

# South Hams Executive



<b>Title:</b>	<b>Agenda</b>
<b>Date:</b>	<b>Thursday, 7th December, 2017</b>
<b>Time:</b>	<b>10.00 am</b>
<b>Venue:</b>	<b>Repton Room - Follaton House</b>
<b>Full Members:</b>	<p style="text-align: center;"><b>Chairman</b> Cllr Tucker</p> <p style="text-align: center;"><b>Vice Chairman</b> Cllr Wright</p> <p><i>Members:</i>                      Cllr Bastone                      Cllr Hopwood     Cllr Gilbert                      Cllr Wingate</p>
<b>Interests – Declaration and Restriction on Participation:</b>	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.
<b>Committee administrator:</b>	Member.Services@swdevon.gov.uk

<b>1. Minutes</b>	<b>1 - 8</b>
to approve as a correct record and authorise the Chairman to sign the minutes of the meeting of the Executive held on 19 October 2017;	
<b>2. Urgent Business</b>	
brought forward at the discretion of the Chairman;	
<b>3. Division of Agenda</b>	
to consider whether the discussion of any item of business is likely to lead to the disclosure of exempt information;	
<b>4. Declarations of Interest</b>	
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;	
<b>5. Public Question Time</b>	<b>9 - 10</b>
a period of up to 15 minutes is available to deal with questions submitted to the Council in accordance with the Executive Procedure Rules;	
<b>6. Quarter 2 Revenue Budget Monitoring 2017/2018</b>	<b>11 - 22</b>
<b>7. Capital Programme Monitoring</b>	<b>23 - 40</b>
<b>8. Budget Proposals Report 2017-18</b>	<b>41 - 72</b>
<b>9. Capital Budget Proposals for 2018/19</b>	<b>73 - 88</b>
<b>10. Treasury Management Mid-Year Review</b>	<b>89 - 102</b>
<b>11. Heart of the South West - Joint Committee</b>	<b>103 - 128</b>
<b>12. Formation of a Community Lottery for South Hams &amp; West Devon</b>	<b>129 - 148</b>
<b>13. Low Cost Self and Custom Build Initiative for Local people</b>	<b>149 - 186</b>
<b>14. Council Tax Reduction Scheme</b>	<b>187 - 342</b>

<b>15. Procurement of new ICT systems</b>	<b>343 - 346</b>
<b>16. Food Safety Audit Report</b>	<b>347 - 418</b>
<b>17. Write Off Report</b>	<b>419 - 428</b>
<b>18. Reports of Other Bodies</b>	<b>429 - 440</b>
a) – Overview and Scrutiny Panel – 9 November 2017	
<b>19. Head of Paid Service Replacement</b>	
To follow	

**This page is intentionally left blank**

**MINUTES OF A MEETING OF  
THE EXECUTIVE  
HELD AT FOLLATON HOUSE ON THURSDAY 19 OCTOBER 2017**

<b>Members in attendance:</b>			
<b>* Denotes attendance</b>			
<b>∅ Denotes apologies for absence</b>			
*	Cllr H D Bastone	*	Cllr R J Tucker
*	Cllr R D Gilbert	*	Cllr S A E Wright
∅	Cllr N A Hopwood	*	Cllr K R H Wingate

<b>Also in attendance and participating</b>		
Item 7	E.33/17	Cllrs Birch, Brazil, Pearce and Pennington
Item 8	E.34/17	Cllr Green
Item 9	E.35/17	Cllrs Pearce and Rowe
Item 12	E.38/17	Cllrs Brazil and Pearce
<b>Also in attendance and not participating</b>		
Cllrs Blackler, Bramble, Brown, Hawkins, Hicks, Holway, Saltern and Steer		

<b>Officers in attendance and participating</b>		
All items		Executive Director (Strategy & Commissioning), Executive Director (Service Delivery and Commercial Development) and Specialist – Democratic Services
Item 6	E.32/17	COP Lead Assets, Senior Specialist Assets
Item 7	E.33/17	S151 Officer, CoP Lead Finance
Item 8	E.34/17	Senior Specialist Environmental Health
Item 9	E.35/17	Support Services Specialist Manager
Item 12	E.38/17	Specialist – Housing, CoP Lead Assets

**E.29/17      MINUTES**

The minutes of the Executive meeting held on 14 September 2017 were confirmed as a true and correct record and signed off by the Chairman.

**E.30/17      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 none were made.

**E.31/17      PUBLIC QUESTION TIME**

It was noted that two public questions had been received as follows:

**From Mr Steve Arblaster:**

**Within the Alternative Concept Option there is still a “potential community facility”.**

One of the key items identified in the independent survey was:  
*A significant area of green space should be included on the quayside, plus dedicated space for creativity (workshops, studios) and community use (eg picnic area, wide promenade, community rooms for youth groups/public gatherings/ concerts/exhibitions). To neglect these in favour of residential buildings will not benefit the current community.*

I argue that this theme is essential to support the key objectives of the master plan. Failure to quantify this now, showing empathy with all those you represent, will adversely affect the chances of improving local support for the project.

Can you assure us all that in parallel with the supply of truly affordable and community housing, that the above, via proper and thorough engagement with the entire community, will be a priority over the controversial 28 residential apartments at the southern end of the quay?

If you are unable to do so, please can you explain how you think that the predicted marginal return on these 28 apartments, and the permanent loss of this public open space, could ever benefit the South Hams, let alone Kingsbridge.

**From Kingsbridge Town Council:**

Given the Quayside report at 4.7 states that “neither scheme is currently viable (...) when considering delivery risks” will Members support the wishes of Kingsbridge Town Council, and 80% of the Kingsbridge community, that the only sensible route forward is to pursue your proposal at 7 for an Exit Strategy?

In acknowledging these questions, the Leader requested that item 6 – Kingsbridge Quayside Masterplan Update, be presented to Members, prior to responding to the questions presented. He felt that the debate would allay some of the concerns raised.

Following the presentation of Item 6 – Kingsbridge Quayside Masterplan, Mr Arblaster felt that his question had not been sufficiently responded to and he sought further detail.

The Leader then stated that the green space area referred to in the question would not go forward as it was part of Area 2 that had now been removed. In terms of the part of the question relating to housing, the Leader confirmed that this would be a community led project and in consultation with the community. It would be important to ensure that there were people to take on the houses built. In addition, development on Area 3 would be in consultation with the Planning department. Mr Arblaster then asked how the people in the houses would be ‘entertained’. Another Member responded that the area set aside as such had now been removed following the consultation exercise.

The Senior Specialist Assets added that officers would be working with Kingsbridge Town Council and there would be an element of managing expectations.

Cllr Chris Povey, Kingsbridge Town Council thanked the Leader for his response and stated that the Town Council would be open to working with officers going forward for the benefit of Kingsbridge.

E.32/17 **KINGSBRIDGE QUAYSIDE MASTERPLAN UPDATE**

Members were presented with a report that provided a summary of the work that had been undertaken as part of the Kingsbridge Master Plan project and recommended how the master plan should be taken forward.

The Leader introduced the report and began by advising that he wished to propose an alternative recommendation so that only Areas 3 and 4 were included in Stage 2 of the project.

The local Ward Members thanked the Leader for the revised recommendation and felt this was a better outcome and that the people of Kingsbridge and Kingsbridge Town Council had been listened to.

Another Member accepted the revised recommendation but felt that opportunities were being missed.

One Member noted that, following the consultation exercise, the Council did not seem to be engaging with young people and this was an area that should be improved.

The Leader concluded by asking officers to consider how the end of the car park and the slipway could be improved.

It was then:

**RESOLVED:**

1. That the outcome of the Master Planning exercise be noted;
2. That officers proceed to stage 2, which would seek to improve financial viability through more detailed design work, determine the best project delivery and funding options and secure planning approvals for Areas 3 and 4 only;
3. That Stage 2 be delivered in two phases, referred to herein as Stages 2A and 2B;
4. That the delivery of community housing as identified for Area 4 be prioritised;
5. That the full Stage 2 process be funded, at a cost of £30,000, for Stage 2A and
6. That Council be **RECOMMENDED** to fund approximately £80,000 for Stage 2B, from the Capital Programme Earmarked Reserves.

E.33/17 **MEDIUM TERM FINANCIAL STRATEGY**

Members were presented with a report that set out the Council's Medium Term Financial Position (MTFP) based on a financial forecast over a rolling five year time frame to 2022/23.

The Leader introduced the report. The s151 Officer responded to a number of questions of clarity.

It was then:

**RESOLVED** that:

1. The contents of the Member Survey on the Budget options at presented Appendix E were considered;
2. The views arising from the meeting of the Overview and Scrutiny Panel on 12 October have been considered; and
3. The views of the Executive be reflected in the draft Budget setting proposals report that will be introduced to the Executive at its meeting on 7 December 2017.

E.34/17 **CONSIDER THE ADOPTION OF A POLICY IN RELATION TO DEALING WITH ANTI-SOCIAL BEHAVIOUR AND THE ADOPTION OF PUBLIC SPACES PROTECTION ORDERS**

Members were presented with a report that asked them to consider the proposed anti-social behaviour policy and recommend to Council its adoption, that the Public Space Protection Orders (PSPOs) were adopted, that the penalty set for a fixed penalty notice be set at £100 and the a budget of £5,000 be made available for the advertisement of the PSPOs.

The Lead Executive Member for Customer First introduced the report, and in doing so advised Members of an updated document and maps relating to the Public Space Protection Order covering the consumption of alcohol.

During discussion on this item, one Member asked how the new Orders would be policed. In response, the Senior Specialist Environmental Health advised that both PCSOs and council officers who had attended the appropriate training would be able to enforce the Orders.

Members then discussed the reducing number of PCSOs, and whilst it was accepted that they would be replaced by police officers, Members were concerned that the number of police officers was smaller and that police officers tended to be diverted to areas of high crime.

A local Ward Member advised that instances of Anti-Social Behaviour had reduced as a result of the installation of CCTV, which enabled the identification of culprits and could be used in court as evidence.

Finally, in response to questions from another Member, the Senior Specialist Environmental Health confirmed that homeless people would not be criminalised by the introduction of the Orders, but anti-social behaviour associated with homelessness would be tackled.

It was then:

**RESOLVED**

That Council be **RECOMMENDED**:

1. to adopt the Anti-Social Behaviour policy;
2. that the Public Spaces Protection Orders (PSPOs), including the updated PSPO for Consumption of Alcohol and associated maps, be adopted for implementation on 1 January 2018;
3. that the penalty set on a fixed penalty notice is set at £100 for all offences covered by the Anti-Social Behaviour, Crime and Policing Act 2014; and
4. that a budget of £5,000 is made available for the advertisement of the PSPOs.

E.35/17

**INSURANCE CONTRACT**

Members were presented with a report that set out the position with the Insurance Contract and sought authority for the contract award decision to be taken by the s151 officer in consultation with the Leader and Executive Member for Support Services. The Council had appointed Insurance specialists as consultants to support the procurement process and an invitation to tender would be published in October 2017 with a contract award planned for late November 2017. The next meeting of the Executive was not until December 2017.

The Lead Member for Support Services introduced the report and asked that the presented recommendation (2) be amended to include the Lead Executive Member for Support Services, in line with the detail set out in paragraph 1.3 of the presented report.

It was then:

**RESOLVED**

1. That the progress of the procurement be noted; and
2. That authority be delegated to the s151 Officer, in consultation with the Leader and the Lead Executive Member for Support Services to award the Insurance contract for a period of 3 years from 1 January 2018 with the option to extend up to 4 further years.

E.36/17      **FORMATION OF A COMMUNITY LOTTERY FOR SOUTH HAMS AND WEST DEVON**

Following the request made at the recent meeting of the Overview and Scrutiny Panel, the Leader advised that this item would be deferred for consideration to the next meeting of the Executive.

E.37/17      **EXCLUSION OF PUBLIC AND PRESS**

**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 1 and 3 of Schedule 12A to the Act is involved.

E.38/17      **REVIEW OF MANAGEMENT ARRANGEMENTS FOR RESIDENTIAL PROPERTY PORTFOLIO**

Members were presented with an exempt report that set out a proposal to reduce the cost of placing homeless households in temporary accommodation.

The Lead Member for Customer First introduced the report. In doing so he asked that the Specialist – Housing and her colleagues be thanked for the work they undertook in relation to tackling homelessness.

It was then:

**RESOLVED**

That Council be **RECOMMENDED**:

1. to reduce the cost of placing homeless households in temporary accommodation as set out in section 5 of the presented report;
2. to delegate authority to the CoP Lead Assets in consultation with the Section 151 Officer and Leader of Council any future disposal of properties if assessed as appropriate and the funding re-invested in more appropriate accommodation; and
3. to proceed with the disposal and sale of properties identified in section 5 of the presented report.

**(NOTE: THESE DECISIONS, WITH THE EXCEPTION OF E.32/17 (6), E.34/17, E.36/17 AND E.38/17 WHICH ARE RECOMMENDATIONS TO THE COUNCIL MEETING TO BE HELD ON 14 DECEMBER 2017, WILL BECOME EFFECTIVE FROM 5.00PM ON MONDAY, 30 OCTOBER 2017 UNLESS CALLED IN, IN ACCORDANCE WITH SCRUTINY PROCEDURE RULE 18).**

(Meeting commenced at 10.00 am and concluded at 11.20 am)

---

Chairman

**This page is intentionally left blank**

## **PUBLIC QUESTIONS AT EXECUTIVE MEETINGS**

The Council at its meeting on 21 June 2001 agreed that 15 minutes should be set aside at the beginning of the Council's monthly Executive meetings to allow members of the public to ask questions.

Any member of the public who wants to raise a question at a meeting should:-

- (a) submit the question in writing to the Democratic Services Manager by 5.00 pm on the Monday prior to the Executive meeting. This will allow a detailed answer to the question to be given at the meeting. If advance notice of the question cannot be given, the Chairman of the meeting has the discretion to allow questions on matters which are felt to be urgent;
- (b) ensure that normally questions are no longer than 50 words in length;
- (c) ensure that the question does not relate to a specific planning matter (this is specifically excluded from the public question time);
- (d) ensure that the question relates to something over which the Council has some control and is suitable to be considered, ie, that it is not derogatory to the Council or relates to matters which the Council could consider confidential.

For any further advice on questions for Executive meetings, please contact Kathryn Trant (Member Services Manager).

**This page is intentionally left blank**

# Agenda Item 6

Report to: **Executive**

Date: **7 December 2017**

Title: **Quarter 2 Revenue Budget Monitoring  
2017/2018**

Portfolio Area: **Support Services – Cllr S Wright**

Wards Affected: **All**

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

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

Author: **Pauline Henstock** Role: **Finance Community of Practice Lead**

Contact: **Tel. 01803 861377**  
**E-mail: pauline.henstock@swdevon.gov.uk**

---

## **Recommendations:**

That the Executive resolves to:-

- i) Endorse the forecast income and expenditure variations for the 2017/18 financial year and the overall projected underspend of £123,000 (1.5% of the total Budget £8.346 million)
- ii) Recommend to Council to transfer the underspend on Homelessness Prevention into the Homelessness Earmarked Reserve at the end of the 2017/18 financial year (this is currently expected to be £60,000).

## 1. Executive summary

1.1 This report enables Members to monitor income and expenditure variations against the approved budget for 2017/18, and provides a forecast for the year end position.

1.2 The gross service expenditure budget for 2017/18 was set at £43 million (£8.346 million net). **Actual net revenue expenditure is forecast to be under budget by £123,000 when compared against the total budget set for 2017/18.** This is due to additional planning income, and equates to 1.5% of the overall net budget.

## 2. Background

2.1 The Council's financial procedure rules require that reports must be made on budget monitoring on a regular basis to the Executive as part of the Council's arrangements for budget management.

## 3. Outcomes/outputs

### 3.1 Budget overview

Table 1 below provides an analysis of the projected variances against budget.

**TABLE 1: 2017/18 BUDGET FORECAST**

	<b>2017/18 Budget expenditure /(income) £000</b>	<b>Budget variations £000</b>	<b>£000</b>	<b>Note</b>
<b>APPROVED BUDGET</b>			<b>8,346</b>	
<b>Reductions in expenditure/additional income</b>				
<b>Customer First</b>				
Planning income	(560)	(200)		A
Homelessness prevention costs	93	(60)		B
Flexible Homelessness Support Grant	-	(49)		C
Licensing income – shellfish export certificates	-	(41)		D
Housing benefit recoveries	(205)	(40)		E
<b>Commercial Services</b>				
Car Parking income	(2,833)	(90)		F
Dartmouth Lower Ferry review of terms and conditions	569	(46)		G
Dartmouth Lower Ferry income	(807)	(10)		H
<b>Financing and Investment</b>				
<b>Sub total of variations</b>			<b>(536)</b>	

<b>Increases in expenditure/reductions in income</b>				
<b>Customer First</b>				
Follaton House income	(251)	20		I
Leisure Centres legal fees	-	18		J
Salaries	3,441	115		K
<b>Commercial Services</b>				
Car Parking repairs and maintenance	43	10		L
Car Parking collection fees	34	10		M
Car Parking rent	83	23		N
Street & Beach Cleaning – Fly Tip Collections	20	30		O
Recycling Services material income	(58)	12		P
Trade Waste income – business rated properties	(75)	40		Q
Salaries	4,386	15		R
<b>Support Services</b>				
ICT Costs – support contracts	337	40		S
<b>Financing and Investment</b>				
Investment income	(123)	20		T
<b>Sub total of variations</b>			<b>353</b>	
<b>Transfers from Earmarked Reserves</b>				
Homelessness Prevention Earmarked Reserve	N/A	60	60	C
<b>PROJECTED OUTTURN</b>			<b>8,223</b>	
<b>PROJECTED UNDERSPEND (Net impact on the Comprehensive Income and Expenditure account for 2017-18)</b>			<b>(123)</b>	

### **Notes**

- A. **Planning income** – Income from planning applications is anticipated to be above its income target by £200,000 (36%) on an income budget of £560,000.
- B. **Homelessness Prevention** – The balance of £60,000 is requested to be set aside in an Earmarked Reserve for Homelessness to support the ongoing costs of implementing the homelessness prevention strategy 2017-2021.

- C. **Flexible Homelessness Support Grant** – The Council has received £49,000 from the Department for Communities and Local Government in respect of a homelessness support grant. This is being used to fund additional salary costs within Customer First referred to in 'K' below.
- D. **Licensing** – Export of live crabs to China requires an export certificate issued by the Council. A fee is charged for this certificate. Due to reasons beyond the control of the Council, the trade ceased in 2015/16 and a cost pressure was built in to the 2016/17 budget. This trade has now resumed and it is anticipated that £41,000 of unbudgeted income will be received in 2017/18. However, this will be offset by 'K' below.
- E. **Housing Benefit recovery of overpayments** – Additional income of £40,000 from the recovery of overpayments is predicted for 2017/18.
- F. **Car park income** - Car parking income is showing an uplift of £90,000 on an overall income budget of £2.8 million. This is encouraging and includes the introduction of town/peripheral and rural permits.
- G. **Dartmouth Lower Ferry** – As part of the Councils drive to review and improve services and reduce the Councils financial contributions to the ferry an external business review of the Dartmouth Lower Ferry was commissioned in 2015. The consultant's report included a consideration for the need to review the terms and conditions relating to the ferry staff.
- H. **Dartmouth Lower Ferry income** – Members will recall that the 2016/17 income target for Dartmouth Lower Ferry was reduced by £100,000 following a downturn in income. The 2017/18 income budget of £807,000 is predicted to be exceeded by £10,000. This reflects the implementation of tariff reviews during 2016/17.
- I. **Follaton House** – It is anticipated that there will be a shortfall in the letting income for Follaton House. This is likely to be in the region of £20,000 against the income target of £251,000.
- J. **Leisure Centres** – The Council externalised the legal work to facilitate negotiations over the terms of the legal agreements.
- K. **Salaries (Customer First)** – There are additional staffing costs of approximately £90,000 which will be funded from the Flexible Homelessness Support Grant and additional licensing income (please refer to 'C' and 'D' above). In addition £25,000 of extra staffing costs have been incurred in Customer First to obtain future savings within Facilities Management.

- L. **Car park repairs and maintenance** – The budget for repairs and maintenance on pay & display machines has already been fully utilised and is predicted to be overspent by £10,000.
- M. **Car park collection fees** – The budget for collection fees on the pay & display machines is predicted to be overspent by £10,000.
- N. **Car park rent** – this additional cost of £23,000 follows the renewal of a lease for 6 years with effect from 1 June 2017.
- O. **Fly Tip Collections** – Due to a number of large fly tips this year it is anticipated that this budget will be overspent by £30,000.
- P. **Recycling** – There is anticipated to be a shortfall in income of £12,000 from recycling of materials. This follows a national trend due to the market value of the materials.
- Q. **Trade Waste income for business rated domestic properties** – Based on the uptake to date, there will be a shortfall in income of £40,000 in 2017/18. Properties which are chargeable under the Controlled Waste Regulations legislation and which can be identified from our own internal data have now all been written to and where appropriate invoiced. This is projected to achieve an income for 2017/18 of £35,000.
- R. **Salaries (Commercial Services)** – A small salary overspend is expected in Commercial Services due to agency staffing costs.
- S. **ICT costs** – There are additional costs in respect of ICT support contracts of approximately £40,000. The additional costs such as IEG4 software are offset by additional recovery of housing benefit overpayments shown in 'E' above.
- T. **Investment income** – A shortfall in investment income of around £20,000 is expected in 2017/18. However, this projection could improve slightly by the end of 2017/18 following the increase in the Bank Base Rate from 0.25% to 0.5% on 2 November 2017.

#### **4. Review of Earmarked Reserves**

- 4.1 The Council annually undertakes a review of the level of its Earmarked Reserves as part of the budget setting process. A schedule of Earmarked Reserves is attached at Appendix A with their proposed use.

#### **5. Prudential Indicators**

- 5.1 The prudential code indicators were approved in the Treasury Management Strategy report to the Executive on 9 March 2017. The indicators are monitored during the year through the normal revenue and capital monitoring processes. Any exceptions are reported to the

Executive together with any remedial action or revision required. To date all Treasury Management limits have been adhered to.

## 6. Income and Reserves

Income monitoring is an integral part of financial management. Current income forecasts are as follows:

<b>Service</b>	<b>Actual Income 2016/17 £'000</b>	<b>Income Budget 2017/18 £'000</b>	<b>Projected Income 2017/18 £'000</b>	<b>Deficit/ (Surplus) £'000</b>	<b>Deficit/ (Surplus) %</b>
Car Parks	3,045	2,833	2,923	(90)	(3.2%)
Dartmouth Ferry	832	807	817	(10)	(1.2%)
Employment Estates	1,382	1,348	1,348	-	-
Licensing	251	200	241	(41)	(20.5%)
Planning Applications	709	560	760	(200)	(35.7%)
Land Charges	185	170	170	-	-
Recycling	577	645	633	12	1.86%
<b>TOTAL</b>	<b>6,981</b>	<b>6,563</b>	<b>6,892</b>	<b>(329)</b>	

## 7. Proposed Way Forward – Management Actions

7.1 The table below sets out the relevant management actions for the revenue expenditure and income variations shown above. It is best practice for the Council to state whether there are any corrective actions that need to be taken for the variances identified in 2017/18.

	<b>Budget variations overspend/ (underspend) £000</b>	<b>Management Action</b>
<b>Reductions in expenditure/additional income</b>		
Planning income	(200)	£90,000 additional income has been built into the 2018/19 budget. This will be kept under review as it could be that some applications are being submitted earlier than normal due to customers anticipating the

	<b>Budget variations overspend/ (underspend) £000</b>	<b>Management Action</b>
		Government allowing Councils to increase planning fees by 20%.
Homelessness Prevention costs	(60)	Recommended to be put into an earmarked reserve.
Flexible Homelessness Support Grant	(49)	No action required (3 year grant).
Licensing income – shellfish export certificates	(41)	£30,000 additional income has been built in to the 2018/19 budget. This will be kept under review.
Housing Benefit recovery of overpayments.	(40)	£40,000 has been built into the 2018/19 budget.
Car Parking income	(90)	£70,000 additional income has been built in to the 2018/19 budget. Income levels will be kept under review and monitored over a longer period to consider sustained usage trends against the profiled income target.
Dartmouth Lower Ferry – review of terms and conditions	(46)	A saving of £75,000 has been built in to the 2018/19 budget to reflect the review of terms and conditions for a full year.
Dartmouth Lower Ferry income	(10)	Keep under review. It is not proposed to build this additional income in to the 2018/19 budget.
Follaton House income	20	£20,000 is a one off pressure in 2017/18.
Leisure Centres legal fees	18	No action required – this is a one off cost pressure.
Salaries (Customer First)	115	No change is recommended to the 2018/19 budget. £90,000 of the additional salaries are funded by grant funding and income. The remaining cost pressure of £25,000 ceases in 2018/19.
Car park repairs and maintenance	10	Keep under review.
Car park collection fees	10	Keep under review.
Car park lease	23	This cost pressure of £23,000 has been built in to the 2018/19 budget.

	<b>Budget variations overspend/ (underspend) £000</b>	<b>Management Action</b>
Fly tip collections	30	This is a one off cost pressure. No action required.
Recycling income	12	This will be kept under review.
Trade Waste income – business rated domestic properties	40	This shortfall in income will be addressed in the 2018/19 budget.
Salaries (Commercial Services)	15	This will be kept under review. No cost pressure has been built in to the 2018/19 budget.
ICT costs	40	This cost pressure has been built in to the 2018/19 budget.
Investment income	20	Keep under review. No changes are recommended to the 2018/19 budget as it's hoped that the 0.25% recent increase in base rates will rectify this.

### 8. Issues that may impact on the budget monitoring position in the next month/Risks

The budget monitoring position assumes that collection rates will remain at previous levels.

The Council will report on business rates growth above the baseline in the Month 9 monitoring report.

### 9. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Statutory Powers that apply to this report are the Local Government Act 1972 Section 151 and the Local Government Act 2003 Section 28.
Financial	Y	The report identifies an overall <b>underspend of £123,000</b> which is 1.5% of the overall budget set for 2017/18 of £8.346million.  It is recommended to Council to transfer £60,000 to the Homelessness Earmarked Reserve. Annually transfers are made from Earmarked Reserves to the Comprehensive Income and Expenditure

		<p>Account as part of the closure of the end of year Accounts.</p> <p>As the accounting entries can be identified at an early stage, a recommendation is made to Council to agree the accounting entries in 2017/18. Only Council can approve the use of Earmarked Reserves.</p>
Risk	Y	<p>1) <b>Budget variances</b> – continual budget monitoring at all levels within the Council ensures early identification of variances. Reporting to the Executive provides an opportunity for Members to identify and instigate remedial action where appropriate.</p> <p>2) <b>Resource Planning</b> – the Executive takes into account any significant issues when developing the Council’s Medium Term Financial Position.</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**

Appendix A – Schedule of Reserves (Earmarked Reserves and Unearmarked Reserves).

**Background Papers:**

Finance Community of Practice budget monitoring working papers.  
 Executive 15 September 2016 - Medium Term Financial Position for the five year period 2017/18 to 2021/22.

### **Approval and clearance of report**

<b>Process checklist</b>	<b>Completed</b>
Portfolio Holder briefed	<b>Yes</b>
SLT Rep briefed	<b>Yes</b>
Relevant Exec Director sign off (draft)	<b>Yes</b>
Data protection issues considered	<b>Yes</b>
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	<b>N/A</b>

RESERVES - PROJECTED BALANCES (EXCLUDES SALCOMBE HARBOUR)					APPENDIX A
			Opening balance	Projected Balance	
		2017/18 Contribution	1 April 2017	31 March 18	Comments
		£000	£000	£000	
<b>EARMARKED RESERVES</b>					
<b>Code</b>	<b>Specific Reserves - General Fund</b>				
S0820	Capital Programme	182	1,116	31	Due to Capital Programme commitments
S0821	Revenue Grants		316	316	Comprises grants with no repayment conditions - created as a result of International Financial Reporting Standards (IFRS)
S0822	Affordable Housing		770	71	Due to Capital Programme commitments
S0823	Renovation Grant Reserve		7	7	Comprises proceeds from repayments
S0804	New Homes Bonus		474	94	Commitments as per 17/18 budget report approved at Council on 9/2/17
S0826	Community Parks and Open Spaces	17	97	111	
S0810	Pension Fund Strain	99	0	0	
S0827	Repairs & Maintenance	55	403	265	Includes £150k Repairs & Maintenance expenditure for Totnes Pavilion (Council 28/7/16)
S0828	Marine Infrastructure	58	94	152	The annual contribution is made by Salcombe Harbour
S0829	Land and Development	50	205	10	The commitments include the balance of K2 - Kingsbridge Master Plan (£24k of £76k) E.6/16 refers, and a commitment of £100K for Admiral Court Dartmouth (Exec 16/6/16)
S0830	Ferry Repairs & Renewals	87	400	487	
S0851	Homelessness Prevention Reserve	60	25	85	The contribution of £60k is subject to approval by Executive on 7/12/17
S0831	Economic Initiatives		77	55	N.B. £49k earmarked for RDP Local Action 2017/18 to 2019/20. E21/14 refers
S0832	Vehicles & Plant Renewals	687	489	0	Due to programmed vehicle replacements
S0833	Pay & Display Equipment Renewals	21	81	102	
S0834	On-Street Parking		44	0	
S0849	Strategic Change Reserve (T18)	285	0	0	To fund T18 redundancy and pension costs.
S0836	ICT Development	50	122	82	To fund various ICT commitments e.g. virtual host server infrastructure
S0837	Sustainable Waste Management	25	3	8	Commitment relates to the replacement of wheeled bins
S0838	District Elections	10	58	68	
S0839	Beach Safety		14	14	
S0840	Planning Policy & Major Developments	25	147	88	£75k commitment regarding Our Plan
S0841	Building Control		436	0	
S0842	Section 106 Deposits		38	38	Comprises deposits with no repayment conditions - created as a result of IFRS
S0846	Members Sustainable Community Locality		41	41	
S0848	16/17 Budget Surplus Contingency Reserve		559	0	Commitments relate to balance of T18 Transitional Resources (£70k of £279k) Council 30/6/16, LACC set up costs (£127k) Council 28/7/16, 17/18 revenue budget (£287k) and 5 Development Management case managers £75k Council 9/2/17
S0850	Innovation Fund (Invest to Earn) Reserve		279	0	Commitment mainly relates to the development of Admiral Court, Dartmouth (Executive 16/6/16)
S0854	Community Housing Fund		1,881	1,500	
<b>Sub Total excluding the Business Rates Reserve</b>		<b>1,711</b>	<b>8,176</b>	<b>3,625</b>	
S0824	Business Rates Retention		4,527	4,527	
<b>Sub Total of Earmarked Reserves</b>		<b>1,711</b>	<b>12,703</b>	<b>8,152</b>	
<b>GENERAL RESERVES</b>					
S0950	General Fund Balance(Unearmarked Reserves)		1,765	1,888	Projected underspend of £123,000 for 2017/18
<b>TOTAL REVENUE RESERVES</b>		<b>1,711</b>	<b>14,468</b>	<b>10,040</b>	

**This page is intentionally left blank**

**NOT FOR PUBLICATION**

This report contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (applies to Appendix A)

Report to: **Executive**  
Date: **7<sup>th</sup> December 2017**  
Title: **Capital Programme Monitoring**  
Portfolio Area: **Support Services**

Wards Affected: **ALL**

Relevant Scrutiny Committee: Overview and Scrutiny Panel

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

Author: **Angela Endean** Role: **Capital Accountant**  
**Pauline Henstock** **Finance Community of Practice Lead**  
Contact: [angela.endean@swdevon.gov.uk](mailto:angela.endean@swdevon.gov.uk) **01803 861480**  
[pauline.henstock@swdevon.gov.uk](mailto:pauline.henstock@swdevon.gov.uk) **01803 861377**

---

**Recommendations:**

1. That the Executive endorses the Monitoring Report.

## **1. Executive summary**

The report advises Members of the progress on individual schemes within the approved capital programme, including an assessment of their financial position.

The monitoring of the capital programme at month 7 (end of October 17) has not highlighted any significant areas of concern to report to Members. The anticipated level of expenditure is within the existing capital budget for each individual project (Appendix A).

The contingency budget for the 2017/18 capital programme is £300,000 and none of this has been spent in 2017/18 leaving all of the contingency still available.

## **2. Background**

The capital programme for 2017/18 was approved by Council on 9 February 2017 (66/16 and E.55/16 refer). This report provides an update on the Capital Programme and also on those schemes that remain outstanding from previous programmes.

A summary of the programme is shown in exempt Appendix A. The award of contracts is subject to the Council's procurement rules on competitive tendering and therefore the allocated budget is commercially sensitive.

## **3. Outcomes/outputs**

Members are requested to endorse the following updates on the Capital Projects:

### **Capital Programme 2016/2017 and prior years**

#### Langage Business Park

As part of the s106 agreement for the Langage Energy Park, the energy park operator, along with the owner of the land surrounding the park, jointly agreed a payment of £1,200,000 to SHDC towards the provision of 30,000ft<sup>2</sup> of industrial-use starter units. The Council is in receipt of this sum and now is in early discussion with the land owner (LEPL) to agree the form and location of these starter units. The s106 also provides for LEPL to procure land for the starter unit development, either on land surrounding the Energy Park or elsewhere within the South Hams.

The original plan was that a starter unit development could be a catalyst to kick-start other development on the energy park – bringing economic benefits (employment and supply chain) and income (business rates and rent) to the South Hams. LEPL are active in sourcing interest in the land and hope to bring forward development proposals within the next 12 months. The Council would need to add to the £1,200,000 investment in order to deliver 30,000ft<sup>2</sup> of starter units. A business case for such a development will be prepared as negotiations progress and a plan emerges, leading to a Council recommendation.

#### Café, Cliff House Gardens, Salcombe

The structural repair identified at Cliff House Gardens for the proposed café is now 90% complete. The concession to run the café has now been tendered and it is expected that it will be open for summer 2018.

#### In-Cab technology

A budget of £110,000 was approved for in-cab technology, the spend to date is £109,901.

#### Recycling service –wheeled bins

A budget of £70,000 was approved for the provision of new wheeled bins, to date expenditure is £63,152.

#### Leisure Centres – Contingency for Major Repairs

Repairs are required to the seating area on the mezzanine floor at Quayside Leisure Centre. Expenditure will be met from the contingency for major repairs budget of £150,000.

#### Redevelopment of five employment units, Burke Road, Totnes

The scheme is now well underway and on programme for letting in January/February 2018. Approximately 2/3 of the budget has been spent to date.

#### Starter Units, Admiral Court, Dartmouth

Construction is on programme and the structure has now been cladded. Units should be ready to let in January/February 2018. Just under 60% of the budget has been spent to date.

## Leisure Investment

The leisure contract with Fusion Lifestyle commenced on 1<sup>st</sup> December 2016. A facilities update is shown below:

Dartmouth – work has already commenced to link the buildings together and will be completed in late November with a formal re-launch planned for January 2018.

Ivybridge – a planning application was submitted in September and the final design is nearing completion for the provision of a new 6 lane pool with a retractable roof. Works are anticipated to start in early 2018 with some disruption to existing facilities during refurbishment phase. The new pool construction will commence in Feb/March 2018 with a 12–14 month build programme. Works are expected to be completed by spring 2019.

Kingsbridge, Quayside – the final design has been completed to extend the gym and provide new soft play area. Refurbishment proposals for the existing dry side changing is being agreed with the school. The main works are set to commence in early 2018 with completion for summer 2018. The works to the poolside structural repairs are being managed by Fusion and are planned to start at the end of this year.

Totnes – proposal discussions by Tadpool and Fusion have now taken place around potential investment and facility improvements. A consultation and design development works are currently taking place.

Payments are made to Fusion monthly in respect of each leisure centre in accordance with the capital drawdown schedule which forms part of the contract. There has been no variation to the drawdown schedule. See table below.

Officers will make recommendations in January 2018 on the strategy for internal borrowing and external borrowing for the Leisure Investment. A council is not able to borrow in advance of need and borrowing will be undertaken on review of the Council's whole Capital Financing Requirement.

### Capital budget approved for Leisure Investment

2016/17	2017/18	2018/19	2019/20	<b>Total</b>
£242,896	£1,675,351	£4,247,466	£171,287	<b>£6,337,000</b>

Note: This excludes the £650,000 separate budget for Ivybridge Leisure Centre

### **Capital Programme 2017/18**

#### Play Parks – replacement of play equipment

Spend of these funds has been set back a year while options for asset transfers of play parks are discussed with Town and Parish Councils, these being the priority for use of the capital funds. Further consultation is needed before funds are spent, and whilst there will be some more straightforward projects that can be completed in the first year, it is anticipated that the majority of projects will be realised towards the end of the 3 years of funding.

There is no budget required in 2018/19 due to slippage on the 2017/18 budget and this will be carried forward to 2018/19. 2017/18 is year 1 of a three year programme as shown below:

Capital budget for Play Parks (2017/2018 approved, 2019/20 and 2020/21 budget to be confirmed)

2017/18	2018/19	2019/20	2020/21	<b>Total</b>
£190,000	Nil	£190,000	£140,000	<b>£520,000</b>

#### Follaton House

The Council is paying £50,000 per annum into a sinking fund for the refurbishment of the roof and replacement guttering on the old house.

Installation of the electric charging points at Follaton House is now complete. There is likely to be an under spend of around £8,000 on this scheme once the contractor has been paid.

#### Coastal Assets

Although the analysis of the coastal budget expenditure shows an underspend in 15/16 and 16/17 totalling over £300k this is primarily due to the asset team being able to secure 220k of funding from the Environment Agency to help finance the engineering works undertaken at Beesands. If the team had been unsuccessful in securing this money the works would have still been required and financed from the budget.

Over the last 12 months the team have been working on the feasibility and design phase for works required at Kingsbridge. These works will utilise the remaining 17/18 budget as well as any residual underspend from the previous financial years. See note in Exempt Appendix A.

#### Salcombe Harbour – replacement of toilets/showers and harbour office

Initial design work is now complete and the detailed design phase is due to start. Proposals have been discussed with local members, the Harbour board and Tourist Information Centre.

#### Market Square, Totnes – renew surface

The cobble effect surfacing in the market square has started to break up and repairs are becoming uneconomical. The surface needs to be vehicle and market compatible as well as providing compliance with the Disabled Discrimination Act for a public space (i.e. no trip hazards). It is a large area and the capital budget reflects this. See Exempt Appendix A for potential partnership opportunities.

#### Totnes Depot – divide existing depot

This budget is to cover the cost of creating a new highway access from Babbage Road into the back of the Depot. Usage of the yard area is to be rationalised such that space can be created to fence off and let a part of the yard with the benefit of its own access. See Exempt Appendix A for potential partnership opportunities.

#### Private Sector Renewals including Disabled Facilities Grants (DFG's)

The budget for Private Sector Renewals Grants in 2017/18 is £700,000. The budget brought forward from 2016/17 is £247,000 giving a total of £947,000 available in 2017/18.

Expenditure to the end of October was £301,097 with a further £99,000 committed. There are Statements of Need being progressed which total another £202,000.

Spend on DFG's is based on demand, over which the Council has no control, and at present the service is processing and approving applications in line with this demand.

Unlike previous years when the Council regularly had to contribute its own capital to fund DFGs, it is predicted that this year all

expenditure will be funded by the Better Care Fund (BCF) allocation. It is not possible at this stage to determine whether any of the BCF allocation will need to be returned to the Joint Clinical Commissioning Group (JCCG) if it is not spent within the financial year. Last year, funds that were nominally committed to Statements of Need that had been received by the Council were carried over.

#### Affordable Housing Update

The table below gives an update on the various affordable housing capital budgets and schemes.

<b>Scheme</b>	<b>Budget</b>	<b>Narrative</b>
Community Led Housing	£100,000	Community led housing initiative was launched in April 2014. A change from a loan to a grant scheme was approved at Executive in December 2015. This was in response to concerns raised by community groups around being able to repay loans granted. £50,000 has been paid to two community groups.
Rural Affordable Housing	£400,000	£327,577 spent or committed to rural schemes. Schemes have been completed at Thurlestone, Avondale, Slapton, Moreleigh, Frogmore, Newton Ferrers, Churchstow and Rattery.
Existing Stock/Sustainability	£100,000	To reduce empty homes and make best use of the existing housing stock.
Homeless/Specialist Housing	£50,000	To enable the provision of specialist accommodation as required. Funding will be allocated as need arises.

## Vehicle Fleet Replacement

Following a report to the Executive on 20<sup>th</sup> October 2016 a budget of £687,000 was approved for Vehicle Fleet Replacement in 2017/18. Expenditure to date is £81,000 with further commitments of £102,000.

The spend on vehicles for 2017/2018 was delayed following the departure of the Operational Services Manager earlier in the year. The outstanding purchases are now to be commenced by the Transport Manager and relate to refuse collection vehicles which are purchased through national frameworks. The larger fleet items will be received in 2018/2019 so the remaining capital allocation for 2017/2018 will be rolled forward.

## S106 Deposits

The list of S106 Deposits are shown in Appendix B. Some of these S106 Agreements have a clause within the S106 Agreement which states that the Council shall be entitled to use up to a five per cent (5%) part of the total payments and contributions payable pursuant to the provisions of the Agreement, towards the costs to be reasonably and properly incurred by the Council in monitoring compliance with the S106 Agreement and in assessing the details submitted to the Council for approval pursuant to the S106 Agreement.

For clarity, the figures shown in Appendix B are before any monitoring fee has been deducted by the Council.

In 2015 a case against Oxford County Council held that a monitoring fee was an administrative function of the Council and could not be sought by the County Council. The Court accepted that there may be occasions where monitoring fees could be sought, for example, on large scale developments where obligations are phased.

A schedule of Section 106 deposits held by the Council as at the 31 March 2017 was presented to Overview and Scrutiny Panel in July 2017 (Minute O&S.16/17 refers). It was agreed that a schedule of S106 deposits will be presented with each capital monitoring report at future meetings.

#### 4. Options available and consideration of risk

This is considered on a project by project basis as part of the project appraisal document and initial business case for each capital project.

#### 5. Proposed Way Forward

This is considered on a project by project basis.

#### 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		<p>Statutory powers are provided by the S1 Localism Act 2011 general power of competence.</p> <p>The capital programme is implemented in line with the Council's legal requirements, which are examined on a project-by-project basis. To date there are no undue legal concerns.</p> <p>Since there is commercially sensitive information in Appendices A, regarding the budgets for individual projects, there are grounds for the publication of these appendices to be restricted, and considered in exempt session. 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 appendix. Accordingly this report contains exempt Information as defined in paragraph 3 of Schedule 12A to the Local Government Act 1972.</p>
Financial		<p>The monitoring of the capital programme at month 7 (end of October 17) has not highlighted any significant areas of concern to report to Members. The anticipated level of expenditure is within the existing capital budget for each individual project (Appendix A).</p>

		<p>The contingency budget for the 2017/18 capital programme is £300,000 and none of this has been spent in 2017/18 leaving all of the contingency still available.</p>
Risk		<p>There is a risk that the Capital Programme does not meet the Council's corporate 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 corporate 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		This matter is assessed as part of each specific project.
Safeguarding		This matter is assessed as part of each specific project.
Community Safety, Crime and Disorder		This matter is assessed as part of each specific project.
Health, Safety and Wellbeing		This matter is assessed as part of each specific project.
Other implications		

## **Supporting Information**

### **Appendices:**

EXEMPT - Appendix A – Summary of the approved programme plus allocated budget

Appendix B – Summary of S106 Deposits

### **Background Papers:**

Capital programme for 2017/18 - Council 9 February 2017

Capital programme for 2017/18 – Executive 9 February 2017 (66/16 and E55/16 refer)

<b>Process checklist</b>	<b>Completed</b>
Portfolio Holder briefed	<b>Yes</b>
SLT Rep briefed	<b>Yes</b>
Relevant Exec Director sign off (draft)	<b>Yes</b>
Data protection issues considered	<b>Yes</b>
If exempt information, public (part 1) report also drafted.	<b>Yes</b>

**This page is intentionally left blank**

**Document is Restricted**

**This page is intentionally left blank**

SECTION 106 DEPOSITS as at 30-09-17				APPENDIX B	
BALANCE SHEET CLASSIFICATION: LONG TERM LIABILITIES - REVENUE					
Classif. Code	SITE	Date Received	Restriction/Committed End Date	Conditions	
				TOTAL S106 DEPOSITS as at 30-09-17 £	
<b>REVENUE</b>					
<b>Langage Energy Centre (9/49/1020/98/1)</b>					
1007	- Landscape Fund (PG01)		25 years, interest (rate not specified)	Reduce the landscape and visual impact of power station	(164,165.17)
1008	- Local Liaison Group (PG02)		25 years, interest (rate not specified)	Funding of local activities in the electoral wards of the Council immediately surrounding the Phase 1A and the wards of SHDC and/or PCC	(6,478.81)
1009	- Public Art (PG03)		25 years, interest (rate not specified)	Public art in or in the vicinity of the Phase 1A Land	(116,136.77)
1010	- Migrant Workers (PG04)		No restriction/committed end date	Provide information and advice relating to migrant workers employed in relation to the development	(1,551.18)
1011	- Air Monitoring Equipment (PG05)		25 years, interest (rate not specified)	Purchase, maintain and operate appropriate mobile air quality monitoring equipment	(28,909.64)
1012	- Ecology Park (PG06)		25 years, interest (rate not specified)	Laying out and planting of the Ecology Park	(34,841.03)
1013	- Ecology Park Mtc (PG07)		25 years, interest (rate not specified)	Maintenance of the Ecology Park	(34,841.03)
2020	- Construction of Starter Units (PG08)			Construction of the Starter Units and procure a site for the Starter Units on either the Energy Park or land within South Hams District	(1,195,047.08)
2021	- Bus interchange - Deep Lane junction (PG09)		25 years, interest (rate not specified)	Cost of establishing a bus interchange facility in the vicinity of the Ridgeway/Deep Lane junction	(28,453.19)
2022	- Enhanced bus services (PG10)		25 years, interest (rate not specified)	Securing and supporting enhanced bus services to the Phase 1A Land and the Energy Park	(227,628.54)
2028	Langage Consultants Fees (MP)			Master plan	(30,568.38)
2055	Bonfire Hill, Salcombe (41/2301/05/F 41/2193/08/F)	12/04/11	£1 acquisition price of land	Public Open Space contribution	(1.00)
2055	Land at Blackawton (New Parks Farm), Blackawton (06/2313/09/F)	05/09/11	25 years, no interest	Required as a result of the development - spent on Open Space Sport Recreation contribution within or directly relating to the parish of Blackawton or on such other Blackawton Community project as the Council shall see fit	(2,596.00)
2338	Steam Packet Inn, Kingswear	03/09/12	5 years, no interest	Open Space Sport and Recreation contribution	(2,465.25)
2384	Land West of Ermington (21/1425/12/F)	12/02/13	5 years, interest at NatWest base rate	Open Space Sport Recreation contribution	(38,900.00)
2411	Maypool House Youth Hostel (30/2787/10/F) - Dwelling One	20/03/12	No restriction/committed end date	Affordable Housing contribution (£10,000.00) and Open Space (£4,868.75)	(51,962.33)
2806	Maypool House Youth Hostel (30/2787/10/F) - Dwelling Two	10/02/16	No restriction/committed end date	Affordable Housing contribution	(43,614.51)
2428	Former Old Chapel Inn, St Anns Chapel, Bigbury (05/0227/11/F)	02/05/13	No restriction/committed end date	Affordable Housing contribution, Open Space Sport and Recreation contribution towards open public space	(109,776.00)
2429	Milizac Close (Underhay) Yealampton (62/2948/11/O)	13/05/13	5 years, interest at BoE base rate +4%	Sport and Recreation contribution towards improved facilities for formal sport and recreation relating to the development	(14,965.48)
2460	Loughrigg Coronation Rd, Salcombe (42/0652/11/F)	20/08/13	10 years, interest rate not specified	Affordable Housing contribution, Open Space Sport and Recreation contribution	(20,577.75)
2652	Land Ven Farm Brixton (07/2022/12/F)	13/05/14	No restriction/committed end date	Sport & Recreation/Employment	(40,500.00)
2652	Land Ven Farm Brixton (07/2022/12/F)	13/05/14	No restriction/committed end date	Conservation of Tamar Estuaries Complex SPA	(967.30)
2652	Land Ven Farm Brixton (07/2022/12/F)	12/05/16	Capital spend, no interest specified	Open Space Sport and Recreation contribution towards open public space/sport/recreation scheme within the parish of Brixton	(12,000.00)
2691	Warland Garage (56/2793/11/F & 56/1520/12/F)	04/08/14	25 years, no interest specified	Affordable Housing contribution	(9,689.01)
2698	Boat House, Dartmouth Quay, Southtown, Dartmouth (15/2046/13/F)	17/08/14	5 years, no interest specified	Tree planting and management in Dartmouth	(8,000.00)
2705	Trennels, Herbert Road, Salcombe (41/0929/13/F)	21/10/14	25 years, no interest specified	Affordable Housing contribution (£93,001), Open Space Sport Recreation contribution (£13,650)	(106,651.00)
2714	Windward, Stoke Fleming	30/03/15	No restriction/committed end date	Open Space Sport Recreation contribution	(22,913.00)
2715	Harvey's Field (32/0844/12/F)	04/03/15	10 years, payable at 87.5% to owner and 12.5% payee of contribution, interest at 1% below Barclays base rate	Sports facilities contribution towards the provision of sports facilities required as a result of the development. £60,000 Employment (Rural Growth Network) administered by LEP	(61,507.10)
2716	Bonfire Hill, Salcombe (41/1915/13/F)	04/03/15	5 years, interest at 1% below Barclays base rate	Ecology contribution, Open Space and Play contribution, Sports Provision contribution, Open Space and Play maintenance contribution	(193,670.13)
2717	Old Grist Mill 53/1706/07/F	12/01/15	No restriction/committed end date	Open Space Sport Recreation contribution	(39,035.88)
2718	Sawmills Field, Dartington 14/1744/13/F	11/12/14	7 years, interest at 1% below Barclays base rate or 0% (whichever is higher)	Improved facilities for off-site open space and play provision in Dartington, improved sports facilities in Dartington	(148,670.33)
2749	Alston Gate, Malborough 33_46/1890/11/F	29/03/15	5 years, interest at 1% above Lloyds base rate	Public Open Space contribution	(30,000.00)
2789	Marridge Farm, Ugborough	25/09/15	No restriction/committed end date	Open Space Sport Recreation contribution	(13,650.00)
2802	Riverside, Totnes	07/12/15	No restriction/committed end date	Affordable Housing contribution, Open Space Sport Recreation contribution	(459,415.00)
2808	Leyford Close, Wembury (58/0176/13/O)	09/02/16	5 years, interest at NatWest base rate	Sports and Recreation contribution and Tamar Estuaries SAC Management contribution	(174,593.47)
2819	Churchstow (11/0046/14/F)	29/04/16	No restriction/committed end date	Affordable Housing contribution	(19,689.00)
2820	Follaton Oak, Totnes (56/2346/10/O)	15/04/16	7 years, interest at 1% below Barclays base rate	Green Travel Plan (£35k), and Open Space, Sport and Recreation contribution (£60k), Pedestrian Path contribution (£12k)	(137,358.14)
2835	Gara Rock Hotel, Salcombe (20/2104/13/F)	17/05/16	No restriction/committed end date	Affordable Housing contribution, Open Space Sport Recreation contribution	(341,318.50)
2838	Treetops, St Dunstons Road, Salcombe (41/3063/13/F)	30/06/16	5 years, interest at Lloyds base rate	Affordable Housing contribution, Open Space Sport Recreation contribution	(20,000.00)
2850	Sorley Tunnel (11/2425/07/F)	28/07/16	No restriction/committed end date	Open Space Sport Recreation contribution	(12,195.27)

2860	Plot 2 Godwell Lane, Ivybridge (27/1758/11/F)	07/10/16	No restriction/committed end date	Open Space Sport Recreation contribution	(120,000.00)
2861	Barn Conversions at Butlas Farm (07/1601/08/F)	08/11/16	No restriction/committed end date	Open space, sport and recreation contribution within or directly related to the parish of Brixton	(16,254.51)
2862	Lutton Farm Barns, Ivybridge (12/0053/07/F)	08/11/16	No restriction/committed end date	Public Open Space contribution	(8,965.15)
2863	Land at SX 8638 5117, Ivatt Road, Dartmouth (15/0587/13/F)	08/11/16	No restriction/committed end date	Open Space, Recreation and/or sports facilities within Dartmouth	(17,889.58)
2866	Tumbly Hill, Kingsbridge (28/1571/06/F)	08/11/16	10 years, no interest specified	Public Open Space contribution towards the provision of public open space required as a result of the Development	(7,725.10)
2867	Centry Farm, Kingsbridge (28/0731/08/F)	08/11/16	25 years, no interest specified	Public Open Space contribution shall be spent on Open Space Sport and Recreation for the use of the public within or directly related to the Parish of Ledstone/Kingsbridge	(686.73)
2868	Venn Barn, Venn Lane, Stoke Fleming (51/1771/07/F)	08/11/16	25 years, no interest specified	Open Space, Sport and Recreation within, or directly related to, the Parish of Dartmouth	(3,534.25)
2869	Waddeton Barton Farm (52/1249/10/F)		Not specified	Open space, sport and recreation on sports and recreation facilities within the District	(58,650.50)
2878	South Embankment, Dartmouth (15/2092/15/F)	15/12/16	25 years, no interest specified	Open Space Sport and Recreation contribution for the purposes of providing, improving or enhancing the open space, sport and recreational facilities within Coronation Park Dartmouth	(4,875.00)
2894	Land at Ashburton Road (Meadowside), Totnes (56/2246/13/F)	27/03/17	5 years, interest at NatWest base rate	Affordable Housing contribution, Sports Pitch contribution in the vicinity of the development	(127,900.91)
2944	Land at Moorview, Marldon (34/2184/13/O)		10 years, interest at 1% below Barclays base rate	Off-Site Play Area contribution and/or Sport and Recreation contribution	(179,131.03)
2945	Knighton Road, Wembury (58/1352/12/F)		5 years, interest at NatWest base rate	Schools contribution	(1,158.00)
2946	Higher Hatch Farm, Kingsbridge (32/0215/11/F)		25 years, no interest specified	Open Space, Sport and Recreation contribution	(6,000.00)
2972	Home Field, West Alvington (59/2482/14/F)	05/09/17	No restriction/committed end date	Open Space, Sport and Recreation contribution	(73,900.18)
2973	Land off Palm Cross Green, Modbury (35/0059/15/F)	23/08/17	No restriction/committed end date	Open Space, Sport and Recreation contribution	(57,050.33)
2974	Holywell Stores, Bigbury (05/2557/13/F)	-	25 years, no interest specified	Affordable housing contributions	(73,856.26)
2993	Land at Fairfield, South Brent (0354/14)	10/08/17		Off-Site Public Open Space Contribution	(91,652.50)
2994	Land SE of Torhill Farm, Ivybridge (27_57/1347/14/F)	19/07/17	No restriction/committed end date	Road safety works to be undertaken by the developer (not to exceed £100,000.00)	(100,000.00)
3000	Land at Woodland Road, Ivybridge (27/1859/15/F)	31/10/17	10 Years no interest specified	Tamar SAC Contribution & 50% Open Space, Sport and Recreation Contribution	(80,355.12)
3001	Land adjacent to Elwell House, Totnes (56/1214/14/F)	-	25 years, no interest specified	Affordable Housing contribution	(17,415.06)
3006	Northlands, Lodge Lane, Brixton (07/1660/15/F)	25/09/17	10 Years no interest specified	Education Contribution & Education Transport Contribution	(13,803.00)
				(due to be transferred to Devon County Council)	
Various	Other				(36,535.00)
	<b>Subtotal ccS0500</b>		73,098.00		<b>(5,102,640.48)</b>
	<b>Sherford</b>				
2600	Sherford Review Panel Set up Contribution				(8,690.50)
2601	SRP Annual Contribution				(1,690.66)
2602	Fees - Parish Council				0.00
2603	Fees - Monitoring				(20,805.88)
2604	Economy - Economy & Training				(1,611.75)
2603	Sherford Delivery Team				(40,000.00)
	<b>Subtotal ccS0501</b>				<b>(72,798.79)</b>
	<b>TOTAL S106 DEPOSITS (WITH CONDITIONS)</b>				<b>(5,175,439.27)</b>
PG28	Rathvendon, Bigbury (1023)			No conditions	(7,312.50)
PG36	Sedgewell Sands, Marine Drive			No conditions	(7,372.00)
2726	St Johns Ambulance, Dartmth 15/1389/12/F			Affordable Housing - provision, enhancement, management	(23,000.00)
	<b>TOTAL S106 DEPOSITS (NO CONDITIONS) ccS0842</b>				<b>(37,684.50)</b>
	<b>Capital Grant Unapplied (Cost centre S0803)</b>				
	Fallapit House, East Allington			Affordable Housing	(87,124.50)
	Tesco Site, Kingsbridge				(30,000.00)
	<b>TOTAL CAPITAL GRANTS UNAPPLIED</b>				<b>(117,124.50)</b>
	<b>Capital Grants Receipts in Advance (Cost Centre S0510)</b>				
	Penn Torr, Salcombe			Affordable Housing	(84,000.00)
	23 Western Road, Ivybridge			Affordable Housing	(31,291.00)
	<b>TOTAL CAPITAL GRANTS RECEIPTS IN ADVANCE</b>				<b>(115,291.00)</b>
	Note: The amounts shown above are before any monitoring fee has been deducted, where this is set out in the S106 Agreement. (See covering report which explains this in more detail)				

Report to: **Executive**

Date: **7<sup>th</sup> December 2017**

Title: **Budget Proposals Report 2017-18**

Portfolio Area: **Cllr R Tucker - Annual Budget Setting Process**

Wards Affected: **All**

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

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](mailto:lisa.buckle@swdevon.gov.uk)**

---

**Recommendations:**

It is recommended that the Executive:-

(i) Consider the Budget Proposals report for 2018/19 and the outcomes of the Members' Budget Workshop (see Section 6), prior to requesting the views of the Overview and Scrutiny Panel in January 2018 on the budget issues contained within the report.

**1. Executive summary**

- 1.1 The Council's Medium Term Financial Position (MTFP) is based on a financial forecast over a rolling five year timeframe to 2022/23. 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 £4 million.

- 1.2 South Hams has continued to work in partnership with West Devon Borough Council which has allowed South Hams District Council to achieve annual savings of £3.9 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 as outlined in the Comprehensive Spending Review. On 31<sup>st</sup> October 2017, both South Hams District Council and West Devon Borough Council considered separately whether to submit a Proposal to the Secretary of State for a Single Combined Council. A Proposal will not be submitted as West Devon made the decision to not submit a Proposal.
- 1.4 A Members' Budget Consultation Workshop was held on 28<sup>th</sup> September 2017 and this was followed up with a Members' Budget Survey. On 12<sup>th</sup> October, the Overview and Scrutiny Panel considered the Medium Term Financial Strategy 2018/19 report and specifically the contents of the Member Survey on the Budget Options and made recommendations to the Executive in the detailed minutes (Minute O & S. 60/17).
- 1.5 Following a meeting with the Leader and Deputy Leader of the Council, on consideration of the minutes, this report sets out recommendations for the Budget Proposals for 2018/19, prior to requesting the views of the Overview and Scrutiny Panel in January 2018 on the budget issues contained within the report.
- 1.6 **South Hams District Council is currently forecasting a £0.3m budget gap by 2019/20.** This has been reduced from the previous figure quoted in October 2017 of £0.8m, due to the savings and income generation that have been identified from the Members' Budget Workshop which totalled £450,000. These are shown in Appendix A as shaded grey items to identify the items that are new. The items are detailed in Section 6 of the report. Section 6 also sets out that negotiations have now concluded on the Dartmouth Lower Ferry (see section 6.21) and savings of £100,000 are envisaged by 2019/20 which have also been built into the financial modelling.
- 1.7 Section 2 shows that by 2019/20, the Council has a predicted £0.3m budget gap. However this position is reliant on the Council having achieved the predicted level of savings from transferring public conveniences to Town and Parish Councils (£180,000), securing a 75% cost contribution from some public conveniences (£45,000) and installing pay on entry on others (£36,000). These savings have been built into the financial modelling and the £0.3m budget gap in 2019/20 is after taking these savings into account. If these savings are not achieved, the budget gap in 2019/20 increases to over £0.5 million.

