



# Walsall Council

You are hereby summoned to attend a meeting of the Council of the Metropolitan Borough of Walsall to be held on **MONDAY the 10TH day of JANUARY 2022 at 6.00 p.m.** at the Town Hall, Walsall.

Public access via: <https://youtu.be/iR8qWi6sVMU>

Dated this 23<sup>rd</sup> day of December, 2021.

Yours sincerely,

Chief Executive.

The business to be transacted is as follows:

1. To elect a person to preside if the Mayor and Deputy Mayor are not present.
2. Apologies.
3. To approve as a correct record and sign the minutes of the meeting of the Council held on 8<sup>th</sup> November, 2021 and Extra Ordinary meeting held on 17<sup>th</sup> November, 2021 **(pages 5 to 16)**
4. Declarations of interest.
5. **Local Government (Access to Information) Act, 1985 (as amended):**  
To agree that the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
6. Mayor's announcements.

7. To receive any petitions
8. To answer any questions in accordance with Council procedure rules:
  - (a) From the public: None.
  - (b) From members of the Council: None.
9. To consider the following recommendation of **Audit Committee (pages 17 – 21)**:

To accept the Public Sector Audit Appointments' (PSAA) invitation to 'opt in' to the sector led option for the appointment of external auditors for five financial years commencing 1 April 2023.

(Note: Report to Audit Committee on 22<sup>nd</sup> November, 2021 reproduced in the reports booklet for this meeting.)
10. To consider the following recommendations of **Cabinet**:
  - (a) **Treasury Management (pages 22 – 36)**

To note the mid-year position statement for treasury management activities 2021/22 including prudential and local indicators (Appendix A).

(Note: Report to Cabinet on 15<sup>th</sup> December, 2021 reproduced in the reports booklet for this meeting.)
  - (b) **Local Council Tax Reduction Scheme (pages 37–169)**

To approve the Local Council Tax Reduction Scheme as set out in Appendix 1 and detailed in Appendix 2 to the report (appended), adopting the principles approved by Cabinet in September. Taking account of recent changes in the provision of welfare support nationally and having given regard to the equality impact assessment and consultation comments.

(Note: Report to Cabinet on 15<sup>th</sup> December, 2021 reproduced in the reports booklet for this meeting.)
  - (c) **Food Law Enforcement Plan (pages 170 – 233)**

That the Food Law Enforcement Service Plan for the year 2021/22 be approved and adopted.

(Note: Report to Cabinet on 15<sup>th</sup> December, 2021 reproduced in the reports booklet for this meeting.)

11. **Portfolio holder briefings.** To receive a 5 minute presentation from the following portfolios:

- (a) Deputy Leader and Regeneration – Councillor Andrew *(to follow)*
- (b) Adult Social Care – Councillor Pedley *(pages 234 to 239)*

(Note: A member of the Council may ask the portfolio holder any question and another associated question without notice upon each report. Questioning by members is limited to 10 minutes for each report presented.)

12. To consider the following motion, notice of which has been duly given by **Councillors Nawaz and Hussain.**

Section 9 of the Nationality and Borders Bill currently being pushed through parliament by the Conservative Government has created anxiety, alarm and real fear amongst the people of Walsall, particularly those from a BAME (Black, Asian and Minority Ethnic) heritage.

Many have contacted their local councillors with concerns and fear of what this will mean for them.

This Council, taking note of the concerns of BAME communities in Walsall,

- expresses its opposition to Section 9 of this bill;
- Asks for this section to be completely removed from the bill;
- Stands with our BAME communities – British Citizens - who are scared of being removed from the United Kingdom without notice, the right of appeal or the right of legal representation; and
- Instructs the Leader of the Council and the Leader of the Opposition to jointly write to the relevant minister informing them of our borough's opposition to this section of the bill.

13. To consider the following motion, notice of which has been duly given by **Councillors Nawaz and Hussain.**

This Council asks for the removal of the 'bus gate' / bus lane restriction on Wolverhampton Street and demands Walsall Council reimburse all those that have been fined for driving through Wolverhampton Street.

13. To consider the following motion, notice of which has been duly given by **Councillors Bird and Andrew.**

This Council condemns the indulgent waste of tax payers money forced on the residents of this Borough by the Labour Party as they:-

- Called a By-Election for December, 2021 in the Pleck Ward, for a seat that had been vacant since July 2021. This seat would have been filled on May 5<sup>th</sup>, 2022, as part of the usual Election cycle; and
- Selected a candidate who was ineligible to stand as they were an employee of Walsall Council and so could not take the seat.

This Council therefore calls on officers to write to the Labour Party requesting that they reimburse Walsall MBC and Walsall Council tax payers for these aborted costs cira. £20,000.





# Walsall Council

Minutes of the **ORDINARY MEETING** of the Council of the Walsall Metropolitan Borough held on **Monday 8<sup>th</sup> November, 2021, at 6.00 p.m.** at the Town Hall, Walsall.

## Present

### Councillor R. Burley (Mayor) in the Chair

#### Councillor G. Ali

“ B. Allen  
“ A. Andrew  
“ H. Bashir  
“ M.A. Bird  
“ C. Bott  
“ P. Bott  
“ O. Butler  
“ B. Chattha  
“ A.G. Clarke  
“ S.J. Cooper  
“ D. Coughlan  
“ S. Coughlan  
“ C. Creaney  
“ S.K. Ditta  
“ S. Elson  
“ K. Ferguson  
“ G. Flint  
“ M. Follows  
“ N.Z. Gultasib  
“ A.D. Harris  
“ L.A. Harrison  
“ A.J. Hicken  
“ A. Hussain  
“ K. Hussain  
“ D. James  
“ L.D. Jeavons  
“ P. Kaur

#### Councillor E. Lee

“ Mrs. R.A. Martin  
“ F. Mazhar  
“ K. Murphy  
“ J. Murray  
“ S. Nasreen  
“ A.A. Nawaz  
“ A. Nazir  
“ M. Nazir  
“ K. Pedley  
“ G. Perry  
“ W. Rasab  
“ L.J. Rattigan  
“ I.C. Robertson  
“ S. Samra  
“ K. Sears  
“ G. Singh Sohal  
“ P. Smith  
“ C.A. Statham  
“ M.A. Statham  
“ C.D.D. Towe  
“ A. Underhill  
“ V.J. Waters  
“ T.S. Wilson  
“ R.V. Worrall  
“ A. Young

37. **Apologies**

Apologies for non-attendance were submitted on behalf of Councillors N. Gandham, S. Johal and J. Whitehouse.

38. **Minutes**

**Resolved**

That the minutes of the meeting held on 20<sup>th</sup> September, 2021, copies having been sent to each member of the Council, be approved as a correct record subject to the following:-

**Minute 19** – Councillor Lee to be included as having declared an interest in item 19 - Notice of Motion – GP Practices / Health Centres;

**Minute 25** - to remove the word ‘Mayor’ and replace with ‘Chair’ at paragraphs 1 and 3; and

**Minute 36** – Councillor Lee to be included within the list of members leaving the meeting - paragraph 1.

39. **Declarations of interest**

Councillor Bashir declared an interest in item 13 – Notice of Motion – Universal Credit.

40. **Local Government (Access to Information) Act, 1985 (as amended)**

There were no items to be considered in private session.

41. **Mayor’s announcements**

**Death of former Mayoress, Irene Sherratt**

The Mayor referred to the death of former Mayoress, Irene Sherratt (Mayoress to Alan Davies - 1991/1992). Councillor P. Smith paid tribute to Irene Sherratt, following which it was **moved** by the Mayor, duly seconded and:

**Resolved:**

That this Council have heard with deep regret of the death of former Mayoress, Irene Sherratt (Mayoress to Alan Davies - 1991/1992) and places on record their appreciation of her services to the borough over a period of many years and expresses its condolences to her family at this sad time.

42. **Appointment of Deputy Mayor 2021/22**

It was **moved** by Councillor Nawaz and seconded by Councillor Hussain:

That Councillor Sean Coughlan be appointed Deputy Mayor of this Borough for the remainder of the municipal year 2021/22.

The Council's Director of Governance advised that this was not a lawful motion as Council, at its meeting held on 20<sup>th</sup> September, 2021, had made a clear decision to not appoint Councillor Coughlan as Deputy Mayor. That decision had not been varied under rule 16.1 of Part 4.2 of the Council's Constitution. Therefore, to allow this to take place there would need to be a nomination signed by 5 members revoking the previous decision of Council.

It was then **moved** by Councillor Bird and seconded by Councillor Andrew:

That Councillor Rose Martin be appointed Deputy Mayor of this Borough for the remainder of the municipal year 2021/22.

The motion having been put to the vote was declared carried – the voting being recorded as follows:

**For the motion –  
34 members**

Cllr: Bird  
Ali  
Allen  
Andrew  
Butler  
Chattha  
Clarke  
Cooper  
Elson  
Ferguson  
Flint  
Follows  
Harris  
Harrison  
Hicken  
A. Hussain  
Kaur  
Lee  
Martin  
Murphy  
Murray  
Pedley  
Perry  
Rasab  
Rattigan  
Samra  
Sears

**Against the motion –  
20 members**

Cllr: Nawaz  
Burley  
Bashir  
C. Bott  
P. Bott  
D. Coughlan  
S. Coughlan  
Creaney  
Ditta  
Gultasib  
K. Hussain  
Jeavons  
Mazhar  
Nasreen  
A. Nazir  
M. Nazir  
Robertson  
Underhill  
Worrall  
Young

**Abstentions –  
1 member**

Cllr: James

Singh Sohal  
Smith  
C. Statham  
M. Statham  
Towe  
Waters  
Wilson

### **Resolved**

That Councillor Rose Martin be appointed Deputy Mayor of this Borough for the remainder of the municipal year 2021/22.

#### **43. Petitions**

The following petition was submitted:

(1) Councillor Elson – Make Sandringham Avenue Safer

#### **44. Questions by members of the Public**

None

#### **45. Questions by members of the Council**

(a) Councillor. Worrall asked the following question of Councillor Andrew:

In order for Walsall Council to celebrate the Commonwealth Games and provide lasting beneficial legacy to the citizens of Walsall, I and residents that are cyclists and have disabilities are proposing a fully accessible cycling and walking link between Walsall Gallery Square via the Arboretum to the Commonwealth Games site at Perry Barr, to be named "The Commonwealth Way."

We have researched the route in detail: it avoids the dangers and pollution of busy main roads, using instead properly-surfaced canals towpaths and park and green space paths, linked as necessary via lesser-used roads, to provide a healthy, safe, relatively low-cost, link to and from the Games. Details will be circulated to each member of Council, and appropriate Council officers, before the Full Council meeting on 8 November

We have also researched similarly accessible, low-cost, feeder links from Darlaston, Willenhall, Bloxwich and Pelsall into the proposed common route to the Games site.

May I ask the portfolio holders for Regeneration, and Clean & Green: Cllrs. Andrew and Butler, respectively, to say whether they might be minded to support the principle of creating such a commemorative link and, if they do, to ask officers to evaluate options and a timetable for creating it, perhaps using our proposals as a starting point, and linking as appropriate with partners such as our neighbouring

authorities at Birmingham and Sandwell and the Canal & River Trust as a major player?

**Councillor Andrew** replied as follows:

Thank you for your suggestion to create a commemorative walking and cycling link which certainly will have our support. I will ask officers to consult with their colleagues in Birmingham, Sandwell and at Transport for West Midlands to evaluate the proposal and how it would fit with other plans.

Transport for West Midlands has also recently unveiled the Starley Network, a new cycling vision for the West Midlands, with 493 miles of priority cycle routes. On top of local routes already planned and funded, the network also features a number of new cycle routes, some of which are proposed to run along the same transport corridors as the Commonwealth Games SPRINT bus routes.

Councillor Butler has been out to look at the route already and advises me that the route is passable. With the need to tackle climate change, we fully recognise the need to develop alternative and sustainable forms of transport across the West Midlands. Many cyclists will say that they are discouraged from using their bikes because of the volume of traffic on the roads. By developing safe, segregated cycle routes along the lines of the Dutch Model we will be able to do more to encourage cycling. We know that Councillor Worrall is not only a rail enthusiast but a cycling supporter, he will be pleased to know that part of the Towns Fund money for Bloxwich and Walsall is being used to upgrade the canal towpath in order to make it safer for cyclist's and pedestrians at all times of the year.

**Councillor Worrall** asked the following supplementary question:

Would the Portfolio Holders consider as a matter of Policy going forward, as the cycling/walking network is expanded that full access to the new routes for legitimate users be built in as a matter of course.

**Councillor Andrew** replied:

We will look into that and I will ask officers to report back.

(b) Councillor. Smith asked the following question of Councillor Bird:

Given that at the Council Meeting of 20/9/21, this Council voted unanimously to pass the following Notice of Motion:

"This Council notes the widespread public concern, bordering on anger by many residents across the Borough, at what is seen as a deterioration in the services of many GP Practices/Health Centres; Concerns about:

- Difficulty getting through on the phone to many of them.
- Difficulty getting a doctor's appointment within a reasonable time, especially a face to face appointment.
- Extra pressure put on A&E as a result of many patients being unable to obtain satisfactory responses from their GP Practices/Health centres, thus feeling

- the only alternatives being A&E or the Urgent Care Walk-in Centre, where patients could and often do, have a wait of several hours before being treated.
- Particular problems around inequality that the shift away from face to face meetings and towards more phone appointments and online appointments pose, especially for patients who may be profoundly deaf, unable to speak, have language barrier issues, be visually impaired, have serious mental health issues, have learning difficulties and those without the appropriate skills and/or access to computers and the internet.

and consequently this Council resolves to use the maximum influence that it has to engage with the appropriate organisations and bodies including its own Health and Well Being Board, Healthwatch Walsall, Walsall's Members of Parliament and the Department of Health and Social Care, in order to a) draw attention to this concern and b) call for a massive improvement in what is perceived by many to be an deteriorating and unacceptable service for so many."

Can you tell me, this Council and the public what action has been taken since then by Council Officers to act on this Resolution and in particular, which bodies/organisations/individuals have been contacted, and what responses have been forthcoming as a result?

**Councillor Bird** replied as follows:

I can assure Councillor Smith that this resolution was taken on board and our officers have written to both to MP's, the CCG and anyone involved in delivering this service. Sadly, at this point in time, no replies have been received but I can advise Councillor Smith that the information that has been provided to date is that there is an increase in demand for GP's Services and sadly, there is a shortage of GP's to meet that demand. I agree that there is great concern amongst members of the public in relation to getting face to face meetings. I too struggled to do so and spent 5 hours in the Urgent Care centre with an insect bite which took 5 minutes to diagnose when I saw the doctor. There were other people in there when I left who had to wait 7 hours for an appointment. This is not a fault of the hospital but a fault of the system. I rang the Chief Executive of the hospital and raised my concern that the pressure on the Acute Trust are such that doctors or indeed, some of the service they deliver, should be put down to practice nurses or an alternative and a Triage system put in place that is acceptable to members of the public and indeed that is the tack that our officers have taken. In particular, the report that went to the Scrutiny Committee highlighted an increase in demand for appointments by 25% to 50% and attendance at the Urgent Treatment Centre, provided by Manning Healthcare, is significantly above normal levels. The report confirms that there are insufficient GP's in Walsall or indeed in the country to meet the increase in demand and this situation will be further worsened if there was an expectation to deliver a greater number of face to face appointments as the mix of appointment types allows GP's to see more people in the same amount of time. From my experience in recent weeks, you can get a doctor's appointment to receive vaccines for Covid/Shingles for which they receive payment.

**Councillor Smith** asked the following supplementary question:

Councillor Bird mentions that the Council has written to MP's, the CCG and anybody else associated with this matter but no replies have been received so far.

If no replies have been received where does the information you refer to come from and if and when we do get replies, will you ensure that all Councillors receives a copy?

**Councillor Bird** replied:

We will, of course, provide all elected members with the information when we receive it.

#### 46. **Portfolio Holder Briefings**

##### **Education and Skills**

A report was submitted.

The Portfolio Holder for Education and Skills, Councillor Towe, gave a presentation.

Members asked questions in relation to the presentation which were responded to by Councillor Towe.

##### **Clean and Green**

A report was submitted.

The Portfolio Holder for Clean and Green, Councillor Butler, gave a presentation.

Members asked questions in relation to the presentation which were responded to by Councillor Butler.

#### 47. **Notice of Motion - Definition of Islamophobia**

A report was submitted.

The following motion, notice of which had been duly given was **moved** by Councillor Nawaz and seconded by Councillor Hussain:

That:

This Council accepts and adopts in full, with all examples therein, the All Party Parliamentary Group on British Muslims' definition of Islamophobia, which is:-

'Islamophobia is rooted in racism and is a type of racism that targets expressions of Muslimness or perceived Muslimness'

And further resolves to act and combat robustly all forms of Islamophobia through its internal and external policies.

The motion having been put to the vote was declared carried – the voting being recorded as follows:

**For the motion –  
28 members**

Cllr: Nawaz  
Burley  
Ali  
Bashir  
C. Bott  
P. Bott  
Chattha  
D. Coughlan  
S. Coughlan  
Creaney  
Ditta  
Gultasib  
Hicken  
A. Hussain  
K. Hussain  
Jeavons  
Kaur  
Mazhar  
Nasreen  
A. Nazir  
M. Nazir  
Rasab  
Robertson  
Samra  
Singh Sohal  
Underhill  
Worrall  
Young

**Against the motion –  
24 members**

Cllr: Bird  
Allen  
Andrew  
Butler  
Clarke  
Cooper  
Elson  
Ferguson  
Flint  
Follows  
Harris  
Harrison  
Lee  
Martin  
Murphy  
Murray  
Pedley  
Perry  
Rattigan  
Sears  
C. Statham  
M. Statham  
Towe  
Wilson

**Abstentions –  
2 members**

Cllr: Waters  
Smith

**Resolved:-**

That:-

This Council accepts and adopts in full, with all examples therein, the All Party Parliamentary Group on British Muslims' definition of Islamophobia, which is:-

'Islamophobia is rooted in racism and is a type of racism that targets expressions of Muslimness or perceived Muslimness'

And further resolves to act and combat robustly all forms of Islamophobia through its internal and external policies.



#### 48. **Notice of Motion – Climate Change**

A report was submitted.

The following motion, notice of which had been duly given was **moved** by Councillor Nawaz and seconded by Councillor Hussain:

That this Council:

“Council recognises the importance, to all communities and countries, of the Glasgow COP26 conference where Countries are meeting to agree a way forward to combat climate change. The Council wishes to develop local measures that could be put into place to contribute to this agenda here in Walsall and resolves to establish a cross party working group to engage with a wide range of partners both in the public, private and voluntary sectors to develop a set of recommendations as to how we could make changes to enable and promote a green agenda here in Walsall.”

On being put to the vote the motion was declared **carried** and it was:

#### **Resolved**

That this:-

“Council recognises the importance, to all communities and countries, of the Glasgow COP26 conference where Countries are meeting to agree a way forward to combat climate change. The Council wishes to develop local measures that could be put into place to contribute to this agenda here in Walsall and resolves to establish a cross party working group to engage with a wide range of partners both in the public, private and voluntary sectors to develop a set of recommendations as to how we could make changes to enable and promote a green agenda here in Walsall.”

#### 49. **Notice of Motion – Universal Credit**

*Councillor Bashir having declared an interest in this item, left the room and did not return.*

A report was submitted.

The following motion, notice of which had been duly given was **moved** by Councillor Nawaz and seconded by Councillor Hussain:

That:-

“This Council regrets the decision taken to cease the £20 uplift on Universal Credit and acknowledges many Walsall families will be detrimentally impacted upon by this decision.

This Council recognises the cumulative impact of rising utility bills, rising inflation, increase in transport costs, increase in fuel cost and many other rises that have

added to the cost of living for our residents and have pushed many into financial hardship facing choices of buying food to feed their children or keeping them warm.

This Council resolves to write to the three Walsall MP's asking them to publically acknowledge the above and to publically call for the reversal of the decision to cease the £20 UE uplift and to write to the appropriate minister to inform him / her of the impact on our most vulnerable families."

The motion having been put to the vote was declared **lost** – the voting being recorded as follows:

**For the motion –  
22 members**

Cllr: Nawaz  
Burley  
C. Bott  
P. Bott  
D. Coughlan  
S. Coughlan  
Creaney  
Ditta  
Gultasib  
K. Hussain  
Jeavons  
Mazhar  
Nasreen  
A. Nazir  
M. Nazir  
Robertson  
Samra  
Singh Sohal  
Smith  
Underhill  
Worrall  
Young

**Against the motion –  
27 members**

Cllr: Bird  
Ali  
Allen  
Andrew  
Butler  
Chattha  
Clarke  
Cooper  
Elson  
Flint  
Follows  
Harris  
Harrison  
Hicken  
A. Hussain  
Kaur  
Lee  
Martin  
Murphy  
Murray  
Pedley  
Perry  
Sears  
C. Statham  
M. Statham  
Towe  
Wilson

**Abstentions –  
3 members**

Cllr: Rasab  
Rattigan  
Waters

The meeting terminated at 8.43 p.m.



# Walsall Council

Minutes of the **EXTRA ORDINARY MEETING** of the Council of the Walsall Metropolitan Borough held on **Wednesday 17th November 2021 at 6.00 p.m.** at the Council House.

## Present

### Councillor R. Burley (Mayor) in the Chair

#### Councillor A. Andrew

“ G. Ali  
“ B. Allen  
“ H. Bashir  
“ M.A. Bird  
“ S.J. Cooper  
“ D. Coughlan  
“ S. Elson  
“ G. Flint  
“ M. Follows  
“ N.Z. Gultasib  
“ A.D. Harris  
“ L.A. Harrison  
“ A.J. Hicken  
“ A. Hussain  
“ K. Hussain  
“ E. Lee  
“ Mrs. R.A. Martin

#### Councillor F. Mazhar

“ J. Murray  
“ S. Nasreen  
“ A.A. Nawaz  
“ A. Nazir  
“ M. Nazir  
“ K. Pedley  
“ G. Perry  
“ W. Rasab  
“ L.J. Rattigan  
“ K. Sears  
“ P. Smith  
“ C.A. Statham  
“ M.A. Statham  
“ C.D.D. Towe  
“ V.J. Waters  
“ J. Whitehouse  
“ R.V. Worrall

50. **Apologies**

Apologies for non-attendance were submitted on behalf of Councillors C. Bott, P. Bott, Butler, Clarke, Craddock, Creaney, S. Coughlan, Ditta, Ferguson, Gandham, Johal, James, Jeavons, Kaur, Murphy, Robertson, Samra, Singh Sohal, Underhill, Wilson and Young.

51. **Mayor's announcement**

The Mayor welcomed guests to the meeting to admit Mr Ian Shires as a Freeman of the Borough.

52. **Freedom of the Borough**

It was **moved** by the Councillor Bird and seconded by Councillor Nawaz:

That in pursuance of Section 249(5) of the Local Government Act, 1972, in grateful recognition of the eminent services he has rendered to the Borough in the sphere of Public Service as a Member of Walsall Council representing Willenhall North from May, 1979 to May 2021 and as an expression of the high esteem in which he is held by residents of the Borough, this Council do hereby admit Mr Ian Shires to be Honorary Freeman of the Borough.

On being put to the vote the motion was declared carried and it was:

**Resolved**

That in pursuance of Section 249(5) of the Local Government Act, 1972, in grateful recognition of the eminent services he has rendered to the Borough in the sphere of Public Service as a Member of Walsall Council representing Willenhall North from May, 1979 to May 2021 and as an expression of the high esteem in which he is held by residents of the Borough, this Council do hereby admit Mr Ian Shires to be Honorary Freeman of the Borough.

