both parents where the person concerned is under the age of 18.
- 49.** Any payment to the applicant as holder of the Victoria Cross or George Cross.
- 50.** Not used
- 51.** In the case of a person who is receiving, or who has received, assistance under the self-

employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.

- 52.** (1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) 'food' does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

- 53.** (1) Any payment;
- (a) by way of an education maintenance allowance made pursuant to—
- (i) regulations made under section 518 of the Education Act 1996;
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
 - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
- (b) corresponding to such an education maintenance allowance, made pursuant to;
- (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
 - (ii) regulations made under section 181 of that Act ;

or in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to;
- (a) regulations made under section 518 of the Education Act 1996;
 - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
 - (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,
- in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

53A.-53B. Not used

- 54.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

- 55.** Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.

- 56.** Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or interment of—
- (a) the applicant;
 - (b) the applicant's partner;
 - (c) the applicant's deceased spouse or deceased civil partner; or
 - (d) the applicant's partner's deceased spouse or deceased civil partner,

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

57. (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is
- (a) a diagnosed person;
 - (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
 - (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
 - (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.
- (2) Where a trust payment is made to;
- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
 - (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
 - (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending—
 - (i) two years after that date; or
 - (ii) on the day before the day on which that person—
 - (aa) ceases receiving full-time education; or
 - (bb) attains the age of 20,whichever is the latest.
- (3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is—
- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
 - (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
 - (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death, but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.
- (4) Where a payment as referred to in sub-paragraph (3) is made to—
- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
 - (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date; or
 - (c) person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending—
 - (i) two years after that date; or
 - (ii) on the day before the day on which that person
 - (aa) ceases receiving full-time education; or
 - (bb) attains the age of 20,

whichever is the latest.

- (5) In this paragraph, a reference to a person—
 (a) being the diagnosed person’s partner;
 (b) being a member of a diagnosed person’s family;
 (c) acting in place of the diagnosed person’s parents,
 at the date of the diagnosed person’s death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.
- (6) In this paragraph— ‘diagnosed person’ means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld- Jakob disease;
 ‘relevant trust’ means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;
 ‘trust payment’ means a payment under a relevant trust.
- 58.** The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant’s partner, the applicant’s deceased spouse or deceased civil partner or the applicant’s partner’s deceased spouse or deceased civil partner
 (a) was a slave labourer or a forced labourer;
 (b) had suffered property loss or had suffered personal injury; or
 (c) was a parent of a child who had died,
 during the Second World War.
- 58 (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)

Equality Impact Assessment (Appendix 2) – West Devon Borough Council Council Tax Reduction Scheme 2019/20

Lead Officer	Lorraine Mullineaux Senior Benefit Specialist
Service	Housing, Housing Benefit and Revenues COP
Proposed change to service	Council Tax Reduction scheme for April 2019
Reason for the service change	<p>It is an annual requirement for Councils to review their existing Council Tax Reduction scheme and make a decision as to whether to replace or revise it.</p> <p>The Revenues and Benefits service constantly monitors the issues affecting claimants on Council Tax Reduction. The banded scheme has been developed to support our most vulnerable customers in the ever changing landscape of welfare reform, whilst keeping the cost of the scheme cost neutral.</p> <p>Since the roll out of Universal Credit it has become evident that the number of changes in circumstances issued by the Department of Work and Pensions (DWP) has increased significantly, this in turn has had a direct impact on Council Tax Reduction scheme and the amount recipients receive.</p> <p>The impact has been reviewed and modelled for the 2019/20 financial year. It is apparent that unless changes are made to the scheme the increased number of change of circumstances will result in higher volumes of bills and correspondence being issued to customers, which will lead to confusion for customers due to the reissue of bills on one or more occasions; this will in turn increase the costs of administrating the scheme and it is expected that this will impact on Council Tax collection rates.</p> <p>Having reviewed our scheme and taken into consideration funding cuts, Council Tax arrears, Universal Credit and the impact of wider welfare reform changes on our residents and we are proposing to change our Council Tax Reduction scheme for 2019/20.</p>
Information about users , research or other evidence	<p>The current Council Tax Reduction scheme is a means-tested discount administered by the council. There are different rules for Pensioners and Working Age claimants, however in general the calculation is based on:</p> <ul style="list-style-type: none"> • Household • Income – subject to certain disregards i.e. Disability Living Allowance is disregarded in the calculation of income. • Capital (Savings) – Capital limits and tariff income. • Non-dependants are taken into account – deductions are made from the calculated support based upon the non-dependants income. However, there are some categories and circumstances where non-dependant deductions are not taken. • Applicable amount calculated (what the government says a person or family needs to live on), which includes personal allowances and

additional premiums depending upon circumstances i.e. disability, lone parents and Carers.

Household income is compared to Applicable Amounts, if household income is the same or less than the Applicable Amount, or the claimant or partner are in receipt of a passported benefit such as Income Support, Job Seekers Allowance (income based) or Employment Support Allowance (income related) , the maximum amount of Council Tax Reduction is awarded (subject to Non-dependant deductions).

If household income is more than the Applicable Amount – they have ‘excess income’ and the award/reduction to the bill is apportioned.

Council Tax Reduction is currently limited to 80% of Council Tax liability, meaning all working age people will have a minimum of 20% of their council tax liability to pay.

For 2019/20 West Devon Borough Council has the option of changing to a new banded scheme or continuing with the current scheme. Having reviewed our current scheme and taken into consideration funding cuts, Council Tax arears, Universal Credit and the impact of wider welfare reform changes on our residents, officers are recommending that we change to a new scheme for 2019/20.

We are proposing to introduce a banded scheme which will assess the maximum level of Council Tax Reduction for working-age people based on the net income of the claimant and partner. Pensioners will not be affected by this scheme.

To keep the scheme simple where a customer receives passported benefit, they will automatically receive maximum support being placed in the top band of the scheme. Therefore the income bands that will be used in the schemes are as follows:-

Council Tax Reduction Level	Pass ported	Single Income Band Weekly £	Couples' Income Band Weekly £	Family with one child Weekly £	Family with two or more children Weekly £
Band 1 – 85%	Relevant Benefit	0.00 - 75.00	0.00 - 115.00	0.00 - 200.00	0.00 - 335.00
Band 2- 80%	N/A	75.01 - 110.00	115.01 - 150.00	200.01 - 235.00	335.01 - 370.00
Band 3 - 50%	N/A	110.01 - 160.00	150.01 to 200.00	235.01 – 285.00	370.01 – 420.00
Band 4 - 25%	N/A	160.01 - 205.00	200.01 to 245.00	285.01 - 330.00	420.01 – 465.00

	<p>The following is a summary of the main elements of our proposed working age Council Tax Reduction scheme:-</p> <ul style="list-style-type: none"> • Working-age people will receive a % discount of either 85%, 80%, 50% or 25% depending on the level of their income and the income band they fall into. • Net earnings will be taken into account when calculating Council Tax Reduction. • Introduction of £6,000 capital cap. • Update earnings disregard to £5.00 for single people, £10 for couples and £20 for lone parents. • Where the Universal Credit payment includes the calculation of earnings, earnings to be taken in account. • The housing element of Universal Credit to be ignored. • Deductions taken from Universal Credit by the DWP will not be removed. • Abolition of non-dependant deductions • Introduction of Minimum income level for self-employed • To continue to disregard Disability Living Allowance, Personal Independence Payments and War Disablement Benefits. • To continue to disregard Child Benefit and Child Maintenance payments. • Introduction to disregard Carers Allowance payments. • Introduction to disregards the support element of Employment and Support Allowance • Introduction to increase backdate period to six months. • Introduction to only make payment of Council Tax Reduction if over £1 per week. <p>Those affected by this change are working age people, on low incomes, living within the district that have a liability to pay Council Tax.</p>
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Impact of change- Who will be affected. How the change will impact on equality groups . Any positive and negatives impacts of the changes on users. Actions taken to avoid or lessen any negative impacts

As caseload data is continually changing analysis and effects will continue

This is an on-going process and impacts may change over time.