1.8 The budget gap also only assumes that there will be a 1% pay award each year from 2018/19 onwards. Any increase over and above the 1% modelled will add an extra £90,000 per annum to the budget gap.

## 2. OVERALL POSITION – BUDGET GAP

2.1 Appendix B illustrates the overall financial forecast for the forthcoming five years. The Council's Net Budget is £8.3 million in 2017/18. 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 £5 (shown in Appendix B).

2.2 The following table illustrates the predicted budget gap from 2018/19 onwards for the Council as shown in Appendix B:

	2018/19 £	2019/20 £	2020/21 £	2021/22 £	2022/23 £
Cumulative budget gap	157,597	287,478	259,577	276,740	339,403

(See the comments in paragraphs 1.6 to 1.8 in the Executive Summary)

2.3 **This shows that by 2019/20, the Council has a predicted £0.3m budget gap.**

2.4 The cost pressures, savings and additional income already identified for 2018/19 are shown in Appendix A. It is to be noted that this is the best estimate of the financial position at the current time and new items could arise and the report will be updated.

2.5 For example the current financial modelling budgets for an increase in the pay award of 1%. However if that figure were to increase, it would increase the cost pressures by £90,000 for each 1% above the 1% already budgeted for.

2.6 Appendix A and Appendix B show that there remains a budget gap of £157,597 in 2018/19. There are still items which are not yet known which will affect next year's budget position. These are:-

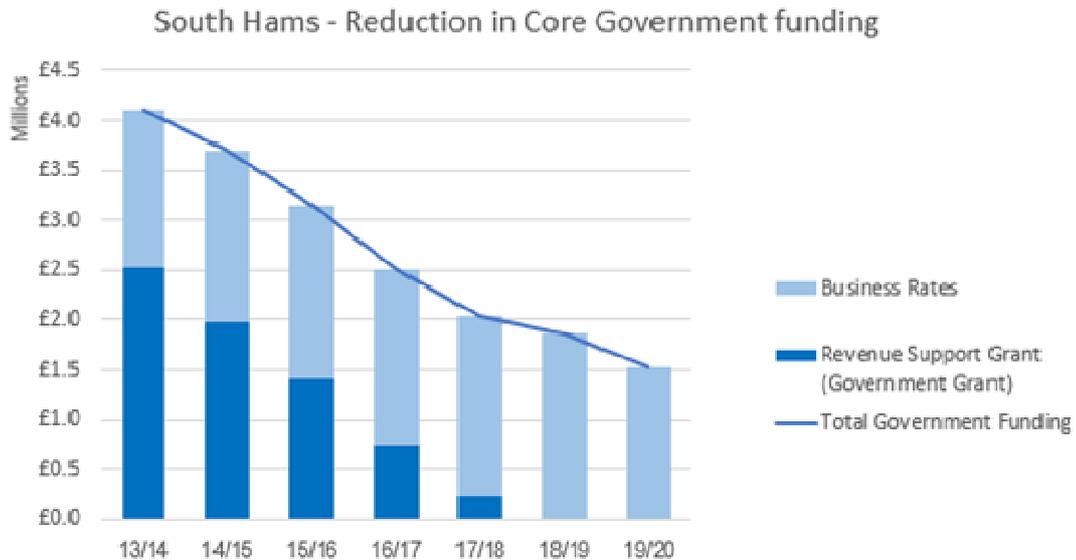
- Calculation of the Tax Base for 2018/19 (known in mid December)
- Notification of the Council's New Homes Bonus allocation for 2018/19.
- Announcement on which areas have been successful in achieving Business Rates Pilot status for 2018/19 (see 5.5)
- Whether the Council will receive any transitional grant award for 2018/19
- The pay award that will apply for 2018/19 onwards (see 4.1)

With the exception of the last point, all of the items above are likely to be known in December. Most of the items will be announced in the Draft Finance Settlement for 2018/19 which is expected to be announced in the middle of December 17.

A budget update will be issued to Members as and when these items are known, with further recommendations of how it is proposed to close the remaining budget gap of £157,597.

### **3 THE FOUR YEAR SETTLEMENT FUNDING OFFER**

- 3.1 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.
- 3.2 By 2018/19 the Council receives no Government funding (Revenue Support Grant) and the Council will need to be self-sufficient. The withdrawal of Government funding has happened two years earlier than expected. The Council's Settlement Funding Assessment (Government Grant and funding from Business Rates) is reducing by a further 39.3% between now and 2019/20. This compares to an 18.7% cut for Metropolitan Districts and 32.4% for Shire Districts. Counties vary between 30% to 31%.
- 3.3 District Councils such as South Hams 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 are being reduced, from six years to five years in 17/18 and to four years from 18/19 onwards. The funding being released is to contribute towards adult social care costs, a function carried out by Unitary and County Councils.



In 2009/10, South Hams District Council received £5.5m in Core Government funding. By 2019/20 this has been reduced to £1.5 million as shown.

- 3.4 It can be seen from the graph above that between 2009/10 and 2019/20 the Council's Core Government funding will have reduced by £4 million.

#### **4 ASSUMPTIONS FOR FINANCIAL MODELLING PURPOSES**

4.1 The Trade Union pay claim for 2018/19 is for one year (2018/19) and is for a 5% increase on all pay scales. A budget provision of 1% for 2018/19 (£90,000) onwards has been modelled. The Medium Term Financial Position 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.

4.2 The report assumes inflation will run at 2% over the five year period. The Consumer Prices Index (CPI) rose to 3.0% in September 17.

4.3 The Medium Term Financial Position has included a cost pressure of £220,000 for Inflation and increases on Goods and Services. The main items are:-

- £80,000 – Staff salary increments
- £40,000 – Business Rates increases (Revaluation 2017/18 onwards)
- £30,000 – Utilities inflation
- £20,000 – Fuel inflation
- £10,000 – Insurance premiums

An amount of £40,000 is to fund a 2% uplift on other expenditure budgets (£2 million). Within this, there is a cost pressure of £4,000 for General Data Protection Regulation which will apply from May 2018.

- 4.4 The predicted interest rate forecast from our treasury management advisors, Capita, is that interest rates will remain at 0.5% up to September 2018 and then in December 2018 the base rate is predicted to rise to 0.75%. By December 2019 the bank base rate is predicted to increase to 1%.

Officers will make recommendations in January 2018 on the strategy for internal borrowing and external borrowing for the Leisure Investment. A Council is not able to borrow in advance of need and borrowing will be undertaken on review of the Council's whole Capital Financing Requirement and projected Balance Sheet for future years.

- 4.5 An increase in council tax of £5 for the next five years has been modelled for council tax purposes. This would equate to a Band D council tax for South Hams of £160.42 in 2018/19 as shown in Appendix B and equates to a council tax increase of 3.2%.
- 4.6 It has been assumed that the number of properties within the District will increase by 450 per annum from 2018/19 to 2022/23 – this is an increase of approximately 1.2% - the Council had 37,379.62 Band D equivalent properties in 2017/18. These additional properties have been used to calculate the amount of additional Council Tax and also the potential for New Homes Bonus. The Tax Base will be known in mid December 17.

## **5. BUSINESS RATES AND COUNCIL TAX**

- 5.1 **Retained Business Rates** - The Government introduced the Business Rates Retention system from April 2013. There is a risk of volatility in the system because Councils are exposed to any loss of income if businesses go into decline.
- 5.2 Of the Business Rates collected of £30.8 million, the Council is predicted to retain in funding only £1.86 million of this in 2018/19. So the District Council retains approximately 6p in every £1 to run our services.

### **Self-sufficient local government: 100% Business Rates Retention**

- 5.3 The move from 50% to 100% Business Rates Retention (BRR) will see new responsibilities given to local government, with certain central government grants already being phased out for many Councils such as South Hams (such as Revenue Support Grant).
- 5.4 The Government has previously announced that the move to 100% BRR will be fiscally neutral. As the Local Government Finance Bill was omitted from the Queen's Speech, the timing for the introduction of 100% BRR is now unclear.

5.5 **Business Rates Pilot status for 2018/19**

On 1 September, an invitation to apply to become a business rates pilot for 2018/19 was issued by the Government. If successful, the pilot would begin on 1st April 2018. Financial modelling shows that the Devon business rates pool could benefit by somewhere in the region of between £10m to £16.9m by becoming a pilot in 2018/19. The recent modelling shows that South Hams could benefit by at least £0.5 million and it could be higher (e.g. £0.7 million) depending on business rates growth estimates. As part of a Pilot, South Hams would receive 40% of all business rates growth above the baseline (as opposed to 20% outside of the Pool or 22% inside the Pool in 2018/19).

- 5.6 This is one-off additional revenue money for the year of the pilot only (2018/19). The bid has set out how pilot status for Devon would meet the principles of assisting financial sustainability for the District Councils, higher levels of investment in economic regeneration in Devon and support for Upper Tier Councils with the growing financial cost pressures of areas such as adult social care and children's services. It is likely to be announced in late December (with the Finance Settlement) which areas have been successful in gaining pilot status for 2018/19.

**Council Tax**

- 5.7 South Hams District Council's share of the council tax bill in 2017/18 was **9%**, being £155.42 out of an average Band D council tax bill of £1,737.25. The total income from council tax in 2018/19 is predicted to be £6.07 million. A 1% increase in council tax generates an extra £59,000 for South Hams.

**£5 council tax referendum limit for District Councils**

- 5.8 The previous year's Finance Settlement confirmed that the Council Tax referendum limit for all District Councils for 2017/18 was the higher of 2% or more than £5. This meant that the District Council had the flexibility to increase its Band D council tax by £5 for 2017/18. It has been assumed in this report that the same principles will apply for 2018/19. (An increase of £5.01 triggers a council tax referendum).
- 5.9 At the Members' Budget Workshop held on 28<sup>th</sup> September 2017, there was early support for increasing council tax by the maximum allowable of £5. At this event it was recognised that this measure would increase the base budget for ensuing years and protect the delivery of services and the Council's financial resilience. (Note, the council tax referendum principles have not yet been published by the Government for 2018/19, but the current limit is £5 for District Councils).

## **THE COUNCIL'S STRATEGIC PRIORITIES – OUR PLAN**

- 5.10 The Council's 'Our Plan' describes the Council's vision and its aspirations for our communities. It does this by setting out what the Council wishes to deliver to our communities under eight themes. These themes are: Homes; Economy; Communities; Wellbeing; Infrastructure; Environment; Heritage; and Resources. 'Our Plan' is due to be reviewed during the 2017/18 financial year.

## **6 BUDGET PRESSURES, SAVINGS AND INCOME GENERATION**

- 6.1 Financial modelling has been undertaken for the next five years to predict the Council's financial situation for the short and medium term.
- 6.2 **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.*** A description of the larger budget pressures are set out below.
- 6.3 **Torr Quarry Transfer Station** - The Council currently receives a payment from DCC for operation of the Torr Quarry transfer station of up to £280,000 depending on the tonnage throughput at the transfer station. This payment was linked to a tipping away payment which was payable to the District Council when our main tipping site for waste was the Heathfield landfill site near Newton Abbot. Now that our main site for disposal is Plymouth energy from waste plant the County Council are withdrawing the payment for tipping away.
- 6.4 Given the scale of the payment to the District Council, representation was made to DCC to phase the withdrawal of this payment. It has been agreed that a payment of £142,500 will be paid as a contribution to the transfer station in 2018/19. After 2019 then the transfer station would need to be fully funded by the Council, or other arrangements be made to transport waste direct to the Plymouth disposal facility. During the procurement process for waste and cleansing, bidders may express an interest to run the station as a commercial enterprise which may offset the running costs and still make it available for the District to use.
- 6.5 **Salaries** – A 1% provision for a pay award has been included for 2018/19 which totals £90,000. This is explained in section 4.1. Any increase over 1% will add an extra cost pressure of £90,000. Also an amount of £80,000 has been included for salary increments.
- 6.6 **ICT support contracts** - An extra cost pressure of £40,000 has been added for 2018/19 for ICT support contracts, to align the budget to actual expenditure. The additional cost of ICT contracts such as IEG4 software are offset by additional recovery of housing benefit overpayments of £40,000.

- 6.7 **Controlled Waste Regulations income** - Properties which are chargeable under the Controlled Waste Regulations legislation and which can be identified from our own internal data have now all been written to and where appropriate invoiced. This is projected to achieve an income for 2017/18 of £35,000. The budget is £75,000 in 17/18 and this will not be achieved. It is recommended to reduce the income target for 2018/19 by £40,000 to reflect actual income achievable.
- 6.8 **Partnership Grant funding** – It is recommended to increase the current contribution (£2,710) to the Ivybridge Ring and Ride by £2,000, in acknowledgement that since the Totnes Ring and Ride closed down, Ivybridge has added to its services, mainly to South Brent and Dartington.

### **SAVINGS AND INCOME GENERATION**

- 6.9 **Batson Boat Storage Fees** (£6,100) - Increase fees to store boats/trailers at Batson Boat Park in Salcombe. Charges proposed to be increased as follows: Amend charges: Daily rate increases from £8 to £10 per day; Weekly rate (paid in advance) raised from £59 to £60 per week; Weekly rate (paid on arrival) raised from £49 to £60. It is assumed no reduction in usage as pricing will remain competitive and demand exceeds supply.
- 6.10 **Winter Boat Storage Fees** (£8,200) - Proposal to raise charges by 10%. Customers may seek alternatives, but overall the price to customers remains broadly competitive when compared to other harbours. Because demand currently outstrips supply, it is assumed that overall numbers of over-wintering boats will not decrease.
- 6.11 **Public Conveniences pay on entry** (£16,000 in 18/19 and £36,000 by 19/20) – To install pay on entry on the following Public Conveniences - Bigbury, Whitestrand, Creek (Salcombe), North Sands, South Sands, Coronation Road, Steamer Quay (Totnes), Civic Hall, Fore Street, Slapton Line, Glanville’s Mill, Wembury, Dittisham. This would require a capital outlay and a capital budget has been included within the Capital Proposals for 2018/19, which is a separate report on this agenda.
- 6.12 **Beach Huts at North and South Sands** (£31,000 19/20 onwards) – Concept of installing beach huts at North Sands and South Sands. The huts would be rented out for the week during the summer. It is felt that this would add to the appeal and ambiance of these two popular beaches. The costing exercise has been based on “premium” beach huts which would seem appropriate for the setting. Life expectancy of the huts would be 15 years. This is currently a concept and it would require planning permission and a capital investment which is estimated to be re-couped by year 3. A capital budget has been included within the Capital Proposals for 2018/19, which is a separate report on this agenda.

- 6.13 **Car parking fees** (£38,000) - An income target equivalent to a 2% increase in car parking fees (£38,000) is proposed for 2018/19, with consultation with communities as to how this is achieved through the community led tariffs policy.
- 6.14 **Additional car parking income** (£70,000) - The car parking income target has also been increased by £70,000 in 18/19, to reflect actual income being achieved in 17/18.
- 6.15 **Duty planning** – charged appointment basis (£5,000) - The proposal is to increase the appointment time from 15 mins to 30 mins and charge £30 per appointment.
- 6.16 **Re-procurement of contracts (leisure)** – The Medium Term Financial position shows the savings in Appendix A from the re-procurement of outsourced contracts e.g. the leisure contract.
- 6.17 **Planning fee income** (£90,000) - The planning income target has also been increased by £90,000 in 18/19, to reflect actual income being achieved in 17/18.
- 6.18 **Income from commercial developments** (£30,000) – The employment units at Burke Road, Totnes and Admiral Court, Dartmouth will be ready to let for 2018/19. These have been built during 2017/18.
- 6.19 **Licensing income** (£30,000) – An income target for Licensing income from shellfish export certificates has been built into the Budget for 2018/19.
- 6.20 **Housing Benefit recoveries of overpayments** (£40,000) - A sum of £40,000 has been built into the 2018/19 forecasts as a recurring income for Housing Benefit recoveries of overpayments.
- 6.21 **Dartmouth Lower Ferry** (£75,000 in 18/19, £100,000 by 19/20) - The saving is based upon a combination of savings from:
- Changes in the ferry operating rota & a review of terms and conditions
  - Improving the fees and charges setting process
  - Improvement in administration of the service

Due to the length of time that union negotiations have taken around the ferry working rota and terms and conditions, new contracts could not become effective until November 2017. This issue has been revisited a number of times with the ferry workforce over a number of years so it was important that all issues were fully considered. A saving of £46,000 will be achieved as a service saving in 2017/18, with this being increased to £100,000 by 2019/20.

- 6.22 **Reduce RNLI contracted lifeguard provision** (£40,000) - This option reduces the non-statutory provision of beach safety services from 7 to 3 beaches in South Hams by stopping RNLI contracted life guarding services at Hope Cove, Slapton Sands, Thurlestone and Sedgewell beaches. Life guarding services will continue at Challaborough, Blackpool Sands and Bantham as these are funded by the private land-owners. This option has been taken by other Councils regionally.
- 6.23 **Public Conveniences transfer to Parish Council/ closure** (£90,000 in 19/20 and increasing to £180,000 by 20/21) – Transfer to the Parish Council (Parish Council assume responsibility) or closure for the following Public Conveniences:-
- Higher Ferry, Bittaford, Ugborough, Thurlestone, Holbeton, Staverton, Newton Ferrers, Coronation Park\*, Lower Ferry, Stoke Fleming, Malborough, Manor Gardens, Mill Bay, South Brent, Salcombe Fish Quay, Shipley Bridge, Coronation Road (Totnes) and Civic Hall (Totnes).
- \*Only if it does not get transferred to the Parish as part of a wider asset transfer, as currently planned.
- 6.24 **Public Conveniences** (£45,000) - Obtain a 75% Contribution from Café's to help fund the following Public Conveniences:- South Milton, Ferry Steps, Dartmouth Castle and Steamer Quay.
- 6.25 **Budget scouring savings** (£4,000) – This is in regard to concessions currently offered.
- 6.26 **Partnership grant funding** – The Partnership Task and Finish Group gave an update to the Overview and Scrutiny meeting on 12<sup>th</sup> October. Following this, the draft budget proposals include a proposal to reduce partnership funding to the CVS by £20,000 for 2018/19.
- 6.27 **Partnership grant funding** - There is also a proposal to reduce the level of funding to BIP (Business Information Point) which is currently £8,000 per annum (N.B £2,300p.a. is committed until 2020 to support the Devon-wide growth hub). The funding to BIP is not currently budgeted for in the base budget and this year this funding was paid out of reserves.
- 6.28 **Cessation of accepting cash and cheques** (£35,000) – The proposal is to remove the facility for accepting cash and cheques at Council premises, excluding Car Parks. The Council would procure a new card acquiring contract. Customers (as now) will be able to pay by cash or cheques via Paypoint or at Post Office.

6.29 **Budget Monitoring position** - The six monthly Revenue Budget Monitoring position is also an item on this Executive agenda. This is showing a predicted underspend against budget of £123,000 for 2017-18. This is due to additional planning income. Where there are variances identified against budget, the budget for 2018/19 has been adjusted where necessary.

6.30 **Areas where further work is needed** – There are some areas where further work is needed to inform next year’s Budget Proposals.

- The Members’ Budget Workshop included a proposal for the Council to invest some of its funds in the CCLA Property Fund (returns can be in the region of 5% - this is a longer term investment as this is effectively tying the investment up for at least 5 years). More modelling work is required on this option and this is linked to the work in Section 4.4 regarding officers making recommendations in January 2018 on the strategy for internal borrowing and external borrowing for the Leisure Investment.
- At the Members’ Budget Workshop, the concept of Members setting stretched income targets (e.g. income targets which are in addition to those formally built into the base budget) for certain areas of the Council’s activities and services was discussed. Further work will be done on this over the coming weeks.
- On 19<sup>th</sup> October 2017 the Executive considered a report on the review of management arrangements for residential property portfolio. An assessment will be made of the potential revenue saving for 2018/19 once more details are known.
- Fees and charges – A Fees and Charges report for 2018/19 will be presented to the Overview and Scrutiny Panel on 18<sup>th</sup> January 2018.

## **7. NEW HOMES BONUS (NHB)**

7.1 Appendix E sets out estimated amounts of NHB receivable in future years and possible uses of the NHB for Members’ views. The amount of NHB anticipated for 2018/19 is just below £1.1 million. Of this it is proposed that £500,000 is used to fund the revenue base budget in 18/19, £417,700 is used to fund the capital programme budget in 18/19 and £153,900 is used to fund the Community Reinvestment Project Scheme. The full detail is shown in Table 1.8 of Appendix E.

## **8. CAPITAL PROGRAMME 2018/19**

8.1 A separate report for the Capital Programme proposals for 2018/19 is on the Executive agenda. This sets out a proposed Capital Programme for 18/19 of £2,555,000.

- 8.2 Funding of £2,555,000 is therefore required. The table below shows the recommended way that these projects are financed:-

<b>Capital Programme 2018/19</b>	£ 2,555,000
<b>Funded By:</b>	
Capital Programme Reserve *(see Note 1)	326,300
Current capital receipts	481,000
Anticipated future capital receipts	630,000
Better Care Grant funding towards Disabled Facilities Grants (estimated)	700,000
New Homes Bonus	417,700
<b>TOTAL</b>	<b>2,555,000</b>

Note 1 – The current proposed funding of the Capital Programme includes the Council continuing to make a revenue contribution to the Capital Programme Reserve in 2018/19 of £181,600. This was an item discussed at the Members’ Budget Workshop. Due to the capital projects which are being bid for in 2018/19, it is recommended that this contribution is continued with for 2018/19, to enable the proposed capital projects to proceed.

- 8.3 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.

## **9. EARMARKED AND UNEARMARKED RESERVES**

- 9.1 A schedule of the Council’s Earmarked and Unearmarked Reserves is set out in Appendix D. The Council has just under £1.8 million in Unearmarked Revenue Reserves and £12.7 million in Earmarked Reserves. The Council’s Net Budget is £8.3 million in 2017/18.

## **10. BUDGET TIMETABLE**

- 10.1 The Budget Timetable is shown in Appendix F.

## **11. CLOSING THE BUDGET GAP IN 2018/19**

- 11.1 Appendix A and Appendix B show that there remains a budget gap of £157,597 in 2018/19. There are still items which are not yet known which will affect next year’s budget position. These are:-
- Calculation of the Tax Base for 2018/19 (known mid December).
  - Notification of the Council’s New Homes Bonus allocation for 2018/19.

- Announcement from the Government on which areas have been successful in achieving Business Rates Pilot status for 2018/19 (see 5.5).
- Announcement from the Government on whether the Council will receive any transitional grant award for 2018/19 (this has been £50,000 in previous years and there is speculation as to whether the Government will extend these grant awards into 2018/19 to ease the financial burden on Councils).
- The pay award that will apply for 2018/19 onwards (see 4.1).
- There are some areas of further work outlined in 6.30 which will also have an impact on next year's Budget Proposals.

Some of the items above will be announced in the Draft Finance Settlement for 2018/19 which is expected to be announced in the middle of December 17.

A budget update will be issued to Members as and when these items are known, with further recommendations of how it is proposed to close the remaining budget gap of £157,597. A budget update report will be presented to the Overview and Scrutiny Panel on 18<sup>th</sup> January 2018 containing details of these items.

## 12 Looking Forward to the Future

- 12.1 Overall, the Council's finances remain in a stable position. In order to maintain this position, the Council operates continuous monitoring of both income and expenditure. This ensures that services are delivered within approved budgets and that all three elements of value for money (economy, efficiency and effectiveness) are achieved for our residents.

## 13. IMPLICATIONS

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The preparation of the Budget 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.
Financial	Y	The financial implications are summarised in Appendices A and B of the report. Section 2 shows that by 2019/20, the Council has a predicted £0.3m budget gap.

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		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 – Budget pressures and savings

Appendix B – Summary of Budget position

Appendix C – Contributions to Reserves

Appendix D – Reserves (Earmarked and Unearmarked)

Appendix E – New Homes Bonus funding and Capital Programme 2018/19

Appendix F – Budget Timetable

#### Approval and clearance of report

<b>Process checklist</b>	<b>Completed</b>
Portfolio Holder briefed	Yes
SLT Rep briefed	Yes
Relevant Exec Director sign off (draft)	Yes
Data protection issues considered	Yes
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	N/A

**This page is intentionally left blank**

**BUDGET PROPOSALS 2018/19 OCTOBER 2017**  
(This shows the changes to the existing Base Budget)

APPENDIX A

	BASE 2017/18	Yr1 2018/19	Yr2 2019/20	Yr3 2020/21	Yr4 2021/22	Yr 5 2022/23
	£	£	£	£	£	£
<b>BUDGET PRESSURES</b>						
Inflation and increases on goods and services	310,000	220,000	220,000	220,000	220,000	220,000
Torr Quarry Transfer Station	0	137,500	142,500			
Triennial Pension revaluation	125,000			75,000		
Reduction in planning fee income	125,000					
Salaries - provision for pay award at 1%	90,000	90,000	90,000	90,000	90,000	90,000
National Living Wage and National Insurance	75,000	60,000	50,000	25,000	25,000	25,000
Salaries for Environmental Services manual workers	75,000					
Reduction in recycling income	85,000					
Torr Quarry Transfer Station haulage costs	30,000					
Planning Community of Practice	50,000					
Sherford project team	45,000					
Reduction in Housing Benefit administration subsidy and Council Tax Support Admin Grant	40,000	20,000	20,000			
Reduce saving on waste round review	40,000					
Reduction in treasury management income	25,000					
Cost of lease renewal (car park lease)	20,000	23,000				
Staff resource - Finance Community of Practice	15,000					
Reduction in other income areas (S106 contribution income, Follaton room hire, pannier market income and Leisure third party income)	95,000					
ICT support contracts - increase the budget to align to actual expenditure		40,000				
Reduce the income target for income from business rated domestic properties for trade waste collection - to reflect actual income being achieved		40,000				
Specialist resource - Waste and Cleansing options review and delivery reverse a one-off budget in 16/17	(30,000)					
Increase the contribution to hybrid Ring and Ride		2,000				
<b>TOTAL BUDGET PRESSURES</b>	<b>1,215,000</b>	<b>632,500</b>	<b>522,500</b>	<b>410,000</b>	<b>335,000</b>	<b>335,000</b>
<b>Changes to contributions to Earmarked Reserves</b>						
Vehicle Fleet Replacement Reserve (Table 6 Executive report 20/10/16)	146,000	(197,000)		(13,000)	66,000	
Contribution to Land and Development Reserve	50,000					
Contribution to IT Development Reserve	50,000					
Contribution to Sustainable Waste Management Reserve	25,000					
Contribution to Planning Policy and Major Developments Reserve	25,000	25,000	25,000			
Reduce contribution from the Strategic Issues Reserve as the reserve is Nil		7,000				
Transformation Project (T18) - Approved at 11 December 2014 Council Contribution to Strategic Change Reserve to meet pension strain costs	66,000	(75,000)	(150,000)	(60,000)		
<b>Total changes in contributions to Earmarked Reserves</b>	<b>362,000</b>	<b>(240,000)</b>	<b>(125,000)</b>	<b>(60,000)</b>	<b>(13,000)</b>	<b>66,000</b>
<b>SAVINGS AND INCOME GENERATION IDENTIFIED</b>						
	BASE 2017/18	Yr1 2018/19	Yr2 2019/20	Yr3 2020/21	Yr4 2021/22	Yr 5 2022/23
	£	£	£	£	£	£
Income from fees and charges	<b>TBA</b>	<b>TBA</b>				
Increase Batson Boat Storage Fees		(6,100)				
Increase Winter Boat Storage Fees		(8,200)				
Public Conveniences - pay on entry		(16,000)	(20,000)			
Develop Beach Huts at North and South Sands			(31,000)			
Food hygiene rating scheme revisits		(1,250)	(1,250)	(1,250)	(1,250)	(1,250)
Increase in car parking charges (2%)	(37,800)	(38,000)				
Additional car parking income - increase income target to reflect actual income being achieved		(70,000)				
Duty Planning - charged appointment basis		(5,000)				
Savings from re-procurement of contracts (e.g. leisure contract)	(695,000)	0	(73,000)	(146,000)	(31,000)	(60,000)
Planning fee income	0	(90,000)				
Income from commercial developments	0	(30,000)	(20,000)			
Licensing income - shellfish export certificates		(30,000)				
Housing Benefit recoveries of overpayments - increase income target to reflect actual income being achieved		(40,000)				
Dartmouth Lower Ferry	0	(75,000)	(25,000)			
Reduce RNL Contracted Lifeguarding provision		(40,000)				
Public Conveniences - Transfer to Parish Council/ closure		0	(90,000)	(90,000)		
Public Conveniences - obtain 75% cost contribution from cafes		(45,000)				
Budget scouring savings	(55,000)	(4,000)				
Reduce partnership grant funding to the CVS		(20,000)				
Cessation of accepting cash and cheques (and other banking changes)		(35,000)				
Reduced running costs at Follaton and additional rental income	(20,000)					
Income from business rated domestic properties for trade waste collection	(25,000)					
Trade Waste savings - higher income levels	(25,000)					
Review of car parking permits (Overview & Scrutiny Panel 24/11/16)	(10,000)					
Council Tax reduction scheme - 9.85% reduction in Town and Parish Grant	(10,000)	(9,000)	(8,000)			
<b>TOTAL SAVINGS AND INCOME GENERATION</b>	<b>(877,800)</b>	<b>(562,550)</b>	<b>(268,250)</b>	<b>(237,250)</b>	<b>(32,250)</b>	<b>(61,250)</b>

Note - The items highlighted in grey show new items for costs/savings which have been identified since the October 2017 budget report. Most of these are items for savings or income generation which have been identified as part of the Members' Budget Workshop. Other items have been identified from the results of the six month Budget Monitoring report which is also an item on this agenda.

**This page is intentionally left blank**

Line No.	<b>Appendix B - Council Tax is increased by £5 each year</b> Modelling for the financial years 2018/19 onwards	<b>BASE</b> 2017/18 £	<b>Yr1</b> 2018/19 £	<b>Yr 2</b> 2019/20 £	<b>Yr 3</b> 2020/21 £	<b>Yr4</b> 2021/22 £	<b>Yr 5</b> 2022/23 £
1	Base budget brought forward	8,751,722	8,346,074	8,355,281	8,354,650	8,495,302	8,767,889
2	Budget pressures (as per Appendix A)	1,215,000	632,500	522,500	410,000	335,000	335,000
3	Savings already identified (as per Appendix A)	(877,800)	(562,550)	(268,250)	(237,250)	(32,250)	(61,250)
4	Changes in contributions to Earmarked Reserves (App A)	362,000	(240,000)	(125,000)	(60,000)	(13,000)	66,000
5	Reversal of one-off contribution made to the Budget Surplus Contingency Reserve in the 2016/17 Budget - This is reversed in 2017/18 as the contribution was only a one-off contribution and not an annual contribution.	(767,995)					
6	<b>Reverse Use of Reserves to close 2017/18 Budget gap</b> Transfer from Budget Surplus Contingency Earmarked Reserve	(287,273)	287,273				
7	Transfer from New Homes Bonus Earmarked Reserve	(49,581)	49,581				
8	<b>Projected Net Expenditure:</b>	<b>8,346,074</b>	<b>8,512,878</b>	<b>8,484,531</b>	<b>8,467,400</b>	<b>8,785,052</b>	<b>9,107,639</b>
9	<b>Funded By:-</b> (See Note 1 below regarding New Homes Bonus funding) <b>Council Tax income</b> - Modelling a £5 increase each year	5,809,541	6,068,628	6,332,215	6,600,302	6,872,889	7,149,976
10	Collection Fund Surplus	143,000	76,000	70,000	70,000	70,000	70,000
11	Revenue Support Grant	245,393	0	0	0	0	0
12	Localised Business Rates	1,764,799	1,858,767	1,524,984	1,525,000	1,525,000	1,525,000
13	Pooling Gain		100,000	100,000	100,000	100,000	100,000
14	Rural Services Delivery Grant	327,451	251,886	327,451	200,000	200,000	200,000
15	Transition Grant	55,890	0	0	0	0	0
16	<b>Total Projected Funding Sources</b>	<b>8,346,074</b>	<b>8,355,281</b>	<b>8,354,650</b>	<b>8,495,302</b>	<b>8,767,889</b>	<b>9,044,976</b>
17	<b>Budget Gap per year</b> (Projected Expenditure line 8 - Projected Funding line 16)	<b>0</b>	<b>157,597</b>	<b>129,881</b>	<b>-27,902</b>	<b>17,163</b>	<b>62,663</b>
	<b>Actual Predicted Cumulative Budget Gap</b>	<b>0</b>	<b>157,597</b>	<b>287,478</b>	<b>259,577</b>	<b>276,740</b>	<b>339,403</b>

Modelling Assumptions:	<i>An assumption of an additional 450 Band D equivalent properties per year has been included in the Tax Base and modelling above for 2018/19 onwards</i>					
Council Tax (Band D) (Modelling a £5 a year increase)	155.42	160.42	165.42	170.42	175.42	180.42
Council Tax Base	37,379.62	37,829.62	38,279.62	38,729.62	39,179.62	39,629.62

**Note 1 - New Homes Bonus Funding**

The modelling for 2018/19 includes a contribution of £500,000 from New Homes Bonus funding to fund the Base Budget. This is shown in Appendix C and Line

**This page is intentionally left blank**

## ANALYSIS OF CONTRIBUTIONS TO/(FROM) EARMARKED RESERVES

Estimate 2017/18			Estimate 2018/19	
To £	(From) £		To £	(From) £
181,600		Capital Programme	181,600	
16,900		Community Parks & Open Spaces	16,900	
10,000		District Elections	10,000	
87,000		Ferry major repairs & renewals	87,000	
	(549,581)	New Homes Bonus (500,000 plus 49,581)		(500,000)
20,800		Pay & Display Equipment	20,800	
99,000		Pension Fund Strain Payments	99,000	
55,000		Repairs and maintenance	55,000	
285,000		Strategic Change Reserve	210,000	
	(7,000)	Strategic Issues	0	
687,000		Vehicles & Plant Renewals	490,000	
50,000		Land and Development Reserve	50,000	
50,000		IT Development Reserve	50,000	
25,000		Sustainable Waste Management	25,000	
25,000		Planning Policy and Major Developments	50,000	
2,000		Interest credited to reserves	2,000	
	(287,273)	Budget Surplus Contingency Reserve	0	
1,594,300	(843,854)	<b>TOTALS</b>	1,347,300	(500,000)
<b>750,446</b>		<b>GRAND TOTAL</b>	<b>847,300</b>	

**This page is intentionally left blank**

**EARMARKED AND UNEARMARKED RESERVES**

1.1 The Council's Net Budget is £8.3 million in 2017/18. It is still recommended to retain the same policy of maintaining a minimum level of Unearmarked Reserves of £1.5 million.

1.2 Our financial strategy recognises the need to maintain un-earmarked revenue reserves to provide stability for both medium and longer term planning and to provide a contingency against unforeseen events. In setting the minimum level at £1.5 million, the following have been taken into account:

- The size of the authority
- The volatility of some income and expenditure budgets due to a dependency on the weather, tourism and state of the economy
- The risks faced by the Council with regard to funding unforeseen events
- Uncertainty over future Government funding and Business Rates
- Uncertainty over future New Homes Bonus allocations

1.3 The Unearmarked Reserves (General Fund) balance of £1.8 million stands above the minimum balance of £1.5 million and acts as a safeguard against unforeseen financial pressures.

1.4 **Specific Earmarked Reserves** - The level and commitments for each reserve are kept under review each year to make sure the committed balance is adequate for its purpose (in accordance with LLAP Bulletin 99, a guide on 'Reserves' from the Chartered Institute of Public Finance).

1.5 A schedule of Earmarked Reserves for 16/17 is shown below. The Council has Earmarked Reserves of £13.1 million, including Salcombe Harbour Reserves of £371,000.

1.6 The tables below show the movements on the two Earmarked Reserves that were set up as part of the Budget approved for 2016/17.

<b>2016/17</b>	<b>Balance at 31 March 2016</b>	<b>Transfers Out</b>	<b>Transfers In</b>	<b>Balance at 31 March 2017</b>
<b>EARMARKED RESERVES</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>
<b>General Fund</b>				
Affordable Housing	540	-	230	770
Community Parks & Open Spaces	98	(17)	16	97
Pension Fund Strain	-	(99)	99	-
Repairs and Maintenance	420	(72)	55	403
Members Sustainable Community	45	(4)	-	41
Marine Infrastructure Reserve	47	-	47	94
Land and Development	226	(76)	55	205
Ferry Repairs and Renewals	313	-	87	400
Economic Initiatives	98	(21)	-	77
Vehicles and Plant Renewals	318	(370)	541	489
Pay and Display Equipment	61	-	20	81
On-Street Parking	44	-	-	44

Print Equipment	8	(8)	-	-
ICT Development	195	(81)	8	122
Sustainable Waste Management	3	-	-	3
District Elections	48	-	10	58
Beach Safety	14	-	-	14
Planning Policy & Major Developments	331	(184)	-	147
Building Control	395	(31)	72	436
Section106 Agreements (no conditions)	38	-	-	38
Revenue Grants	368	(130)	78	316
Capital Programme	1,089	(300)	327	1,116
New Homes Bonus	480	(2,086)	2,080	474
Renovation Grant Reserve	7	-	-	7
Business Rates Retention	9,916	(5,389)	-	4,527
T18 Investment Reserve	70	(70)	-	-
Homelessness Prevention Reserve	25	-	-	25
Strategic Change	-	(219)	219	-
16/17 Budget Surplus Contingency	-	(209)	768	559
Innovation Fund (Invest to Earn)	-	(498)	777	279
Community Housing Fund	-	-	1,881	1,881
<b>Sub Total</b>	<b>15,197</b>	<b>(9,864)</b>	<b>7,370</b>	<b>12,703</b>
<b>Specific Reserves – Salcombe Harbour</b>				
Pontoons	68	-	62	130
Harbour Renewals	58	(8)	35	85
General Reserve	140	(30)	46	156
<b>Sub Total</b>	<b>266</b>	<b>(38)</b>	<b>143</b>	<b>371</b>
<b>TOTAL EARMARKED REVENUE RESERVES</b>				
	<b>15,463</b>	<b>(9,902)</b>	<b>7,513</b>	<b>13,074</b>

**16/17 Budget Surplus Contingency** – This reserve was created as part of the 2016/17 Budget setting process. The balance of £559,000 has been fully committed to fund the 2017/18 budget gap, the LACC set up costs and transitional resources.

**Innovation Fund (Invest to Earn)** – This fund has a remaining balance of £279,000 which has been earmarked in 2017/18, mainly for Admiral Court, Dartmouth.

**Community Housing Fund** – This reserve was set up to hold the Community Housing Fund Grant. We are working on developing a community housing initiative, which is designed to help local residents to determine and deliver appropriate and affordable housing for their communities.

**Business Rates Retention Scheme** - The business rates reserve covers any possible funding issues from the new accounting arrangements and smoothes volatility of business rates income due to appeals.

**New Homes Bonus** – This reserve was established to show how New Homes Bonus funding has been used on an annual basis.

**Strategic Change Reserve (T18)** – This reserve was set up to finance one off investments under the Council’s Transformation Programme that are required for development or the release of ongoing efficiencies.

**Affordable Housing** – This reserve helps to support the funding of affordable housing.

**Vehicles and Plant Renewals** - This reserve is used to purchase vehicles and heavy plant to maintain a modern and efficient Council fleet, and to ensure Contract conditions are met.

**Planning, Policy and Major Developments** - This was set up to help smooth out annual expenditure on review and preparation of the local plan. It has developed to help deal with costs associated with the Sherford development, planning policies and planning related activities.

**Capital Programme** – This reserve helps to support the funding of the Capital Programme.

NOTE

The Revenue Budget Monitoring report for the six month position contains an Appendix A which predicts the level of Earmarked Reserves which will be spent in 2017/18.

**This page is intentionally left blank**

## New Homes Bonus funding and Capital Programme for 2018-19 onwards

**1 NEW HOMES BONUS (NHB)**

- 1.1 On 15 December 2016, the Council received notification of its 2017-18 allocation for NHB of £1,448,325.
- 1.2 The New Homes Bonus was introduced in 2011 to provide a clear incentive for local authorities to encourage housing growth in their areas. It rewards local Councils for additional homes added to the council tax base, including newly built properties and conversions as well as long term empty properties brought back into use, after deducting demolitions.
- 1.3 Following consultation, the Government has implemented reforms to the scheme that sharpen the incentive for housing growth. The length of New Homes Bonus payments has been reduced in length from 6 years to 5 years in 2017-18 and 4 years from 2018-19.
- 1.4 *It can be seen from the Table below that this reduction from 6 years to 5 years has meant the Council has lost £528,750 in New Homes Bonus funding. The Council has repeatedly made the point that the current crisis in funding for Adult Social Care is a national problem which needs new Government money, as opposed to reducing the New Homes Bonus funding to pay for this and therefore further burdening the council taxpayer to fund social care costs.*
- 1.5 From 2017-18 the Government has introduced a national baseline for housing growth of 0.4%, below which New Homes Bonus has not been paid, which the Government has said reflects a percentage of housing that would have been built anyway (Note - this is higher than the 0.25% set out in the NHB consultation document). The Government will retain the option of making adjustments to the baseline in future years to reflect significant and unexpected housing growth. The net additions for South Hams for 2017/18 was 329 Band D Equivalent properties. The Baseline deducted of 0.4% in 2017/18 equates to not receiving NHB on 176 Band D Equivalent properties, equating to a loss of NHB of £215,000 for each of the next four years.
- 1.6 The Government has stated that, taken together these measures meet the aims set out in their consultation document of sharpening the incentives for housing growth and releasing funding for other Local Government spending priorities such as adult social care.

1.7 The table shows the NHB received to date and a forecast to 19/20.

	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>
	<b>(£)</b>	<b>(£)</b>	<b>(£)</b>	<b>(£)</b>	<b>(£)</b>
<b>2011/12</b>	297,567	297,567			
<b>2012/13</b>	528,750	528,750	(this year has dropped off by a reduction to 5 years of payment)		
<b>2013/14</b>	199,701	199,701	199,701		
<b>2014/15</b>	339,307	339,307	339,307		
<b>2015/16</b>	328,208	328,208	328,208	328,208	
<b>2016/17</b>		386,375	386,375	386,375	386,375
<b>2017/18</b>			194,734	194,734	194,734
<b>2018/19</b>				190,000	190,000
<b>2019/20</b>					250,000
<b>NHB Received/ Forecast</b>	<b>1,693,533 Actual received</b>	<b>2,079,908 Actual received</b>	<b>1,448,325 Actual received</b>	<b>1,099,317 Forecast</b>	<b>1,021,109 Forecast</b>

1.8 The table below shows estimated amounts of NHB receivable in future years and possible uses of the NHB for Members' views:-

	<b>2017-18</b> <b>(£)</b>	<b>2018-19</b> <b>(£)</b>	<b>2019-20</b> <b>(£)</b>
<b>Predicted NHB amount</b>	<b>1,448,325</b> <b>(actual rec'd)</b>	<b>1,099,317</b>	<b>1,021,109</b>
Capital Projects (£417,700 in 18/19 as per Table 2.2 below)	507,000	417,700	400,000 (estimate)
Community Reinvestment Projects	153,900	153,900	153,900
To fund the Revenue Base Budget	549,581	500,000	500,000
Transfer of land to Dartmouth Town Council	81,000	49,000	17,000
Joint Local Plan	50,000	-	-
Community Grants (CAB Outreach worker)	10,000	10,000	10,000
Dartmoor National Park Allocation	3,060	TBA	TBA
<b>Funding remaining unallocated (note 1)</b>	<b>93,784</b> <b>Remaining unallocated</b>	<b>Shortfall</b> <b>(31,283 plus amount paid to DNPA)</b>	<b>Shortfall</b> <b>(59,791 plus amount paid to DNPA)</b>

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 joint work through the rural housing enabler. Members consider this on an annual basis.

## 2. CAPITAL PROGRAMME FOR 2018-19 FINANCIAL YEAR

- 2.1 There is a separate report on this Executive agenda for the proposed Capital Programme for 2018/19 of £2,555,000.
- 2.2 This report sets out that there are Capital bids shown in Appendix A totalling £1,200,000, plus further bids in the exempt Appendix B of £1,355,000. Funding of £2,555,000 is therefore required. The table below shows the recommended way that these projects are financed:-

<b>Capital Programme 2017/18</b> <i>Appendix A (£1,200,000) and Appendix B bids (£1,355,000)</i>	<b>£</b> <b>2,555,000</b>
<b>Funded By:</b>	
Capital Programme Earmarked Reserve	326,300
Current capital receipts	481,000
Anticipated future capital receipts	630,000
Better Care Grant (Government grant) funding towards Disabled Facilities Grants (estimated)	700,000
New Homes Bonus (see table in section 1.8 of this Appendix)	417,700
<b>TOTAL</b>	<b>2,555,000</b>

## APPENDIX F

### South Hams District Council - Budget Timetable for 2018/19 onwards

<b>Date</b>	<b>Committee</b>
28 <sup>th</sup> September 17	Members' Budget Workshop – To consider budget options
12 <sup>th</sup> October 17	Overview and Scrutiny Panel – To consider the results of the Members' Budget Workshop
19 <sup>th</sup> October 17	Executive – To consider budget options
7 <sup>th</sup> December 2017	Executive – Draft Budget Proposals for 2018/19
18 <sup>th</sup> January 2018	Joint Development Management Committee and Overview & Scrutiny Panel – To consider the Draft Budget Proposals for 2018/19 and Fees and Charges for 2018/19
1st February 18	Executive – To recommend Final Budget Proposals to Council for 2018/19
22 <sup>nd</sup> February 18	Full Council – To approve Final Budget Proposals for 2018/19 and set the SHDC share of the Council Tax
23 <sup>rd</sup> February 18	Council Tax Resolution Panel – to agree the Council Tax Resolution for 2018/19 (This is SHDC share plus all other precepting authorities share).

**This page is intentionally left blank**

## **NOT FOR PUBLICATION**

This report contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (applies to Appendix B)

Report to: **Executive**  
Date: **7 December 2017**  
Title: **Capital Budget Proposals for 2018/19**  
Portfolio Area: **Budget Proposals – Cllr Tucker**  
Wards Affected: **All**  
Relevant Scrutiny Committee: **Overview and Scrutiny Panel**

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](mailto:lisa.buckle@swdevon.gov.uk)**

---

### **Recommendations:**

The Executive resolves to request the views of the Overview and Scrutiny Panel on the following:

- 1.** To approve the Capital Programme Proposals for 2018/19, which total £1,200,000 (Appendix A)
- 2.** To approve the Capital Programme Proposals for 2018/19, which total £1,355,000 (Exempt Appendix B)
- 3.** To finance the 2018/19 Capital Programme of £2,555,000 from the funding sources set out in Section 4.

## **1. Executive summary**

**1.1** The report sets out the Capital Bids to the 2018/19 Capital Programme totalling £2,555,000 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 2018/19.

Consideration needs to be given to the funding options for the 2018/19 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 1<sup>st</sup> 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 in 2018/19 to fund the bids which have been submitted by project officers within the Council.

**1.5** The Council's Capital Programme is linked to the Council's Revenue Budget Proposals for 2018/19 and this is also an item on this Executive agenda. Where revenue budget proposals have a capital investment implication, the capital investment has been built into this report. Similarly if there are any revenue implications of capital projects, this has been built in.

## **2. Background**

**2.1** The capital programme for 2017/18 was approved by Council on 9 February 2017 (66/16 and E.55/16 refer).

- 2.2** A new Capital Programme is proposed for 2018/19. The Finance Community of Practice Lead invited bids for capital funding from all service areas, for a new capital programme during October 2017 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 2018/19. Appendix A and exempt Appendix B set out the bids which total £2,555,000.

#### **3.1 Capital Investment in Existing Property Assets**

##### **3.2 Play Parks – replacement of play equipment**

Spend of these funds has been set back a year while options for asset transfers of play parks are discussed with Town and Parish Councils, these being the priority for use of the capital funds. Further consultation is needed before funds are spent, and whilst there will be some more straightforward projects that can be completed in the first year, it is anticipated that the majority of projects will be realised towards the end of the 3 years of funding.

There is no capital budget required in 2018/19 due to slippage on the 2017/18 budget and this will be carried forward to 2018/19. 2017/18 is year 1 of a three year programme as shown below:

Capital budget for Play Parks (2017/2018 approved, 2019/20 and 2020/21 budget to be confirmed)

<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>Total</b>
£190,000	Nil	£190,000	£140,000	<b>£520,000</b>

### **3.3 Follaton House – roof repairs**

Roof repairs – the proposed capital programme includes a contribution of £50,000 per annum into a reserve for Follaton House roof repairs. Roofing repairs are required on the Old House which includes the localised replacement of defective slate and lead valleys. Defective guttering on Phases 1, 2 and 3 also needs replacing.

### **3.4 Coastal Assets repairs - 5 year planned programme**

The financial year 2018/19 would be the fourth year (of a 5 year programme) of an allocation of £300,000 for the planned programme for Coastal Assets repairs.

### **3.5 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 £700,000 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.

### **3.6 Whitestrand HM Office**

Preliminary design work has been undertaken and this has been costed by a Quantity Surveyor (QS). The current layout, incorporates public toilets, shower facilities for yachtspeople, space for a front of house for HM, police and potentially TIC.

The QS costing means that an additional budget is required for 2018/19 (Details are in Appendix B).

More recent conversations with the TIC and Harbour Board have raised the issue that the footprint that is currently proposed may be inadequate. An increased footprint would lead to increased building costs. The project officer's view is that the project should be able to be delivered at slightly more favourable rates to that currently estimated. Therefore an increase in the budget is requested, to deliver a building that incorporates all the project objectives as above.

### **3.7 Follaton House - new air handling unit for the Council Chamber**

This capital bid is for repairing/replacing the air handling unit, which has been assessed by a mechanical engineer. The objective is to improve the heating / ventilation balance and provide a better environment.

### **3.8 Waste - Depot Strategy**

It is recommended that this project is scheduled for 2019/20 as it can then be considered as part of the waste commissioning piece.

### **3.9 Ermington New Units**

The Council has just taken ownership of a piece of commercial land adjacent to its holdings in Ermington. As part of that negotiation, a capital receipt has also been received (specific to this project). The planning permission for the overall site (a Barratt Homes development) envisages commercial buildings on the land and there is demand for such in the locality.

In accordance with the Council's asset strategy to support businesses and the economy within South Hams, it is proposed to develop approx. 400m<sup>2</sup> of new units at 80m<sup>2</sup> to complement the Council's range of 30 – 50m<sup>2</sup> units already constructed. The estimated construction cost gives a yield in excess of 5%.

### **3.10 – Improvement of the existing units at Ermington**

There is a current estates project reviewing the Council's existing stock at Ermington Mill and Ermington Workshops. They are very popular and let well, however, it is imperative that the estate remains in a good state of repair and condition, and in an efficient layout.

Building on the Council's roof replacement project two years ago, this project would review the internal layout of the Mill area, ensuring that the space is best apportioned, access is as good as it can be and facilities brought up to a higher standard (some units do not have toilets for example). There will also be other aspects of the project that will look at the existing use of the Mill basement and the top floor, neither of which are let. This project is about ensuring the efficient, safe and compliant operation of our existing assets.

### **3.11 Develop Beach Huts at North and South Sands**

This is a concept of installing beach huts at North Sands and South Sands. The huts would be rented out for the week during the summer (anticipated rental income from 19/20 onwards). It is felt that this would add to the appeal and ambiance of these two popular beaches. The costing exercise has been based on "premium" beach huts which would seem appropriate for the setting. Life expectancy of the huts would be 15 years. This is currently a concept and it would require planning permission and a capital investment which is estimated to be re-couped by year 3.

### **3.12 Salcombe Master Plan (Batson Quay)**

The current master plan project will be reporting in 2018. This involves all stakeholders to appraise the best use of the Batson Quay and adjacent areas, in terms of commercial activity, fishing, car parking, boat storage and affordable housing. Whilst the capital costs of the proposals will be subject to a separate report, funds are sought to be allocated to the capital programme, such that a more detailed phase of design and investigation can follow on from the initial masterplan, assuming Members wish to proceed.

### **3.13 Kingsbridge – new roofs at the Garden Mill employment units**

This capital project is a bid to the 2018/19 Capital Programme Budget.

### **3.14 Public Conveniences pay on entry**

To install pay on entry on the following Public Conveniences - Bigbury, Whitestrand, Creek (Salcombe), North Sands, South Sands, Coronation Road, Steamer Quay, Civic Hall, Fore Street, Slapton Line, Glanville's Mill, Wembury, Dittisham. This would require a capital outlay and would generate income of £16,000 in 18/19 and £36,000 by 19/20 onwards.

### 3.15 Lower Ferry Delivery Models

The vessels and other infrastructure of the ferry are aging and require to be replaced (3-5 years). This capital bid will fund a review of costed business models to develop options to bring to the Council for the future procurement of vessels.

### 3.16 New Sub Lift at Salcombe

The current machine is seven years old and has a maximum reasonable life of 10 years. About 150 boats a year are lifted. It is recommended to start putting a capital budget aside for a new sub lift.

### 3.17 Affordable Housing

No capital budget has been requested for 2018/19, to support affordable housing. The breakdown of money available through s106 contributions, second homes monies and the community housing fund means that further sums are not requested at this time.

Officers would like to caveat this on the proviso that should unplanned, additional schemes require finance from the Capital Programme, that Members would consider this on a case by case basis at a future date. Within the affordable housing budget it is proposed to spend the money within the previously agreed headings of:

<b>Scheme</b>	<b>Budget</b>	<b>Narrative</b>
Community Led Housing	£0	Money provided through CHF funding
Rural Affordable Housing	£400,000	To be apportioned to schemes where commuted sums are not able to be utilised
Older Persons Housing	£0	Paid to Riverside Extra Care in 2015/16. Completion imminent and further schemes are not currently forthcoming.
Existing Stock/Sustainability	£100,000	To reduce empty homes and make best use of the existing housing stock.
Homeless/Specialist Housing	£50,000	To enable the provision of specialist accommodation as required. Funding will be allocated as need arises.

### 3.18 Contingency

It is proposed that an annual contingency budget of £150,000 be included in the capital programme. This has been included to allow for variations on tendered prices to the estimates provided in the programme, where emergency works are required on assets not currently included in the programme or where additional external resources are required to deliver the programme. Use of this contingency budget will be subject to the Council's existing processes for the expenditure of capital funds.

## 4 FINANCING THE CAPITAL PROGRAMME

**4.1** Capital bids shown in Appendix A total £1,200,000 with the total of bids in exempt Appendix B being £1,355,000. Funding of £2,555,000 is therefore required. The table below shows the recommended way that these projects are financed:-

<b>Capital Programme 2018/19</b> <i>Appendix A (£1,200,000) and Appendix B bids (£1,355,000)</i>	<b>£</b> <b>2,555,000</b>
<b>Funded By:</b>	
Capital Programme Reserve (See Note 1 below)	326,300
Current capital receipts	481,000
Anticipated future capital receipts	630,000
Better Care Grant funding towards Disabled Facilities Grants (estimated)	700,000
New Homes Bonus	417,700
<b>TOTAL</b>	<b>2,555,000</b>

Note 1 – The current proposed funding of the Capital Programme includes the Council continuing to make a revenue contribution to the Capital Programme Reserve in 2018/19 of £181,600. This was an item discussed at the Members' Budget Workshop. Due to the capital projects which are being bid for in 2018/19, it is recommended that this contribution is continued with for 2018/19, to enable the proposed capital projects to proceed.

## 5. IMPLICATIONS

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/ Governance	Y	<p>The Executive is responsible for control of the Council's capital expenditure. The Community of Practice Leads for Finance and Assets are responsible for providing Capital Monitoring reports to the Executive, detailing the latest position of the Council's Capital Programme. Council is responsible for setting the Capital Programme and approving the Capital Budget, following consideration and recommendation from the Executive.</p> <p>Since there is commercially sensitive information in Appendix B, 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 2018/19 Capital Programme totalling £2,555,000 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 in 2018/19 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.</p> <p>This is taken into account when assessing possible implementation timescales. Complex capital programmes have a relatively long lead-in period. 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 2018/2019

EXEMPT - Appendix B – Summary of exempt Capital Bids for 2018/2019 (table)

Background papers

Capital Programme for 2017/18 - Council 9 February 2017 (66/16 and E.55/16 refer).

**Approval and clearance of report**

<b>Process checklist</b>	<b>Completed</b>
Portfolio Holder briefed	<b>Yes</b>
SLT Rep briefed	<b>Yes</b>
Relevant Exec Director sign off (draft)	<b>Yes</b>
Data protection issues considered	<b>Yes</b>
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	<b>N/A</b>

**This page is intentionally left blank**

<b>Proposed Capital Projects 2018/19 - 2020/21 - PART I</b>							
<b>Priority Criteria</b>							
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				
<b>Service</b>	<b>Site</b>	<b>Project</b>	<b>Lead officer</b>	<b>Proposed 2018/19 £'000</b>	<b>Proposed 2019/20 £'000</b>	<b>Proposed 2020/21 £'000</b>	<b>Priority code / notes</b>
	Play Parks	Replacement equipment	RS		190	140	1,2
<b>HQ</b>	Follaton House	Refurbishment of roof to old house and replacement guttering	ST	50	50	50	1,2
<b>Engineering</b>	SHDC Coastal Assets Repairs	5 year planned programme based on marine survey	CB	300	300		1
<b>Public Sector Renewals (inc Disabled Facility Grants)</b>			IL	700	700		1
<b>Sub Total</b>				<b>1,050</b>	<b>1,240</b>	<b>190</b>	
<b>Contingency</b>				<b>150</b>	<b>150</b>	<b>150</b>	
<b>Totals</b>				<b>1,200</b>	<b>1,390</b>	<b>340</b>	

**This page is intentionally left blank**

**Document is Restricted**

**This page is intentionally left blank**

Report to: **Executive**  
Date: **7 December 2017**  
Title: **Treasury Management Mid-Year Review**  
Portfolio Area: **Support Services – Cllr S Wright**  
Wards Affected: **ALL**  
Relevant Scrutiny Committee: Overview and Scrutiny Panel

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

Author: Pauline Henstock Role: **Finance Community of Practice Lead**  
Sarah Adams **Specialist Accountant**  
Contact: **Email [Pauline.Henstock@swdevon.gov.uk](mailto:Pauline.Henstock@swdevon.gov.uk) 01803 861377**

---

**Recommendations:**

1. That the contents of the report are endorsed.

**1. Executive summary**

To date, the Council has outperformed the industry benchmark by 0.13%. The Council has achieved a rate of return of 0.24%, against the 7 day LIBID bid rate (LIBID) of 0.11%. However the Council is forecasting a shortfall in investment income of £20,000 against its budgeted income target of £123,000. The Council is investigating alternative investment vehicles (which are longer term investments) in order to be able to reduce this cost pressure in the future.

**2. Background**

The Council operates a balanced budget, which broadly means cash raised during the year will meet its cash expenditure. Part of the treasury management operations ensure this cash flow is adequately planned, with surplus monies being invested in low risk counterparties, providing adequate liquidity initially before considering maximising investment return.

The second main function of the treasury management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer term cash flow planning to ensure the Council can meet its capital spending operations. The Council is currently debt-free although the Council has agreed to undertake prudential borrowing of £6.337 million for the new leisure contract (Minute 33/16). This is further explained in Appendix A.

Treasury management is defined as:

"The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."

The Council's Finance Procedure Rules require that a report be taken to the Executive three times a year on Treasury Management. The specific reporting requirements are:

An annual treasury strategy in advance of the year (Executive 09/03/17 - E73-16)

A mid-year treasury update report (this report)

An annual review following the end of the year describing the activity compared to the strategy

The CIPFA (Chartered Institute of Public Finance and Accountancy) Code of Practice for Treasury Management recommends that Members be updated on treasury management activities regularly (i.e. Treasury Management Strategy Statement (TMSS), annual and midyear reports). This report therefore ensures this Council is implementing best practice in accordance with the Code.