The newly elected Freeman signed the Roll of Freeman which was witnessed by the Mayor and the Chief Executive. The silver casket and illuminated scroll recording his admission were duly received.

Mr Shires thanked the Council for the honour bestowed upon him.

The meeting and presentation ceremony terminated at 7.00 p.m.

Mayor:

Date:

## **Audit Committee – 22 November 2021**

### **Retender of External Audit Contract: National Scheme for External Auditor appointments with Public Sector Audit Appointments (PSAA) as the ‘appointing person’**

**Ward(s): All**

**Portfolios: Lead Portfolio – Finance (Leader of the Council), All**

**Purpose: Review**

#### **1. Aim**

- 1.1 To consult Audit Committee on the preferred approach to appointing our external auditor for the five years commencing 1 April 2023, prior to reporting to Council in January 2022.

#### **2. Summary**

- 2.1 This report sets out the proposals for appointing the external auditor to the council for five years commencing 1 April 2023. A sector-wide procurement conducted by PSAA will produce better outcomes and will be less burdensome for the Council than any procurement undertaken locally. More specifically:

- The audit costs are likely to be lower than if the Council sought to appoint locally, as national large-scale contracts are expected to drive keener prices from the audit firms;
- Without the national appointment, the Council would need to establish a separate independent auditor panel, which could be difficult, costly and time-consuming;
- PSAA can ensure the appointed auditor meets and maintains the required quality standards and can manage any potential conflicts of interest much more easily than the Council;
- Supporting the sector-led body will help to ensure there is a vibrant public audit market for the benefit of the whole sector and this Council going forward into the medium and long term.

- 2.2 If the Council is to take advantage of the national scheme for appointing auditors to be operated by PSAA, it needs to accept the invitation by Friday 11 March 2022 and requires the approval of full Council.

#### **3. Recommendations:**

- 3.1 The Audit Committee considers the proposal to accept the Public Sector Audit Appointments’ (PSAA) invitation to ‘opt in’ to the sector led option for the

appointment of external auditors for five financial years commencing 1 April 2023, subject to approval of full Council in January 2022.

#### **4. Report detail – know**

- 4.1 The Local Audit and Accountability Act 2014 (the Act) brought to a close the Audit Commission and established transitional arrangements for the appointment of external auditors and the setting of audit fees for all local government and NHS bodies in England. In July 2016 PSAA were specified by the Secretary of State as an appointing person under regulation 3 of the Local Audit (Appointing Person) Regulations 2015. The appointing person is sometimes referred to as the sector led body and PSAA has wide support across local and central government. PSAA was originally established to operate the transitional arrangements following the closure of the Audit Commission under powers delegated by the Secretary of State. PSAA is an independent, not-for-profit company limited by guarantee, wholly owned by the Improvement and Development Agency (IDeA) which is wholly owned by the LGA.
- 4.2 The Act also set out the arrangements for the appointment of auditors for subsequent years. Local bodies have options to arrange their own procurement and make the appointment themselves or in conjunction with other bodies, or they can join and take advantage of the national collective scheme administered by PSAA for each appointing period.
- 4.3 PSAA is responsible for:
- appointing auditors to local public bodies, including councils, police and crime commissioners, chief constables, fire and rescue authorities and other relevant principal local government bodies;
  - setting scales of fees, and charging fees, for the audit of accounts of relevant bodies;
  - overseeing the delivery by its appointed auditors of consistent, high-quality and effective external audit services to opted-in bodies; and,
  - ensuring effective management of contracts with audit firms for the delivery of external audit services to opted-in bodies.
- 4.4 Walsall opted into the national scheme for the current appointing period which ends in 2022/23. 2020/21 was the second year of the current appointing period during which PSAA was responsible for audits carried out in 478 opted-in bodies (98% of eligible bodies).
- 4.5 PSAA published its scheme prospectus on 22 September 2021, alongside formally issuing invitations to all eligible bodies to opt into the national scheme for local auditor appointments for the next appointing period. This will span the audits of accounts for the five financial years 2023/2024 to 2027/2028. The formal invite letter is attached to this report.
- 4.6 PSAA is inviting the Council to opt in, along with all other authorities, so that PSAA can enter into a number of contracts with appropriately qualified audit firms and appoint a suitable firm to be the Council's auditor. The principal benefits from such an approach are as follows:

- PSAA will ensure the appointment of a suitably qualified and registered auditor;
- PSAA will monitor contract delivery and ensure compliance with contractual, audit quality and independence requirements;
- Any auditor conflicts at individual authorities would be managed by PSAA who would have a number of contracted firms to call upon;
- It is expected that the large-scale contracts procured through PSAA will bring economies of scale and attract keener prices from the market than a smaller scale competition;
- The overall procurement costs would be lower than an individual smaller scale local procurement;
- The overhead costs for managing the contracts will be minimised through a smaller number of large contracts across the sector;
- There will be no need for the Council to establish alternative appointment processes locally, including the need to set up and manage an 'auditor panel';
- The new regime provides both the perception and reality of independent auditor appointments through a collective approach; and
- A sustainable market for audit provision in the sector will be easier to ensure for the future.

4.7 The proposed fees for appointing period are not known until the procurement process has been completed, as the costs will depend on proposals from the audit firms. The scope of the audit will still be specified nationally, the National Audit Office (NAO) is responsible for writing the Code of Audit Practice which all firms appointed to carry out the Council audit must follow. Not all audit firms will be eligible to compete for the work, they will need to demonstrate that they have the required skills and experience and be registered with a Registered Supervising Body.

### **Other options**

4.8 If the Council did not opt in there would be a need to establish an independent auditor panel. In order to make a stand-alone appointment the auditor panel would need to be set up by the Council itself. The members of the panel must be wholly or a majority of independent members as defined by the Act. Independent members for this purpose are independent appointees, this excludes current and former elected members (or officers) and their close families and friends. This means that elected members will not have a majority input to assessing bids and choosing which audit firm to award a contract for the Council external audit.

4.9 Alternatively the Act enables the Council to join with other authorities to establish a joint auditor panel. Again this will need to be constituted of wholly or a majority of independent appointees (members). Further legal advice would be required on the exact constitution of such a panel having regard to the obligations of each Council under the Act and the Council would need to liaise with other local authorities to assess the appetite for such an arrangement.

4.10 Neither of these options are recommended. Both these options would be more resource-intensive processes Page 19 of 239 and without the bulk buying power of the

sector led procurement, would be likely to result in a more costly service. It would also be more difficult to manage quality and independence requirements through a local appointment process.

### **The way forward**

- 4.11 Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 requires that a decision to opt in must be made by a meeting of the Council. The Council then needs to formally respond to PSAA's invitation in the form specified by PSAA by 11 March 2022.
- 4.12 PSAA will commence the formal procurement process after this date and will consult with authorities on the appointment of auditors so that it can make an appointment by the statutory deadline of December 2022.

## **5. Financial Implications**

- 5.1 The Council's current external auditor is Grant Thornton, this appointment having been made under a contract led by PSAA.
- 5.2 The Council's current external audit fees, for the audit of its main financial statements, for 2020/21 was £166k. The proposed fee under the new contract starting 1 April 2023 and for the subsequent years are not yet known. PSAA costs are currently 4% of overall scheme costs.
- 5.3 There is a risk that current external fees levels could increase when the current contracts end in 2018. Opting-in to a national scheme provides maximum opportunity to ensure fees are as low as possible, whilst ensuring the quality of audit is maintained by entering in to a large scale collective procurement arrangement.
- 5.4 If the national scheme is not used some additional resource will be needed to establish an auditor panel and conduct a local procurement. Until a procurement exercise is completed it is not possible to state what, if any, additional resource may be required for audit fees for 2023/24 onwards.

## **6. Reducing Inequalities**

- 6.1 Effective governance arrangements ensure a focus on delivering of Corporate Plan objectives, a key driver of which is reducing inequalities.

## **7. Decide**

- 7.1 Audit Committee are asked to consider the proposal to accept the Public Sector Audit Appointments' (PSAA) invitation to 'opt in' to the sector led option for the appointment of external auditors for five financial years commencing 1 April 2023, subject to approval of full Council in January 2022.

## **8. Respond**

- 8.1 Audit Committee's views will be included within the report to Council in January 2022.



## **9. Review**

- 9.1 Audit Committee will be kept apprised of the procurement and appointment process.

### **Background papers**

The Local Audit and Accountability Act 2014

Local Audit (Appointing Person) Regulations 2015

Invitation letter from PSAA to opt into national framework 22 September 2021

PSAA Scheme Prospectus (available at [Prospectus 2023 and beyond – PSAA](#) )

PSAA Procurement Strategy (available at [Procurement Strategy – PSAA](#) )

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## **Cabinet – 15 December 2021**

### **Treasury Management Mid Year Position Statement 2021/22**

**Portfolio:** Councillor Bird, Leader of the Council

**Related portfolios:** N/A

**Service:** Finance

**Wards:** All

**Key decision:** No

**Forward plan:** Yes

#### **1. Aim**

- 1.1 The council is required through regulations issued under the Local Government Act 2003 to produce a mid year position statement reviewing treasury management activities and prudential and treasury indicator performance. The Treasury Management mid year position statement at Appendix A provides Cabinet with these details and meets the requirements of both the CIPFA Code of Practice on Treasury Management (the Code) and the CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code).

#### **2. Summary**

- 2.1. This report sets out the council's 2021/22 mid year position statement for treasury management activities (Appendix A) and a summary of performance against set targets (Appendix B).
- 2.2. Despite difficult market conditions with low interest rates for investment income the net position for capital financing is expected to be underspent against the 2021/22 budget by £1.200m. There are currently assumptions that pressures for dividend income, temporary interest costs in relation to pension payments and an element of Minimum Revenue Provision (MRP) costs are funded by reserves earmarked for that purpose.

#### **3. Recommendations**

- 3.1 To note and forward to Council, for consideration and noting (and in line with the requirements of the Treasury Management Code of Practice (2017)), the mid-year position statement for treasury management activities 2021/22 including prudential and local indicators (Appendix A).

- 3.2 That Cabinet note that all Members should undertake training that is available from the Council's external Treasury Management advisors to enable Members to better understand and challenge the long-term financial implications of matters reported within the Treasury Management Strategy.

#### **4. Report detail - know**

##### ***Context***

- 4.1 Each year the Council operates a balanced budget, which broadly means cash raised during the year will meet its expenditure. Part of the treasury management service is to ensure this cash flow is adequately planned, with surplus monies being invested in line with the Treasury Management Policy Statement – approved by Council in February 2021.
- 4.2 Another function of the treasury management service is the funding of the Council's capital programme. This function highlights any potential borrowing requirement which may involve arranging long or short term loans, or using longer term cash flow surpluses.
- 4.3 The following key points of interest have been extracted from the report at Appendix A:
- The mid year position statement meets the requirement of both the CIPFA Code of Practice on Treasury Management and the CIPFA Prudential Code for Capital Finance in Local Authorities.
  - The banking environment has continued to be one of low interest returns with some improved confidence in counter party risk. The base rate remained static at 0.10% for the period 1 April until 30 September 2021.
  - Despite this situation the authority has continued to identify appropriate new areas of investment opportunity that has led to a significant impact on average investment performance. This has meant that whilst average investment income has decreased from 1.50% in 2019/20, to 1.01% in 2020/21 and to 0.79% in 2021/22, it is still expected to be in line with budgeted expectations for 2021/22.
  - In terms of dividend income Birmingham Airport have announced that no ordinary dividends will be paid in 2021/22, to conserve cash and mitigate the impact of reduced income due to the effects of the drop in passenger numbers as a result of Covid-19. The impact of this has resulted in a forecast variance of £1.950m where a use of reserves had been planned to offset this.
  - Savings are forecast to be made on interest payable costs totalling approximately £5.258m, with £4.047m expected to be transferred to reserves to meet future cost pressures. These savings are as a result of the council choosing to utilise its cash balances to fund capital expenditure rather than borrowing as budgeted for, which at present is more favourable given the historical low base rate, and the low potential investment returns from borrowing and increasing cash.

### ***Council Corporate Plan priorities***

- 4.4 Sound financial management of the council's cash balances supports the delivery of council priorities within council's available resources.

### ***Risk management***

- 4.5 Treasury management activity takes place within a robust risk management environment, which enables the council to effectively maximise investment income and minimise interest payments without undue or inappropriate exposure to financial risk. It is recognised that the management of risk is as important as maximisation of performance and it is essential that the council has the right balance of risk and reward when making investment decisions. This is supported by treasury management policies which seek to manage the risk of adverse fluctuations in interest rates and safeguard the financial interests of the council.
- 4.6 The impact of Covid-19 continues to provide uncertainty for interest rates and within the financial markets and is expected to continue for the foreseeable future. The Council has responded to this risk by reviewing counterparties for investments to minimise the risk to any one counter party or class of counter party, and by utilising cash balances as a first call rather than taking out borrowing for capital expenditure.
- 4.7 The impact of Covid-19 on the Council's cashflow is being managed by keeping cash in at call and notice accounts rather than longer fixed term investments, enabling the Council to ensure there is sufficient levels of cash available at all times to meet demand. As set out in section 4.1 above by holding cash in more liquid forms and the reduction in interest rates has had a corresponding impact on investment returns.

### ***Financial implications***

- 4.8 Treasury management activity forms part of the council's financial framework and supports delivery of the medium term financial strategy. The review of treasury management performance and activity is reviewed through both the treasury management annual report and the mid-year performance review report.
- 4.9 The proposed treasury management training session detailed within the report would incur a small one-off fee of £1,500, which can be contained within the overall existing Treasury Management budget.

### ***Legal implications***

- 4.10 The council is required to have regard to the Prudential Code under the duties outlined by the Local Government Act 2003. One requirement of the Prudential Code is that the council should comply with the CIPFA Code of Practice for Treasury Management. The council adopted the original treasury management code in 1992 and further revisions to the Code in 2002, 2010 and 2017.

### ***Procurement Implications/Social Value***

- 4.11 None directly relating to this report.

### ***Property implications***

- 4.12 None directly relating to this report.

### ***Health and wellbeing implications***

- 4.13 None directly relating to this report.

### ***Staffing implications***

- 4.14 None directly relating to this report.

### ***Reducing Inequalities***

- 4.15 None directly relating to this report.

### ***Climate Change***

- 4.16 None directly relating to this report.

### ***Consultation***

- 4.17 The report has been approved by the finance treasury management panel, an internal governance arrangement comprising the S151 Officer, Director - Finance Corporate Performance & Corp Landlord, Head of Finance, and Deputy Head of Finance (Corporate).

## **5. Decide**

- 5.1 In line with the Treasury Management Code of Practice (2017) there are a number of reports that are required to be produced and reported publicly each year. The Treasury Management Mid Year Position Statement forms one of these requirements and as such is being reported to Cabinet for noting and forwarding onto Council for consideration.

## **6. Respond**

- 6.1 This report is not seeking approval of a decision, in line with the Treasury Management Code of Practice (2017) it is required to be reported for noting and forwarding to Council for consideration.

## **7. Review**

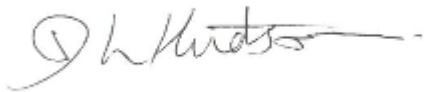
- 7.1 In line with Treasury Management Code of Practice (2017) this is a backward looking document looking at performance over the first six months of the current financial year and a further report on performance will be provided each year in line with the requirements of the Code.

## **Background papers**

Various financial working papers

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**Deborah Hindson**  
**Executive Director**  
**Resources & Transformation / S151 Officer**

15 December 2021



**Councillor M Bird**  
**Leader of the Council**

15 December 2021

## Treasury Management Mid Year Review

Table 1 shows borrowing and investments held at 31 March 2021 and 30 September 2021. The table shows that net borrowing during this period have remained the same.

The forecast borrowing position for the year end shows an approximate £18m reduction in overall borrowing levels linked predominantly due to the repayment of loan maturities for loans taken out to meet the cash flow requirements for the upfront pension payment made in April 2020.

The investment balance for the period to 30 September 2021 has increased by approximately £30m; this is in line with the budgeted assumptions for the year which included a plan to ensure that cash balances were maintained at an appropriate and robust level in line with expected cashflows projected for the year. This is also linked to the cashflow profile for local authorities where a large proportion of income is normally received at the start of the year (with upfront payment of grants / council tax / business rates etc), with corresponding expenditure normally being spread across the year.

The forecast investment position for the year end shows that investment balances are expected to decrease as we approach 31 March 2022 and payments on capital schemes are made and less income is profiled to be raised, and therefore collected, during the period.

**Table 1**

<b>Borrowing</b>	<b>31-Mar-21</b>	<b>30-Sep-21</b>	<b>Change in year</b>	<b>Forecast Position 31-Mar-22</b>	<b>Forecast Change 31-Mar-21 to 31-Mar-22</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
PWLB	195.613	195.614	0.001	195.613	0.000
Private Loans	95.000	95.000	0.000	95.000	0.000
Other Loans	56.743	39.742	(17.001)	38.302	(18.441)
<b>Total Borrowing</b>	<b>347.356</b>	<b>330.356</b>	<b>(17.000)</b>	<b>328.915</b>	<b>(18.441)</b>
<b>Investments</b>	<b>31-Mar-21</b>	<b>30-Sep-21</b>	<b>Change in year</b>	<b>Forecast Position 31-Mar-22</b>	<b>Forecast Change 31-Mar-21 to 31-Mar-22</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
At-call	36.360	57.125	20.765	25.000	(11.360)
Short term	138.500	148.000	9.500	104.500	(34.000)
Long term	15.000	15.000	0.000	10.000	(5.000)
Property funds	30.000	30.000	0.000	30.000	0.000
<b>Total Investments</b>	<b>219.860</b>	<b>250.125</b>	<b>30.265</b>	<b>169.500</b>	<b>(50.360)</b>
<b>Net Position (Borrowing less Investment)</b>	<b>127.496</b>	<b>80.231</b>	<b>(47.265)</b>	<b>159.415</b>	<b>31.919</b>

## Capital Financing

Table 2 below shows the midyear revenue outturn forecast for treasury management capital financing. There is a forecast underspend of £5.258m in relation to interest payable mainly as a result of more favourable borrowing rates being secured by the treasury service than budgeted, and by a decision to delay borrowing and utilise cash balances. Borrowing to be taken out to cover the 2020/21 capital programme was expected to take place in this financial year, but will no longer be taken out in this financial year as it is more prudent to utilise cash balances and reduce the cost of carry as well as reducing counterparty risk. A net transfer to reserves of £4.047m is forecast to fund future cost pressures for borrowing and loss of investment and dividend income in future years, leaving the remaining £1.211m underspend available to fund central cost pressures.

Birmingham Airport have announced that no ordinary dividends will be paid in 2021/22, to conserve cash and mitigate the impact of reduced income due to the effects of the drop in passenger numbers as a result of Covid-19. The impact of this has resulted in a forecast variance of £1.950m which is offset by a planned and corresponding release from reserves.

The MRP charge for the year is forecasted to be £0.780m over budget, however this is expected and a transfer from reserves equal to the forecasted overspend will be made. This transfer from reserves is a continuation of the release of the c.£24m savings identified as a result of the MRP review in 2015/16 and c.£21m savings identified as a result of the MRP review in 2020/21

**Table 2**

Service Description	Full Year Forecast	Annual Budget	Forecast Variance	Transfer (from) / to reserves	Net Forecast Variance
	£m	£m	£m	£m	£m
Interest Payable	11.575	16.833	(5.258)	4.047	(1.211)
Investment Returns	(1.904)	(3.854)	1.950	(1.950)	0.000
Allocation of interest on internal balances	0.009	0.009	0.000	0.000	0.000
Other Local Authority Debt	2.214	2.214	0.000	0.000	0.000
Treasury Management costs	0.020	0.020	0.000	0.000	0.000
Bank charges	0.097	0.086	0.011	0.000	0.011
Minimum Revenue Provision	9.139	8.359	0.780	(0.780)	0.000
<b>Total</b>	<b>21.150</b>	<b>23.667</b>	<b>(2.517)</b>	<b>1.317</b>	<b>(1.200)</b>

## Economics update provided by the Council's external Treasury Management Partner as at September 2021

The Monetary Policy Committee (MPC) voted unanimously at its meeting on 5 August 2021 to leave Bank Rate unchanged at 0.10% and made no changes to its programme of quantitative easing purchases due to finish by the end of this year at a total of £895bn, with



only one MPC member voting to stop these purchases now to leave total purchases £45bn short of the total target.

While that was all very much unchanged from previous MPC decisions over the last year, there was a major shift from indicating no expected tightening any time soon to now flagging up that interest rate increases were now on the horizon. There was disagreement among MPC members, some of whom felt that the forward guidance that the MPC won't tighten policy until inflation "is achieving the 2% inflation target sustainably", had already been met. Although other MPC members did not agree with them, they did all agree that "some modest tightening of monetary policy over the forecast period was likely to be necessary to be consistent with meeting the inflation target sustainably in the medium term".

The MPC was more upbeat in its new 2-3 year forecasts so whereas they had expected unemployment to peak at 5.4% in Q3, the MPC now thought that the peak had already passed. (It is to be noted though, that the recent spread of the Delta variant has damaged growth over the last couple of months and has set back recovery to the pre-pandemic level of economic activity till probably late 2021.)

We have been waiting for the MPC to conclude a review of its monetary policy as to whether it should raise Bank Rate first before reducing its balance sheet (quantitative easing) holdings of bonds. This review has now been completed so we learnt that it will start to tighten monetary policy by: -

1. Placing the focus on raising Bank Rate as "the active instrument in most circumstances".
2. Raising Bank Rate to 0.50% (1.50% previously), before starting on reducing its holdings.
3. Once Bank Rate is at 0.50% it would stop reinvesting maturing gilts.
4. Once Bank Rate had risen to at least 1%, it would start selling its holdings.

What the MPC did not give us was any indication on when it would start raising Bank Rate. Inflation is currently expected to peak at over 4% during 2021. The key issue then is whether this is just going to be transitory inflation or whether it will morph into inflation which will exceed the MPC's 2% target on an ongoing basis. In his press conference, Governor Andrew Bailey said, "the challenge of avoiding a steep rise in unemployment has been replaced by that of ensuring a flow of labour into jobs" and that "the Committee will be monitoring closely the incoming evidence regarding developments in the labour market, and particularly unemployment, wider measures of slack, and underlying wage pressures." In other words, it's worried that labour shortages will push up wage growth by more than it expects and that, as a result, CPI inflation will stay above the 2% target for longer. Which then raises an interesting question as to whether the million or so workers who left the UK during the pandemic, will come back to the UK and help to relieve wage inflation pressures. We also have an unknown as to how trade with the EU will evolve once the pandemic distortions have dissipated now that the UK no longer has tariff free access to EU markets.

At the current time, the MPC's forecasts are showing inflation close to, but just below, its 2% target in 2 to 3 years' time. The initial surge in inflation in 2021 and 2022 is due to a combination of base effects, one off energy price increases and a release of pent-up demand, particularly from consumers who have accumulated massive savings during the pandemic, hitting supply constraints. However, these effects will gradually subside or fall out of the calculation of inflation. The issue for the MPC will, therefore, turn into a question of when the elimination of spare capacity in the economy takes over as being the main driver

to push inflation upwards and this could then mean that the MPC will not start tightening policy until 2023. Remember, the MPC has sets its policy as being wanting to see inflation coming in sustainably over 2% to counteract periods when inflation was below 2%. While financial markets have been pricing in a hike in Bank Rate to 0.25% by mid-2022, and to 0.50% by the end of 2022, they appear to be getting ahead of themselves. The first increase to 0.25% is more likely to come later; our forecast shows the first increase in Q1 of 23/24 and the second to 0.50% in Q4 of 23/24. The second increase would then open the way for the Bank to cease reinvesting maturing bonds sometime during 2024.