Further analysis of Equality strands are;

AGE	Positive	Negative
	<p>The Government continues to protect low-income pensioners (who are eligible for assistance with their council tax liability) from any reduction in support as a result of reforms. The Government wants to ensure pensioners, who would struggle to pay council tax without additional funds and who the Government does not expect to work to increase their income, will continue to support their council tax liability. Schemes must have regard to their statutory duties under Child Poverty Act 2010. (The Act imposes a duty on local authorities to have regard to, reduce and mitigate the effects of child poverty in their local area).</p>	<p>Working age customers suffer disproportionately due to the need to protect pensioners from financial loss.</p> <p>Could drive working age people out of the area: because of the increased burden arising from Devon having a higher number of pensioners than other parts of the UK.</p> <p>Working age customers in Devon are already disadvantaged by low wages and seasonal work, rurality and poor ICT connectivity.</p>

DISABILTY	Positive	Negative
	<p>Schemes must have regard to their statutory duties under The Disabled Persons (Services, Consultation and Representation) Act 1986, and Chronically Sick and Disabled Persons Act 1970, which include a range of duties relating to the welfare needs of disabled people.</p>	<p>All working age people will lose out and this could continue to affect some people with a disability if they are not part of the protected group.</p> <p>More likely to be in receipt of CTR.</p>

	<p>The proposed CTR scheme as part of our ongoing commitment to support disabled people will disregard Carers allowance and the support element of Employment Support Allowance as well as continue to disregard Disability Living Allowance, Personal Independence Payments and War Disablement Payments.</p>	<p>May find it difficult to understand information and not know if they are entitled to claim CTR.</p>
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MARITAL STATUS, family circumstances or caring responsibilities	<p>Positive</p>	<p>Negative</p>
	<p>The scheme will disregard Carers Allowance.</p> <p>There is an Exceptional Hardship fund to assist those families affected by the new scheme.</p>	<p>The scheme does not discriminate against marital status however it will have a negative impact on families with more than 2 children.</p>

SEX(gender)	<p>Positive</p>	<p>Negative</p>
	<p>The scheme does not discriminate against gender</p> <p>There is an Exceptional Hardship fund to assist those people affected by the new scheme.</p>	<p>Historically, women tend to be main carers and possible single parent. The scheme may have a negative impact on them, especially if they have more than 3 children.</p>

Race/Ethnicity Religion/Belief Sexual Orientation	<p>Positive</p> <p>No CTR data held for these groups, however the scheme is an income/household based reduction so will not treat people in these groups any differently.</p>	<p>Negative</p>
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General	<p>Positive</p>	<p>Negative</p>

Submissions from Interested parties ;

General publicity for all residents e.g. press releases, flyers and website.

Issues and Recommendations

All working age claimants should pay something towards their Council Tax Liability, however Officers recommend that we increase the discount from 80% to 85% for working age people on passported benefits or low incomes. Pensioners are not affected by this scheme.

To protect the most vulnerable West Devon Borough Council have an exceptional hardship fund to act as a safety net. This will allow for individual circumstances to be taken into account when appropriate.

Action Plan & Review.

January/February 2019	Full Council sign off
January/March 2019	New scheme input into test system and full testing
Early March 2019	Go live

Report to: **Council**

Date: **12 February 2019**

Title: **Tamar Valley AONB Management Plan Review
2019-2024 final draft**

Portfolio Area: **Customer First**

Wards Affected: **Tavistock, Buckland Monachorum, Walkham,
Bere Ferrers, Tamarside, Milton Ford**

Relevant Scrutiny Committee: Overview and Scrutiny Committee

Urgent Decision: **N** Approval and clearance obtained: **Y**

Author: **Tom Jones** Role: **Head of Place Making**

Contact: thomas.jones@swdevon.gov.uk; **01803861404**

RECOMMENDATIONS

That the Council:

- 1. Notes the content of the Final Draft of the Management Plan following the formal consultation exercise; and**
- 2. Confirms adoption of the final Management Plan for 2019-2024 subject to the addition of two amendments to Annex C of the Management Plan as detailed in section 3.5 of this Report.**

1. **Executive summary**

- 1.1 This report presents the final Tamar Valley AONB Management Plan to Council for adoption prior to submission to Defra before March 31 2019.

2. **Background**

- 2.1 Under the Countryside and Rights of Way Act (2000), it is a statutory requirement for Local Authorities to produce Management Plans for AONBs in their area, and to review adopted plans at periods of not more than five years.
- 2.2 The Borough Council as well as the other four relevant Local Authorities has delegated the authority to review and implement the Tamar Valley AONB Management Plan for the next five years to the Tamar Valley AONB

team. The reviewed Management Plan must be sent to the Secretary of State by 31 March 2019.

- 2.3 A light touch approach has been taken to the review, adopting commonality between the format and structure between AONBs, with a view to reflecting changes in the statutory and legislative background, changing circumstances and resources, new knowledge and agendas, and lessons learned from implementation of previous Plans.
- 2.4 A report to Hub Committee on 11 September 2018 presented the consultation draft of the Management Plan during its 12 week formal consultation period and obtained delegated authority for the Head of Place Making to agree the content of the formal Council response to the consultation, and to assist the Tamar Valley AONB with reviewing consultation responses.

3 The Final Draft of the Management Plan

- 3.1 The draft Management Plan was subject to formal consultation with the AONB partnership, statutory (namely Natural England and the Environment Agency) and local authorities and through the online public consultation and eight public consultation events throughout the AONB. Consultation responses have been recorded, assessed, cross referenced with the plan and necessary amendments have been made and reflected in the final draft of the Management Plan.
- 3.2 The final draft of the Management Plan includes three annexes for adoption, two of which relate to Landscape Character, and one relating to planning.
- 3.3 Annex C of the final draft of the Management Plan titled '*Tamar Valley AONB Planning Guidance*' is intended to provide locally relevant concise but detailed guidance and supporting tools to supplement the National Planning Policy Framework with respect to planning in protected areas. The audience being those involved with the planning process including planning officers, elected Members and developers. The Annex was written in response to a request from a group of constituent Local Authority planning officers during the previous Management Plan review (2014-19) for such locally relevant guidance to supplement the NPPF with respect to planning in the AONB.
- 3.4 National Planning Policy Guidance on the Natural Environment notes that those parts of an AONB Management Plan (this would include the three Annexes) that raise relevant issues (such as those relating to development management, special qualities and features) can be considered material considerations for planning purposes, and should be taken into account in strategic planning. The forthcoming Joint Local Plan Supplementary Planning Document is likely to signpost to this AONB Planning Guidance for detailed advice with respect to planning in the AONB.
- 3.5 At present, Annex C requires two minor amendments before it can be acceptable to Council officers, and to be consistent with legal opinion the