## **Economic Background**

### **Monetary Policy Committee (MPC) meeting 2 November 2017**

Earlier this month we saw two major developments: -

- 1.** The MPC duly voted 7-2 to remove the post EU referendum emergency monetary stimulus implemented in August 2016 by reversing the cut in Bank Rate at that time from 0.5% to 0.25%, (with no change in QE this time). In view of the robust rate of growth in the second half of 2016 which confounded the Bank's August 2016 forecasts for a sharp slowdown, many commentators subsequently held the view that that emergency action was unnecessary.

2. The MPC also gave forward guidance that they expected to increase Bank Rate only twice more in the next three years to reach 1.0% by 2020. This is, therefore, not quite the 'one and done' scenario but is, nevertheless, a very relaxed rate of increase prediction in Bank Rate in line with previous statements that Bank Rate would only go up very gradually and to a limited extent.

The quarterly Inflation Report itself, was notably downbeat about economic growth based on a view that the trend rate of growth for the economy has now fallen from 2.2% to only 1.5%, (whereas in the decade before the financial crash it grew at 2.9% p.a.). One of the main focuses for this was a view that productivity growth would remain very weak at about only 1% p.a.

This, in turn, is likely to feed through into weak domestically generated, (i.e. excluding the one off post referendum imported inflation through the fall in the value of sterling), price pressures underpinning CPI inflation. Overall, the Inflation Report was little changed from the August report and again forecast that inflation would be barely above the 2% target at the three year time horizon; it is also expected to peak very soon at 3.2%, (September was 3.0%), before falling thereafter as the devaluation effect gradually falls out of the 12 month statistics. As for forecasts for GDP growth, these also barely changed with growth falling from 1.7% to 1.6% for 2017 and being unchanged for 2018 (1.6%) and 2019 (1.8%). The MPC was also quite concerned about the situation over Brexit as there has been little significant agreement so far in terms of moving towards giving UK firms some confidence of what sort of trade terms the UK is likely to have with the EU from 2019. It has to be said that overall, this is really a quite pessimistic outlook for the UK economy.

## Interest Rate Forecast

The Council's treasury advisor, Capita Asset Services, has provided the following forecast:

	NOW	Dec-17	Mar-18	Jun-18	Sep-18	Dec-18	Mar-19	Jun-19	Sep-19	Dec-19	Mar-20
BANK RATE	0.50	0.50	0.50	0.50	0.50	0.75	0.75	0.75	0.75	1.00	1.00
5 yr PWLB	1.50	1.50	1.60	1.60	1.70	1.80	1.80	1.90	1.90	2.00	2.10
10 yr PWLB	2.10	2.10	2.20	2.30	2.40	2.40	2.50	2.60	2.60	2.70	2.70
25 yr PWLB	2.70	2.80	2.90	3.00	3.00	3.10	3.10	3.20	3.20	3.30	3.40
50 yr PWLB	2.40	2.50	2.60	2.70	2.80	2.90	2.90	3.00	3.00	3.10	3.20

The predicted interest rate forecast from our treasury management advisors, Capita, is that interest rates will remain at 0.5% up to September 2018 and then in December 2018 the base rate is predicted to rise to 0.75%. By December 2019 the bank base rate is predicted to increase to 1%.

Officers will make recommendations in January 2018 on the strategy for internal borrowing and external borrowing for the Leisure Investment. A Council is not able to borrow in advance of need and borrowing will be undertaken on review of the Council's whole Capital Financing Requirement and projected Balance Sheet for future years.

### Annual Investment Strategy

The Treasury Management Strategy Statement (TMSS) for 2017/18, which includes the Annual Investment Strategy, was approved by the Council on 30/03/17 – minute 77/16 (and Executive 09/03/17 - E73-16). It sets out the Council's investment priorities as being:

- Security of capital;
- Liquidity; and
- Yield.

The Council will also aim to achieve the optimum return (yield) on its investments commensurate with proper levels of security and liquidity. In the current economic climate it is considered appropriate to keep investments short term to cover cash flow needs, but also to seek out value available in periods up to 12 months with highly credit rated financial institutions, using our suggested creditworthiness approach, including a minimum sovereign credit rating, and Credit Default Swap (CDS) overlay information.

### Treasury Position at 30 September 2017

	As at 31/03/2017		As at 30/09/2017	
	Principal £	Interest %	Principal £	Interest %
<b>Investment Type</b>				
Short Fixed	17,000,000	0.49	22,500,000	0.28
Money Market Funds	12,175,000	0.34	22,860,000	0.20
Heritable Bank	22,483	-	22,483	-
<b>Total</b>	<b>29,197,483</b>	<b>0.42*</b>	<b>45,382,483</b>	<b>0.24*</b>

*\*This denotes the average interest rate*

The Council's Investments mid way through the year are always higher than at the end of the year (31 March), due to the cashflow advantage that the Council benefits from part way through the year.

This is, in part, due to the timing differences between the Council collecting council tax income and paying this over to the major precepting authorities such as Devon County Council, the Police and the Fire Authority.

The following is a list of our fixed investments at 30 September 2017:

<b>Counterparty</b>	<b>Fixed to</b>	<b>£</b>	<b>Interest Rate</b>
Barclays Bank plc	02/11/2017	2,500,000	0.37%
Barclays Bank plc	19/03/2018	3,500,000	0.37%
Nationwide BS	19/12/2017	1,000,000	0.36%
Nationwide BS	06/04/2018	5,000,000	0.32%
Lloyds TSB Bank Plc	04/01/2018	5,000,000	0.36%
Lloyds TSB Bank Plc	02/02/2018	1,000,000	0.36%
Debt Management Office (See Note * below)	20/10/2017	2,000,000	0.10%
Debt Management Office (See Note * below)	20/10/2017	2,500,000	0.10%

\* Note

These investments were taken out on 15<sup>th</sup> August and 1<sup>st</sup> September respectively (when the direct debit income from council tax and business rates was received) and were for a short term period of two months. The current counter-party limits were already reached for Barclays, Nationwide and Lloyds. The investment was structured to mature on the day that the precepts were due to be paid to the major precepting authorities.

The Council's current counterparty limit is £6 million (£7 million for Lloyds plc).

**Icelandic Bank**

The Council placed a deposit of £1,250,000 on 25th September 2008 with the Heritable Bank which is a subsidiary of Landsbanki, one of the Icelandic Banks that was affected by the world economic crisis. Of this amount £1,227,517 (98%) has already been repaid to the Council by the Administrators. At the 30 September 2017, the Council had £22,483 frozen in the Heritable Bank.

At the time the deposit was placed, the risk rating of Heritable was 'A' (long term deposits) and F1 (short term deposits). Both ratings indicated low risk and were within the deposit policy approved by the Council. Heritable Bank is registered in Scotland with an address in Edinburgh. Heritable Bank Plc is authorised and regulated by the Financial Services Authority and is on the FSA Register. The bank's shares are owned by Icelandic bank, Landsbanki.

Administrators have kept the bank trading and are winding down the business over a period of years. The Administrators have paid fifteen dividends amounting to 98% of the original deposit. The administrators estimate that the return to all unsecured creditors is now between 98-100 pence in the pound.

## **Performance Assessment and Proposed Way Forward**

To date, the Council has outperformed the industry benchmark by 0.13%. The Council has achieved a rate of return of 0.24%, against the 7 day LIBID bid rate (LIBID) of 0.11%. However the Council is forecasting a shortfall in investment income of £20,000 against its budgeted income target of £123,000. The Council is investigating alternative investment vehicles (which are longer term investments) in order to be able to reduce this cost pressure in the future.

Industry performance is judged and monitored by reference to a standard benchmark; this is the 7 day London Interbank Bid Rate (LIBID). The average weighted LIBID rate at the end of September was 0.11% which is 0.13% lower than our average return of 0.24% @30/09/17. The reason the Council is exceeding this benchmark is due to the use of fixed term investments that were made before the Bank of England dropped the base rate (4<sup>th</sup> August 2016) so when they are renewed the return will be lower.

The Members' Budget Workshop included a proposal for the Council to invest some of its funds in the CCLA Property Fund (returns can be in the region of 5% - this is a longer term investment as this is effectively tying the investment up for at least 5 years). More modelling work is required on this option and this is linked to the work regarding officers making recommendations in January 2018 on the strategy for internal borrowing and external borrowing for the Leisure Investment.

The Treasury Management Strategy is risk averse with no investments allowed for a period of more than a year and very high credit rating are required together with a limit of £6m per counterparty. This has resulted in only a small number of institutions in which we can invest (see Appendix A).

## **Compliance with Treasury Limits and Prudential Indicators**

During the financial year the Council has operated within the treasury limits and Prudential Indicators set out in the Council's Treasury Policy Statement and annual Treasury Strategy Statement. The Council's Prudential Indicators for 2017/18 are detailed and shown in Appendix B.

## **3. Outcomes/outputs**

In the last 18 months the interest achieved has been above the industry benchmark due to better use of fixed term investments.

#### 4. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Statutory powers are provided by the Local Government Act 1972 Section 151 and the Local Government Act 2003
Financial	Y	To date, the Council has outperformed the industry benchmark by 0.13%. The Council has achieved a rate of return of 0.24%, against the 7 day LIBID bid rate (LIBID) of 0.11%. However the Council is forecasting a shortfall in investment income of £20,000 against its budgeted income target of £123,000. The Council is investigating alternative investment vehicles (which are longer term investments) in order to be able to reduce this cost pressure in the future.
Risk	Y	<p>The security risk is the risk of failure of a counterparty. The liquidity risk is that there are liquidity constraints that affect the interest rate performance. The yield risk is regarding the volatility of interest rates/inflation.</p> <p>The Council has adopted the CIPFA Code Of Practice for Treasury Management and produces an Annual Treasury Management Strategy and Investment Strategy in accordance with CIPFA guidelines.</p> <p>The Council engages a Treasury Management advisor and a prudent view is always taken regarding future interest rate movements. Investment interest income is reported quarterly to SLT and the Executive.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	N/A
Safeguarding	N	N/A
Community Safety, Crime and Disorder	N	N/A
Health, Safety and Wellbeing	N	N/A
Other implications	N	None

## **Supporting Information**

### **Appendices:**

Appendix A – Lending list as at 30 September 2017

Appendix B – Prudential and Treasury Indicators 2017/18

### **Background Papers:**

Annual treasury strategy in advance of the year (Executive 09/03/17 - E73-16)

### **Approval and clearance of report**

<b>Process checklist</b>	<b>Completed</b>
Portfolio Holder briefed	<b>Yes</b>
SLT Rep briefed	<b>Yes</b>
Relevant Exec Director sign off (draft)	<b>Yes</b>
Data protection issues considered	<b>Yes</b>
If exempt information, public (part 1) report also drafted. (Cabinet/Scrutiny)	<b>N/A</b>

## APPENDIX A

**South Hams District Council lending list as at 30<sup>th</sup> September 2017.**

<b>Barclays Bank Plc</b>
<b>HSBC Bank plc</b>
<b>Lloyds Banking Group Plc:</b> <ul style="list-style-type: none"><li>• Bank of Scotland plc</li><li>• Lloyds Bank plc</li></ul>
<b>Nationwide Building Society</b>
<b>Royal Bank of Scotland Group Plc:</b> <ul style="list-style-type: none"><li>• The Royal Bank of Scotland plc</li><li>• National Westminster Bank plc</li></ul>
<b>Government UK Debt Management Facility</b>
<b>Local Authorities (as defined under Section 23 of the Local Government Act 2003)</b>
<b>AAA rated Money Market Funds</b>
<b>AAA Enhanced Cash Funds</b>

## APPENDIX B

### PRUDENTIAL INDICATORS

#### THE CAPITAL PRUDENTIAL INDICATORS

The Council's capital expenditure plans are the key driver of treasury management activity. The outputs of the capital expenditure plans are reflected in prudential indicators, which are designed to assist members to overview and confirm capital expenditure plans.

#### Capital Expenditure.

This prudential Indicator is a summary of the Council's capital expenditure plans, both those agreed previously, and those forming part of this budget cycle.

Capital Expenditure	2015/16	2016/17	2017/18	2018/19	2019/20
	Actual £000	Actual £000	Estimate £000	Estimate £000	Estimate £000
<b>Total</b>	<b>4,357</b>	<b>3,023</b>	<b>5,015*</b>	<b>TBA</b>	<b>TBA</b>

\*Note – This figure is £2,415,000 as per the Council report on 9 February 2017, plus £2.6 million for Leisure Investment in 17/18. In July 2016 (Minute 33/16) the Council agreed to undertake prudential borrowing of £6.337 million for the new leisure contract. The remaining leisure investment occurs in 18/19 and 19/20.

Officers will make recommendations in January 2018 on the strategy for internal borrowing and external borrowing for the Leisure Investment. A Council is not able to borrow in advance of need and borrowing will be undertaken on review of the Council's whole Capital Financing Requirement and projected Balance Sheet for future years.

The table below summarises the above capital expenditure plans and how these plans are being financed by capital or revenue resources. Any shortfall of resources results in a funding borrowing need.

Capital Expenditure	2015/16	2016/17	2017/18	2018/19	2019/20
	Actual £000	Actual £000	Estimate £000	Estimate £000	Estimate £000
<b>Total</b>	<b>4,357</b>	<b>3,023</b>	<b>5,015</b>	<b>TBA</b>	<b>TBA</b>
<b>Financed by:</b>					
Capital receipts	1,087	665	877	TBA	TBA
Capital grants	764	1,166	613	TBA	TBA
Reserves	2,506	1,192	925	TBA	TBA
<b>Net financing need for the year</b>	<b>Nil</b>	<b>Nil</b>	<b>2,600</b>	<b>Nil</b>	<b>Nil</b>

## The Council's Borrowing Need (the Capital Financing Requirement)

The second prudential indicator is the Council's Capital Financing Requirement (CFR). It is essentially a measure of the Council's underlying need to borrow if the figure is greater than zero.

In July 2016 (Minute 33/16) the Council agreed to undertake prudential borrowing of £6.337 million for the new leisure contract. There is predicted to be £2.6 million of Leisure investment in 2017/18 (this is shown in the movement in CFR). The remaining leisure investment occurs in 18/19 and 19/20.

	2015/16 Actual £000	2016/17 Actual £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000
<b>Capital Financing Requirement (CFR)</b>					
<b>Total CFR</b>	- 98	- 98	2,502	6,798	7,318
<b>Movement in CFR</b>	Nil	Nil	2,600	4,296	520
<b>Movement in CFR represented by:</b>					
<b>Net Financing need for the year</b>	Nil	Nil	2,600	4,400	800
<b>Less MRP</b>	Nil	Nil	Nil	-104	-280
<b>Net borrowing requirement</b>	Nil	Nil	2,600	4,296	520

For capital expenditure incurred since 1.4.2008, MRP is charged using the Asset Life method – based on the estimated life of the asset (For the Leisure investment, MRP will be charged over the 25 years – therefore 4% per annum).

## AFFORDABILITY PRUDENTIAL INDICATORS

The previous sections cover the overall capital and control of borrowing prudential indicators, but within this framework prudential indicators are required to assess the affordability of the capital investment plans. These provide an indication of the impact of the capital investment plans on the Council's overall finances.

### Ratio of financing costs to net revenue stream

This indicator identifies the trend in the receipt of net investment income against the net revenue stream. It is calculated by dividing investment income and interest received by the Council's Net Budget.

	2015/16	2016/17	2017/18	2018/19	2019/20
	Actual	Actual	Estimate	Estimate	Estimate
Ratio of net investment income to net revenue stream. (Surplus)	(1.8)%	(1.6)%	(1.0)%	0.8%	0.8%

### Estimates of the incremental impact of capital investment decisions on council tax

This indicator calculates the notional cost of the impact of lost investment income on the Council Tax, from spending capital resources. The Council is not undertaking any borrowing to fund its Capital Programme at present.

### Incremental impact of capital investment decisions on the band D council tax (Notional cost as explained above)

	2015/16	2016/17	2017/18	2018/19	2019/20
	Actual	Actual	Estimate	Estimate	Estimate
	£	£	£	£	£
Future incremental impact of capital investment decisions on the band D Council tax (Notional cost)	0.30	0.07	0.36	TBC	TBC

## TREASURY INDICATORS: LIMITS TO BORROWING ACTIVITY

**The Operational Boundary** – This is the limit beyond which external debt is not normally expected to exceed. This is the maximum level of external debt for cash flow purposes.

Operational Boundary	2016/17	2017/18	2018/19	2019/20
	£	£	£	£
Borrowing	2,000,000	5,000,000	9,000,000	10,000,000
Other long term liabilities	-	-	-	-
Total	2,000,000	5,000,000	9,000,000	10,000,000

**The Authorised Limit for External Debt** – A further key prudential indicator represents a control on the overall level of borrowing. This represents a limit beyond which external debt is prohibited, and this limit needs to be set or revised by Full Council. It reflects the level of external debt which, while not desired, could be afforded in the short term, but is not sustainable in the longer term.

This provides headroom over and above the operational boundary for unusual cash movements. This is the maximum amount of money that the Council could afford to borrow.

This is the statutory limit determined under section 3 (1) of the Local Government Act 2003. The Government retains an option to control either the total of all councils' plans, or those of a specific council, although no control has yet been exercised.

Authorised limit	2016/17	2017/18	2018/19	2019/20
	£	£	£	£
Borrowing	7,000,000	10,000,000	14,000,000	15,000,000
Other long term liabilities	-	-	-	-
Total	7,000,000	10,000,000	14,000,000	15,000,000

**This page is intentionally left blank**

Report to: **Executive**

Date: **7 December 2017**

Title: **Heart of the South West – Joint Committee**

Portfolio Area: **Strategy and Commissioning**

Wards Affected: **All**

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

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*) **Council 14 Dec 2017**

Author: Steve Jordan Role: **Executive Director (Strategy and Commissioning), Head of Paid Service**

Contact: **steve.jorden@swdevon.gov.uk**

## **RECOMMENDATION**

It is **RECOMMENDED** that Executive **RECOMMEND** to Full Council to:

- a) Approve the recommendation of the HotSW Leaders (meeting as a shadow Joint Committee) to form a Joint Committee for the Heart of the South West;
- b) Approve the Arrangements and Inter-Authority Agreement documents set out in appendices A and B for the establishment of the Joint Committee with the commencement date of Monday 22<sup>nd</sup> January 2018;
- d) Appoint Leader and Deputy Leader as the Council's named representative and substitute named representative on the Joint Committee;
- c) Appoint Somerset County Council as the Administering Authority for the Joint Committee for a 2 year period commencing 22<sup>nd</sup> January 2018;
- e) Approve the transfer of the remaining joint devolution budget to meet the support costs of the Joint Committee for the remainder of 2017/18 financial year subject to approval of any expenditure by the Administering Authority;
- f) Approve an initial contribution of £1,400 for 2018/19 to fund the administration and the work programme of the Joint Committee, noting that any expenditure will be subject to the approval of the Administering Authority;
- g) Agree that the key function of the Joint Committee is to approve the Productivity Strategy (it is intended to bring the Strategy to the Joint Committee for approval by February 2018);
- h) Authorise the initial work programme of the Joint Committee aimed at the successful delivery of the Productivity Strategy;

i) Agree the proposed meeting arrangements for the Joint Committee including the timetable of meetings for the Joint Committee as proposed in para 2.14.

## **1. Introduction and Executive Summary**

1.1 Since August 2015, Devon and Somerset County Councils, all Somerset and Devon Districts, Torbay Council, Plymouth City Council, Dartmoor and Exmoor National Parks, the Local Enterprise Partnership (LEP) and the three Clinical Commissioning Groups have worked in partnership to progress towards securing a devolution deal for the HotSW area focusing on delivering improved productivity. Since that time the partnership has continued to progress its objectives in spite of policy shifts at a national level.

1.2 On 2 March 2017 (Minute 74/16 refers), the Council gave 'in principle' approval to the establishment of a HotSW Joint Committee, subject to approving the Joint Committee's constitutional arrangements and an inter-authority agreement necessary to support the Joint Committee. This report sets out the necessary documents which, if agreed, will enable the Joint Committee to be formally established.

1.3 Since then the General Election has further shifted the national policy position. On the 13<sup>th</sup> October representatives of HotSW (from the Somerset, Devon, Plymouth and Torbay upper tier authorities) met Jake Berry MP, Minister for devolution to clarify the position of the Government and the HotSW Partnership on the devolution issue. The meeting was very positive and although no agreements were reached at the meeting, the partnership's representatives were given a clear message that the Government would welcome a bid from the partnership to progress our productivity ambitions by identifying areas where we can work together with Government. Importantly the Minister indicated that there would be no requirement to have an elected mayor for Devon and Somerset as a condition of any deal. This statement has removed one significant blockage to moving our ambitions forward and we now need to agree what we want from this initiative and then find practical ways to work with the Government on delivery.

1.4 There is now no doubt that the Government is keen to engage with wider areas that can demonstrate:

- Unity, clarity of purpose and a shared, ambitious vision built on local strengths
- Strong partnership between business and the public sector with solid governance arrangements that provide assurance in capacity to deliver
- Compelling ideas that can help to deliver Government objectives

- Clarity about the offer to Government in terms of savings and is prepared to take hard decisions based on a robust analysis of risk and benefits.

The Joint Committee will provide the ideal governance framework at this stage to take forward this dialogue with Government.

- 1.5 The key role of the HotSW Joint Committee is to develop, agree and ensure the implementation of the Productivity Strategy. This can only be achieved by working, where appropriate, in collaboration with the individual constituent authorities and the LEP. The Strategy will agree a common vision for increased prosperity through economic growth informed by a local evidence base and engagement with local stakeholders. It will also link to Government policy initiatives, particularly in relation to the Industrial Strategy, and will form the basis for developing our collective 'ask' of Government.

## **2. HotSW Joint Committee Proposal**

- 2.1 The detail of the proposed functions of the Joint Committee and how it will operate are set out in appendix A attached – the Arrangements document. Appendix B attached sets out an Inter-Authority Agreement for consideration which details how the Joint Committee will be supported and sets out the obligations of the Council if it agrees to become a constituent member.
- 2.2 The documents detail the Administering Authority functions in support of the operation of the Committee including the provision of financial, legal, constitutional and administrative support to the Committee.
- 2.3 At this stage the Arrangements and Inter-Authority documents have been 'scaled' to fit the functions of the Joint Committee and the limited liabilities that each authority faces in signing up to be a Constituent Authority. In the event that the remit of the Joint Committee expands to take on more decision-making responsibilities and functions of the constituent authorities, the Arrangements and Inter-Authority agreement will be revisited to ensure that they remain fit for purpose and proportionate. Any expansion of the functions and responsibilities would require the approval of the Constituent Authorities.
- 2.4 The Joint Committee has a much more limited role than a Combined Authority. It does not have the statutory or legal status of a Combined Authority and cannot deliver the full range of benefits that a Combined Authority can, but it does have the potential to provide cohesive, coherent leadership and a formal governance structure. Its role will focus on collaboration, negotiation and influencing with full decision making responsibilities limited to developing and agreeing the Productivity Strategy. The principle of subsidiarity will apply to the relationship between the Joint Committee, the Constituent Authorities and local Sub-Regional Partnerships with decisions to deliver the

Productivity Strategy and decisions necessary as a result of the other functions of the Joint Committee being taken at the most local and appropriate level.

- 2.5 The aim of the Joint Committee through the delivery of the Productivity Strategy will be to:
- Improve the economic prosperity of the wider area by bringing together the public, private and education sectors;
  - Work together to realise opportunities and mitigate impacts resulting from Brexit;
  - Increase understanding of the local economy and what needs to be implemented locally to improve prosperity for all;
  - Ensure the necessary strategic framework, including infrastructure requirements, is in place across the HotSW area to enable sub-regional arrangements to fully deliver local aspirations; and improve the efficiency and productivity of the public sector. This work will be supported by a Joint Committee budget based on an agreed work programme.
- 2.6 The creation of a single strategic public sector partnership covering the HotSW area will: facilitate collaborative working; help us to remove barriers to progress; as well as provide a formal structure to engage with Government at a strategic level on major areas of policy. It also has the potential to enable the Constituent Authorities and partners to have discussions with neighbouring Councils / Combined Authorities / LEPs on South West peninsula priorities and issues as well as the ability to move swiftly towards a Combined Authority model in the future (by potentially acting as a shadow Combined Authority) if the conditions are deemed acceptable to the Constituent Authorities.
- 2.7 Critically, the Joint Committee will also provide a formal mechanism for the Constituent Authorities to engage effectively with the LEP across common boundaries and agendas. District Council partners, in particular, might view this as an opportunity to engage more effectively with the LEP. The LEP, which will sit alongside the Joint Committee, has recently adopted new governance requirements to ensure greater transparency and accountability and wishes to further improve its democratic accountability in discussion with HotSW partners. The Joint Committee will provide a formal structure to take these discussions forward and for the Constituent Authorities to have greater influence over the activities of the LEP on our common agendas.
- 2.8 Although the Joint Committee is a cost-effective formal structure, some provision needs to be made to meet the support costs of what will be a fully constituted local authority joint committee. It is proposed that Somerset County Council (who have provided the lead for the governance workstream of the devolution project over the last two years) takes on the support role (with the option of rotating the role

after 2 years of operation), to provide the financial, legal, democratic support to the Joint Committee from 22nd January 2018.

- 2.9 There is currently the remainder of the joint devolution budget raised from an initial contribution from all Authorities and the LEP in 2015. It is recommended that the remaining funds from this budget - £42,000 - are transferred to the Administering Authority and the budget is used to support the costs of the Joint Committee for the remainder of 2017/18 financial year and for some of 2018/19.
- 2.10 In addition, the Joint Committee will need a budget to undertake its work programme in order to oversee the implementation of the Productivity Strategy. The overall budget required to support the Joint Committee and enable it to undertake its work programme will be dependent, to an extent, on the level of 'in-kind' officer resources provided to the Committee by the constituent authorities. The Administering Authority will review the in-kind support which has been provided for the devolution project in consultation with the constituent authorities and bring forward revised budget figures as part of a budget and cost sharing agreement as necessary in due course to the Joint Committee for consideration and recommendation to the Constituent Authorities. The budget figures set out in this report in paragraph 2.11 are therefore provisional at this stage. The initial Joint Committee work programme is set out in section 3 below for approval.
- 2.11 Through work undertaken by the partners it is estimated that the operating cost of a Joint Committee will be £89,000 in 2018/19 (and to cover the remainder of 2017/18) excluding any in-kind support. This estimate is made up of the following:
- £40,000 for the Administering Authority to undertake its duties. This is seen as a minimum cost and assumes that 'in-kind' officer resource remains in place at the same level; the Joint Committee meeting venues are provided by partners as 'in-kind' contribution
  - £25,000 (estimate) for work the Joint Committee would wish to commission
  - £24,000 for the Brexit Resilience and Opportunities Group Secretariat.
- 2.12 The Shadow Joint Committee recommends the budget is met by contributions from the Constituent Authorities. This would exclude the LEP and the CCGs from contributing as non-voting partners. As stated above it is estimated there will be a funding carry forward of £42,000 from the 2015 devolution budget. This would leave a shortfall of £47,000 to meet the total estimated budget requirement of the Joint Committee in 2018/19. Using the formula of contributions agreed in 2015 to support the devolution project the contribution requested of each Constituent Authority for 2018/19 is set out below. This assumes that all authorities agree to become members of the Joint Committee and would have to be recalculated should fewer than 19 Authorities become Members.
- County Councils - £10,500

- Unitary Councils - £4,000
  - District Councils and National Parks £1,400
- 2.13 Under this formula it is recommended this Council contributes £1,400 for 2018/19 as a Constituent Authority. Any expenditure against this budget would be subject to the formal approval of the Administering Authority.
- 2.14 In terms of the proposed meeting arrangements for the Joint Committee, it is recommended:
- (a) That the Joint Committee should meet formally immediately after the LEP Board meetings to assist with engagement and co-operation between the bodies and allow co-ordination of the respective work programmes.
- (b) That the following dates are reserved for meetings of the Joint Committee in 2018:
- Friday 26<sup>th</sup> January
  - Friday 23<sup>rd</sup> March
  - Friday 25<sup>th</sup> May
  - Friday 20<sup>th</sup> July
  - Friday 28<sup>th</sup> September
  - Friday 30<sup>th</sup> November
- (c) That the Joint Committee meetings should start at 10am with the venues rotated throughout the HotSW area. The assumption will be that the host authority for that meeting will provide appropriate accommodation and facilities 'in kind'.

### **3. HotSW Productivity Plan and the Joint Committee Work Programme**

- 3.1 The Partnership has, since its inception, been focused on working together to tackle low productivity as this is seen as the key to future economic growth. The academic research undertaken in the HotSW Green Paper on Productivity - <http://www.torbay.gov.uk/council/how-the-council-works/devolution/productivity-plangreen-paper/> highlighted that whilst Devon and Somerset have one of the highest employment rates in the country too many of those jobs are part-time and low paid. This means that our area has one of the lowest productivity rates in the Country and this is a major barrier to future prosperity.
- 3.2 The Partnership has continued to lobby Government to work more closely with our area in order to make good on its promise to spread economic growth across the Country and we now need to build on the recent meeting of the Minister and the momentum achieved. This work is urgently needed to ensure that areas such as the Heart of the South West don't get left behind as Government look to focus investment in

areas where there are strong, cross boundary strategic partnership arrangements such as the six Mayoral Combined Authorities.

- 3.3 The Productivity Strategy is being developed through an academic evidence base and engagement with stakeholders and the community. The draft plan is currently out to consultation (<http://www.torbay.gov.uk/devolution>). The deadline for response is 30<sup>th</sup> November 2017. Members are encouraged to respond to the draft strategy.
- 3.4 In summary the Strategy proposes to deliver prosperity and productivity across the entire HotSW and to do so in an inclusive way. It proposes to build on existing strengths such as aerospace, advanced manufacturing, nuclear energy and agri-tech as well as exploiting new opportunities and releasing untapped potential.

The Strategy is built around three key objectives:

- Developing **leadership and knowledge** within businesses in our area;
- Strengthening the **connectivity and infrastructure** our businesses and people rely on; and
- Developing the ability of people in our area to **work and learn** in a rapidly changing economy.

	Leadership and Knowledge	Connectivity and infrastructure	Working and learning
Aspiration	To substantially improve the productivity of businesses in the area	Improve our physical and natural assets to support wellbeing and economic opportunities	Meet the potential of every individual within the area to work and contribute to our shared prosperity
High-level aim	Help develop innovative, ambitious, growing businesses that can compete internationally	Create vibrant places that are attractive to skilled people and new investment, with infrastructure to support productivity growth	Develop, attract and retain a highly skilled and adaptable workforce
Strategic Objective	<b>Programmes</b> <ul style="list-style-type: none"> <li>• Management excellence</li> <li>• New markets, new opportunities</li> <li>• Remove barriers to expansion</li> </ul>	<b>Programmes</b> <ul style="list-style-type: none"> <li>• Clean energy infrastructure</li> <li>• Connectivity and resilience</li> <li>• Land for business and housing needs</li> <li>• Natural capital to support productivity</li> </ul>	<b>Programmes</b> <ul style="list-style-type: none"> <li>• Skills for a knowledge-led economy</li> <li>• Pathways to success</li> <li>• Access to work and opportunities</li> <li>• Skills for our 'golden</li> </ul>

	<ul style="list-style-type: none"> <li>• Attract talent and investment</li> </ul>		opportunities'
--	---	--	----------------

3.5 It is recommended that one of the first tasks of the Joint Committee will be to approve the Productivity Strategy early in the New Year;

3.6 The Partnership has been meeting as a Shadow Joint Committee since 22<sup>nd</sup> September 2017. Its focus is to ensure the Joint Committee can immediately move into action and take advantage of major funding streams, national policy debates and lobbying around the economy. The Partnership will be working with the LEP to deliver the Productivity Strategy and will be supporting a joint work programme which initially will involve:

- Developing and recommending a delivery and investment Framework, to implement the Productivity Strategy and demonstrating our capacity to deliver. This will complement the LEP's Strategic Investment Panel which oversees the LEP's investments;
- Investigating ways to complement existing work to draw out opportunities to attract infrastructure investment in line with the Productivity Strategy aims, building our track record for ambitious and compelling propositions;
- Investigating ways to complement existing work on improving the delivery of skills in line with the Productivity Strategy aims
- Investigating ways to complement existing work on strengthening leadership & knowledge within the area's SMEs in line with the Productivity Strategy aims.

3.7 Any Joint Committee expenditure on the joint work programme will be subject to approval by the Administering Authority.

#### **4. Consultation, communication and engagement**

4.1 Members, partners and the public have been kept informed of developments of the HotSW Devolution Partnership and the Productivity Strategy through press releases, newsletters, presentations, workshops and publications. This information flow will be maintained by the Joint Committee. In addition, all of the Authorities within the Partnership have taken formal decisions as required during the various stages of consideration of devolution proposals and the proposed creation of the Joint Committee.

4.2 A draft Productivity Strategy has been released for public consultation. To complement the on-line consultation there will be; Council-based briefings and targeted key stakeholder events through 6 sub-regional roadshows held in Plymouth, Northern Devon, Cullompton/Exeter, Torbay, Taunton/Bridgwater and Yeovil/Shepton Mallet. The consultation will end on 30<sup>th</sup> November 2017 and feedback will influence the final strategy which is due for approval in early 2018.

## **5. Options Available**

- 5.1 There are two options and alternatives that Members might consider:  
Option 1 – Do nothing and continue with informal arrangements within the Partnership. As set out above the feedback from Government is they prefer to work ‘at scale’ and are looking more favourably at areas that have a unity of vision and purpose.

Option 2 – move to a Combined Authority. The Partnership now need to review the option of establishing a Combined Authority at some point following the indication from the Minister that there will be no requirement to have an elected mayor in order to pursue our ambitions. Establishing a Combined Authority requires a substantial lead in time to allow for the Parliamentary approval process and would inevitably require the creation of a shadow Combined Authority to test and confirm the concept. The potential benefits of moving to a Combined Authority model will have to be judged against the implications of doing so, including the cost implications. The Joint Committee has the benefit of allowing the Partnership to move relatively quickly to establish a Combined Authority if that is the wish of the partners.

## **6. Risk Management Considerations**

- 6.1 The creation of a Joint Committee will place a formal governance structure around the preparation and implementation of the Productivity Strategy. The Strategy will be used as a tool to attract a greater share of Government funding around the Industrial Strategy to mitigate the risk of Devon and Somerset being left behind other areas of the country.
- 6.2 Without a Productivity Strategy and Joint Committee in place, the Council and its partners will lack credibility and be at a disadvantage in negotiating and lobbying Government on a range of policy initiatives including the growth agenda and are likely to miss out on potential funding streams.
- 6.3 The individual financial risk to the individual Constituent Authorities of establishing the Joint Committee is limited to their financial contributions to the running and operational costs of the Joint Committee. The risk is shared between all of the Constituent Authorities.

## **7. Proposed Way Forward**

- 7.1 Working together will deliver better results if we are to help our businesses improve their productivity levels and deliver greater prosperity across the Heart of the South West. By collaborating across local geographies we will strengthen the area’s voice to Government and strengthen the actions the area can take to improve productivity.

- 7.2 The Productivity Strategy will replace the Local Enterprise Partnership's Strategic Economic Plan. It will be the key strategic document for the partners to engage with Government and each other on a range of investment opportunities and powers emerging from the Industrial Strategy, Brexit and other policy opportunities.
- 7.3 The HotSW Joint Committee will provide a formal strategic partnership to complement and maximise the ability of individual authorities and sub-regional arrangements to deliver their aspirations. It will provide the formal arrangements for collaboration on productivity.
- 7.4 Through the Joint Committee the partners can test and improve their ability to work together as a potential precursor to the possible establishment of a Combined Authority at some point in the future. It will also provide a mechanism to further strengthen democratic input and influence with the LEP and align more effectively with the LEP's new model of governance and accountability.
- 7.5 Without a Joint Committee in place, the HotSW area will continue to struggle to position itself to be able to take advantage of Government policy initiatives and new funding opportunities compared to those areas that have and are establishing formal strategic partnerships.

## 8. Implications

Implications	Relevant to proposals	Details and proposed measures to address
Legal/Governance	Y	Each of the partners' legal teams and Monitoring Officers have been involved in the development of the Arrangements and Inter-Authority documents set out as Appendices A and B. The documentation also aligns to the LEP's Assurance Framework. This simple documentation sets out the functions, membership and operations of the Joint Committee and the requirements upon the constituent authorities in supporting it.
Financial	Y	The costs associated with the early work on the Productivity Strategy preparation largely relate to officer time which is being provided 'in kind' by the authorities and partners. Specifically the LEP has met some direct costs. The establishment of the Joint Committee provides a low cost option compared to a Combined Authority model of governance. As part of the Inter- Authority Agreement the assumption is that the Constituent Authorities will continue to provide in-kind support although this will be reviewed by

		<p>the Administering Authority to ensure that the levels of support are appropriate, sustainable into the future and acceptable to the authorities providing the support.</p> <p>The direct running costs of the Joint Committee will be limited to providing officer support for the meetings, if there is insufficient 'in-house' capacity, and the costs of the meetings themselves. At this stage direct support costs will be kept to a minimum and for 2017/18 and some of 2018/19 will be covered by the residual joint devolution budget established in 2015.</p> <p>In addition to the direct costs of administering the Joint Committee there is also the issue of a budget to fund its Work Programme. Further details of the provisional budget requirements are set out in section 2 together with the proposed funding mechanism for contributions from individual Constituent Authorities.</p> <p>In coming to their decision about a Joint Committee and whether the potential costs provide good value for money, Members might like to consider the potential cost/impact of not working in this way and the potential loss of influence with the Government and investment to the area. Through recent funding initiatives and policy – including through the recent meeting with the Minister, it is clear that Government is looking for areas to come together and articulate their vision and priorities across footprints wider than their organisational boundary or sub-regional areas.</p> <p>The proposal put before Members sets out a low risk, low cost option to work in a more formal way to capitalise on opportunities arising from future Government strategies, funding announcements and in preparation for Brexit.</p>
Risk	N	As set out in Para 6 above
Equality and Diversity	N	The Inter-Authority Agreement requires all Constituent Authorities to support, promote and discharge its duties under the Equality Act through the work of the Joint Committee. The Partnership is developing an

		Equality Impact Needs Assessment to inform the development of the Productivity Strategy. The Joint Committee will consider this assessment alongside the Productivity Strategy before adoption.
Safeguarding	N	None at this stage.
Community Safety, Crime and Disorder	N	None at this stage.
Health, Safety and Wellbeing	N	6.1 There is a strong correlation between economic prosperity and health of the population. Public Health specialists will be key stakeholders within the consultation process and will be asked to advise on ways in which the Productivity Strategy could be connected to public health strategies to maximise the benefits to our communities.
Other implications	N	Devolution potentially covers a wide range of services and plans. The detail of these will develop as formal proposals are developed locally and through negotiation with Government, and when the final Devolution Deal is put into place.

### **Supporting Information**

#### **Appendices:**

Appendix A: HotSW Joint Committee Draft Arrangements

Appendix B: Draft Inter-Authority Agreement

#### **Background Papers:**

None

## APPENDIX A

### HEART OF THE SOUTH WEST (HOTSW) JOINT COMMITTEE – DRAFT ARRANGEMENTS

#### 1. Introduction:

1.1 Legal status: The HotSW Joint Committee is a Joint Committee of the local authorities listed in 1.5 below that comprise the HotSW area and established under Sections 101 to 103 of the Local Government Act 1972 and all other enabling legislation to undertake the functions detailed in section 2 of this Agreement.

1.2 Key purpose: The key purpose of the Joint Committee is to be the vehicle through which the HotSW partners will ensure that the desired increase in productivity across the area is achieved.

1.3 Aims and objectives: The aim is to provide a single strategic public sector partnership that covers the entire area and provides cohesive, coherent leadership and governance to ensure delivery of the Productivity Strategy for the HotSW area. The specific objectives of the Joint Committee are to:

- (a) Improve the economy and the prospects for the region by bringing together the public, private and education sectors;
- (b) Increase our understanding of the economy and what needs to be done to make it stronger;
- (c) Improve the efficiency and productivity of the public sector;
- (d) Identify and remove barriers to progress and maximise the opportunities /benefits available to the area from current and future government policy.

1.4 Commencement: The Joint Committee will be established in accordance with the resolutions of the Constituent Authorities listed below in paragraph 1.5 with effect from the Commencement Date (22nd January 2018) and shall continue in existence unless and until dissolved by resolution of a majority of the Constituent Authorities.

1.5 Membership: Each of the Constituent Authorities listed below shall appoint 1 member and 1 named substitute member to the Joint Committee on an annual basis. Each member shall have 1 vote including substitute members. For the Councils, the member appointed shall be that Council's Leader except in the case of Torridge District Council where the member appointed by the Council shall have authority to speak and vote on matters on behalf of the Council. Political balance rules do not apply to the Joint Committee membership. The substitute member shall also be a cabinet member where the Council is operating executive arrangements. For the National Park Authorities the member appointed shall have authority to speak and vote on matters on behalf of the Authority:

-  Dartmoor National Park Authority
-  Devon County Council
-  East Devon District Council
-  Exeter City Council

# Leaders

for the Heart of the South West

-  Exmoor National Park Authority
-  Mendip District Council
-  Mid Devon District Council
-  North Devon Council
-  Plymouth City Council
-  Sedgemoor District Council
-  Somerset County Council
-  South Hams District Council
-  South Somerset District Council
-  Torbay Council
-  Taunton Deane Borough Council
-  Teignbridge District Council
-  Torrington District Council
-  West Devon Borough Council
-  West Somerset Council.

1.6 In addition to the Constituent Authorities the partner organisations listed below shall each be invited to appoint 1 co-opted representative and 1 named substitute co-opted representative to the Joint Committee. Co-opted members shall not have voting rights:

-  Heart of the South West Local Enterprise Partnership (the LEP)
-  NHS Northern, Eastern and Weston Devon Clinical Commissioning Group
-  NHS South Devon and Torbay Clinical Commissioning Group
-  NHS Somerset Clinical Commissioning Group

1.7 The Joint Committee may co-opt further non-voting representatives from the private, public and/or voluntary sectors at any time.

1.8 Each appointed member / representative shall remain a member of the Joint Committee until removed or replaced by the appointing authority / organisation. Appointments to fill vacancies arising should be notified to the Joint Committee Secretary as soon as possible after the vacancy occurs.

1.9 Standing Orders / Rules of Procedure: Outside of the contents of this 'Arrangements' document, the Standing Orders and Rules of Procedure for the Joint Committee shall be those contained in the Constitution of the Administering Authority to the Joint Committee, subject, in the event of any conflict, to the provisions in the Arrangements document taking precedent.

1.10 Administering Authority: A Council shall be appointed by the Constituent Authorities as the Administering Authority for the Joint Committee and shall provide legal, democratic services, financial and communications support to the Committee. The Joint Committee's Forward Plan of business and papers for its meetings shall be published on the Administering Authority's website with links provided to the websites of the other Constituent Authorities and partner organisations.

## 2. Joint Committee Functions:

2.1 The only delegated function of the Joint Committee relates to the approval of the HotSW Productivity Strategy. All other matters referred to in 2.3 are 'referred' matters where the Joint Committee will make recommendations to the Constituent Authority or Authorities for decision. Additional delegated or referred functions may be proposed for the Joint Committee in the future by the Joint Committee or any of the Constituent Authorities, but shall only be agreed if approved by all of the Constituent Authorities.

2.2 The principle of subsidiarity will apply to the relationship between the Joint Committee, the Constituent Authorities and local Sub-Regional Partnerships with decisions being made at the most local and appropriate level on all matters to do with the delivery of the Productivity Strategy and in relation to the other functions of the Joint Committee.

2.3 The Joint Committee shall:

- (a) Develop and agree the HotSW Productivity Strategy in collaboration with the LEP.
- (b) Ensure delivery of the HotSW Productivity Strategy in collaboration with the LEP and the Constituent Authorities.
- (c) Continue discussions /negotiations with the Government on the possibility of achieving devolved responsibilities, funding and related governance amendments to assist with the delivery of the Productivity Strategy. Joint Committee proposals arising from these discussions /negotiations would require the formal approval of the Constituent Authorities / partner agencies.
- (d) Continue discussions / negotiations with the Government / relevant agencies to secure delivery of the Government's strategic infrastructure commitments, eg, strategic road and rail transport improvements
- (e) Work with the LEP to identify and deliver adjustments to the LEP's democratic accountability and to assist the organisation to comply with the revised (November 2016) LEP Assurance Framework. This includes endorsing the LEP's assurance framework on behalf of the Constituent Authorities as and when required. However, this is subject to the Framework being formally approved by the LEP's Administering Authority.
- (f) Ensure that adequate resources (including staff and funding) are allocated by the Constituent Authorities to enable the objectives in (a) to (e) above to be delivered.

## **3. Funding**

3.1 The Constituent Authorities shall agree each year and in advance of the start of the financial year (except in the year of the establishment of the Joint Committee) a budget for the Joint Committee in accordance with a Budget and Cost Sharing Agreement to cover the administrative costs of the Joint Committee and costs incurred in carrying out its functions. All funds will be held and administered by the Administering Authority on behalf of the Constituent Authorities and spent in accordance with that Authority's financial regulations and policies.

3.2 In the Joint Committee's first year of operation, the budget will be approved by the constituent authorities on the recommendation of the Joint Committee as soon as possible after the establishment of the Joint Committee.

3.3 Joint Committee members' costs and expenses will be funded and administered by the respective Constituent Authority.

## **4. Review of the Joint Committee Arrangements**

5.1 The Joint Committee may at any time propose amendments to the Arrangements document which shall be subject to the approval of all of the Constituent Authorities.

5.2 Any Constituent Authority may propose to the Joint Committee amendments to the Arrangements. Such amendments shall only be implemented if agreed by all of the Constituent Authorities on the recommendation of the Joint Committee.

## **5. Members' Conduct**

5.1 All members of the Joint Committee shall observe the "Seven Principles of Public Life" (the 'Nolan' principles) and will be bound by their own authority's code of conduct in their work on the Joint Committee.

5.2 Joint Committee members / representatives shall be subject to the code of conduct for elected members adopted by the Constituent Authority that nominated them to be a Joint Committee member or to the conduct requirements of the organisation that appointed them. This includes the requirement to declare relevant interests at formal meetings of the Joint Committee.

## **6. Requirements of Joint Committee members**

6.1 Joint Committee members shall:

- (a) Act in the interests of the Joint Committee as a whole except where this would result in a breach of a statutory or other duty to their constituent authority or would be in breach of their Constituent Authority's Code of Conduct.

# Leaders

for the Heart of the South West

- (b) Be committed to, and act as a champion for, the achievement of the Joint Committee's aims.
- (c) Be an ambassador for the Joint Committee and its work.
- (d) Attend Joint Committee meetings regularly, work with others to achieve consensus on items of business and make a positive contribution to the Committee's work.
- (e) Act as an advocate for the Joint Committee in any dealings with their organisation including seeking any approvals from their Constituent Authority/partner organisation to Joint Committee recommendations.
- (f) Adhere to the requirements of the 'Arrangements' document and maintain high ethical standards.

## **7. Appointment of Chairman and Vice-Chairman**

7.1 The Joint Committee shall elect a Chairman and Vice-Chairman from amongst the voting membership as the first items of business at its inaugural meeting and at each Joint Committee Annual General Meeting thereafter. The appointments shall be confirmed by a simple majority vote of Constituent Authority members. If a deadlock occurs between two or more candidates a secret ballot shall immediately be conducted to confirm the appointment. If there is still deadlock following a secret ballot then a further meeting of the Joint Committee shall be held within 14 days and a further secret ballot shall be held to resolve the appointment.

7.2 A vacancy occurring in the positions of Chairman or Vice-Chairman between Annual General Meetings shall be filled by election at the next meeting of the Joint Committee. The person elected will serve until the next Annual General Meeting.

7.3 The Chairman and Vice-Chairman shall, unless he or she resigns the office or ceases to be a member of the Joint Committee and subject to 7.5 below, continue in office until a successor is appointed.

7.4 In the absence of the Chairman and the Vice-Chairman at a meeting, the voting members of the Committee present shall elect a Chairman for that meeting.

7.5 The Chairman or Vice-Chairman may be removed by a vote of all of the Constituent Authority members present at a meeting of the Joint Committee.

## **8. Quorum**

The quorum for any meeting of the Joint Committee shall be 9 Constituent Authority members. The Chairman will adjourn the meeting if there is not a quorum present. In the absence of a quorum, the meeting shall be adjourned to a date, time and venue to be agreed by the Chairman.

## **9. Voting**

9.1 Wherever possible the elected and co-opted members of the Joint Committee shall reach decisions by consensus and shall seek to achieve unanimity.

9.2 In exceptional circumstances where a formal vote is required, the proposal will be carried by a simple majority agreement of the voting members present and voting by a show of hands. The Chairman of the Joint Committee shall not have a casting vote in the event of a tied vote.

## **10 Decision making Arrangements**

10.1 Only the Joint Committee shall approve the Productivity Strategy.

10.2 The Joint Committee may at any time appoint working groups consisting of Joint Committee members and/or co-opted representatives / officers to consider specific matters and report back / make recommendations to the Joint Committee.

## **11 Formal Meeting Arrangements**

11.1 The Joint Committee will hold an Inaugural Meeting within 30 days of the agreed commencement date and thereafter shall meet on a regular basis as agreed by the Joint Committee annually at its Annual General Meeting.

11.2 The Chairman or in his/her absence the Vice-Chairman, may call a special meeting of the Joint Committee following consultation with the Chief Executives' Advisory Group to consider a matter that falls within the Committee's remit but cannot be deferred to the next scheduled meeting, provided that at least ten clear working days notice in writing is given to the Joint Committee membership.

11.3 Formal meetings of the Joint Committee shall normally be held in public, in accordance with the Access to Information Rules and the Standing Orders / Rules of Procedure of the Administering Authority.

11.4 Meetings of any working groups or task groups established by the Joint Committee shall, unless otherwise agreed, be held in private.

## **12. Who can put items on the Joint Committee's agenda?**

- (a) The Joint Committee itself;
- (b) Any of the members of the Joint Committee appointed by the Constituent Authorities
- (c) A Constituent Authority by way of a formal resolution
- (d) The Chief Executives' Advisory Group
- (e) The Monitoring Officer and / or the Chief Finance Officer of the Administering Authority.

## **13. Reporting Arrangements**

13.1 In addition to any ad hoc reports to the Constituent Authorities, the Joint Committee shall supply an annual report of its activities to the Constituent Authorities in May of each year.

13.2 The Joint Committee shall co-operate with the public scrutiny arrangements of the Constituent Authorities.

## **14 Record of attendance**

14.1 All members present during the whole or part of a meeting are asked sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

Julian Gale  
Monitoring Officer  
Somerset County Council

30.10.17

**This page is intentionally left blank**

## APPENDIX B

### HOTSW JOINT COMMITTEE DRAFT INTER – AUTHORITY AGREEMENT

#### 1. Commencement and Duration:

1.1 This Agreement (and the obligation of the Constituent Authorities [CAs]) shall take effect on the agreed Commencement Date – Monday 22nd January 2018 - and shall continue until the Joint Committee (JC) is dissolved.

#### 2. Formation provisions:

2.1 The CAs agree to form the JC from the agreed Commencement Date and to delegate / refer the functions specified to the JC from that date as set out in section 2.3 of the Arrangements document.

2.1 The JC shall operate in accordance with the Arrangements document and the Standing Orders and Rules of Procedure of the Administering Authority (AA).

#### 3. Administering Authority (AA) arrangements

3.1 The AA shall be appointed by resolution of the CAs for a 24 month period (24 months is considered as appropriate to provide sufficient continuity but also to provide the option to rotate the role on a regular basis).

3.2 The AA shall provide:

- Financial, legal, constitutional and administrative support to the JC and its meetings
- An on-line presence for the JC via the AA website with links to the CAs / partner organisations websites.
- Ensure it has appropriate insurance arrangements in place to cover the AA role.

3.3 The AA may resign from the role by giving 6 months' notice to the CAs.

3.4 The AA may be removed and replaced by a majority vote of the CA members at a formal meeting of the JC.

3.5 The JC shall cease to exist in the event that no CA or organisation can be identified to undertake the AA role.

#### 4. JC Finance

4.1 The JC's budgetary arrangements shall be detailed in a budget and cost sharing agreement (to be drafted) to be agreed by all of the CAs annually on the recommendation of the JC and in advance of the financial year. The only exception

to this will be in the JC's first year of operation when the JC shall recommend a budget and cost sharing agreement to the CAs for approval at the first opportunity following its establishment.

- 4.2 The budget and cost sharing agreement shall cover:
- (a) The responsibilities of the CAs for providing funding for the JC
  - (b) The anticipated level of expenditure for the JC for the year ahead
  - (c) The cost sharing mechanism to be applied to the CAs
  - (d) Details of how the budget will be set and agreed each year
  - (e) Who is to be responsible for maintaining financial records on behalf of the JC (the 'accountable body');
  - (f) What financial records are to be maintained;
  - (g) What financial reports are to be made, to whom and when;
  - (h) What arrangements and responsibilities are to be made for:
    - auditing accounts;
    - insurance including ensuring all partners have sufficient cover;
  - (i) How any financial assets held by the JC on behalf of the CAs will be redistributed to the CAs in the event of the dissolution of the JC or in the event of a CA formally withdrawing from the CA.

## **5. Roles and responsibilities of the CAs**

- 5.1 The CAs shall:
- (a) Appoint Members and named substitutes to the JC in accordance with the 'Arrangements'.
  - (b) Undertake to share the costs of the JC in accordance with the budget and cost sharing agreement and pay their contribution to the JC to the AA in good time.
  - (c) Make appropriate arrangements for recommendations of the JC to be considered and decisions made by the CA.
  - (d) Support the work of the JC by offering services, resources or other 'in kind' support to assist with JC projects and activities.
  - (e) Within the terms of the Inter-Authority Agreement, agree to share information to support the work of the JC.

## **6. Chief Executives' Advisory Group**

- 6.1 The Group shall:
- (a) Ensure that the JC fulfils its functions and responsibilities and in accordance with all legal and constitutional requirements.
  - (b) Plan and co-ordinate the JC's activities to ensure the achievement of its aims and objectives
  - (c) Consider the performance and effectiveness of the JC on an on-going basis and make recommendations for changes for consideration by the JC and CAs as necessary.
  - (d) Ensure that professional advice is available and provided as necessary to the JC to enable it to carry out its functions.
  - (e) Rigorously monitor and scrutinise the JC's budget.

- (f) Consider disputes between the CAs over the application or interpretation of this Agreement together with any potential breaches of this Agreement.

## **7. Withdrawal from / dissolution of the JC**

7.1 A CA wishing to withdraw from the JC shall give a minimum of 6 months' notice in writing to the other CA via the AA. The CAs shall co-operate with any such request.

7.2 If two or more CAs give notice of withdrawal from membership of the JC in the same Financial Year, the JC shall consider and make recommendations to the remaining CA as to the future operation of the JC and, if appropriate, recommend any necessary amendments required to the JC's functions and operating arrangements.

7.3 Where a majority of the CAs at any time agree (via formal resolutions) that the JC should be dissolved or terminated on a specified date then the JC shall cease to exist from that date.

## **8. Accounts, Audit and Reporting arrangements**

8.1 The AA's accounts and audit arrangements will apply to JC business.

8.2 The AA will ensure appropriate reporting arrangements are in place for the JC.

## **9. Review of Inter-Authority Agreement**

9.1 At any time one or more of the CAs may seek a review of this agreement and the operation of the JC by giving notice to the CAs via the AA.

9.2 The review shall be undertaken by the Chief Executives Advisory Group for report to the JC. Any recommendations for changes to the agreement from the JC shall only be implemented if agreed by all of the CAs.

## **10. Insurance, Indemnities, and Conduct of Claims**

10.1 The JC as a scrutiny and policy making group rather than a commissioning body undertakes administrative functions and therefore carries relatively little risk.

10.2 Each authority's insurance cover will automatically extend to provide protection for their members and officers participating in the work of the JC and in their capacity as officers or members of that authority.

## **11. Information Sharing, Data Protection, Confidentiality, Publicity and Freedom of Information (FOI) Requests**

11.1 The CA shall share information about their organisations where that information is relevant to the aims and objectives of the JC.

11.2 Where such information is confidential or privileged, for example for reasons of commercial, customer or client confidentiality, the CA concerned shall seek to provide the information in such a form as to assist the JC whilst maintaining confidentiality, for example by the use of statistical and other non-identifiable forms of data. If confidential information is provided by a constituent authority to assist the work of the JC, then each CA will respect that confidentiality and shall not use or disclose such information without the permission of the authority that provided the information.

11.3 In respect of FOI requests, the AA will ensure that the requirements of the FOI Act 2000 are met in respect of the activities of the JC. In particular the AA will consult the officers of the CA as necessary regarding any potentially contentious enquiries and will then respond to them accordingly on behalf of the JC.

11.4 The JC and the CAs shall at all times abide by the requirements of the Data Protection Act.

11.5 All press releases and public statements to be sent out on behalf of the Joint Committee shall be the responsibility of the press office of the Administering Authority.

## **12. Promoting Equality, Diversity and Social Inclusion**

12.1 All CAs will support and promote the principles of inclusiveness and equality for all through the work of the JC.

## **13. Extent of obligations and further assurance**

13.1 Nothing in this Agreement is to require any of the CA to act in any way that is inconsistent with its obligations or duties as a local authority.

## **14. Variations of the Agreement**

14.1 Subject to the express provisions of this Agreement, no variation of this Agreement will be valid or effective unless agreed by formal resolution of all of the CA.

## **15. Dispute Resolution / Breach of this Agreement**

15.1 In the event of a dispute arising from the interpretation and operation of this Agreement or a breach of this Agreement by any CA or JC member, the matter shall

first be considered by the Chief Executives' Advisory Group. The Group shall seek to resolve the matter by discussion and mutual agreement and report to the JC and CA as necessary.

15.2 Where this fails to achieve a resolution, then the JC may give formal consideration to further action. Such action may include:

- (a) A request to a CA to replace a JC member;
- (b) A request to a CA to withdraw from the JC;
- (c) A recommendation to the other CAs for the termination of the participation of a CA.

Julian Gale Monitoring  
Officer Somerset County  
Council

30.10.17

**This page is intentionally left blank**

## Formation of a Community Lottery for South Hams & West Devon

Report to:	<b>Executive</b>
Date:	<b>7 December 2017</b>
Title:	<b>Formation of a Community Lottery for South Hams &amp; West Devon</b>
Portfolio Area:	<b>Cllr Keith Wingate, Portfolio Holder for Business Development</b>
Wards Affected:	<b>All</b>
Approval and clearance obtained:	<b>Yes</b>
Urgent Decision:	<b>No</b>
Date next steps can be taken:	After Full Council 14 December 2017
Author:	<b>Darren Arulvasagam, Group Manager, Business Development <a href="mailto:Darren.Arulvasagam@swdevon.gov.uk">Darren.Arulvasagam@swdevon.gov.uk</a></b>

**Recommendations:** The Executive **RECOMMENDS** to Council to:

- 1) APPROVE & IMPLEMENT the proposed business case for the establishment of a joint South Hams and West Devon local community lottery scheme (subject to approval from West Devon Borough Council)
- 2) Appoint Gatherwell Ltd as an External Lottery Manager (ELM) & Aylesbury Vale District Council (AVDC) to assist with project implementation (subject to a successful Contract Exemption application)
- 3) Delegate to the Head of Paid Service to nominate two officers to hold the Council's lottery licence and submit the necessary application to the Gambling Commission
- 4) Delegate to the Group Manager, Business Development in consultation with the Business Development portfolio holder to approve the bespoke lottery business model policies required in order to submit a valid application to the Gambling Commission to obtain a lottery licence

### **1 Executive Summary**

- 1.1 This report sets out the proposal to implement a joint local community lottery scheme to benefit the residents of South Hams & West Devon.
- 1.2 The scheme will be shared across both areas to widen the appeal of the lottery and reach a wider audience of participating good causes and supporters / ticket buyers. A shared scheme recognises the fact that the South Hams District and West Devon Borough Council have a shared workforce and both Councils support many of the same Voluntary and Community Sector (VCS) groups.
- 1.3 Any promotional activity by the Councils will direct residents of both Councils to the shared lottery.