## **Member Training**

Treasury Management policies, strategy, full year and mid year reviews are scrutinised by Cabinet and Council, and members must be trained to better understand and challenge the long-term financial implications of matters reported within the Treasury Management Strategy.

Link Asset Services, the council's treasury advisors, offer independent Member training which is tailored to the Council's specific needs, using the Council's own strategic documents, financial statements, capital programme, balance sheet position and debt and investment portfolios, as appropriate.

Training would be delivered by the Council's Client Relationship Manager, who has been a treasury management consultant for over 20 years and previously worked in Local Government, and is a Fellow of the Chartered Institute of Public Finance and Accountancy.

This training allows members to develop an enhanced awareness of their role within the Treasury Management function, understanding the changing regulatory and market environment and the challenges facing officers on a daily basis.

The training would provide a sound understanding through interactive discussion on the roles and responsibilities of members and officers relating to treasury management and covers:-

- The overarching strategic and governance frameworks relating to the Capital Strategy and Treasury Management activity
- The Treasury Management and Prudential Codes of Practice (revised December 2017)
- MHCLG Investment Guidance issued February 2018 and with effect from April 2018
- Risk Management
- The Financial Markets
- Interest Rate Forecasts
- Credit Ratings and Creditworthiness
- Investment Management
- Debt Management
- Non-Financial Investments e.g. Investment Property
- Scrutiny Focus – officers and members responsibilities

The training can be delivered via Microsoft Teams. It normally takes two hours to deliver and there is opportunity for interaction and to ask questions. Handouts will be provided if requested and the slides sent to members for review a week ahead of any training being delivered.

The relevant fee for the training service is a flat £1,500 (plus VAT) regardless of the number of members / officers that attend, therefore this allows the training offer to be extended to all members, if supported, at no extra cost.

## Performance

The prudential and local indicators as at 30 September 2021 are shown in **Appendix B**. All indicators are currently being met with the exception of the following:

PRL1 - Capital Expenditure is forecasted to be £91.190m less than target, due to the re profiling of capital schemes from 2021/22 to future years.

The report also sets out a number of Local Indicators covering performance against targets for interest expense and investment income. Notable variances include:

L3a - Net borrowing costs as % of net council tax requirement (variance of -63.94%). The target figure of 20.00% represents an upper limit of affordable net borrowing costs as a percentage of the net council tax requirement for the authority. The actual level of net borrowing costs is currently less than the upper limit, which in the main is linked to the work undertaken by the service to seek to secure favourable rates on investments and reduced costs on borrowing, thus reducing the overall net borrowing costs.

L3b - Net borrowing costs as % of Tax Revenue (variance of -62.89%). The target figure of 12.50% represents an upper limit of affordable net borrowing costs as a percentage of tax revenues for the authority. The actual level of net borrowing costs is currently less than the upper limit, which in the main is linked to the work undertaken by the service to seek to secure favourable rates on investments and reduced costs on borrowing, thus reducing the overall net borrowing costs.

L5 & L6 – Average interest rate of external debt outstanding excluding/including OLA. The target for this year includes borrowing for capital expenditure which was budgeted to be taken out at lower rates than our historical borrowing rates, resulting in a lower average rate across all of our borrowing. This borrowing will no longer be undertaken in 2021/22 and will be funded by utilising the Council's cash balances. Therefore whilst the target is not being met there are interest cost savings being made as a result of not borrowing and a reduction in interest rate and counterparty risks.

L8 – Average rate achieved on Short Term Interest vs At Call Rate – The target is to achieve a 50% better rate on short term investments vs the current At Call rate (i.e. do nothing other than leave all cash in overnight At Call accounts). The average At Call rate was 0.04%, creating a 50% above target of 0.06%. The short term interest rate achieved was actually 0.34%, which results in a 750% favourable variance above the At Call rate.

L9a – The At Call interest rate is currently below target due to the unstable short term interest environment resulting from Covid-19, and the subsequent base rate cuts in March 2020. Please note that whilst this is below target it is still an improvement on negative rates provided by many existing At Call investments.

The targets that these prudential indicators are monitored against have been taken from the Treasury Management and Investment Strategy for 2021/22 Onwards, which was approved by Council in February 2021.



## Appendix B

Prudential Indicator		Actual 2020/21 £m	Target 2021/22 £m	Forecast Position at 31-Mar-22 £m	Variance to target	
					Numerical Variance	% Variance
Prl 1	Capital Expenditure	102.837	228.240	137.050	-91.190	-40%
This indicator is required to inform the council of capital spending plans it is the duty of a local authority to determine and keep under review the amount that it can afford to allocate to capital expenditure. Capital expenditure may be funded by grant, capital receipts and borrowing. The forecast variance to target for 2020/21 is due to re profiling of capital schemes.						
Prl 2	Ratio of financing costs to net revenue stream	5.17%	8.71%	7.24%	-1.47%	-17%
Financing costs - Divided by (Interest charged on loans Less Interest earned on investments)		Budget requirement (Revenue Support Grant + NNDR +Council Tax)			The ratio of financing costs to net revenue stream (General Fund) as a %	
Prl 3	Estimates of the incremental impact of new capital investment decisions on Council Tax	£28.49	£52.43	£52.43	0.00	0%
This is a notional amount indicating the amount of council tax band D that is affected by the capital programme in the budget report compared to existing approved commitments and current plans.						
Prl 4	Capital Financing Requirement	380.886	417.360	417.360	0.00	N/A
This represents the underlying level of borrowing needed to finance historic and future capital expenditure. It is updated at end of the financial year.						
Prl 5	Authorised Limit for external debt	472.173	498.300	498.300	0.00	0%
The council may not breach the limit it sets, so it is important to allow prudent room for uncertain cash flow movements and borrowing in advance of future need.						
Prl 6	Operational Limit for external debt	429.248	453.000	453.000	0.00	0%
This has been set at the level of the capital financing requirement less the CFR items relating PFI and finance leases.						
Prl 7	Gross Borrowing exceeds capital financing requirement	No	No	No		
The CFR represents the underlying level of borrowing needed to finance historic capital expenditure. Actual net borrowing should be lower than this because of strong positive cash flow and balances. It would be a cause for concern if net borrowing exceeded CFR.						

Prl 8	Authority has adopted CIPFA Code of Practice for Treasury Management	Yes	Yes	Yes	
To ensure that treasury management activity is carried out within best professional practice.					
Prl 9	Total principle sums invested for longer than 364 days must not exceed	15.0	25.0	15.0	
The council is at risk when lending temporarily surplus cash. The risk is limited by investing surplus cash in specified investments and by applying lending limits and high credit worthiness. These are kept under constant review.					
Prudential Indicator continued		Upper Limit	Lower Limit	Actual 2020/21	Forecast Position at 31-Mar-22
Prl 10	Fixed Interest Rate Exposure	95.00%	40.00%	94.31%	89.54%
Prl 11	Variable Interest Rate Exposure	45.00%	0.00%	5.69%	10.46%
Prl 12	<b>Maturity Structure of Borrowing</b>				
	Under 12 months	25.00%	0.00%	10.48%	23.14%
	12 months and within 24 months	25.00%	0.00%	21.72%	13.10%
	24 months and within 5 years	40.00%	0.00%	19.84%	11.88%
	5 years and within 10 years	50.00%	5.00%	0.54%	2.06%
	10 years and above	85.00%	30.00%	47.42%	49.82%

## Local Indicators as at 30<sup>th</sup> September 2021

Local Indicators		Actual 2020/21	Target 2021/22	Forecast Position as at 31-Mar-22	Variance to target		Met
					Numerical Variance	% Variance	
L1	Full compliance with prudential code	Yes	Yes	Yes	-	-	Y
L2	Average length of debt	16.23	Lower Limit 15 years, Upper limit 25 years	16.72	-	-	Y
This is a maturity measure and ideally should relate to the average lifespan of assets.							
L3a	Financing costs as a % of council tax requirement	7.02%	20.00%	7.21%	-12.79%	-63.94%	Y
L3b	Financing costs as a % of tax revenues	4.44%	12.50%	4.64%	-7.86%	-62.89%	Y
These are a variation to Prl 3 excluding investment income and including MRP (amount set aside to repay debt costs). The target figure of 12.5% represents an upper limit of affordable net borrowing costs as a percentage of tax revenues for the authority. The actual level of net borrowing costs is currently less than the upper limit, which in the main is linked to the work undertaken by the service to seek to secure favourable rates on investments and reduced costs on borrowing, thus reducing the overall net borrowing costs.							
L4	Net actual debt vs. operational debt	80.92%	85.00%	72.93%	-12.07%	-14.20%	Y
This assists the monitoring of the authority's debt position.							
L5	Average interest rate of external debt outstanding excluding OLA	3.46%	3.30%	3.59%	0.29%	8.67%	N
L6	Average interest rate of external debt outstanding including OLA	3.54%	3.46%	3.67%	0.21%	6.15%	N
The measure should be as low as possible. Other Local Authority debt (OLA) is managed on our behalf by Dudley council.							

L7	Gearing effect of 1% increase in interest rate	3.58%	5.00%	3.71%	0.04%	This would increase the average interest rate payable from 3.67% shown in L6 to 3.71%	Y
This relates risk management principles to the monitoring of the TM strategy. It measures the effect of a change in interest rates and the effect it may have on the capital financing costs.							
L8	Average interest rate received on STI vs. At Call rate	580.00%	374.00%	750.00%	376.00%	100.53%	Y
L9a	AT call investments	0.10%	0.05%	0.04%	-0.01%	-20.00%	N
L9b	Short Term Investments	0.68%	0.25%	0.34%	0.09%	36.00%	Y
L9c	Long Term Investments	1.57%	0.80%	1.26%	0.46%	57.50%	Y
L9d	Property Fund Investments	4.10%	3.82%	3.84%	0.02%	0.52%	Y
L10	Average interest rate on all ST investments (ST and AT call)	0.46%	0.24%	0.25%	0.01%	5.53%	Y
L11a	Average rate on all investments (ex. Property fund)	0.59%	0.27%	0.37%	0.10%	35.76%	Y
L11b	Average rate on all investments (inc. property fund)	1.01%	0.68%	0.79%	0.11%	16.23%	Y
L12	% daily bank balances within target range	100%	99%	100%	1.00%	1.01%	Y
This measures how good our daily cash flow prediction is. A figure of 98% and above indicates a high level of accuracy.							



## **Cabinet – 15 December 2021**

### **Council Tax Reduction Scheme – 2022/23**

**Portfolio:** Councillor Andrew

**Related portfolios:** All

**Service:** Customer Engagement

**Wards:** ALL

**Key decision:** No

**Forward plan:** No

#### **1. Aim**

To agree upon a new local council tax reduction (LCTR) scheme that can be approved by Council in January 2022

#### **2. Summary**

Cabinet on 8 September 2021 agreed to consult on a preferred LCTR scheme to apply to households in Walsall with effect from the financial year starting in April 2022. Consultation was conducted between the period 1 October and 30 November and views expressed have been taken in-to account in theses final recommendations which will go forward to full Council in January 2022

The council is not reducing the funding it provides for its local council tax reduction scheme, this is a cost neutral proposal that has been consulted upon.

#### **3. Recommendations**

To recommend to Council:

That the Council approves the Local Council Tax Reduction Scheme as set out in Appendix 1 and detailed in Appendix 2 to this report, adopting the principles approved by Cabinet in September. Taking account of recent changes in the provision of welfare support nationally and having given regard to the equality impact assessment and consultation comments.

## 4. Report detail - know

### **Context**

- 4.1 A detailed report was submitted to Cabinet on 8 September 2021 setting out objectives and proposals to consider for a new simplified council tax reduction scheme. A preferred option was considered and approved for public consultation.
- 4.2 The purpose of the changes are to simplify the scheme for claimants to understand and to simplify the application and administrative process, reducing constant changes in the amount of the award, enabling people to better budget for the payments of council tax charges.
- 4.3 The scheme is based on household income and size. The change will generate some winners and losers. The scheme is not looking to make any savings and should remain cost neutral to council tax payers. Vulnerable households who are facing a loss will be able to seek additional hardship funding, each case will be assessed on its own merits. Key features of the Scheme were highlighted in the report to Cabinet in September and are updated and reproduced at Appendix 1.
- 4.4 Public and key stakeholder consultation was conducted between the 1<sup>st</sup> October and the 30<sup>th</sup> November 2021, with the majority of respondents in favour of the proposed changes.
- 4.6 Major preceptors have been consulted on the proposals and have responded without any objections.
- 4.7 During this consultation period there have been a couple of key government decisions relating to universal credit which impact households on low income, and consequently the modelling data used to determine the cost of any new LCTR scheme. These factors have been reviewed as part of the exercise to determine any appropriate scheme changes from those that were proposed.
- 4.8 In addition to changes in universal credit payments we have also seen a continued reduction in case numbers receiving LCTR, this is due to easing of lockdown restrictions and a growth in the labour market.
- 4.9 Full details of the scheme are reproduced at Appendix 2.

**Economic:** Provide an incentive for those on low income and enable better targeted support

**People:** Reduced complexity and easy to access scheme

**Internal:** Increased automation to enable more focused support towards our most vulnerable households

**Children:** The LCTR will differentiate between household make-ups and can ensure families with children are supported properly. Again, resources can be focused on helping those most at risk with targeted support.

**Communities:** Communities will be encouraged to participate in consultation for the revision and again support can be targeted.

### ***Risk management***

- 4.10 Moving to a new scheme will require system changes and re-calculations of liability which impact council tax base calculations. Accurate modelling of data and staff training is key to avoid errors and confusion. System modelling and test data will be carried out using our existing software suppliers.
- 4.11 LCTR is a dynamic award, claimant numbers can increase as well as decrease, modelling for the scheme has been carried out using the best available data to arrive at a cost neutral scheme and performance against these estimates will be monitored throughout the period.
- 4.12 Consultation has been carried out in accordance with the legislation in order to avoid a challenge against the scheme and to allow residents the opportunity to comment on the proposal and influence the final scheme.
- 4.13 Current improvements in data sharing between areas of the council in relation to things such as free school meals and other projects such as the use of robotics and document management need to be considered when making changes to this scheme in order to maximise its efficiency.

### ***Financial implications***

- 4.13 The funding from government for LCTR is now part of the financial settlement and is no longer separately identifiable.
- 4.14 The new scheme is intended to be cost neutral although changes in household incomes are dynamic and can result in fluctuations both up and down in total value of awards.
- 4.15 The scheme impacts the collection fund which means the cost falls upon all council tax payers and impacts the council and its major preceptors, as a result any scheme changes must be consulted with the major precepting authorities.
- 4.16 A simplified scheme, enabling better debt management for customers should help the council to reduce its bad debt provision which would have a positive impact on the collection fund and subsequently the general fund. Bad debt provision currently stands at £8.9m for all council tax debts and collection for debts where LCTR is awarded to working age customers is around 70% within year, leaving over £2m to collect in subsequent years. Total annual liability for Council tax in 2021/22 is £153m of which we aim to collect over 94% of this within the year.
- 4.17 Modelling software and expert consultation support is required from our existing suppliers in order to ensure the new scheme can be administered effectively and scheme details are legally documented. These costs will be met from service budgets.
- 4.18 The proposed scheme in September has been remodelled using data available in November and this is the only cost neutral option, two additional schemes have also been modelled using this data taking in-to account comments relating to both disabled claimants and families with children but neither of these options deliver a cost neutral solution and therefore cannot be recommended. Any shortfall in the

budgeted costs can be used as hardship support funding and this will be targeted to those in most need. (See Table Below for analysis of options considered)

	New Scheme Costs	Existing Scheme Costs
November Scheme (Based on September Proposals) – Recommended Scheme.	£13,797,983	£13,901,486
November Scheme (Based on September Proposals, with all Child Benefit Disregarded as income)	£14,237,353	£13,901,486
November Scheme (Based on September Proposals, with all Child Benefit disregarded as income and Disability premium disregards increased to £55)	£14,300,027	£13,901,486

### ***Legal implications***

- 4.19 The legislation relating to council tax reduction schemes includes:
- Section 13A of the Local Government Finance Act 2012 - introduced the council tax reduction scheme.
  - The Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012 (Statutory Instrument 2012 / 2885) contains the mandatory elements for any local scheme and details the scheme that must be adopted for pensioners.
- 4.20 The council must make any revision to its discount scheme before the end of March in the financial year preceding that for which the revision or replacement scheme is to have effect.

### ***Procurement Implications/Social Value***

- 4.21 None

### ***Property implications***

- 4.22 None

### ***Health and wellbeing implications***

- 4.23 There are complex interconnections between living conditions, lifestyles, and health problems; high unemployment, low pay, and reductions in public support make it more likely that there will be an adverse effect on health and wellbeing for the residents of Walsall. Implications will vary depending on the size of the reductions in support.

### ***Staffing implications***

- 4.24 A simplified and more automated scheme will result in staff tasks being redirected to more targeted support for our most vulnerable customers.

## ***Reducing Inequalities***

- 4.25 The implications for reducing inequalities have been taken into account and assessed as set out below.
- 4.26 Government has stated that LCTR schemes should provide support for the most vulnerable; however they have not prescribed the protection that local authorities should provide for vulnerable groups other than pensioners.
- 4.27 In designing local schemes authorities are reminded of their responsibilities in relation to vulnerable groups and individuals and the Department for Communities and Local Government (now MHCLG) consultation response makes specific reference to the following Acts. a) The Child Poverty Act 2010, which imposes a duty on local authorities and their partners, to reduce and mitigate the effects of child poverty in their local areas. b) 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. c) The Housing Act 1996, which gives local authorities a duty to prevent homelessness with special regard to vulnerable groups.
- 4.28 An equality impact assessment must be completed and consultation with appropriate groups with protected characteristics that may be affected by changes to entitlement. We will also use the equality impact assessment to identify any unintended consequences for vulnerable groups to ensure that our local scheme is fair and equitable. Hardship provision under the proposed scheme will enable us to consider mitigating disproportionate impacts against any equality groups.

## ***Climate change***

- 4.29 A simplified scheme will reduce the number of accounts and reminder notices being issued and help to ensure the delivery of services and actions of those in the Council's Climate Change Action Plan.

## ***Consultation***

- 4.30 The council has fully adhered to the statement of intent issued by the Department for Communities and Local Government which specifies that it must:
- Consult any major precepting authority
  - Publish a draft scheme in such a manner as it thinks fit, and
  - Consult other such persons as it considers are likely to have an interest in the operation of the scheme.
- 4.31 The council has undertaken a public consultation exercise on the option approved by the cabinet in September to ensure it gives the best possible opportunity for interested parties to put forward their views. In addition a listening and engagement session with key stakeholders has taken place to discuss the options described and potential impacts.
- 4.32 Overall consultation from all sectors was largely supportive of the September proposals and there was good support for a simplified scheme. Concerns were voiced about the impacts on families with children and for those in receipt of disability benefits, as a result of these comments two further options have been modelled but do not meet the scheme principles as neither would be cost neutral

(see 4.18 above). A summary of all the consultation outcomes is attached at Appendix 3

- 4.33 Consultation included writing to a representative sample of council tax payers, including those impacted by the scheme changes, as well as the provision of an online questionnaire to capture resident's views about the proposed changes.
- 4.34 Conversations with near neighbours have already taken place with regard to scheme changes and staff consultation has fed in to the process.

## 5. Decide

The scheme details are set out in Appendix 2 and should be recommended to Council, as they comply with the scheme principles as set out in the September Cabinet report and are supported by the consultation process. Additional options have been considered following consultation on the scheme but have been discounted on the basis that they do not meet the principle of being cost neutral.

## 6. Respond

The decision will be implemented as set out in the recommendation and will take effect from the next Council Tax billing year April 2022.

## 7. Review

Following implementation in April 2022, the scheme will be monitored and future changes will be recommended for future years, with hardship support available to those suffering. The final scheme recommendations which will go before Council in January 2022.

## Background papers

September 2021 Cabinet Report – LCTR Proposals for consultation

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Signed  
Sally Rowe  
Executive Director  
Childrens and Customer  
3<sup>rd</sup> December 2021



Signed  
Councillor A Andrew  
Portfolio Holder Regeneration

3<sup>rd</sup> December 2021

## LCTRS Appendix 1

This scheme is a fundamental change to the existing scheme, it is a sliding discount award based on income bands, household size and make-up.

The income bands relate to weekly income and are based on universal credit basic need then incremented in each category by £30.00 to a maximum.

Income is calculated based on net income with certain income types being disregarded

Maximum discount awards for all groups would be 75% with a sliding scale based on assessed income.

Where non-dependants are resident in a property the assessed award will be reduced by £10 per week for those in work and £5 per week for those not in work. Specified non-dependants such as students will not be counted. This is different to the current scheme which is based on actual income bands for working non dependants.

The proposed discount, income bands and household types are as follows:-

Discount	Couple with 2 Or more children	Couple with one child	Couple
75%	£0.00 - £292.52	£0.00 - £223.92	£0.00 - £137.67
65%	£292.53 - £322.52	£223.93 - £253.92	£137.68 - £167.67
55%	£322.53 - £352.52	£253.93 - £283.92	£167.68 - £197.67
45%	£352.53 - £382.52	£283.93 - £313.92	£197.68 - £227.67
25%	£382.53 - £412.52	£313.93 - £343.92	£227.68 - £257.67
0%	£413.53 and above	£343.93 and above	£257.68 and above

Discount	Single with 2 Or more children	Single with one child	Single
75%	£0.00 - £249.81	£0.00 - £181.21	£0.00 - £94.96
65%	£249.82 - £279.81	£181.22 - £211.21	£94.97 - £124.96
55%	£279.82 - £309.81	£211.22 - £241.21	£124.97 - £154.96
45%	£309.82 - £339.81	£241.22 - £271.21	£154.97 - £184.96
25%	£339.82 - £369.81	£271.22 - £301.21	£184.97 - £214.96
0%	£369.82 and above	£301.22 and above	£214.97 and above

*Child being a dependent child.*

All passported cases receive the maximum award of 75%

Passported cases include households where the following awards are received:-

- Income Support
- Income Related Job Seekers Allowance
- Income Related Employment Support Allowance

A number of options for income deductions have been modelled based on these schemes and the following have been used in order to protect vulnerable households and maintain a cost neutral scheme.

- Universal credit basic income is included as claimant income as are child care costs and limited capability to work costs. Housing costs are disregarded from the income calculation as they are in the current scheme.



- Child benefit income is disregarded for all but the first child in this scheme whereas in the current scheme all child benefit payments are included as income and only child benefit for the first child is disregarded.
- Personal independent payments and Disability Living Allowances are disregarded
- Carers allowance is disregarded
- An extra income disregard has been modelled in this scheme of £45 per week where the following premiums are awarded
  - *DP (disabled premium for claimant or partner)*
  - *SDP (severe disabled premium for claimant or partner)*
  - *EDP (enhanced disabled premium for claimant or partner)*
  - *CDP (child disabled premium for any dependant)*

Introducing this Banded income scheme would remove the differential between under 35's and over 35's and would enable a maximum award of 75% discount to all those on low incomes as defined by the scheme.