Council has previously received. Specifically this relates to the view of officers that the definition of major development contained in Foot Note 55 of the National Planning Policy Framework, for the purposes of paragraph 172, only applies to development within the AONB (and not within the setting). Accordingly officers are seeking the following update to the first of the key indicators that a development is likely to be major on page 6 of Annex C:

- Where the scale of development is likely to have a detrimental visual impact that harms the scenic quality of the AONB, ~~either within the AONB or in its setting;~~

And the amendments as below (addition of the text indicated in bold / deletion as set out to page 4:

- This commensurate level of protection is reinforced through paragraph 172 terms of 'great weight' and 'highest status of protection' and requires the decision-maker **(the Local Planning Authority)** to give primary consideration to conserving or enhancing the landscape character or scenic beauty (combined referred to as natural beauty) of the AONB ~~and its setting~~

3.6 As is required through legislation, Habitats Regulations and Strategic Environmental Assessment (SEA) screenings have been undertaken of the final draft of the Management Plan. The Habitats Regulations screening concluding that the Management Plan will not have any likely significant effect on any European Site, and the SEA screening concluding that a full SEA was not required because the Management Plan demonstrated little deviation from its 2014-19 iteration – the previous iteration having been subject to full SEA and therefore the current revision is considered unlikely to display further significant environmental effects.

3.7 The final draft of the Management Plan will be presented to the other District, City and County Councils in February 2019 for adoption with a view to sending the new Management Plan to the Secretary of State in March 2019.

4 Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/ Governance		<p>Section 89 of the Countryside and Rights of Way Act (CRoW Act, 2000) sets out the statutory requirement for Local Authorities to produce Management Plans for AONBs in their area, and to review adopted plans at periods of not more than five years</p> <p>The Council (as well as other constituent Local Authorities – these being Cornwall Council, Devon County Council, Plymouth City Council and South Hams District Council) has delegated the authority</p>

		of reviewing the Management Plan to the Tamar Valley AONB team.
Financial		The Council makes an annual contribution of £8,835 to the Tamar Valley AONB, which along with constituent Local Authority contributions amounts to 25% of the budget, a further 75% being provided by Defra. This contribution meets the cost of the core AONB team and their production and delivery of the AONB Management Plan.
Risk		Failure to publish a plan and submit to the Secretary of State by end of March 2019 would result in the Council failing to meet the statutory duty set out in Section 89 of the CRoW Act.
Comprehensive Impact Assessment Implications		
Equality and Diversity		None identified
Safeguarding		None identified
Community Safety, Crime and Disorder		None identified
Health, Safety and Wellbeing		None identified
Other implications		None identified

Supporting Information

Appendices:

- Final draft of Tamar Valley AONB Management Plan
 - o Annex 1a – Tamar Valley AONB Landscape Character Areas and Special Qualities
 - o Annex 1b - Tamar Valley AONB Landscape Character Areas and Special Features
 - o Annex 1c - Tamar Valley AONB Planning Guidance

Annex 1a: TAMAR VALLEY AONB LANDSCAPE CHARACTER AREAS AND SPECIAL QUALITIES
Version 2: January 2019

The contents of this table have been compiled from information in the respective Landscape Character Assessment reports for Devon and Cornwall. Landscape Character Types for the Devon side of the AONB have been reviewed as part of the Joint Local Plan for West Devon, South Hams and Plymouth City Council 2018. The document will be regularly updated, hence its electronic publication. Nevertheless it is a full, integral part of the AONB Management Plan. The common building block between the two tables is the 'distinctive characteristics'. This makes it possible to read across between special qualities and special features, and thus to assess if a site-based proposal may impact upon any of the special qualities of the AONB through impacts on one or more special features.

Landscape Character Area	Distinctive characteristics	Special qualities				
		Rare valley and water landscape	A landscape of high visual quality	A unique wildlife resource	A remarkable heritage	A landscape of artistic and public appeal
Cornwall – Lower Tamar and Tavy Valleys	Open, unenclosed and unsettled land comprising mudflats, saltmarsh, reedbeds, coastal floodplain, grazing marsh and fens	✓	✓	✓		
	Pastoral farmland and rough grazing above high tide line, with little arable	✓				
	Unspoilt and remote upper reaches of the river.	✓	✓			
	Scatter of isolated farmsteads.		✓		✓	
	Active and disused historic quays and remains of historic riverside industrial activity and navigation.	✓	✓		✓	✓
	Low-lying areas prone to sea flooding in storm conditions, and areas of intense recreation and amenity use in the southerly part.	✓				
Cornwall – Middle Tamar Valley	Meandering and looping river valley, narrow in parts, with steep sides.	✓	✓	✓		✓
	Floodplains on river bends with improved farmland behind earth dykes, out fringe of coastal saltmarsh and reedbeds.	✓		✓	✓	
	Mixed broadleaved and coniferous woodland on steep valley sides, with improved grassland and pasture on lower lying areas, and pockets of arable or horticultural land on the higher valley edge.	✓		✓		
	Watermeadows, reedbeds and grazing marsh on the unsettled valley floor.	✓	✓	✓	✓	
	Historic quays, riverside settlements and evidence of 19 th century industry.	✓	✓		✓	✓
	Core of Tamar Valley and Tavistock WHS area with engine houses, chimneys and spoil heaps prominent in the landscape.		✓		✓	✓
	Winding narrow sunken lanes and packhorse paths to industrial sites.				✓	✓
	Significant views up and down the River Tamar from several viewpoints.	✓	✓			✓
East Cornwall and Tamar Moorland Fringe	Undulating plateau incised by short river valleys, tributaries of the Tamar.	✓	✓			
	Open, medium-scale mixed farmland of predominantly improved pasture.					
	Steep wooded sides of mixed woodland on ancient woodland sites.	✓	✓	✓		
	Different land uses linked by Cornish hedges mainly defining medieval enclosure, which retains its historic pattern, with patches of rough ground, and areas of more recently enclosed land, especially on higher ground.		✓	✓	✓	
	Narrow, winding sunken lanes overhung with tall, tree-lined hedges linking dispersed farms and hamlets.		✓	✓	✓	✓
	Mix of historic settlements with characteristic vernacular architecture and use of local materials, some modern infill.		✓		✓	✓
	Strong visual influence of Plymouth in views to the south.					✓
	The intimacy and tranquillity of rural settlements and river landscapes contrasts with the major towns and roads just outside of the AONB.	✓				✓
Kit Hill	Prominent ridge and summit rising above the river valley.	✓	✓			
	Open lowland heath to the summit and slopes, contrasts with pastoral farmland with planned patterns edged with Cornish hedges to the east.			✓	✓	✓
	Important archaeological landscape with evidence of activity and mining since prehistory, encapsulated as part of the Tamar Valley and Tavistock WHS area.				✓	✓
	Former industrial areas support important flora and fauna.			✓	✓	
	The summit offers panoramic views across the Devon and Cornwall landscape and out to Dartmoor, Plymouth and Bodmin Moor.		✓			✓
	Some areas on lower ridge spoiled by inappropriate development.					
River Lynher	Extensive, complex river system of winding inlets, intertidal zones	✓	✓	✓		