## Formation of a Community Lottery for South Hams & West Devon

- 1.4 In recognition of schemes that have been successfully operating in other local authority areas, the attached business plan (Appendix A) suggests that such a scheme could help raise over £100,000 per annum for local good causes. This amount could alleviate pressure on the Council's partnership / grants budget or be in addition to such awards at the Council's discretion.
- 1.5 It is proposed that an External Lottery Manager (ELM) is appointed to administer the scheme. The Council would contract with Aylesbury Vale District Council (AVDC) to project manage the formation of the lottery, the set-up of the lottery website, the application to the Gambling Commission and the preparation of the initial marketing materials and work to 'on-board' the local good causes.

## 2 Background

- 2.1 Lotteries have long been a way for smaller organisations to raise income. They are regulated by the Gambling Act 2005. There are different types of lotteries available; this proposal falls within the category of 'society lotteries'.
- 2.2 Society lotteries are promoted for the benefit of a non-commercial society. A society is non-commercial if it is established and conducted:
- for charitable purposes - For the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
  - for any other non-commercial purpose other than private gain
- 2.3 There are two variants of society lotteries, the main difference being who issues the licence – local authorities permit small lotteries and the Gambling Commission permits large lotteries.

### A large society lottery:

- has proceeds that exceed £20,000 for a single draw
- has aggregate proceeds from lotteries in excess of £250,000 in any one year

### A small society lottery:

- does not have proceeds that exceed £20,000 for a single draw
- does not have aggregate proceeds from lotteries in excess of £250,000 in any one year

- 2.4 This proposal considers a 'large society lottery'. In all cases, lotteries have to deliver a minimum of 20 per cent of proceeds to good causes. This report recommends a lottery which sees a minimum of 50 per cent of proceeds going to good causes.
- 2.5 The proposal is for a lottery that is focused on:
- 2.5.1 *Delivering the proceeds locally* – a South Hams & West Devon lottery would deliver benefits only to local causes; players can be *assured that the proceeds will stay in the District & Borough. Appendix A explains how these will be allocated.*

## **Formation of a Community Lottery for South Hams & West Devon**

- 2.5.2 *Maximising benefits to the community* – to bolster support and to help in continuing the good work South Hams & West Devon already does with the voluntary and community sector (VCS). To achieve this there needs to be a significant benefit being delivered to the VCS.
- 2.5.3 *Minimising costs* – through the appointment of a recognised ELM there are minimal set-up costs (£15,000 max) and running costs are paid for out of the lottery ticket sales. Unlike the national lottery, where only 28 per cent of ticket sales goes to good causes, a minimum of 50 per cent of ticket sales will go directly to good causes.
- 2.5.4 *Delivering winners locally* – whilst anyone can play, it is likely that players will be locally-based and hence it will be easier to maximise the value from winners' stories, encouraging more participation.
- 2.5.5 *Facilitating a wider benefit* – whilst the lottery will help current funding of local VCS groups, it will also enable VCS groups to fundraise in partnership with the local authority and hence can be seen as the Council enabling local groups to help themselves. It will enable groups to access lottery funding without facing barriers such as licensing, administration or ability to support such an endeavour. Appendix A1 explains this in detail.

### **2.6 Gambling Responsibility**

Lotteries are the most common type of gambling activity across the World, and considered to be a 'low risk' form with respect to the emergence of problem gambling. This is due to its' relatively controlled form. The South Hams & West Devon Lottery will help mitigate against many of the issues related to addictive gambling by:

- 2.6.1 The lottery only being only playable online, via direct debit and by pre-arranged sign up. Cash cannot be used to acquire tickets
- 2.6.2 There being no 'instant' gratification', 'instant win' or 'instant reward'
- 2.6.3 There being no 'high profile' activity surrounding the weekly draw
- 2.6.4 It being possible to put a maximum cap on the number of tickets an individual can purchase
- 2.7 In addition, the South Hams & West Devon Lottery website will contain a section providing links to gambling support organisations.
- 2.8 In this way the South Hams & West Devon Lottery should not significantly increase problem gambling; and the benefits to VCS / good causes in the District & Borough from the proceeds of the lottery balances against possible negative issues.
- 2.9 It is important to note that the proposed lottery will see 60% of the proceeds from ticket sales going to VCS / good causes as directed by the ticket purchase. By contrast the UK national lottery only sees 28% of the proceeds from ticket purchases going to VCS. Appendix A explains this in more detail. In addition, any VCS / good cause that

## **Formation of a Community Lottery for South Hams & West Devon**

complies with the criteria as detailed in Appendix A1 can obtain funding through the lottery – there is no such direct benefit for these same VCS / good causes via the National Lottery.

### **2.10 Invest to Earn**

The South Hams Invest to Earn Member Group discussed the formation of this lottery and agreed at its meeting on 14<sup>th</sup> September 2017 that a report to Executive recommending approval and implementation should be presented. Whilst Members felt that lotteries were a form of gambling, they appreciated the fact that the lottery proposed would appeal more to those with altruistic rather than 'get rich quick' aims. The group also acknowledged that the proposed lottery presented VCS groups with a way to increase their income at a time when the Council would need to question the long-term sustainability of its own VCS funding.

### **2.11 Overview & Scrutiny**

The O&S Panel reviewed the lottery formation proposal at its meeting on 9<sup>th</sup> November. The panel recommended that this report be brought to Executive and raised no significant objections to the proposals, nor any amendments. Panel members queried the success of the scheme in other local authority areas and it was confirmed that in six areas, local good causes were receiving between £40k and £70k more per annum directly as a result of the lottery.

## **3. Outcomes / Outputs**

3.1 Please see the associated business plan (Appendix A) for details of the potential income the lottery could generate for the VCS / good causes who join the scheme.

3.2 The income generated by the proposed lottery could increase funding to local VCS / good causes or help ease the financial pressure on these VCS / good causes if the Council were to reduce its discretionary funding to such VCS / good causes in the future. It is proposed that the Council considers using any saving made in this discretionary spend to fund the Council promotional and marketing costs of operating the lottery.

## **4. Options available and consideration of risk**

4.1 In essence the options for delivery of a lottery are either in-house or through an External Lottery Manager (ELM).

4.2 **In-house** - this option would see the setting up of the necessary posts and systems to run a lottery in-house. This has not been fully costed, but it is considered somewhere in the region of a £80-100k for set-up costs alone. This would include a lottery manager and the necessary system development to enable the lottery to run.

4.3 **External Lottery Manager (ELM)** - this recommended option would see a partnership with an existing deliverer of lotteries in the market place. This in effect means 'buying in' the skills and expertise of an existing provider and sharing the risk with them to deliver the lottery. The ELM will deliver all aspects of running the lottery, from ticket purchase and payments, prize management, and licensing, and share

## **Formation of a Community Lottery for South Hams & West Devon**

with South Hams District Council / West Devon Borough Council and local VCS groups the role of marketing.

- 4.4 It is proposed that an External Lottery Manager (ELM) is appointed to administer the scheme. Whilst there are a number of ELMs in the market, Gatherwell Ltd, in conjunction with Aylesbury Vale District Council (AVDC) are the only provider to offer a model which allows the Council to outsource all responsibility for the administration, set-up and ongoing maintenance of the lottery to a third party. In addition, Gatherwell Ltd offer the only solution which eliminates prize fund risk (through insurance, see appendix A for more details) to the Council. As this is the only option which achieves these aims and the model has been proven by other local authorities, no detailed, costed comparison has been prepared.
- 4.5 Gatherwell will work with the Council to set-up and bespoke the lottery platform for the new scheme and thereafter operate the lottery on a day to day basis. The initial set-up cost (£3,000, which will be split 50/50 between the two Councils if approved) covers the provision of the platform as a one off implementation cost and thereafter they cover their costs from the 20% of ticket sale proceeds. More detail about this can be found in Appendix A.
- 4.6 AVDC will be appointed to complete the start-up implementation, i.e. prepare the business case, assist with the licence application, write the bespoke policies, provide a comms strategy and marketing templates, assist with the VCS / good cause comms and on-boarding process. AVDC will also provide ongoing advice and tips for future development. AVDC will charge the Councils a total of £10,000 for this work. This will be split 50/50 between the two Councils if approved.
- 4.7 It is not proposed that the initial set-up cost is recouped. However, the formation of the lottery will enable VCS / good causes to find a solution to help protect their income if the Council were to be forced to reduce its direct funding of VCS / good causes due to financial sustainability concerns.
- 4.8 A contract procurement rule exemption will be prepared if Members approve the set-up of a lottery as the set-up costs and ongoing licence and marketing costs exceed the one quotation threshold of £7,501.
- 4.9 Members could opt not to pursue the setting up of a lottery scheme. However, South Hams District Council currently grants over £200,000 in partnership / grant funding towards numerous good causes / social oriented organisations and with the impending financial challenges, this level of funding may be unsustainable in the future. Setting up a lottery scheme, where local residents and ticket buyers directly support such good causes can help soften the impact of any potential future Council reduction in funding.

## **5 Proposed Way Forward**

- 5.1 It is proposed to implement a community lottery of the type set out in this report, replicating that which has been successfully implemented

## Formation of a Community Lottery for South Hams & West Devon

by a number of other local authorities including Aylesbury Vale District Council (AVDC), Torbay Council, Wycombe District Council, Corby Borough Council, Portsmouth Council, and Gloucester City Council. It is not proposed that the Council combines with an existing lottery as the VCS / good causes registered may “compete with” or not operate in all Council areas. It is also important that the good causes which are part of the scheme fit with the Council’s criteria as detailed in Appendix A1. This may not be the case with a shared lottery scheme across numerous localities. The benefits of a local lottery and benefits to the local community are discussed further in paragraph 2.5.

- 5.2 Whilst those areas are less rural than South Hams and West Devon, it is felt that combining the two Council areas and the marketing capability of the VCS within those areas, along with the marketing reach of the two Councils will generate sufficient ticket sales to justify the set-up costs and the value this will generate for the local VCS.
- 5.3 The delivery of a local lottery in South Hams & West Devon will enable local community groups / VCS to access and benefit from a nationally recognised funding model developed by AVDC in partnership with an external lottery manager.
- 5.4 Councillors are recommended to approve the business case attached (Appendix A) and agree to implementation of a local lottery scheme (in conjunction with West Devon Borough Council) by appointing Gatherwell Ltd as an External Lottery Manager (ELM) in line with the principles outlined in the business case and this report.
- 5.5 In order to submit the necessary application to the Gambling Commission, it is recommended that Members delegate authority to the Head of Paid Service to nominate two responsible officers (SLT) to hold the Council’s lottery licence and give delegated authority to the Group Manager, Business Development (in consultation with the Business Development portfolio holder) to approve the bespoke lottery business model policies required in order to submit a valid application to the Gambling Commission to obtain a lottery licence.
- 5.6 The lottery will only be progressed if both South Hams and West Devon approve its formation.

## 6 Implications

Implications	Relevant to proposals	Details and proposed measures to address
Legal/ Governance	Y	<p>The local authority can operate this scheme under its general powers of competence as provided by the Localism Act 2011.</p> <p>The scheme would be licensed by the Gambling Commission who would regulate the scheme under the Gambling Act 2005. They would ensure that the organisations participating in the scheme met agreed criteria such as they provide local activities or services, are properly constituted and have governance arrangements. The Gambling Commission also ensure the</p>

## Formation of a Community Lottery for South Hams & West Devon

		<p>scheme is compliant to the licensing code of practice for gambling responsibly.</p> <p>The Council will hold a contract with the ELM (Gatherwell Ltd), subject to a successful contract exemption application. Gatherwell will receive a payment for the set-up cost (£3K) and will obtain a benefit from this service through the accrual of 17% of each ticket sale. Therefore, based on another authority's experience of 2,000 ticket sales per week, Gatherwell would receive £340 to cover their costs. Over a year this is £17,680. The Councils do not pay this themselves, it is recovered by Gatherwell purely from ticket sales. This would be Gatherwell Ltd.'s total income from the scheme, which effectively would accrue 50/50 from South Hams and West Devon. Gatherwell take on the risk of not recovering costs from lower ticket sales are lower.</p> <p>There is no guarantee that this level of income would be achieved, as it depends on take up of ticket sales. This type of arrangement is covered under the Concession Contract Regulations 2016. But these regulations only apply with a contract value above £400,000. A procurement contract exemption will be prepared if Members approve the set-up of a lottery as the set up costs and ongoing licence and marketing costs exceed the Council's one quotation threshold of £7,501.</p> <p>The Council will have 2 licenced individuals with responsibility for overseeing the scheme. If approved, the Head of Paid Service will nominate 2 SLT officers to hold these licences on behalf of the Council.</p> <p>A licence application is required to be submitted to the Gambling Commission and the lottery can only be formed on successful application.</p> <p>A number of bespoke policies will need to be prepared to apply for the lottery licence:</p> <ul style="list-style-type: none"> <li>• Children and Vulnerable Person Protection policy</li> <li>• Fair and Open Gambling policy</li> <li>• Implementation procedures policy</li> <li>• Protection from Source of Crime and Disorder policy</li> <li>• Social Responsibility in gambling policy.</li> </ul> <p>If approved, it is recommended that responsibility for preparing these is delegated to the Group Manager, Business Development (in consultation with the Business Development portfolio holder).</p>
Financial	Y	<p>Set up costs as a one-off: £13,000. This amount will be shared 50/50 with West Devon Borough Council (i.e. £6,500 each).</p> <p>Ongoing licence and marketing costs up to a maximum of £4 - £5k per annum (again to be split 50/50) – however, these costs will be deducted from revenues from ticket sales. See Appendix A for further details.</p>

## Formation of a Community Lottery for South Hams & West Devon

		<p>The initial set-up costs can be funded from the Invest to Earn (Innovation fund) earmarked reserve which has a sufficient uncommitted balance.</p> <p>It is envisaged that the ongoing running costs are funded from the saving that the lottery can create in the grants / partnerships budget. More detail about this can be found in Appendix A.</p>
Risk	Y	<p>There are three main risks:</p> <ol style="list-style-type: none"> <li>i. That the scheme does not attract sufficient ticket purchases per week to make the scheme viable. If the scheme becomes unviable then it can be ceased and the Council would not reapply for its licence after the end of year one (or any year after it becomes unviable). Therefore the maximum financial risk to the Council in any given year is the cost of the licence (max £1,000) and any money expended (e.g. promotions) in marketing the lottery scheme (max £5,000), plus the initial up front set-up costs (£6,500 for South Hams District Council).</li> <li>ii. That the prize awards exceed those predicted. The top prizes are insured by the ELM. Lower prizes are simply re-entries into the draw. All of this is funded from the prize fund, which itself is funded by the ELM's share of the ticket sales. The Council is not exposed to prize fund risk due to the contract it will hold with the ELM.</li> <li>iii. Reputational, in that the scheme is seen to encourage gambling (see paragraph 2.6 above for mitigations).</li> </ol>
<b>Comprehensive Impact Assessment Implications</b>		
Equality and Diversity	Y	<p>The scheme has the potential to have a positive impact on people with protected characteristics, as they will benefit from services or activities provided through the local community groups. Which people with protected characteristics will benefit is difficult to say until the community groups / good causes / VCS apply.</p> <p>People without a bank account or payment cards may feel excluded as they will be unable to take part. The council should feel confident they it can justify not taking cash payments as a proportionate means of achieving a legitimate aim, i.e. to reduce the risk of gambling addiction. By taking payments online, with no instant win option, the risk of the draw appealing to gamblers is reduced. The lottery is a giving scheme using a gambling infrastructure model.</p> <p>There is likely to be a neutral impact on religious groups who may not agree with gambling as a method of raising income. However, marketing the scheme with the promotion of good causes / VCS as its focus should help alleviate this.</p> <p>Bespoke lottery business model policies will be developed to accompany the application to the Gambling Commission to obtain an operator licence.</p>

## Formation of a Community Lottery for South Hams & West Devon

Safeguarding	Y	Not applicable – Bespoke lottery business model policies will be developed to accompany the application to the Gambling Commission to obtain an operator licence.
Community Safety, Crime and Disorder	Y	Not Applicable – Bespoke lottery business model policies will be developed to accompany the application to the Gambling Commission to obtain an operator licence
Health, Safety and Wellbeing	Y	As discussed in report, paragraph 2.6
Other implications	N	Not Applicable – Bespoke policies will be developed to accompany the application to the Gambling Commission to obtain an operator licence

### Appendices:

Appendix A – South Hams & West Devon Lottery Business Plan

### Approval and clearance of report

<b>Process checklist</b>	<b>Completed</b>
Portfolio Holder briefed	<b>Yes</b>
SLT Rep briefed	<b>Yes</b>
Relevant Exec Director sign off	<b>Yes</b>
Data protection issues considered	<b>Yes</b>
If exempt information, public (part 1) report also drafted	<b>n/a</b>

**This page is intentionally left blank**



# **South Hams District Council & West Devon Community Lottery Business Plan**

## Contents

Introduction & Background.....	3
Strategic Context.....	3
Purpose and Rationale of the South Hams and West Devon Lottery.....	3
Customer Insight.....	3
Form of the South Hams and West Devon Lottery .....	4
Method of Delivery .....	5
Player Population, Financial Management and Modelling .....	6
Financial management .....	7
Financial Forecast .....	7
Future developments and marketing .....	8
Problem Gambling .....	8
Delivery Timeline .....	8
Appendix A1 - Criteria for joining the South Hams and West Devon Lottery:.....	9

## **Introduction & Background**

### **Strategic Context**

South Hams District Council covers an area of 342 square miles on the south coast of Devon and includes the towns of Totnes, Dartmouth, Kingsbridge, Ivybridge and Salcombe. West Devon Borough Council covers the towns of Chagford, Okehampton, Hatherleigh, Yelverton and Tavistock. The population (aged over 16) for both areas totals 114,500, according to the 2011 census.

South Hams and West Devon respectively have a corporate 'Our Plan' - a strategic plan that sets out the vision, objectives and activities of the two Council's. The two have a close working arrangement and have recently, in conjunction with Plymouth, prepared a Joint Local Plan – a strategic plan for the combined area to 2034.

The Councils have a vision of supporting vibrant towns and villages and enhancing the quality of life for individuals and communities whilst conserving the natural environment. The two councils share a workforce and have a single marketing team.

Many of the Voluntary and Community Services (VCS) organisations and good causes supported by the Councils receive funding from both Councils, hence the proposal to form a single shared lottery. The development of a community lottery meets the objective of empowering residents to create strong communities.

In this respect, the development of a local authority lottery has recently been proven in a number of other councils, including neighbouring Torbay, and would be suited to the South Hams and West Devon area.

This business plan formulates how the lottery will operate including financial forecasts.

### **Purpose and Rationale of the South Hams and West Devon Lottery**

Whilst there is continued pressure on local authority budgets, the implementation of a local lottery scheme can be seen to be helping communities to help themselves. A local lottery scheme has been implemented successfully by a number of local authorities and for a relatively low investment the scheme is proven to be raising significant sums per annum.

Under the scheme any voluntary or community sector (VCS) organisation, including existing council funding beneficiaries and other local groups will be able to apply to be part of the South Hams and West Devon Lottery, so long as they meet the eligibility criteria (See Appendix A1). This eligibility criteria reflects a broadened version of the grants criteria agreed by Members.

The Council will continue to award grant funding to local community groups and projects and it is proposed that this scheme will provide an additional income opportunity for VCS groups to access an unfettered funding source to support their activities.

### **Customer Insight**

In developing the South Hams and West Devon Lottery proposal we have explored the delivery of other schemes, including the Vale Lottery run by Aylesbury Vale District Council (AVDC). This has provided secondary research into both players/supporters and good causes. Evidence demonstrates 172 causes signed up to the AVDC scheme raising a gross annual income last year of over £129,000.

In turn, this has informed the unique selling point for the proposed lottery as being:

- **Delivering the proceeds locally** – South Hams and West Devon lottery would deliver benefits only to local causes, unlike the National Lottery.
- **Delivering winners locally** – whilst anyone could play, it is likely that players will be locally based and hence it will be easier to maximise PR value from winners' stories and encourage more participation.
- **Facilitating a wider benefit** – the lottery will support the ambitions and the targeted actions for South Hams and West Devon in circumstances where the Council is not able to do so.
- **Helping to improve residents' perceptions** – that South Hams and West Devon have an enabling role in support of the local VCS.

This business plan recognises that players will fall into one of two camps - those who are attracted by the possible prizes and those who are more altruistically motivated. This lottery proposal focuses on the latter of these groups, but has elements that could still appeal to a more prize-focused player.

## **Form of the South Hams and West Devon Lottery**

In supporting the outcomes of the lottery, the focus is on providing a lottery scheme that delivers a high level of funds to VCS groups as they are key to ensuring ongoing ticket sales in the long term. An External Lottery Management (ELM) operator, Gatherwell Ltd, will be appointed and their platform delivers the following benefits:

- reduced overhead costs - maximising benefits to the VCS.
- simple and easy to understand for the player.
- simple and easy to adopt for the VCS groups.
- promotes repeated but controlled re-purchasing - hence providing a steady funding stream for VCS groups.

The proposed form of the South Hams and West Devon Lottery therefore is:

- £1 ticket per week with a weekly draw
- only playable online
- funded only via Direct Debit, rolling monthly card payment, or block ticket purchase with single payment for 3, 6 or 12 months.
- 6 number self-selected ticket.
- delivered via an ELM - Gatherwell Ltd.

The draw will be made on a weekly basis at 8pm on a Saturday evening, It uses a bona fide lottery draw; in this case the Australian Super 66T draw. The community lottery draw will be announced in tandem at 8pm on a Saturday night.

Players have to have purchased cleared tickets by a deadline of midnight on the Friday before in order to be counted in that week's draw. Direct debit sign ups carry a cool off period and that period must have passed in order to be included in the draw for that week. The prize structure and odds for the draws are set out in the table below:

<b>Prize Structure</b>		
	<b>Winning Odds</b>	<b>£ Prize</b>
6 numbers	1,000,000:1	£25,000
5 numbers	55,556:1	£2,000
4 numbers	5,556:1	£250
3 numbers	556:1	£25
2 numbers	56:1	3 free tickets

NB: These odds are significantly more favourable than the National Lottery.

Distribution of proceeds from each ticket sold:

<b>Proceeds Apportionment</b>		
	<b>% Allocation</b>	<b>£ Allocation per ticket</b>
VCS groups	50	£0.50
South Hams District & West Devon Borough Council (split 50/50)	10	£0.10
Prizes	20	£0.20
ELM	17	£0.17
VAT	3	£0.03
<b>Totals</b>	<b>100</b>	<b>£1.00</b>

All prizes are the responsibility of the ELM through the fund. The ELM insures against prize fund risk. At no point is the Council liable for prize payouts. There is no roll over process if no jackpot winner is found. If 2 players win the jackpot, they both get the top payout - there is no sharing.

If a player chooses a specific cause when buying their ticket, then that cause / VCS gets 50% and the Council general pot receives 10% of every ticket. If the player doesn't choose a specific cause / VCS then 50% (plus the 10%) goes into the Council's general lottery pot.

The cost of running the lottery scheme is to be funded from the Council's general lottery pot. Any surplus funds will pay for the following year's lottery running costs and can be used to fund any Council grants / funding to VCS / good causes.

Any amount paid to a VCS from the ELM could be considered in subsequent years by the Council as good cause funding; therefore the Council could opt to reduce its direct funding to these VCS by the corresponding amount.

## **Method of Delivery**

Whilst South Hams and West Devon Council is a licensing authority in its own right and hence well aware of the restrictions and technical aspects of lottery management, it doesn't have experience of running lotteries directly. As such this scheme will be delivered through the use of an External Lottery Manager (ELM) Gatherwell Ltd.

The relationship between South Hams and West Devon and Gatherwell is summarised as:

### South Hams and West Devon Council

- responsible for the overall structure, form and control of the South Hams and West Devon Lottery (note the Gambling Commission are the licensing authority for lotteries).
- including explicit agreement to any VCS membership, as well as the groups' plans to publicise the lottery.
- delivered via two licensed members of staff through Annex A of the licence application.

### Gatherwell Limited

- responsible for all development and day to day running of the Lottery on behalf of South Hams District and West Devon Borough Council.
- this includes player management, financial management (including player funds and prizes and distribution to VCS), website management and ticket sales.

Gatherwell is licenced by the gambling commission as an external lottery manager running numerous society lotteries in the UK (Licence Number 000-036893-R-317859-004).

In summary South Hams District and West Devon Borough Council set the strategic approach, and will exercise control of the license, and Gatherwell fulfils the day to day delivery of this.

The relationship between South Hams and West Devon Council and Gatherwell will be subject to an initial one year contract for the delivery of these services. The councils will be able to extend this after the initial year, for no further initial / renewal cost. The one-off payment for the Gatherwell platform to be bespoke to the South Hams and West Devon Lottery is £3k and Gatherwell's costs going forward are to be recovered from their element of ticket sales (17%).

### Player Population, Financial Management and Modelling

There are c.114,500 possible resident players in the District & Borough (i.e. over 16, based on the 2011 Census). Technically the player population is much wider than this as there is no restriction on player location, however for simplicity this population is assumed to represent the vast majority of players.

Whilst it is difficult to assess the actual take up rates of players for the lottery, this will in part reflect the desire to play, the types and spread of VCS groups involved, and the marketing and support given to promote the lottery. The table below sets out a breakdown of possible player levels and the resulting financial split that these would produce.

Year	Ticket Price £	% of SHWD Player Pop.	Number of Players	Tickets bought per week	Number of weeks	Gross Return	SHWD share (10%)	Good Causes (50%)	Prizes (20%)	ELM (17%)	VAT (3%)	Overall sum raised for good causes
1	1	1.00%	1145	1	52	59540	5954	29770	11908	10122	1786.2	35724
2	1	1.50%	1718	1	52	89310	8931	44655	17862	15183	2679.3	53586
3	1	2.00%	2290	1	52	119080	11908	59540	23816	20244	3572.4	71448
4	1	2.50%	2863	1	52	148850	14885	74425	29770	25305	4465.5	89310
5	1	3.00%	3435	1	52	178620	17862	89310	35724	30365	5358.6	107172

NB: It is proposed that the SHWD share covers maintenance and running costs of the lottery scheme. Any surplus is to be used solely to fund VCS / good causes.

## Financial management

Gatherwell Limited will deliver all financial management elements of the South Hams and West Devon lottery. All funds are held by Gatherwell in a separate client deposit account.

Payments are collected monthly for direct debit and rolling card payments, or upfront in the case of block purchase of tickets (1, 3, 6 or 12 months) only. All funds must be in a financially cleared form prior to any prize draw.

Prize winners are notified by the ELM via email immediately after a draw if they have won. If prizes are not claimed, weekly reminders are sent to players.

The jackpot prize of £25,000 is an insured prize with Emirat (underwritten by Lloyds Banking Group). This avoids the need to accumulate this level of funding in advance. For initial draws prior to the prize pot being built, Gatherwell will also take out insurance to ensure that any prize payment can be made.

VCS group funds for distribution are similarly held in a separate client deposit account. The donations are distributed to the causes on a monthly basis direct to their bank accounts. The same process is applied to the £0.10 in every ticket to South Hams District and West Devon Borough Council.

All income accruing to the Council will be paid on a monthly basis by Gatherwell and will be held in separate budget codes within the Councils accounting system for distribution towards lottery running costs and VCS / partnership grants only, therefore maintaining a completely open and transparent process.

Any lottery disputes will be managed through the Independent Betting Adjudication Service (IBAS). Membership of the Lotteries Council will automatically give access to this service.

## Financial Forecast

The following 5 year forecast illustrates the allocation of income and expenditure for the Lottery. All costs and income are contained within the project.

%age take up of possible South Hams and West Devon Player population	Year 1	Year 2	Year 3	Year 4	Year 5	
<b>INCOME</b>						
Start up costs	£5,350	£0	£0	£0	£0	Licence, lotteries Council membership and marketing
Annual South Hams and West Devon Council support	£0	£1,150.00	£1,449.60	£1,750.00	£2,050.40	Licence, lotteries Council membership and marketing
Ticket Sales	£59,540	£89,310	£119,080	£148,850	£178,620	
<b>Sub total</b>	<b>£64,890</b>	<b>£90,460</b>	<b>£120,530</b>	<b>£150,600</b>	<b>£180,670</b>	
<b>EXPENDITURE</b>						
Prize fund	£11,908	£17,862	£23,816	£29,770	£35,724	
Initial Licence application fees	£1,000	£0	£0	£0	£0	
Annual licence fees	£0	£500	£500	£500	£500	
Lotteries Council Membership	£350	£350	£350	£350	£350	
External Lottery Manager	£10,122	£15,183	£20,244	£25,304	£30,365	
Initial Lottery Platform costs	£3,000	£0	£0	£0	£0	
Launch marketing costs	£1,000	£0	£0	£0	£0	Annual Marketing covered by ELM funds.
Annual South Hams and West Devon funding distribution costs	£0	£300	£600	£900	£1,200	
VAT	£1,786	£2,679	£3,572	£4,466	£5,359	
<b>Sub total</b>	<b>£29,166</b>	<b>£36,874</b>	<b>£49,082</b>	<b>£61,290</b>	<b>£73,498</b>	
Expenditure - distribution to good causes						
60% to good causes Lottery pot	£35,724	£53,586	£71,448	£89,310	£107,172	
<b>Sub total</b>	<b>£35,724</b>	<b>£53,586</b>	<b>£71,448</b>	<b>£89,310</b>	<b>£107,172</b>	
<b>Income less all expenditure</b>	<b>£0</b>	<b>£0</b>	<b>£0</b>	<b>£0</b>	<b>£0</b>	

## **Future developments and marketing**

The lottery has been developed to be flexible in form in order to offer 'bolt on' activities to the main lottery to raise player and good cause interest.

An example of this may be the run up period to the first draw, when players signing up to the lottery may be also entered into an additional prize draw to win an item prize e.g. an iPad. This is to assist with the overall launch and marketing of the lottery.

Other marketing activity (which may incur additional costs) may include:

- Periodic email sign off attachments to all council emails.
- Advertising on the side of council vehicles.
- Social Media channels and potential social media advertising.
- General promotion of prize winners and good cause benefactors.

South Hams and West Devon Council will produce a Lottery marketing plan, both for launch and ongoing activities.

## **Problem Gambling**

One of the concerns raised as part of implementation of the AVDC and other councils' lottery schemes is that of encouraging people to gamble. It is considered that the form of the South Hams and West Devon Lottery is not particularly attractive to those with a gambling addiction as it:

- it is being marketed always with the promotion of good causes as its focus
- it is delivered remotely, non-cash based, and takes effort to subscribe to
- there is no instant gratification element
- it provides the ability for players to self-exclude, and have the ability to place blocks or caps on players

To help offset any concerns the council will make a contribution to national gambling support groups via a one-off contribution to the Gambling Commission. This is done through the annual membership to the Lotteries Council.

Whilst marketing will be directed widely, the experience of AVDC is that most of the players come from Acorn demographic groups B (Executive Wealth) and C (Mature Money), which those in more vulnerable groups partaking in much lower numbers.

## **Delivery Timeline**

The South Hams and West Devon Lottery is predicated on delivery in late spring/early summer 2018 subject to a successful licensing application.

VCS 'on boarding' would be scheduled to start in the new year, with player 'on boarding' commencing a month ahead of the first draw.

All of the above is subject to Gambling Commission licensing process; at the time of preparation of this business case the lead in time for a new license to be approved is 16 weeks.

## **Appendix A1 - Criteria for joining the South Hams and West Devon Lottery:**

The licence under the Gambling Act 2005 will need to set out eligibility criteria for those groups wanting to take part.

### **An organisation must:**

- Provide community activities or services within the District & Borough Council boundaries.
- Have a formal constitution or set of rules.
- Have a bank account requiring at least 2 unrelated signatories.
- Operate with no undue restrictions on membership.
- Have a detailed plan as to how the lottery will be promoted.

### **And be either:**

- A constituted group with a volunteer management committee, with a minimum of three unrelated members, that meets on a regular basis (at least 3 times per year).
- A registered charity (if so, the charity must provide details of charitable status including registered number where appropriate), with a board of trustees

### **Or :**

- A registered Community Interest Company, (if so, they must provide copies of their Community Interest Statement, details of the Asset Lock included in their Memorandum and Articles of Association, and a copy of their latest annual community interest report).

### **The following groups are not eligible:**

- Organisations that do not do work within the boundaries of South Hams and West Devon Council.
- Individuals.
- Organisations which aim to distribute a profit to shareholders and/or investors.
- Organisations with no established management committee/board of trustees (unless a CIC).

All applications will be reviewed on their own merits. The Council reserves the right to accept or reject any application for any reason.

The Council reserves the right to remove any organisation from participating in the lottery with a minimum of 7 days' notice for any reason.

If fraudulent or illegal activity is suspected, this removal will be immediate.

**This page is intentionally left blank**

Report to: **Executive**  
Date: **7 December 2017**  
Title: **Low Cost Self and Custom Build Initiative for Local people.**  
Portfolio Area: **Customer First**  
Wards Affected: **All**  
Relevant 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)

Author: **Alex Rehaag** Role: **Senior Specialist, Place & Strategy**

Contact: **Telephone/email: [alex.rehaag@swdevon.gov.uk](mailto:alex.rehaag@swdevon.gov.uk) 01822 813722**

---

## **Recommendations:**

1. Executive recommends to Council to implement the custom/self-build initiative through the current policy (AH5) and the emerging policy TTV31.
2. Executive recommends to Council that this Initiative is included in the emerging SPD.
3. Executive recommends to Council that the New Burdens funding is committed to additional staff resource.
4. Executive agrees to review the supply and progress of this initiative periodically

## **1. Executive summary**

- 1.1 Self and Custom build is perceived to be an option for some residents within our local communities. Since the self and Custom Build Act 2015 (Appendix 1), planning officers have seen an increase in applications of this nature. It is anticipated that this initiative will increase the supply of accessible, affordable

homes for local people within the borough. Importantly, homes built through this initiative will be affordable by virtue of the caveats that applicants and subsequent owners will need to adhere to.

- 1.2 Councils have a duty to hold a register of people expressing an interest in this type of housing and additionally have a duty to seek 'plots' in order for self/custom build to come forward.
- 1.3 The self and custom build initiative will be included in the Joint Local Plan Supplementary Planning Document. The emerging policy which provides the hook for this initiative is TTV31. TTV31 states:

"The LPAs will protect the special characteristics and role of the countryside. The following provisions will apply to the consideration of development proposals:

Housing and employment development adjoining or very near to an existing settlement will only be supported where it meets the essential, small scale local development needs of the community and provides a sustainable solution."

- 1.4 As well as size thresholds, which will relate to the Space Standards (appendix 2), to avoid a 'grand design' property, a percentage discount will be attached to the property along with a local connection criteria. These provisions will be held in perpetuity through a section 106 legal agreement or restrictive covenant, in addition to this a local land charge will be registered. This will ensure that properties do not get sold without the approval from the council. This will additionally assist us in maintaining accurate monitoring records in terms of resales.
- 1.5 The self/custom build initiative will allow properties to be built outside the settlement boundary but adjoining the settlement, similar to the Village Housing Initiative. Adequate measures will be put in place to avoid building anything anywhere for any one. The properties will serve a local need and could assist in maintaining local facilities and services.
- 1.6 This initiative only applies in South Hams District Council's planning area which is within the TTV area of the emerging Local Plan. Dartmoor National Park Authority have their own initiatives with regard to self/custom build.

## **2 Background**

- 2.1 Over recent years, house prices and land values have been on the steady increase, limited availability of developable land and mortgage ability issues for custom/self-build has prevented many would-be custom/self-builders from building their own homes. This is relevant for both open market properties

and affordable dwellings. This report seeks to deal with the duties imposed on local authorities through the Self and Custom Build Act 2015.

- 2.2 There is an emerging appetite for people wishing to build their own home. This along with encouragement and financial assistance from the Government makes this more attractive to would be custom/self-builders, especially for those on a limited incomes who may have the skills to bring projects like these forward. The U.K. historically has the lowest amount of Custom Build properties in Europe. The Government is encouraging Custom Building homes as a main stream housing option, with the aspiration to increase this type of development to create 100,000 more homes in the U.K.
- 2.3 It is important to note the difference between the terminologies of Custom and self-build.

In line with national guidance, self and custom build housing can be defined as follows:

#### **Self-Build**

This is when someone identifies a plot, then designs, finances, project manages and constructs their own home. Specialists might be employed to carry out parts of the process.

#### **Custom Build**

This is where someone commissions the construction of their home from a developer/enabler, builder/contractor or package company. The person does not normally do any of the physical construction work but still makes the key design decisions.

#### **Group Projects**

This is when a group of people set themselves up as an organization to procure the construction of a number of homes as a collective. There are many ways this can be done – for example, by creating a development company, or by setting up as a housing co-operative, a co-housing organization or as a housing association.

- 2.4 The government issued New Burdens funding to local authorities to ensure that it delivers self/custom build housing. For the next 4 years, authorities will receive in excess of £90,000 which is ring fenced to assist in delivery of self/custom build homes. This also includes creating and maintaining a register of interested applicants. The South Hams register can be found here: <https://www.southhams.gov.uk/article/3503/Register-an-Interest-in-Self-Build>. In brief, through this register, local authorities have to find adequate plots of land to meet demand for the applicants who have expressed an interest in self/custom building their own home.
- 2.5 In the report *laying the foundations – A Housing Strategy for England*, Local Authorities are being encouraged to establish demands for self and custom build within their area, and to take positive steps to encourage this. The

authorities have registers which establishes local need for plots of land. Councils need to facilitate, available plots and enable delivery. It is anticipated that this report will encourage people to come forward with plots to build self/custom build housing for local applicants. An element of affordability will be maintained as properties will have a restrictive covenant attached to them, thus limiting their availability to the open market.

- 2.6 It is an aspiration for many people to own their own home whether this is by purchasing “off the shelf” or to custom/self-build, however current options are limited. Many people have the skills, desire and access to land to enable this type of development to happen although finance, location and planning policy or available cost effective land can be an obstacle. This report does not seek to allow ‘anything to be built anywhere’ and a number of criteria will need to be fulfilled. Planning policy will still be adhered to and AH5 and TTV31, (1), in the emerging plan is the relevant policy hook.
- 2.7 The NPPF paragraph 50 makes specific references: To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should: *address the needs of different groups in the community such as but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes.*
- 2.8 This initiative will enable residents to remain in a community where local connection has been established through immediate family or work. This document again states the Government’s desire to establish Self/Custom build as a main stream housing option and to maximise all opportunities for this type of housing.
- 2.9 The model that is being proposed is based on the Shropshire self/custom build scheme which has been very successful and used across the U.K., with local iterations. This has increased delivery of housing available for local people within that local area and allowed people to remain in the village where they have strong local connections such as family, employment and current residence. As is common with self/custom build properties, information received so far shows that limited move on has occurred. Research shows that Self builders remain in the home they have built for a substantially longer period of time to those people that have ‘bought off of the shelf’.

### **3. Initiative detail**

- 3.1 Members are asked to consider implementing the initiative for affordable Custom/self-build within the South Hams planning area.
- 3.2 Sites outside the settlement boundary would not normally be granted planning permission unless homes would, not be available to the open market, are developed to meet local need and there are no other proposals that are

deliverable. Policy within the Local Plan, AH5 and emerging TTV31 specifically relate to affordable housing in these circumstances.

- 3.3 A restrictive covenant with the Local Authority would be required to ensure that the properties remain available for local people in perpetuity and therefore will not be “lost” to the open market in the future. A local land registry charge will also be applied. There will be restrictions on the properties to ensure that this scheme is targeted to meet the needs of those applicants with a local connection. This scheme will not be an option for speculative large scale developers.
- 3.4 Homes that are energy efficient self builds will not automatically achieve planning consents. There will be a stringent process when an applicant applies for this scheme to ensure that applicants are not circumventing policies and they are not acquiring the land for second home ownership. This process will additionally ensure that other options are not available for them on the open market ie that building plots are not currently available within the applicants financial means. The scheme will ensure that anything developed, remains as a property for a local person and has a suitable discount attached to this for subsequent re-sales. Expectations will be managed to ensure that this is not a “grand design” project. This will be achieved by imposing size limitations on any proposal or permission in line with National Space Standards +10%.
- 3.5 The information in appendix 3 (application pack) includes the relevant local connection evidence, application forms and draft s106 or similar mechanism. It will be clear in these forms that an applicant’s financial ability to proceed with these schemes are affordable for local people to bring forward a custom/self- build housing projects and therefore assessments of applicants financial circumstances will need to be carried out.
- 3.6 Applicants will need to successfully satisfy the local connection requirements and affordability in order to proceed with an application.
- 3.7 When planning permission is granted for such properties, conditions may be attached to the decision that limit or remove permitted development rights. This would apply to the individual property, and may restrict further extensions or alterations to the dwelling. Proposals for such changes to the property would consequently require planning permission, enabling the local planning authority to consider the merits of any proposal on a case-by-case basis. Evidence from the householder seeking justification for the proposal, for example for additional space, will be required. This is a standard approach taken by local planning authorities in specific circumstances where the exercise of greater control can be justified. It is commonly applied for affordable housing development, most importantly to enable control over the future size of the property and therefore its ‘affordability’.
- 3.8 The resale of the property will be limited to between 60% and 80% of the open market value. If an owner wishes to rent the property out in the future,

this will not normally be approved, however consent will need to be sought from the local authority. This would not be unreasonable withheld. Approval will be sought from the Local Authority regarding the maximum rent charged, this will be capped at 80% of the market rent or the maximum LHA (Local Housing Allowance) rate, this agreement is held in perpetuity through a restrictive covenant.

- 3.9 This initiative will also be suitable for Community Housing builds as some self/custom build schemes could come forward under this initiative. This is normally in the form of a Community Land Trust (CLT) and should be constituted as such. The Government has made loans and grants available to groups wishing to set up a CLT to assist with the setting up costs of the group and initial purchase of the land. This money would need to be repaid once custom builders are able to obtain a mortgage, normally in staged payments from slab level.
- 3.10 There are several active groups within Devon and Cornwall and this type of scheme has been proven to be the most popular in this area of the UK. Many groups which are now established are willing to pass their expertise on to other emerging groups.
- 3.11 Group self-build could comfortably sit under the Village Housing Initiative. The same caveats within the restrictive covenant would apply to group self/custom build as the single plot scheme.

#### **4 Future Safeguards**

- 4.1 Applicants who wish to be considered under this scheme will have to meet the authorities Local Connection criteria as detailed in the adopted allocations policy ie live, work, immediate family living in the immediate area. Any subsequent buyers will also need to meet the local connection criteria, however a cascade criteria to the district/borough will need to be included to ensure mortgage ability and future resale.
- 4.2 All applicants will be requested to submit financial information to confirm their eligibility. The application form for the affordability assessment and local connection is attached in appendix 3. **All of the information details requested is required to be considered for the scheme.**
- 4.3 The Community Housing Fund could assist with this type of scheme depending on future announcements from the government, this is expected imminently. The future of the 3 years allocation, which the South Hams received is yet to be announced.

#### **5 Options available and consideration of risk**

- 5.1 It is important to note that this will not be a “free for all” in terms of the planning process and all applications will be considered on a case by case

basis following our adopted and/or emerging policies as they are now. The relevant information will continue to be sought with the usual consultation process for example drainage, highways and ecology along with ensuring that any potential build considers the character and lay out of the location.

- 5.2 As a Local Authority we need to be creative and proactive in how we can enable more homes, particularly in our rural communities to ensure the villages remain thriving and sustainable. This delivery option/mechanism will be included in the emerging SPD and the policy hook is currently included in the JLP.
- 5.3 This option of delivery is a target for government, and the release of new burdens funding to local authorities, totalling £90,000 is a clear direction in terms increasing housing delivery. It is understood that sanctions have already been placed on two authorities that are not complying with the Self and Custom Build Act.

## 6 Outcomes/outputs

- 6.1 The implementation and success of this scheme will be monitored in terms of delivery and turnover of completed properties. Monitoring reports can be provided to members on an annual basis.

## 7 Proposed Way Forward *(do not remove)*

- a. Proposals
  - b. Justification – including fit with corporate priorities
  - c. Positive and negative impacts and plans to mitigate any negative risks or impacts. Can the risks and impacts be contained?
- 7.1 That the Executive formally recommend to Council that the self/custom build initiative is adopted. Properties developed through this initiative are will be compliant with current and emerging policy. Additional resource will be required which is covered by new burdens funding which will be received over the next 4 years, this totals £90k.
  - 7.2 Positive impacts are that the council will be enabling the option of additional homes for local people. Communities have been asking for this model of housing for some time. In addition to this the council will be assisting the government with the targets which they have set. The new burdens funding which they have issued will be secure with the council and will not be removed through not acting in line with the Self and Custom Build Act
  - 7.3 If this initiative is not endorsed, the council will not be meeting the statutory requirements included in the Self and Custom Build Act and sanctions could be imposed on the council.

## 8 Implications

Implications	Relevant	Details and proposed measures to address
--------------	----------	--

	to proposals Y/N	
Legal/Governance	Y	The council will comply with all of the statutory and legislative requirements. Therefore there are no specific legal risks arising from this proposal.
Financial	N	Any financial assistance which is required will be considered on a case by case basis. This report does not seek financial input from the Council.  The council will receive other financial benefits in terms of new homes bonus and council tax income.
Risk	N	This scheme will not be suitable for everyone as some may not meet the financial and local connections criteria.  All applications will still be required to meet the general policy requirements of a planning application but an additional layer has been included for the requirements of local affordable people.  There is no financial risk to the council through adopting this initiative. The risk of not adopting the initiative could result in sanctions being placed on the council.
Comprehensive Impact Assessment Implications		
Equality and Diversity		None each application will be considered as submitted
Safeguarding	N	None.
Community Safety, Crime and Disorder	N	Each application will be considered through the Crime Liaison Officer
Health, Safety and Wellbeing	N	Keeps families local and therefore could improve Health and Wellbeing
Other implications		

### **Supporting Information**

#### **Appendices:**

Custom and Self Build Act - Appendix 1

Space Standards – Appendix 2

Application pack - Appendix 3.

**Background Papers:** Local Plan and emerging JLP

[under provisions of the Local Government Act 1972]

List any background papers used to prepare your report or say none. You do not have to include anything that is already publicly available online or in hard copy. Do not include reference to material that is exempt or confidential within the meanings given in the Access to Information Procedure Rules.

**Approval and clearance of report**

All reports must have Finance Service clearance and, in the case of Cabinet, Council and Portfolio Advisory Committees, Legal Service clearance. Your report will only receive clearance if the implications in

**This page is intentionally left blank**



# Self-build and Custom Housebuilding Act 2015

CHAPTER 17

---

Explanatory Notes have been produced to assist in the  
understanding of this Act and are available separately

---

£6.00





# Self-build and Custom Housebuilding Act 2015

## CHAPTER 17

## CONTENTS

- 1 Registers of persons seeking to acquire land to build a home
- 2 Duty as regards registers
- 3 Guidance
- 4 Regulations
- 5 Interpretation
- 6 Extent, commencement and short title

---

Schedule — Registers under section 1





# Self-build and Custom Housebuilding Act 2015

## 2015 CHAPTER 17

An Act to place a duty on certain public authorities to keep a register of individuals and associations of individuals who wish to acquire serviced plots of land to bring forward self-build and custom housebuilding projects and to place a duty on certain public authorities to have regard to those registers in carrying out planning and other functions. [26th March 2015]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Registers of persons seeking to acquire land to build a home**

- (1) Each relevant authority must keep a register of—
  - (a) individuals, and
  - (b) associations of individuals (including bodies corporate that exercise functions on behalf of associations of individuals),who are seeking to acquire serviced plots of land in the authority's area in order to build houses for those individuals to occupy as homes.
- (2) Each relevant authority must publicise its register under this section.
- (3) Relevant authorities are—
  - (a) district councils;
  - (b) county councils in England so far as they are councils for an area for which there are no district councils;
  - (c) London borough councils;
  - (d) the Common Council of the City of London;
  - (e) the Council of the Isles of Scilly.

- (4) The Broads Authority is the relevant authority for the whole of its area, to the exclusion of any authority mentioned in subsection (3).
- (5) A National Park authority in England is the relevant authority for the whole of its area, to the exclusion of any authority mentioned in subsection (3).
- (6) Regulations may –
  - (a) provide for specified public authorities, or specified descriptions of public authorities, to be relevant authorities for specified areas in England, and
  - (b) provide for such an authority to be the relevant authority for its area to the exclusion of any other authority.
- (7) For the purposes of this section the area of the Common Council includes the Inner Temple and the Middle Temple.
- (8) The Schedule makes provision in relation to registers under this section.

## **2 Duty as regards registers**

- (1) Each of the authorities mentioned in subsection (2) must have regard to each register under section 1 that relates to its area when carrying out the functions mentioned in subsection (4).
- (2) The authorities referred to in subsection (1) are –
  - (a) county councils in England;
  - (b) district councils;
  - (c) London borough councils;
  - (d) the Common Council of the City of London (in its capacity as a local authority);
  - (e) the Sub-Treasurer of the Inner Temple (in that person's capacity as a local authority);
  - (f) the Under-Treasurer of the Middle Temple (in that person's capacity as a local authority);
  - (g) the Council of the Isles of Scilly;
  - (h) the Broads Authority;
  - (i) National Park authorities in England;
  - (j) such other public authorities, or descriptions of public authority, as may be specified.
- (3) Regulations under subsection (2)(j) that specify public authorities, or descriptions of public authority, are to specify the areas in England that are those authorities' areas for the purposes of this section.
- (4) The functions referred to in subsection (1) are functions relating to –
  - (a) planning;
  - (b) housing;
  - (c) the disposal of any land of the authority;
  - (d) regeneration.

### **3 Guidance**

- (1) A relevant authority must have regard to any guidance issued by the Secretary of State when exercising any function conferred or imposed by or under section 1 or the Schedule.
- (2) An authority mentioned in section 2(2) must have regard to any guidance issued by the Secretary of State when exercising the duty imposed by section 2, including guidance about identifying functions affected by the duty.

### **4 Regulations**

- (1) A statutory instrument containing regulations under –
  - (a) section 1,
  - (b) section 2, or
  - (c) paragraph 6 of the Schedule,(whether alone or with other provision) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (2) A statutory instrument containing regulations under –
  - (a) section 5, or
  - (b) the Schedule apart from paragraph 6,is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations under this Act, apart from regulations under section 6, may include incidental, supplementary, consequential, transitional, transitory or saving provision.

### **5 Interpretation**

In this Act –

- “house” includes a dwelling that forms part of a building;
- “relevant authority” has the meaning given by section 1;
- “regulations” means regulations made by the Secretary of State by statutory instrument;
- “serviced plot of land” means a plot of land which satisfies such requirements about utilities and other matters as may be specified;
- “specified” means specified by regulations.

### **6 Extent, commencement and short title**

- (1) This Act extends to England and Wales.
- (2) This section comes into force on the day this Act is passed.
- (3) The other provisions of this Act come into force on such day or days as regulations may appoint; and different days may be appointed for different purposes.
- (4) This Act may be cited as the Self-build and Custom Housebuilding Act 2015.

## SCHEDULE

Section 1

## REGISTERS UNDER SECTION 1

*Introductory*

- 1 Regulations may make provision in relation to registers under section 1.

*The registers*

- 2 (1) The regulations may include provision about—
  - (a) the form in which a register is to be kept;
  - (b) the content of an entry in a register (including matters not to be included in an entry);
  - (c) amending an entry;
  - (d) removing an entry;
  - (e) the periodic renewal of an entry.
- (2) Provision under sub-paragraph (1)(d) may include provision for a relevant authority to remove an entry—
  - (a) at the request of the person registered;
  - (b) where the person has acquired land suitable for building a house;
  - (c) where the person has ceased to be eligible to be entered on its register.
- (3) Provision under sub-paragraph (1)(e) may—
  - (a) specify when an entry falls to be renewed;
  - (b) provide for a relevant authority to determine when an entry in its register falls to be renewed.
- (4) The regulations may include provision about reviewing a register.
- (5) Subject to any provision made by the regulations, a relevant authority may determine the form of a register under section 1 and the contents of any entry.

*Eligibility*

- 3 (1) The regulations may make provision about a person's eligibility to be entered on a register.
- (2) The regulations may include provision relating to—
  - (a) the circumstances of an individual, including provision about age, nationality and connections to an area;
  - (b) the type of house intended to be built;
  - (c) an individual's ability to fund the acquisition of the land and the building of the house;
  - (d) an individual's intentions as regards occupation of the house.

- (3) The regulations may include provision relating to –
  - (a) the constitution of an association of individuals,
  - (b) the financial arrangements of an association of individuals, and
  - (c) the constitution and financial arrangements of a body corporate exercising functions on behalf of an association of individuals.

*Applications to be registered etc*

- 4 (1) The regulations may make provision about –
  - (a) applications to be entered on a register, and
  - (b) applications to renew an entry in a register.
- (2) The regulations may require an applicant to supply information, including information about –
  - (a) the applicant;
  - (b) the land that the applicant wants, including the applicant’s preferred size, location and price;
  - (c) when the applicant wants to acquire the land;
  - (d) if the application is made by an association of individuals, the individuals (as well as the association);
  - (e) if the application is made by a body corporate exercising functions on behalf of an association of individuals, the association and the individuals (as well as the body corporate).

*Right to review*

- 5 (1) The regulations may make provision about a right to a review of a decision –
  - (a) to refuse an application to be entered on a register,
  - (b) to refuse to renew an entry in a register, or
  - (c) to remove an entry from a register,on the ground that the person is not eligible, or is no longer eligible, to be entered on the register.
- (2) The regulations may –
  - (a) provide for the time within which a request for a review of a decision must be made;
  - (b) require a relevant authority to review its decision if a request is duly made;
  - (c) require a relevant authority to notify a person of the reason for the decision when notifying the person of its decision;
  - (d) require a relevant authority to notify the person of –
    - (i) the right to request a review of the decision, and
    - (ii) the time within which the request must be made;
  - (e) exclude a review of a decision on a review.

*Fees*

- 6 (1) The regulations may provide for the payment of fees to relevant authorities in connection with their functions under section 1 and this Schedule.
- (2) The regulations may –

- (a) specify the fees payable, or
  - (b) make provision about the fixing of fees by relevant authorities, including provision about determining the amounts of such fees.
- 

© Crown copyright 2015

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

03/2015 49021 19585



Published by TSO (The Stationery Office) and available from:

**Online**

[www.tsoshop.co.uk](http://www.tsoshop.co.uk)

**Mail, Telephone, Fax & E-mail**

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Fax orders: 0870 600 5533

E-mail: [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk)

Textphone: 0870 240 3701

**The Houses of Parliament Shop**

12 Bridge Street, Parliament Square

London SW1A 2JX

Telephone orders/General enquiries: 020 7219 3890

Fax orders: 020 7219 3866

Email: [shop@parliament.uk](mailto:shop@parliament.uk)

Internet: <http://www.shop.parliament.uk>

**TSO@Blackwell and other Accredited Agents**

ISBN 978-0-10-540006-6



9 780105 400066



Department for  
Communities and  
Local Government

## Technical housing standards – nationally described space standard



© Crown copyright, 2015

*Copyright in the typographical arrangement rests with the Crown.*

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

This document/publication is also available on our website at [www.gov.uk/dclg](http://www.gov.uk/dclg)

If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

Department for Communities and Local Government  
Fry Building  
2 Marsham Street  
London  
SW1P 4DF  
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

March 2015

ISBN: 978-1-4098-4567-6

# Technical housing standards – nationally described space standard

## Introduction

1. This standard deals with internal space within new dwellings and is suitable for application across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height.
2. The requirements of this standard for bedrooms, storage and internal areas are relevant only in determining compliance with this standard in new dwellings and have no other statutory meaning or use.

## Using the space standard

3. The standard Gross Internal Areas set out in Table 1 are organised by storey height to take account of the extra circulation space needed for stairs to upper floors, and deal separately with one storey dwellings (typically flats) and two and three storey dwellings (typically houses).
4. Individual dwelling types are expressed with reference to the number of bedrooms (denoted as 'b') and the number of bedspaces (or people) that can be accommodated within these bedrooms (denoted as 'p'). A three bedroom (3b) home with one double bedroom (providing two bed spaces) and two single bedrooms (each providing one bed space) is therefore described as 3b4p.
5. This allows for different combinations of single and double/twin bedrooms to be reflected in the minimum Gross Internal Area. The breakdown of the minimum Gross Internal Area therefore allows not only for the different combinations of bedroom size, but also for varying amounts of additional living, dining, kitchen and storage space; all of which are related to the potential occupancy.
6. Relating internal space to the number of bedspaces is a means of classification for assessment purposes only when designing new homes and seeking planning approval (if a local authority has adopted the space standard in its Local Plan). It does not imply actual occupancy, or define the minimum for any room in a dwelling to be used for a specific purpose other than in complying with this standard.
7. Minimum floor areas and room widths for bedrooms and minimum floor areas for storage are also an integral part of the space standard. They cannot be used in isolation from other parts of the design standard or removed from it.

8. The Gross Internal Area of a dwelling is defined as the total floor space measured between the internal faces of perimeter walls<sup>1</sup> that enclose the dwelling. This includes partitions, structural elements, cupboards, ducts, flights of stairs and voids above stairs. The Gross Internal Area should be measured and denoted in square metres (m<sup>2</sup>).
9. The Gross Internal Areas in this standard will not be adequate for wheelchair housing (Category 3 homes in Part M of the Building Regulations) where additional internal area is required to accommodate increased circulation and functionality to meet the needs of wheelchair households.

## Technical requirements

10. The standard requires that:
  - a. the dwelling provides at least the gross internal floor area and built-in storage area set out in Table 1 below
  - b. a dwelling with two or more bedspaces has at least one double (or twin) bedroom
  - c. in order to provide one bedspace, a single bedroom has a floor area of at least 7.5m<sup>2</sup> and is at least 2.15m wide
  - d. in order to provide two bedspaces, a double (or twin bedroom) has a floor area of at least 11.5m<sup>2</sup>
  - e. one double (or twin bedroom) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide
  - f. any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used solely for storage (if the area under the stairs is to be used for storage, assume a general floor area of 1m<sup>2</sup> within the Gross Internal Area)
  - g. any other area that is used solely for storage and has a headroom of 900-1500mm (such as under eaves) is counted at 50% of its floor area, and any area lower than 900mm is not counted at all
  - h. a built-in wardrobe counts towards the Gross Internal Area and bedroom floor area requirements, but should not reduce the effective width of the room below the minimum widths set out above. The built-in area in excess of 0.72m<sup>2</sup> in a double bedroom and 0.36m<sup>2</sup> in a single bedroom counts towards the built-in storage requirement
  - i. the minimum floor to ceiling height is 2.3m for at least 75% of the Gross Internal Area

---

<sup>1</sup> The internal face of a perimeter wall is the finished surface of the wall. For a detached house, the perimeter walls are the external walls that enclose the dwelling, and for other houses or apartments they are the external walls and party walls.

**Table 1 - Minimum gross internal floor areas and storage (m<sup>2</sup>)**

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		
3b	4p	74	84	90	2.5
	5p	86	93	99	
	6p	95	102	108	
4b	5p	90	97	103	3.0
	6p	99	106	112	
	7p	108	115	121	
	8p	117	124	130	
5b	6p	103	110	116	3.5
	7p	112	119	125	
	8p	121	128	134	
6b	7p	116	123	129	4.0
	8p	125	132	138	

**\* Notes (added 19 May 2016):**

1. Built-in storage areas are included within the overall GIAs and include an allowance of 0.5m<sup>2</sup> for fixed services or equipment such as a hot water cylinder, boiler or heat exchanger.

2. GIAs for one storey dwellings include enough space for one bathroom and one additional WC (or shower room) in dwellings with 5 or more bedspaces. GIAs for two and three storey dwellings include enough space for one bathroom and one additional WC (or shower room). Additional sanitary facilities may be included without increasing the GIA provided that all aspects of the space standard have been met.

3. Where a 1b1p has a shower room instead of a bathroom, the floor area may be reduced from 39m<sup>2</sup> to 37m<sup>2</sup>, as shown bracketed.