Modelled data as at the beginning of September 2021 shows the following changes in awards to apply across the current working age caseload if the scheme were adopted:-

As at September 2021	Households	New scheme Value
<b>Over £10 Losers</b>	616	£55,854.08
<b>£5.00 - £10.00 Losers</b>	1242	£462,827.35
<b>£0.01 - £5.00 Losers</b>	3096	£1,877,132.41
<b>No Change</b>	801	£540,657.00
<b>£0.01 - £5.00 Gainers</b>	12296	£10,748,720.22
<b>£5.00 - £10.00 Gainers</b>	884	£667,865.49
<b>Over £10 Gainers</b>	195	£173,888.12
	19130	£14,526,944.66

This is now updated as at November and the reduction in current awards is reflected in the new model data and this analysis reflects the scheme which is being recommended.

As at November 2021	Households	New scheme Value	Current Value
Over £10 Losers	718	£67,350.67	£631,521.44
£5.00 - £10.00 Losers	1168	£423,596.03	£844,554.73
£0.01 - £5.00 Losers	3557	£2,219,062.14	£2,636,383.53
No Change	648	£421,513.26	£421,469.15
£0.01 - £5.00 Gainers	11097	£9,780,458.47	£8,980,904.78
£5.00 - £10.00 Gainers	1095	£786,273.06	£400,080.67
Over £10 Gainers	111	£99,729.48	£32,268.09
	18394	£13,797,983.12	£13,947,182.38



Analysis of cases that are gaining from this scheme but can't be modelled show that deductions from UC which need to be added back in to income, will reduce awards in some cases, mainly those where there are large gains, (*managed payments to landlords will be ignored but all other payment deductions included as income*) .

Many of the cases where they are showing as large losers under the scheme relate to cases where no income is showing on the system and these will need to be reviewed and may well come back in to an award.

Main areas where cases are losing is due to their income exceeding the banding thresholds, this is due to the treatment of dependant and non-dependant deductions from income as well as additional income other than basic universal credit being taken in to account as income whereas under the current scheme it may lead to the claimant getting the maximum award.

The majority of cases in this analysis show a small increase in their weekly awards and this is largely due to the maximum award increasing from 70% to 75%.

Currently applications for Council Tax Reduction can only be backdated for a period of 1 month and only when good cause is proven. This is too restrictive and relates to old legacy benefit rules. The ability to backdate up to one year, at the Council's discretion, would allow the scheme to assist low income applicants who failed to claim when they were potentially entitled to support.

There will be occasions where applicants may need more support than the scheme provides. Where they are experiencing exceptional hardship, the Council will maintain an exceptional hardship fund. Each case will be assessed on a case by case basis. The scheme will form part of the main Council Tax Reduction scheme and will be paid through the collection fund under S13A1A Local Government Finance Act 1992.

In response to consultation further modelling has been conducted on two further options where additional deductions for Child Benefit and Disability Premium cases have been considered. However, these are not cost neutral and are not recommended.

Example 1 is where Child Benefit is deducted in full

As at November			
	Households	New scheme Value	Current scheme Value
Over £10 Losers	585	£54,445.03	£515,858.15
£5.00 - £10.00 Losers	990	£380,640.87	£733,351.74
£0.01 - £5.00 Losers	3168	£2,024,532.96	£2,398,306.02
No Change	652	£418,054.11	£418,010.51
£0.01 - £5.00 Gainers	11270	£10,026,273.43	£9,228,725.18
£5.00 - £10.00 Gainers	1406	£1,054,569.24	£528,124.76
Over £10 Gainers	323	£278,838.01	£79,110.10
	18394	£14,237,353.64	£13,901,486.46

Example 2 is where Child Benefit is fully deducted and Disability Premium Reductions are increased from £45 to £55

As at November			
	Households	New scheme Value	Current scheme Value
Over £10 Losers	559	£54,935.89	£493,081.63
£5.00 - £10.00 Losers	958	£364,813.87	£707,297.00
£0.01 - £5.00 Losers	3148	£2,031,741.17	£2,392,376.86
No Change	653	£418,846.27	£418,802.56
£0.01 - £5.00 Gainers	11326	£10,077,094.42	£9,273,297.41
£5.00 - £10.00 Gainers	1422	£1,067,560.87	£535,257.90
Over £10 Gainers	328	£285,034.54	£81,373.10
	18394	£14,300,027.03	£13,901,486.46

The reason these are not recommended is due to the fact that they are not cost neutral and would not allow for

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

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

- 1.1 The following has been adopted by the Council and details the Council Tax Reduction scheme for the period from 1<sup>st</sup> April 2022.
- 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 2022 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 (England) (Amendment) Regulations 2017;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2018;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2020;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2021: 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;
- (f) not have capital savings above £16,000; and
- (g) who has made an application for a reduction under the authority's scheme.

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

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

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

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

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

- (a) is not a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount;
- (b) is not a person who is liable for council tax solely in consequence of the provisions of section 9 of the 1992 Act (spouse's or civil partner's joint and several liability for tax);
- (c) is not a person who is residing with a couple or with the members of a polygamous marriage where the applicant is a member of that couple or of that marriage and—



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

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

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

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

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

- 1.6 The adopted scheme for working age applicants is an income band scheme means test, which compares income against a range of discounts available. Full details of the working age scheme of the authority are contained within this document from section 2 onwards. The authority is required to specify a scheme for working age and therefore this scheme only applies to a person who;
- (a) has not attained the qualifying age for state pension credit; or
  - (b) has attained the qualifying age for state pension credit if he, and his partner, is a person on income support, on an income-based jobseeker's allowance, on an income-related employment and support allowance or on universal credit.
- 1.7 The Council has resolved that there will be **one** class of persons who will receive a reduction in line with adopted scheme. The scheme has 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; or
- (b) he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is a person on income support, on income-based jobseeker's allowance or an

income-related employment and support allowance; or a person with an award of universal credit.

- (c) be liable to pay council tax in respect of a dwelling in which he is solely or mainly resident;
- (d) is not deemed to be absent from the dwelling;
- (e) not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- (f) be somebody in respect of whom a maximum Council Tax Reduction amount can be calculated;
- (g) not have capital savings above £6,000;
- (h) not have income above the levels specified within the scheme;
- (i) be a person in respect of whom a day in which s/he is liable to pay council tax falls within a week in respect of which the person's *income* is within a range of incomes specified within Schedule 1; and
- (j) has made a valid application for reduction.

DRAFT

## **Council Tax Reduction Scheme**

**Details of reduction to be given for working age applicants for the financial year 2022/23**

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

### **2.1 In this policy–**

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

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

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

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

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

‘applicant’ means a person who the authority designates as able to claim Council tax reduction – 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:

‘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;

‘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).

‘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’ has the meaning given by section 3 of the Care Standards Act 2000 and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001 and in Northern Ireland means a nursing home within the meaning of Article 11 of the Health and Personal Social Services Quality Improvement and Regulation (Northern Ireland) Order 2003 or a residential care home, within the meaning of Article 10 of that Order;

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

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

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

‘child tax credit’ means a child tax credit under section 8 of the Tax Credits Act 2002;

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

‘claim’ means a claim for council tax reduction;

‘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;

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

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

‘couple’ means;

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

(b) a man and a woman who are not married to each other but are living together as if they were a married couple or civil partners;

‘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 reduction;

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

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

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

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

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

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

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

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

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

‘Employment and Support Allowance Regulations’ means the Employment and Support Allowance Regulations 2008 and the Employment and Support Regulations 2013 as appropriate;

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

‘family’ has the meaning assigned to it by section 137(1) of the Act and Section 9 of this scheme;

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

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

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

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

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

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

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

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

‘independent hospital’–

- (a) in England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section;
- (b) in Wales, has the meaning assigned to it by section 2 of the Care Standards Act 2000; and
- (c) in Scotland, means an independent health care service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;

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

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

‘Jobseekers Act’ means the Jobseekers Act 1995; ‘Jobseeker’s Allowance Regulations’ means the Jobseeker’s Allowance Regulations 1996 and Jobseeker’s Allowance Regulations 2013 as appropriate; ‘limited capability for work’ has the meaning given in section 1(4) of the Welfare Reform Act;

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

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

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

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

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

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

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

‘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;

‘member of the work-related activity group’ means a claimant who has or is treated as having limited capability for work;

‘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;

‘net earnings’ means such earnings as are calculated in accordance with this scheme;

‘net profit’ means such profit as is calculated in accordance with this scheme;

‘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;

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

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

'partner' means—

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

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

'person treated as not being in Great Britain' has the meaning given by section 7;

'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 namely;

- (a) a person is a husband or wife by virtue of a marriage entered into under law which permits polygamy; and
- (b) either party to the marriage has for the time being any spouse additional to the other party.

'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 reduction;

‘relevant week’ In relation to any particular day, means the week within which the day in question falls;

‘resident’ has the meaning it has in Part 1 or 2 of the 1992 Act;

‘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.);
- (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.

‘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;

‘reduction week’ means a period of 7 consecutive days commencing upon a Monday and ending on a Sunday;

‘the Tax Credits Act’ means the Tax Credits Act 2002;

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

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

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Young People’s Learning Agency for England, the Chief Executive of Skills Funding or Welsh Ministers;
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, the department or approved by the department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers.



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

‘the Trusts’ means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No. 2) Trust;

‘Universal Credit’ means any payment of Universal Credit payable under the Welfare Reform Act 2012, the Universal Credit Regulations 2013, The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013, Universal Credit (Miscellaneous Amendments) Regulations 2013 and the Universal Credit (Transitional Provisions) Regulations 2014;

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

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

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

‘war pension’ means a war disablement pension, a war widow’s pension or a war widower’s pension;

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

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

‘water charges’ means;

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

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

‘week’ means a period of seven days beginning with a Monday;

‘Welfare Reform Act’ means the Welfare Reform Act 2007;

‘Working Tax Credit Regulations’ means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 as amended.

2.2 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.

2.3 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).

- 2.4 For the purposes of this policy, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day;
- (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act disqualification; or
  - (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act.
- 2.5 For the purposes of this policy, two persons shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.
- 2.6 In this policy, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002 (small amounts of state pension credit).
- 2.7 In this policy, 'non-dependant' means any person, except someone to whom paragraph 2.8 applies, who normally resides with an applicant or with whom an applicant normally resides.
- 2.8 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) 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) 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.
- 2.9 Excepting persons to whom paragraph 2.8 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 reduction 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 reduction scheme.

### **3.0 Requirement to provide a National Insurance Number**

3.1 No person shall be entitled to reduction unless the criteria below in 3.2 is satisfied in relation both to the person making the claim and to any other person in respect of whom he is claiming reduction.

3.2 This subsection is satisfied in relation to a person if—

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

3.3 Paragraph 3.2 shall not apply—

- (a) in the case of a child or young person in respect of whom council tax reduction is claimed;
- (b) to a person who;
  - i. is a person in respect of whom a claim for council tax reduction 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.

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

4.1 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.

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

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

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

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

5.3 A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.

5.4 For the purposes of paragraph (3), a right to reside does not include a right, which exists by virtue of, or in accordance with—

- (a) regulation 13 of the EEA Regulations;
- (aa) regulation 14 of the EEA Regulations, but only in a case where the right exists under that regulation because the person is—

- (i) a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of those Regulations, or
- (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker;
- (b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (5) of that regulation of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen).

5.4A For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 by virtue of—

- (a) (Removed by the Council Tax Reductions Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2021
- (b) Appendix EU to the immigration rules made under section 3(2) of that Act;
- (c) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act; or
- (d) having arrived in the United Kingdom with an entry clearance that was granted under Appendix EU (Family Permit) to the immigration rules made under section 3(2) of that Act.

5.4B Paragraph (4A)(b) does not apply to a person who—

- (a) has a right to reside granted by virtue of being a family member of a relevant person of Northern Ireland; and

would have a right to reside under the EEA Regulations if the relevant person of Northern Ireland were an EEA national, provided that the right to reside does not fall within paragraph (4)(a) or (b)

5.5 A person falls within this paragraph if the person is—

- (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
- (b) a family member of a person referred to in sub-paragraph (a);
- (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
- (ca) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (4A)(b), provided that the relevant person of Northern Ireland falls within paragraph (5)(a), or would do so but for the fact that they are not an EEA national;
- (cb) a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020;
- (cc) a family member of a person referred to in sub-paragraph (cb), who has been granted limited leave to enter, or remain in, the United Kingdom by virtue of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971
- (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
- (e) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971<sup>1</sup> where that leave is—
  - (i) discretionary leave to enter or remain in the United Kingdom,
  - (ii) leave to remain under the Destitution Domestic Violence concession which came into effect on 1st April 2012, or

<sup>1</sup> As amended by the Immigration Act 2014 and the Immigration Act 2014 (Commencement No. 2) Order 2014

- (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005.
  - (f) a person who has humanitarian protection granted under those rules;
  - (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom;
  - (h) in receipt of income support or on an income-related employment and support allowance; or
  - (ha) in receipt of an income-based jobseeker's allowance and has a right to reside other than a right to reside falling within paragraph (4).
- 5.6 A person falls within this paragraph if the person is a Crown servant or member of Her Majesty's forces posted overseas.
- 5.7 A person mentioned in sub-paragraph (6) is posted overseas if the person is performing overseas the duties of a Crown servant or member of Her Majesty's forces and was, immediately before the posting or the first of consecutive postings, habitually resident in the United Kingdom.
- 5.8 In this regulation—  
 "claim for asylum" has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999;  
 "Crown servant" means a person holding an office or employment under the Crown;  
 "EEA Regulations" means the Immigration (European Economic Area) Regulations 2006; and the Immigration (European Economic Area) (Amendment) (No. 2) Regulations 2014 and references to the EEA Regulations are to be read with Schedule 4 to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) Regulations 2020  
 "EEA national" has the meaning given in regulation 2(1) of the EEA Regulations;  
 "family member" has the meaning given in regulation 7(1)(a), (b) or (c) of the EEA Regulations, except that regulation 7(4) of the EEA Regulations does not apply for the purposes of paragraphs (4B) and (5)(ca);  
 "relevant person of Northern Ireland" has the meaning given in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971; and  
 "Her Majesty's forces" has the same meaning as in the Armed Forces Act 2006.

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

- 5.9 Persons subject to immigration control are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in an authority's scheme.
- 5.10 A person who is a national of a state which has ratified the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953) or a state which has ratified the Council of Europe Social Charter (signed in Turin on 18th October 1961) and who is lawfully present in the United Kingdom is not a person subject to immigration control for the purpose of paragraph 5.9
- 5.11 "Person subject to immigration control" has the same meaning as in section 115(9) of the Immigration and Asylum Act 1999.

#### **6.0 Transitional provision**

- 6.1 The above does not apply to a person who, on 31st March 2015—
- (a) is liable to pay council tax at a reduced rate by virtue of a council tax reduction under an authority's scheme established under section 13A (2) of the Act; and

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

6.2 The events are—

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

6.3 In this section "the Act" means the Local Government Finance Act 1992.

**7.0 Temporary Absence (period of absence)**

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

7.2 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 7.1.

7.3 In paragraph 7.2, 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 7.4 applies; and
  - iv. the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

7.4 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 7.1, or
  - ii. in premises approved under section 13 of the Offender Management Act 2007 as amended by the Offender Rehabilitation Act 2014, 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 7.3a) 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.

7.5 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); and
- (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952.

7.6 Where paragraph 7.5 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 7.3 b) or c), he shall be treated, for the purposes of paragraph 7.1, as if he continues to be absent from the dwelling, despite any return to the dwelling;
- (b) for the purposes of paragraph 7.4 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

7.7 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.

## **8.0 Membership of a family**

8.1 Within the reduction 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'.

- 8.2 Paragraph 8.1 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

- 8.3 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

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

- 9.1 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.

- 9.2 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.

- 9.3 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.

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

- 10.1 Subject to paragraphs 10.2 and 10.3, the applicant and any partner and, where the applicant or his partner is treated as responsible 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.

- 10.2 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 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.

10.3 Subject to paragraph (4), paragraph (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).

10.4 The authority shall treat a child or young person to whom paragraph (3a) 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.

10.5 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 as amended.

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

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

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

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

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

#### **12.0 Calculation of income and capital: persons who have an award of universal credit**

12.1 Any universal credit data or notification received by the authority may be used as a claim for reduction or in the assessment of council tax reduction including data received from the Secretary of State where the applicant no longer qualifies for a universal credit award

12.2 In determining the income of an applicant

(a) who has, or  
(b) who (jointly with his partner) has,  
an award of universal credit the authority may 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. The authority may use any other assessment based on the information provided by the Secretary of State.

- 12.3 The authority may adjust the amount referred to in sub-paragraph (2) to take account of
- (a) income consisting of the award of universal credit;
  - (b) any sum to be disregarded in the calculation of income other than earnings; and
  - (c) any sum which may be disregarded as housing costs;

- 12.4 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.

- 12.5 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

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

- 13.1 For the purposes of this scheme the income of an applicant shall be calculated on a weekly basis by estimating the amount which is likely to be his average weekly income.

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

- 14.1 Where an applicant's income consists of earnings from employment as an employed earner his average weekly earnings shall be estimated by the authority by reference to his actual earnings over a period determined by the authority as reasonable.
- 14.2 Where the applicant is recently employed and cannot furnish the appropriate evidence, the authority may 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.
- 14.3 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.

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

- 15.1 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.

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

- 16.1 An applicant's income which does not consist of earnings shall be estimated over such period as is appropriate in order that his average weekly income may be estimated accurately.

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

- 17.1 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 (2)
- 17.2 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.

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

## **18.0 Calculation of weekly income**

- 18.1 For the purposes of this scheme 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.
- 18.2 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.

## **19.0 Earnings of employed earners**

- 19.1 Earnings means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes–
- (a) any bonus or commission;
  - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
  - (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
  - (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
  - (e) any payment by way of a retainer;
  - (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of–
    - (g) (i) travelling expenses incurred by the applicant between his home and his place of employment;
    - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
  - (h) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
  - (i) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
  - (j) any such sum as is referred to in section 112 of the Act (certain sums to be earnings for social security purposes);
  - (k) any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory

adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;

- (l) any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;
- (m) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001 as amended.

**19.2 Earnings shall not include—**

- (a) 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

**20.0 Calculation of net earnings of employed earners**

20.1 For the purposes of this scheme, the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account shall be his net earnings.

20.2 There shall be disregarded from an applicant's (or their partners) net earnings of £25.00, excluding applicants receiving Universal Credit. This shall apply irrespective of the applicant's household and only one disregard shall be applied per claim.

20.3 Net earnings shall 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 National Insurance contributions
- (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

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

20.5 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.

20.6 Where the earnings of an applicant are estimated an appropriate estimate of net earnings shall be determined in line with paragraph (3) above.

**21.0 Earnings of self-employed earners**

21.1 'Earnings', in the case of employment as a self-employed earner, means the gross income of the employment

21.2 'Earnings' shall not include any payment in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation

in respect of persons temporarily in the applicant's care nor shall it include any sports award.

21.3 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 trademark; 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 trademark, or an original contributor to the book of work concerned.

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

22.1 For the purposes of this scheme 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 this scheme; and
  - ii. one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

22.2 There shall be disregarded from an applicant's (or their partners) net earnings of £25.00, excluding applicants receiving Universal Credit. This shall apply irrespective of the applicant's household and only one disregard shall be applied per claim.

22.3 The net profit of the employment must be calculated by taking into account the earnings for the employment over the assessment period less

- (a) 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 calculated in accordance with section 22; and
  - iii. one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

22.4 For the purposes of paragraph (1b) the net profit of the employment shall be calculated by taking into account the earnings of the employment over the assessment period less, any expenses wholly and exclusively incurred in that period for the purposes of the employment.

22.5 No deduction shall be made under paragraph (3 a) or (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.

22.6 A deduction shall be made under paragraph (3 a) or (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.
- 22.7 The authority shall refuse to make deduction in respect of any expenses where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.
- 22.8 For the avoidance of doubt–
  - (a) deduction shall not be made 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
- 22.9 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 calculated in accordance with section 22 (and
  - (c) one-half of the amount any qualifying pension contribution in accordance with (11).
- 22.10 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.
- 22.11 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.
- 22.12 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.
- 23.0 Deduction of tax and contributions of self-employed earners**
- 23.1 The amount to be deducted in respect of income tax under section 28 shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988(personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate is to be applied and the amount of the personal reliefs deductible under this paragraph shall be calculated on a pro rata basis.
- 23.2 The amount to be deducted in respect of national insurance contributions under section shall be the total of–
  - (a) the amount of Class 2 National Insurance contributions payable at the rate applicable to the assessment period except where the applicant’s chargeable income is less than the amount specified in section 11(4) of the Act (small profits threshold) for the tax year applicable to the assessment period; but if the assessment period is less than a



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

23.3 In this section 'chargeable income' means—

- (a) the earnings derived from the employment less any expenses deducted under section 22;
- (b) in the case of employment as a child minder, one-third of the earnings of that employment.

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

24.1 For the purposes of this scheme, the income of an applicant which does not consist of earnings to be taken into account shall be his gross income and any capital treated as income under section 25.

24.2 There shall be disregarded from the calculation of an applicant's gross income any sum, where applicable, specified in Schedule 2.

24.3 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 shall be the gross amount payable.

24.4 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.

24.5 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 shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.

24.6 'Tax year' means a period beginning with 6th April in one year and ending with 5th April in the next.

24.7 Paragraphs (7), (8), (9) and (10) apply to any applicant who is a student. Paragraph (8) and (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.

24.8 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 (1) in respect of a person to whom paragraph (7) applies, shall be calculated by applying the formula—

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

Where

Where

A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course;

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 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 reduction 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.

24.9 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 (1) in respect of a person to whom paragraph (8) applies, shall be calculated by applying the formula in paragraph (8) but as if–

A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course or was dismissed from it.

24.10 In this section– ‘academic year’ and ‘student loan’ shall have the same meanings as for the purposes of this scheme, ‘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.

## **25.0 Capital treated as income and Notional Income**

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

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

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

25.4 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.

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

25.7 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) rehabilitation allowance made under section 2 of the 1973 Act;
- (e) child tax credit; or
- (f) working tax credit,

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.

25.8 Any payment of income 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.

25.9 This section 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.

25.10 Where an applicant is in receipt of any benefit (other than council tax reduction) 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 1st April in that year..

25.11 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.

25.12 Paragraph (11) 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.

25.13 'Work placement' means practical work experience which is not undertaken in expectation of payment.

25.14 Where an applicant is treated as possessing any income under this section, 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.

25.15 Where an applicant is treated as possessing any earnings under this section his net earnings shall be calculated by taking into account those earnings which he is treated as possessing, less;

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

## **26.0 Capital limit**

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

## **27.0 Calculation of capital**

- 27.1 For the purposes of this scheme, the capital of an applicant to be taken into account shall, subject to paragraph (2), be the whole of his capital calculated in accordance with this scheme and any income treated as capital under this scheme
- 27.2 There shall be disregarded from the calculation of an applicant's capital under paragraph (1), any capital, where applicable, specified in Schedule 3.

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

- 28.1 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.

## **29.0 Income treated as capital**

- 29.1 Any bounty derived from employment and paid at intervals of at least one year shall be treated as capital.
- 29.2 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.
- 29.3 Any holiday pay which is not earnings shall be treated as capital.
- 29.4 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.
- 29.5 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.
- 29.6 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.
- 29.7 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.
- 29.8 Any arrears of subsistence allowance which are paid to an applicant as a lump sum shall be treated as capital.
- 29.9 Any arrears of working tax credit or child tax credit shall be treated as capital.

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

- 30.1 Capital which an applicant possesses in the United Kingdom shall be calculated at its current market or surrender value less—
- where there would be expenses attributable to the sale, 10 per cent.; and
  - the amount of any encumbrance secured on it;

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

31.1 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.