	and mudflats, large areas of coastal saltmarsh, wetlands and a saline lagoon.					
	Wooded parkland and designed landscapes, and estate land including deer parks.			✓	✓	✓
	Upper river valleys narrow and steep sided, with mix of farmland and woodland.	✓	✓	✓		✓
	Narrow enclosing winding lanes lined by Cornish hedges topped with mature trees.		✓	✓		✓
	Mixed farmland, pasture, arable, fruit and flower growing.		✓	✓	✓	✓
	Main settlement of St Germans significant through its historic and continuing development.		✓		✓	
	Torpoint, Plymouth and Saltash are visually prominent.					
SE Cornwall Plateau	Open, gently rolling plateau landscape patterned with Cornish hedges.		✓	✓	✓	✓
	Mixed improved pasture with some arable	✓				
	Gently sloping and undulating stream valleys, small patches of woodland in low-lying areas.	✓		✓		
Upper Tamar	Gently rolling, inland hills and sheltered valley landscape.	✓	✓			
	Distinctive floodplains with strong tree cover, open ground mature oaks and valley floor pasture.	✓	✓	✓		
	Prominent broadleaved woodland, mixed or coniferous woodland to the east on the valley sides.	✓	✓	✓		
	Small areas of Culm grassland along river valleys.	✓		✓		
	Medium-sized fields of improved grassland with some arable land.					
	Medieval stone bridges are significant landscape feature.	✓	✓		✓	✓
	Slate gives a dark appearance to riverbed.	✓				
Devon – Lower Tamar and Tavy Valleys	Open, unenclosed landscape comprising mudflats, saltmarsh, reedbeds, coastal floodplain, grazing marsh and unenclosed fens.	✓	✓	✓		✓
	Small-scale pastoral farmland and rough grazing above floodplain, with little arable.	✓		✓		
	Sparse highway network					✓
	Scatter of small, isolated farmsteads		✓		✓	
	Active and disused historic quays and remains of historic riverside industrial activity and navigation.	✓	✓		✓	✓
	Extensive river views across a beautiful, unspoiled and remote area	✓	✓			✓
	Low-lying areas prone to sea flooding in storm conditions, and areas of intense river based recreation and amenity use in the southerly part	✓				
Devon – Middle Tamar Valley	Meandering and looping river valley, narrow in parts, with steep sides	✓	✓	✓		✓
	Floodplains on river bends with improved farmland behind earth dykes with outer fringe of coastal saltmarsh and reedbeds	✓		✓	✓	
	Extensive ancient and mixed broadleaved and coniferous woodland on steep valley sides, with improved grassland and pasture on lower lying areas, and pockets of arable or horticultural land on the higher valley edge	✓		✓		
	Improved pasture/grassland with some arable on plateau area between Gulworthy and Bere Alston with extensive views across both the Tamar and Tavy valleys and beyond		✓			
	Watermeadows, reedbeds and grazing marsh on the unsettled valley floor	✓	✓	✓	✓	
	Historic quays, riverside settlements and evidence of 19 th century industry	✓	✓		✓	✓
	Core of Tamar Valley and Tavistock WHS area with engine houses, chimneys and spoil heaps prominent on the landscape		✓		✓	✓
	Winding narrow sunken lanes and packhorse paths to industrial sites				✓	✓
	Significant views up and down the River Tamar from several viewpoints	✓	✓			✓
Middle Tavy Valley	Open rolling uplands contrast with steep wooded valley sides and again with moorland character to the east	✓	✓	✓		
	Meandering flat and confined river valley near Tavistock, screened by riparian trees	✓	✓	✓		
	Pastoral, unimproved cultivation, some arable and some parkland estates and watermeadows			✓	✓	
	Roadside copses and individual oaks on higher ground			✓		
	Gently curving stone-faced hedgebanks			✓	✓	
	Scattering of hamlets and isolated farms with a few historic villages of vernacular character and local materials		✓		✓	✓
	Dense network of minor sinuous roads				✓	✓
	Long views over the valleys	✓	✓			✓

Annex 1b: TAMAR VALLEY AONB LANDSCAPE CHARACTER AREAS AND SPECIAL FEATURES

Version 2: January 2019

Character Area	Description	Distinctive characteristics	Special features
Cornwall – Lower Tamar and Tavy Valleys	Intertidal zone and estuary land margins of the lower reaches of the Tamar and Tavy rivers, confined by the low landform and vegetation of the adjoining Middle Tamar Valley.	<ul style="list-style-type: none"> • Open, unenclosed and unsettled land comprising mudflats, saltmarsh, reedbeds, coastal floodplain, grazing marsh and fens • Pastoral farmland and rough grazing above high tide line, with little arable 	<ul style="list-style-type: none"> • Tamar Estuary Marine Conservation Zone (MCZ) • Plymouth Sound and Estuaries Special Area of Conservation (SAC), Tamar Estuaries Complex Special Protection Area (SPA) • Wetland habitats important bird wintering sites • Traditional orchards, generally focussed around the settlement areas • Historically only accessible from the river, legacy of this in number of historic quays including at Kingsmill Lake, Moditonham Quay • Areas of historic market gardening activity at Bere Ferrers, and at St Ann’s, north of Cargreen village, with glasshouses still extant between Landulph Cross and Cargreen • Historic daffodil varieties found on hedgebanks and in woodland in Spring • Potential early monastic site at Landulph • Farmsteads (such as Haye) potentially deserted settlements • Medieval enclosures • Landmark church towers at Landulph and Cargreen • Views south the Royal Albert Bridge (I.K. Brunel, 1859) • Riverside settlement with medieval origins

			<p>at Cargreen</p> <ul style="list-style-type: none"> • Ever-changing views with tidal cycle.
<p>Cornwall – Middle Tamar Valley</p>	<p>Gorge-like river valley with views of the water, gently undulating farmland, and extensive woodland.</p> <p>Short tributary valleys, barely visible from higher ground, topography further north more gentle and open.</p>	<ul style="list-style-type: none"> • Significant views up and down the River Tamar from several viewpoints • Meandering and looping river valley, narrow in parts, with steep sides • Floodplains on river bends with improved farmland behind earth dykes, outer fringes of coastal saltmarsh and reedbeds • Mixed broadleaved and coniferous woodland on steep valley sides, with improved grassland and pasture on lower lying areas, and pockets of arable or horticultural land on higher valley edge • Watermeadows, reedbeds and grazing marsh on the unsettled valley floor • Historic quays, riverside settlements, and evidence at 19th century industry • Core of Tamar Valley and Tavistock WHS area with engine houses, chimneys and spoil heaps prominent in the landscape • Winding narrow sunken lanes and packhorse paths to industrial sites 	<ul style="list-style-type: none"> • Tamar Estuary Marine Conservation Zone (MCZ) • Part of and adjacent to Plymouth Sound and Estuaries Special Area of Conservation (SAC) • Mineralogical sites on spoil tips, particularly around Devon Great Consols • Riverside settlements with medieval origins at Calstock, Gunnislake, Latchley and Lucket, all of which are intrinsically linked to the river trade and historic crossing points, and developed in response to large-scale mining in the area • Geology important for mining heritage, concentration of tin, copper and arsenic lodes • Extensive areas of former and current (though reducing) market gardening, for example at Bohetherick and St Dominick, legacy through glasshouses and packing sheds • Historic daffodil varieties found on hedgebanks and in woodland in Spring • Important crossing points, viaduct at Calstock and many historic bridges including New Bridge at Gunnislake and Horsebridge • Tamar Valley Line provides elevated views from viaduct across the River Tamar • Significance of miners smallholdings around Gunnislake important element of WHS • Woodlands on valley sides relate to changing use of landscape – including