4. Furnished layouts are not required to demonstrate compliance.

**This page is intentionally left blank**

# **Application Pack Discounted Self/Custom Build for Local People.**

## Self/Custom Build Application form

**Please ensure that each section of the form is completed fully in the appropriate fields.**

To qualify for the scheme you must complete this application form. Please answer the form in as much detail as possible and supply any requested information. You may provide additional information and this will be taken in to account when considering your eligibility for the scheme.

### 1.1 Applicant details

<b>Name of applicant</b>	
<b>Address of applicant</b>	
<b>Telephone Number (main)</b>	
<b>Email Address</b>	

### 1.2 Your Household

Please tell us who lives in your household

Name	Age	Relationship to applicant	Salary


What is the tenure of your current home (please tick):

Rented	
Owned	
Live with family / friends	
Renting from housing association	
Shared ownership	
Homeless	
Other	
If other, please give details:	

Do you own any other property?

No	
Yes	
If yes, please give details:	

Do you consider that your current home is unsuitable (accessibility, size etc)?

No	
Yes	
If yes, please give details:	

£

How much does your current home cost per month:

Do you have access to a deposit?

No	
Yes	
If yes how much? £	

If required, are you able to obtain a mortgage?

No	
Yes	
If yes how much? £	

### 1.3 Supporting Evidence

Please supply the following documents to assist with your application (please see appendix 1 for qualification criteria).

- Letter from parish / town council to confirm eligibility for local connection.
- Completed income and expenditure (see appendix 2)
- Evidence from estate agents of accommodation available in your area
- Evidence of employment (work contract)
- Tenancy agreement / proof of ownership
- Map or location plan of identified plot(s)
- Agreement from landowner that land is available.

### 1.4 Declaration

I confirm that all the information given or referred to in this application form is true and accurate and that all relevant information has been submitted.

Signed:	
Name:	

Date:	

Please return to [affordable.housing@swdevon.gov.uk](mailto:affordable.housing@swdevon.gov.uk) or by post to: XXXXXXXXXXXX

QUALIFYING OPTIONS	EVIDENCE	REASONS
<b>1. Were your parents permanent residents of the local area when you were born ?</b>	Tell us the address where your parents were living	
<b>2. Did you live in the local area for five years as a child, and did you attend a local school (or for 'special reasons' attended a different school)?</b>	Tell us where you lived and which school you attended	
<b>3. Are you currently lawfully resident in the in the local area and have you lived there for at least the last 5 years?</b>	Tell us your address	
<b>4. Have you previously lived in the local area for a continuous period of 15 years as an adult? (eg: someone who moved away)</b>	Tell us your pervious address in the local area	
<b>5. Are you currently employed / self-employed in the local area routinely working within 5 km of the proposed site?</b>	Tell us the name and address of your employer	
<b>6. Do you have a formal written offer of employment within 5 km of the proposed site?</b>	Tell us the name and address of your prospective employer.	
<b>7. Do you have a parent currently living in the local area; or do you have another close family member living there who provides or requires a substantial degree of support to/ from you?</b>	Tell us their address	
<b>8. Are you able to demonstrate some form of <u>active</u> 'community involvement' sustained for at least the past 2 years; <u>or</u> do you have some other form of strong connection with the local area and/or its hinterland which the Parish Council are able to confirm?</b>	Tell us about this and give specific details and examples of your involvement or connection	
<b>9. If aged over 55 do you have a close family member currently living in the local area?</b>	Tell us your close family's address(s) and / or details of your other strong connection to the local area.	
<b>Please ask the Parish/Town Council to confirm the accuracy of your Strong Local Connection (preferably on their formal letterhead) Enclose a copy of their letter confirming your Strong Local Connection.</b>		
QUALIFYING OPTIONS	EVIDENCE	REASONS
<b>(i) Do you need to live in the local area for employment reasons? or</b>  <b>(ii) Do you need to live in the local area to receive or provide support to / from a close relative? or</b>  <b>(iii) Do you need to live in the local area to receive or provide childcare to / from a close relative?</b>	Tell us why you <u>need</u> to live in this specific area for employment, travel, family support, childcare or other reasons. You should provide as much information as possible to justify your case in terms of 'need' rather than 'want	

FINANCIAL STATEMENT

<i>Name</i>	
<b>Address</b>	

**This information is requested to check affordability levels for the ability to deliver a self build/custom build project and to ensure that other options are not available. \*\*this information will only be used for your self/custom build application and will not be shared externally.**

**Income \*Weekly/Monthly Expenditure**

Income	Details	Amount
Wages – Application One		£
Wages – Application Two		£
Housing Benefit		£
Job Seekers Allowance		£
Income Support		£
Employment and Support Allowance		
Retirement Pension		£
Other Pensions		£
Child Benefit		£
Child Tax Credit		
Incapacity Benefit		£
Working Tax Credit		£
Maintenance		£
Other Income (please specify)		£
<i>TOTAL</i>		£

**Essential Expenditure \*Weekly/Monthly Expenditure**

Housing Costs	Details	Amount
Rent / Mortgage		£
Council Tax		£
Gas / Electric		£
Water Rates		£
Other		£
<b>INSURANCES</b>		
Life		£
Endowment		£
House/Building		£
Contents		£
Other		£
<b>TOTAL</b>		£

\* Please delete as appropriate

Other Expenses	Details	Amount
Car Insurance		
Travel Expenses		£
Mobile Telephone		
Telephone		£
Sky		
TV Licence		£
TV Rental		£
Housekeeping		£
	<b>TOTAL</b>	£
<b>Loans</b>		
<b>(Please give full details)</b>		
		£

		£
		£
		£
<b>Other Expenses</b> <b>(Please give full details)</b>		£
		£
		£
		£
		£
		£
		£
		£
<i>TOTAL</i>		£

Debts – eg loans, credit cards, store cards, all existing household debts

<b>Loan company name</b>	<b>Amount</b>	<b>Present Arrears</b>
		£
		£
		£
		£
		£
<b>TOTAL</b>	£	

**Draft S106 to be included for reference.**

**This page is intentionally left blank**

Report to: **Executive Committee**  
Date:  
Title: **Council Tax Reduction Scheme 2018/19**  
Portfolio Area: **Customer First**

Wards Affected: **all**

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

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

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

Author: **Lorraine Mullineaux** Role: **Housing Benefit Specialist**

Contact: [Lorraine.Mullineaux@swdevon.gov.uk](mailto:Lorraine.Mullineaux@swdevon.gov.uk)

---

## **Recommendations:**

1. To recommend to Council that we continue with the existing Council Tax Reduction scheme for 2018/19 with the uprate of Personal Allowances, Premiums and Non Dependant deductions in line with national welfare benefits.

## **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 On the 1<sup>st</sup> December 2016 officers made recommendations to this committee not to make changes to the existing scheme for

2017/18, but that they would carry out a fundamental review of the policy for 2018/19.

- 1.3 Over the last 12 months Officers have been liaising with all Devon Authorities that implemented the welfare reform changes in 17/18

It is too early at this stage to gauge the true impact of the changes, but we are aware that there have been unforeseen consequences including additional administrative burdens, additional software costs. At the same time the councils are reporting that the collection rates have reduced.

- 1.4 Due to the above and other factors which include

- Officer resource
- IT suppliers not having developed functionality to deliver an income banded scheme and as a result charging for a bespoke solution at consultancy rates
- IT Modelling tool supplied too late to model a scheme and go out to consultation
- Continuing speculation and uncertainty around the welfare reform programme

- 1.5 It is the Officers recommendation that there are no major changes to the Scheme for the next 12 months but that a full review commences in January 2018 to be implemented in 2019/2020. See Appendix 2 for key dates.

- 1.6 An Equality Impact Assessment has been completed and can be found as Appendix 3.

## **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 and:

- 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 The Current Scheme

- 3.1 The working age scheme adopted by this council in 2014 retained the main elements of the former council tax benefit scheme but with the following;
- Liability limit (maximum support) of 80%. This means that everyone pays at least the 20% of their Council Tax.
  - Limiting CTR to a Band D Council Tax charge. This means that customers living in a home with a Council Tax band greater than D must pay the additional charge.
  - No second adult reduction
  - A vulnerability/hardship fund to provide additional financial help.
- 3.2 Retaining the core elements of the Council Tax Benefit scheme, means that we have preserved the means test in its current form, together with the protections and work incentives that have been refined over many years. This means that our scheme allows for the annual uprating's such as; living allowances, permitted earnings and non-dependant deductions in-line with the relevant regulations.
- 3.3 The scheme adopted by this Council also took account of the outcomes following previous public consultation.
- 3.4 Since the start of CTR there have been a number of legal challenges to Billing Authorities schemes. Most of these challenges have been made against the consultation process and whether due regard was given to the equality impact assessment when making changes to the scheme. A Supreme Court ruling in 2014 – [\*R \(Moseley\) v London Borough of Haringey\*](#) has meant that consultation on changes to Council Tax Reduction schemes must also include an option on how the current scheme could be retained on the same level of funding.
- 3.5 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.
- 3.6 The aim of the local scheme was for it to be 'cost neutral'. By this we mean that the level of Government grant would equal forecasted Council Tax Reduction expenditure for 2018/19
- 3.7 The following table sets out the annual expenditure and caseload:

	Total caseload	Working age caseload	Pension age caseload	Working age expenditure £	Pension age expenditure £	Total expenditure £
April 14	6,174	2,802	3,372	1,900,285	3,062,544	4,962,829
April 15	6,005	2,751	3,254	1,816,016	3,009,416	4,825,432

April 16	5,273	2,344	2,929	1,747,454	2,836,706	4,584,160
April 17	5,166	2,349	2,817	1,876,611	2,906,834	4,783,445

- 3.8 The slight increase in expenditure is mainly due to the level of increase in council tax for 2017/18.
- 3.9 With further reductions in Government grants (the Council's Settlement Funding Assessment is being reduced by 9.2% in 2018/19 and the Council will no longer receive any Revenue Support Grant from 2018/19 onwards) and the future localisation of Business Rates, Council Tax is becoming one of the main sources of income.

#### 4. Proposed Way Forward

- 4.1 Members agree that the current scheme and policies remain in force for a further 12 months.
- 4.2 Officers return to the Hub Committee in June/July 2018 to provide an update of progress against the action plan in appendix 2.

#### 5. Implications

Implications	Relevant to proposals	Details and proposed measures to address
Legal/Governance	<b>Y</b>	The relevant powers for this report are contained within the following legislation;  Clause 34 of the Welfare Reform Bill provides for the abolition of Council Tax Benefit from 31 <sup>st</sup> March 2013 and introduces the Local Council Tax Support Schemes to be administered by Local Authorities
Financial	<b>Y</b>	The Government funding (Settlement funding assessment SFA) received from Central Government will be reduced by 9.2% for 2018/19. Council Tax Reduction funding is included within the SFA. The scheme is designed to be cost neutral and covers the shortfall in funding of just under £0.6 million. Based on current calculations (see 3) officers are confident that the difference between actual and forecasted figures as the end of the financial year will be minimal. The modelling carried out last year which informed the decision to adopt the

		current scheme is proving to be consistent with what is happening since the Council Tax Reduction Scheme went live.
Risks	Agreement on scheme	Failure to agree a scheme by 31 <sup>st</sup> January 2018.  Detrimental impact on collection rates
	Financial	Business case in place with all preceptors agreeing financial support to fund extra resource to undertake early intervention and money advice.  Future funding reductions could mean that the proposed scheme will not remain fit for purpose  Annual review and close monitoring of announcements and national forums  Impact on wider economy and most vulnerable  Business case in place with all preceptors agreeing financial support to provide Exceptional Hardship Fund to assist those in extreme financial need.
<b>Comprehensive Impact Assessment Implications</b>		
Equality and Diversity	<b>Y</b>	An equality impact assessment has been completed – See Appendix 3.
Safeguarding	<b>Y</b>	Changes to the scheme could be seen to have a negative impact on child poverty.
Community Safety, Crime and Disorder	<b>Y</b>	As above.
Health, Safety and Wellbeing	<b>Y</b>	Changes to the scheme could be seen to have a negative impact on our poorest and most vulnerable families.
Other implications		

## **Supporting Information**

### **Appendices:**

Appendix 1 Current Council Tax Reduction Scheme

Appendix 2 Key dates for 2019/20 Scheme

Appendix 3 Equality Impact Assessment

Appendix 4 Comparison of Devon Schemes

### **Background Papers:**

Welfare Reform Act

### **Approval and clearance of report**

<b>Process checklist</b>	<b>Completed</b>
Portfolio Holder briefed	<b>Yes/No</b>
SLT Rep briefed	<b>Yes/No</b>
Relevant Exec Director sign off (draft)	<b>Yes/No</b>
Data protection issues considered	<b>Yes/No</b>
If exempt information, public (part 1) report also drafted. (Cabinet/Scrutiny)	<b>Yes/No</b>

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

South Hams District Council - Council Tax Reduction Scheme Policy.....	1
1.0 Introduction to the Council Tax Reduction Scheme.....	7
2.0 Interpretation – an explanation of the terms used within this policy .....	13
3.0 Definition of non-dependant .....	21
4.0 Requirement to provide a National Insurance Number.....	21
5.0 Persons who have attained the qualifying age for state pension credit.....	22
6.0 Remunerative work.....	22
8.0 Temporary Absence (period of absence) .....	23
Sections 9 - 11 .....	25
The family for Council Tax Support purposes.....	25
9.0 Membership of a family .....	26
10.0 Circumstances in which a person is to be treated as responsible (or not responsible) for a child or young person.....	26
11.0 Circumstances in which a child or young person is to be treated as being or not being a member of the household .....	27
Sections 12 – 14 & Schedule 1 .....	28
Applicable Amounts for Council Tax Support purposes .....	28
12.0 Applicable amounts .....	29
13.0 Polygamous marriages .....	29
14.0 Applicable amount: persons who are not pensioners who have an award of universal credit	29
Sections 15 – 32 & Schedules 3 & 4 .....	31
Definition and the treatment of income for Council Tax Support purposes.....	31
15.0 Calculation of income and capital of members of applicant’s family and of a polygamous marriage.....	32
16.0 Circumstances in which capital and income of non-dependant is to be treated as applicant’s	33
17.0 Calculation of income on a weekly basis .....	33
18.0 Treatment of child care charges .....	33
19.0 Average weekly earnings of employed earners .....	38
20.0 Average weekly earnings of self-employed earners .....	38
21.0 Average weekly income other than earnings .....	38
22.0 Calculation of average weekly income from tax credits .....	39
23.0 Calculation of weekly income .....	39
24.0 Disregard of changes in tax, contributions etc.....	39
25.0 Earnings of employed earners .....	40
26.0 Calculation of net earnings of employed earners .....	40
27.0 Earnings of self-employed earners .....	41
28.0 Calculation of net profit of self-employed earners .....	42
29.0 Deduction of tax and contributions of self-employed earners .....	44

30.0	Calculation of income other than earnings.....	44
31.0	Capital treated as income .....	46
32.0	Notional income.....	46
	Sections 33 – 42 & Schedule 5 .....	50
	Definition and the treatment of capital for Council Tax Support purposes .....	50
33.0	Capital limit .....	51
34.0	Calculation of capital.....	51
35.0	Disregard of capital of child and young person .....	51
36.0	Income treated as capital.....	51
37.0	Calculation of capital in the United Kingdom .....	51
38.0	Calculation of capital outside the United Kingdom .....	52
39.0	Notional capital.....	52
40.0	Diminishing notional capital rule .....	53
41.0	Capital jointly held .....	56
42.0	Calculation of tariff income from capital .....	56
	Sections 43 - 56 .....	57
	Definition and the treatment of students for Council Tax Support purposes.....	57
43.0	Student related definitions .....	58
44.0	Treatment of students .....	61
45.0	Students who are excluded from entitlement to council tax support .....	61
46.0	Calculation of grant income .....	62
47.0	Calculation of covenant income where a contribution is assessed .....	63
48.0	Covenant income where no grant income or no contribution is assessed .....	64
49.0	Student Covenant Income and Grant income – non disregard.....	64
50.0	Other amounts to be disregarded .....	64
51.0	Treatment of student loans .....	65
51A.0	Treatment of fee loans.....	66
52.0	Treatment of payments from access funds .....	66
53.0	Disregard of contribution.....	66
54.0	Further disregard of student’s income .....	67
55.0	Income treated as capital.....	67
56.0	Disregard of changes occurring during summer vacation .....	67
	Sections 57 – 63 .....	68
	The calculation and amount of Council Tax Support.....	68
57.0	Maximum council tax support .....	69
58.0	Non-dependant deductions .....	69
59.0	Council tax support taper (applies to persons defined within Class E) .....	71
60.0	Extended reductions .....	71

60A.0	Duration of extended reduction period .....	72
60B.0	Amount of extended reduction .....	72
60C	Extended reductions – movers .....	73
60D.0	Relationship between extended reduction and entitlement to council tax support under the general conditions of entitlement .....	73
61.0	Extended reductions (qualifying contributory benefits) .....	73
61A.0	Duration of extended reduction period (qualifying contributory benefits).....	74
61B.0	Amount of extended reduction (qualifying contributory benefits) .....	74
61C.0	Extended reductions (qualifying contributory benefits) – movers .....	75
61D.0	Relationship between extended reduction (qualifying contributory benefits) and entitlement to council tax support under the general conditions of entitlement.....	75
62.0 – 63.0	Not Used .....	75
Sections 64 – 67	.....	76
	Dates on which entitlement and changes of circumstances are to take effect .....	76
64.0	Date on which entitlement is to begin.....	77
65.0 - 66.0	Not Used.....	77
67.0	Date on which change of circumstances is to take effect.....	77
	Date on which income consisting of earnings from employment as an employed earner are taken into account .....	78
Sections 68– 74A	.....	79
	Claiming and the treatment of claims for Council Tax Support purposes.....	79
69.0	Procedure by which a person may apply for a reduction under the authority’s scheme	81
70.0	Submission of evidence electronically .....	84
71.0	Use of telephone provided evidence .....	84
72.0	Information and evidence.....	84
73.0	Amendment and withdrawal of application .....	85
74.0	Duty to notify changes of circumstances .....	86
Sections 75- 90	.....	88
	Decisions, decision notices and awards of Council Tax Support .....	88
75.0	Decisions by the authority .....	89
76.0	Notification of decision .....	89
77.0	Time and manner of granting council tax support.....	90
78.0	Persons to whom support is to be paid .....	90
79.0	Shortfall in support / reduction .....	91
80.0	Payment on the death of the person entitled .....	91
81.0	Offsetting .....	91
82.0	Payment where there is joint and several liability.....	91
83.0 – 90.0	Not Used .....	92
Sections 91 – 94	.....	93
	Collection, holding and forwarding of information for Council Tax Support purposes.....	93

91.0	Use of information from and to the Department of Work and Pensions (DWP) and Her Majesty's Revenues and Customs (HMRC) .....	94
92.0	Collection of information .....	94
93.0	Recording and holding information .....	94
94.0	Forwarding of information .....	94
	Sections 95 – 98 .....	95
	Revisions, Written Statements, Termination of Council Tax Support .....	95
95.0	Persons affected by Decisions.....	96
96.0	Revisions of Decisions .....	96
97.0	Written Statements .....	96
98.0	Terminations .....	96
	Section 99.....	97
	Appeals against the authority's decisions .....	97
99.0	Procedure by which a person may make an appeal against certain decisions of the authority .....	98
	Section 100 – 100A.....	99
	Procedure for applying for a discretionary reduction .....	99
100.0	Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act .....	100
	Section 101 – 106A.....	101
	Electronic Communication .....	101
101.0	Interpretation .....	102
102.0	Conditions for the use of electronic communication.....	102
103.0	Use of intermediaries.....	102
104.0	Effect of delivering information by means of electronic communication.....	102
105.0	Proof of identity of sender or recipient of information .....	103
106.0	Proof of delivery of information .....	103
106A.0	Proof of content of information .....	103
	Section 107.....	104
	Counter Fraud and Compliance.....	104
107.0	Counter Fraud and compliance .....	105
	Schedule 1 .....	106
	Applicable Amounts .....	106
	Personal Allowance .....	107
	Family Premiums.....	107
	Premiums .....	108
	Disability Premium .....	108
	Additional Condition for the Disability Premiums.....	108
	Severe Disability Premiums.....	108

Enhanced Disability Premium .....	108
Disabled Child Premium .....	108
Carer Premium .....	108
Persons in receipt of concessionary payments .....	108
Persons in receipt of benefit for another .....	109
Amounts of Premium .....	109
The components.....	110
Transitional Addition .....	110
Amount of transitional addition.....	110
Schedule 2 .....	111
Not Used .....	111
Schedule 3 .....	112
Sums to be disregarded in the calculation of earnings .....	112
Schedule 4 .....	118
Sums to be disregarded in the calculation of income other than earnings .....	118
Schedule 5 .....	129
Capital to be disregarded .....	129

## 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 1<sup>st</sup> April 2018 until 31<sup>st</sup> March 2019.
- 1.2 This document details how the scheme will operate for both pension credit age and working age applicants and in accordance with Section 13A of the Local Government Finance Act 1992 specifies the classes of person who are to be entitled to a reduction under the scheme and is effective from 1<sup>st</sup> April 2018 for a period of one financial year.
- 1.3 The scheme in respect of pension age applicants is defined by Central Government within the following:
- Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012;
  - Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (England) (Amendment) Regulations 2012;
  - Council Tax Reduction Schemes (Transitional Provision) (England) Regulations 2013;
  - Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013;
  - Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2013;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) (No. 2) Regulations 2014;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2015;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2016;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2017; and
  - Local Government Finance Act 1992 (as amended by the Local Government Finance Act 2012).

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

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

The three prescribed classes are as follows;

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

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

- a. who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- b. who, subject to paragraph 5 of Schedule 1 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, is not absent from the dwelling throughout the day; in respect of whom a maximum Council Tax Reduction amount can be calculated;
- c. who does not fall within a class of persons prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority’s

scheme;

- d. whose income (if any) for the relevant week does not exceed his applicable amount calculated in accordance with paragraph 9 and Schedule 2 of the Local Government Finance Act 1992;
- e. not have capital savings above £16,000; and
- f. who has made an application for a reduction under the authority's scheme.

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

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

- a. who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- b. who, subject to paragraph 5 of Schedule 1 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, is not absent from the dwelling throughout the day; in respect of whom a maximum Council Tax Reduction amount can be calculated;
- c. who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- d. whose income for the relevant week is greater than his applicable amount calculated in accordance with paragraph 9 and Schedule 2 to the Local Government Finance Act 1992;
- e. in respect of whom amount A exceeds amount B where;
  - (i) amount A is the maximum Council Tax Reduction in respect of the day in the applicant's case; and
  - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount;
- g. not have capital savings above £16,000; and
- h. who has made an application for a reduction under the authority's scheme.

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

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

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

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

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

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

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

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

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

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

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

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

#### **Class D**

To obtain reduction the individual (or partner) must:

- a. have not attained the qualifying age for state pension credit<sup>1</sup>; or
- b. he has attained the qualifying age for state pension credit and he, or if he has a partner,

---

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

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<sup>2</sup> amount can be calculated;
- g. not have capital savings above £16,000<sup>3</sup>;
- h. be a person in respect of whom a day in which s/he is liable to pay council tax falls within a week in respect of which the person's *income*<sup>4</sup> is **less** than their *applicable amount*<sup>5</sup> or the applicant or partner is in receipt of income support, jobseekers allowance (income based) or employment and support allowance (income related); and
- i. has made a valid application for reduction<sup>6</sup>.

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

### Class E

To obtain reduction the individual (or partner) must:

- a. have not attained the qualifying age for state pension credit<sup>7</sup>; or
- b. he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is a person on income support, on income-based jobseeker's allowance or an income-related employment and support allowance; or a person with an award of universal credit.
- c. be liable to pay council tax in respect of a dwelling in which they are 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<sup>8</sup> amount can be calculated;
- g. not have capital savings above £16,000<sup>9</sup>;
- h. be a person in respect of whom a day in which s/he is liable to pay council tax falls within a week in respect of which the person's *income*<sup>10</sup> is **more** than their *applicable amount*<sup>11</sup>;
- i. have made a valid application for reduction<sup>12</sup>;
- j. be a person in respect of whom amount A exceeds amount B where
  - (i) amount A is the maximum Council Tax Reduction in respect of the day in the applicant's case; and
  - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount.

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

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

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

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

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

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

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

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

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

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

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

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

## Council Tax Reduction Scheme

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

**Sections 2- 8**  
**Definitions and interpretation**

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

### 2.1 In this policy–

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

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

**‘the 1973 Act’** means 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 man and a woman who are married to each other and are members of the same household;
- a man and a woman who are not married to each other but are living together as husband and wife;
- two people of the same sex who are civil partners of each other and are members of the same household; or
- 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;

- by notice upon or with a form approved by it for the purpose of claiming council tax support; or
- 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
- 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 a applicant has moved, or is about to move, in which the applicant is or will be resident;

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

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

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

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

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

**‘partner’** means–

- (a) where an applicant is a member of a couple, the other member of that couple; or
- (b) where an applicant is polygamously married to two or more members of his household, any such member to whom he is married;

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

**‘payment’** includes part of a payment;

**‘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;

**'Uprating 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 amended<sup>13</sup>; and  
**'young person'** has the meaning prescribed in section 9(1).

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

<sup>13</sup> The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2013

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

### 3.0 Definition of non-dependant

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

3.2 This paragraph applies to;

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

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

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

### 4.0 Requirement to provide a National Insurance Number<sup>14</sup>

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

4.2 This subsection is satisfied in relation to a person if–

- a. the claim for support is accompanied by;

<sup>14</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- 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–**

- 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.
- 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.

**Sections 12 – 14 & Schedule 1**

**Applicable Amounts for Council Tax Support purposes**

## 12.0 Applicable amounts

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

- a. an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 as the case may be, of Schedule 1 of this scheme;
- b. an amount determined in accordance with paragraph 2 of Schedule 1 of this scheme in respect of any child or young person who is a member of his family;
- c. if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of Schedule 1 (family premium);
- d. the amount of any premiums which may be applicable to him, determined in accordance with paragraphs 4 to 16 of Schedule 1 of this document (premiums).
- e. the amount of either the
  - i. work-related activity component; or
  - ii. support component which may be applicable to him in accordance with paragraph 17 and 18 of Schedule 1 of this document (the components)
- f. the amount of any transitional addition which may be applicable to him in accordance with paragraph 19 to 20 of Schedule 1 of this scheme (transitional addition).

## 13.0 Polygamous marriages

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

- a. the amount applicable to him and one of his partners determined in accordance with paragraph 1 of Schedule 1 of this scheme as if he and that partner were a couple;
- b. an amount equal to the lowest amount within paragraph 1 of Schedule 1 of this scheme in respect of each of his other partners;
- c. an amount determined in accordance with paragraph 2 of Schedule 1 of this scheme (applicable amounts or living allowances) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;
- d. if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in paragraph 3 of Schedule 1 of this scheme (family premium);
- e. the amount of any premiums which may be applicable to him determined in accordance with paragraphs 4 to 16 of Schedule 1 of this scheme (premiums).
- f. the amount of either the;
  - i. work-related activity component; or
  - ii. support component which may be applicable to him in accordance with paragraph 17 and 18 of Schedule 1 (the components).
- g. the amount of any transitional addition which may be applicable to him in accordance with paragraphs 19 and 20 of Schedule 1 of this scheme (transitional addition)

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

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

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

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

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

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

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

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

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

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

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

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

- 15A.5 In determining the capital of an applicant;
- (a) who has, or
  - (b) who (jointly with his partner) has,
- an award of universal credit, the authority 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. the applicant's applicable amount includes a disability premium on account of the other member's incapacity or the support component or the work-related activity component on account of his having limited capability for work
- b. the applicant's applicable amount would include a disability premium on account of the other member's incapacity but for that other member being treated as capable of work

- by virtue of a determination made in accordance with regulation made under section 171E of the Act;
- c. the applicant's applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 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—
- 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;
  - 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
  - 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—
- in the week before the period of maternity leave, paternity leave or adoption leave began she was in remunerative work;
  - the applicant is incurring relevant child care charges within the meaning of paragraph 18.5; and
  - 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 or statutory adoption pay by 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—
- the date that leave ends;
  - 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
  - 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
- '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
  - '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;
- who has, or
  - 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 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 amended<sup>15</sup>.

25.2 Earnings shall not include–

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

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

## 26.0 Calculation of net earnings of employed earners

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

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

<sup>15</sup> Social Security (Contributions)(Amendment) Regulations 2013, Social Security (Contributions)(Amendment No.2) Regulations 2013 and Social Security (Contributions)(Amendment No.2) Regulations 2013

- 26.3 For the purposes of paragraph 26.1 net earnings shall, except where paragraph 26.6 applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less;
- a. any amount deducted from those earnings by way of
    - i) income tax;
    - ii) primary Class 1 contributions under the Act;
  - b. one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
  - c. one-half of the amount calculated in accordance with paragraph 26.5 in respect of any qualifying contribution payable by the applicant; and
  - d. where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, any amount deducted for those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the Act.
- 26.4 In this section 'qualifying contribution' means any sum which is payable periodically as a contribution towards a personal pension scheme.
- 26.5 The amount in respect of any qualifying contribution shall be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this section the daily amount of the qualifying contribution shall be determined—
- a. where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;
  - b. in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.
- 26.6 Where the earnings of an applicant are estimated under sub-paragraph (b) of paragraph 2) of the section 19 (average weekly earnings of employment earners), his net earnings shall be calculated by taking into account those earnings over the assessment period, less—
- a. an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate 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.

## **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–  

$$\frac{A - (B \times C)}{D}$$
 Where  
 A = the total amount of the relevant payment which that person would have received had he remained a student until he last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under paragraph 51.5  
 B = the number of reduction weeks from the reduction week immediately following that which includes the first day of that academic year to the reduction week which includes the day on which the person abandoned, or was dismissed from, his course;  
 C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under paragraph 51.2 had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to council tax support immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit;  
 D = the number of reduction weeks in the assessment period.
- 30.9 Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph 30.1 in respect of a person to whom paragraph (30.8) applies, shall be calculated by applying the formula in paragraph 30.8 but as if–  
 A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under paragraph 51.5
- 30.10 In this section– 'academic year' and 'student loan' shall have the same meanings as for the purposes of sections 43 to 45, 'assessment period' means–  
 a. in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;  
 b. in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction

week which includes–

- i. the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or
- ii. the last day of the last quarter for which an instalment of the relevant payment was payable to that person.

whichever of those date is earlier

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

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

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

30.11 For the avoidance of doubt there shall be included as income to be taken into account under paragraph 30.1

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

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

31.1 Any capital payable by instalments which are outstanding at the date on which the claim is made or treated as made, or, at the date of any subsequent revision or supersession, shall, if the aggregate of the instalments outstanding and the amount of the applicant’s capital otherwise calculated in accordance with sections 33 to 42 of this scheme exceeds £16,000, 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 £16,000 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 sub-paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

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

- (a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
- (b) pursuant to section 2 of the 1973 Act in respect of a person's participation

- (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
- (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
- (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
- (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
- (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (bb) in respect of a person's participation in the Mandatory Work Activity Scheme; Enterprise Scheme;
- (bc) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (c) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
  - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
  - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
  - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

39.5 Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case

- a. the value of his holding in that company shall, notwithstanding section 34 (calculation of capital) be disregarded; and
- b. he shall, subject to paragraph 39.6, be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Section shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

39.6 For so long as the applicant undertakes activities in the course of the business of the company, the amount which, he is treated as possessing under paragraph 39.5 shall be disregarded.

39.7 Where an applicant is treated as possessing capital under any of paragraphs 39.1 to 39.2 the foregoing provisions of this Section shall apply for the purposes of calculating its amount as if it were actual capital, which he does possess.

#### **40.0 Diminishing notional capital rule**

40.1 Where an applicant is treated as possessing capital under section 39.1 (notional capital), the amount which he is treated as possessing;

- a. in the case of a week that is subsequent to
  - (i) the relevant week in respect of which the conditions set out in paragraph 40.2 are satisfied; or
  - (ii) a week which follows that relevant week and which satisfies those conditions, shall be reduced by an amount determined under paragraph 40.3;
- b. in the case of a week in respect of which paragraph 40.1(a) does not apply but where
  - (i) that week is a week subsequent to the relevant week; and
  - (ii) that relevant week is a week in which the condition in paragraph 40.4 is satisfied, shall be reduced by the amount determined under paragraph 40.4.

40.2 This paragraph applies to a reduction week or part-week where the applicant satisfies the conditions that

- a. he is in receipt of council tax support; and
- b. but for paragraph 39.1, he would have received an additional amount of council tax support in that week.

40.3 In a case to which paragraph 40.2 applies, the amount of the reduction for the purposes of paragraph 40.1(a) shall be equal to the aggregate of

- a. the additional amount to which sub-paragraph 40.2 (b) refers;
- b. where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 40.2 refers but for the application of regulation 49(1) of the Housing Benefit Regulations (notional capital);
- c. where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 40.2 refers but for the application of regulation 51(1) of the Income Support Regulations (notional capital);
- d. where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 40.2 refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations (notional capital) and
- e. where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of reduction week to which paragraph 40.2 refers but for the application of regulation 115 of the Employment and Support Allowance Regulations (notional capital).

40.4 Subject to paragraph 40.5, for the purposes of paragraph 40.1(b) the condition is that the applicant would have been entitled to council tax support in the relevant week but for paragraph 39.1, and in such a case the amount of the reduction shall be equal to the aggregate of

- a. the amount of council tax support to which the applicant would have been entitled in the relevant week but for paragraph 39.1; and for the purposes of this sub-paragraph is the amount 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 Calculation of tariff income from capital**

42.1 Where the applicant's capital calculated in accordance with this scheme exceeds £6,000 it shall be treated as equivalent to a weekly income of £1 for each complete £250 of in excess of £6,000 but not exceeding £16,000

42.2 Notwithstanding paragraph 42.1 where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly tariff income of £1.

42.3 For the purposes of paragraph 42.1, capital includes any income treated as capital under section 36 (income treated as capital).

## Sections 43 - 56

### Definition and the treatment of students for Council Tax Support purposes<sup>16</sup>

---

<sup>16</sup> Amounts shown in sections 43 to 56 will be uprated in line with the Housing Benefit Regulations 2006 (as amended)

### 43.0 Student related definitions

43.1 In this scheme the following definitions apply;

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

**'access funds'** means;

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

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

**'contribution'** means;

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

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

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

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

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

- a. is not funded in whole or in part by the Secretary of State under section 14 of the

- Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;;
- b. is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
- (i) in the case of a course funded by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either of those persons for the delivery of that course; or
- (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or
- c. is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—
- (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
- (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;

**'full-time student'** means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;

**'grant'** (except in the definition of 'access funds') means any kind of educational grant or award and includes any scholarship, studentship, exhibition allowance or bursary but does not include a payment from access funds or any payment to which paragraph 12 of Schedule 4 or paragraph 53 of Schedule 5 applies;

**'grant income'** means

- (a) any income by way of a grant;
- (b) any contribution whether or not it is paid;

**'higher education'** means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992; 'last day of the course' means;

- a. in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;
- b. in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

**'period of study'** means—

- a. in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
- b. in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, the year's start and ending with either—
- (i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to his studying throughout the year, or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or
- (ii) in any other case, the day before the start of the normal summer vacation appropriate to his course;
- c. in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;

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

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

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

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

**'standard maintenance grant'** means—

- a. except where paragraph (b) or (c) applies, in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 ('the 2003 Regulations') for such a student;
- b. except where paragraph (c) applies, in the case of a student residing at his parent's home, the amount specified in paragraph 3 thereof;
- c. in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as 'standard maintenance allowance' for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;
- d. in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof;

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

- a. a course of study at an educational establishment; or
- b. a qualifying course;

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

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

- a. in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending;
  - (i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or
  - (ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;
- b. in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

43.3 For the purposes of sub-paragraph (a) of paragraph 43.2, the period referred to in that sub-paragraph shall include;

- a. where a person has failed examinations or has failed to successfully complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
- b. any period of vacation within the period specified in that paragraph or immediately

following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

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

44.1 The following sections relate to students who claim Council Tax Support

#### **45.0 Students who are excluded from entitlement to council tax support**

45.1 Students (except those specified in paragraph 45.3) are not able to claim Council Tax Support under Classes D and E of the Council's reduction scheme.

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

- 45.3 Paragraph 45.2 shall not apply to a student
- (a) who is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance;
  - (b) who is a lone parent;
  - (c) whose applicable amount would, but for this section, include the disability premium or severe disability premium;
  - (d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the Act;
  - (e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
  - (f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period.
  - (g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;
  - (h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989, or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;
  - (i) who is;
    - (i) aged under 21 and whose course of study is not a course of higher education, or
    - (ii) a qualifying young person or child within the meaning of section 142 of the Act (child and qualifying young person);
  - (j) in respect of whom
    - i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;
    - (ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) or regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;
    - (iii) a payment has been made under section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education

Act 1998;

(iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or

(v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986,

on account of his disability by reason of deafness.

45.3A For the purposes of paragraph 45.3(h)(i) the student must have begun, or been enrolled or accepted onto the course before attaining the age of 19

45.4 For the purposes of paragraph 45.3, once paragraph 45.3(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.

45.5 In paragraph 45.3(h) the reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.

45.6 A full-time student to whom sub-paragraph (i) of paragraph 45.3 applies, shall be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.

45.7 Paragraph 45.2 shall not apply to a full-time student for the period specified in paragraph 45.8 if;

- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is;
  - (i) engaged in caring for another person; or
  - (ii) ill;
- (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
- (c) he is not eligible for a grant or a student loan in respect of the period specified in paragraph 45.8.

45.8 The period specified for the purposes of paragraph 45.7 is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before;

- (a) the day on which he resumes attending or undertaking the course; or
  - (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course,
- which shall first occur.

#### **46.0 Calculation of grant income**

46.1 The amount of a student's grant income to be taken into account shall, subject to paragraphs 46.2 and 46.3, be the whole of his grant income.

46.2 There shall be excluded from a student's grant income any payment;

- (a) intended to meet tuition fees or examination fees;
- (b) in respect of the student's disability;
- (c) intended to meet additional expenditure connected with term time residential study

- away from the student's educational establishment;
- (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
  - (e) on account of any other person but only if that person is residing outside of the United Kingdom and there is no applicable amount in respect of him;
  - (f) intended to meet the cost of books and equipment;
  - (g) intended to meet travel expenses incurred as a result of his attendance on the course;
  - (h) intended for the child care costs of a child dependant.
  - (i) of higher education bursary for care leavers made under Part III of the Children Act 1989.
- 46.3 Where a student does not have a student loan and is not treated as possessing such a loan, there shall be excluded from the student's grant income;
- (a) the sum of £303 per academic year in respect of travel costs; and
  - (b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any such costs are incurred.
- The above figures will be increased annually in line with the Housing Benefit Regulations 2006 (as amended).
- 46.4 There shall also be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.
- 46.5 Subject to paragraphs 46.6 and 46.7, a student's grant income shall be apportioned;
- (a) subject to paragraph 46.8, in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study;
  - (b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.
- 46.6 Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2004 shall be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.
- 46.7 In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither paragraph 46.6 nor section 50 (other amounts to be disregarded) apply, shall be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.
- 46.8 In the case if a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student's grant income shall be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which immediately follows the last day of the period of experience and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study.

**47.0 Calculation of covenant income where a contribution is assessed**

47.1 Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following shall be the whole amount of the covenant income less, subject to paragraph 47.3, the amount of the contribution.

47.2 The weekly amount of the student's covenant shall be determined—  
 (a) by dividing the amount of income which falls to be taken into account under paragraph 47.1 by 52 or 53, whichever is reasonable in the circumstances; and  
 (b) by disregarding from the resulting amount, £5.

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

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

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

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

48.2 Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income shall be calculated in accordance with subparagraphs (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 80 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<sup>17</sup>

58.1 Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in section 57 (maximum council tax reduction) shall be;

- (a) in respect of a non-dependant aged 18 or over in remunerative work, £11.55 x 1/7;
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £3.80 x 1/7.

58.2 In the case of a non-dependant aged 18 or over to whom paragraph 58.1(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is—

- (a) less than £196.95, the deduction to be made under this paragraph shall be that specified in paragraph 58.1(b);
- (b) not less than £196.95, but less than £341.40, the deduction to be made under this section shall be £7.65 x 1/7
- (c) not less than £341.40, but less than £424.20, the deduction to be made under this section shall be £9.65 x 1/7;

<sup>17</sup> The amounts shown within this section shall be updated in line with the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012

- 58.3 Only one deduction shall be made under this section in respect of a couple or, as the case may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.
- 58.4 In applying the provisions of paragraph 58.2 in the case of a couple or, as the case may be a polygamous marriage, regard shall be had, for the purpose of that paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.
- 58.5 Where in respect of a day–
- a. a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
  - b. other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 or 77 or 77A of the 1992 Act (liability of spouses and civil partners); and
  - c. the person to whom sub-paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant shall be apportioned equally between those liable persons.
- 58.6 No deduction shall be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is–
- a. blind or treated as blind by virtue of paragraph 9 of Schedule 1 (additional condition for the disability premium); or
  - b. receiving in respect of himself:
    - attendance allowance, or would be receiving that allowance but for:
      - i. a suspension of benefit in accordance with regulations under section 113(2) of The Act; or
      - ii. an abatement as a result of hospitalisation; or
    - the care component of the disability living allowance, or would be receiving that component but for:
      - i. a suspension of benefit in accordance with regulations under section 113(2) of The Act; or
      - ii. an abatement as a result of hospitalisation; or
  - c. the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
  - d. an AFIP, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allows for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
- 58.7 No deduction shall be made in respect of a non-dependant if:
- a. although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or
  - b. he is in receipt of a training allowance paid in connection with a youth training established under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
  - c. he is a full time student within the meaning of section 44.0 (Students); or
  - d. he is not residing with the applicant because he has been a patient for a period of excess of 52 weeks, and for these purposes;
  - e. 'patient' has the meaning given within this scheme, and
  - f. where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods;
  - g. he is not residing with the claimant because he is a member of the armed forces away on

## operations

- 58.8 No deduction shall be made in respect of a non-dependant;
- (a) who is on income support, state pension credit, an income-based jobseeker's allowance or an income-related employment and support allowance;
  - (b) to whom Schedule 1 of the 1992 Act applies (persons disregarded for purposes of discount) but this sub-paragraph shall not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers;
  - (c) who is entitled to an award of universal credit where the award is calculated on the basis that the person does not have any earned income.";
- a. For the purposes of sub-paragraph (c), "earned income" has the meaning given in regulation 52 of the Universal Credit Regulations 2013.
- 58.9 In the application of paragraph 58.2 there shall be disregarded from his weekly gross income:
- a. any attendance allowance, disability living allowance or personal independence payment or an AFIP received by him;
  - b. any payment made under or by the Trusts, the Fund, the Eileen Trust , MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which had his income fallen to be calculated under section 30 (calculation of income other than earnings) would have been disregarded under paragraph 24 of Schedule 4 (income in kind); and
  - c. any payment which had his income fallen to be calculated under section 30 would have been disregarded under paragraph 36 of Schedule 4 (payments made under certain trusts and certain other payments).<sup>18</sup>
- 59.0 Council tax support taper (applies to persons defined within Class E)**
- 59.1 The prescribed daily percentage for the purpose of calculating support as a percentage of excess of income over the applicable amount which is deducted from maximum council tax support, shall be 2 6/7 per cent. Where an applicant's income exceeds their applicable amount, their council tax support shall be calculated by deducting their excess income multiplied by the taper from their maximum council tax support as defined within section 57 of this scheme
- 60.0 Extended reductions**
- 60.1 An applicant who is entitled to council tax support (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction where;
- (a) the applicant or the applicant's partner was entitled to a qualifying income- related benefit;
  - (b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner–
    - (i) commenced employment as an employed or self-employed earner;
    - (ii) increased their earnings from such employment; or
    - (iii) increased the number of hours worked in such employment,
 and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last five weeks or more; and
  - (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.

<sup>18</sup> To be amended by PR Regulations

- 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—
- the applicant ceased to be entitled to council tax support because the applicant vacated the dwelling in which the applicant was resident;
  - 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
  - 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;
- at the end of a period of four weeks; or
  - 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—
- 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;
  - 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
  - the amount of council tax support to which the applicant's partner would be entitled

under the general conditions of entitlement, if section 60 did not apply to the applicant.

60B.2 Paragraph 60B1 does not apply in the case of a mover.

60B.3 Where an applicant is in receipt of an extended reduction under this section and the applicant's partner makes a claim for council tax support, no amount of council tax support shall be payable by the appropriate authority during the extended reduction period.

#### **60C Extended reductions – movers**

60C.1 This section applies;

- (a) to a mover; and
- (b) from the Monday following the day of the move.

60C.2 The amount of the extended reduction payable from the Monday from which this section applies until the end of the extended reduction period shall be the amount of council tax support which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit.

60C.3 Where a mover's liability to pay council tax in respect of the new dwelling is to the second authority, the extended reduction may take the form of a payment from the appropriate authority to;

- (a) the second authority; or
- (b) the mover directly.

60C.4 Where—

- (a) a mover, or the mover's partner, makes a claim for council tax support to the second authority after the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit; and
- (b) the mover, or the mover's partner, is in receipt of an extended reduction from the appropriate authority, the second authority shall reduce the weekly amount of council tax support that the mover, or the mover's partner, is entitled to by a sum equal to the amount of the extended reduction until the end of the extended reduction period.

#### **60D.0 Relationship between extended reduction and entitlement to council tax support under the general conditions of entitlement**

60D.1 Where an applicant's council tax support award would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in paragraph 60.1(b), that award will not cease until the end of the extended reduction period.

60D.2 Changes of circumstances and increases for exceptional circumstances shall not apply to any extended reduction payable in accordance with paragraph 60B.1(a) or 60C.2 (amount of extended reduction – movers).

#### **61.0 Extended reductions (qualifying contributory benefits)**

61.1 An applicant who is entitled to council tax support (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction (qualifying contributory benefits) where;

- (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner;
  - (i) commenced employment as an employed or self-employed earner;
  - (ii) increased their earnings from such employment; or

- (iii) increased the number of hours worked in such employment, and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last five weeks or more;
- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.

61.2 An applicant must be treated as entitled to council tax support by virtue of the general conditions of entitlement where;

- (a) the applicant ceased to be entitled to council tax support because the applicant vacated the dwelling in which the applicant was resident;
- (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in paragraph 61.1(b).

#### **61A.0 Duration of extended reduction period (qualifying contributory benefits)**

61A.1 Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.

61A.2 For the purpose of paragraph 61A.1, an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

61A.3 The extended reduction period ends;

- (a) at the end of a period of four weeks; or
- (b) on the date on which the applicant to whom the extended reduction (qualifying contributory benefits) is payable has no liability for council tax, if that occurs first.

#### **61B.0 Amount of extended reduction (qualifying contributory benefits)**

61B.1 For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) payable to an applicant shall be the higher of;

- (a) the amount of council tax support to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
- (b) the amount of council tax support to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended reduction period, if section 61 (extended reductions (qualifying contributory benefits)) did not apply to the applicant; or
- (c) the amount of council tax support to which the applicant's partner would be entitled under the general conditions of entitlement, if section 61 did not apply to the applicant.

61B.2 Paragraph 61B.1 does not apply in the case of a mover.

61B.3 Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this section and the applicant's partner makes a claim for council tax support, no amount of council tax support shall be payable by the appropriate authority during the extended reduction period.

### **61C.0 Extended reductions (qualifying contributory benefits) – movers**

61C.1 This section applies;

- (a) to a mover; and
- (b) from the Monday following the day of the move.

61C.2 The amount of the extended reduction (qualifying contributory benefit) payable from the Monday from which this section applies until the end of the extended reduction period shall be the amount of council tax support which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

61C.3 Where a mover's liability to pay council tax in respect of the new dwelling is to the second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from the appropriate authority to–

- (a) the second authority; or
- (b) the mover directly.

61C.4 Where

- (a) a mover, or the mover's partner, makes a claim for council tax support to the second authority after the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit; and
- (b) the mover, or the mover's partner, is in receipt of an extended reduction (qualifying contributory benefits) from the appropriate authority, the second authority shall reduce the weekly amount of council tax support that the mover, or the mover's partner, is entitled to by a sum equal to the amount of the extended reduction (qualifying contributory benefits) until the end of the extended reduction period.

### **61D.0 Relationship between extended reduction (qualifying contributory benefits) and entitlement to council tax support under the general conditions of entitlement**

61D.1 Where an applicant's council tax support award would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 61.1 (b), that award will not cease until the end of the extended reduction period.

61D.2 Changes of circumstances and increases for exceptional circumstances shall not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 61B.1(a) or 61C.2 (amount of extended reduction– movers).

### **61E.0 Extended reductions: movers into the authority's area<sup>19</sup>**

61E.1 Where;

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

### **62.0 – 63.0 Not Used**

---

<sup>19</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

**Sections 64 – 67**

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

#### **64.0 Date on which entitlement is to begin**

- 64.1 Subject to paragraph 64.2, any person to whom or in respect of whom a claim for council tax support is made and who is otherwise entitled to that support shall be so entitled from the reduction week following the date on which that claim is made or is treated as made.
- 64.2 Where a person is otherwise entitled to council tax support and becomes liable for the first time for the authority's council tax in respect of a dwelling of which he is a resident in the reduction week in which his claim is made or is treated as made, he shall be so entitled from that reduction week.

#### **65.0 - 66.0 Not Used**

#### **67.0 Date on which change of circumstances is to take effect**

- 67.1 Except in cases where section 24 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph, a change of circumstances which affects entitlement to, or the amount of, a reduction under the authority's scheme ("change of circumstances"), takes effect from the first day of the reduction week following the date on which the change actually occurs, and where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs shall be the day immediately following the last day of entitlement to that benefit.
- 67.2 Subject to paragraph (3), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.
- 67.3 Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under sections 11 or 12 of that Act, it shall take effect from the day on which the change in amount has effect.
- 67.4 Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.
- 67.5 Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.
- 67.6 If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with paragraphs (1) to (5) they take effect from the day to which the appropriate paragraph from (2) to (5) above refers, or, where more than one day is concerned, from the earlier day.
- 67.7 Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the Act, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances shall take effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.
- 67.8 Without prejudice to paragraph (7), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

**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 application<sup>20</sup>**

68.1 In the case of a couple or members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines.

68.2 Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act, and;

- (a) a deputy has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
- (b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on his behalf; or
- (c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,

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

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

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

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

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

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

68.7 The authority must;

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

<sup>20</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

## **69.0 Procedure by which a person may apply for a reduction under the authority's scheme<sup>21</sup>**

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

69.2. An application may be made;

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

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

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

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

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

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

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

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

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

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

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

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

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

69.9 Where an applicant ('C')—

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

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

requested that the claim should include a past period), C had continuous good cause for failing to make a claim (or request that the claim should include that period), the claim is to be treated as made on the date determined in accordance with paragraph 69.10

69.10 The date is the latest of–

- (a) the first day from which C had continuous good cause;
- (b) the day 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 an applications by telephone;
- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance;  
(b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide the application.
- 69A.4 The authority is to treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.
- 69A.5 The conditions are that—
- (a) where the authority receives the properly completed application or the information requested to complete it or the evidence within one month of the request, or such longer period as the authority may consider reasonable; or  
(b) where an application is not on approved form or further information requested by authority applies;  
(i) the approved form sent to the applicant is received at the offices of the authority properly completed within one month of it having been sent to him; or, as the case may be;  
(ii) the applicant supplies whatever information or evidence was requested within one month of the request; or,  
in either case, within such longer period as the authority may consider reasonable; or  
(c) where the authority has requested further information, the authority receives at its offices the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.
- 69A.6 Except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for council tax to the authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under that authority's scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority must treat the application as having been made on the day on which the liability for the tax arises.
- 69A.7 Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under the authority's scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under its scheme for a period beginning not later than;
- (a) in the case of an application made by;

- (i) a pensioner, or
- (ii) a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit, the seventeenth reduction week following the date on which the application is made, or

(b) in the case of an application made by a person who is not a pensioner, the thirteenth reduction week following the date on which the application is made, the authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.

69A.8 In this paragraph “appropriate DWP office” means an office of the Department for Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of claims of income support, a job seekers allowance or an employment and support allowance.

**70.0 Submission of evidence electronically**

70.1 The authority may accept such evidence, documents and certificates to support the claim electronically where it feels that this would be acceptable given the nature of the claim

**71.0 Use of telephone provided evidence**

71.1 The authority may accept such evidence to support the claim by telephone where it feels that this would be acceptable given the nature of the claim

**72.0 Information and evidence<sup>22</sup>**

72.1 Subject to sub-paragraph (3), a person who makes an application for a reduction under an authority’s scheme must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.

72.2 This sub-paragraph is satisfied in relation to a person if—

- (a) the application is accompanied by;
  - (i) a statement of the person’s national insurance number and information or evidence establishing that that number has been allocated to the person; or
  - (ii) information or evidence enabling the authority to ascertain the national insurance number that has been allocated to the person; or
- (b) the person has made an application for a national insurance number to be allocated to him and the application for the reduction is accompanied by;
  - (i) evidence of the application for a national insurance number to be so allocated; and
  - (ii) the information or evidence enabling it to be so allocated.

72.3 Sub-paragraph (2) does not apply;

- (a) in the case of a child or young person in respect of whom an application for a reduction is made;
- (b) to a person who;
  - (i) is a person treated as not being in Great Britain for the purposes of this scheme;
  - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and
  - (iii) has not previously been allocated a national insurance number.

72.4 Subject to sub-paragraph (5), a person who makes an application, or a person to whom a

<sup>22</sup> 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 or the London Bombings Relief Charitable Fund;
- (b) a payment which is disregarded under paragraph 24 of Schedule 5, other than a payment under the Independent Living Fund (2006);
- (c) a payment which is disregarded under paragraph 58.9.

72.8 Where an applicant or a person to whom a reduction under the authority's scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, he must where the authority so requires furnish the following information;

- (a) the name and address of the pension fund holder;
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

### **73.0 Amendment and withdrawal of application<sup>23</sup>**

73.1 A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.

73.2 Where the application was made by telephone the amendment may also be made by telephone.

73.3 Any application amended is to be treated as if it had been amended in the first instance.

73.4 A person who has made an application may withdraw it by notice to the designated office at any time before a decision has been made on it.

73.5 Where the application was made by telephone, the withdrawal may also be made by telephone.

73.6 Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.

---

<sup>23</sup> 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 circumstances<sup>24</sup>**

74.1 Subject to sub-paragraphs (3), (6) and (7), an applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time;

- (a) between the making of an application and a decision being made on it, or
- (b) after the decision is made (where the decision is that the applicant is entitled to a reduction under the authority's scheme) including at any time while the applicant is in receipt of such a reduction.

74.2 The applicant (or any person acting on his behalf) must notify any change of circumstances which the applicant (or that person) might reasonably be expected to know might affect his entitlement to, or the amount of, a reduction under the authority's scheme (a "relevant change of circumstances") by giving notice to the authority;

- (a) in writing; or
- (b) by telephone—
  - (i) where the authority has published a telephone number for that purpose unless the authority determines that in any particular case or class of case notification may not be given by telephone; or
  - (ii) in any case or class of case where the authority determines that notice may be given by telephone; or
- (c) by any other means which the authority agrees to accept in any particular case, within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.

74.3 The duty imposed on a person by sub-paragraph (1) does not extend to notifying

- (a) changes in the amount of council tax payable to the authority;
- (b) changes in the age of the applicant or that of any member of his family;
- (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under the authority's scheme to which he is entitled, other than the cessation of that entitlement to the benefit.

74.4 For the purposes of sub-paragraph (3)(c) "relevant benefit" means income support, an income-based jobseeker's allowance or an income-related employment and support allowance or universal credit.

74.5 Notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by sub-paragraph (1) to notify the authority of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he has ceased to be a child or young person.

74.6 A person who has been awarded a reduction under the authority's scheme who is also on state pension credit must report;

- (a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides;
- (b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.

74.7 In addition to the changes required to be reported under sub-paragraph (7), a person whose state pension credit comprises only a savings credit must also report—

<sup>24</sup> 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 £16,000;

(c) any change in the income or capital of;

(i) a non-dependant whose income and capital are treated as belonging to the applicant; or

(ii) a person to whom their partner is treated as member of the household,

and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.

74.8 A person who is entitled to a reduction under the authority's scheme and on state pension credit need only report to the authority the changes specified in sub-paragraphs (7) and (8).

74.9 All changes in circumstances should be notified to the authority in writing (or by whatever format agreed by the authority) within one calendar month of the happening of the event or change in circumstance. This timescale may be extended at the discretion of the authority. Where such a change is not received within that timescale and where the change would increase the level of reduction payable, the authority may use a date later than the actual change of circumstances

**Sections 75- 90**

**Decisions, decision notices and awards of Council Tax Support**

**75.0 Decisions by the authority<sup>25</sup>**

75.1 The authority must make a decision on an application under its scheme within 14 days of paragraphs 4 and 7 and section 69 being satisfied, or as soon as reasonably practicable thereafter.

**76.0 Notification of decision<sup>26</sup>**

76.1 The authority must notify in writing any person affected by a decision made by it under its scheme;  
 (a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;  
 (b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.

76.2 Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement;  
 (a) informing the person affected of the duty imposed by paragraph 9(1);  
 (b) explaining the possible consequences (including prosecution) of failing to comply with that duty; and  
 (c) setting out the circumstances a change in which might affect entitlement to the reduction or its amount.

76.3 Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement as to how that entitlement is to be discharged.

76.4 In any case, the notification under sub-paragraph (1) must inform the person affected of the procedure by which an appeal may be made and must refer the person to the provisions in the authority's scheme relating to the procedure for making an appeal.

76.5 A person affected to whom the authority sends or delivers a notification of decision may, within one month of the date of the notification of that decision request in writing the authority to provide a written statement setting out the reasons for its decision on any matter set out in the notice.

76.6 The written statement referred to in sub-paragraph (5) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.

76.7 For the purposes of this paragraph a person is to be treated as a person affected by a decision of the authority under its scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (8).

76.8 This sub-paragraph applies to—  
 (a) the applicant;  
 (b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act;  
     (i) a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or  
     (ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000(3) who has power to apply or, as the case may be, receive benefit on the person's behalf; or  
     (iii) an attorney with a general power or a power to apply or, as the case may be,

<sup>25</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>26</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,

(c) a person appointed by the authority to act for a person unable to act.

#### **77.0 Time and manner of granting council tax support<sup>27</sup>**

77.1 Where a person is entitled to a reduction under this authority's scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year ("the chargeable year"), the authority must discharge his entitlement;

(a) by reducing, so far as possible, the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992 refers; or

(b) where;

(i) such a reduction is not possible; or

(ii) such a reduction would be insufficient to discharge the entitlement to a reduction under the authority's scheme; or

(iii) the person entitled to the reduction is jointly and severally liable for the council tax and the authority determines that such a reduction would be inappropriate, by making payment to him of the amount of reduction to which he is entitled, rounded where necessary to the nearest penny.

77.2 The authority must notify the person entitled to a reduction under this scheme of the amount of that reduction and how his entitlement is to be discharged in pursuance of paragraph (1).

77.3 In a case to which paragraph (1)(b) refers;

(a) if the amount of the council tax for which he remains liable in respect of the chargeable year, after any reduction to which sub-paragraph (1)(a) refers has been made, is insufficient to enable his entitlement to a reduction under the authority's scheme in respect thereof to be discharged, upon the final instalment of that tax becoming due any outstanding reduction;

(i) must be paid to that person if he so requires; or

(ii) in any other case must (as the authority determines) either be repaid or credited against any subsequent liability of the person to make a payment in respect of the authority's council tax as it has effect for any subsequent year;

(b) if that person has ceased to be liable for the authority's council tax and has discharged the liability for that tax, the outstanding balance (if any) of the reduction under the authority's scheme in respect thereof must be paid within 14 days or, if that is not reasonably practicable, as soon as practicable thereafter

(c) in any other case, the reduction under the authority's scheme must be paid within 14 days of the receipt of the application at the offices of the authority or, if that is not reasonably practicable, as soon as practicable thereafter.

77.4 For the purposes of this paragraph "instalment" means any instalment of the authority's council tax to which regulation 19 of the Council Tax (Administration and Enforcement) Regulations 1992 refers (council tax payments).