### **32.0 Notional capital**

32.1 An applicant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to council tax reduction or increasing the amount of that reduction except to the extent that that capital is reduced in accordance with section 33.

32.2 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 3; 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 Schedule 3 refers; or

(f) child tax credit; or

(g) 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.

32.3 Any payment of capital, other than a payment of capital specified in paragraph (4), made

(a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;

(b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) shall, where it is not a payment referred to in subparagraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;

(c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

32.4 Paragraph 32.3 shall not apply in respect of a payment of capital made:

(a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;

(b) pursuant to section 2 of the 1973 Act in respect of a person's participation:

i. in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's

Allowance Regulations;

- ii. in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
- iii. in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
- iv. in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
- v. in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (c) in respect of a person's participation in the Mandatory Work Activity Scheme;
- (d) Enterprise Scheme;
- (e) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme or Back to Work Scheme;
- (f) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
  - vi. 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;
  - vii. the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
  - viii. 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.

32.5 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 be disregarded; and
- (b) he shall 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.

32.6 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 (5) shall be disregarded.

32.7 Where an applicant is treated as possessing capital under any of paragraphs (1) and (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.

### **33.0 Diminishing notional capital rule**

33.1 Where an applicant is treated as possessing notional capital the amount which he is treated as possessing shall be reduced by the amount calculated by the authority as the weekly amount of council tax reduction lost due to the inclusion of the notional capital within the calculation.

33.1 The authority shall determine the frequency by which the notional capital is reduced.

### **34.0 Capital jointly held**

34.1 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

### **35.0 Students - Student related definitions**

35.1 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'** means any kind of educational grant or award and includes any scholarship, studentship, exhibition allowance or bursary;

**'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

35.2 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.

35.3 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.

## **36.0 Students who are excluded from entitlement to council tax reduction**

36.1 Students except those defined in paragraph (3) are not able to claim Council tax reduction under Classes D of the authority’s reduction scheme.

36.2 To be eligible for reduction, the student must be liable for Council Tax under Section 6 of the Local Government Finance Act 1992 and they must not be deemed to be a full-time student or



a person from abroad within the meaning of section 7 of this scheme (persons from abroad).

36.3 Paragraph 36.2 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) who is in receipt of a Personal Independence Payment;
- (d) 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;
- (e) (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,
- (f) 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);
- (g) 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.

36.4 For the purposes of paragraph (3)(f)(i)) the student must have begun, or been enrolled or accepted onto the course before attaining the age of 19

36.5 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.

36.6 An intercalating student may be eligible for a reduction if the following circumstances are met:

- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is;
  - (i) engaged in caring for another person; or
  - (ii) ill;
- (b) he has subsequently ceased to be engaged in engaging in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
- (c) he is not eligible for a grant or a student loan in respect of the period specified in paragraph (7).

36.7 The period specified for the purposes of paragraph (6) 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.

### **37.0 Students - Calculation of grant income**

37.1 The amount of a student's grant income to be taken into account shall, subject to paragraphs (2) and (3), be the whole of his grant income.

37.2 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 childcare costs of a child dependant.
- (i) of higher education bursary for care leavers made under Part III of the Children Act 1989.

37.3 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.

37.4 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.

37.5 Subject to paragraphs (6) and (7), a student's grant income shall be apportioned;

- (a) subject to paragraph (8), in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study;
- (b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.

37.6 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.

37.7 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 shall be apportioned over the same period as the student's loan is

apportioned or, as the case may be, would have been apportioned.

- 37.8 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.

**38.0 Students- Calculation of covenant income where a contribution is assessed**

- 38.1 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 (3), the amount of the contribution.

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

**39.0 Students - Covenant income where no grant income or no contribution is assessed**

- 39.1 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 the 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 in the 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.

- 39.2 Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income shall be calculated in accordance with sub-paragraphs (a) to (d) of paragraph (1).

**40.0 Students - Covenant Income and Grant income – non-disregard**

- 40.1 No part of a student's covenant income or grant income shall be disregarded under this scheme

**41.0 Treatment of student loans**

- 41.1 A student loan shall be treated as income.

- 41.2 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.

41.3 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.

41.4 Where a student is treated as possessing a student loan under paragraph (3), the amount of the student loan to be taken into account as income shall be, subject to paragraph (5).

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

41.5 There shall be deducted from the amount of income taken into account under paragraph (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.

## **42.0 Students - Treatment of fee loans**

- 42.1 A 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.

#### **43.0 Students - Treatment of payments from access funds**

- 43.1 A payment from access funds, other than a payment to which paragraph 43.2 applies, shall be disregarded as income.
- 43.2
- 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.
- 43.3 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.

#### **44.0 Students - Disregard of contribution**

- 44.1 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.

#### **45.0 Further disregard of student's income**

- 45.1 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.

#### **46.0 Students - Income treated as capital**

- 46.1 Any amount by way of a refund of tax deducted from a student's covenant income shall be treated as capital.
- 46.2 Any amount paid from access funds as a single lump sum shall be treated as capital.
- 46.3 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.

#### **47.0 Students - Disregard of changes occurring during summer vacation**

- 47.1 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.

#### **48.0 Maximum Council Tax Reduction**

48.1 Subject to paragraphs (2) to (4), the amount of a person's maximum Council Tax Reduction in respect of a day for which he is liable to pay council tax, shall be 100 per cent, of the amount A divided by B where;

- (a) A is the amount set by the appropriate authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
- (b) B is the number of days in that financial year,

Less any non-dependant deduction as defined in this section.

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

48.2 In calculating a person's maximum Council Tax Reduction 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.

48.3 Subject to paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons but excepting any person so residing with the applicant who is a student who is excluded from entitlement to Council Tax Reduction applies, in determining the maximum Council Tax Reduction in his case in accordance with paragraph (1), the amount A shall be divided by the number of persons who are jointly and severally liable for that tax.

48.4 Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, paragraph (3) shall not apply in his case

48.5 Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in 48.1 shall be;

- (a) in respect of a non-dependant aged 18 or over in remunerative work, £10.00 x 1/7;
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £5 x 1/7.

48.6 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.

48.6 In applying the provisions, 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.

48.7 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.

48.8 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;

48.9 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 this policy; 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;
  - ‘patient’ has the meaning given within this scheme, and
  - 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;
- (e) he is not residing with the claimant because he is a member of the armed forces away on operations

48.10 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.”;  
For the purposes of sub-paragraph (c), “earned income” has the meaning given in regulation 52 of the Universal Credit Regulations 2013

48.11 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).

**49.0 Date on which entitlement is to begin**

- 49.1 Subject to paragraph (2), any person to whom or in respect of whom a claim for council tax reduction is made and who is otherwise entitled to that reduction shall be so entitled from the date on which that claim is made or is treated as made.
- 49.2 Where a person is otherwise entitled to council tax reduction 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 the date of claim

**50.0 Date on which change of circumstances is to take effect**

- 50.1 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 date on which the change actually occurs.
- 50.2 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.
- 50.3 Where the change of circumstances is that income, or an increase in the amount of income, 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.

**51.0 Making an application**

- 51.1 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.
- 51.2 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.
- 51.3 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.



- 51.4 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).
- 51.5 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 week's 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).
- 51.6 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.
- 51.7 The authority must;
- (a) inform any person making an application of the duty imposed on them
  - (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.

## **52.0 Procedure by which a person may apply for a reduction under the authority's scheme<sup>2</sup>**

- 52.1. Paragraphs 2 to 7 apply to an application made under the authority's scheme.
- 52.2. 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.
  - (d) a notification of Universal Credit or any legacy benefit from DWP, will be treated by the authority as a claim for reduction.
- 52.3 An application which is made in writing must be made to the designated office on a properly completed form. The form must be provided free of charge by the authority for the purpose.
- 52.4 here 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.

<sup>2</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- 52.5 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.
- 52.6 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. An application made by electronic communication is defective if the applicant does not provide all the information the authority requires.
- 52.7 In a particular case the authority may determine that an application made by telephone is only valid if the person making the application approves a written statement of his circumstances provided by the authority.
- 52.8 If an application made by telephone is defective the authority must provide the person making the application with an opportunity to correct the defect. An application made by telephone is defective if the applicant does not provide all the information the authority requests during the telephone call.
- 52.9 Notwithstanding other paragraphs within this section, the authority will determine the method by which claims are to be made as well as where claims should be sent or delivered.
- 52.10 Where an applicant ('C') makes a claim which includes (or which C subsequently requests should include) a period before the claim is made, the authority may, at its discretion, treat the claim as made on an earlier date up to twelve months in which the request is received by the authority.
- 53.0 Date on which an application is made<sup>3</sup>**
- 53.1 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;

<sup>3</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- (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.

- 53.2 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.
- 53.3 Where there is a defect in an application by telephone;
- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance;
  - (b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide the application.
- 53.4 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.
- 53.5 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.

53.6 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.

53.7 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.

53.8 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.

#### **54.0 Submission of evidence electronically**

54.1 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

#### **55.0 Use of telephone provided evidence**

55.1 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

#### **56.0 Information and evidence<sup>4</sup>**

56.1 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.

56.2 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

<sup>4</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

(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.

56.3 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.

56.4 Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under the authority's scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by that authority in order to determine that person's entitlement to, or continuing entitlement 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.

56.5 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.

56.6 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.

56.7 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; and

(b) a payment which is disregarded under paragraph 24 of Schedule 5, other than a payment under the Independent Living Fund (2006);

56.8 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.

## **57.0 Amendment and withdrawal of application<sup>5</sup>**

57.1 A person who has made an application may amend it at any time before a decision has been

<sup>5</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

made on it by a notice in writing delivered or sent to the designated office.

- 57.2 Where the application was made by telephone the amendment may also be made by telephone.
- 57.3 Any application amended is to be treated as if it had been amended in the first instance.
- 57.4 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.
- 57.5 Where the application was made by telephone, the withdrawal may also be made by telephone.
- 57.6 Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.
- 57.7 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.

**58.0 Duty to notify changes of circumstances<sup>6</sup>**

- 58.1 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.
- 58.2 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 one calendar month beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.
- 58.3 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.
- 58.4 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

<sup>6</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012



allowance or universal credit.

58.5 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.

58.6 The duty imposed on a person by sub-paragraph (1) includes in the case of a person falling within alternative maximum council tax reduction, giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of state pension credit, the date when this occurs.

58.7 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

#### **59.0 Decisions by the authority<sup>7</sup>**

59.1 The authority must make a decision on an application under its scheme within 14 days or as soon as reasonably practicable thereafter.

#### **60.0 Notification of decision<sup>8</sup>**

60.1 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.

60.2 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.

60.3 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.

60.4 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.

60.5 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.

<sup>7</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>8</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- 60.6 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.
- 60.7 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).
- 60.8 This sub-paragraph applies to—
- (a) the applicant;
  - (b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act;
    - (i) a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
    - (ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000(3) who has power to apply or, as the case may be, receive benefit on the person's behalf; or
    - (iii) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,
  - (c) a person appointed by the authority to act for a person unable to act.

#### **61.0 Time and manner of granting council tax reduction<sup>9</sup>**

- 61.1 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.
- 61.2 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).
- 61.3 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

<sup>9</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012



- (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.

61.4 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).

**62.0 Persons to whom reduction is to be paid<sup>10</sup>**

62.1 Subject to paragraph (2), any payment of the amount of a reduction must be made to that person.

62.2 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.

**63.0 Shortfall in reduction<sup>11</sup>**

63.1 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 reasonably practicable, as soon as possible afterwards.

**64.0 Payment on the death of the person entitled<sup>12</sup>**

64.1 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.

**65.0 Offsetting**

65.1 Where a person has been allowed or paid a sum of council tax reduction 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.

**66.0 Payment where there is joint and several liability<sup>13</sup>**

66.1 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;

<sup>10</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>11</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>12</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

<sup>13</sup> Inserted by Schedule 8 of the Council Tax Reductions Scheme (Prescribed Requirements) (England) Regulations 2012

(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.

66.2 Subject to sub-paragraph (3) any payment made under sub-paragraph (1) must be made to the person who is entitled to the reduction.

66.3 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 this scheme or is treated as having been so appointed, the amount of the reduction may be paid to that person.

#### **67.0 Use of information from and to the Department of Work and Pensions (DWP) and Her Majesty's Revenues and Customs (HMRC)**

67.1 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

67.2 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>14</sup>..

#### **68.0 Collection of information**

68.1 The authority may receive and obtain information and evidence relating to claims for council tax reduction, the council may receive or obtain the information or evidence from–

- (a) persons making claims for council tax reduction;
- (b) other persons in connection with such claims;
- (c) other local authorities; or
- (d) central government departments including the DWP and HMRC

68.2 The authority may verify relevant information supplied to, or obtained.

#### **69.0 Recording and holding information**

69.1 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 reduction.

#### **70.0 Forwarding of information**

70.1 The authority may forward it to the person or authority for the time being administering claims to or awards of council tax reduction 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 reduction.

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<sup>14</sup> Data Retention and Investigatory Powers Act 2014 and Data Retention Regulations 2014

## **71.0 Persons affected by Decisions**

- 71.1 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 reduction 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 reduction 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;

## **72.0 Terminations**

- 72.1 The authority may terminate reduction in whole or in part the Council tax reduction where it appears to the authority that an issue arises whether;
- (a) the conditions for entitlement to Council tax reduction are or were fulfilled; or
  - (b) a decision as to an award of such a reduction should be revised or superseded.
- 72.2 The authority may terminate, in whole or in part the Council tax reduction where it appears to the authority that an issue arises whether;
- (a) the conditions for entitlement to Council tax reduction are or were fulfilled; or
  - (b) a decision as to an award of such a reduction 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

## **73.0 Procedure by which a person may make an appeal against certain decisions of the authority<sup>15</sup>**

- 73.1 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.
- 73.2 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.
- 73.3 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>16</sup>.

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

<sup>16</sup> As amended by the Tribunal Procedure (Amendment No 3 ) Rules 2014

#### **74.0 Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act<sup>17</sup>**

- 74.1 An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act may be made;
- (a) in writing,
  - (b) by means of an electronic communication in accordance this scheme or
  - (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.
- 74.2 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).

#### **75.0 Exceptional Hardship Scheme**

- 75.1 The authority may provide additional help to an applicant who is entitled to reduction under its Exceptional Hardship Scheme.
- 75.2 Such payments shall be deemed to be made under S13A (1)(a) of the 1992 Act.

#### **76.0 Interpretation for the use of electronic communication**

- 76.1 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.

#### **77.0 Conditions for the use of electronic communication**

- 77.1 The authority may use an electronic communication in connection with applications for, and awards of, reductions under its scheme.
- 77.2 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.
- 77.3 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.
- 77.4 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.
- 77.5 The third condition is that any information sent by means of an electronic communication is in a form approved for the purposes.

<sup>17</sup> Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

77.6 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.

77.7 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.

77.8 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.

#### **78.0 Use of intermediaries**

78.1 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.

#### **79.0 Effect of delivering information by means of electronic communication**

79.1 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.

79.2 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).

79.3 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.

#### **80.0 Proof of identity of sender or recipient of information**

80.1 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.

#### **81.0 Proof of delivery of information**

81.1 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.

81.2 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.

81.3 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.

## **82.0 Proof of content of information**

82.1 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.

## **83.0 Counter Fraud and compliance**

83.1 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 reduction;
- (b) Carry out investigations fairly, professionally and in accordance with the law; and
- (c) Ensure that sanctions are applied in appropriate cases

83.2 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 reduction;
- (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.

83.3 The authority shall put into place such administrative policies, procedures and processes as are necessary to ensure that the actions outlined within paragraph (1) and (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.

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## **Schedule 1**

**Calculation of the amount of Council Tax Reduction in accordance with the Discount Scheme.**



- 1 The authority's Council Tax Reduction scheme from 2022/23 shall be calculated on the basis of the following Banded Discount Scheme:

Band	Discount	Couple with 2 Or more children	Couple with one child	Couple
1*	75%*	£0.00 - £292.52	£0.00 - £223.92	£0.00 - £137.67
2	65%	£292.53 - £322.52	£223.93 - £253.92	£137.68 - £167.67
3	55%	£322.53 - £352.52	£253.93 - £283.92	£167.68 - £197.67
4	45%	£352.53 - £382.52	£283.93 - £313.92	£197.68 - £227.67
5	25%	£382.53 - £412.52	£313.93 - £343.92	£227.68 - £257.67
	0%	£413.53 and above	£343.93 and above	£257.68 and above

Band	Discount	Single with 2 Or more children	Single with one child	Single
1*	75%*	£0.00 - £249.81	£0.00 - £181.21	£0.00 - £94.96
2	65%	£249.82 - £279.81	£181.22 - £211.21	£94.97 - £124.96
3	55%	£279.82 - £309.81	£211.22 - £241.21	£124.97 - £154.96
4	45%	£309.82 - £339.81	£241.22 - £271.21	£154.97 - £184.96
5	25%	£339.82 - £369.81	£271.22 - £301.21	£184.97 - £214.96
	0%	£369.82 and above	£301.22 and above	£214.97 and above

*Child being a dependent child.*

- 2 The amount of discount to be granted is to be based on the following factors:
- The maximum Council Tax Reduction as defined within this scheme;
  - The Council Tax family as defined within this scheme
  - The income of the applicant and partner as defined within this scheme;
  - The capital of the applicant and partner as defined within this scheme.
- 4 For the sake of clarity all incomes shown within the table above are weekly in accordance with the scheme requirements and definitions.
- 5 Discount bands vary depending on both weekly income and the household (family as defined within this scheme). For the sake of clarity, it should be noted that in any application for reduction is limited to a maximum of two dependant children or young persons.
- 6 Any applicant who capital is greater than £6,000 shall not be entitled to any Council Tax Reductions whatsoever.
7. The authority **may** increase the level of incomes within the grid specified in paragraph 1 on an annual basis by the appropriate level of inflation decided by the Council.
8. \*Where an applicant or partner is in receipt of Income Support, Income Related Employment and Support Allowance or Income Based Jobseeker's Allowance, discount will be awarded at Band 1 level.

## **Schedule 2**

### **Sums to be disregarded in the calculation of income other than earnings**

1. Any amount paid by way of tax on income,
2. 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.
3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme or Back to Work Scheme, but only for 52 weeks beginning with the date of receipt of the payment.
3. Any payment in respect of any expenses incurred or to be incurred by an applicant who is–
  - (a) engaged by a charitable or voluntary organisation, or
  - (b) 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).
4. Any payment in respect of expenses arising out of the applicant's participation in a service user group.
5. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.
6. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance the whole of his income.
7. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.
8. 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.
9. Any disability living allowance or personal independence payment or AFIP
10. Any concessionary payment made to compensate for the non-payment of;
  - (a) income support;
  - (b) an income-based jobseeker's allowance.
  - (c) an income-related employment and support allowance.
11. 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.
12. Any attendance allowance.
13. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.
14. (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).
15. 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.
- 16 (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.
- 17 (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.
  
- 18. 100% of any of the following, namely
  - (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 9 or 10);
  - (b) a war widow’s pension or war widower’s pension;
  - (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
  - (d) a guaranteed income payment;
  - (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.
  
- 19. £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.
  
- 20. (1) Any income derived from capital to which the applicant is or is treated as beneficially entitled.
  
- 21. Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating–
  - (a) under, or pursuant to regulations made under powers conferred by, sections 1 or 2 of the Education Act 1962 or section 22 of the Teaching and Higher Education Act 1998, that student’s award;
  - (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student’s bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or
  - (c) the student’s student loan,
 an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.
  
- 22. (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 defined within this scheme.
  - (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.
- 23. Any payment made to the applicant by a child or young person or a non- dependant.
- 24. Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person 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.
- 25. (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.
- 26. (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.
- 27. 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.
- 28. (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) 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);

- (a) 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.
29. 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).
30. 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
31. 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).
32. (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.
33. (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).

34. Any payment of income which is to be treated as capital.

35. 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

36. Any payment under Part 10 of the Act (Christmas bonus for pensioners).

37. 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.

38. (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.

39. Any Housing Benefit or where the applicant is entitled to an award of Universal Credit which includes a housing element, an amount of Universal Credit equal to the housing element used in that award, up to a maximum of the Universal Credit award.
40. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
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. 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).
43. (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).
44. 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).

45. 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.
46. (1) Where an applicant's family includes at least one child or young person, £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).
47. (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.
48. 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.
49. Any guardian's allowance.
50. (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.
51. 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.
52. 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.
53. (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).

54. Any council tax reduction or council tax benefit to which the applicant is entitled.
55. 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).
56. (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
57. (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.
58. 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.
59. 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.
60. Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001 as amended by the Welfare Reform Act 2012 (Consequential Amendments) Regulations 2013.
61. (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.
62. Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)
63. Any payment of child benefit.

64. Any Windrush compensation payment.
65. Any payment made under the We Love Manchester Emergency Fund.
66. Any payment made under the London Emergency Trust.
67. Carers Allowance.
68. The support component of Employment and Support Allowance.
69. Where, **but for this scheme**, the applicant would be entitled to either a Disability Premium, Enhanced Disability Premium, Severe Disability Premium or a Disabled Child Premium, a further disregard of £45 shall be made from their income.

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**Schedule 3**  
**Capital to be disregarded**

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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.
2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.
3. Any payment made to the applicant in respect of any travel or other expenses incurred or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme 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.
4. 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.
5. 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.
6. 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.
7. 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 provided that it is no more than £6,000.
8. 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 up to a level of £6,000.
9. 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.
10. (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 reduction 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.

11. (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) an income-related benefit;
  - (b) an income-based jobseeker's allowance;
  - (c) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
  - (d) working tax credit and child tax credit
  - (e) an income-related employment and reduction allowance

but only for a period of 52 weeks from the date of the receipt of arrears or of the concessionary payment.

12. 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.

12. 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.

13. 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 reduction or to increase the amount of that reduction.

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

15. 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.

16. (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).

17. The value of the right to receive any income under a life interest or from a life rent.
18. The surrender value of any policy of life insurance.
19. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
20. 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).
21. (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.
22. Any social fund payment.
23. 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.
24. Any capital which, by virtue of sections 31 or 51 (capital treated as income, treatment of student loans) is to be treated as income.
25. 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.
27. 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.
28. 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 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 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 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) 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.

28. (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.
29. 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.
30. 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.
31. 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.
32. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
33. The value of the right to receive an occupational or personal pension.
34. The value of any funds held under a personal pension scheme
35. 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.
36. 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).
37. 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.
38. 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.
39. 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.
40. Any arrears of supplementary pension which is disregarded under this scheme but only for a period of 52 weeks from the date of receipt of the arrears.
  41. (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.
  42. 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.
  43. Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).
  44. 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.
  45. 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.
  46. 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.
  47. (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 reduction), 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 reduction), sub-paragraph (1) shall not have effect.
  48. (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.

49. 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.
50. Any payment to the applicant as holder of the Victoria Cross or George Cross.
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).
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),
64. Any Windrush compensation payment.
65. Any payment made under the We Love Manchester Emergency Fund.
66. Any payment made under the London Emergency Trust.

# Local Council Tax Support Scheme Consultation 2021

**Summary of findings – Appendix 3**  
**Ian Savigar, Interim Revenue & Benefit Officer**



**Walsall Council**

**PROUD OF OUR PAST OUR PRESENT AND FOR OUR FUTURE**

# Background and methodology

At September cabinet it was agreed that we would consult upon a new local council tax reduction (LCTR) scheme to be introduced from April 2022.