			<p>timber, charcoal burning and replanting of market gardening with coniferous trees – SSSI at Greenscombe Wood</p>
			<ul style="list-style-type: none"> • Large estates at Cotehele and Pentillie • Medieval farm settlements (e.g. Hampt near Lockett) • Mix of field patterns, post medieval and remnant strip patterns • Prehistoric hillfort at Carmartha at the north of the area • C13 Kerrybullock deer park near Stoke Climsland • Extensive mining remains scattered around Calstock, Gunnislake and Lockett • Limekilns and other evidence of riverside industry, particularly between Cotehele and Calstock on the Cornwall bank of the Tamar • Within Cornwall and West Devon Mining Heritage WHS and includes a key site at Cotehele
East Cornwall and Tamar Moorland Fringe	<p>Domesticated and enclosed landscape of the western slopes and plateau of the Middle Tamar Valley.</p> <p>The plateau mostly retains its historic hedged landscape, but is exposed in some areas.</p> <p>Woodland is restricted to the steepest valley sides and the wetter valley bottom.</p>	<ul style="list-style-type: none"> • Undulating plateau incised by short river valleys, tributaries of the Tamar • Open, medium-scale mixed farmland of predominantly improved pasture • Steep wooded sides of mixed woodland on ancient woodland sites • Different land-uses linked by Cornish hedges mainly defining medieval enclosure which retains its historic pattern, with patches of rough grassland and areas of more recently enclosed land, especially on higher ground 	<ul style="list-style-type: none"> • Winding narrow lanes are characteristic within the AONB boundary, in contrast to major roads such as the A390 and A388 outside of the boundary • Medieval field patterns contrasting with patches of rough ground and recently enclosed land • A well-preserved medieval landscape focused around medieval churchtowns • Good examples of vernacular architecture using local materials including shillet, slate and granite • Excellent example of how the Tamar Valley has accommodated landscape change,

		<ul style="list-style-type: none"> • Narrow winding sunken lanes overhung with tall, tree-lined hedges linking dispersed farms and hamlets • Mix of historic settlements with characteristic vernacular architecture and use of local materials, some modern infill • The intimacy and tranquillity of rural settlements and river landscapes contrasts with the major towns and roads just outside of the AONB • Strong visual influences of Plymouth in views to the south 	<p>and how those changes are still evident in the landscape</p> <ul style="list-style-type: none"> • Remnants of market gardening around St Dominick and Calstock, including glasshouse complexes • Historic daffodil varieties found on hedgebanks and in woodland in Spring • Estate landscape at Cotehele • Substantial mining remains around Gunnislake • Tamar Valley Discovery Trail • Important network of species-rich hedges • Within Cornwall and West Devon Mining Heritage WHS
Kit Hill	<p>A prevailing landmark enhanced by its chimney, visible from Bodmin Moor and a variety of points within the Tamar Valley.</p> <p>Unsettled wildland covered in heathland scrub and bracken with strong archaeological value.</p>	<ul style="list-style-type: none"> • Prominent ridge and summit rising above the river valley • Open lowland heath to the summit and slopes, contrasts with pastoral farmland with planned patterns edged with Cornish hedges to the east • Important archaeological landscape with evidence for activity and mining since prehistory, encapsulated as part of the Tamar Valley and Tavistock WHS • The summit offers panoramic views across the Devon and Cornwall wider landscape and out towards Dartmoor, Plymouth and Bodmin Moor • Former industrial areas support important flora and fauna • Some areas on lower ridge spoiled by inappropriate development 	<ul style="list-style-type: none"> • Kit Hill is a key site within the Cornwall and West Devon Mining Heritage WHS • Streamworking and quarrying remains, including an incline plane which carried stone to the East Cornwall Railway (now dismantled, but once connected with the existing Tamar Valley line from Gunnislake to Plymouth) • Significant archaeology, much of which is undesignated, including barrows and a relict prehistoric field system on the eastern slope • Site of the Battle of Hingston Down 838AD, with C18 folly at the summit of Kit Hill as a commemoration • Important ore deposits relating to mining heritage • Extensive mining and industrial activity remains • Kit Hill chimney (c.1858) an important landmark feature

			<ul style="list-style-type: none"> • Neutral grassland SSSI at St Ann's Chapel (Sylvia's Meadow) • Kit Hill Country Park • Working granite quarry at Hingston Down • Field pattern of recently-enclosed fields • Post medieval farmsteads associated with recently enclosed land and linear roadside settlements at Chilworthy and St Ann's Chapel
River Lynher	<p>Estuarine land encompassing the banks of the lower Tamar estuary.</p> <p>The land combines large-scale farmland and managed parkland.</p> <p>Wooded tributary valleys with farmland in the valley floor</p>	<ul style="list-style-type: none"> • Mixed farmland, pasture, arable, fruit and flower growing • Extensive, complex river system of winding inlets, intertidal zones and mudflats, large areas of coastal saltmarsh, wetlands and a saline lagoon • Wooded parkland and designed landscapes and estate land including deer parks • Upper river valleys narrow and steep sided with a mix of farmland and woodland • Torpoint, Plymouth and Saltash are visually prominent • Narrow enclosing winding lanes lined by Cornish hedges topped with mature trees • Main settlement at St Germans significant through its historic and continuing development 	<ul style="list-style-type: none"> • Tamar Estuary Marine Conservation Zone (MCZ) • Part of and adjacent to Plymouth Sound and Estuaries Special Area of Conservation (SAC), and Tamar Estuaries Complex Special Protection Area (SPA), Lynher Estuary SSSI • Estate land and designated landscapes at Antony and Port Elliot, for both of which Humphrey Repton advised on landscaping • Important bird habitat • Significant tidal estuary with saltmarsh and mudflats around the Lynher • Important network of hedges and mature trees, linking semi-natural habitats • Mixed woodland, including ancient woodland in valleys • Historic quays and riverside industry, for example at Wacker Quay, which is also an important river access point • Amenity value of river access • Military archaeology, including a decoy airfield at Erth Hill • Medieval enclosed land with sinuous boundaries • Clustered villages, small farms and hamlets

			<ul style="list-style-type: none"> • Many small farms may be remnants of medieval settlements, such as Stoketon Manor • Many settlements have grown up around the heads of creeks and the phases of development are visible • Obvious vernacular style using local stone with decorative brick detailing and dressings • Steep winding lanes lined with mature trees and dense hedges • Important historic structures and sites including St Germans Church and remains of the priory, Port Eliot House and Antony House, Ince Castle, Scraesdon Fort, Burrell House, Notter Viaduct and St Germans Viaduct • Nature reserve at Churchtown Farm providing extensive public access • Wrecks in the estuary including the George Murray at Forder Lake • Mount Edgcumbe estate important in views to the south west
SE Cornwall Plateau	<p>An extensive sloping plateau of working pastoral landscape intersected by river valleys.</p> <p>Vegetation is limited to Cornish hedges around isolated farmsteads and dispersed settlement, with little woodland.</p>	<ul style="list-style-type: none"> • Open, gently rolling plateau landscape patterned with Cornish hedges • Mixed, improved pasture with some arable • Gently sloping and undulating stream valleys, small patches of woodland in low-lying areas 	<ul style="list-style-type: none"> • Important network of hedges linking semi-natural habitats • Ancient pastoral farmland with scattered trees • Sinuous boundaries to fields, with medieval enclosed land and Cornish hedges • The hamlet of St Erney contains several listed buildings, including the C13 church
Upper Tamar	Gently rolling hills and open valley landscape defined by the upper reaches of the River Tamar and its tributaries.	<ul style="list-style-type: none"> • Gently rolling, inland hills and sheltered valley landscape • Distinctive floodplains are distinctive with their strong tree cover, open- 	<ul style="list-style-type: none"> • Earthwork at Castlepark Hill • Important network of hedges linking semi-natural habitats • Mixed woodland along river valleys,