#### **78.0 Persons to whom support is to be paid<sup>28</sup>**

78.1 Subject to section 80 (payment on death) and paragraph (2), any payment of the amount

<sup>27</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>28</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

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 reduction may be paid to that person.

**79.0 Shortfall in support / reduction<sup>29</sup>**

79.1 Where, on the revision of a decision allowing a reduction under the authority's scheme to a person, it is determined that the amount allowed was less than the amount to which that person was entitled, the authority must either;

- (a) make good any shortfall in reduction which is due to that person, by reducing so far as possible the next and any subsequent payments he is liable to make in respect of the council tax of the authority as it has effect for the chargeable financial year until that shortfall is made good; or
- (b) where this is not possible or the person concerned so requests, pay the amount of any shortfall in reduction due to that person within 14 days of the revision of the decision being made or if that is not reasonable practicable, as soon as possible afterwards.

**80.0 Payment on the death of the person entitled<sup>30</sup>**

80.1 Where the person entitled to any reduction under this scheme has died and it is not possible to award the reduction which is due in the form of a reduction of the council tax for which he was liable, the authority must make payment of the amount of the reduction to his executor or administrator in accordance with regulation 58(4) of the Council Tax (Administration and Enforcement) Regulations 1992.

**81.0 Offsetting**

81.1 Where a person has been allowed or paid a sum of council tax support under a decision which is subsequently revised or further revised, any sum allowed or paid in respect of a period covered by the subsequent decision shall be offset against arrears of entitlement under the subsequent decision except to the extent that the sum exceeds the arrears and shall be treated as properly awarded or paid on account of them.

**82.0 Payment where there is joint and several liability<sup>31</sup>**

82.1 Where;

- (a) a person is entitled to a reduction under the authority's scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year;
- (b) the person entitled to the reduction is jointly and severally liable for the council tax; and
- (c) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992(7) refers would be inappropriate,

it may make a payment to him of the amount of the reduction to which he is entitled, rounded where necessary to the nearest penny.

<sup>29</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>30</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>31</sup> Inserted by Schedule 8 of the Council Tax Reductions Scheme (Prescribed Requirements) (England) Regulations 2012

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**

**Sections 91 – 94**

**Collection, holding and forwarding of information for Council Tax Support purposes**

## **91.0 Use of information from and to the Department of Work and Pensions (DWP) and Her Majesty's Revenues and Customs (HMRC)**

91.1 The authority will use information provided by the DWP and HMRC for the purposes of Council Tax Reduction, council tax liability, billing, administration and enforcement as outlined within Schedule 2 of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012 and the Social Security (Information-sharing in relation to Welfare Services etc.) (Amendment) Regulations 2013

91.2 Where required by the relevant department and where required by law, the authority will share information obtained for Council Tax Reduction with the DWP or HMRC as appropriate and in accordance with Data Protections requirements<sup>32</sup>..

## **92.0 Collection of information**

92.1 The authority may receive and obtain information and evidence relating to claims for council tax support, the council may receive or obtain the information or evidence from–

- (a) persons making claims for council tax support;
- (b) other persons in connection with such claims;
- (c) other local authorities; or
- (d) central government departments including the DWP and HMRC

92.2 The authority may verify relevant information supplied to, or obtained.

## **93.0 Recording and holding information**

93.1 The authority may

- (a) may make a record of such information; and
- (b) may hold that information, whether as supplied or obtained or recorded, for the purpose of forwarding it to the person or authority for the time being administering council tax support.

## **94.0 Forwarding of information**

**94.1** The authority may forward it to the person or authority for the time being administering claims to or awards of council tax support to which the relevant information relates, being

- (i) a local authority;
- (ii) a person providing services to a local authority; or
- (iii) a person authorised to exercise any function of a local authority relating to council tax support.

---

<sup>32</sup> Data Retention and Investigatory Powers Act 2014 and Data Retention Regulations 2014

**Sections 95 – 98**

**Revisions, Written Statements, Termination of Council Tax Support**

#### **95.0 Persons affected by Decisions**

- 95.1 A person is to be treated as a person affected by a relevant decision of the authority where that person is;
- a. an applicant;
  - b. in the case of a person who is liable to make payments in respect of a dwelling and is unable for the time being to act
    - (i) a Deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit or support on his behalf,
    - (ii) in Scotland, a tutor, curator, judicial factor or other guardian acting or appointed in terms of law administering that person's estate, or
    - (iii) an attorney with a general power or a power to receive benefit or support appointed by the person liable to make those payments under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise;
  - c. a person appointed by the authority under this scheme;

#### **96.0 Revisions of Decisions**

- 96.1 Subject to the provisions in this scheme, a relevant decision ('the original decision') may be revised or further revised by the authority, which made the decision where the person affected makes an application for a revision within;
- (i) one month of the date of notification of the original decision; or
  - (ii) such extended time as the authority may allow.
- 96.2 The authority may revise or further revise that original decision at any time. Where further information is required from the person affected, the authority shall request such information and evidence as it feels is reasonable. Such information must be supplied within;
- i) one month of the date of notification of the additional information; or
  - (ii) such extended time as the authority may allow

#### **97.0 Written Statements**

- 97.1 Subject to the provisions in the scheme, the authority may upon a written request issue a written statement to a person affected to further explain the decision of the authority in relation to Council Tax Support. The request must be received within one month of the date of the notification being issued by the authority.

#### **98.0 Terminations**

- 98.1 The authority may terminate support in whole or in part the Council Tax Support where it appears to the authority that an issue arises whether;
- a. the conditions for entitlement to Council Tax Support are or were fulfilled; or
  - b. a decision as to an award of such a support should be revised or superseded.
- 98.2 The authority may terminate, in whole or in part the Council Tax Support where it appears to the authority that an issue arises whether;
- a. the conditions for entitlement to Council Tax Support are or were fulfilled; or
  - b. a decision as to an award of such a support should be revised or superseded.
- Where the person fails to provide information to the authority as requested in relation to any matter relating to their liability for Council Tax

## Section 99

### Appeals against the authority's decisions

**99.0 Procedure by which a person may make an appeal against certain decisions of the authority<sup>33</sup>**

- 99.1 A person who is aggrieved by a decision of the authority, which affects;
- (a) the person's entitlement to a reduction under its scheme, or
  - (b) the amount of any reduction to which that person is entitled,
- may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.
- 99.2 The authority must
- (a) consider the matter to which the notice relates;
  - (b) notify the aggrieved person in writing;
    - (i) that the ground is not well founded, giving reasons for that belief; or
    - (ii) that steps have been taken to deal with the grievance, stating the steps taken.
- 99.3 Where, following notification under sub-paragraph (2)(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with sub-paragraph (2)(b) within two months of the service of his notice, he may appeal to the valuation tribunal under section 16 of the 1992 Act<sup>34</sup> ..

---

<sup>33</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>34</sup> 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 Act<sup>35</sup>**

- 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).

---

<sup>35</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

**Section 101 – 106A<sup>36</sup>**  
**Electronic Communication**

---

<sup>36</sup> Inserted by Council Tax Reductions Schemes (Prescribed Requirements) (England) Regulations 2012

### **101.0 Interpretation**

101.1 In this Part;  
“**information**” includes an application, a certificate, notice or other evidence; and  
“**official computer system**” means a computer system maintained by or on behalf of an authority for sending, receiving, processing or storing of any information.

### **102.0 Conditions for the use of electronic communication**

102.1 The authority may use an electronic communication in connection with applications for, and awards of, reductions under its scheme.

102.2 A person other than the authority may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions specified in sub-paragraphs (3) to (6) are satisfied.

102.3 The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Chief Executive of the authority.

102.4 The second condition is that the person uses an approved method of;

- (a) authenticating the identity of the sender of the communication;
- (b) electronic communication;
- (c) authenticating any application or notice delivered by means of an electronic communication; and
- (d) subject to sub-paragraph (7), submitting to the authority any information.

102.5 The third condition is that any information sent by means of an electronic communication is in a form approved for the purposes.

102.6 The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Chief Executive of the authority.

102.7 Where the person uses any method other than the method approved of submitting any information, that information is to be treated as not having been submitted.

102.8 In this paragraph “approved” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this section.

### **103.0 Use of intermediaries**

103.1 The authority may use intermediaries in connection with;

- (a) the delivery of any information by means of an electronic communication; and
- (b) the authentication or security of anything transmitted by such means,

and may require other persons to use intermediaries in connection with those matters.

### **104.0 Effect of delivering information by means of electronic communication**

104.1 Any information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of an authority’s scheme on the day the conditions imposed;

- (a) by this section; and

(b) by or under an enactment,  
are satisfied.

104.2 The authority may determine that any information is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).

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

#### **105.0 Proof of identity of sender or recipient of information**

105.1 If it is necessary to prove, for the purpose of any legal proceedings, the identity of—  
(a) the sender of any information delivered by means of an electronic communication to an official computer system; or  
(b) the recipient of any such information delivered by means of an electronic communication from an official computer system,  
the sender or recipient, as the case may be, is to be presumed to be the person whose name is recorded as such on that official computer system.

#### **106.0 Proof of delivery of information**

106.1 If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this is presumed to have been the case where;

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

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

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

#### **106A.0 Proof of content of information**

106A.1 If it is necessary to prove, for the purpose of any legal proceedings, the content of any information sent by means of an electronic communication, the content is presumed to be that recorded on an official computer system.

**Section 107**  
**Counter Fraud and Compliance**

### **107.0 Counter Fraud and compliance**

107.1 In order to protect the finances of the authority and also in the interests of all council taxpayers, the authority will undertake such actions as allowed by law to;

- a. Prevent and detect fraudulent claims and actions in respect of Council Tax Support;
- b. Carry out investigations fairly, professionally and in accordance with the law; and
- c. Ensure that sanctions are applied in appropriate cases

107.2 The authority believes that it is important to minimise the opportunity for fraud and;

- a. will implement rigorous procedures for the verification of claims for council tax support;
- b. will employ sufficient Officers to fulfil the authority's commitment to combat fraud;
- c. will actively tackle fraud where it occurs in accordance with this scheme;
- d. will co-operate with the Department for Work and Pensions (DWP), Her Majesty's Revenues and Customs and take part in joint working including prosecutions; and
- e. will in all cases seek to recover all outstanding council tax.

107.3 The authority shall put into place such administrative policies, procedures and processes as are necessary to ensure that the actions outlined within paragraph 107.1 and 107.2 can be carried out successfully. In particular the authority shall undertake actions provided by the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.

## Schedule 1

### Applicable Amounts<sup>37</sup>

---

<sup>37</sup> <sup>37</sup> The amounts shown within this schedule shall be updated in line with the Housing Benefit Regulations 2006 as amended

### Personal Allowance

- 1 The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes the main scheme;

Column 1 Person or Couple	Column 2
1. A Single applicant who; a) is entitled to main phase employment and support allowance	£73.10
b) is aged not less than 25	£73.10
c) is aged not less than 18 but less than 25	£57.90
2. Lone Parent	£73.10
3. Couple; a) Where the applicant is entitled to the main phase of employment and support allowance	£114.85
b) Where one member is aged not less than 18	£114.85
c) Polygamous Addition	£41.75

For the purposes of paragraph 1 an applicant is entitled to main phase employment and support allowance if;

- a. Paragraph 17 or 18 is satisfied in relation to the applicant; or
- b. The applicant is entitled to a converted employment and support allowance

- 2 (1) The amount specified in column (2) below in respect of each person specified in column (1) shall, for the relevant period specified in column (1), be the amounts specified for the purposes of the main scheme

Column 1 Child or Young Person	Column 2
Person in respect of the period– (a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday;	£66.90
(b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	£66.90

(2) In column (1) of the table in paragraph (1), "the first Monday in September" means the Monday which first occurs in the month of September in any year.

### Family Premiums

3. (1) The amount for the purposes of this scheme in respect of a family of which at least one member is a child or young person shall be
- a. where the applicant is a lone parent to whom sub-paragraph (3) of Schedule 3 of the Housing Benefit Regulations 2006 applies, £22.20;
  - b. in any other case, £17.45;

## Premiums

4. Except as provided in paragraph 5, the premiums specified this Schedule shall, for the purposes of this scheme, be applicable to an applicant who satisfies the condition specified in paragraphs 4 to 16 in respect of that premium.
5. Subject to paragraph 6, where an applicant satisfies the conditions in respect of more than one premium in this this Schedule, only one premium shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.
- 6 (1) The following premiums, namely–
- a. severe disability premium to which paragraph 10 applies;
  - b. an enhanced disability premium to which paragraph 11 applies;
  - c. a disabled child premium to which paragraph 12 applies; and a
  - d. carer premium to which paragraph 13 applies,
- may be applicable in addition to any other premium which may apply under this Schedule
7. (1) Subject to sub-paragraph (2), for the purposes of this Schedule, once a premium is applicable to an applicant under this Part, a person shall be treated as being in receipt of any benefit for
- a. in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
  - b. any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the 1973 Act or by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under or section 2 of the Enterprise and New Towns(Scotland) Act 1990 for any period during which he is in receipt of a training allowance.
- (2) For the purposes of the carer premium, a person shall be treated as being in receipt of carer’s allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act or the daily living component of the personal independence payment under the Welfare Reform Act 2012 or an AFIP.

### Disability Premium

8. The condition (s) to be met is contained in Schedule 3 (12) Housing Benefit Regulations 2006

### Additional Condition for the Disability Premiums

9. The condition (s) to be met is contained in Schedule 3 (13) Housing Benefit Regulations 2006

### Severe Disability Premiums

10. The condition (s) to be met is contained in Schedule 3 (14) Housing Benefit Regulations 2006

### Enhanced Disability Premium

11. The condition (s) to be met is contained in Schedule 3 (15) Housing Benefit Regulations 2006

### Disabled Child Premium

12. The condition (s) to be met is contained in Schedule 3 (16) Housing Benefit Regulations 2006

### Carer Premium

13. The condition (s) to be met is contained in Schedule 3 (17) Housing Benefit Regulations 2006

### Persons in receipt of concessionary payments

14. For the purpose of determining whether a premium is applicable to a person under paragraphs 8 to 13, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a

payment of that benefit.

**Persons in receipt of benefit for another**

**15.** For the purposes of this Schedule, a person shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.

**Amounts of Premium**

**16.** For the purposes of this Schedule, the following amounts shall apply;

Premium	Amount
<b>Disability Premium</b>	£32.55
a. where the applicant satisfies the condition in paragraph 12(a) of Schedule 3 Housing Benefit Regulations 2006	
b. where the applicant satisfies the condition in paragraph 12(b) of Schedule 3 Housing Benefit Regulations 2006	£46.40
<b>Severe Disability Premium</b>	£62.45
a. where the applicant satisfies the condition in paragraph 14(2)(a) of Schedule 3 Housing Benefit Regulations 2006	
b. where the applicant satisfies the condition in paragraph 14(2)(b) of Schedule 3 Housing Benefit Regulations 2006	£62.45
i. in a case where there is someone in receipt of carer's allowance or universal credit carers element or if he or any partner satisfies that condition only by virtue of paragraph 14(5);	
ii. in a case where there is no one in receipt of such an allowance	£124.90
<b>Disabled Child Premium</b>	£60.90 in respect of each child or young person in respect of whom the condition specified in paragraph 16 of Part 3 of Schedule 3 Housing Benefit Regulations 2006
<b>Carer Premium</b>	£34.95 in respect of each person who satisfies the condition specified in paragraph 17 of Part 3 of Schedule 3 Housing Benefit Regulations 2006
<b>Enhanced Disability Premium</b>	(a) £24.78 in respect of each child or young person in respect of whom the conditions specified in paragraph 15 of Part 3 of Schedule 3 Housing Benefit Regulations 2006 are satisfied; (b) £15.90 in respect of each person who is neither— (i) a child or young person; nor (ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 15 are satisfied;

	<p>(c) £22.85 where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 15 of Part 3 of Schedule 3 Housing Benefit Regulations 2006 are satisfied in respect of a member of that couple or polygamous marriage.</p>
--	--

**The components**

- 17. The condition (s) to be met is contained in Schedule 3 (21 -24) Housing Benefit Regulations 2006 as amended by the Social Security (Miscellaneous Amendments) Regulations 2013
- 18. The amount of the work-related activity component is £29.05. The amount of the support component is £36.55

**Transitional Addition**

- 19. The applicant is entitled to the transitional addition calculated in accordance with paragraph 30 of Schedule 3 of the Housing Benefit Regulations 2006 where the applicant or the applicant’s partner meets the conditions contained within paragraphs 27 – 29 of Schedule 3 of the Housing Benefit Regulations 2006

**Amount of transitional addition**

- 20. The amount of any transitional addition is calculated in accordance with paragraphs 30 and 31 of Schedule 3 of the Housing Benefit Regulations 2006

**Schedule 2**

**Not Used**

### Schedule 3

#### Sums to be disregarded in the calculation of earnings<sup>38</sup>

---

<sup>38</sup> All amounts within this schedule will be amended in line with the Housing Benefit Regulations 2006 (as amended)

- 1.** In the case of an applicant who has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged—
- (a) where—
- (i) the employment has been terminated because of retirement; and
- (ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions,  
any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;
- (b) where before the first day of entitlement to council tax support the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—
- (i) any payment of the nature described in  
(aa) paragraph 25.1(e), or  
  
(bb) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds);  
and
- (ii) any award, sum or payment of the nature described in  
  
(aa) paragraph 25.1(g) or (h), or  
(bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),  
including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;
- (c) where before the first day of entitlement to council tax support—
- (i) the employment has not been terminated, but
- (ii) the applicant is not engaged in remunerative work,  
  
any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii) (bb) or paragraph 25.1(i), or (j).
- 2.** In the case of an applicant who, before first day of entitlement to council tax support;
- (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and
- (b) has ceased to be engaged in that employment, whether or not that employment has been terminated,  
any earnings paid or due to be paid in respect of that employment except;
- (i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i) or (ii)(bb);
- (ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) or paragraph 25.1(i), (i) or (j).
- 2A.** In the case of an applicant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain would

have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment any earnings derived from that employment except earnings to which paragraph 27.3 and paragraph 27.4 (earnings of self-employed earners) apply.

3.
  - (1) In a case to which this paragraph applies and paragraph 4 does not apply, £20; but notwithstanding section 15 (calculation of income and capital of members of an applicant's family and of a polygamous marriage) if this paragraph applies to an applicant it shall not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £20.
  - (2) This paragraph applies where the applicant's applicable amount includes an amount by way of the disability premium, severe disability premium, work-related activity component or support component.
  - (3) This paragraph applies where
    - (a) the is a member of a couple and his applicable amount includes an amount by way of the disability premium; and
    - (b) the or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.
  - (4)–(5) Not used
4. In a case where the applicant is a lone parent, £25.
5.
  - (1) In a case to which neither paragraph 3 nor paragraph 4 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium, £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with this scheme as being in receipt of carer's allowance.
  - (2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £20 of the aggregated amount.
6. Where the carer premium is awarded in respect of an applicant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment;
  - (a) specified in paragraph 8(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 5 exceed £20;
  - (b) other than one specified in paragraph 8(1), so much of the other member's earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 5 exceed £20.
7. In a case where paragraphs 3, 5, 6 and 8 do not apply to the applicant and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding section 15 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it shall not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £10.
8.
  - (1) In a case where paragraphs 3, 4, 5 and 6 do not apply to the applicant, £20 of earnings derived from one or more employments as–
    - (a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a

scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;

- (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005(a)) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (c) an auxiliary coastguard in respect of coast rescue activities;
- (d) a person engaged part-time in the manning or launching of a life boat;
- (e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001;

but, notwithstanding section 15 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it shall not apply to his partner except to the extent specified in sub-paragraph (2).

- (2) If the applicant's partner is engaged in employment;
  - (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the applicant's earnings disregarded under this paragraph exceed £20;
  - (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £20.

9. Where the applicant is engaged in one or more employments specified in paragraph 8(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment so much of his earnings from that other employment, up to £5 if he is a single applicant, or up to £10 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 8 exceed £20.

10. In a case to which none of the paragraphs 3 to 9 applies, £5.

10A. (1) Where;

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 12 does not apply,

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

(2) Where this paragraph applies, paragraphs 3 to 10 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 4, then paragraph 4 applies instead of this paragraph.

(3) Notwithstanding section 15 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ('A') it shall not apply to the other member of that couple ('B') except to the extent provided in sub-paragraph (4).

(4) Where A's earnings are less than the specified amount, there shall also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.

- (5) This sub-paragraph applies to a person who is;
  - (a) in receipt of a contributory employment and support allowance;
  - (b) in receipt of incapacity benefit;
  - (c) in receipt of severe disablement allowance; or

- (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975
- (6) 'Exempt work' means work of the kind described in;  
 (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations; or (as the case may be)  
 (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,  
 and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.
- (7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).
11. Any amount or the balance of any amount which would fall to be disregarded under paragraph 19 or 20 of Schedule 4 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.
12. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, his earnings.
13. Any earnings derived from employment, which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.
14. Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting that payment into Sterling.
15. Any earnings of a child or young person.
16. (1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 3 to 10A of this Schedule shall be increased by £17.10.
- (2) The conditions of this sub-paragraph are that—  
 (a) the applicant, or if he is a member of a couple, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or  
 (b) the applicant—  
 (i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or  
 (ii) is a member of a couple and  
 (aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and  
 (bb) his applicable amount includes a family premium; or  
 (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or  
 (iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and;  
 (aa) the applicant's applicable amount includes a disability premium, the work-related activity component or the support component ;

- (bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the disability premium or either of the components referred to in sub-head (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or
    - (c) the applicant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit Regulations (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.
  - (3) The following are the amounts referred to in sub-paragraph (1);
    - (a) the amount calculated as disregardable from the applicant's earnings under paragraphs 3 to 10A of this Schedule;
    - (b) the amount of child care charges calculated as deductible under paragraph 17(1)(c); and
    - (c) £17.10
  - (4) The provisions of section 6 shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that section were a reference to 30 hours.
- 17.** In this Schedule 'part-time employment' means employment in which the person is engaged on average for less than 16 hours a week.

#### Schedule 4

### Sums to be disregarded in the calculation of income other than earnings<sup>39</sup>

---

<sup>39</sup> Any amounts shown in this schedule will be uprated in line with the Housing Benefit Regulations 2006 as amended

1. Any amount paid by way of tax on income, which is to be taken into account under section 30 (calculation of income other than earnings).
- A2. Any payment made to the claim and in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.
- A3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme or Back to Work Scheme, but only for 52 weeks beginning with the date of receipt of the payment.
2. Any payment in respect of any expenses incurred or to be incurred by an applicant who is–
  - (a) engaged by a charitable or voluntary organisation, or
  - (b) volunteer,
 if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under section 32.0 (notional income).
- 2A. Any payment in respect of expenses arising out of the applicant’s participation 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 an applicant's applicable amount includes an amount by way of a family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.  
(2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments such be aggregated and treated as if they were a single payment.  
(3) A payment made by the Secretary of State in lieu of maintenance shall, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

- 48A.** (1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.
- (2) In paragraph (1) 'child maintenance' means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under;
- (a) the Child Support Act 1991;
  - (b) the Child Support (Northern Ireland) Order 1991;
  - (c) a court order;
  - (d) a consent order;
  - (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;
- 'liable relative' means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.
- 49.** Not used
- 50.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.
- 51.** Any guardian's allowance.
- 52.** (1) If the applicant is in receipt of any benefit under Parts 2, 3 or 5 of the Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of the Act, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.
- (2) If the applicant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.
- 53.** Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.
- 54.** In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983(a) (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
- 55** (1) Any payment which is
- (a) made under any of the Dispensing Instruments to a widow, widower or
  - (b) surviving civil partner of a person;
    - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
    - (ii) whose service in such capacity terminated before 31st March 1973; and
- equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.
- (2) In this paragraph 'the Dispensing Instruments' means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).

- 55A.** Any council tax support or council tax benefit to which the applicant is entitled.
- 56.** Except in a case which falls under sub-paragraph (1) of paragraph 16 of Schedule 3, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10
- 56A.–56B.** Not used
- 57.** Any payment made under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care) or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments).
- 58.** (1) Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person–  
 (a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;  
 (b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,  
 in respect of which such assistance is or was received.  
 (2) Sub-paragraph (1) shall apply only in respect of payments, which are paid to that person from the special account
- 59.** (1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).  
 (2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.  
 (3) For the purposes of sub-paragraph (2) 'food' does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.
- 60.** Where the amount of subsistence allowance paid to a person in a reduction week exceeds the amount of income-based jobseeker's allowance that person would have received in that reduction week had it been payable to him, less 50p, that excess amount.
- 61.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.
- 62.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001
- 63.** (1) Any payment made by a local authority or by the Welsh Ministers to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.  
 (2) For the purposes of sub-paragraph (1) 'local authority' includes, in England, a county council.
- 64.** Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)
- 65.** Any payment of child benefit.

**Schedule 5**  
**Capital to be disregarded<sup>40</sup>**

---

<sup>40</sup> Any amounts shown in this schedule will be uprated in line with the Housing Benefit Regulations 2006 as amended

1. The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular 5, in Scotland, any croft land on which the dwelling is situated; but, notwithstanding section 15 (calculation of income and capital of members of applicant's family and of polygamous marriage), only one dwelling shall be disregarded under this paragraph.
- A2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.
- A3. Any payment made to the applicant in respect of any travel or other expenses incurred or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme or Back to Work Scheme but only for 52 weeks beginning with the date of receipt of the payment but only for 52 weeks beginning with the date of receipt of payment.
2. Any premises acquired for occupation by the applicant, which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
3. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the applicant to complete the purchase.
4. Any premises occupied in whole or in part—
  - (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
  - (b) by the former partner of the applicant as his home; but this provision shall not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
5. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his capital.
6. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and his partner is on income-based jobseeker's allowance, the whole of the applicant's capital.
7. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
8. (1) The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.  
(2) The assets of any business owned in whole or in part by the applicant where—
  - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
  - (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business;

for a period of 26 weeks from the date on which the claim for council tax support is

made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

(3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

(3) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

9. (1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of;
- (a) any payment specified in paragraphs 7, 9 or 10 of Schedule 4;
  - (b) an income-related benefit under Part 7 of the Act;
  - (c) an income-based jobseeker's allowance;
  - (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
  - (e) working tax credit and child tax credit
  - (f) an income-related employment and support allowance

but only for a period of 52 weeks from the date of the receipt of arrears or of the concessionary payment.

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as 'the relevant sum') and is

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations; and
- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of council tax support, for the remainder of that award if that is a longer period.

(3) For the purposes of sub-paragraph(2), 'the award of council tax support' means–

- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant;
  - (i) is the person who received the relevant sum; or
  - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death.

10. Any sum

- (a) paid to the applicant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or replacement; or
- (b) acquired by the applicant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home, which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to

effect the repairs, replacement or improvement.

- 11.** Any sum—
  - (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 or section 338(1) of the Housing (Scotland) Act 1987 as a condition of occupying the home;
  - (b) which was so deposited and which is to be used for the purchase of another home,for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the applicant to complete the purchase.
- 12.** Any personal possessions except those which have been acquired by the applicant with the intention of reducing his capital in order to secure entitlement to council tax support or to increase the amount of that support.
- 13.** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 14.** Where the funds of a trust are derived from a payment made in consequence of any personal injury to the applicant or applicant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.
- 14A.** (1) Any payment made to the applicant or the applicant's partner in consequence of any personal injury to the applicant or, as the case may be, the applicant's partner.  
  
(2) But sub-paragraph (1)
  - (a) applies only for the period of 52 weeks beginning with the day on which the applicant first receives any payment in consequence of that personal injury;
  - (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
  - (c) ceases to apply to the payment or any part of the payment from the day on which the applicant no longer possesses it;
  - (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the applicant.(3) For the purposes of sub-paragraph (2)(c), the circumstances in which an applicant no longer possesses a payment or a part of it include where the applicant has used a payment or part of it to purchase an asset.  
  
(4) References in sub-paragraphs (2) and (3) to the applicant are to be construed as including references to his partner (where applicable).
- 15.** The value of the right to receive any income under a life interest or from a life rent.
- 16.** The value of the right to receive any income, which is disregarded under paragraph 13 of Schedule 3 or paragraph 25 of Schedule 4.
- 17.** The surrender value of any policy of life insurance.
- 18.** Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
- 19.** Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

- 19A.** (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ('A') which A passes on to the applicant.
- (2) Sub-paragraph (1) applies only where A;
- (a) was formerly in the applicant's care, and
  - (b) is aged 18 or over, and
  - (c) continues to live with the applicant.
- 20.** Any social fund payment made pursuant to Part 8 of the Act.
- 21.** Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.
- 22.** Any capital which, by virtue of sections 31 or 51 (capital treated as income, treatment of student loans) is to be treated as income.
- 23.** Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
- 24.** (1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the Charitable Fund.
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) the person who is suffering from haemophilia or who is a qualifying person;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers,

where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either;
  - (i) to that person's parent or step-parent; or
  - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian, but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or any of the Trusts to which sub-paragraph (1) refers, where

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either;
  - (i) to that person's parent or step-parent; or
  - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian, but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose support payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited the Skipton Fund, the Caxton Foundation, and the London Bombings Relief Charitable Fund.

**25.** (1) Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph 'dwelling' includes any garage, garden and outbuildings, which were formerly occupied by the applicant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.

**26.** Any premises where the applicant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

**27.** Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

- 28.** Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.
- 29.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 30.** Not used
- 31.** The value of the right to receive an occupational or personal pension.
- 32.** The value of any funds held under a personal pension scheme
- 33.** The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.
- 34.** Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
- 35.** Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.
- 36.** Not used.
- 37.** Any payment in consequence of a reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992 (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.
- 38.** Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988 or section 66 of the Housing (Scotland) Act 1988 (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—
- (a) to purchase premises intended for occupation as his home; or
  - (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,
- for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of those premises as his home.
- 39.** Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.
- 40.** (1) Any payment or repayment made—
- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
  - (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
  - (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service

(Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers, which is analogous to a payment, or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of the receipt of the payment or repayment.

- 41.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.
- 41A.** Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).
- 42.** Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.
- 43.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.
- 44.** Not used
- 45.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958 to homeworkers assisted under the Blind Homeworkers' Scheme.
- 46.** (1) Subject to sub-paragraph (2), where an applicant satisfies the conditions in section 131(3) and (6) of the Act (entitlement to alternative maximum council tax support), the whole of his capital.  
(2) Where in addition to satisfying the conditions in section 131(3) and (6) of the Act the applicant also satisfies the conditions in section 131(4) and (5) of the Act (entitlement to the maximum council tax support), sub-paragraph (1) shall not have effect.
- 47.** (1) Any sum of capital to which sub-paragraph (2) applies and  
(a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;  
(b) which can only be disposed of by order or direction of any such court; or  
(c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.  
(2) This sub-paragraph applies to a sum of capital which is derived from;  
(a) an award of damages for a personal injury to that person; or  
(b) compensation for the death of one or both parents where the person concerned is under the age of 18.
- 48.** Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules, where such sum derives from  
(a) award of damages for a personal injury to that person; or  
(b) compensation for the death of one or both parents where the person concerned is under the age of 18.

- 49.** Any payment to the applicant as holder of the Victoria Cross or George Cross.
- 50.** Not used
- 51.** In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.
- 52.** (1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).
- (2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.
- (3) For the purposes of sub-paragraph (2) 'food' does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.
- 53.** (1) Any payment;
- (a) by way of an education maintenance allowance made pursuant to—
- (i) regulations made under section 518 of the Education Act 1996;
- (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
- (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
- (b) corresponding to such an education maintenance allowance, made pursuant to;
- (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
- (ii) regulations made under section 181 of that Act ;
- or in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.
- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to;
- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992, in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).
- 53A.-53B.** Not used
- 54.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.
- 55.** Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.
- 56.** Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or interment of—

- (a) the applicant;
- (b) the applicant's partner;
- (c) the applicant's deceased spouse or deceased civil partner; or
- (d) the applicant's partner's deceased spouse or deceased civil partner,

by the Japanese during the Second World War, £10,000.

57. (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is
- (a) a diagnosed person;
  - (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
  - (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
  - (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.
- (2) Where a trust payment is made to;
- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
  - (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending—
    - (i) two years after that date; or
    - (ii) on the day before the day on which that person—
      - (aa) ceases receiving full-time education; or
      - (bb) attains the age of 20,whichever is the latest.
- (3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is—
- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
  - (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
  - (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death, but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.
- (4) Where a payment as referred to in sub-paragraph (3) is made to—
- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date; or
  - (c) person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and

- ending—
- (i) two years after that date; or
  - (ii) on the day before the day on which that person
    - (aa) ceases receiving full-time education; or
    - (bb) attains the age of 20,whichever is the latest.
- (5) In this paragraph, a reference to a person—
- (a) being the diagnosed person's partner;
  - (b) being a member of a diagnosed person's family;
  - (c) acting in place of the diagnosed person's parents,
- at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.
- (6) In this paragraph— 'diagnosed person' means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld- Jakob disease;
- 'relevant trust' means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeld- Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;
- 'trust payment' means a payment under a relevant trust.
- 58.** The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant's partner, the applicant's deceased spouse or deceased civil partner or the applicant's partner's deceased spouse or deceased civil partner
- (a) was a slave labourer or a forced labourer;
  - (b) had suffered property loss or had suffered personal injury; or
  - (c) was a parent of a child who had died,
- during the Second World War.
- 59** (1) Any payment made by a local authority, or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service, which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.
- (2) For the purposes of sub-paragraph (1) 'local authority' includes in England a county council.
- 60.** Any payment made under regulations made under section 57 of the Health and Social Care Act 2001 or under section 12B of the Social Work (Scotland) Act 1968, or under section 12A to 12D of the National Health Service Act 2006 (direct payments for health care).
- 61.** Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 62.** Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).
- 63.** Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)

**This page is intentionally left blank**

Key Dates	Area	Comment	Action Required Local Authority	Date Action Required	Action Required ACS	Date Action Required
<b>Jan-May 18</b>	Banded scheme levels and design	Establish financial requirements Overall cost of scheme Agree details of scheme	Determine levels within each scheme for consultation. Modelling for individual LA's and cross Devon Localisation of scheme	<b>Prior to political Sign off for consultation</b>	Agree basis of scheme documentation.	<b>May</b>
<b>June/July</b>	Sign off the scheme with members and precepting authorities	Formal sign off required prior to Consultation with public	All LAs achieve 'political sign off' for consultation	<b>June/July</b>	Full Draft Section 13A Policy Major precepting Authorities sign off D & S F & R, DCC D7 CPA	<b>June/July</b>
	Creation of EIAs	Requirement to undertake EIA for all Changes made	Each LA to undertake EIA for their area on changes made	<b>June/July</b>	Co-ordination of Common effects	<b>June/July</b>
<b>August/September/October</b> (May need Earlier start date)	Public Consultation (Assumed 12 weeks)	Decide method and approach to consultation – major scheme change – Common approach and timescale	LA to establish what local requirements are for public consultation	<b>August</b>	Skeleton 'Easy Read' Version of scheme	<b>August</b>
	Analyse responses from Public	Final scheme amendments	All LAs to consider responses and Consider changes required consider changes required	<b>October</b>	Amendments to documentation	<b>October</b>
<b>Nov/Dec/January 2019</b>	Obtain member agreement Final Modelling Full Council sign off	Full Council agreement By 31 <sup>st</sup> January 2019	All LAs to achieve sign off by 31 <sup>st</sup> January 2019	<b>Nov/December/January</b>	Final documentation For publication	<b>November/December/January</b>

**This page is intentionally left blank**

## Equality Impact Assessment (Appendix 3) – South Hams District Council Council Tax Reduction Scheme 2018/19

Lead Officer	Lorraine Mullineaux Benefit Specialist
Service	Housing, Housing Benefit and Revenues COP
Proposed change to service	Council Tax Reduction scheme for April 2018
Reason for the service change	<p>The Council Tax Benefit scheme was abolished by the Welfare Reform Bill from April 2013. This was replaced with a local Council Tax Reduction scheme. The Council implemented a Council Tax Reduction scheme which was very similar to the previous Council Tax Benefit system. From April 2013 the only change applied was to abolish Second Adult Rebate claims for working age claimants. The shortfall in funding was covered by council tax technical reform changes rather than reducing the level of support provided in Council Tax Reduction.</p> <p>From April 2014 and after public consultation the following scheme was agreed:</p> <p><b>80% maximum liability restriction</b> meaning that working age claimants paid a minimum of 20% towards their Council Tax bill.</p> <p><b>A property valuation band D restriction</b> meaning that working age claimants living in larger properties did not receive greater levels of support than those living in small properties</p> <p><b>An exceptional hardship fund</b> to help those claimants experiencing severe financial difficulties</p> <p>The Council's overall budget has continued to be cut by Central Government. It is for local councils to determine how to manage the funding gap and whether any further cuts should be made to the current Council Tax Reduction scheme for working age customers.</p> <p>There are strict guidelines from the Government to ensure support for pensioners will remain at the same level as now and will be delivered through a national framework of criteria and allowances.</p> <p>To date there have been no changes to the scheme that was introduced on 1st April 2014.</p> <p>South Hams District Council will need to agree the scheme which will be affective from April 2018 by 31<sup>st</sup> January 2018. If no scheme is approved the Council will continue with the scheme as agreed for April 2017/18</p>
Information about users , research or other evidence	<p>Those who benefit from CTR are working age people, on low incomes, living within the district that have a liability to pay Council Tax.</p> <p>The scheme is "means tested" and the amount of CTR awarded depends on the customer's income, capital and household details. The amount of award can be up to 80% of the Council Tax Liability. Those who work and qualify</p>

	<p>because they are on a low income are generally less likely to get maximum CTR. If anyone has capital in excess of £6,000 they will not qualify for Council Tax Support.</p> <p>The Government set the following conditions on local authorities localised schemes:</p> <ul style="list-style-type: none"> <li>• Low income pensioners will be fully protected from any change.</li> <li>• No change can be made to the 25% single person discount.</li> <li>• Schemes must have regard to their statutory duties under Child Poverty Act, Equality Act, Housing Act 1986 (homelessness duty), chronically Sick and Disabled.</li> <li>• Schemes must not encourage benefit dependency and must ensure they provide sufficient incentive to work.</li> </ul> <p>South Hams District Council has the option of developing a new scheme or continuing with the current scheme. It is with the above conditions in mind that we are recommending that we continue with the current scheme in 2018/19</p>
--	---

**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</p> <p><b>Page 336</b></p>	<p>Working age customers suffer disproportionately due to the need to protect pensioners from financial loss.</p>

	<p>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>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>The CTRS continues to be based, in general, on the previous Council Tax Benefit rules. This provides protection and increased assistance for the disabled through various means such as income disregards and addition of premiums.</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>May find it difficult to understand information and not know if they are entitled to claim CTR.</p>

MARITAL STATUS, family circumstances or caring responsibilities	Positive	Negative

--	--	--

SEX(gender )	Positive	Negative
	The scheme does not discriminate against gender	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 2 children.

Race/Ethnicity Religion/Belief Sexual Orientation	Positive	Negative
No CTR data held for these	<ul style="list-style-type: none"> <li>The scheme will not treat people in these groups any differently</li> </ul>	

General	Positive	Negative

**Submissions from Interested parties ;**

General publicity for all residents e.g press releases, South Hams Connect sessions, static displays, website.

**Issues and Recommendations**

All claimants should pay something. All working age claimants should pay 20% towards their Council Tax. This affects all claimants, except pensioners whom are protected.

To protect the most vulnerable South Hams District Council will have a vulnerability/hardship fund to act as a safety net. This will allow for individual circumstances to be taken into account when appropriate.

**Action Plan & Review.**

December 2017            Options for final scheme will be considered by Members

April 2018 onwards.    See Appendix 2 for 2018/19 Timescales



**This page is intentionally left blank**

## Appendix 4

Local Authority	Limit Liability	Band Restriction	Upper Capital Limit	Welfare Reform Changes following Housing Benefit in 2017/18	Minimum Income Floor	Changes Proposed for 2018/19	Hardship Fund	Other
East Devon District Council	80%	Band D	£8,000	All	Yes	Consulting on fixed period averages for Universal Credit claims	Yes	
Exeter City Council	80%	N/A	£6,000	Some	Yes	No changes	Yes	2017/18 didn't include 2 child restriction and removal of family premium
Mid Devon District Council	80%	Band D	£8,000	All	Yes	No changes	Yes	
North Devon District Council	75%	Band D	£6,000	All	Yes	Updating the policy to include "The authority may use information provided by the DWP and HMRC for the purposes of Council Tax Reduction, council tax liability, billing administration and enforcement"	Yes	Increased earnings disregard
South Hams District Council	80%	Band D	£16,000	None	No	None	Yes	

## Appendix 4

<b>Teignbridge District Council</b>	<b>100%</b>	<b>N/A</b>	<b>£16,000</b>	<b>All</b>	<b>Yes</b>	<b>Updating the policy as per North Devon</b>	<b>No</b>	
<b>Torrige District Council</b>	<b>75%</b>	<b>Band D</b>	<b>£6,000</b>	<b>None</b>	<b>No</b>	<b>Updating the policy as per North Devon</b>	<b>Yes</b>	
<b>West Devon Borough Council</b>	<b>80%</b>	<b>Band D</b>	<b>£16,000</b>	<b>None</b>	<b>No</b>	<b>None</b>	<b>Yes</b>	
<b>Unitary Authorities</b>								
<b>Torbay</b>	<b>72.5%</b>	<b>N/A</b>	<b>£6,000</b>	<b>Some</b>	<b>Yes</b>	<b>Liability reduced to 70% and Band restriction to</b>	<b>Yes</b>	<b>In 2017/18 didn't remove severe disability premium or make the Employment Support Allowance changes. In 2018/19 reducing Liability to 70% and restricting to Band D and also changing working in the policy as per North Devon</b>
<b>Plymouth</b>	<b>78%</b>	<b>Band E</b>	<b>£6,000</b>	<b>Some</b>	<b>Yes</b>	<b>None</b>	<b>Yes</b>	<b>2017/18 didn't include 2 child restriction and removal of family premium</b>

Report to: **South Hams Executive**  
Date: **7 December 2017**  
Title: **Procurement of new ICT systems**  
Portfolio Area: **Support Services – Councillor S. Wright.**

Wards Affected: **All**

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

Author: **Mike Ward** Role: **IT Community of Practice Lead**

Contact: **email: [mike.ward@swdevon.gov.uk](mailto:mike.ward@swdevon.gov.uk) 01803 861310**

**Recommendation:**

That the Executive supports officers in their investigation and evaluation of computer systems capable of replacing the current solution acquired under T18, as set out in paragraph 4 of the report.

## 1. Executive Summary

- 1.1 We are seeking to procure a modern cloud hostable system or systems capable of realizing further efficiencies and financial savings while delivering improved customer facing services, workflow and back office systems with seamless integration.

## 2. Background

- 2.1 The transformation of technology was at the heart of our new operating model. Technology was introduced, enabling us to support the new ways of working with the successful introduction of new infrastructure to support the W2 and APP platforms, WiFi throughout Follaton House and Kilworthy Park, and a new Skype for business telephony system which enabled effective home working. A new website was developed with the focus on self-serve,

Modern. Gov was introduced and iPads issued to members, enabling paperless working and the task of migrating data and documents from old systems to new, was undertaken. Following a substantial analysis of the council's processes, workflow was introduced which captured business knowledge into over 224 live processes enabling web and customer transactions to enter back office systems automatically.

- 2.2 Whilst the current software solution is a platform provided by a single supplier, the solution's component parts have proved difficult to integrate and it has failed to provide us with a single customer record, website customer portal, Report It, Planning Search, mobile working, and Land Charges solution. Some of these components have been acquired from other suppliers at additional cost. A more modern platform would enable both councils to realise even greater efficiencies and savings.
- 2.3 Our existing contract with Civica expires in April 2019, and it would be appropriate to examine the market for alternatives at this time and report progress back to Executive by April 2018.

### **3. Current Status**

- 3.1 Preliminary engagements with potential suppliers are already underway in order to "Test the Market", and for officers to gain an understanding of the potential for transforming our existing Computer systems.

### **4. Proposed Way Forward**

- 4.1 In our IT strategy, we commit to continually reviewing and comparing our existing solutions with others available, and to consider replacement of existing systems where appropriate.
- 4.2 Officers will continue to investigate and evaluate a system or systems capable of replacing the current solutions, with a platform able to deliver better services while reducing cost. The scope will include CRM, web, online payments, workflow, mobile and line of business software such as Land Charges, Planning, Environmental Health, Licensing, GIS and Document Management
- 4.3 We will build on the lessons learned from the T18 technology procurement and implementation, aiming to procure a modern, flexible platform which will serve the needs of the Councils for the foreseeable future, namely:-
  - 4.3.1 We will set out with a clear vision of what our requirements are, and the architecture we expect to be able to deliver it.
  - 4.3.2 We will describe our requirements in specific terms, against which we will be able to measure deliverables and quality.
  - 4.3.3 We will market test and evaluate working installations at reference sites prior to solution procurement. We will solicit the experiences of existing customers with potential suppliers as part of our evaluation process.

- 4.3.4 Our Project plans will be agreed by all parties, be realistic and fully resourced, where quality is given equal emphasis time and cost. This will include, installation, migration, testing and documentation. Project roles and responsibilities will be clearly defined
- 4.3.5 We will engage with our officers and stakeholders at all stages of the procurement and implementation in order to ensure that any solution we acquire meets the needs of the business.
- 4.3.6 Implementation will be through a phased approach, rather than “big bang”.
- 4.3.7 We will ensure support models are suitable for supporting customer facing 24x7 expectation of Web users, as well as officer facing software.
- 4.3.8 Should we procure a new system, we will lower the cost of the procurement process by using a g-cloud procurement framework agreement.

## 5. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	N	None
Financial	Y	Officer time and travel during the course of evaluation and market testing. The costs and benefits of procuring a system is at this point, not known.
Risk	Y	ICT systems improvement will reduce risk to corporate reputation and service failure.
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

**This page is intentionally left blank**

Report to: **Executive Committee**  
Date: **7<sup>th</sup> December 2017**  
Title: **Food Safety Audit Report**  
Portfolio Area: **Customer First – Cllr N Hopwood**  
Wards Affected: **All**  
Relevant Scrutiny Committee: **Overview and Scrutiny**  
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)

Author: **Ian Luscombe** Role: **Community of Practice  
Lead Environmental Health  
and Licensing**

Contact: **Ian.Luscombe@swdevon.gov.uk**

---

## **RECOMMENDATIONS:**

- 1. That the Committee have the opportunity to comment upon the content of the Food Standards Agency Audit and endorse the Action Plan being implemented to maintain and improve performance within the Food Safety function**
- 2. To agree and endorse the content of the Food Safety Service Plan 2017/18**

### **1. Executive summary**

1.1 The report outlines the Action Plan that has been developed to implement the recommendations contained within the Food Standards Agency's Audit Report arising from the Food Standards Agency Audit carried out in July 2017.

1.2 The report also introduces the Food Safety Service Plan 2017/18, in accordance with the requirement of the Food Standards Audit to draw up,

document and implement the 2017/18 Service Plan in accordance with the Service Planning Guidance in Chapter 1 of "The Framework Agreement on official Feed & Food Controls by Local Authorities" ("The Framework Agreement").

1.3 The Food Safety Service, including its inspection programme, is a statutory function that supports the Councils priorities and objectives and also supports the local economy.

1.4 Failure to deliver the service in line with National Performance Measures may result in reputational harm to the Council and increased risk to public health.

## **2. Background**

2.1 The Food Safety Service has been evolving within the new operating model, and has adversely been affected by a number of internal and external factors over a number of years.

2.2 The Food Safety service has previously targeted higher risk premises as part of its inspection programme. We have aimed to inspect 100% of higher risk food premises (Category A to C) and 80% lower risk (Category D and E) in 2016/17.

2.3 The Council reports food safety inspection data to the Food Standards Agency every year as part of the Local Authority Enforcement Monitoring System (LAEMS)

2.3 The Food Standards Agency regularly audit Council's Food Safety Services for compliance with the National Food Safety Code of Practice. The recent audit of the Council's Food Safety Service has highlighted that the Code of Practices identifies that 100% of all food premises (Categories A to E) should be subject to a food safety inspection.

2.4 The Food Standards Agency also audited compliance with procedural requirements and Officers training and authorisation.

2.5 The final audit report may be found in Appendix 1.

## **3. Outcomes/outputs**

3.1 The Food Standards Agency Food Safety Audit report provides a comprehensive assessment of the Councils food safety function and identifies both the strengths and areas for improvement.

3.2 The development, implementation and ongoing monitoring of a robust Action Plan in order to address the findings and key recommendations of the Report will ensure that improvements are delivered.

3.3 A key requirement of the audit was for the Council to produce a Food Safety Service plan for 2017/18.

#### **4. Proposed Way Forward**

4.1 The Report identifies areas where improvements can be made. These are documented in the Food Safety Audit Report in Appendix 1.

4.2 An Action plan (Appendix 2) has been developed to address these issues. In some areas, substantial progress has already been made and this is included within the Plan which includes actions, timescales and responsible officers. This has been sent to the Food Standards Agency as requested.

4.3 The main requirement of the Action Plan is that a Service Plan is developed that identifies targets in accordance with the requirement of the National Code of Practice and identifies the correct resource required to comply with the requirement. The 2017/18 Service Plan is attached to this report (Appendix 3)

#### **5. Summary and Conclusions**

5.1 The Food Standards Agency Food Safety Audit Report made a number of key recommendations in order to improve performance in line with national requirements. As a result an Action Plan has been developed which will enable improvement to be monitored.

#### **6. Implications**

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The provision of a high performing food safety service will comply with the statutory responsibility to carry out a programme of food inspections in line with the Food Safety Law Code of Practice . The development, implementation and monitoring of the proposed action plan will support this provision.

Financial	Y	There are financial risks associated with not regulating food safety in the local economy.
Risk	Y	There are reputational risks associated with the performance of the Food Safety Team. Whilst there have been a number of factors that have had an adverse impact on the service, performance will improve to match the national food safety regulation requirement.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	There are no equality and diversity implications directly related to this report.
Safeguarding	N	There are no safeguarding implications directly related to this report.
Community Safety, Crime and Disorder	N	There are no community safety or crime and disorder implications directly related to this report.
Health, Safety and Wellbeing	N	The provision of the Food Safety service ensures that food businesses are effectively regulated to ensure that they are supplying food that is safe to the public.
Other implications	N	N/A

### **Supporting Information**

#### **Appendices:**

Appendix 1: Food Standards Agency Food Safety Audit

Appendix 2: Food Safety Action Plan

Appendix 3: Food Safety Service Plan 17-18

#### **Background Papers:**

None.

**Audit of Food Hygiene Service Delivery  
Focusing on Service Organisation,  
Management and Internal Monitoring  
Arrangements**

South Hams District Council and West  
Devon Borough Council Shared Service  
24<sup>th</sup> May 2017



# Table of Contents

<b>1.0</b>	<b>Introduction</b>	<b>3</b>
<b>2.0</b>	<b>Scope of the Audit</b>	<b>4</b>
<b>3.0</b>	<b>Background</b>	<b>4</b>
<b>4.0</b>	<b>Executive Summary</b>	<b>5</b>
<b>5.0</b>	<b>Audit Findings</b>	<b>6</b>
5.1	Service Organisation & Management	6
5.2	Service Planning	8
5.3	Service Delivery	9
5.4	Database	11
5.6	Documented Policies and Procedures	15
5.7	Ensuring an Effective and Consistent Service	16
	<b>ANNEX A - Action Plan for South Hams &amp; West Devon Shared Service</b>	<b>19</b>
	<b>ANNEX B - Audit Approach/Methodology</b>	<b>23</b>
	<b>ANNEX C - Glossary</b>	<b>26</b>

## 1.0 Introduction

- 1.1 This is a report on the outcomes of the Food Standards Agency's (FSAs) audit of Food Hygiene Service Delivery, focussing on Service Organisation, Management and Internal Monitoring Arrangements, conducted at **South Hams District Council and West Devon Borough Council** on the **24<sup>th</sup> May 2017**. The audit was carried out as part of a programme of audits on local authorities (LA) in England. The report has been made available on the Agency's website at:

[www.food.gov.uk/enforcement/auditandmonitoring/auditreports](http://www.food.gov.uk/enforcement/auditandmonitoring/auditreports)

Hard copies are available from the FSA by emailing the FSA at [LAAudit@foodstandards.gsi.gov.uk](mailto:LAAudit@foodstandards.gsi.gov.uk) or telephoning 01904 232116.

- 1.2 The power to set standards, monitor and audit local authority feed and food law enforcement services was conferred on the Food Standards Agency by the Food Standards Act 1999 and the Official Feed and Food Controls (England) Regulations 2009. This audit was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.
- 1.3 Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, includes a requirement for competent authorities to carry out internal audits or to have external audits carried out. The purpose of these audits is to verify whether official controls relating to feed and food law are effectively implemented. To fulfil this requirement, the Food Standards Agency, as the central competent authority for feed and food law in the UK has established external audit arrangements. In developing these, the Agency has taken account of the European Commission guidance on how such audits should be conducted.<sup>[1]</sup>
- 1.4 The Shared Service ("the Service") was included in the Food Standards Agency's programme of audits of local authority food law enforcement services because of the relatively low percentage of planned interventions achieved based on data submitted by the Service to the FSA via the Local Authority Enforcement Monitoring System (LAEMS).
- 1.5 For assistance, a glossary of technical terms used within the audit report can be found at Annex C.

---

<sup>[1]</sup> Commission Decision of 29 September 2006 setting out the guidelines laying down criteria for the conduct of audits under Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls to verify compliance with feed and food law, animal health and animal welfare rules (2006/677/EC)

## **2.0 Scope of the Audit**

- 2.1 The audit examined arrangements for organisation, management, and internal monitoring arrangements with regard to food hygiene law enforcement. Assurance was sought that key Service food hygiene systems and arrangements were in place and effective, including suitable arrangements for the internal monitoring of official controls delivered by the Service. The on-site element of the audit took place at South Hams District Council offices, Follaton House, Plymouth Road, Totnes, Devon, TQ9 5NE.

## **3.0 Background**

- 3.1 South Hams District Council covers some 906 sq km of South Devon and is predominantly rural in nature, situated between the unitary authorities of Plymouth and Torbay. It encompasses some 50 miles of coastline to the south and 19% of the Dartmoor National Park to the north. There is a resident population of greater than 88,000 which increases considerably during the summer months as a result of tourism. The centres of population are within the four main towns of Totnes, Ivybridge, Dartmouth and Kingsbridge. The operational base is Follaton House, Totnes.
- 3.2 West Devon Borough Council is very rural in nature and covers some 1160 sq km of which 45% is situated within Dartmoor National Park. The Borough borders Torridge and North Devon to the north and Cornwall to the west. There is a resident population in excess of 53,500. The main centres are the towns of Tavistock and Okehampton. The operational base is Kilworthy Park, Tavistock.
- 3.3 South Hams District Council and West Devon Borough Council has grown as a shared Environmental Health Service since 2007. Both local authorities are politically separate and both councils have Portfolio Holders with specific responsibility for food safety. However, the Service shares the same organisational structure and personnel from the Head of Paid Service to the frontline staff.

## **4.0 Executive Summary**

- 4.1 This audit of South Hams & West Devon shared food safety service (the “Service”) sought to gain assurance that key Service food hygiene law enforcement systems and arrangements were effective in supporting business compliance, and that local enforcement was managed and delivered effectively. The audit focused on the Service’s service organisation, management and internal monitoring arrangements.
- 4.2 The two local authorities of South Hams and West Devon had merged a number of services over several of years, including Environmental Health and Food Safety. At the time of audit the shared service arrangements for Environmental Health were complete and a stable relationship was evident, databases having been merged in 2015. This had necessitated a period of database cleansing which had been accompanied by both planned and unplanned losses in staff resource.
- 4.3 Service planning had been carried out but some details on targets, resources and performance review were absent. A significant number of unrated, C, D and E risk rated food businesses were overdue a food hygiene intervention. The visibility of ongoing performance against nationally set intervention targets could be improved for Members and internal monitoring arrangements were in place but not complete.

### **Strengths:**

- 4.4 The Service had a number of specific aspirations in progress or at the planning stage and intended to make efficiency gains in service delivery.
- 4.5 Auditors were advised that the Service made use of “locality officers” in other service areas to provide intelligence on food businesses.
- 4.6 The Service had been active in third party audit and peer review activities, engaging in an internal audit, national FSA audit and regional peer review exercise since 2015.

### **Key areas for improvement;**

- 4.7 The Service Plan for 2016/17 did not provide a detailed estimate of the resources required to run the Service compared to the resources available to form a basis for its business planning to meet Food Law Code of Practice (FLCoP) requirements.

- 4.8 The Service had a significant number of medium and lower risk food premises that were overdue an intervention, some by up to nine years. This posed a potential increased risk to consumer protection and the reputation of both local authorities due to possible changes in the type and nature of business operations and food safety management controls at businesses left without an intervention for long periods. Following a recent corporate transformation process and loss of staff resource, the Service was developing measures with the objective of making efficiency gains. It was too early to determine whether these measures would mitigate these risks and reduce the backlog of interventions.
- 4.9 Performance reports to elected members did not compare performance against the national intervention frequency standards set out by the FLCoP. As a result Service performance and the associated risks to consumer safety were not as transparent as they could be.
- 4.10 Officers had not yet been authorised for the Trade in Animal and Related Products Regulations, limiting the Service's ability to respond quickly in the event of an incident involving illegally imported foods. Only one officer had been authorised to close food premises or prohibit a process in an emergency, potentially limiting business continuity in these circumstances.

## **5.0 Audit Findings**

### **5.1 Service Organisation & Management**

- 5.1.1 The Senior Specialist Environmental Health Officer (who was the technical lead for the food safety team and Lead Food Officer) was accountable to the Specialist Manager and the Community of Practice Lead (Environmental Health & Licensing). The Specialist Manager and Community of Practice Lead were directly accountable to the Executive Director, Strategy and Commissioning and Head of Paid Service.
- 5.1.2 The Senior Specialist managed a team of officers carrying out food hygiene, health and safety, infectious disease investigations and other non-food related duties for the Service.
- 5.1.3 Following a corporate review, the Service had lost a number of experienced staff to voluntary redundancy since 2015, resulting in a reduction in Food Safety Team full time equivalent (FTE) staff from 5.8 (4.3 professional and 1.5 administrative) in March 2015 to 4.7 (3.2 professional and 1.5 administrative) in March 2016, according to LAEMS figures reported by both local authorities. In addition, during 2016 the Team had lost a further 1.04 FTE to long term absence and the diversion of 0.4 FTE to a corporate health and safety project. Auditors were advised that this resource was anticipated to return to

the team in 2017/18. At the time of the audit the Service indicated that its Food Safety Team resource was 3.5 FTE (2.5 FTE professional and 1 FTE administrative).

- 5.1.4 Following the corporate review, some additional funding was provided to the Service in 2016 in the form of 'transitional resource' to mitigate the loss of administrative staff and support changes to processes. It was reported that little of this funding now remained.
- 5.1.5 At the time of the audit the Food Safety Team was in the process of planning / implementing the following measures aiming to make efficiency gains:
- The use of online business forms for food registrations, Food Hygiene Rating Scheme (FHRS) appeals and food complaints.
  - "Scripting", or the use of "case managers" to release specialist officer time to be used more efficiently.
  - Mobile technology to allow inspections to be recorded in the field, automatically uploaded and forms to be pre-populated, saving specialist officer and administrative time.

Implementation of the first measure was anticipated during 2017/18, the second measure was already operational and the third had no target for implementation in place and was still in a trial period. The Service was unable to provide specific figures to quantify the expected efficiency gains, or precise targets for implementation.

- 5.1.6 In relation to opportunities to charge for services, Members had made a corporate decision not to pursue a Local Authority Controlled Company (LACC). Members had since been approached with a draft business case for charging for services within the food safety team. No decision had been made at the time of this audit.
- 5.1.7 Auditors discussed how the corporate and public health risks arising from the backlog of overdue food hygiene inspections was communicated to Members. The Service reported its performance to the Scrutiny Committees of each council quarterly through one Key Performance Indicator (KPI). The KPI was the "number of due A, B and C risk rated interventions carried out for each Service. However, the KPI was not set against the prescribed intervention frequencies required by the FLCoP. The Service acknowledged that this did not provide a clear indication to members of performance against legal requirements.
- 5.1.8 Members were not involved in the service planning or review process. The Authority maintained a corporate risk register. Auditors were advised that there were no food safety service risks identified in that register.