The principal of the changes are

- to create an income banded discount instead of a benefit award.
- making it simpler to understand and to administer
- making it easier for customers to budget

The consultation sought the views of:

- 5,000 current LCTR claimants
- 5,000 council tax payers not in receipt of LCTR
- Online responses from the general public
- Providers of support and other key stakeholders.
- Major Preceptors
- Staff



# Background and methodology

Consultation began on 1st October 2021. with a closing date of the 30<sup>th</sup> November 2021

## **Consultation with current claimants and council tax payers**

5,000 randomly selected claimants, including working age and pensioners as well as 5,000 non claimants were sent information about the consultation, along with a paper questionnaire to complete and return. The questionnaire contained questions about each proposed change to the current scheme.

## **Consultation with general public, providers and key stakeholders**

Anyone not currently in receipt of care and support as well as key stakeholders could have their say via an online questionnaire (alternative formats available). A wide range of key stakeholders (internal and external) attended a workshop about the proposals..

## **Consultation with Major Preceptors**

Letters were sent to Finance Officers at the Police & Fire authority along with details of the proposals and they were asked to comment.

# Background and methodology

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The consultation sought to gather feedback on;

- A proposed change to LCTR
- Comments on each aspect of the proposed changes
- A summary of responses is contained in this document and a full copy of all responses can be made available on request

Alternative formats were made available on request as well as support given to those who needed help to respond. Easy read versions of the information and questionnaires were also made available as well as information in BSL.

The consultation was publicised via a news release, via social media and other community networks. Information was available on a dedicated webpage

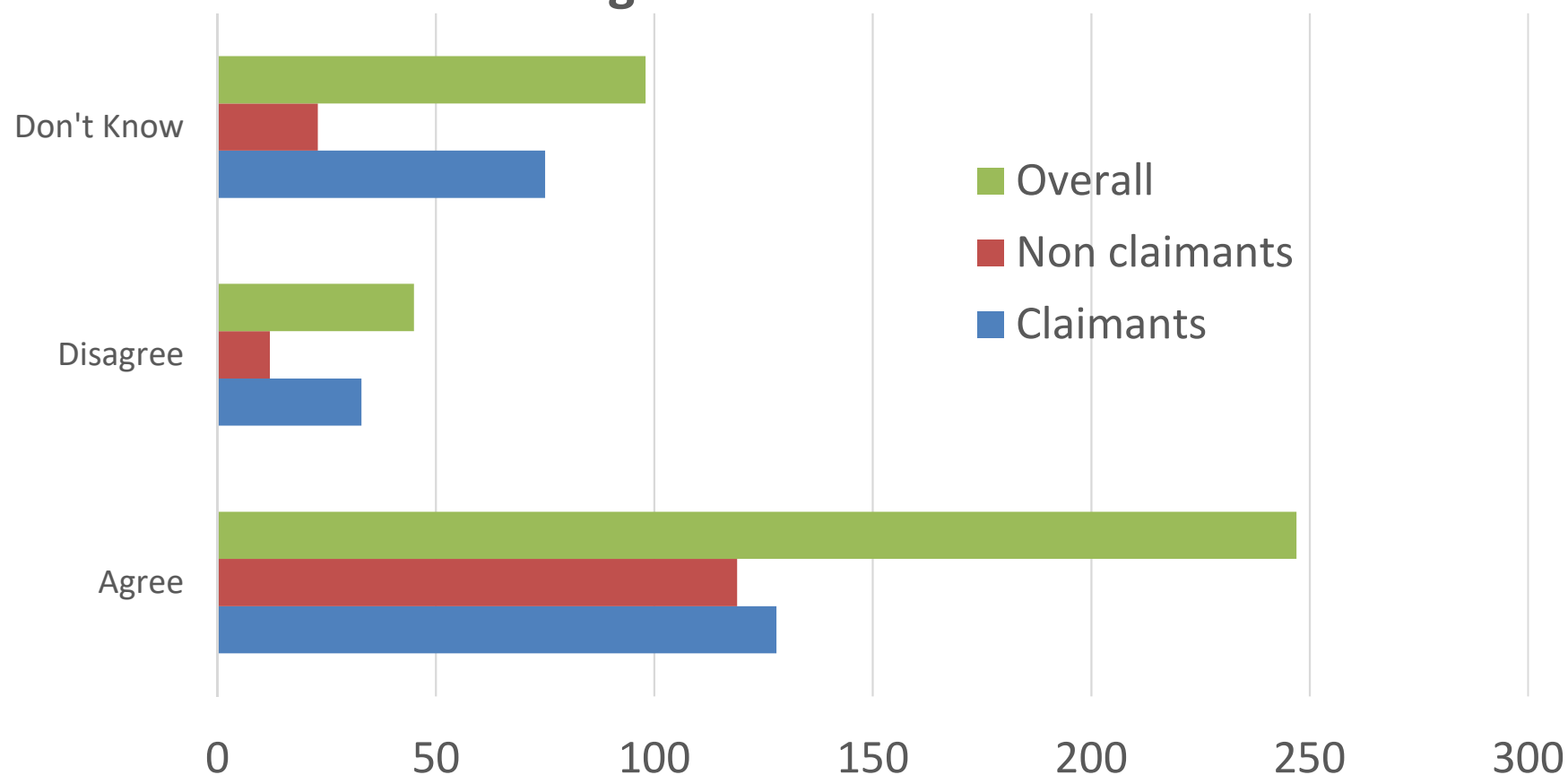
# Responses

By the closing date (30-11-2021) the following number of responses to questionnaires and easy read versions had been received;

- **Consultation with current LCTR claimants**
  - 409 respondents
- **Consultation with Council Tax payers**
  - 522 respondents
- **Consultation with providers and key stakeholders**
  - Workshop discussion
- **Consultation with major preceptors**
  - Neither had any comments on the proposals

# Findings: All Respondents

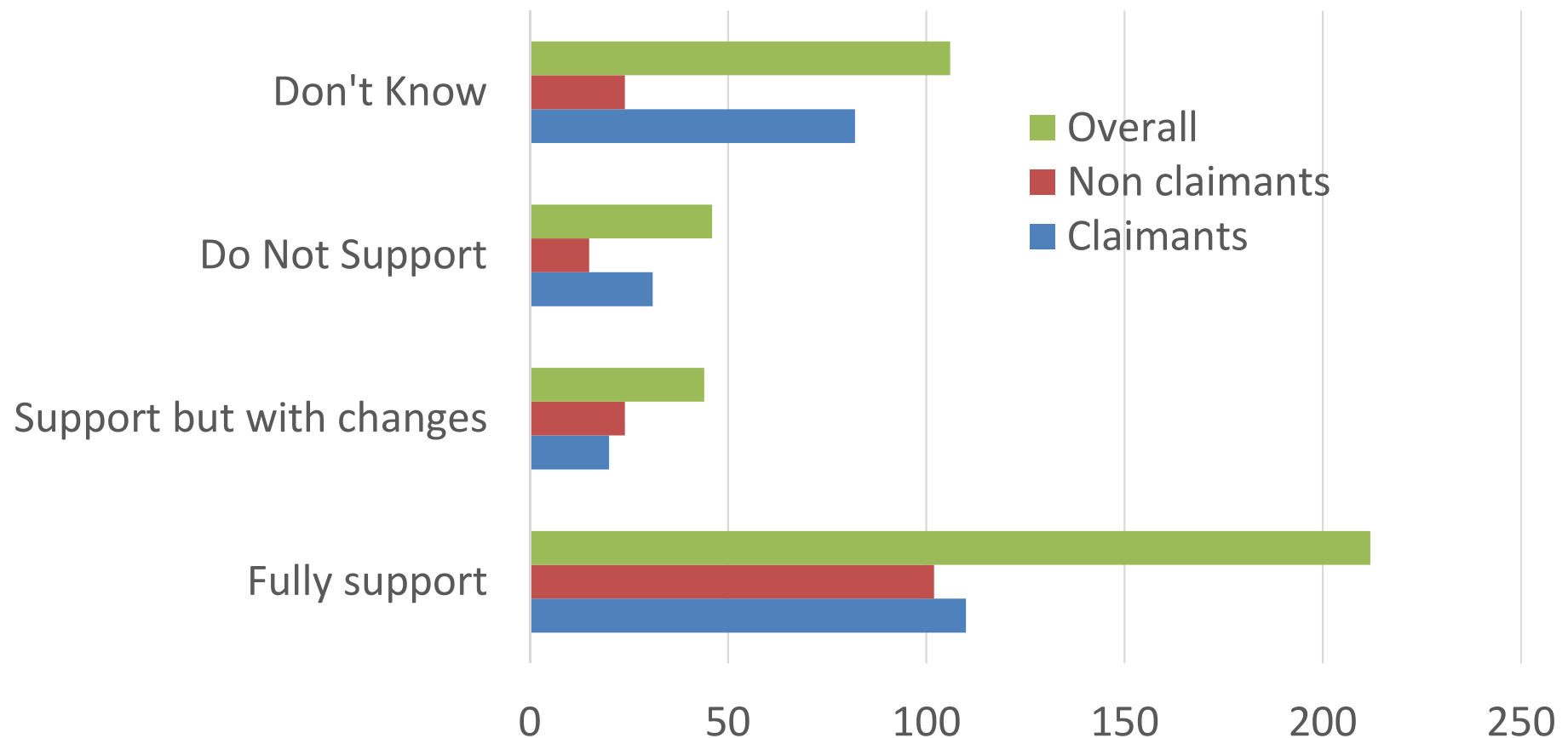
Do you agree or disagree that the council should make changes to the LCTR scheme?





# Findings: Current Claimants

Do you support the council's proposal to introduce an income based banded discount scheme as outlined?



# Claimants: Why do you say this?

Less complicated system

I don't understand it

Not Really sure how its all worked out

Current system is too complicated

why change something that doesn't seem to be broken

the present system seems to work for m

because of small variations in my wages my council tax bill is constantly amended. it's very inconvenient and means i cannot get on with Direct Debit.

it be better for people to understand it more than before

Any simplification of beauracracic paper work is beneficial

to help you to know how much you have to pay so you can manage your money better



# Non Claimants: Why do you say this?

from a brief look at the current scheme it looks quite complicated

changes look good

People on low income should pay less

The Taxes gone up .The people get paid still not enough to cover utility bill

its unfair for one person to be working and paying council tax for 2 people in the house, other not working. council tax should be based on what you earn not house size

Better understanding through simplification has to be good as does the cost saving element

Makes it simple and easy for everyone

A simplified, more efficient system

Have no idea how Council Tax works

Do not know enough of Council Tax to opinion



## Comments on: Council tax discount would be based on the total net income of the applicant and their partner (net income is reduced in some circumstances)

Claimant Responses fell into the following themes with the vast majority of comments in favour of the proposal.

It should be on the number of occupants

Agreed

i strongly agree

Too many penalties for working hard and earning a living

This would make my life and the life of others impossible losing money for food / Heating ETC

if your going to include income you also need to include other disability and pensions income, not just workers



## Comments on: Council tax discount would be based on the total net income of the applicant and their partner (net income is reduced in some circumstances)

Non Claimant Responses were more critical of this proposal, with a number of references to pensioners who are not impacted by these proposals

No account taken of others income within the house

Yes

net income can vary over the year

non dependent workers in a house should have full income assessed as householder may have several high earning children in a house where householder is on a low income

why should working family's pay for those who don't work to have same level of service

The bands are ridiculous why not in round figures? Working to pence seems extremely petty



## Comments on: The maximum support available (reduction in council tax) would be capped at 75%

Claimant Responses are again largely supporting of the 75% maximum award although some do consider it should be 100% and there is concern about peoples ability to afford basics

i think this is a fair capped percentage

i agree

Should be 100% discount

This means everyone on very low income would pay 25% irrelevant of disability etc

The council are hitting the poorer people. if they are only getting £94.96 per week

yes everyone of working age should contribute somethin



## Comments on: The maximum support available (reduction in council tax) would be capped at 75%

Non Claimant Responses are similar to those of claimants with most being in favour of the maximum award suggested.

100% discount for the severely disabled as how

Agreed

yes that seems fair

This cap or any cap should be applied equally for the residents regardless of their benefits of disability. working class deserve more

Seems reasonable but it feels like there would be some people who would struggle (refugees, asylum seekers etc)

I don't understand the current system but I would be against any household with a low income seeing any increase of Council Tax





**Comments on: As at present certain disability benefits and child benefit would be disregarded from total net income. Child maintenance will also not be taken into account when calculating total net income**

Claimant Responses are again largely supportive with most commentators agreeing with the statement although there was some disagreement.

Child maintenance should not be considered

agree

i think this is good

Am glad certain disabled benefit will be disregarded, the money is not for council tax but carers etc

you state that this yet even disabled would have to pay 25%. NO

NO - ALL INCOME SHOULD BE INCLUDED IN THE NET INCOME VALUATION



**Comments on: As at present certain disability benefits and child benefit would be disregarded from total net income. Child maintenance will also not be taken into account when calculating total net income**

Non Claimant Responses are again similar to those of the claimants surveyed with most in agreement with the proposed disregards.

child tax credit should also be  
disregard

fair

Fine

seems fair apart from all  
disability benefits should  
be disregarded

For fairness, the total  
household income  
should be assessed.

accept, If this is common  
practice



**Comments on: Applicants receiving certain benefits (Income Support, Jobseekers Allowance, Employment and support allowance), will automatically receive a maximum discount of 75% (Band 1)**

Claimant Responses mostly supportive, a number of comments requesting further support for disabled people

yes i do support this one 75% capped

Agree

that would be practical they wouldn't have to apply themselves

very glad as long as its not more that what i'm paying now.

good because their earning less, so any discount helps them to spend more

75% means i would pay more as a disabled person



**Comments on: Applicants receiving certain benefits (Income Support, Jobseekers Allowance, Employment and support allowance), will automatically receive a maximum discount of 75% (Band 1**

Non Claimant Responses are a little less supportive of this proposal.

Anybody who is on income support, job seekers need reduced c/tax

Good

Anybody who is on income support, job seekers need reduced c/tax

Lower the discount to them to encourage them to work and instead off more support to the working class as they have been crippled with the pandemic

Everyone should pay Council Tax, If a claimant gets more in benefits than someone working will they still have to pay some?

what about the people that don't claim any benefit



**Comments on: Applicants not in receipt of certain employment benefits, and where their total net income is above the levels specified in band 1 would be awarded the appropriate discount according to bands 2, 3, 4 & 5**

Claimant Responses are again mainly supportive but concerns raised about the awards at this level being enough to meet basic expenditure

ok if income can feed and heat property

agree

that would be fair

that would be appropriate if not exceeding the amount they have to pay now

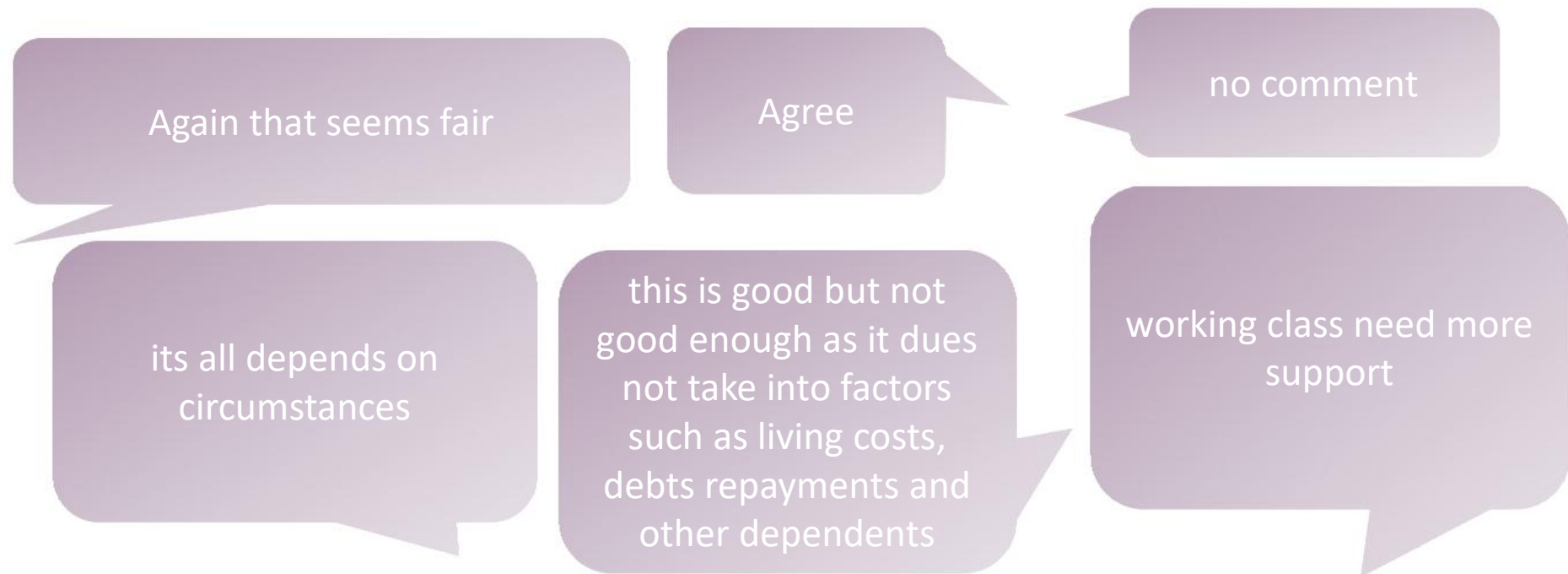
This will help the working class to spend more in the economy

It should depend on their circumstances if they can afford to pay it



**Comments on: Applicants not in receipt of certain employment benefits, and where their total net income is above the levels specified in band 1 would be awarded the appropriate discount according to bands 2, 3, 4 & 5**

Non Claimant Responses were limited on this question although the majority were in support of the proposal, there were some responses from pensioners who are not impacted by this.



**Comments on: A maximum of 2 dependant children would be taken into account when calculating the discount by the variation in the income bands (dependant child being someone for whom child benefit is normally applicable)**

Claimant Responses to this question were supportive but there were also a number of responses which did not think this was fair.

with kids have people struggling especially during the pandemic

Agree

Sounds fair

Disagree, what if a person / couple has triplet, Quads ETC, More children means more cost to the household. they already lose family allowance after 2 children. Your proposal would cause more hardship

It should be more than 2 children

That's not fair. All children should be taken into consideration





**Comments on: A maximum of 2 dependant children would be taken into account when calculating the discount by the variation in the income bands (dependant child being someone for whom child benefit is normally applicable)**

Non Claimant Responses comments were around 60 – 40 in favour of this, with a number of detailed comments as reflected below.

i think this is fair, others may disagree

Agree

the council tax system should be fair for al

all children should be included as child poverty is on the rise and some children go to bed hungry

Families need help but if they chose to have more children they should be willing to support them

yes parents should not use more children for financial reasons e.g Larger House, more money



## Comments on: Applicants in paid employment would have £25 disregarded from their net income

Claimant Responses were again mixed on this with some being confused as to the purpose of this being to encourage people back in to work.

£25 is not enough should be almost £50

Not sure

i agree with that

Why? All earned income should be cancelled

it help working people who want wage increase that help people to save

depends on wages they receive



## Comments on: Applicants in paid employment would have £25 disregarded from their net income

Non Claimant Responses were minimal to this question with most being in favour, a number questioned why it was not higher, others thought no discount should be awarded.

Maybe increase to encourage employment

yes

WOW - £25 big Deal

i presume this is to improve the calculations somehow, it seems an odd figure!

yes that seems alright

should be all of their income NOT disregarded



**Comments on: The extended payment provision, for those in receipt of Income Support, Jobseekers Allowance, Employment and support allowance would be removed as they move on to Universal Credit**

Claimant Responses were limited, with a mixed response as detailed below.

yes when in difficulty

disagree

not sure what that  
is?

Unsure as i don't know  
what this is

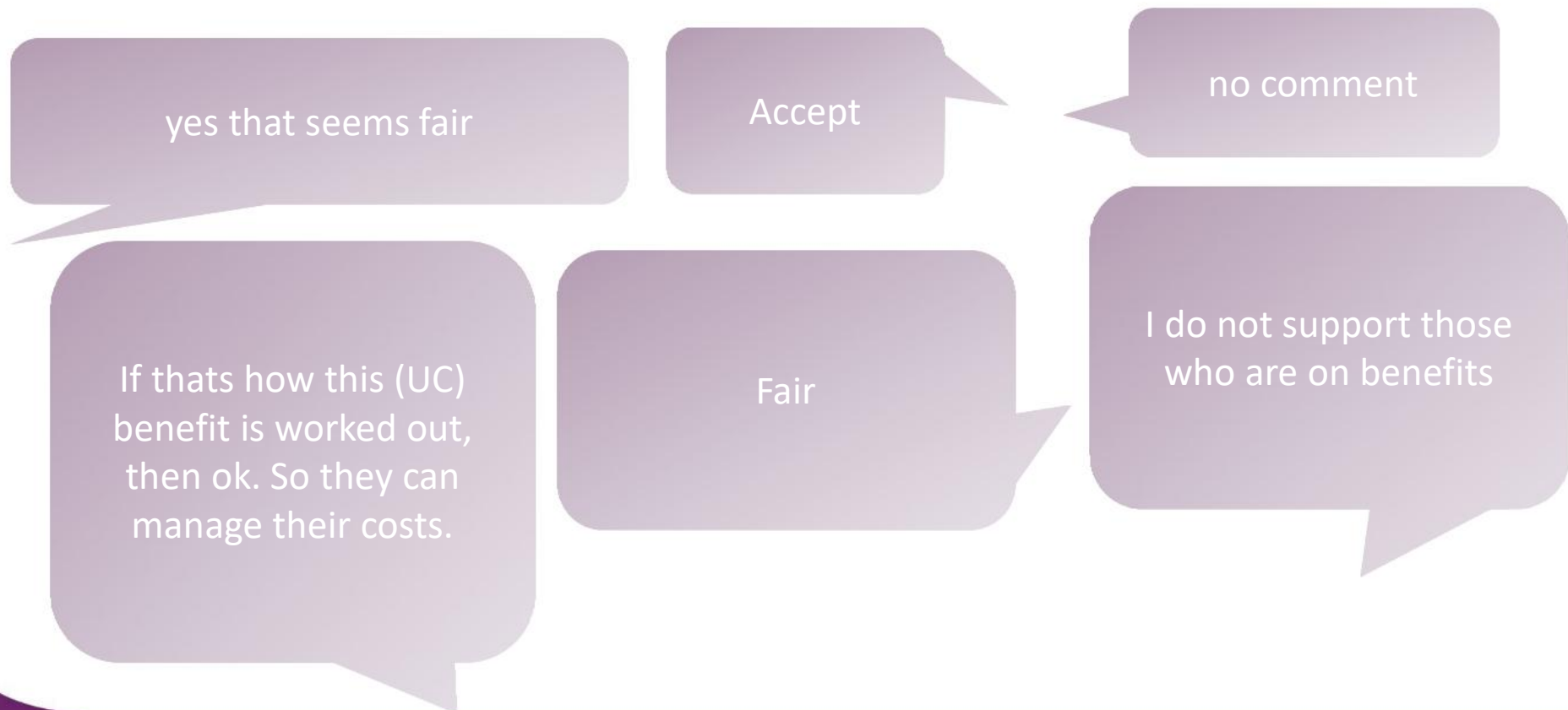
that would be easier  
and simpler to  
understand

? Don't know enough  
about the benefit system



**Comments on: The extended payment provision, for those in receipt of Income Support, Jobseekers Allowance, Employment and support allowance would be removed as they move on to Universal Credit**

Non Claimant Responses were similar to those of claimants with majority in favour



## Comments on: Changes and variations in circumstances / income would be calculated on a daily basis rather than weekly

Claimant Responses were limited and largely supportive, this is more of an administrative change than anything that will have an impact on claimants

Sounds fair

I agree to that

not sure

Good that good for those who work hard in daily basis taking long hours

Disagree this would mean more administration not less and end up with more charges being made to cover cost!