	A settled, inland landscape with medium-sized fields of improved pasture, bounded by Cornish hedges and mature trees.	<p>grown mature oaks and valley floor pasture</p> <ul style="list-style-type: none"> • Prominent broadleaved, mixed or coniferous woodland to the east on the valley sides • Small areas of Culm grassland along river valleys • Medium-sized fields of improved grassland with some arable land • Stone bridges are significant landscape features • Slate gives a dark appearance to river bed 	<p>including ancient woodland, a significant component of the character of this area</p> <ul style="list-style-type: none"> • Stone bridges such as C15 Greystone Bridge distinctive landscape feature • Mature, stable and unchanged landscape
Devon – Lower Tamar and Tavy Valleys	<p>Intertidal zone and estuary land margins of the lower reaches of the Tamar and Tavy rivers.</p> <p>An open flat area of mudflats enclosed by low landform and vegetation.</p>	<ul style="list-style-type: none"> • Open, unenclosed landscape comprising mudflats, saltmarsh, reedbeds, coastal floodplain, grazing marsh and unenclosed fens • Small-scale pastoral farmland and rough grazing above floodplain with little arable • Sparse highway network • Scatter of small, isolated farmsteads • Active and disused historic quays and remains of historic riverside industrial activity and navigation • Extensive river views across a beautiful, unspoiled and remote areas • Low-lying areas prone to sea flooding in storm conditions • Areas of intense water based recreation and amenity use in the southerly part 	<ul style="list-style-type: none"> • Tamar Estuary Marine Conservation Zone (MCZ) • Part of and adjacent to Plymouth Sound and Estuaries Special Area of Conservation (SAC), and Tamar Estuaries Complex Special Protection Area (SPA), Tamar-Tavy Estuary SSSI • Juxtaposition of estuarine and built elements • Internationally important bird habitat supporting rare estuarine species such as avocet • County Geological site on the east bank of the Tamar associated with mining history • Local Nature Reserve at Warleigh Wood • Tamar Valley Discovery Trail • Historic daffodil varieties growing in hedgebanks and woodlands make a significant impact on the landscape in Spring • Tamar Valley Line provides elevated views from bridges across the mouth of the Tavy

			<p>and Ernesettle Creek</p> <ul style="list-style-type: none"> • Blocks of valley-side oak and birch woodland on southern bank of the Tavy, with an important line of hedgerow trees, including fruit trees, a legacy of the former soft fruit industry • Post-medieval reclaimed land at Warleigh Marsh • Stone quays and other evidence of industry at Weir Quay and Bere Ferrers • Sparse settlement with Weir Quay and Bere Ferrers on the Devon bank the two main settlements • Relatively unspoiled waterfronts at Weir Quay and Bere Ferrers • Long spectacular watery views to the south towards the Royal Albert Bridge and Tamar Suspension Bridge • Historic church at Bere Ferrers and country houses at Maristow and Warleigh with extensive grounds • Designed landscape features associated with Maristow House • Remains of tide mill at Blaxton Quay • Riverside access and infrastructure at Lopwell Dam • Patterns of light and water, sounds and smells at the waterside
Devon – Middle Tamar Valley	<p>Sinuous and meandering middle reaches of the Tamar.</p> <p>A gorge-like river valley with views of the water, gently undulating farmland, and extensive woodland.</p>	<ul style="list-style-type: none"> • Meandering and looping river valley, narrow in parts, with steep sides • Significant views up and down the River Tamar from several viewpoints • Historic quays, riverside settlements and evidence of 19th century industry 	<ul style="list-style-type: none"> • Tamar Estuary Marine Conservation Zone (MCZ) • Part of and adjacent to Plymouth Sound and Estuaries Special Area of Conservation (SAC), and Tamar Estuaries Complex Special Protection Area (SPA), Tamar-Tavy Estuary SSSI

	<p>Intimate, short tributary valleys barely visible from higher ground.</p> <p>Topography further north more gentle and open.</p>	<ul style="list-style-type: none"> • Floodplains on river bends with improved farmland behind earth dykes, outer fringe of coastal saltmarsh and reedbeds • Extensive ancient and mixed broadleaved and coniferous woodland on steep valley sides with improved grassland and pasture on lower lying areas and pockets of arable or horticultural land on the higher valley edge • Watermeadows, reedbeds and grazing marsh on the unsettled valley floor • Core of Tamar Valley and Tavistock WHS area with engine houses, chimneys and spoil heaps prominent in the landscape • Winding narrow sunken lanes and packhorse paths to industrial sites 	<ul style="list-style-type: none"> • Lockridge Mine SSSI, Devon Great Consols SSSI • Tidal qualities of the southern stretch that flows in a winding course of incised meanders • Within the WHS, Morwellham important with links to Tavistock and the Dukes of Bedford as are the former areas of Bedford estate to the north of the area • Steep mixed-wooded valley sides with features such as Chimney Rock where the granite has been exposed • Tradition of orchards and market gardening evident particularly on the Bere Peninsula and around Sydenham Damerel • The landscape at Endsleigh is associated with Humphrey Repton, the house itself was designed by Wyattville in the early C19 • County Geological Site on the east bank of the Tamar associated with historic mining • Internationally important bird habitat supporting rare estuarine species such as avocet • Variety of field boundaries, but many contain remnants of the market gardening industry (such as daffodils) and soft fruit trees especially on the Bere Peninsula • Former packing sheds in the landscape represent the legacy of the market gardening industry • Numerous features associated with mining and industry particularly the complexes at Devon Great Consols and Gawton, chimneys associated with those sites, as they emerge from woodlands, are a
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			<p>particular feature</p> <ul style="list-style-type: none"> • Significant river crossings and medieval bridges at Greystone, Horsebridge and Newbridge • County Wildlife sites on the valley side, floor and wetlands • Settlement generally focussed on the river and the influence of its historic trade • Houses show a combination of stone, slate-hanging and pastel-coloured render or paint • Morwellham Quay, nationally significant heritage site and a tourist attraction • Hillfort earthworks at Dunterue Wood and Castle Head near Dunterton • Conservation Areas at Bere Ferrers, Bere Alston and Weir Quay • Strong artistic connections – J.M.W Turner painting 'Crossing the Brook' (1815) • Tamar Valley Line provides access from Plymouth along a scenic route including the crossing the landmark viaduct at Calstock • Tamar Valley Discovery Trail and Tamar Trails • Enclosed and sunken paths and lanes • Bere Peninsula has a particular feeling of remoteness and an unchanged landscape as a result of restricted road communications • Tranquillity and dark skies in the upper reaches away from Plymouth
Middle Tavy Valley	Open rolling and sloping pastoral uplands surrounding the mixed wooded middle section of the River Tavy valley.	<ul style="list-style-type: none"> • Open rolling uplands contrast with steep wooded valley sides and again with moorland character to the east 	<ul style="list-style-type: none"> • Grenofen Wood SSSI and West Down SSSI • County Wildlife Sites in woodland and unimproved grassland