5.1.9 Auditors observed that service performance and the risks to public health of failure could be made more transparent to elected members, in part by communicating intervention targets and performance against the national benchmarks prescribed by the FLCoP.

5.1.10 Auditors were advised that no further budget cuts or Service re-structures were anticipated at present.

## **5.2 Service Planning**

5.2.1 The Service had put in place a Food Safety Service Plan for 2016/17, which had been drafted by the Senior Specialist in consultation with the Community of Practice Lead (Environmental Health & Licensing). The latter was responsible for approving and reviewing the Service Plan.

5.2.2 The Plan generally identified all the statutory demands placed on it by the FLCoP, the Standard in the Framework Agreement and centrally issued guidance. However it did not clearly identify (or aim to meet) the requirement to complete all due food interventions as specified by the FLCoP and did not specify the corresponding number of interventions due. The Plan would benefit from explicitly stating the number of interventions due for the year for each risk rating category including any backlog and unrated business in accordance with the FLCoP.

5.2.3 In the determination of its work plan for the year (particularly intervention targets), the Plan did not include:

- An assessment of the resources required to deliver each part of the Service to the standard required by the Framework Agreement and FLCoP (particularly interventions and internal monitoring)
- A comparison of the resources required and the resources available for each part of the Service
- Details of the impact on the Service resulting from any shortfall in resource / FTE.

5.2.4 The Plan did include some FTE figures, but the Service acknowledged that they were not limited to food hygiene duties only. Auditors were advised that a more accurate figure had been provided in the LAEMS return based on an informal assessment.

5.2.5 The Service had approached work and work planning in a risk based manner. Interventions had been generally prioritised by risk category and the sampling programme incorporated a consideration of regional and local sampling priorities.

5.2.6 No review of performance against the previous year's service plan had been documented at the time of the audit.

### **Recommendation 1 - Service Planning**

[The Standard 3.1]

Draw up, document and implement the 2017/18 Service Plan in accordance with the Service Planning Guidance in Chapter 1 of "The Framework Agreement on official Feed & Food Controls by Local Authorities" ("The Framework Agreement"). The Plan shall include:

- (i) The number of all due food interventions in each risk rating category as specified by the FLCoP, together with an estimate of the number of unrated premises due in year (including any existing backlog).
- (ii) A comparison of the resources required to deliver each part of the Plan with the resources available and any resulting shortfall in resources.

[The Standard 3.2 & 3.3]

- (iii) Submit a documented 2016/17 service plan performance review for approval to either the relevant member forum or, where approval and management of service plans has been delegated to senior officers, to the relevant senior officer.
- (iv) Address any variance in meeting the Service Delivery Plan in the subsequent 2017/18 service plan.

## **5.3 Service Delivery**

### **Interventions**

5.3.1 The Service was responsible for enforcement at 2061 food business establishments at the time of the audit. The Service's performance, as seen in table 1 below (data taken from LAEMS 2014/5 and 2015/16), from April 2014 to March 2016 shows that despite a significant decrease in the number of interventions carried out the number of interventions overdue also fell significantly. Auditors were informed that errors in the migration of data from one database provider to another during the change to a new database platform in 2015 had led to this anomaly. The Service advised auditors that they were confident that these errors had now been resolved and the accompanying data cleansing exercise completed. Auditors noted that the total number of food businesses registered with the Service had dropped by approximately 600 from 2014/15 to 2015/16 but had remained relatively stable since March 2016.

**Table 1: Recent performance data – interventions (source: LAEMS)**

Premises Risk Rating	Interventions Carried out 2014/15	Interventions Carried out 2015/16	Interventions overdue 2014/15	Interventions overdue 2015/16
A	12	25	16	1
B	84	67	40	10
C	576	190	152	55
D	212	232	130	150
E	358	80	868	74
Unrated	2	113	153	94
<b>Total</b>	1244	707	1333	384

5.3.2 The Service Plan for 2016/17 included the planned intervention targets in table 2 (below). Also included in the table are figures indicating the progress the Service reported against these targets at the time of the audit.

**Table 2: Planned targets 2016/17 and reported progress at time of audit – interventions**

Intervention categories	Percentage of Due Interventions Planned 2016/17	No. overdue inspections at time of audit (to 28 days before audit)
Category A	80%	1
Category B	80%	4
Category C	80%	57
Category D	60%	178
Category E	80%	87
Unrated 'High Risk'	No target. Those deemed 'high risk' are allocated to a food officer and programmed for a visit.	133
Unrated 'Low Risk' / Childminders	No target. Those deemed 'low-risk' are being listed for alternative intervention – intelligence gathering.	
<b>Total Overdue Interventions</b>		450

- 5.3.3 An analysis of the food premises database by auditors prior to the audit indicated that approximately 222 D and 66 E risk-rated businesses were overdue an inspection by up to three years (nine years in the case of three E rated establishments). Some unrated ('new') businesses were overdue by up to two years. This posed a potential increased risk to consumer protection and the reputation of the Authority due to possible changes in the type and nature of business operation and the food safety management controls in place.
- 5.3.4 The Service acknowledged that despite implementing its own risk-based approach to prioritising overdue interventions, it was not proactively exploiting all the flexibilities in the FLCoP to carry out alternative interventions at certain C and D rated food businesses. However, officers indicated that they were willing to consider reviewing the potential of alternative interventions in the future.
- 5.3.5 Auditors acknowledged the Service's temporary loss of 1.4 FTE staff resource during 2016 and its apparent correlation with the increase in overdue food interventions from 384 in March 2016 to 450 in May 2017. However it was clear that the Service had not completed all its due interventions for 2016/17, contrary to the FLCoP.

**Recommendation 2 – Food Establishment interventions – Frequency**

[The Standard 7.1]

Carry out interventions at all food hygiene establishments in the area, at a frequency which is not less than that determined under the intervention rating scheme set out in the FLCoP.

- 5.3.6 New businesses (unrated establishments) were segmented into 'high risk' and 'low risk' using the experience of food officers according to factors such as the type of food business and food operations carried out. 'High risk' unrated food businesses were allocated to a food officer for an on-site intervention whilst 'low risk' were listed to be sent a questionnaire to gather more information about the business. There was no clear policy or target in place to set out the criteria for action and action to be taken in the event of failure to return a questionnaire or a questionnaire indicating the need for an intervention.

## **5.4 Database**

- 5.4.1 The Service had set up and was implementing a database of the food establishments in its area. The Service had changed database providers in June 2015 and had been carrying out a database cleansing exercise since then. This work was now complete.

5.4.2 The Lead Food Officer and database “super-user” were jointly responsible for monitoring the accuracy and reliability of food business data, however there was no corresponding documented procedure in place. Auditors were advised that database accuracy monitoring checks included:

- The identification and removal of duplicate businesses
- Identification and rectification of missing codes

5.4.3 Database checks carried out by auditors prior to the audit confirmed that whilst the database was generally accurate and reliable in most respects, new food business premises details were being added to old businesses (rather than closing the old business down). This risked creating inaccuracies in the food business register. Auditors discussed alternatives with the Service which would allow closed food businesses to be accurately reflected as such on the database without resulting in the removal of historical data.

5.4.4 The remaining database anomalies found by auditors affected a relatively small proportion of database entries and included:

- Blank fields
- Incorrect intervention intervals (in some cases the result of data input errors)
- Potential duplicate premises
- Potential contradictions between the ‘type of food’ and ‘significant risk’ risk rating scores

**Recommendation 3 - Database procedure**

[The Standard 11.2]

Set up, maintain and implement a documented procedure to ensure that the food database is accurate, reliable and up to date. Ensure the procedure incorporates monitoring and resolution of any anomalies, in particular the closure of old food premises where the business owner has changed and data input errors.

5.4.5 The database was capable of reporting information reasonably requested to the FSA and auditors were advised that the Service was maintaining appropriate backup systems and security measures.

**5.5 Staff Training and Authorisation**

5.5.1 Both local authorities operated to a joint Constitution which set out the delegated powers for the Service. The Community of Practice Lead

Officer (Environmental Health & Licensing) had been delegated responsibility to authorise officers within the Food Safety Team. There was an authorisation procedure in place which prescribed the authorisation of officers based on the competency requirements of the FLCoP. The procedure also made reference to the qualification and revision training requirements set out in the FLCoP.

- 5.5.2 Officers used the recognised RDNA competency assessment tool and auditors were shown competency assessment records, which included a record of training needs, together with correctly signed authorisations.
- 5.5.3 The Service subscribed to a corporate annual appraisal scheme which formed part of the training needs assessment led by the Lead Food Officer. Staff training requests were recommended to the Service training budget holder for consideration.
- 5.5.4 The Service had appointed a Lead Food Officer with the necessary specialist knowledge to carry out the role and meet the competency requirements of the FLCoP.
- 5.5.5 Auditors checked officer authorisations, competency assessments and training records. Generally officers had been authorised in accordance with their qualifications, competency and training. However:
  - No officers were authorised under the Trade in animal and Related Products (TARP) Regulations 2011, limiting the Service's powers to remove inland illegally imported food from the market in an emergency
  - The authorisation status of some officers for certain powers written on their authorisation document was unclear. Officers should be authorised, or not, in accordance with their level of competency.
  - Only one officer was authorised to serve Hygiene Emergency Prohibition Notices (HEPNs). In the absence of that officer, this could leave the Service unable to close a food premises posing an imminent risk to public health.

#### **Recommendation 4 – Officer Authorisation**

[The Standard 5.3]

- (i) Ensure all officers are appropriately authorised in accordance with their qualifications and the individual regulations of the Food Safety & Hygiene (England) Regulations 2013, with respect to their individual duties
- (ii) Ensure the Service has a sufficient number of officers authorised under TARP 2011 to respond to food incidents involving illegally imported food and to carry out the work set out in the Service Plan.
- (iii) Ensure the Service has access to a sufficient number of officers authorised to serve HEPNs to carry out the work set out in the Service Plan.
- (iv) Ensure that it is clear within authorisation documents whether or not officers are authorised under particular powers.

5.5.6 Auditors observed that some competency assessments would benefit from the inclusion of more evidence to justify the associated competency and subsequent authorisation. Auditors noted that one officer had been authorised to undertake interventions at approved premises producing a variety of products of animal origin, however the competency assessment did not detail any evidence to demonstrate that the officer was competent in this area of work.

5.5.7 The training records of officers were checked. Most of the officers had received the necessary 20 hours continuous professional development (CPD) training in accordance with the FLCoP. The officer who did not had received 10 hours of core food training. The Service was reminded to ensure that all officers could demonstrate the required amount of CPD in accordance with the FLCoP.

5.5.8 Although registered with EHORB, one officer had not received any HACCP formal training (although it had been included in their professional qualification). In addition, the officer's competency assessment provided insufficient evidence to demonstrate that they had a comprehensive understanding and knowledge of HACCP-based procedures in approved establishments for which they were authorised. Auditors discussed the benefits of reviewing the competency assessment of that officer and, if necessary, prioritising additional HACCP training.

- 5.5.9 Training undertaken by officers included key topics such as HACCP, imported food, specialist processes, E. coli cross contamination controls and formal enforcement training.
- 5.5.10 Generally, records of qualifications, training and experience of officers and support staff had been maintained by the Service. Qualification evidence for two officers could not be located by the Service during the audit but were located very shortly afterwards.

## **5.6 Documented Policies and Procedures**

- 5.6.1 The Service had set up and implemented suitable documented procedures for most of the activities it carried out. This included an enforcement policy, approved establishments procedure, complaints procedure, authorisation procedure, sampling policy, programme and procedure and food incidents and alerts procedure. The latter prescribed the prioritisation of resource where necessary and arrangements for a competent response outside of office hours.
- 5.6.2 The “Procedure for Food Hygiene Inspections” was generally appropriate and included a revisit policy and reference to the flexibilities around intervention types prescribed in the FLCoP. However, it contained advice to officers that “large premises may be sub-divided” for the purposes of inspection, contrary to the FLCoP.

### **Recommendation 5 – Food Establishment Interventions Procedure**

[The Standard 7.4]

- (i) Set up, maintain and implement a documented procedure or review and amend the existing interventions procedure to include the interventions policy and procedure for new unrated businesses.
- (ii) Review and amend the “Procedure for Food Hygiene Inspections” to ensure that it provides appropriate guidance for officers on the sub division of businesses for interventions in line with the FLCoP and associated centrally issued guidance.

- 5.6.3 Although the Service had in place generic (non-bespoke) enforcement procedures, officers acknowledged that these had not yet been adapted to reflect procedures specific to the Service.

## **Recommendation 6 – Enforcement Procedures**

[The Standard 15.2]

Set up, maintain and implement documented enforcement procedures to provide specific guidance for officers on the enforcement activities carried out by the Service

- 5.6.4 The Service had carried out statutory shellfish sampling and a variety of other sampling activities in 2016/17 and had a documented sampling programme for 2017/18. The programme incorporated a consideration of regional (Public Health England) programmes, approved establishments and other locally prioritised risks but would benefit from making it explicit that national sampling priorities had been considered.
- 5.6.5 The Service had a suitable intervention visit aide-memoire in place, and was using FSA aide-memoire for approved establishment interventions. There was a supplementary form in place for written correspondence following an intervention.

## **5.7 Ensuring an Effective and Consistent Service**

### **Internal Monitoring**

- 5.7.1 The Food Safety Service Plan for 2016/17 included a section on “Quality Assessment and Internal Monitoring”. This stated that the Service implemented the corporate appraisal scheme, audited quality against the Service Plan, carried out peer review, signed off food complaints and legal notices.
- 5.7.2 The Service had also put in place a procedure prescribing “Internal Monitoring of the Food Safety Service”. The procedure limited qualitative internal monitoring to accompanied inspections twice a year / 5% of visits per month, desktop peer review of risk ratings (coordinated by Devon and Cornwall Food Liaison Group, DCFLG), desktop checks of officer risk ratings and data entry consistency. Discussion with officers during the audit indicated that the internal monitoring system was not risk-based as a whole, although auditors were advised it had been informally reviewed in the past where a particular quality issue had been identified. Auditors encouraged the application of a risk-based approach to the Service’s internal monitoring arrangements.
- 5.7.3 Quantitative monitoring of officer workload (interventions) was carried out monthly. In addition, a formal evaluation of progress against Service Plan targets was carried out on a quarterly basis.
- 5.7.4 The Service had in place an accompanied inspection record form (“Quality Monitoring of Electronic Records”) which it intended to use going forward and included reference to the officer’s inclusion of an

evaluation of the businesses' approach to HACCP requirements. Auditors observed that the form would benefit from a prompt to record the follow up taken by the monitoring officer, to aid completion of the quality assurance process.

- 5.7.5 Auditors were provided with evidence of risk rating consistency discussions exercises at both team meetings and meetings of the DCFLG. It was clear that consistency was routinely discussed during food team meetings. Auditors were also advised that issues of consistency and policy were discussed routinely and informally on an ongoing basis as part of the daily interaction between team members and the Lead Food Officer. The Service had participated in both FSA national FHRS consistency exercises carried out in the two years prior to the audit.
- 5.7.6 The Service was unable to provide records of internal monitoring of accompanied inspections, qualitative desktop premises file monitoring checks, the execution and follow up of complaints and sampling. The Service acknowledged that the internal monitoring of enforcement notices and prosecution files, the handling of infectious disease notifications and officer authorisations was not yet in place. However, the Service indicated that it was planning to introduce an annual review of officer competency assessments.

**Recommendation 7 – Internal Monitoring – Scope and Verification, Record Keeping**

[The Standard 19.2, 19.3]

- (i) Verify the conformance of the Service with all aspects of The Standard, relevant legislation, the FLCoP and relevant centrally issued guidance.
- (ii) Make a record of all internal monitoring and keep it for at least 2 years.

- 5.7.7 The Service's arrangements for quantitative database monitoring for integrity and accuracy are outlined under section 5.4 of this report.
- 5.7.8 Enforcement letters from the FSA were received both by the Service's team e-mail inbox and by the Lead Food Officer directly through their e-mail address. Team meeting minutes indicated that the Team were aware of the recent advice from the FSA on less than thoroughly cooked burgers, and the need to return certain information on associated food businesses to the Agency.

### **Third Party or Peer Review**

5.7.9 The Service had taken part in the following external or internal reviews of food hygiene in the two years prior to the audit:

- FSA Food Hygiene Rating Scheme (FHRS) Inter-Authority Audit (IAA), January 2016
- Peer Review of FLCoP Risk Rating by the DCFLG
- West Devon Council Internal Audit of “Commercial Enforcement”, 2015.

5.7.10 The IAA was carried out against the FSA FHRS Brand Standard. Findings from this audit indicated that although some of the actions from the former audit had completed, others (including carrying out interventions at the correct frequency and putting a database procedure in place) had not. These two actions have been carried forward as recommendations in this report.

5.7.11 Similarly, the internal audit held a number of both complete and incomplete actions.

**Audit Team:** Alun Barnes - Lead Auditor  
Michael Bluff - Auditor

Food Standards Agency  
**Regulatory Delivery Division**



<p>(iv) Address any variance in meeting the Service Delivery Plan in the subsequent 2017/18 service plan.</p>		<p>This will be based upon revised service plan</p>	
<p><b>Recommendation 2 – Food Establishment interventions – Frequency</b> [The Standard 7.1]</p> <p>Carry out interventions at all food hygiene establishments in the area, at a frequency which is not less than that determined under the intervention rating scheme set out in the FLCoP.</p>	<p>1/04/18</p>	<p>To remove backlog of unrated premises and complete inspection programme for 2017/18</p>	<p>Agreement to utilise financial resource to reduce backlog of unrated premises to zero . Reprioritised intervention work with the team to increase inspection rate. Use salary underspend from vacant post to add capacity to carry out remaining scheduled inspections.</p>
<p><b>Recommendation 3 - Database procedure</b> [The Standard 11.2]</p> <p>Set up, maintain and implement a documented procedure to ensure that the food database is accurate, reliable and up to date. Ensure the procedure incorporates monitoring and resolution of any anomalies, in particular the closure of old food premises where the business owner has changed and data input errors.</p>	<p>25/11/17</p>	<p>Review and amend existing internal monitoring procedure</p>	
<p><b>Recommendation 4 – Officer Authorisation</b> [The Standard 5.3]</p> <p>(i) Ensure all officers are appropriately authorised in accordance with their qualifications and the individual regulations of the Food Safety &amp; Hygiene (England) Regulations 2013, with respect to their individual duties</p>	<p>25/8/17</p>		<p>Authorisations updated</p>

<p>(ii) Ensure the Service has a sufficient number of officers authorised under TARP 2011 to respond to food incidents involving illegally imported food and to carry out the work set out in the Service Plan.</p> <p>(iii) Ensure the Service has access to a sufficient number of officers authorised to serve HEPNs to carry out the work set out in the Service Plan.</p> <p>(iv) Ensure that it is clear within authorisation documents whether or not officers are authorised under particular powers.</p>	<p>15/09/17</p> <p>25/8/17</p> <p>25/8/17</p>	<p>Authorisations to be updated with TARP</p>	<p>Authorisations updated</p> <p>Authorisations updated</p> <p>Authorisations updated</p>
<p><b>Recommendation 5 – Food Establishment Interventions Procedure</b>  [The Standard 7.4]</p> <p>(i) Set up, maintain and implement a documented procedure or review and amend the existing interventions procedure to include the interventions policy and procedure for new unrated businesses.</p> <p>(ii) Review and amend the “Procedure for Food Hygiene Inspections” to ensure that it provides appropriate guidance for officers on the sub division of businesses for interventions in line with the FLCoP and associated centrally issued guidance.</p>	<p>25/10/17</p> <p>25/11/17</p>	<p>Will review and amend existing</p> <p>Review and amend procedure</p>	

<p><b>Recommendation 6 – Enforcement Procedures</b> [The Standard 15.2]</p> <p>Set up, maintain and implement documented enforcement procedures to provide specific guidance for officers on the enforcement activities carried out by the Service</p>	25/10/17	We will introduce these procedural documents	
<p><b>Recommendation 7 – Internal Monitoring – Scope and Verification, Record Keeping</b> [The Standard 19.2, 19.3]</p> <p>(i) Verify the conformance of the Service with all aspects of The Standard, relevant legislation, the FLCoP and relevant centrally issued guidance.</p> <p>(ii) Make a record of all internal monitoring and keep it for at least 2 years.</p>	25/11/17	Will review and amend internal monitoring procedure and records	Scheduled in visits with the Team. Database monitoring form created and will be completed.

## **ANNEX B - Audit Approach/Methodology**

The audit was conducted using a variety of approaches and methodologies as follows:

(1) Examination of LA plans, policies and procedures.

The following relevant LA policies, procedures and linked documents were examined before and during the audit:

- Food Safety Service Plan 2016-2017
- Authorisation Food Safety Procedure FS001
- Table of Competencies
- Officer Authorisation: Knowledge & Experience
- Part 2 Officer Authorisation: Competency Assessment
- Part 3 Officer Authorisation
- Policy For Dealing With Food Complaints, April 2017
- Food Complaints Procedure, FS007
- Food Safety Intervention Strategy
- Procedure for Food Hygiene Inspections
- Food Safety Self-Assessment Questionnaire
- Inputting Food Inspections
- Food Premises Inspection Report
- Formal Inspection Report To Food Business Operator
- Food Safety Assessment Form
- The Administration of Approved Premises Under Regulation (EC) No. 853/2004, FS010
- Food Alert Procedure, FS002
- Food Safety Sampling Policy, April 2017

- Food Sampling Procedure, FS009
- Out of Hours Notification Affecting Shellfisheries, Dec 2016
- Suppliers Of Sterile Sampling Equipment
- Formal Sample Check List For Local Authorities
- Interpreting Microbiological Results
- Formal Sample Information Pack For Local Authorities, Public Health England (PHE)
- Transport Of Samples to The Porton FW&E Laboratory – Use Of Data Loggers And Cool Boxes, PHE
- Food Safety Enforcement Policy, JANUARY 2006 (Reviewed June 2015)
- Devon and Cornwall Food Liaison Group Minutes:
  - 8/2/16
  - 27/4/16 (with FSA Briefing)
  - 19/10/16 (with FSA Briefing)
- Internal Monitoring of the Food Safety Service, FS006
- Quality Monitoring of Electronic Records
- SHWD Food Team Meeting Minutes:
  - 21/6/16
  - 2/11/16
  - 18/4/17
- Local Authority Operation Of The Food Hygiene Rating Scheme (FHRS), Completed Protocols And Checklists, January 2016
- Internal Audit Report, Commercial Enforcement (WD) 2015/16, Corporate Services, South Hams and West Devon, November 2015
- Results of Tapas Scenario Consistency Exercise, November 2016
- Quick FHRS Chinese Takeaway Peer Review 2016

- Dean Court Farm Shop Food team Consistency Exercise: Results Spreadsheet.
- Officer 1:1 appraisal review: electronic example

(2) A range of LA file records were reviewed – the following LA file records were reviewed during the audit:

- Qualification and training records
- Authorisations

(3) Review of Database records:

- To assess the completeness and accuracy of the food premises database
- To assess the capability of the system to generate food law enforcement activity reports and the monitoring information required by the Food Standards Agency.

(4) Officer interviews – the following officers were interviewed:

- Executive Director, Strategy and Commissioning and Head of Paid Service
- Specialist Manager
- Community of Practice Lead (Environmental Health & Licensing)
- Senior Specialist – Environmental Health

## **ANNEX C - Glossary**

Authorised officer	A suitably qualified officer who is authorised by the local authority to act on its behalf in, for example, the enforcement of legislation.
Brand Standard	This Guidance represents the 'Brand Standard' for the Food Hygiene Rating Scheme (FHRS). Local authorities in England and Northern Ireland operating the FHRS are expected to follow it in full.
Codes of Practice	Government Codes of Practice issued under Section 40 of the Food Safety Act 1990 as guidance to local authorities on the enforcement of food legislation.
County Council	A local authority whose geographical area corresponds to the county and whose responsibilities include food standards and feeding stuffs enforcement.
District Council	A local authority of a smaller geographical area and situated within a County Council whose responsibilities include food hygiene enforcement.
Environmental Health Officer (EHO)	Officer employed by the local authority to enforce food safety legislation.
Food Safety Management System	A written permanent procedure, or procedures, based on HACCP principles. It is structured so that this requirement can be applied flexibly and proportionately according to the size and nature of the food business.
Feeding stuffs	Term used in legislation on feed mixes for farm animals and pet food.
Food hygiene	The legal requirements covering the safety and wholesomeness of food.
Full Time Equivalents (FTE)	A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to food and feed

enforcement.

HACCP	Hazard Analysis and Critical Control Point – a food safety management system used within food businesses to identify points in the production process where it is critical for food safety that the control measure is carried out correctly, thereby eliminating or reducing the hazard to a safe level.
LAEMS	Local Authority Enforcement Monitoring System is an electronic system used by local authorities to report their food law enforcement activities to the Food Standards Agency.
Service Plan	A document produced by a local authority setting out their plans on providing and delivering a food service to the local community.
Unitary Authority	A local authority in which the County and District Council functions are combined, examples being Metropolitan District/Borough Councils, and London Boroughs. A Unitary Authority's responsibilities will include food hygiene, food standards and feeding stuffs enforcement.

**This page is intentionally left blank**

**Action Plan for South Hams District Council & West Devon Borough Council**

Audit date: 24 May 2017

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
---	------------------	-----------------------------	-----------------------------

<p><b>Recommendation 1 - Service Planning</b> [The Standard 3.1]</p> <p>Draw up, document and implement the 2017/18 Service Plan in accordance with the Service Planning Guidance in Chapter 1 of “The Framework Agreement on official Feed &amp; Food Controls by Local Authorities” (“The Framework Agreement”). The Plan shall include:</p> <p>(i) The number of all due food interventions in each risk rating category as specified by the FLCoP, together with an estimate of the number of unrated premises due in year (including any existing backlog).</p> <p>(ii) A comparison of the resources required to deliver each part of the Plan with the resources available and any resulting shortfall in resources.</p>	1/9/17	Updated service plan to be produced	2017/18 Service Plan produced
<p>[The Standard 3.2 &amp; 3.3]</p> <p>(iii) Submit a documented 2016/17 service plan performance review for approval to either the relevant member forum or, where approval and management of service plans has been delegated to senior officers, to the relevant senior officer.</p> <p>(iv) Address any variance in meeting the Service Delivery Plan in the subsequent 2017/18 service plan.</p>	TBC	<p>Review performance and decide on appropriate route for decision/review</p> <p>This will be based upon revised service plan</p>	<p>Performance reviewed and action plan in place.</p> <p>2017/18 Service Plan produced</p>

<p><b>Recommendation 2 – Food Establishment interventions – Frequency</b> [The Standard 7.1]</p> <p>Carry out interventions at all food hygiene establishments in the area, at a frequency which is not less than that determined under the intervention rating scheme set out in the FLCoP.</p>	<p>1/04/18</p>	<p>To remove backlog of unrated premises and complete inspection programme for 2017/18</p>	<p>Agreement to utilise financial resource to reduce backlog of unrated premises to zero . Reprioritised intervention work with the team to increase inspection rate.</p>
<p><b>Recommendation 3 - Database procedure</b> [The Standard 11.2]</p> <p>Set up, maintain and implement a documented procedure to ensure that the food database is accurate, reliable and up to date. Ensure the procedure incorporates monitoring and resolution of any anomalies, in particular the closure of old food premises where the business owner has changed and data input errors.</p>	<p>25/11/17</p>	<p>Review and amend existing internal monitoring procedure</p>	<p>Currently addressing an issue with Civica database regarding closure of premises with multi facets ie licensing , private water supplies and food premises.</p>

<p><b>Recommendation 4 – Officer Authorisation</b> [The Standard 5.3]</p> <p>(i) Ensure all officers are appropriately authorised in accordance with their qualifications and the individual regulations of the Food Safety &amp; Hygiene (England) Regulations 2013, with respect to their individual duties</p> <p>(ii) Ensure the Service has a sufficient number of officers authorised under TARP 2011 to respond to food incidents involving illegally imported food and to carry out the work set out in the Service Plan.</p> <p>(iii) Ensure the Service has access to a sufficient number of officers authorised to serve HEPNs to carry out the work set out in the Service Plan.</p> <p>(iv) Ensure that it is clear within authorisation documents whether or not officers are authorised under particular powers.</p>	<p>25/8/17</p> <p>15/09/17</p> <p>25/8/17</p> <p>25/8/17</p>	<p>Authorisations to be updated with TARP</p>	<p>Authorisations updated</p> <p>Authorisations updated</p> <p>Authorisations updated</p> <p>Authorisations updated</p>
<p><b>Recommendation 5 – Food Establishment interventions Procedure</b> [The Standard 7.4]</p> <p>(i) Set up, maintain and implement a documented procedure or review and amend the existing interventions procedure to include the interventions policy and procedure for new unrated businesses.</p> <p>(ii) Review and amend the “Procedure for Food Hygiene Inspections” to ensure that it provides appropriate guidance for officers on the sub division of businesses for interventions in line with the FLCoP and associated centrally issued guidance.</p>	<p>25/10/17</p> <p>25/11/17</p>	<p>Will review and amend existing</p> <p>Review and amend procedure</p>	<p>Food Establishment Interventions Procedure revised</p> <p>Procedure for Food Hygiene Inspections revised</p>

<p><b>Recommendation 6 – Enforcement Procedures</b> [The Standard 15.2]</p> <p>Set up, maintain and implement documented enforcement procedures to provide specific guidance for officers on the enforcement activities carried out by the Service</p>	25/10/17	We will introduce these procedural documents	Documented enforcement procedures in place
<p><b>Recommendation 7 – Internal Monitoring – Scope and Verification, Record Keeping</b> [The Standard 19.2, 19.3]</p> <p>(i) Verify the conformance of the Service with all aspects of The Standard, relevant legislation, the FLCoP and relevant centrally issued guidance.</p> <p>(ii) Make a record of all internal monitoring and keep it for at least 2 years.</p>	25/11/17	Will review and amend internal monitoring procedure and records	<p>internal monitoring procedure and records reviewed</p> <p>Monitoring process in place</p>

**This page is intentionally left blank**



# **South Hams District Council and West Devon Borough Council**

## **Food Safety Service Plan**

**2017/2018**

**SOUTH HAMS DISTRICT COUNCIL/WEST DEVON BOROUGH COUNCIL**

**ENVIRONMENTAL HEALTH AND HOUSING SERVICE**

**JOINT FOOD SAFETY SERVICE PLAN – 2017/2018**

**CONTENTS**

**Appendix A Staff resources**

**Appendix B Financial resources**

## **Overview**

This Service Plan has been produced in order to give clear details of the food safety services provided across South Hams District Council and West Devon Borough Council and how they will be carried out during the financial year 2017/18. It also shows how the function contributes to the Corporate Priorities and the Environmental Health Community of Practice Work plan.

This Service Plan attempts to show the variety, depth and complexity of the work carried out. Food safety is a statutory function and has serious implications to public health and wellbeing.

We are at the forefront of protecting the consumer from ill health. We protect the community by using enforcement powers where appropriate and also providing advice. The food safety service provides a combination of interventions. These include inspections, enforcement, investigations, education, partnership working and health promotion. We seek to work in partnership when the opportunities arise.

The food safety team are motivated and competent Officers operating with decreasing resources but committed to ensure that an effective and efficient service is provided. These Officers also undertake various other duties within the Environmental Health Community of Practice. As with many other services there is a lot of behind the scenes activity which goes unnoticed in the eyes of the public until there is a high profile investigation or emergency.

Regular monitoring against the Service's progress with the plan will be carried out. Checks will also be made on the consistency and quality of the work.

The service will also be required to react to unforeseen events – such as food poisoning outbreaks and other large investigations. These will impact upon the resources available for our programmed work. A number of performance indicators are being developed and will be introduced within the forthcoming year.

We will continue actively exploring opportunities in the coming year to become more business orientated and be proactive with income generation opportunities.

The service plan has been produced in response to the Food Standards Agency Framework Agreement on Local Authority Enforcement. This is a responsibility placed upon local authorities. The food safety service is highly governed to ensure compliance

with the wide range of statutory requirements. Our activities and procedures take account of the Food Law Code of Practice (England) and other central guidance.

## **Introduction**

This Service Plan is a requirement of the Food Standards Agency (FSA) under the Food Standards Agency's Framework Agreement with local authorities and outlines both South Hams District Council's and West Devon Borough Council's statutory food safety function to ensure that national priorities and standards are addressed and delivered locally. The Plan seeks also to embrace the Food Standards Agency's strategy 2015-2020.

This Service Plan provides a focus for debate on key delivery issues providing an essential link with financial planning, sets objectives for the future and provides a means of managing performance and making comparisons and links to various corporate objectives. At the end of the financial year, we will review this service plan and report on our achievements and any reasons for variance or non-attainment of targets.

This joint Service Plan has been produced to ensure that local food businesses, members of the public, Council officers/Members and other stakeholders understand the approach to food safety adopted by the both the South Hams District Council and West Devon Borough Council and will help to ensure that the actions of the Council are in accordance with the Better Regulation Delivery Office. It also reflects the FSAs Compliance and Enforcement Strategy. As a Service, we believe in fair regulation and reducing unnecessary burdens on businesses. The aims are very broad in order to allow for a wide range of activities in the promotion and enforcement of food safety laws and seek to embrace the ever changing food safety intervention programme in the UK.

We attach primary importance to the planned interventions in food premises and the prompt resolution of complaints and enquiries. Local and national food safety initiatives will be supported to the extent that available resources will allow. A number of these initiatives are detailed within this document.

In implementing our approach to food safety, we are mindful of the pressures on local businesses, particularly where, for example, the economy is seasonal and subject to fluctuation. We will seek to continue to work with local businesses by the provision of advice and guidance, using self-service principles. However, we will where necessary adopt a more formal approach where these interventions fail or where a risk to the consumer's health exists. Our approach to enforcement is detailed in the Council's enforcement policy.

In light of Government enforcement and partnership initiatives it is quite clear that the future of local authority food law enforcement activities and their role in public health intervention will alter considerably and require a greater and more varied input. We are also minded of our limited resources and the need to adopt greater business acumen and be able to compete favourably with the private sector. The Councils' Food Safety Service seeks to meet this challenge and be fit for the future.

## **Section 1 Service Aims and Objectives**

### **1.1. Aims and Objectives**

- 1.1.1. The aim of the Food Safety Service is to secure the safe production, storage, distribution and retailing of food and to reduce the risk liability of business enterprises by providing support and advice on food hygiene issues. Our vision is to ensure that food locally is without risk to the consumer and safe to eat through the provision of an effective enforcement service provided by motivated and competent officers.
- 1.1.2. We believe that everyone in the districts of South Hams and West Devon, whether they are residents or visitors are entitled to safe and wholesome food and drink. We also seek to ensure that food produced in the area and distributed nationally and internationally is safe and meets the required standards. We also recognise the importance of maintaining and enhancing the prosperity of businesses in the area and the needs of small and medium size business associated with the rural community.
- 1.1.3. Our main objectives are to protect public health by:
- Identifying potential risks and promote safe and hygienic conditions in food premises and places for which we have a statutory responsibility and to secure compliance with relevant legislation using all our enforcement 'tools' available.
  - Ensuring that by working with business using a variety of initiatives, we assist in reducing their risk liability.
  - Inspecting food produced in the South Hams and West Devon to ensure that is of a high standard and without risk to the consumer and that checks are included as part of our sampling programme.
  - Investigating the occurrence and spread of infectious disease and food poisoning and preventing further spread.
  - Investigating complaints and dealing with incidents and emergencies relating to food safety.
  - Ensuring enforcement is effective, consistent, proportionate and focussed.
  - Engaging in activities which encourage the promotion of health and food safety.

- Providing our service as good value for money and work with partners where necessary to deliver our service.
- Ensuring that officers delivering the service are properly trained and competent

1.1.4. The South Hams District Council and West Devon Borough Councils are statutory food authorities and are tasked to exercise Official Controls by virtue of Regulation (EC) No 882/2004. We recognise our duty to act as enforcing authorities under the Food Safety Act 1990, the Food Safety and Hygiene (England) Regulations 2013 and the Official Feed and Food Controls (England) Regulations 2009 and miscellaneous laws made under the European Communities Act 1972 and to exercise our powers prescribed in these pieces of legislation. Our authorised officers use all available official controls and other measures to ensure that our objectives are met. Except where circumstances indicate a significant risk, our officers operate a graduated approach to enforcement of our powers. We believe that judgement by motivated, professionally competent officers is key to delivering our service. Our approach to enforcement and powers are documented in our policy. (See paragraph 2.5).

1.1.5. The contents of this service plan will be put into effect by a range of officers i.e. Specialist, Case Managers and Locality Officers under the guidance of the Senior Specialist (Food Safety Lead Officer) and overseen by the Community of Practice Lead Officer for Environmental Health. It will be supported by specific policies and procedural documents where necessary to assist staff in delivering a high quality and consistent service. These documents will be updated and reviewed as and when required.

## **1.2 Links to Corporate Objectives and Plans**

1.2.1. This Service Plan links to the Councils' joint corporate priorities.

1.2.2. As with a number of other services, particularly those having an 'enforcement' role, the food safety service may be subject to criticism or complaint either by a food business operator or member of the public about the service. These matters are usually resolved on an informal basis. However, if this action fails, our formal complaints procedure will be followed. Such complaints are very uncommon. From time to time, customer feedback questionnaires are used to monitor our service delivery and officers' performance and these have shown great satisfaction with the Service.

1.2.3. The Service is very much customer orientated and we seek to continue to provide a robust service as part of the 'Customer First' initiative and deliver both on our own and also corporate service standards.

1.2.4. This Service Plan also seeks to take on board our T18 organisational change programme and determine the future shape of our service delivery.

## **Section 2 Background**

### **2.1 Profile of the South Hams District Council and West Devon Borough Councils.**

2.1.1. The South Hams covers some 906 sq km of South Devon and is predominantly rural in nature, situated between the unitary authorities of Plymouth and Torbay. It encompasses some 50 miles of coastline to the south and 19% of the Dartmoor National Park to the north. There is a resident population of greater than 88,000 which increases considerably during the summer months as a result of tourism. The centres of population are within the four main towns of Totnes, Ivybridge, Dartmouth and Kingsbridge. The operational base is Follaton House, Totnes.

West Devon Borough Council is very rural in nature and covers some 1160 sq km of which 45% is situated within Dartmoor National Park. The Borough borders Torridge and North Devon to the north and Cornwall to the west. There is a resident population in excess of 53,500. The main centres are the towns of Tavistock and Okehampton. The operational base is Kilworthy Park, Tavistock.

### **2.2 Organisational Structure**

See Appendix A.

### **2.3 Scope of the Food Safety Service**

2.3.1 Traditionally, the Service has been provided in-house by a small team of professional duly-appointed and dedicated officers, the structure of which is set out in the appendix to paragraph 2.2 above. This work is undertaken by the Customer First Specialist in Environmental Health.

In addition to food safety work, historically the 'Commercial' team also has an input into:

1. Occupational health and safety target inspections and investigations of accidents
2. The investigation and control of food poisoning and infectious diseases (including zoonoses),
3. Monitoring compliance and complaints with smoke-free laws,

4. Various licensing and registration issues including food premises, holiday caravan and camping sites, skin piercing activities, and licensing of zoos and dangerous wild animals,
  5. Registration documents for the movement of shellfish from production areas,
  6. Issuing certification for food export.
- 2.3.2 External expertise is provided in the form of Food Examiners appointed by the Food, Water and Environmental Laboratory at Porton, Salisbury. This external service is subject to an annual service level agreement. We engage Food Analysts employed by Public Analysts Scientific Services Ltd (PASS) Wolverhampton and we appoint Proper Officers for Communicable Disease Control employed by Public Health England based in Totnes. We enter into an annual contract with Campden and Chorleywood Food Research Association for specialist advice for food technology/processing. We also have a close working relationship with Devon, Somerset and Torbay Trading Standards service.
- 2.3.3 Health Promotion/Education - At present we do not participate in any formal health education/food safety training for businesses.
- 2.3.4. ICT Support - We have been using Civica app and W2. Majority of our records are held electronically and this generates our intervention programme. Our records are managed by the Case Management Team. We have the facility for working remotely using this software.

## **2.4 Demands on the Food Safety Service**

- 2.4.1 Service Delivery - The service delivery point for the South Hams District Council is Follaton House, Totnes, and Kilworthy Park for West Devon Borough Council. These are open during normal working hours. An out of hours service is available for emergencies.
- 2.4.2 Premises profile -  
In total at the end of 2016/2017 there were some 1903 food businesses across both districts. Their profile is set out below and these statistics are based upon the returns sent to the Food Standards Agency and include unrated premises i.e. those not yet having received an inspection.

<b>Type</b>	<b>No. SHDC</b>	<b>No. WDBC</b>
Primary producers	4	6
Manufacturers/packers	93	52
Importers/exporters	2	0
Distributors/transporters	17	8

Retailers	233	131
Restaurants/caterers	844	513
<b>Total</b>	<b>1193</b>	<b>710</b>

### 2.4.3 'Approved' premises

Within the total above there are some 52 businesses 'approved' under specific hygiene regulations. These relate to products of animal origin and approval allows greater flexibility to trade under EU rules both nationally within the UK and in the EU. Checks require considerable officer input in order to ensure stringent requirements are met. These establishments would present a considerable risk to the Council and consumer at large if not properly monitored. Much input by specifically trained competent staff is needed as a consequence. Full inspections/audits can take 2-3 days and the formal approval process is complex in order to meet the high standard expected. These establishments reflect the rural and diverse nature of our districts. Given the diversification and increased business opportunities available for trade, particularly overseas, with these types of products, we have seen an increase in the number of approved premises over the years. We are also subject to audit by the inspectors from the EU and third countries.

South Hams District Council has close links with the local molluscan shellfish industry having designated harvesting areas at 3 locations which includes 8 classified beds. We have also 2 shellfish purification plants. Much work is involved in the monitoring programmes to ensure acceptable standards are maintained as part of the Council's statutory sampling role in these areas.

In West Devon together with traditional rural activities (reflected particularly in the dairy industry), there is a large cannery responsible for worldwide distribution of product together with one of the largest cheese factories in the country.

The profile for approved premises is as follows:

	Dairy	Shellfish	Fishery	Meat products/prep	Egg Packer	Other	Total
<b>SHDC</b>	8	2	11	8	5	2	<b>36</b>
<b>WDBC</b>	9	0	0	1	3	3	<b>16</b>

### 2.4.4 Seasonal variations to business

It is recognised that there is a considerable seasonal influx of visitors and this has an impact upon workload as regards new businesses opening up, changes of ownership, officer travel time/leave and additional complaints/service requests generated. Our inspection programme reflects the seasonal operation of businesses.

### 2.4.5 Ethnic businesses

Ethnic food premises operated by persons whose first language is not English account for some of our premises, however, most of these are operated by the second generation. We seek to ensure that our approach with these businesses is clear and understood. On occasions we are required to seek the services of interpreters and business guidance in other languages.

#### 2.4.6 Imported food

It is estimated that approximately 50% of all food offered for sale within the UK is imported. As we are outside sea or airport areas we are not at the front line of imported food control, however, we are classified as an inland port and have jurisdiction for assessing whether foodstuffs imported from outside the EU have been legally introduced and meet food safety requirements. In the main, this is undertaken during routine inspections, complaint investigation and sampling work. The Food Safety Service has the necessary arrangement in place to deal with imported food. Relevant officers have received the training by the Food Standards Agency and authorised to act in the event of illegally imported food being identified.

#### 2.4.7 Interventions

A wide range of interventions are available for our use including inspections, audit, monitoring, surveillance, verification and sampling etc. These are known as 'official controls'. Other interventions such as education, advice etc and intelligence/information gathering are also available as part of our 'tool kit' however, these interventions are not official controls. Inspections are carried out in accordance with risk based criteria which are detailed in Codes of Practice issued by the Food Standards Agency. These range from category A to E i.e. high to low risk. We aim to inspect all our premises subject to the programme, however, if there is any slippage throughout the year we will focus on high risk premises (including Approved premises). Where necessary, inspections will be undertaken out of the Council's normal working hours when a particular business is operating.

However, the high volume of reactive work is still present. We are progressing further with the T18 project to move much of this element via our Customer Service and Case Management team.

The table below shows the premises profile based on risk as at 31.3.16 although this will show some variation throughout the year as inspections are carried out and alter their rating in subsequent years. Given the risk rating scheme, all the premises below will not fall due within the current year.

Category and	A	B	C	D	E	Unrated	Total
--------------	---	---	---	---	---	---------	-------

frequency of inspection	6 month	12 month	18 month	24 month	Alternate enforcement every 3 years		
No of premises <b>SHDC</b>	6	28	181	498	458	22	1193
No of premises <b>WDBC</b>	3	18	114	236	308	31	710

Performance data (see Service Delivery) shows that we do not meet targets i.e. those programmed or within the time period required.

The premises profile at 31/3/16 for types of premises within the districts is shown in paragraph 2.4.2 above and our achievement of the risk based programme is set out in paragraph 3.1.5 below although this will change from year to year as businesses close, open or change the particular nature of their business.

#### 2.4.8 Health promotion/education

We seek to embrace the annual National Food Safety week initiative which promotes food safety work amongst businesses and the general public.

Feedback from food businesses demonstrates that there remains a demand for greater input with food safety initiatives and working with business. As part of our strategy for income generation, we intend to examine these potential income streams.

#### 2.4.9 Food Alerts

These are administered by the Food Standards Agency and we must be able to react as necessary. (See paragraph 3.7).

#### 2.4.10 Infection control

In respect of the control of food related disease, the function of the Service is to:-

- Contain the spread of any outbreak
- Identify the focus of infection
- Identify the causative organism
- Trace carriers and cases
- Trace the source of infection
- Determine the causal factors
- Recommend practices to prevent recurrence of disease; and
- Determine whether criminal offences have been committed.

The number of individual notifications of food poisoning/infectious disease 2016/2017 around 137 per annum for South Hams and 91 for West Devon. In addition, notifications of zoonotic infections are received, mainly as a result of the upsurge in TB in cattle which has ramifications for milk quality and its acceptance onto the market for human consumption. There is always the potential for a serious food safety incident to arise such as E.coli 0157 requiring investigation. These infections can result in fatalities with the very young or elderly. We must therefore ensure that we are capable and manage our resources to be able to meet any such local challenges.

#### 2.4.11 Food export certificates

As part of our Service, food export certificates are issued to businesses in order to provide documentation which satisfies the Government of the importing Country that the incoming product is safe.

#### 2.4.12 Shellfish Registration Documents

Shellfish registration documents are issued permitting the gathering of shellfish by persons at designated sites. Approximately 180 per annum are issued. Whilst this is a statutory service, it is not chargeable, however the demand on our overall service is minimal and viewed as an administrative exercise.

#### 2.4.13 Voluntary Surrender

The demand for certificates for the voluntary surrender of unfit food has reduced considerably. However, this service continues to be available to businesses following for example, the breakdown of refrigeration/freezer equipment or damage of food as a consequence of flooding. These do not have significant resource implications however, it is a chargeable service and fees are reviewed annually.

#### 2.4.14 Business/advice

Providing advice to food business has a valuable positive impact on food safety compliance across the Council's areas. However, providing advice is resource intensive. We currently offer a limited service at no cost to the business. We receive many demands for our service both from businesses, members of the public and internal requests. We are examining ways as part of our own internal reorganisation to deal with as many of these requests by referral to our website on a self-service basis or via the Councils' Customer Services Unit. However, the more complex issues will continue to be dealt with by our specialist professional officers. Reactive work (part of which is giving advice) has accounted for approximately 50 % of our overall work and we will be examining ways of redressing the balance towards our proactive intervention programme. As a result the advice that we provide to business, apart from that which is available from self-service, will be reduced.

Where advice to business is required and requires face to face contact we intend to pilot a chargeable coaching scheme. This work is in its early stages and is in partnership with local authorities in Devon. This would be a valuable source of revenue to support other interventions.

#### 2.4.15 National Food Hygiene Rating Scheme

In 2009 the Food Standards Agency agreed to adopt a national food safety rating scheme where following inspection of food premises selling food directly to the public, they are awarded a rating based on how they comply with the three key compliance components i.e. food safety, structure and management. South Hams and West Devon along with majority of other Devon local authorities implemented the scheme in April 2011.

The intention of the scheme is to provide the consumer with a choice of whether they wish to purchase food from the premises based on their particular hygiene rating. Although not a legal requirement, the rating should be displayed at the entrance to the premises by a sticker. Unless the premises are of a sensitive nature, (including those caring for vulnerable persons) the ratings are given openly on the FSA website [www.food.gov.uk/ratings](http://www.food.gov.uk/ratings).

There are safeguards for businesses in the form of appeals, the right to reply (shown on the FSA website) and also a request for re-inspection in order to improve their rating. Whilst there have been very few appeals to the Senior Specialist – Environmental Health or applications for the right to reply, we have however, seen an increase in the number of re inspection requests (these are separate to those re inspections as part of our enforcement actions). It is thought that as the scheme has now been rolled out across much of the UK, and local and national publicity given, businesses are keen to improve their ‘image’ and wish to use their ratings as a marketing opportunity. We are looking for this to be a chargeable Service now the FSA have accepted the change to the Localism Act 2011. The Food Standards Agency are looking to follow Wales where the display of the score is mandatory.

## 2.5 Regulation Policy

- 2.5.1 The approach to enforcement of both Councils is reflected in a joint Enforcement Policy detailing the range of powers placed upon Food Authorities by the food safety laws, including regulations and also codes of practice issued by the Food Standards Agency. The primary responsibility for ensuring food safety lies with proprietors of food businesses however, we view co-operation with proprietors and others who have duties under food laws as the best way of achieving compliance. The Council also takes into account various Industry Guides to Good Hygiene Practice and guidance issued by the Government’s Better Regulation Delivery Office (BRDO) when assessing compliance.

- 2.5.2 It is our policy that enforcement action, be it verbal warnings, the issue of written warnings, statutory notices, or prosecutions, is primarily based upon an assessment of risk to public health and the seriousness of any alleged offence. Where we take legal proceedings, we adopt the Code for Crown Prosecutors issued by the Crown Prosecution Service.
- 2.5.3 We endorse and fully support the Regulator' Code issued by the Government's Better Regulation Delivery Office. We also endorse the European Convention on Human Rights.
- 2.5.4 We have a documented food safety enforcement policy which has been published on our websites. All decisions on enforcement action will be taken following the consideration of the Policy. We also have a separate policy when dealing with food complaints (see paragraph 3.2.4).

### **Section 3 Service Delivery**

#### **3.1 Food Premises Interventions**

- 3.1.1 The main purposes of an intervention is to assess risk to the consumer, achieve improvement in standards and validate existing standards. In order to undertake this work (and other work assigned to the team) the human resources shown in organisational structure in Appendix A are provided.

We aim to visit and inspect food premises on a routine basis within 28 days of due date in accordance with the Food Standards Agency's risk rating scheme contained in their Code of Practice. However, in view of the number of premises, the geography of both districts and the resources available, our programme is subject to slippage. Where this happens the emphasis for inspection will be placed on premises where the level of risk is the highest. We seek to implement a strategy for our intervention programme.

- 3.1.2 Whilst the primary responsibility for identifying food hazards and controlling risks rests with food businesses, food hygiene interventions will be undertaken to:-

- Establish whether food is being produced hygienically;
- Establish whether food is safe to eat;
- To identify foreseeable incidences of food poisoning or injury as a consequence of consumption of food.

- 3.1.3 For the lowest risk premises the Food Standards Agency has allowed for an alternative enforcement strategy to be adopted which removes many of these type of premises (typically, premises selling shelf stable wrapped food, or those handling open low risk food such as fruit and vegetables) from the routine inspection

programme. However, these premises will receive an initial visit following registration and other occasional visits as necessary. The strategy adopted by this Council (in common with many other local authorities) is to subject these premises to a self-assessment questionnaire and to follow up as appropriate. This approach is reviewed for these premises every 3 years. We make this approach less cumbersome on our specialist resources by utilising our Case Management team at the initial stages. We are also implementing Intelligence monitoring inspections in line with the Code of Practice for our D rated premises.

The total number of interventions carried out is set out below (see paragraph 2.4.7 about the description of an intervention).

<b>Year</b>	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>
<b>No. SHDC</b>	750	642	435	797
<b>No. WDBC</b>	430	347	272	310

### **3.1.4** Food premises registration.

In accordance with the legal requirements, we maintain a register of food premises. The number of registered premises does fluctuate due to business closures and new ones opening. All applications for registration or approval of premises are processed and in accordance with internal procedures. Premises registering with the Council for the first time, or where registration details require amending on the Councils' register e.g. a new food business operator, an inspection is required.

<b>Year</b>	<b>2015/16</b>	<b>2016/17</b>
<b>No. SHDC</b>	102	91
<b>No. WDBC</b>	59	61

### **3.1.5** Our performance for premises inspection is set out below and gives the percentage of those achieved against those programmed for an intervention.

The data has been separated to show those premises subjected to active input and those category E premises mentioned in paragraph 3.1.3 above. The inclusion of the category E data into the main dataset can skew the overall information but is included for completeness.

We seek to achieve 100% inspection of those premises in the high risk categories ie A,B and C.

South Hams District Council

Risk category	2015/2016			2016/2017		
	Number Programmed	No. Completed	% completed	Number programmed	No. Completed	% completed
<b>A</b>	8	7	<b>87.5</b>	35	35	<b>100</b>
<b>B</b>	57	49	<b>85.9</b>	63	62	<b>98.4</b>
<b>C</b>	164	119	<b>78.6</b>	153	136	<b>88.8</b>
<b>D</b>	246	122	<b>49.5</b>	241	187	<b>77.6</b>
<b>E</b>	92	55	<b>59.7</b>	307	306	<b>99.7</b>
<b>Unrated</b>	112	83	<b>74.1</b>	117	71	<b>60.9</b>
<b>Total</b>	<b>686</b>	<b>435</b>	<b>63.4</b>	<b>916</b>	<b>797</b>	<b>87.0</b>

West Devon Borough Council

Risk category	2015/2016			2016/2017		
	Number programmed	No. Completed	% completed	Number programmed	No. Completed	% completed
<b>A</b>	18	18	<b>100</b>	11	11	<b>100</b>
<b>B</b>	20	18	<b>90</b>	39	36	<b>92.3</b>
<b>C</b>	81	71	<b>87.7</b>	75	49	<b>65.3</b>
<b>D</b>	136	110	<b>80.9</b>	81	39	<b>48.1</b>
<b>E</b>	62	25	<b>40.3</b>	202	131	<b>64.9</b>
<b>Unrated</b>	95	30	<b>31.6</b>	83	44	<b>53.0</b>
<b>Total</b>	<b>412</b>	<b>272</b>	<b>66.0</b>	<b>491</b>	<b>310</b>	<b>63.1</b>

Source: Environmental Health Civica ap Software

- 3.1.6** We adopt the Food Standards Agency Code of Practice risk rating scheme for food premises. Within the scheme the three compliance components i.e. hygiene, structure and management are not only critical for the national Food Hygiene Rating Scheme as described in paragraph 2.4.15 above, but we are also able to use them as a performance indicator to assess broadly compliant premises.

**In 2017/18 we aim to achieve 100 % inspection of those premises in the high risk categories i.e. A, B and C's, and 100% D's.**

**We aim to develop a process whereby 100% of interventions for Cat E may be achieved by an alternative intervention approach.**

3.1.6 Paragraph 2.4.15 explains our involvement with the national food hygiene rating scheme. The Scheme categorises premises into bands 0-5 where 0 requires 'urgent improvement' and 5 'very good'. The majority of our businesses meet the rating band of 3 i.e. 'satisfactory' and many the highest rating of 5. This data is moveable as inspections are made and ratings alter, rating can be found at [www.food.gov.uk/ratings](http://www.food.gov.uk/ratings) .

<b>Rating</b>	<b>SHDC (no of premises)</b>	<b>WDBC (No of premises)</b>
<b>5</b>	807	373
<b>4</b>	97	49
<b>3</b>	36	7
<b>2</b>	5	4
<b>1</b>	11	5
<b>0</b>	3	1

### **3.1.8 Re inspections/re-visits**

Re-visits/re-inspections are determined by conditions found on the initial inspection and are not required in many cases. These visits are undertaken where an Officer is concerned about standards and seeks to ensure improvements are made. This is usually the first step of enforcement action.

In addition to our enforcement revisits, we undertake requested revisits as part of the national Food Hygiene Rating Scheme (see paragraph 2.4.17 and paragraph above).

The revisit data is set out below. 'Enf' refers to enforcement and FHRS to the Rating Scheme

	<b>2015/16</b>		<b>2017/18</b>		<b>2018/19</b>	
	Enf.	FHRS	Enf.	FHRS	Enf.	FHRS
<b>SHDC</b>	14	3	13	8		
<b>WDBC</b>	13	9	5	4		

### 3.1.9 Enforcement action

Paragraph 2.5 above outlines our approach to enforcement. The table below shows the type of action taken and volume.

Type of action	2015/2016		2017/2018	
	SHDC	WDBC	SHDC	WDBC
Written warnings	131	76	191	63
Hygiene improvement notices	3	0	4	0
Closure of premises	0	0	0	0
Prohibition of persons	0	0	0	0
Prosecutions	0	0	0	0

#### 3.1.8 External assistance.

We are confident that outside resources such as Food Examiners, Food Analysts and others such as Proper Officers for Communicable Disease Control are readily available and accessible. We have an annual Service Level Agreement with the Food, Water and Environmental Laboratory and, due to the infrequent use of the Public Analysts Laboratory a SLA is considered inappropriate, although we have entered into a contract.

#### 3.1.9 Officer competency.

We will ensure that officers engaged in food safety work are appointed and authorised within their competency and ability and that they are appropriately trained and experienced and, this is particularly so in respect of our high risk processes and approved premises. Authorisation and training are subject to procedural documents and appraisal.

### 3.2 Food Complaints.

3.2.1 Investigation into complaints about food will normally be commenced within 24 hours of receipt, and will reflect the relevant risk posed and condition of the food.

3.2.2 We will liaise with any local authorities signed up to Primary Authority Partnerships via the Better Regulation Development Office (BRDO) regarding matters associated

with the particular company's policies or procedures. We will have regard to information/advice received as a result of any such liaison and will advise these authorities of the outcome of our enquiries. (See also 3.3).

- 3.2.3** A number of complaints are received each year about food purchased within our districts and about premises or the practices within. It is anticipated that there will be little increase in service demand in this particular area. The following table sets out the profile of the total complaints received.

	<b>2015/2016</b>	<b>2016/2017</b>
<b>SHDC</b>	31	65
<b>WDBC</b>	21	27

- 3.2.4** Our joint Food Complaints Policy has been reviewed recently and sets the matters with which we will investigate and those which we will not. This document is readily available.

### **1. 3.3 Primary Authority Partnerships**

- 3.3.1** Councils work together to coordinate enforcement and advice to businesses that distribute goods or trade in more than one area. The Regulatory Enforcement and Sanctions Act 2008 sets up the Primary Authority scheme which gives for the first time the right for companies operating outside our area to form a statutory partnership with us as a single point of contact. The objective of this is to provide robust and reliable advice on compliance that other Councils must take into account when carrying out inspections or dealing with non-compliance. The Primary Authority scheme will have some considerable impact upon our team in the event of engagement where a local business operates across local authority boundaries. The scheme does allow for cost recovery. A number of businesses have in the past indicated some interest although no formal arrangements are in place currently and we are likely to secure a partnership this year.

### **3.4 Advice to Business**

- 3.4.1** We support the Council's objective to maintain and enhance the prosperity of business and it is our policy to support businesses in complying with food safety laws and good practice by whatever means available. Often such is given when businesses start up and during our inspections. Our main source of advice will be via our websites and by telephone with our Case Management Team. Specific advisory/consultation visits do take place where there is a specific need and mutual benefit. We shall be re-examining this as part of our approach to generating income. Advisory visits to food manufacturers (particularly those subject to formal 'approval') is common and allows for better administration of the Councils approved premises process and reduces the burden on business within this specialised sector.