Dont really know if thats a better option?



## Comments on: Changes and variations in circumstances / income would be calculated on a daily basis rather than weekly

Non Claimant Responses similar to claimants, this should not impact claimants and is a technical change

Good - As a zero hour contract employee, i don't always get work so sometime 2 weeks no work no pay

Good idea

Agree

Daily basis will create more unnecessary red tape and people will fall into debt

Seems like it could lead to confusion and be hard to know what discount you would get

Yes as a system is now in place to verify this





## Comments on: Consider backdating claims up to 12 months where a good reason is provided

Claimant Responses are largely supportive of this proposal providing good cause is proven

yes if good reason is provided

Agree

yes because some people may have a claim their are right

Only if a good reason is given

that should be helpful for poor people, they would get a big amount of money at the start

Unsure where this comes from, but would expect 6 months to be sufficient



## Comments on: Consider backdating claims up to 12 months where a good reason is provided

Non Claimant Responses are largely in support of this proposal with a few considering the period to be too long

too vague

agreed

accept

can't think of anything that would qualify as a good reason - may be 3 months in exceptional circumstances

No.. unless claim was made 12 months prior and was valid only get back pay from date of claim

What would be a good reason? 12 months seems over generous

**Comments on: Continue to protect disabled persons by not taking into account certain disability benefits in the calculation of total net income and provide a further income disregard of £45 per week where either the applicant, partner or a dependant is in receipt of certain disability benefits**

Claimant Responses are again largely in agreement although there were a few comments suggesting disabled income is higher than working people.

Any money coming in should be calculated whether earnt or given

Agree

That's fair

yes but please don't take a lot of disabled person money

Agree but think any one disabled to the extent that they are on full benefit and unable to earn an income should be exempt.

No. some of them have more money a week that people working



**Comments on: Continue to protect disabled persons by not taking into account certain disability benefits in the calculation of total net income and provide a further income disregard of £45 per week where either the applicant, partner or a dependant is in receipt of certain disability benefits**

Non Claimant Responses are again similar to claimants views with most supporting this proposal.

Yes disabled people should be protected

i agree

That seems fair

No disability, PIPS should be means tested as it isn't now!! All income into a household should be classed as household income

There benefits should be applied to people with children as they require more support

'This will be good and help out take vulnerable and disabled who cant work or are on certain benefits



## Comments on: Protecting carers by not taking into account Carer's Allowance and the support component of Employment and Support Allowance in the calculation of total net income

Claimant Responses are unanimously in favour of this proposal

that would be fair as long as the person concerned needed it

AGREE

i strongly agree

agreed, exempt where the carer is an adult living within a household that is not exempt as this is in effect unearned income if the carer also has any paid employment.

yes because they help us by taking care of the elderly and those with disabilities

Why they already have privileges and some are quite well off money wise



## Comments on: Protecting carers by not taking into account Carer's Allowance and the support component of Employment and Support Allowance in the calculation of total net income

Non Claimant Responses are in line with claimants and supportive

accept

seems fair

yes i agree with that

Good! if they are working to do it themselves and not make NHS carers do it or put people in care homes then this helps cut costs / help them out more

Yes. The most important thing is to protect the low income and unemployed people so that they can alleviate their burdens

This is not fair on the working class with young children as they are struggling



## Comments on: Households with joint tenants would have any award calculated based upon their situation and share of the council tax liability

Claimant Responses are in agreement with this proposal

sounds fair

agree

It's Houshold  
anyway

joint tenants should  
have the same joint  
responsibility they have  
for paying rent

Providing it's done fairly

Do not know enough of





## Comments on: Households with joint tenants would have any award calculated based upon their situation and share of the council tax liability

Non Claimant Responses are in favour of this proposal, there were some concerns about administration but this will not be an issue.

Rebate should take into account others in household eg adult relations or tenants

Agree

Good idea

Joint tenants should jointly liable to pay council tax as the same way children living at home with parents have their income calculated

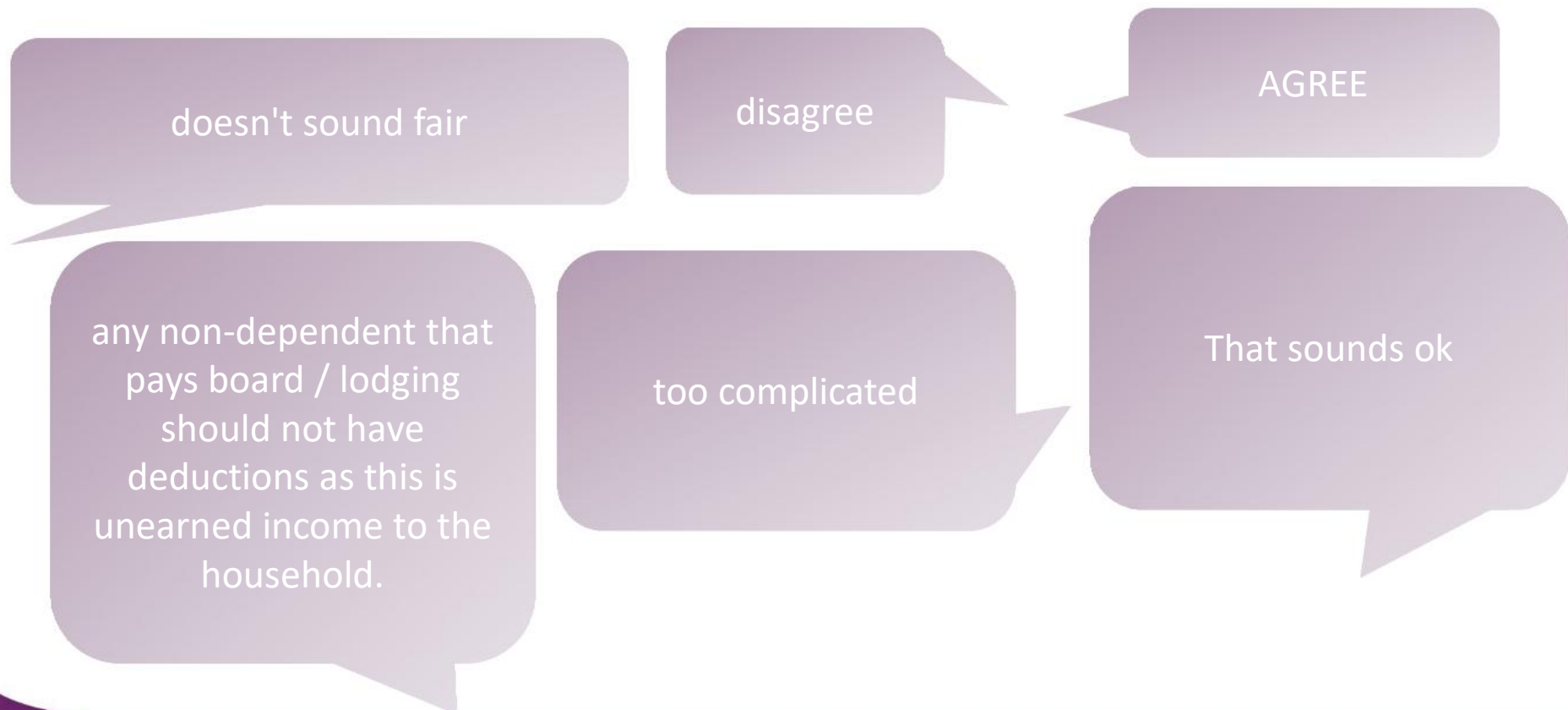
it should be made fairer

Good why shouldn't they all have to pay a fair share



**Comments on: Where a non-dependant lives in the household (an adult living in the property that is not liable to Council Tax), a flat rate £10 per week deduction would be made from any entitlement (the income band award) where they are in work. If the nondependant is not in work, a deduction of £5 per week will be ma**

Claimant Responses are mixed on this issue with a 50 – 50 split between agree and disagree.



**Comments on: Where a non-dependant lives in the household (an adult living in the property that is not liable to Council Tax), a flat rate £10 per week deduction would be made from any entitlement (the income band award) where they are in work. If the nondependant is not in work, a deduction of £5 per week will be made**

Non Claimant Responses are again similar to those of the claimants with a split between agree and disagree.



## Do you have any other comments or alternative options for the Council Tax Reduction Scheme?

Non Claimant Responses are mainly in two camps (1) Keep it as it is (2) Make it simple. There are a number of comments relating to disability and a desire to be supportive to these groups.

I JUST THINK THIS IS THE RIGHT WAY TO Go

more help is needed for the disabled

People on certain disability benefits plus pensions have more money coming in to the household than me working, They should have to pay a certain amount of council tax. Regardless.

keep it as it is don't make it complicated

keep the language and system as simple as possible



## Do you have any other comments or alternative options for the Council Tax Reduction Scheme?

Non Claimant Responses are again similar to those of claimants with very few alternative proposals just requests to help disabled groups and families with children.

it will always seem unfair to those who struggle to pay on borderline incomes

Be fair.. do not segregate people based on their income

Do not penalize working parents it is wrong! one child literally doubles the council tax and i see no reasonable excuse for that.

you must protect disabled people and carers by disregarding these peoples benefits

I would like a fairer system which this appears to b



## **Cabinet – 15 December 2021**

### **Walsall Council Food Law Enforcement Service Plan 2021/22**

**Portfolio:** Councillor Perry – Community, Leisure and Culture

**Related portfolios:**

**Service:** Regulatory Services

**Wards:** All

**Key decision:** No

**Forward plan:** Yes

#### **1. Aim**

- 1.1 The Food Law Enforcement Service Plan (the Plan) attached as **Appendix A** describes how the Authority will enforce statutory controls regarding food safety and monitor food, premises and personnel in a structured manner. The Plan will also be used as the basis for any inspection or audit by the Food Standards Agency (FSA).

#### **2. Summary**

- 2.1 Through the work of its Environmental Health and Trading Standards services, Walsall Council ensures that its statutory responsibilities in the respect of regulating the food industry are fulfilled
- 2.2 Through the work of the Director of Public Health issues around health and wellbeing are at the centre of policy development. The link between the health of residents and the local economy is seen as a key issue in Walsall and is enshrined in the Joint Strategic Needs Assessment, Health and Wellbeing Strategy and Corporate Plan. The aims and objectives of the Plan, contribute significantly to both the health and economy agendas

#### **3. Recommendations**

- 3.1 That That Cabinet receive the Food Law Enforcement Service Plan for the year 2021/22 as evidence of the Council's compliance with its statutory duties in relation to food law and recommend it to Full Council for approval and adoption.

#### **4. Report detail - know**

##### ***Context***

- 4.1 The provision of safe food and water, the prevention of outbreaks of food and water borne disease and the investigation of allegations of food fraud are fundamental principles of protecting public health and the economy. Environmental Health and Trading Standards Officers work directly with businesses, residents and partner agencies and are constantly striving to provide a balance between the economic success of the business against the need to always protect the health of customers and staff.

The Plan sets out the Council's commitment to the implementation of the Food Standards Agency (FSA) Recovery Plan (**Appendices C and D**), and food safety enforcement for the year ahead and in section 6 of the plan describes the outturn against last year's work programme in the context of constraints and restrictions imposed by the Covid-19 pandemic and in response to FSA prioritised controls and activities aimed at providing immediate and short-term responses to the pandemic

### ***Council Corporate Plan priorities***

- 4.2 The Strategic Priorities and the ways in which Environmental Health and Trading Standards contribute to them are detailed below.

### ***Risk management***

- 4.3 **Economic growth for all people, communities and businesses**

The work of the service supports economic growth in a number of ways:

New and existing businesses are given advice and support to not only survive but also thrive despite difficult economic conditions.

Consumers are given confidence when shopping in Walsall.

Introducing competition into regulatory standards through the National Food Hygiene Rating Scheme, empowering residents to choose which business should receive their custom and motivating businesses to improve their standards so they gain new and retain existing customers.

The service promotes those businesses, which sign-up to, and achieve the Health Switch Awards and encourages residents to visit and enjoy their healthier food.

We take robust enforcement action against those businesses or individuals who seek to gain an unfair advantage over competitors by not complying with regulations thereby putting their staff and customers at risk.

- 4.4 **People have increased independence, improved health and can positively contribute to their communities**

The service ensures that unsafe practices and foodstuffs are identified and robustly tackled. This ensures that the health of the public is protected thereby preventing ill health that places a negative burden on the economy and people's lives.



The skills and opportunities available within the service are used to promote and implement key aspects of the Health and Well Being Strategy for example through Healthy Workplace Awards, Making Every Contact Count, the Health Switch Award and tobacco control/smoking cessation projects.

The service strives to prevent outbreaks of communicable disease and where such disease outbreaks take place use the statutory powers available to control and stop their spread as well as bringing to justice those who may be responsible.

#### **4.5 Children have the best start and are safe from harm, happy, healthy and are learning well**

The work the service undertakes has a bearing on the health of children as it does all other members of the community. Premises that deal exclusively with children such as schools and nurseries are at present given a higher risk rating score because of the vulnerability or age of the children.

Trading Standards will respond quickly and effectively to national, regional or local food alerts around compositional standards for infant formula and similar foods necessary for or targeted at children.

Trading Standards conduct age restricted sales investigations around alcohol, cigarettes and knives in order to ensure young people are not at risk from unscrupulous traders.

#### **4.6 Communities are prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion**

Food businesses are often at the centre of their community and their success and regulatory compliance can have a beneficial impact on communities. Likewise poorly run premises with overflowing bins, noisy equipment, late opening and badly prepared food can have a detrimental impact on the image or self-esteem of communities.

Issues such as child sexual exploitation, modern day slavery, illegal immigration and other organised criminal activities can be associated with food businesses, staff therefore work closely with internal services and external agencies where they believe issues such as this exist.

Regulatory activity is prioritised based on risk and where serious non-compliance is found robust enforcement action is taken against those businesses having the most detrimental impact on communities.

#### ***Risk management***

#### **4.7 Without a plan that sets out a commitment to food safety and standards and a strategic review of the delivery of that service, the authority could be challenged by the Food Standards Agency. Any audit or formal investigation by the Food Standards Agency would be more difficult for the authority to defend without such a plan.**

The Plan highlights the good work carried out by the service to ensure food safety is maintained and to protect residents from harm. The disruption caused by the Covid-19 pandemic has placed pressures on the services because of established and new businesses not receiving programmed and initial inspections and a consequent backlog of inspections and a deterioration in standards in some businesses. The food inspection programme is being re-set through the implementation of the FSA Recovery Plan (**Appendix B**), which recognises these pressures and sets priorities for local authority action.

The need for the service to continue to place a major emphasis on allergen control, as a consequence of several high profile deaths (outside of Walsall) means, that a significant amount of Officer time is being dedicated to this area of work so that it is properly considered and regulatory controls implemented as effectively as possible having regard to current guidance and best practice. This is increasing the time taken to complete inspections but is a key issue for the service to prioritise at present.

### ***Financial implications***

- 4.8 The service is funded from within the Council's cash limited budget and the plan will be met from within existing budgets. Details as to the costs associated with the service can be found at Section 4 of the Plan

### ***Legal implications***

- 4.9 By virtue of Section 12 of the Food Standards Act 1999, the FSA has the function of monitoring the performance of enforcement authorities in enforcing relevant legislation. This function includes, in particular, setting standards of performance (whether for enforcement authorities generally or for particular authorities) in relation to the enforcement of any relevant legislation. The Framework Agreement on Official Feed and Food Controls by Local Authorities is the mechanism by which the FSA puts into effect the powers contained in the Food Standards Act 1999. It provides for the following:

- a) published local service plans to increase transparency of local enforcement services;
- b) clear agreed standards for local authority feed and food law enforcement;
- c) local authority monitoring data used to select authorities for audit where there are concerns about enforcement performance; and
- d) an audit scheme aimed at securing improvements and sharing good practice.

Any plan produced by the Authority should comply with the Framework Agreement.

The FSA's audits of local authority food and feed law enforcement are conducted against the requirements of the Framework Agreement and, more specifically, a document called the Standard.

The Standard sets out the minimum levels of performance expected in relation to the full range of a local authority's feed and food law enforcement activity, including

food hygiene, food standards, and imported food and feeding stuffs law enforcement.

The Standard draws together the obligations placed on local authority food and feed law enforcement services arising from legislation and related guidance, and codes of practice. This includes local authority performance in relation to inspections, sampling, complaints, formal enforcement, promotion and advice to business.

The work of the Division pertinent to this report is undertaken pursuant to the provisions of the Food Safety Act 1990 and associated codes of practice, the Food Safety and Hygiene (England) Regulations 2013 and any other such regulations which were developed from the European Communities Act 1972

The Food Safety Act 1990 states that every food authority shall enforce and execute within their area the provisions of this Act with respect to which the duty is not imposed expressly or by necessary implication on some other authority.

### ***Procurement Implications/Social Value***

- 4.10 The Council is part of a national agreement/service level agreement with Public Health England for the analysis of any microbiological food samples taken. There is no cost for this service. The authority has to appoint a Public Analyst for food and an agricultural or deputy agricultural analyst for animal feed and fertilisers. Depending upon the nature of any samples taken and the type of analysis required the service will use on an ad hoc basis those companies or other local authorities outlined in Section 2.2

### ***Property implications***

- 4.11 There are no property implications arising from this report.

### ***Health and wellbeing implications***

- 4.12 The Council has a statutory duty to promote health and wellbeing. Through the work of the Director of Public Health, issues around health and wellbeing are at the centre of policy development. The link between the health of residents and the local economy is a key issue in Walsall and is enshrined in the Joint Strategic Needs Assessment, Health and Wellbeing Strategy and Corporate Plan. The aims and objectives of the Plan, contribute significantly to both the health and economy agendas.

The services contribution to the corporate priorities also sets out how it contributes to the Marmot principles.

### ***Staffing implications***

- 4.13 There are no direct impacts upon staffing arising from the report.

### ***Reducing Inequalities***

- 4.14 The implications for reducing inequalities have been taken into account and assessed as set out below.

The regulation of the food industry affects all members of society. With the resources available the service will always prioritise those matters that more directly affect vulnerable persons. The service will assist where it can with translated material, interpreters or by coaching those who require it in the production or sale of safe food.

Implementation of the plan will have no adverse equality implications as the same levels of advice and support are provided to all food business proprietors from all sections of the community.

Certain sectors of the food trade are predominantly owned by one or other ethnic groups. In order to ensure a consistent and proportionate approach all decisions are based solely on consideration of risk, public safety, evidence, and public interest. All enforcement policies reflect this approach.

### ***Climate Change***

- 4.15 The report may have some indirect climate change and environmental implications in so far as it affects the working and commercial environment in Walsall

### ***Consultation***

- 4.16 This plan has never been traditionally consulted upon with the communities of Walsall. It is a document setting out the Council's commitment based upon statutory guidelines and responsibilities and therefore not subject to influence or change based upon formal consultation responses.

## **5. Decide**

- 5.1 This plan is a statutory document and the authority must produce, agree, publish and measure its own performance against it. The FSA has overall scrutiny of performance of local authorities to ensure the food industry in the UK is adequately regulated at a local, national and even international level.
- 5.2 The current plan reflects a balance between the requirements of central government through the FSA's Recovery Plan and the local situation in Walsall. Resources are no longer such that the authority can guarantee a fully compliant inspection regime. The plan indicates that the service will use risk, intelligence and the local knowledge and experience of inspectors to ensure high risk activities are dealt with as a priority. This will mean that certain low risk activities may therefore take longer to respond to.

## **6. Respond**

- 6.1 Although the plan is brought to Cabinet and Council for approval, it is a living document. The implementation of food safety intervention programme required by

Phase 2 of the FSA Recovery Plan began in October 2021 and it is expected that its implementation will be achieved by the end of 2022/23. Therefore, if the plan is agreed it will reinforce the direction of travel and priorities for the service or if there are different suggestions forthcoming allow the service to consider and implement and recommendations given.

## 7. Review

- 7.1 Monitoring and review of the Plan is built into the document and includes regular team meetings, 121's, APC's, Portfolio Briefings, statutory annual returns to government and a fortnightly refresh of the Food Hygiene Rating Scheme. The annual review brought before Cabinet and Council fulfils a significant part of the review process.

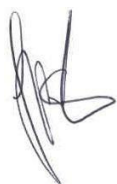
## Background papers

Information is gathered primarily from the Regulatory Services Software System and from specific members of staff working within the Service.

- Corporate Plan 2021-22

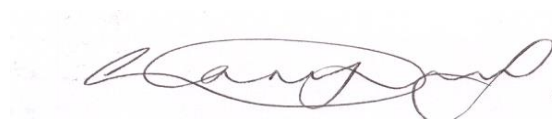
## Author

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Simon Neilson  
Executive Director

6 December 2021



Councillor Perry  
Portfolio holder

6 December 2021



**Walsall Council**

# **Food Law Enforcement Service Plan 2021-22**

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## **1.0 AIMS AND OBJECTIVES OF THE FOOD SERVICE**

### **1.1 AIMS OF THE FOOD SERVICE**

- To protect the public health from preventable food and water borne disease.
- To protect public health from contaminated food and undeclared allergens, ensure the integrity of food quality, labelling and compositional standards and to protect consumers from food fraud, food substitution and adulteration.
- To carry out the Food Standard Agency (FSA) Animal Feed Delivery Programme
- To promote and implement key aspects of the Public Health agenda
- To comply with the FSA Framework Agreement and relevant codes of practice.
- To have regard to the Regulation Policy when considering enforcement action
- To support those we regulate comply and grow.

### **1.2 OBJECTIVES OF THE FOOD SERVICE**

- To carry out a programme of interventions at food premises allocating resources to those premises posing the most significant risk.
- To assist new or existing businesses through frontline advice or Home or Primary Authority schemes to achieve compliance.
- To publish food hygiene ratings so consumers can make informed choices and businesses are encouraged to invest in raising standards and become profitable.
- Use intelligence to ensure that food particularly imported food offered or exposed for sale is fit for human consumption and to expedite the removal of hazardous products from the food chain.
- To investigate cases of food poisoning and tackle practices and processes identified as sources of infection.
- To investigate complaints relating to food and food premises and take appropriate, timely and where necessary robust enforcement action.

- To undertake a microbiological sampling programme proactively at manufacturing premises and where necessary in connection with outbreaks of disease or service requests.
- To undertake a sampling programme to ensure that food complies with legal standards relating to presentation, labelling and advertising, compositional standards and the absence of non-permitted or excessive levels of additives, contaminants and residues.
- To undertake an animal feed delivery programme in line with FSA requirements.

### **1.3 LINKS TO CORPORATE OBJECTIVES AND PLANS**

The Council has a refreshed Corporate Plan for 2021/22 that is an articulation of the aspirations of the Council expressed as a strategic plan that can be delivered over the next three years and aligned to the budget. The plan is available at

[www.walsall.gov.uk/corporate-plan](http://www.walsall.gov.uk/corporate-plan)

The Strategic Priorities and the ways in which Environmental Health and Trading Standards contribute to them are:

#### **Economic growth for all people, communities and businesses**

- Our work supports new and existing businesses to not only survive but thrive despite difficult economic conditions.
- Our work gives consumers confidence when shopping in Walsall
- Our work continues to introduce competition into regulatory standards through the National Food Hygiene Rating Scheme, empowering residents to choose which business should receive their custom
- We confront those businesses or individuals who seek to gain an unfair advantage over competitors by not complying with regulations thereby putting their staff and customers at risk.