	<p>Moorland-edge character to the east at the boundary with Dartmoor.</p> <p>The Tavy Valley is separated from the Tamar by a narrow high plateau.</p>	<ul style="list-style-type: none"> • Meandering flat and confined river valley near Tavistock, screened by riparian trees • Pastoral, unimproved cultivation, some arable and some parkland estates and watermeadows • Roadside copses and individual oaks on higher ground • Gently curving stone-faced hedgebanks • Scattering of hamlets and isolated farms with a few historic villages of vernacular character and local materials • Dense network of minor sinuous roads • Long views over the valleys 	<ul style="list-style-type: none"> • Local Nature Reserve at Lopwell Down • Medium-sized semi-regular fields and post-medieval Barton fields resulting from estate tenure • Neighbours areas of unenclosed moorland on Dartmoor to the east • Long history of mining, including medieval mining on the Bere Peninsula, which is apparent in the landscape • Settlement consists of dispersed farms, occasional nucleated villages and larger villages including Buckland Monachorum and Crapstone • Straight roads on high land and sunken lanes with high hedges on valley sides • Open views towards Dartmoor from higher land, particularly around Bere Alston and Gulworthy • Within Cornwall and West Devon Mining Heritage WHS • Buckland Abbey rich in historic significance and also a major National Trust tourist site • 500-year old Lumburn Leat, associated with the medieval Royal silver mines on the Bere Peninsula • Conservation Areas at Milton Combe and Buckland Monachorum • Historic river crossing point at Denham Bridge • Tamar Valley Discovery Trail, West Devon Way and Drakes Trail
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ANNEX 1c - Tamar Valley AONB Planning Guidance

This section of the Management Plan provides guidance and supporting tools to all parties in the planning process including planning officers, elected Members and developers as to how the statutory duty should be exercised through the planning system. During the previous Management Plan review (2014-19), the Partnership identified (through a group of constituent Local Authority planning officers) the need to provide locally relevant guidance to supplement the National Planning Policy Framework (NPPF)¹ with reference to planning in protected areas. These have been proven valuable tools and with updating, largely in response to the outcomes of the NPPF review in 2018, have been carried through to the current Management Plan 2019-24.

The principal needs have been identified as:

1. Setting out a procedure and technical information to enable the objective assessment of impact upon the landscape character and scenic beauty (together defined as natural beauty) of the AONB and its special qualities.
2. Providing guiding principles for what sustainable development might mean in the context of the AONB (i.e. given the great weight afforded to it in the NPPF paragraph 172) and the identification of the AONB as a protected area of particular importance in footnote 6 with regard to the application of paragraph 11 of the NPPF.
3. Considering what should be deemed a 'major' planning application within the context of the AONB designation, noting footnote 55 of the NPPF.

Footnote: *text in italics refers to the NPPF*

Statutory duties in relation to AONBs are provided for in Section 85 of the Countryside and Rights of Way (CRoW) Act 2000², as amended. Specifically, they state that,

‘in exercising or performing any functions in relation to, or so as to affect, land in these areas, relevant authorities “shall have regard” to their purposes’. Natural England has set out the following three aims for AONBs:

- The primary purpose of AONB designation is to conserve and enhance natural beauty.
- In pursuing the primary purpose account should be taken of the needs of agriculture, forestry, other rural industries and of the economic and social needs of local communities. Particular regard should be paid to promoting sustainable forms of social and economic development that in themselves conserve and enhance the environment.
- Recreation is not an objective of designation, but the demand for recreation should be met so far as this is consistent with the conservation of natural beauty and the needs of agriculture, forestry and other uses³.

Guidance on Procedures

It is the responsibility of the Local Planning Authority (LPA) to fully justify its recommendations for development proposals by referring to the criteria for natural beauty and the AONB’s special qualities. By doing this the LPA will meet its duty towards the designation. The AONB Partnership expects all LPAs to comply with this statutory requirement.

Assessment of the impact of development proposals on natural beauty and special qualities should be undertaken following this process, and by reference to Annex 1. These assess the sensitivity of the AONB to developments, ensuring that there is sufficient flexibility to enhance the resilience of the AONB. The specific guidance considering ‘sustainable development’ and what constitutes ‘major development’, as referred to in paragraph 173 of the NPPF, should also be used during assessment of proposals.

The AONB Partnership advise that planning officers state explicitly that this process has been delivered for the avoidance of doubt and to strengthen their recommendations by direct reference to the evidence base for natural beauty and special qualities, e.g. “In making this recommendation, officers have taken into account the sensitivity of the natural beauty and special qualities of the AONB and their component features as documented in [Annex 1a and 1b](#) of the Tamar Valley AONB 2019 -24 Management Plan [or other source]”.

Process for assessment of development proposals potentially affecting the AONB:

1. Consider whether the proposal should be treated as 'major development' in the context of the AONB according to the guidance and therefore to establish if exceptional circumstances and that the development is in the public interest has been demonstrated in addition to steps 2 to 5 below;
2. Assess the likely impact of the proposal on the AONB's special qualities by reference to the list at [Annex 1a](#) and any other relevant information;
3. Where a potential adverse impact has been identified and/or where the proposal is judged to fail to conserve or enhance the special qualities and features of the AONB, look for opportunities to mitigate the impact;
4. If impact can be overcome and if the application satisfies all other planning considerations, proposal can be considered for approval;
5. If impact cannot be satisfactorily overcome and/or where there are objections based on other planning considerations, the proposal should be considered for refusal.

Sustainable development

The NPPF defines sustainable development as having three dimensions, they are mutually dependent and should not be considered in isolation:

- a) *an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) *a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
- c) *an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy. (NPPF 2018 para 8)*

So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).

For decision-taking this includes granting permission unless:

- i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or*
- ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

Footnote 6 specifies the protected areas or assets of particular importance referring to policies in the NPPF relating to 'habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; an Area of Outstanding Natural Beauty, irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63), and areas at risk of flooding or coastal change.

Paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations.

Paragraph 170 of the NPPF additionally explains that planning policies and decisions should contribute to and enhance the natural and local environment by (amongst other factors) protecting and enhancing valued landscape in a manner commensurate with their statutory status or identified quality in the development plan

The AONB is statutorily protected through the Countryside Rights of Way (CRoW) Act in the National interest, its protection and enhancement is therefore at a national weighting in the overall planning balance.

This commensurate level of protection is reinforced through paragraph 172 terms of 'great weight' and 'highest status of protection' and requires the decision-maker to give primary consideration to conserving or enhancing the landscape character or scenic beauty (combined referred to as natural beauty) of the AONB and its setting. This is not to say that other material planning considerations should be ignored, but that there is a clear emphasis for a higher level of importance to be placed on the purpose of the designation when assessing development proposals that impact upon it.

This level of protection is further enhanced within the NPPF when dealing with ‘major developments’ as referred to in footnote 55, where such developments are to be refused other than in ‘exceptional circumstances **and** where it can be demonstrated that they are in the public interest’.

The AONB Partnership considers that in order to ensure a positive approach to both the need for development and the conservation and enhancement of the special qualities of the AONB, then it is useful to outline some guiding principles as to what ‘sustainable development’ means in the context of the AONB.