We continue to promote the SFBB pack for smaller businesses to help businesses comply with the legal requirements to have a documented food safety management system. Advice to businesses and individuals detracts from the food safety inspection programme, and this is a service that we do not currently provide. We recognise that a balance needs to be drawn between the benefits to the business and cost to the Council. An assessment is made as to which is the most effective use of Council resources.

3.4.2 Business advice is a requirement of the Food Standards Agency Framework Agreement with local authorities and, as a result we have participated in the review of the information and guidance available on the Councils website; this is ongoing. We are also considering best practice for engaging with businesses.

3.4.3 We will review our advice strategy throughout this year and identify what additional resources are needed and identify various ways of providing advice so as to meet our service demands and the requirements of the Food Standards Agency. We will also continue to seek to work with all our partners both internally and externally to ensure that the most accurate advice is given in the most appropriate manner

### **3.5 Food Sampling**

3.5.1 On an annual basis we review our policy for food sampling and also our programme for the year. This reflects the nationally required programmes, our statutory requirements under specific regulations and requirements of the Food Standards Agency including the sampling of any imported foods. Local initiatives and local products are also included. The programme incorporates any work following liaison with the Devon and Cornwall Food Liaison Group and Public Health England.

3.5.2 Reactive sampling takes place as a result of food poisoning investigations or complaints received. In addition to the programme, we take samples (including swabs) during inspections as the situation dictates. It is anticipated that sampling levels for complaints will remain static but our proactive programme last year in South Hams was underachieved and is likely to be in this current year due to resources available. The South Hams District Council's statutory role as regards shellfish harvesting area sampling and toxic algae monitoring programmes should remain unaffected as resources are appropriately allocated, however, enhanced monitoring required by Government throughout the year especially during summer months, as regards toxic algae will create a considerable additional burden at the expense of the normal food sampling and other proactive work such as our inspection programme.

3.5.3 Arrangements under the Service Level Agreement with the local Food, Water and Environmental Laboratory allow our sampling programme to operate by a mechanism of 'credit' values and the more complex the examination or type of food sample, the greater the credit utilisation. Currently, this is a non-chargeable service under the auspices of Public Health England. In the event of the credit allocation

being exceeded, charges will be made. To date, we have not exceeded our allowance. Under utilisation of credit allocation may result in charging for wasted resources. This will be kept under careful scrutiny.

3.5.4 The shellfish harvesting monitoring programme for microbiological samples falls outside any credit allocation scheme and cost of this, both in officer time and laboratory examination continues to be a drain on resources. Examination of the samples is undertaken by the CEFAS laboratory (Centre for the Environment, Fisheries and Agriculture Science), a Government Agency.

3.5.5 The profile for food samples is as follows:

	<b>2015/2016</b>	<b>2016/2017</b>
<b>SHDC</b>	132	185
<b>WDBC</b>	92	45

3.5.6. Only one or two samples per annum, mainly relating to complaints are submitted to the Public Analysts laboratory. The cost of these is met from existing resources and, in the event of legal proceedings, we will seek to recover sampling costs from the defendant.

### **3.6 Control and Investigation of Outbreaks and Food related Infectious disease.**

3.6.1 Food poisoning in the UK is estimated at costing the country £1.5 billion/yr and Public Health England report up to 1 million cases of food poisoning a year resulting in approximately 2000 cases admitted to hospital and 500 deaths. A procedural document gives specific guidance on this issue and links in with the Outbreak Communicable Disease Control Plan developed by the Devon Health Protection Unit which is now Public Health England.

The profile for notifications of infectious diseases and food poisoning is as follows:

	<b>2016/17</b>
<b>SHDC</b>	109
<b>WDBC</b>	62

3.6.2 The number of notifications of zoonotic infections (i.e. those infections transmissible between animals and humans) has increased over recent years and this is principally due to notifications of TB in cattle. This can have a potential for the spread of the infection to humans via untreated milk consumption.

3.6.3 The Service undertakes to commence investigation where appropriate of all relevant notified or suspected cases of food poisoning and infectious diseases within 24

hours. However, in the case of outbreaks or infections of high significance, we will commence our enquiries immediately i.e. Ecoli 0157, etc. Current systems in place and resources available permit this target to be met, although this will be at the expense of other proactive/reactive work.

### **3.7 Food Safety Incidents**

- 3.7.1 Food alerts are notified to us by the Food Standards Agency and they alert the public, businesses and local authorities to problems or potential problems in food products nationally. Our role where necessary, is to ensure that these products are removed from the food chain. The speed and nature of response is determined by the category of notification received, however, with many notifications, no action is needed. We recognise that some notifications however do require an immediate response and sufficient resources are available. However, this is at the detriment of our other functions.
- 3.7.2 We have an out-of-hours emergency service whereby food safety incidents can be acted upon where necessary and we have the capability to receive all notifications via e-mail and text messages to officers' mobile phones. A documented procedure for responding to food safety incidents etc is in place.

### **3.8 Liaison with Other Organisations**

- 3.8.1 The Councils' food safety remit is represented and actively participates in the Devon and Cornwall Food Liaison Group where topical issues of mutual concern and policy/procedural matters are debated. The Group also co-ordinate training and peer review exercises throughout the region. Formal meetings are held every six weeks and specialist officer working groups are set up to consider particular issues who then report back to the main group. Ad hoc meetings are held where necessary to consider emerging and urgent issues so as to ensure a common approach and understanding. The core of the Group comprises of food safety lead officers in all Devon Council's, Cornwall Council, Trading Standards, the Public Health England's food, water and environment laboratory microbiologists and consultants in communicable disease control and also the Food Standards Agency.
- 3.8.2 Officers attend Branch and Centre meetings of the Chartered Institute of Environmental Health and seek to maintain their CPD credit status as members of their professional body.
- 3.8.3 Officers' maintain regular working contact and have good liaison with the Public Health England, Devon, Somerset and Torbay Trading Standards, Food Water and Environment laboratory, Food Standards Agency, LGR, CEFAS, APHA, Environment Agency, South West Water, Devon and Severn Inshore Fishery and Conservation Authority and Care Quality Commission, Ofsted on day to day issues. We also regularly engage with our internal services such as planning, economy,

licensing, pollution and legal services etc In addition, given that the Food Standards Agency now has regional representation, we are able to work with a key Government agency at a more local level.

3.8.4 The Food Safety Service recognises along with all other services, the need to be cost effective and deliver their service in an efficient manner. We also need to look forward to the 'bigger picture' in service delivery and partners who can assist this objective. By working in partnership, we will be able to respond more easily to those emerging technologies raising food safety concerns and meeting the challenges of shared training and knowledge. There is a need not only to move forward with the changes proposed with the T18 project but also the national and regional 'public health' agenda. We will achieve this by continued effective liaison.

### 3.9 Food safety promotion

3.9.1 Due to available resources, the Council does not currently undertake food hygiene training instead, the need is met by other local authorities, private enterprises and local education establishments. However, we will review this approach when we examine opportunities for income generation. We participate in the National Food Safety Week in May/June each year via our communications team. Officers do, from time to time provide talks to local interest groups or specific business sectors. We shall be reviewing our approach to business engagement as part of the Councils' Transformation Programme and also the broader public health agenda. We shall be looking to deliver training opportunities for business by working in partnership with others because of our limited and stretched resources.

## **Section 4 Resources**

### **Resource projection for the Food Safety Service Delivery 2017-2018**

<b>South Hams</b>			
<b>Service Function</b>	<b>Projected demand</b>	<b>Estimated time per unit (hours)</b>	<b>Total Food Officer resource required p/a (hours)</b>
<b>Category A interventions</b>	6	5	30
<b>Category B interventions</b>	28	4	112
<b>Category C interventions</b>	181	1.5	271.5
<b>Category D interventions</b>	498	1	498
<b>Category E interventions</b>	458	0.25	114.5
<b>Unrated</b>	22	2	44
<b>New Registrations</b>	91	1.5	136.5
<b>Re-visits</b>	13	1.5	19.5

<b>Complaint Investigations (based on last year's data)</b>	65	1.5	97.5
<b>Infectious Diseases</b>	109	0.5	54.5
<b>Business advice (exc unrated businesses) e.g. identified through planning &amp; licensing regimes or service requests (SR)</b>	10 SR – 96  Total - 106	1.5	159
<b>Mandatory Competency training</b>	3 Officer	30	90
<b>Internal Monitoring, database maintenance and FHRS administration</b>	52 Weeks	7	364
<b>Primary Authority Partnership</b>	1	36	36
<b>Food Service meetings, regional liaison group, consistency meetings etc.</b>	1 x 2 hour food team Meetings / consistency meeting pcm  1 x 4 hour regional meeting per quarter (4/yr)	9  4.5	18  72
<b>Sampling projects and interventions and follow up</b>	132	2	364
<b>TOTAL OFFICER HOURS REQUIRED p/a</b>			2481
<b>Available Officer hours p/a</b>  37 hrs. p/w x 52 = 1924 p/a  - 22 hrs annual leave = 1702  - 30 hrs CPD = 1672	2.2 FTE	1568	3449

- 37 hrs other training or sickness = 1635			
- 9 Bank / public holidays p/a = 67hrs = 1568			
<b>Assessment of resource:</b> There is likely to be sufficient officer resource to deliver this Food Safety Service Plan, it will be by a margin which could realistically be consumed by one complex investigation, prosecution or infectious disease outbreak. 4.2.2 below details Officer Allocation.			

<b>West Devon</b>			
<b>Service Function</b>	<b>Projected demand</b>	<b>Estimated time per unit (hours)</b>	<b>Total Food Officer resource required p/a (hours)</b>
<b>Category A interventions</b>	3	5	15
<b>Category B interventions</b>	18	4	72
<b>Category C interventions</b>	114	2	228
<b>Category D interventions</b>	236	1	236
<b>Category E interventions</b>	308	0.25	77
<b>Unrated</b>	31	2	62
<b>New Registrations</b>	61	2	122
<b>Re-visits</b>	13	1.5	19.5
<b>Complaint Investigations (based on last year's data)</b>	27	1.5	40.5
<b>Infectious Diseases</b>	62	0.5	31
<b>Business advice (exc unrated businesses) e.g. identified through planning &amp; licensing regimes or service requests (SR)</b>	10 SR – 35  Total - 45	1.5	67.5
<b>Mandatory Competency training</b>	1 Officer	30	30
<b>Internal Monitoring, database maintenance and FHRS administration</b>	52 Weeks	7	364
<b>Food Service meetings, regional liaison group, consistency meetings etc.</b>	1 x 2 hour food team Meetings / consistency	9	18

	meeting pcm		
<b>Sampling projects and interventions and follow up</b>	92	2	184
<b>TOTAL OFFICER HOURS REQUIRED p/a</b>			1566.5
<b>Available Officer hours p/a</b>  37 hrs. p/w x 52 = 1924 p/a  - 22 hrs annual leave = 1702  - 30 hrs CPD = 1672  - 37 hrs other training or sickness = 1635  - 9 Bank / public holidays p/a = 67hrs = 1568	1.6 FTE	1568	2508.8
<b>Assessment of resource:</b> There is sufficient officer resource to deliver this Food Safety Service Plan but it could be further compromised by one complex investigation, prosecution or infectious disease outbreak. 4.2.2 below details Officer Allocation. This is accounted for by using the “contractor budget” to allocate any outstanding inspections to (see appendix B)			

### Financial Allocation

- 4.1.1 Budget details for the Commercial Team are shown in ‘Appendix B’. The Commercial Team includes food safety, health and safety and some licensing functions
- 4.1.2 Staff costs are the predominant cost to the service. £127,520 in South Hams and £78,310 in West Devon.
- 4.1.3 The South Hams sampling budget of £7,000 covers the examination costs of South Hams District Council’s statutory shellfish sampling role, although due to increased costs and further sampling demands the budget is exceeded. As detailed above, the cost of the microbiological examination of food is carried out by a system of

credit allocation and costs are met by Central Funds, see paragraph 3.5.3 above. The sampling budget in West Devon is £2500

- 4.1.4 There is a small budget in West Devon for inspection work (£3200). This is an historic arrangement to supplement inspection work carried out by Specialist Staff. There is no such budget in South Hams.
- 4.1.5 The Council has a duty to provide export licence certification when requested to do so by businesses in its area that export food to countries outside of the EU. (Current charge £125 per certificate). The service is currently under review due to the changing demands of business and the fee set will be reviewed once the outcome of central government requirements are known.
- 4.1.6 In the event of successful legal proceedings being taken, the Council endeavours to recover all costs from the defendant where possible. No separately identifiable budget within the Community of Practice - Environmental Health Service is provided for the pursuance of legal action. Resources are provided within the corporate budget.

## **4.2 Staffing Allocation**

- 4.2.1 This Service Plan recognises the need for staff engaged in food safety issues to be adequately trained and competent (see paragraph 3.1.9). It also has been stated personnel providing the food safety service also undertakes various other functions (see paragraph 2.3.1).
- 4.2.2 Details of the food safety human resources are detailed in Appendix A. The majority of the teams work is devoted to food safety and other non-food safety work such as health and safety enforcement and caravan site licensing might not always receive the necessary priority. However, where there is a need to react to a situation, the team are flexible. Clearly, given the work demands, routine food safety inspection targets are under high pressure. We do also employ a contractor to carry out some food safety inspections in order to achieve our 100% target.
- 4.2.3 All Officers undertaking food safety work meet the requirements set out in the FSA's Code of Practice. Further training is provided to supplement these competencies although the most appropriate training is not always available locally. We are satisfied that officers are appropriately trained and competent in accordance with the FSA CoP although new competency requirements were introduced in 2015. We are subject to internal procedures re training, authorisation and quality monitoring. We recognise that sufficient financial resources are made available to ensure a professional and competent workforce.

## **4.3 Staff Development Plan**

- 4.3.1 The Council operates an annual appraisal scheme which identifies individual's strengths and development needs. These needs are identified and individual work plans are produced which also seek to develop professional expertise and competency and this will include maintain chartered status with the Chartered Institute of Environmental Health. Additionally, team meetings are held which may highlight the need for training in particular areas. Training is provided where both the mutual needs of the individual officer and the Council are met. One to one sessions are also held throughout the hierarchy.
- 4.3.2 The Council is committed to ensuring that Officers are able to meet their CPD training requirement as set out in the FSA CoP. All staff are trained to a high standard linked to their level of authorisation and training records show very few shortcomings.
- 4.3.3 Team members are actively encouraged to attend training courses so as to enhance competency in specialist areas. This has been achieved in the past with respect to the national Food Hygiene Rating Scheme, HACCP evaluation, shellfish, milk pasteurisation, cheese making, canning and aseptic packaging, food factory enforcement, Police and Criminal Evidence Act, imported food enforcement and ISO 9000, ISO 20002 Lead Auditor. Records of staff training and appraisals/core competencies are kept as required by the framework agreement on Local Authority Food Law Enforcement issued by the Food Standards Agency. Assessment of competency is on-going and forms part of a quality monitoring process. This will need to be re-assessed due to the halt on free courses by the FSA.
- 4.3.4 As part of the T18 process our professional specialist team will be supported by our Case Managers and Locality Officers will be subject to the appropriate level of training to handle initial enquiries, administration and the lower level of work. Training will be provided and familiarisation work away from the office will be part of their training. Given the shared services arrangements, flexibility is available between both service delivery centres
- 4.3.5 We are currently not able to offer training placements for professional qualifications i.e. EHO trainees, however we do from time to time assist other local authorities enforcement staff with their training plan.

## **Section 5 Quality Assessment**

### **5.1 Quality Assessment and Internal monitoring**

We seek to ensure that a quality service is delivered so as to achieve our aims and objectives. This is met by internal quality assessment and auditing against this Service Plan and our Environmental Health Work-plan, individual appraisal plans, peer review and other documentation. Checks are also made on our approved premises documents, food complaints sign off and legal notices/referral for

enforcement action. We value customer feedback questionnaires as a valuable source of quality checks.

- 5.1.1 An internal audit report of the West Devon Food Safety Service gave an audit opinion of 'good' and stated that 'the majority of the areas reviewed were found to be adequately controlled. Generally, risks are well managed but a few areas for improvement have been identified'.
- 5.1.2 In addition to internal monitoring, the Council's food safety service embraces inter-authority auditing as a measure of quality performance with other authorities within Devon and Cornwall. Since the inception of the national Food Hygiene Rating Scheme a system of peer review exercises has been developed to promote the consistency of premises rating by all food safety officers within the region. Currently, these exercises are undertaken on a monthly basis. It is reported that officers of the South Hams and West Devon show consistency with officers employed elsewhere. The Food Standards Agency have recently carried out their first National Peer Review exercise. We were engaged in an Inter Authority Audit for the Food Hygiene Rating Scheme in January 2016.

We are from time to time audited externally. This usually occurs under the auspices of the Food Standards Agency. The EU Food and Veterinary Office carry out audit programmes also with a view to assessing whether legislation is being implemented consistently across the European Community.

## **Section 6 Review**

### 6.1 Review against the Service Plan

The Environmental Health Service Plan is subject to scrutiny and includes performance relevant to food safety. On an annual basis we will report on the achievements of our targets set out in this Plan and the reason for non-attainment.

### 6.2 Identification of any Variation from the Service Plan

If during the year we have had reason to change or approach or targets we will explain the reason for this when we review the Plan.

### 6.3 Areas for Improvement and Future Development

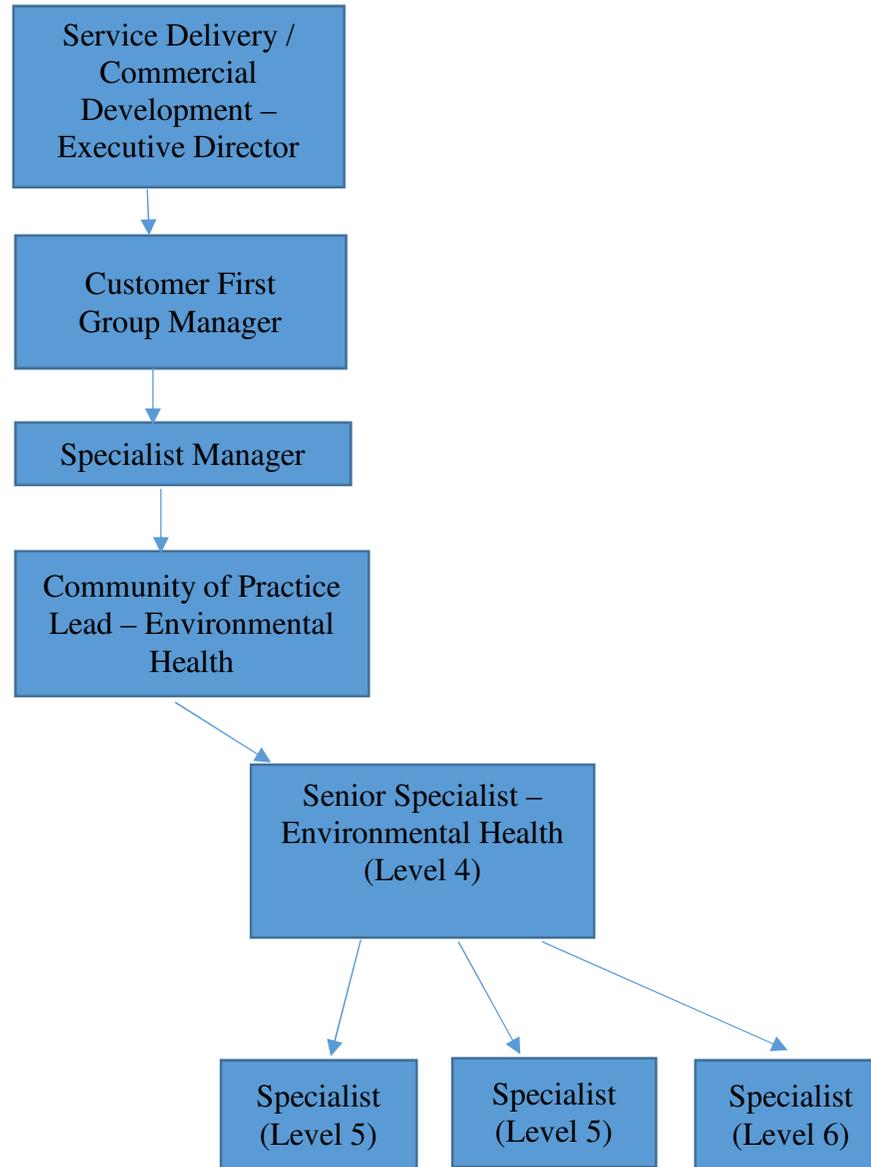
- Integrate the T18 project and define case managers, specialist and locality officer roles and the related work streams with a view to freeing up of officers to deliver service at the appropriate level.
- Critically examine the cost elements of our work and identify opportunities for greater business development and competitive within the marketplace.

- Identify further areas for cost saving within the service and the apportionment of work.
- Develop a suite of meaningful performance indicators, monitor compliance and individual officer performance.
- Examine opportunities for greater engagement with business
- Develop further with partners our role in the wider 'Public Health Agenda'.
- Continue to benchmark with other local authorities as appropriate.
- Develop more fully the alternative enforcement strategy for low risk premises

This Service Plan will be reviewed annually to assess whether objectives have been met, take into account the altering needs and aspirations of internal and external stakeholders, changes in levels of service, new legislative requirements and directions from Government. Review of the Service plan is subject to Member approval.

**Appendix A – Organisational Chart**

**Community of Practice - Environmental Health Specialists**



## Appendix B

Commercial Team Budget (includes Food Safety, Health and Safety and some Licensing functions)

2016/17 (indicative of 2017/18)		SHDC (tariff a)		WDBC
Staff Resource costs				
Specialist	0.5 x L4 (0.8)	19186	0.5 x L4 (0.8)	19186
	2 x L5	83606	1 x L6	34396
Case Management	1 x L8	24728	1x L8	24728
<b>Total staff</b>		<b>127,520</b>		<b>78,310</b>
Training	as per Customer First budget		as per Customer First budget	
Consumable (equipment, ancillary costs)		0		1000
Travel		2500		2500
Inspections		0		3200
Sampling		7000		2500
<b>Total other</b>		<b>9500</b>		<b>9200</b>
<b>Total Cost</b>		<b>137020</b>		<b>87510</b>

**This page is intentionally left blank**

Report to: **Executive**

Date: **7 December 2017**

Title: **Write Off Report**

Portfolio Area: **Support Services**

Wards Affected: **All**

Relevant Scrutiny Committee:

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

Author: **Lisa Buckle** Role: **Section 151 Officer**

Contact: **Ext. 1413 lisa.buckle@swdevon.gov.uk**

---

## **Recommendations:**

### **That the Executive:**

- 1. notes that, in accordance with Financial Regulations, the Section 151 Officer has authorised the write-off of individual South Hams District Council debts totalling £66,076.68, as detailed in Tables 1 and 2; and**
- 2. approves the write off of individual debts in excess of £5,000 totalling £29,493.05, as detailed in Table 3.**

## **1. Executive summary**

The Council is responsible for the collection of: Housing Rents, Sundry Debts including Housing Benefit Overpayments, Council Tax and National Non-Domestic Rates.

The report informs members of the debt written off for these revenue streams. Debts up to the value of £5,000 being written off by the s151 Officer, under delegated authority. Permission needs to be sought from the Executive to write off individual debts with a value of more than £5,000.

This report covers the period 1st July 2017 to 30th September 2017.

## **2. Background**

The Council's sound financial management arrangements underpin delivery of all the Council's priorities, including the commitment to providing value for money services.

This report forms part of the formal debt write-off procedures included in these financial arrangements.

South Hams District Council's collection rates for 2016/17 were; Council Tax 98.12% & Business Rates 96.83%.

In the second quarter of 2017/18 the Council has collected £17.9 million in Council Tax and £7.7 million in Business Rates. The total collectable debt for 2017/18 (as at 30<sup>th</sup> September) for Council Tax is £66.5 million and for Business Rates is £31.6 million.

Debts are recovered in accordance with the Council's Recovery Policy which is published on our website.

The Housing Benefit write offs for Quarter 2 are significantly higher than normal due to a data cleansing exercise recently carried out.

The decision was made to write off any debt that hadn't been pursued in the last 6 years as uncollectable debt, also debt less than £20.00 was written off as uneconomical to chase.

The cost to the Council of the housing benefits write offs of £69,000 is approximately £31,000, due to the remainder being claimed in housing benefit subsidy.

## **3. Outcomes/outputs**

In accordance with good financial management principles the Council has, for the revenue streams detailed in this report, made a total bad debt provision of £2,574,766.10. This provision recognises that a proportion of the Authority's debts will prove irrecoverable and ensures that the value of debtors within the Authority's accounts is a fair reflection of the amount that will eventually be recovered.

All debts, taxes and rates within the Service's control are actively pursued, and in most instances are collected with little difficulty. In cases where payment is not received on time, a reminder will be issued promptly to the debtor. If this fails to secure payment, a final reminder and/or a summons will also be issued and if necessary the debt passed to an appropriate collection agent such as the Civil Enforcement Agents or the Council's Legal Department in order to secure payment.

Sometimes, however, if the debtor is having difficulty making the payment, special arrangements are used to effect recovery, and this may mean extending the period of time to collect the debt.

In some cases pursuit of an outstanding debt is not possible for a variety of reasons, such as bankruptcy or liquidation and such cases with arrears under £5,000 are written off by the Section 151 Officer under delegated authority. Cases where the debt exceeds £5,000 must, however, be approved by the Executive prior to the debt being written off.

A record is kept of debts written off, together with the reason for doing so, so that if there is a realistic chance of recovery in the future a debt may be resurrected and pursued again.

The Service has access to Experian’s Citizenview database which is currently the most reliable means of tracing absconded debtors. Each case is checked against this system before a decision is taken to write off the debt. A periodic review of write offs against this system may also be carried out to resurrect debts where appropriate.

#### **4. Options available and consideration of risk**

#### **5. Proposed Way Forward**

The Executive approves the write off of individual debts in excess of £5,000 as detailed in Table 3.

#### **6. Implications**

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		The relevant powers for this report are contained within the following legislation;  Section 151 Local Government Act 1972 Section 44 Local Government Finance Act 1988 (Non Domestic Rate) Section 14 Local Government Finance Act 1992 (Council Tax)
Financial		South Hams District Council debts totalling £95,569.73 to be written-off
Risk	Reputation	Any risk to reputation is managed carefully by prompt recovery of amounts due wherever possible.  This risk is also mitigated by taking a balanced view and ensuring that resources are not expended on debts which are not cost effective to pursue

	Write Off	<p>The obvious risk of debtors subsequently being able to pay a debt which has been written off is mitigated by the activity outlined in issues for consideration.</p> <p>Any individual debt exceeding £5,000 is referred to members for consideration prior to write-off which accords with Financial regulations.</p>
--	-----------	--

Comprehensive Impact Assessment Implications		
Equality and Diversity		All enforcement action that is taken prior to this point is undertaken in accordance with legislation and accepted procedures to ensure no discrimination takes place.
Safeguarding		None
Community Safety, Crime and Disorder		None
Health, Safety and Wellbeing		None
Other implications		A bad debt provision is built into the financial management of the Authority

### **Supporting Information**

#### **Appendices:**

Table 1 – Council debt under £5,000 written off by the Section 151 Officer

Table 2 – Non-Domestic Rate debt under £5,000 written off by the Section 151 Officer

Table 3 – Summary of items over £5,000 where permission to write off is requested

Table 4 – National & Local Collection Statistics re 2016 / 17 Collection Rates

Table 5 – Quarterly income in 2016 / 17 relating to all years

Table 6 – Previous Year Write Off Totals

#### **Background Papers:**

Section 151 Local Government Act 1972

Section 44 Local Government Finance Act 1988 (Non Domestic Rate)

Section 14 Local Government Finance Act 1992 (Council Tax)

Recovery Policy



**TABLE 1 SUMMARY OF SOUTH HAMS DISTRICT COUNCIL DEBT UNDER £5,000 WRITTEN OFF BY S151 OFFICER**

TYPE OF DEBT	NUMBER OF CASES		No of people / business	REASON FOR W/OFF	Financial Year 2017/18			Totals for Comparison purposes			
	<£1000	>£1000			Quarter 2	Cumulative Total		Equivalent Quarter 2016/17		Grand Total 2016/17	
					Amount (£)	Cases	Amount	Cases	Amount	Cases	Amount
<b>HOUSING BENEFIT</b>	4	23		Overpaid Entitlement	17,548.44	78	39,063.09	-	-	69	33,471.63
	3	-		Bankruptcy	3,454.06	6	6,859.74	-	-	2	796.60
	-	-		Absconded	-	-	-	-	-	2	1,100.70
	-	1		Deceased	12.32	1	12.32	-	-	15	3667.12
	-	3		Not cost effective to pursue	34.34	5	40.01	-	-	46	1,775.70
	7	99		Uncollectable old debt	25,593.25	119	32,590.36	-	-	65	27545.59
Total	14	126			46,642.41	209	78,565.52	-	-	199	68,357.34
<b>COUNCIL TAX</b>	2	8		Absconded	9,515.20	12	10,259.68	10	2,911.50	70	40,237.06
	1	-		Administrative Receivership	1,336.00	1	1,336.00	-	-	1	1,224.21
	1	1		Bankruptcy	1,621.49	15	21,074.98	6	2,609.09	33	26,773.69
	-	-		Deceased	-	-	-	4	615.45	9	1,433.79
	-	4		Small balance	30.63	5	50.63	2	27.50	9	108.41
	-	2		Other	69.90	8	3,248.36	12	9,434.27	47	23,709.53
	-	-		Uncollectable old debt	-	-	-	-	-	-	-
	-	-		Voluntary Bankruptcy	-	-	-	-	-	-	-
Total	4	15			12,573.22	41	35,969.65	34	15,597.81	169	93,486.69
<b>SUNDRY DEBTS</b>	-	-	-	Absconded	-	-	-	-	-	-	-
	1	-	1	Bankruptcy/DRO/IVA/CVA	3,251.06	1	3,251.06	-	-	-	-
	-	-	-	Not cost effective to pursue	-	-	-	-	-	-	-
	1	-	1	Other	1,052.68	1	1,052.68	-	-	1	1,321.50
	-	-	-	Administrative Receivership	-	-	-	-	-	-	-
	-	3	3	Small balance	0.80	3	0.80	-	-	-	-
Total	2	3			4,304.54	5	4,304.54	-	-	1	1,321.50
<b>HOUSING RENTS</b>	-	-		Bankrupt	-	-	-	-	-	-	-
	-	1		Not cost effective to pursue	90.10	1	90.10	-	-	-	-
	-	1		Absconded	38.19	1	38.19	-	-	-	-
	-	-		Uncollectable old debt	-	-	-	-	-	-	-
	-	-		Other	-	-	-	1	270.00	1	270.00
	-	-		Deceased	-	-	-	-	-	-	-
Total		2			128.29	2	128.29	1	270.00	1	270.00
<b>Grand Total</b>	<b>20</b>	<b>146</b>			<b>63,648.46</b>	<b>257</b>	<b>118,968.00</b>	<b>35</b>	<b>15,867.81</b>	<b>370</b>	<b>163,435.53</b>

**TABLE 2 SUMMARY OF NON DOMESTIC RATE DEBT UNDER £5,000 WRITTEN OFF BY S151 OFFICER**

TYPE OF DEBT	NUMBER OF CASES		No of people / business	REASON FOR W/OFF	Financial Year 2017/18			Totals for Comparison purposes				
	<£1000	>£1000			Quarter 2		Cumulative Total		Equivalent Quarter 2016/17		Grand Total 2016/17	
					Amount (£)	Cases	Amount	Cases	Amount	Cases	Amount	
NON-DOMESTIC RATE	1	-	1	Absconded	2,428.22	1	2,428.22	-	-	1	1,165.70	
	-	-	-	Administrative Receivership	-	-	-	-	-	-	-	
	-	-	-	Liquidation	-	-	-	13	16,930.85	18	24,351.39	
	-	-	-	Voluntary Bankruptcy	-	-	-	-	-	-	-	
	-	-	-	Other	-	-	-	1	2,231.08	6	5,148.64	
	-	-	-	Uncollectable old Debt	-	-	-	-	-	-	-	
	-	-	-	Bankruptcy	-	-	-	1	1,607.71	2	2,147.05	
-	-	-	Deceased	-	-	-	-	-	-	-		
<b>Total</b>	<b>1</b>		<b>1</b>		<b>2,428.22</b>	<b>1</b>	<b>2,428.22</b>	<b>15</b>	<b>20,769.64</b>	<b>27</b>	<b>32,812.78</b>	

**TABLE 3 SUMMARY OF ITEMS OVER £5,000 WHERE PERMISSION TO WRITE OFF IS REQUESTED**

Page 425 TYPE OF DEBT	NUMBER OF CASES	REASON FOR W/OFF	Financial Year 2017/18			Totals for Comparison purposes				
			Quarter 2		Cumulative Total		Equivalent Quarter 2016/17		Grand Total 2016/17	
			Amount (£)	Case	Amount	Cases	Amount	Cases	Amount	
NON-DOMESTIC RATE	-	Administrative Receivership	-	-	-	-	-	-	-	
	1	Liquidation	7,397.47	1	7,397.47	3	26,662.91	3	26,662.91	
	-	Absconded	-	-	-	-	-	-	-	
	-	Bankruptcy	-	-	-	-	-	1	9,650.91	
	-	Uncollectable old Debt	-	-	-	-	-	-	-	
	-	Company Voluntary Arrangement	-	-	-	1	10,814.18	-	-	
	-	Other	-	-	-	-	-	1	10,814.18	
<b>Total</b>	<b>1</b>		<b>7,397.47</b>	<b>1</b>	<b>7,397.47</b>	<b>4</b>	<b>37,477.09</b>	<b>5</b>	<b>47,128.00</b>	
HOUSING BENEFIT	1	Deceased	7,183.54	1	7,183.54	-	-	-	-	
	1	Overpaid Entitlement	5,991.22	2	13,168.64	-	-	-	-	
	-	Uncollectable	-	1	5,558.67	-	-	1	5,394.07	
	1	Bankruptcy	8,920.82	2	18,551.90	-	-	-	-	
<b>Total</b>	<b>3</b>		<b>22,095.58</b>	<b>6</b>	<b>44,462.75</b>	<b>-</b>	<b>-</b>	<b>1</b>	<b>5,394.07</b>	
COUNCIL TAX	-	Absconded	-	-	-	-	-	-	-	
	-	Bankruptcy	-	-	-	-	-	-	-	
	-	Voluntary Arrangement	-	-	-	-	-	-	-	
<b>Total</b>	<b>-</b>		<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	
<b>Grand Total</b>	<b>4</b>		<b>29,493.05</b>	<b>7</b>	<b>51,860.22</b>	<b>4</b>	<b>37,477.09</b>	<b>6</b>	<b>52,522.07</b>	

**TABLE 4 NATIONAL & LOCAL COLLECTION STATISTICS RE 2016-17 COLLECTION RATES**

**Total amount collected in 2016-17 relating to 2016-17 financial year only (net of refunds relating to 2016-17)**

	Council Tax			Non Domestic Rates		
	Collectable Debit i.r.o. 16/17 - £000s	Net Cash Collected* i.r.o. 16/17 - £000s	Amount Collected i.r.o. 16/17 - %age	Collectable Debit i.r.o. 16/17 - £000s	Net Cash Collected* i.r.o. 16/17 - £000s	Amount Collected i.r.o. 16/17 - %age
All England	26,797,092	26,038,596	97.2	24,643,214	24,205,471	98.2
Shire Districts	12,285,320	12,047,031	98.1	7,988,405	7,861,058	98.4
East Devon	94,072	93,145	99.0	35,024	34,571	98.7
Exeter	58,500	56,631	96.8	81,594	79,281	97.2
Mid Devon	47,266	46,369	98.1	15,924	15,793	99.2
North Devon	55,106	53,567	97.2	32,249	30,995	96.1
Plymouth	112,379	108,918	96.9	94,732	93,726	98.9
<b>South Hams</b>	<b>62,914</b>	<b>61,729</b>	<b>98.1</b>	<b>32,850</b>	<b>31,808</b>	<b>96.8</b>
Teignbridge	79,657	78,492	98.5	32,897	32,701	99.4
Torbay	70,863	67,673	95.5	38,589	37,279	96.6
Torrington	38,659	37,965	98.2	11,617	11,387	98.0
West Devon	35,504	34,529	97.3	11,328	11,068	97.7

\* Net Cash Collected is total 2016-17 receipts net of refunds paid, in respect of 2016-17 only

**TABLE 5 QUARTERLY INCOME IN 2016-17 RELATING TO ALL YEARS**

**Total amount collected in 2016-17 relating to any financial year (net of all refunds in 2016-17)**

	Council Tax Net Cash Collected* £000s	Non Domestic Rates Net Cash Collected* £000s
Quarter 1 - Receipts collected between 1 <sup>st</sup> April – 30 <sup>th</sup> June	18,681	9,317
Quarter 2 - Receipts collected between 1 <sup>st</sup> July – 31 <sup>st</sup> September	17,169	8,486
Quarter 3 - Receipts collected between 1 <sup>st</sup> October – 31 <sup>st</sup> December	17,775	7,611
Quarter 4 - Receipts collected between 1 <sup>st</sup> January – 31 <sup>st</sup> March	8,446	4,527

\* Net Cash Collected is total receipts in 2016-17 net of refunds paid, irrespective of the financial year (previous, current or future years) to which they relate

**TABLE 6 PREVIOUS YEAR WRITE OFF TOTALS**

		2016 - 17	2015 - 16	2014 - 15	2013- 14	2012 - 13	2011 - 12
HOUSING BENEFIT	Under £5,000 cases	68,357.34	57,038.07	102,138.53	75,357.30	87,095.83	74,868.17
HOUSING BENEFIT	£5,000 or over cases	5,394.07	7,177.42	0.00	14,903.19	61,925.43	0.00
Total		73,751.41	64,215.49	102,138.53	90,260.49	149,021.26	74,868.17
COUNCIL TAX	Under £5,000 cases	93,486.69	54,831.67	97,927.30	117,528.97	96,025.52	112,674.76
COUNCIL TAX	£5,000 or over cases	0.00	0.00	0.00	23,090.93	6,782.09	12,160.58
Total		93,486.69	54,831.67	97,927.30	140,619.90	102,807.61	124,835.34
SUNDRY DEBTS	Under £5,000 cases	1,321.50	9.03	6,584.63	2,723.23	12,811.29	28,170.96
SUNDRY DEBTS	£5,000 or over cases	0.00	0.00	0.00	0.00	0.00	0.00
Total		1,321.50	9.03	6,584.63	2,723.23	12,811.29	28,170.96
HOUSING RENTS	Under £5,000 cases	270.00	0.00	3,113.38	1,037.83	3,143.83	3,048.57
HOUSING RENTS	£5,000 or over cases	0.00	0.00	0.00	0.00	0.00	0.00
Total		270.00	0.00	3,113.38	1,037.83	3,143.83	3,048.57
NON DOMESTIC RATES	Under £5,000 cases	32,812.78	37,074.12	75,016.54	70,809.92	39,115.54	54,011.11
NON DOMESTIC RATES	£5,000 or over cases	47,128.00	252,084.33*	166,412.60	44,546.85	76,663.15	84,187.61
Total		79,940.78	289,158.45	241,429.14	115,356.77	115,778.69	138,198.72
<b>GRAND TOTAL</b>		<b>248,770.38</b>	<b>408,214.64</b>	<b>451,192.98</b>	<b>349,998.22</b>	<b>383,562.68</b>	<b>369,121.76</b>

\* 2015-16; of the £252,084.33, £49,200.47 relates to one business going into liquidation, £83,674.59 relates to another business going into liquidation and a further £56,813.18 relates to an individual entering into a Voluntary Arrangement.

**This page is intentionally left blank**

**MINUTES OF THE MEETING OF THE  
OVERVIEW & SCRUTINY PANEL  
HELD AT FOLLATON HOUSE, TOTNES ON  
THURSDAY, 9 NOVEMBER 2017**

<b>Panel Members in attendance:</b>			
* Denotes attendance		∅ Denotes apology for absence	
*	Cllr K J Baldry	*	Cllr E D Huntley
*	Cllr J P Birch	∅	Cllr D W May
*	Cllr J I G Blackler	*	Cllr J T Pennington
∅	Cllr B F Cane	*	Cllr K Pringle
*	Cllr J P Green	*	Cllr M F Saltern (Chairman)
*	Cllr J D Hawkins	*	Cllr P C Smerdon (Vice Chairman)
*	Cllr M J Hicks		

<b>Other Members also in attendance:</b>
Cllrs H D Bastone, I Bramble, J Brazil, P K Cuthbert, R D Gilbert, T R Holway, N A Hopwood, J A Pearce, R Rowe, R C Steer, R J Tucker, K R H Wingate and S A E Wright

<b>Item No</b>	<b>Minute Ref No below refers</b>	<b>Officers in attendance and participating</b>
All		Head of Paid Service; Executive Director (Service Delivery and Commercial Development) and Senior Specialist – Democratic Services
7(i)	O&S.67/17(i)	Group Manager – Business Development and Corporate Commercial Strategy Manager (Aylesbury Vale District Council)
7(ii)	O&S.67/17(ii)	IT Community Of Practice Lead
8	O&S.68/17	Senior Community Safety Officer, South Devon and Dartmoor Community Safety Partnership; Inspector Chris Tapley and Community Safety and Safeguarding Specialist
9	O&S.69/17	Community Of Practice Lead – Housing, Revenues and Benefits and Housing Specialist
10	O&S.70/17	Housing Specialist
12	O&S.72/17	Support Services Specialist Manager
13	O&S.73/17	Specialist – Performance and Intelligence

**O&S.64/17 MINUTES**

The minutes of the meeting of the Overview and Scrutiny Panel held on 12 October 2017 were confirmed as a correct record and signed by the Chairman.

**O&S.65/17 DECLARATIONS OF INTEREST**

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

Cllr M F Saltern declared a Personal Interest in Item 8: 'Community Safety Partnership' (Minute O&S.68/17 below refers) by virtue of being an advisor to the Police and Crime Commissioner and left the meeting during consideration of this agenda item.

## O&S.66/17 **PUBLIC FORUM**

In accordance with the Public Forum Procedure Rules, two issues were received for consideration as follows:-

### **1. From Cllr John Birch**

#### **Ref. Section 106 Case Manager**

*'In welcoming the appointment of Julie Rowdon as the S106 Case Manager, it is noted that in the recent Bulletin sent to Members it is stated that 'her current priorities are to bring all records up to date, monitor finances ensuring that deadlines are met and to streamline S106 processes.'*

*I am concerned that the extent of the officer's duties may not be sufficient in that they may not extend to the monitoring of the imposition of non-financial obligations on developers arising out of completed S106 Agreements and other completed planning agreements such as unilateral undertakings and management plans submitted in order to satisfy a planning condition.*

*I have recently come across three examples on major developments in Totnes where it appears the Council has not sought to impose non-financial obligations on the developer.*

*Can Members be sent a copy of the Section 106 Case Manager's detailed Job Description and an assurance that she will have sufficient resources to undertake the monitoring of the imposition of non-financial obligations in respect of completed S106 Agreements and other completed planning agreements as mentioned above?'*

In response, the Head of Paid Service stated that, whilst largely an operational matter, he would speak to Cllr Birch outside of this meeting with regard to the Job Description for this role. However, the Head of Paid Service did assure those in attendance that he was satisfied that the content of the Job Description was appropriate for this role.

Whilst noting the concerns in the question relating to planning conditions, Cllr Birch was informed that these would not be part of the postholder's roles and responsibilities, with the focus instead being on ensuring development compliance with each S106 Agreement.

In reply to a supplementary question related to whether or not the allocated resource would be sufficient to meet the associated work

demands, it was agreed that officers would discuss this matter with Cllr Birch outside of this meeting.

## 2. Follaton House Car Parking

*'Barriers have recently erected in parts of the car park without reference to or in consultation with local Members. Upon the barriers becoming operational members of the public will suffer a loss of 35 car parking spaces in an area of limited parking.'*

*'Why has this restrictive car parking scheme been implemented without reference to or in consultation with local Members? Can the new scheme be put on hold until such reference and consultation has taken place?'*

In reply, the Head of Paid Service stated that, in line with the Council's delegated authority arrangements, the Community Of Practice Lead for Assets had taken the decision to erect these barriers. This decision had been taken in response to recent difficulties being experienced from the car park being used as a facility for second vehicles (often camper vans) to be stored for a significant period of time.

Whilst grateful for this response, Cllr Birch did nonetheless wish to put on record his disappointment that the local ward Members had not been consulted on this decision.

## O&S.67/17 EXECUTIVE FORWARD PLAN

The Panel was presented with the most recently published Executive Forward Plan. In accordance with Procedure Rules, a request had been made for the Panel to formally consider the following agenda items:

### (i) **Formation of a Community Lottery for South Hams and West Devon**

The Panel considered a report that set out the proposal to implement a joint local community lottery scheme to benefit the residents of South Hams and West Devon.

In discussion, the following points were raised:-

- (a) For clarity, the Leader of Council had confirmed that, whilst most joint working with West Devon Borough Council had discontinued until further notice, the proposal to form a Community Lottery Scheme would not be affected. Whilst the proposals included provision to share the set-up costs, it was recognised that the lottery schemes themselves would be wholly separate;
- (b) Without wishing to be presumptuous, it was noted that discussions had yet to take place with the Voluntary Sector to ascertain the extent of potential interest in the scheme. As a potential indicator, it

was noted that Torbay Council had implemented a similar scheme earlier this year, which was predicted to generate £42,000 for good causes and, to date, had seen over 100 groups sign up;

- (c) The Panel acknowledged that any decisions relating to existing Partnership funding contributions would be a matter for the Council to determine during the draft Budget setting process;
- (d) A Member expressed his concerns at the close linkages between this process and gambling and did not feel that the Council's reputation would be enhanced through the implementation of such a scheme. To counter this view, it was recognised that the presented agenda report did outline a number of mitigating measures to combat any potential for problem gambling;
- (e) It was noted that the overall intention of the scheme was to help local good causes that may be struggling for income to survive;
- (f) Before the views of the Panel were considered by the Executive, it was agreed that officers would circulate to Members a list of useful websites that were of relevance to the proposal;
- (g) Some of the experiences from Aylesbury Vale District Council (AVDC) were shared with the Panel and it was acknowledged that the scheme at that authority was working successfully. Furthermore, the representative from AVDC stressed that it was in the interests of the good causes to promote the scheme and players had the ability to specifically choose which causes their monies supported;
- (h) In highlighting the view that the country was suffering from 'lottery fatigue', a Member queried the projected ticket sales and whether or not this figure was realistic. In reply, it was confirmed that the figures were based upon up to 3% of the potential player population (those who were aged over 16 years old) in the South Hams and West Devon purchasing a ticket;
- (i) Officers informed that the actual set up costs of the scheme would equate to £13,000 (to be shared equally between the Council and West Devon Borough Council).

It was then:

#### **RECOMMENDED**

That the Executive **RECOMMEND** to Council that:

1. the proposed business case for the establishment of a joint South Hams and West Devon local community lottery scheme be approved and implemented (subject to approval from West Devon Borough Council);

2. Gatherwell Ltd be appointed as an External Lottery Manager and Aylesbury Vale District Council be appointed to assist with project implementation (subject to a successful Contract Exemption application);
3. authority be delegated to the Head of Paid Service to nominate two responsible officers to hold the Council's lottery licence and submit the necessary application to the Gambling Commission; and
4. authority be delegated to the Group Manager (Business Development), in consultation with the lead Executive Member, to approve the bespoke lottery business model policies required in order to submit a valid application to the Gambling Commission to obtain a lottery licence.

## **(ii) IT Procurement Options – Verbal Update**

Officers advised that the current IT contract with Civica was approaching its conclusion and, in line with technological advancements, it was now necessary to consider all possible alternatives for a future IT solution.

In debate, it was felt that the lessons that had been learned from the current IT contract were particularly important. The previous lack of Member involvement had already been identified as one lesson that had been learned and assurances were given that the upcoming procurement exercise would address this previous shortcoming.

In conclusion, the Panel asked that it be given the opportunity to consider, in the future, a report that outlined the lessons that had been learned from the current contractual arrangements.

## **O&S.68/17 COMMUNITY SAFETY PARTNERSHIP**

Consideration was given to a report that provided Members with the opportunity to scrutinise the work of the Community Safety Partnership (CSP), as defined by Sections 19 and 20 of the Police and Justice Act 2006 and the Crime and Disorder (Overview and Scrutiny) Regulations 2009.

The Vice-Chairman introduced and welcomed the Partnership representatives to the meeting and invited them introduce their published report. In so doing, the representatives reminded those present that it was a statutory responsibility for local authorities to scrutinise their local CSPs on an annual basis and they proceeded to highlight a number of the key achievements that had been referred to in the agenda report.

In the ensuing discussion, reference was made to:

- (a) support for the work of the CSP. A number of Members were of the view that the CSP provided excellent value for money. Whilst thanking the Members for these comments, the representatives highlighted that future funding for the CSP was uncertain. A Member also requested that he receive a cost breakdown of the CSP (including officer support costs).

In adding his support to the value of the CSP, Inspector Tapley was of the view that the Police would be particularly vulnerable without the support it received from this Partnership;

- (b) the recent letter from the CSP to the Police and Crime Commissioner. Some Members commended the contents of the letter on the Neighbourhood Policing Review (dated 9 October 2017) and it was suggested that the Council should add its support by way of a notice of motion being submitted to the next Council meeting on 14 December 2017. Furthermore, it was also felt that Members should encourage their local town and parish councils to add their support to this letter;
- (c) local concerns in Dartmouth relating to a perceived increase in incidents of Anti-Social Behaviour. A local Ward Member raised some very specific concerns to Dartmouth and it was agreed that he would follow these up with Inspector Tapley outside of this meeting;
- (d) the value of Police Community Support Officers (PCSOs). A number of Members lamented the reduction in numbers of PCSOs in the area and highlighted the value of the role, particularly in rural areas;
- (e) the amount of work undertaken by the CSP. At the suggestion of the Council's appointed representative, it was agreed that a future Informal Council session on the CSP should be arranged. The Panel felt that the main purpose of this session would be to increase all Member knowledge and understanding of the CSP, the statutory functions that it upheld and the relevant responsibilities of the District Council;
- (f) youth gangs. The increase in youth gang culture in the South Hams was recognised as a real challenge to the CSP. The Panel noted that the CSP was keen to work with all local youth groups in the South Hams in an attempt to reverse this trend;
- (g) the contact details of the representatives. In reply to a request, it was agreed that the contact details of each of the representatives in attendance would be circulated to all Members.

In concluding the agenda item, the Vice-Chairman thanked the representatives for their attendance.

It was then:

**RESOLVED**

That the contents of the report be supported and the comments expressed in the recorded minutes (above) be taken forward.

O&S.69/17 **DEVON HOME CHOICE ANNUAL REVIEW AND SOUTH HAMS ALLOCATION POLICY REVIEW**

The Panel considered a report that presented a review of Devon Home Choice and that recommended that the Council remained a Devon Home Choice partner.

In discussion, the following points were raised:-

- (a) With regard to the vast decrease in numbers on the Housing Register, officers advised that this was attributed to a detailed review having been undertaken on the list and the problems with the old software having now been rectified. Whilst ongoing spot checking would continue, officers confirmed that they were satisfied that the current Register was now an accurate reflection of the current housing situation in the South Hams.

Officers also confirmed that there remained a significant demonstrable need for 'intermediate' housing (e.g. provision for housing for first time buyers) in the South Hams;

- (b) Whilst there was felt to be validity in some of the concerns related to Devon Home Choice (e.g. the publicity around advertising secondary lets), the majority of Members were of the view that the present arrangements were broadly working well. Some Members also cited their experiences that town and parish council complaints and perceptions regarding the suitability of those being allocated local housing proved, when investigated, to be groundless.

Once approved by the Executive, it was also requested that all town and parish councils in the South Hams be sent a copy of the adopted South Hams Allocation Policy.

- (c) Members wished to put on record their support for the proposal to continue with the practice of registering those applicants in Band E with no housing need for the purpose of Devon Home Choice. Continuation of this practice was considered by Members to be particularly invaluable in the smaller rural villages;
- (d) In response to a request, officers committed to providing an update on the Sovereign / Spectrum Housing arrangements. Furthermore, officers also agreed to provide the contact details for a local representative from Spectrum Housing;
- (e) The Chairman highlighted the Tenants Incentive Scheme and requested that officers provide Members with details relating to:

- How many people the Scheme had dealt with;
- How much had been spent; and
- How much remained in the budget.

In the event of any monies remaining unspent, the Chairman emphasised the importance of Members raising awareness of this fact amongst their constituents.

It was then:

### **RECOMMENDED**

That the Executive be **RECOMMENDED**:

1. That the Council continue as a partner of Devon Home Choice;
2. To continue the registering of applicants in Band E (no housing need) for the purpose of Devon Home Choice; and
3. To accept the minor changes of updated wording to the South Hams Allocation Policy.

## **O&S.70/17 VILLAGE HOUSING INITIATIVE REVIEW**

The Panel considered a report that sought to recommend to the Executive that the Village Housing Initiative (VHI) continued to be utilised in the South Hams.

In discussion, reference was made to:-

- (a) the time taken for VHIs to be completed. In highlighting the Newton Ferrers Scheme as an example that took eight years from start to finish, Members expressed their concerns at the length of time it took for VHIs to be completed. In expressing these concerns, the Panel also made the point that VHIs were wholly reliant upon willing landowners coming forward and finding suitable sites was also proving to be an issue;
- (b) the future. Officers informed that they still recognised the merits of VHIs and would like to see reference to the promotion of these include in the Joint Local Plan. It was however recognised that the larger Registered Housing Providers were more enthused by Section 106 sites, so it may be necessary for officers to work with smaller Providers to ensure the future delivery of VHIs;

- (c) the VHI principle. Several Members expressed their views that they remained very supportive of the VHI principle;
- (d) the additional safeguards put in place by a Registered Provider in the event of a small scale developer going into liquidation. In reply to a request, officers agreed to forward to interested Members details relating to those safeguards that had been put in place.

It was then:

### **RECOMMENDED**

That the Executive be **RECOMMENDED** to:

1. continue promoting and utilising the Village Housing Initiative model and to include this model of delivery within the Supplementary Planning Document (SPD) once the Joint Local Plan is adopted; and
2. agree to the inclusion of Band E following the cascade for Village Housing Initiative schemes (as set out in the presented agenda report).

## **O&S.71/17 JOINT LOCAL PLAN PROGRESS: VERBAL UPDATE**

By way of an update into the progress of the Joint Local Plan (JLP), the Panel Member, who was one of the Council's Member representatives on the JLP Joint Steering Group, advised that:-

- the JLP had been formally submitted to the Inspector on 31 July 2017. The Council had subsequently received some initial comments and the content of these had been deemed to be positive;
- the appointed Inspector had similarly been the Inspector who had dealt with the North Devon Local Plan;
- the whole process was now being driven by a Programme Officer;
- the Strategic Housing Land Availability Assessment (SHLAA) had been taking up a considerable amount of officer time;
- the Department of Communities and Local Government had published a consultation document recently proposing a new way of calculating need. The Member confirmed that clarification had now been received whereby those Plans that had already been submitted to the Inspector would be progressed in accordance with the existing system.

In the subsequent debate, reference was made to:-

- (a) the outline programme for the Examination Hearings. Current indications were that the Hearings would run for a four week period spread from the end of January 2018 until the end of March 2018. It was hoped that more definitive timescales would be apparent following the next meeting of the Joint Steering Group on Monday, 13 November 2017;

(b) the procedure for being able to make representations during the Hearings. It was confirmed that the Hearings were effectively public meetings at which any interested parties could attend. With regard to the public being able to participate during the Hearings, it was noted that any individual who had commented on the JLP during the consultation process had been contacted by the Programme Officer inviting them to take part at these Hearings. In the event of those individuals not confirming with the Officer their wish to take part, then they were unlikely to be invited to address the Hearings.

## O&S.72/17 **GENERAL DATA PROTECTION REGULATION – READINESS UPDATE**

The Panel considered a report that outlined the changes that the Council would need to implement in order to achieve compliance with the General Data Protection Regulation by 25 May 2018.

By way of an update to the published agenda report, officers informed that the Information Commissioners Office (ICO) had been in recent contact regarding the need for all Members to be registered as ‘Data Controllers’. This requirement was necessary in light of part of the role of being a Member resulting in the likelihood of information being collected that related to local constituents. The cost to the Council of implementing a blanket scheme for all Members was approximately £1,000 and the Panel was supportive of this proposal.

The Panel recognised the potential ramifications arising from these Regulations and requested that a related Member Training and Awareness session be held in the New Year.

Specifically regarding the two Data Protection complaints that had been referred to the ICO for investigation, officers committed to providing Members with details outlining how this compared to both previous years and the numbers referred from other similar sized local authorities.

It was then:

### **RESOLVED**

That the Panel support:

1. the approach to General Data Protection Regulation readiness ahead of its implementation in May 2018;
2. the proposal to implement a blanket scheme covering all Members to be registered as ‘Data Controllers’; and
3. the request to arrange a Member Training and Awareness session on the General Data Protection Regulation in the New Year.

**O&S.73/17 QUARTER 2 2017/18 PERFORMANCE REPORT**

The Panel considered the Quarter 2 performance report for 2017/18. In conclusion, the report highlighted that the performance measures for this Quarter had been generally good.

In the ensuing discussion, reference was made to:-

- (a) the % of benefits change of circumstances completed online. Officers advised that this was a new performance measure and the target (25%) was considered to be particularly stretching;
- (b) planning enforcement performance. The Panel noted that the newly appointed Enforcement Specialist was due to start his role in the upcoming weeks. One of the first objectives for the postholder was to convene a series of meetings with all Members to discuss enforcement cases within their local Ward;
- (c) performance related to missed bin collections. A local Member highlighted some of the problems (and subsequent complaints) that he had been made aware of in the Totnes area and he felt it was difficult to justify the action response outlined within the presented agenda report. In reply, the Head of Paid Service advised that there had been some staffing issues within the service that had now led to a review of rounds equalisation. Furthermore, this review had already recognised that the extent of recent development in the area had resulted in some round collection areas now being too large to be completed on time;
- (d) recycling service performance. A Member highlighted the promotional board in the Follaton House car park that referred to some misleading information relating to recycling service performance and consequently requested that the accuracy of the information outlined on this board be revisited;
- (e) Member access to performance measures on their iPads. Officers gave a commitment that, within the next month, a link would be available on the front page of each Member iPad that enabled Members to directly access the Council's performance measures.

It was then:

**RESOLVED**

That Members note the performance levels against target communicated in the Balanced Scorecard and the performance figures supplied in the Background and the Exception report.

**O&S.74/17 TASK AND FINISH GROUP UPDATES****(a) Performance Measures**

Following the recent directive issued by the Leader of Council, the Panel agreed that work on this Review should be suspended until further notice.

**O&S.75/17 ACTIONS ARISING / DECISIONS LOG**

The contents of the latest version of the Log was presented for consideration.

In so doing, the following points were raised:-

- (a) Officers confirmed that a Member Briefing session on Universal Credits would be added to the Member Meeting Calendar during December 2017;
- (b) With regard to the Council's current partnership arrangements, assurances were given that lead officers were currently in discussion with these organisations.

**O&S.76/17 ANNUAL WORK PROGRAMME 2017/18**

In consideration of its Annual Work Programme, the following comments, additions and amendments were made:-

- (a) The Panel requested that an additional meeting be scheduled for the afternoon of Thursday, 18 January 2018. In so doing, it was agreed that the substantive agenda items for this meeting would be:
  - Update on Community Housing Scheme;
  - Sherford Delivery Team; and
  - Local Enforcement Plan.
- (b) It was agreed that the 'South Hams CVS Annual Update' should be removed from the Work Programme for the Panel meeting on 8 February 2018. In light of this removal, the Panel requested that a 'Universal Credits Update and Direction of Travel' agenda item take its place on the Work Programme for this meeting;
- (c) Regarding the IT / Civica lessons learned proposal (Minute O&S.67/17(ii) above refers), it was agreed that the Chairman would liaise with lead officers to agree a suitable meeting date for this matter to be presented for consideration by the Panel.

(Meeting started at 10.00 am and concluded at 1.10 pm)

---

Chairman