In order to be considered sustainable, a development proposal should meet one or more of the following criteria:

1. Demonstrate that it conserves or provides enhancements to landscape character and scenic beauty (or natural beauty) with specific reference to the special qualities of the AONB (as set out in Section 1.5 of the Management Plan and Annex 1a); and
2. Meet the economic and social needs of local communities whilst conserving and enhancing the AONB landscape; or
3. Meet the demand for recreational opportunities within the AONB whilst accounting for the natural beauty of the AONB and the needs of agriculture, forestry and other uses.

[Note: these three criteria reflect the guidance from Natural England setting out the purposes of the AONB, see 2.1 Why is the Management Plan Important?]⁴.

The above principles are a refinement of the broader criteria for sustainable development as set out within the NPPF, The 25 year Environment Plan and other government policy on AONBs. These are designed to ensure that development makes a positive contribution to the economic, social and environmental wellbeing of the AONB without compromising the special qualities.

Considering ‘Major Development’ in the AONB

Paragraph 172 of the NPPF states that:

Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be exceptional circumstances.

The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- 1. the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- 2. the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
- 3. any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

In assessing planning applications, major development is now defined within an AONB. Two distinct approaches have been defined, one specifically for the purposes of paragraphs 172 and 173 and a separate one for the rest of the NPPF. For the rest of the NPPF, there is a specific threshold –based definition in the Annex 2 Glossary. Whereas, the approach to evaluate whether a development is major development for the purposes of paragraphs 172 and 173 is set out in footnote 55, which states:

“For the purposes of paragraphs 172 and 173, whether a proposal is for ‘major development’ is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.”

It is not possible or appropriate to apply a blanket definition for what should be treated as major development in the AONB. Nevertheless, there are some key indicators that would suggest that a development is likely to be major in its effect on the landscape quality:

1. Where the scale of development is likely to have a detrimental visual impact that harms the scenic quality of the AONB, either within the AONB or in its setting;
2. Where the location of development would erode the special qualities and features of the area of the AONB where the development is proposed (landscape, cultural, biodiversity, tranquility, etc);
3. Where the type of development is not directly compatible with its surroundings; and/or
4. Where the development would conflict with the economic and social needs of local communities and the AONB’s guiding principles of sustainable development.

Any major applications that have the potential to generate any of the above should then be considered against the following criteria:

- a. *“the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;” The AONB Partnership would encourage the LPA to request that any such development proposal to be accompanied by a statement of need in the context of national considerations. The impacts of permitting or refusing the development should be clearly identified, including the social, economic and environmental impacts, with specific reference to the impacts upon the natural beauty, special qualities of the AONB, and the economic and social needs of the local communities affected. Such a statement should be based upon objective assessment and clear evidence”.*
- b. *“the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way;” The AONB Partnership would encourage any such development proposal to be accompanied by a report setting out a sequential approach to site selection. This should evidence the extent to which alternative sites have been assessed before the selection of sites within the AONB, and clearly identify why sites outside of the designated area could not be developed. The report should also identify and evidence why the need for the development could not be met in some other way. The report should include relevant evidence of the cost of developing outside of the AONB”.*
- c. *“any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.”*

The AONB partnership would expect any such development proposal to be accompanied by a report identifying any detrimental affects upon the environment, the landscape and recreational opportunities. Such a report should relate directly to the special qualities of the AONB as a whole as well as those specific to the development site.

Any mitigation identified to moderate these impacts should be:

- clearly detailed, in line with the duty to conserve and enhance the AONB,
- be compatible with the objectives of the Management Plan, and
- be capable of realisation through robust planning conditions or obligation

As a final point it is important to note that proposals for major development not only have to demonstrate exceptional circumstances and that the proposals are in the public interest, they also have to demonstrate conformity with the wider components of paragraph 172 which applies to all development impacting upon

the AONB, i.e. to apply to great weight and the highest level for protection with regard to conserving or enhancing landscape character and scenic beauty.

Landscape Character and scenic beauty, which in combination are referred to as natural beauty and heritage values

- In the UK, and internationally, it is established practice to designate historic, cultural and natural sites of national importance and significance in order to assist their conservation and protection. Sites are assessed against specific criteria and the designation includes a statement of the importance of a site. This statement sets out which particular attributes of the site (its values) make it stand out. In the case of AONB designation, there is a single criterion of 'natural beauty', determined by a variety of approaches supported by the 'statement of significance' sets out the special qualities of the landscape that make it worthy of designation. It should be noted that the NPPF and other planning policies and guidance often refer to a broader definition of natural beauty, referring to the two principal components that constitute natural beauty, these being landscape character (the landscape as a resource in its own right) and scenic beauty (views and visual amenity as experienced by people).
- As appreciation of landscape is a cultural creation that can fluctuate with changing social values, the statement of significance is necessarily an expert judgement and is recognised as such in national guidance⁵. In this way, it is distinct from the assessment of landscape character, which describes the landscape in valueless terms.

The Statement of Significance for the Tamar Valley AONB cites five special qualities as the attributes of significance:

- A rare valley and water landscape
- A landscape of high visual quality
- A unique wildlife resource
- A remarkable heritage
- A landscape of artistic and public appeal

These special qualities represent an expert judgement of what makes the area distinctive to the extent of being 'nationally important' for its natural beauty. They build on features identified through Landscape Character Assessment and Historic Landscape Character Assessment, but also take account of the heritage 'values' that the features represent. Historic England recognises four such values: evidential value, historical value, aesthetic value and communal value.

'Integrity' and 'authenticity' are concepts central to all aspects of heritage protection, being recognised by UNESCO internationally and Historic England in

England, and being enshrined in international conventions and associated guidance (e.g. World Heritage Convention, 1972) to which the UK is signatory.

integrity: wholeness, honesty

authenticity: those characteristics that most truthfully reflect and embody the cultural heritage values of a place.

Thus, actions for the conservation and enhancement of the special qualities of the AONB should achieve the conservation of the integrity of the whole area, not just specific locations, attributes, or features. Similarly, the authenticity of the whole area should be conserved, as represented in particular by the stated special qualities of the site.

Designation of an area as an AONB confers a duty upon relevant authorities to 'conserve and enhance' the natural beauty, as defined by the Statement of Significance. This means taking account of both the integrity and authenticity of the natural beauty of the site and also of all the features (both tangible and intangible) that represent those values. A variety of guidance is available with regard to the treatment of natural and cultural heritage in planning, for example⁶. The landscape character identified for the Tamar Valley AONB area and their selected features of significance are provided in **Annex 1b**, and on the Tamar Valley AONB website, www.tamarvalley.org.uk.

References

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- 2 Countryside and Rights of Way Act 2000 - <https://www.legislation.gov.uk/ukpga/2000/37/contents>
- 3 Guidance for AONB Partnership Members - <http://www.landscapesforlife.org.uk/wp-content/uploads/2015/03/Guidance-for-AONB-Partnership-Members.pdf>
- 4 Natural England Guidance – Areas of outstanding natural beauty (AONBs): designation and management - <https://www.gov.uk/guidance/areas-of-outstanding-natural-beauty-aonbs-designation-and-management>
- 5 Department for Environment, Food and Rural Affairs: 25 Year Environment Plan - <https://www.gov.uk/government/publications/25-year-environment-plan>
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