## **People have increased independence, improved health and can positively contribute to their communities**

- Ensuring that unsafe practices and foodstuffs are identified and robustly tackled to ensure the health of the public is protected therefore preventing ill health that places a negative burden on the economy and the lives of people.
- To use the skills and opportunities available to the service to promote and implement key aspects of the Health and Well Being Strategy for example through Healthy Workplace Awards, Making Every Contact Count, the Health Switch Award and tobacco control/smoking cessation projects.
- To prevent outbreaks of communicable disease and where such disease outbreaks take place using the statutory powers available to control and stop their spread as well as bringing to justice those who may be responsible.

## **Internal Focus – All council services are efficient and effective**

- We will work with internal partners to give advice and expertise in relation to those matters that fall within our area of expertise. This could be as being a member of the Safety Advisory Group, Health Protection Forum, Training Forum, Directorate Health and Safety Committee, Exploitation Delivery Group, Transformation Groups and Walsall Proud Programme etc.

## **Children have the best start and are safe from harm, happy, healthy and learning well**

- The work we undertake has a bearing on the health of children, premises that deal exclusively with children such as schools and nurseries are at present given a higher risk rating score because of the vulnerability or age of the children. Complaints and infectious disease incidents involving children would also receive a higher degree of response or scrutiny on the basis of a potential higher impact on their lives.

## **Communities are prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion**

- Food businesses are often at the centre of each community and their success and regulatory compliance can have a beneficial impact on communities. Likewise poorly run premises with overflowing bins, noisy equipment, late opening and badly prepared food can have a detrimental impact on the image or self-esteem of

communities. Our services will therefore focus regulatory activity against those businesses having such a detrimental impact on communities.

## 2.0 BACKGROUND

### 2.1 PROFILE OF WALSALL MBC

Walsall is a unitary authority in the West Midlands region and has an estimated population of 286,700 (ONS 2020 Mid-Year Estimates). Whilst the Borough is predominantly urban, it does have significant areas of open space mainly in the east. Along with Sandwell, Dudley and Wolverhampton, Walsall forms part of the Black Country sub region which was designated a Local Enterprise Partnership in 2010.

Walsall lies at the heart of the national road and rail networks with the M6, M6 toll, M5 and M54 all running through or close to the Borough. Rail and bus routes feed into national networks meaning 5 million people are within 45 minutes of Walsall by public transport. (*Walsall Borough Local Economic Assessment, V1 July 2011*)

Walsall town centre is the strategic and economic centre of the borough, but there are also five key district centres: Aldridge, Bloxwich, Brownhills, Darlaston and Willenhall. All of these have distinct histories and identities and are important retail hubs serving their local communities.

Four out of five businesses surveyed serve clients locally in Walsall and around two in three serve the Black Country or West Midlands. Over 60% of businesses have customers in the rest of the UK and over 30% have customers overseas. Only a third of sales are outside the region meaning Walsall Companies are very reliant on the local economy. Over half of working residents are employed in the borough and it is estimated around 4.7% of the Boroughs residents are employed in the food and accommodation sectors. Walsall has a variety of manufacturing and service industries and is an operational base for a number of food wholesalers. There are also several companies producing a variety of food products which are distributed throughout the UK. (*Walsall Borough Local Economic Assessment, V1 July 2011*)

The 2019 Index of Multiple Deprivation ranks Walsall as the 25th most deprived English local authority (out of 317), placing Walsall within the most deprived 10% of districts in the country. The labour market profile for claimants in Walsall show that 7% of the working population claim out of work benefits.

(<https://www.walsallintelligence.org.uk/home/demographics/deprivation/>)

(<https://www.nomisweb.co.uk/reports/lmp/la/1946157191/report.aspx#tabidbr>)

The Borough is ethnically diverse and people of Indian, Pakistani and Bangladeshi background form the largest minority ethnic groups with 23.1% of Walsall's inhabitants coming from minority ethnic communities. In some wards, up to 70% of the population are from BME groups. Many people in these communities either own, or are employed

in small food businesses. The number of non-UK born residents in Walsall increased by 3.7% (or 9,900 people) between the 2001 and 2011 censuses (see chart below) and Walsall now has a small Eastern European population who make up about 1% of the area residents (2,700 people in total).

(<https://www.walsallintelligence.org.uk/home/demographics/diversity/>)

In the past decade there has been a rapid change in the eating habits of the UK population with there being a considerable growth in the consumption of food from outside of the home. (*Rand Europe – Food Consumption in the UK 2020*) Studies have found that takeaway food outlets are often located in areas of higher socio-economic deprivation and that there is a strong association between deprivation and the density of fast food outlets, with more deprived areas having more fast food outlets per 100,000 population. (*Public Health England - Using the planning system to promote healthy weight environments, 2020*) There is also evidence that adults with lower income tend to consume more takeaway meals eaten at home , compared to those with higher income and that there is an evident health inequality (*Rand Europe – Food Consumption in the UK 2020*)

The food service plays an important role in bridging the link between health and economy by protecting and improving the health of residents whilst also having regard to the economic prosperity of the business sector.

## **2.2 ORGANISATIONAL STRUCTURE**

The Framework Agreement on Official Feed and Food Controls by Local Authorities provides the Food Standards Agency with a mechanism for implementing its powers under the Food Standards Act to influence and oversee local authority enforcement activity. The Food Safety Act 1990 states that every food authority shall enforce and execute within their area the provisions of this Act with respect to which the duty is not imposed expressly or by necessary implication on some other authority.

Walsall Council's constitution, Part 2, Article 4.01 (a)(ii) lists the Food Law Enforcement Service Plan as a plan or strategy that must be approved by full Council before it can become operational. This Plan will therefore be submitted on an annual basis to Cabinet with a recommendation that it is sent to full Council for approval and adoption

The Director of Resilient Communities may authorise members of staff to act on behalf of the Council and to enforce and administer relevant legislation. They are also authorised to appoint or recommend for appointment:

- Lead Officers for Food (Safety and Standards)
- The Chief and Deputy Chief Inspector of Weights and Measures

- An Inspector to institute legal proceedings in respect of the Health and Safety at Work etc. Act 1974
- Public Analyst for the purpose of Section 27 of the Food Safety Act 1990

The Regulatory Services Manager (Business Compliance) is responsible for:

1. Managing Environmental Health, Trading Standards and Licensing with respect to enforcing relevant legislative requirements.
2. Acting as a Lead Officer for the Food Safety Act and its codes of practice.
3. To authorise enforcement action including, the institution of legal proceedings, serving of legal notices and the issuing, suspension and revocation of licences and permits.
4. To ensure the service operates and performs in line with its various statutory responsibilities and that evidence of performance is submitted to Central Government for oversight in a timely fashion upon request.

The Team Leader Environmental Health and Team Leader Trading Standards are responsible for delivery of their respective services in line with current corporate, regional and national priorities.

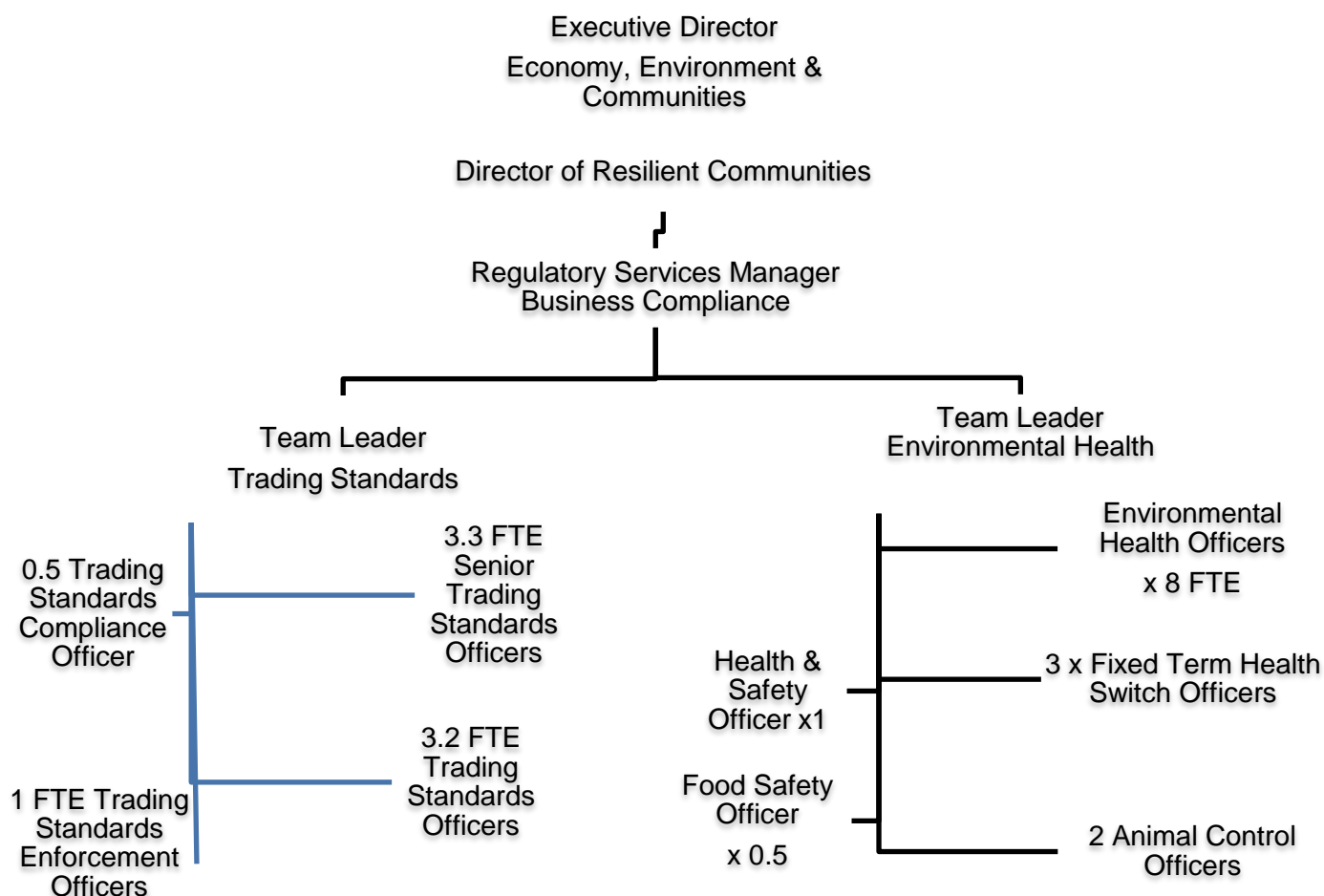
Presently there are 11 Environmental Health posts 10 require a qualification to undertake food safety duties of which 5.6 FTE's work predominantly on Food Safety, 2.5 FTE's work on Health and Safety related matters the remaining 2.9 FTE's work on animal licensing, nuisance, licensing and other regulatory activity.

There are presently 1.5 FTE Officers undertaking duties relevant to food standards within Trading Standards.

Environmental Health use the Public Health England Food, Water and Environmental Microbiology Laboratory, London for any samples taken.

Trading Standards use Public Analyst Scientific Services (PASS) based in Wolverhampton for compositional analysis of food samples.

## 2.2 STRUCTURE OF SERVICE AND CONTACT DETAILS



Delivery of the Food Service	
<b>Service Delivery Point</b>	Civic Centre, Darwall Street, Walsall, WS1 1TP.
<b>Hours of Opening</b>	Monday to Thursday 8.45am to 5.15pm Friday 8.45pm to 4.45pm
<b>Telephone numbers</b>	EH 01922 653366 TS 0845 330 3313 Out of Hours 01922 650000
<b>E mail</b>	environmentalhealth@walsall.gov.uk trading_standards@walsall.gov.uk
<b>Website</b>	<a href="http://www.walsall.gov.uk">www.walsall.gov.uk</a>
<b>Social Media</b>	<a href="https://www.facebook.com/makemeasavvyshopper">www.facebook.com/makemeasavvyshopper</a> <a href="https://www.facebook.com/safeandsoundaroundtown">www.facebook.com/safeandsoundaroundtown</a> Twitter: @ehwalsall @savvyshopper



## **2.3 SCOPE OF THE FOOD SERVICE**

The enforcement of food related legislation is a joint responsibility between Environmental Health and Trading Standards: All services are provided by officers employed by Walsall Council.

**Environmental Health** provide the following services relating to Food:

1. Food safety/hygiene inspections.
2. Infectious disease investigations (food poisoning and water borne disease).
3. Microbiological food sampling.
4. Food safety advice to new and existing businesses including promotional and educational activities.
5. Food and food hygiene complaint investigations.
6. Private drinking water supply - monitoring and assessment.
7. Operation of the National Food Hygiene Rating Scheme.
8. Commercial complaints in respect of odour, noise, waste & drainage.
9. A statutory consultee in the respect of planning.
10. A Responsible Authority in terms of licence applications.
11. Export Certificates for food and interventions relating to Imported Foods.
12. Core member of Walsall Council Safety Advisory Group.

**Trading Standards** provide the following services relating to Food:

1. Food Standards inspections.
2. Feed Hygiene Inspections.
3. The investigation of complaints in relation to food fraud, labelling, contamination and composition.
4. Food sampling for compositional, nutritional and labelling conformity.
5. Food Standards advice to business.
6. Food Standards education to consumers.
7. Import certificates for food & interventions relating to imported foods.
8. A Responsible Authority in terms of licence applications.
9. Underage sales of alcohol and tobacco.

**Licensing** regulate the following Food related matters:

1. Late Night Refreshment Licences.
2. Street Trading Licences and Consents.
3. Personal and Premises Licences for Alcohol.

## 2.4 DEMANDS ON THE FOOD SERVICE

A profile of the 2318 food businesses registered with Walsall Council is as follows:

FSA CODE	PREMISES TYPE	NO. OF PREMISES
A	Primary Producer	27
C	Manufacturer and Packer	42
E	Importer/exporter	0
F	Distributors/transporters	51
G01	Supermarket/hypermarket	42
G02	Small retailer	477
G03	Other retailer	93
H01	Restaurant/cafe/canteen	308
H02	Hotel guest house	12
H03	Pub/club	213
H04	Takeaway	327
H05	Caring premises	144
H06	School/college	128
H07	Mobile unit	117
H08	Restaurant/caterer other	337
	Total	2318

There are 23 premises approved to produce products of animal origin for distribution throughout the UK and Europe. There are no red meat slaughterhouses in the borough. There is one small-scale Halal poultry slaughterer that is regulated by the Food Standards Agency.

There are 33 agricultural feeding-stuff (animal feed) establishments registered under the EU Feed Hygiene Regulation (183/2005) with the following breakdown of registration activities:

R6	Manufacture of pet foods	2 establishments
R7	Manufacture and/ or placing on the market of feed materials	20 establishments
R11	Mixing feed on-farm, with compound feedingstuffs which contains additives	1 establishment
R12	Food businesses selling co-products of the food industry which are destined as feed materials	2 establishments
R13	Livestock farms which do not mix feeds or mix feeds without additives	7 establishments
R14	Arable farms growing or selling crops for feed	1 establishment

Walsall as a Borough has a significant number of premises where English isn't the primary language spoken by many of the staff. Within certain sectors of the food industry there also tends to be a relatively high turnover of Food Business Operators meaning officers may not see the same person twice when carrying out visits. This is

not conducive to building long term positive relationships where compliance can be improved with mutual cooperation.

Many food premises are opened in buildings not originally designed for such a purpose and therefore do not allow easy or economically viable compliance with the structural elements of food hygiene.

## **2.5 REGULATION POLICY**

The Regulatory Services Enforcement Policy was approved by Cabinet on the 25<sup>th</sup> April 2018 it is available at this link <https://tinyurl.com/yb39zvt6>

## **3.0 SERVICE DELIVERY**

### **3.1 INTERVENTIONS AT FOOD ESTABLISHMENTS**

Interventions are defined as activities designed to monitor, support and increase food law compliance within a food establishment. Interventions also include activities that are effective in supporting food businesses to achieve compliance, such as targeted education and advice or information and intelligence gathering.

The FSA considers that an intervention programme is central to a local regulatory and enforcement regime, and local authorities must ensure that such a programme is appropriately resourced.

#### **Trading Standards Food Standards Interventions.**

Food Standards interventions are applied in accordance with the Intelligence Operating Model, in a risk-based intelligence-led manner, so that resources are effectively targeted and directed at those businesses that present the greatest risk.

Interventions will also be based upon and result from the national, regional and local sampling programmes that we contribute to. A flexible approach to resourcing enables the service to respond appropriately to incidents and to ensure the necessary protection to the Borough's food chain. Additionally under the FSA's post covid Recovery Plan all premises identified as high risk will receive an intervention.

#### **Environmental Health Food Hygiene Interventions Risk-based Interventions**

During 2019–21, Environmental Health and Trading Standards Officers formed the backbone of the regulatory response to the Covid pandemic response at a local level. Staff

who did not form part of the local Covid response were restricted in the range of duties they could perform due to closure of large parts of the economy.

In recognition of the above the Food Standards Agency (FSA) allowed local authorities to depart from their normal statutory food hygiene intervention programmes which are based on the intervention rating scheme in the Food Law Code of Practice (the Code). Normally, the FSA requires local authorities to conduct interventions accordance with frequencies shown in the table below.

Category	Score	Minimum intervention frequency
A	92 or higher	At least every 6 months
B	72 to 91	At least every 12 months
C	52 to 71	At least every 18 months
D	31 to 51	At least every 24 months
E	0 to 30	A programme of Alternative Enforcement Strategies or interventions every three years

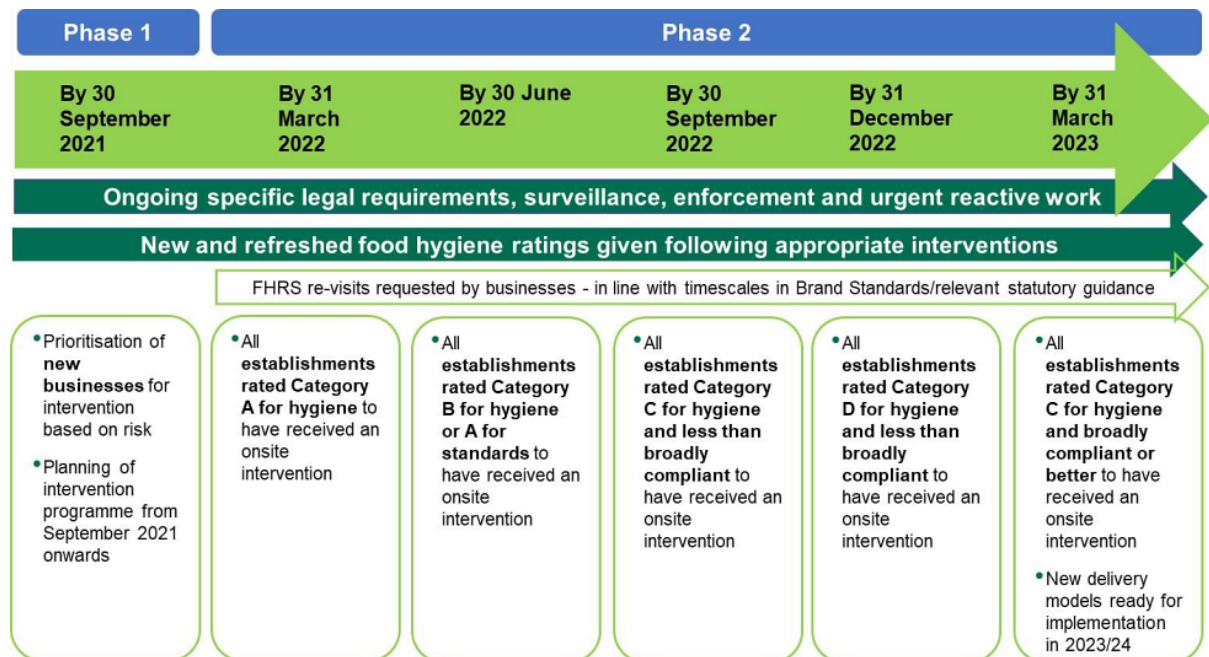
## Recovery Plan

The FSA recently introduced a Recovery Plan requiring local authorities to re-start their food hygiene intervention programme. The Recovery Plan will form the basis of the current Food Law Service Plan. A copy of the Recovery Plan is attached as **Appendix 1**. As a minimum the FSA expects local authorities to deliver official controls as set out in the plan. Additionally, planned interventions should meet the timelines specified for realigning with the requirement of the Food Law Code of Practice (the Code).

The FSA has written to the Chief Executives of English local authorities to draw their attention to the Recovery Plan and ask them to ensure that resources are in place and are protected for the future to allow its implementation. The letter states the importance of progressively shifting back to the delivery of food law regulatory controls to ensure business compliance with food law requirements and to safeguard public health in relation to food. It also reiterates that planned interventions and activities specified in the Recovery Plan are the minimum that local authorities need to undertake to fulfil their statutory duties in relation to food. A copy of this letter is attached as **Appendix 2**

The Recovery Plan is outlined in Figure 1 below and has two phases: Phase 1 (1<sup>st</sup> July to 30<sup>th</sup> September 2021) and Phase 2 (1<sup>st</sup> October 2021 to 2023/24).

**Figure 1 – Outline of Recovery Plan**



Phase 1 addresses the initial inspection of new food businesses which have substantially increased during the pandemic. Currently, there are 327 new business awaiting an initial on-site inspections. During Phase 1 the authority will be expected prioritise new businesses for intervention and to plan an intervention programme for new businesses to run from 1<sup>st</sup> October 2021 onwards.

The authority has obtained grant funding from the FSA to assist it to implement Phase 1. The funding has been provided to employ an administration officer to contact, triage and prioritise new food businesses for an initial on site visits. The administration officer will be employed from August to October 2021.

The breakdown of the type of new food businesses awaiting an initial inspection are shown in Table 2. There is a substantial number of restaurants, takeaways and small retailers which are likely to be identified as a high priority for inspection. Consequently, these would increase the pressure on the service during Phase 2 when local the authority must implement an ongoing programme of inspections of unrated businesses alongside a programme of planned routine interventions for established businesses.

**Table 2 – Businesses Awaiting Inspection**

<b>Businesses Awaiting Inspection (14<sup>th</sup> October 2021)</b>	
Small Retailer	47
Mobile Food Unit	21
Restaurant/Cafe/Canteen	35
Take-Away	40
Pub/Club	10
Caring Premises	6
Restaurant/Caterer - Others	142
Distributors/Transporters	5
School/College	2
Retailer - Other	3

## **Phase 2 of the Recovery Plan**

Phase 2 sets deadlines for the authority to complete on-site interventions for all establishments rated A, B, C (less than Broadly Compliant), D (less than Broadly Compliant) and C (Broadly Compliant). The number of these businesses are shown in Figure 1. Consequently, during the remainder of 2021/22 and during 2022/23 the authority must undertake more than 600 on-site interventions to established businesses. It must also deliver an ongoing programme of initial on-site visits in respect of 320 new businesses awaiting an initial inspection. Additionally, the number of required on-site visits will be augmented by new food businesses which register during this period. On average the authority receives 300 new registrations of food businesses per annum.

In addition to implementing the Recovery Plan the service will have to, during the same period, respond to food related complaints and enquiries concerning food, food borne diseases, premises and practices. During 2020/21 responded to 323 such complaints and enquiries.

## **Prioritisation**

Although guided by the FSA during the emergency period in general terms the authority's response to incidents remains as below. Should a situation occur whereby demand outstrips staffing levels our priority will be targeted at matters of highest risk to ensure the greatest level of protection is afforded to the public

- an unsafe practice is occurs which represents a significant hazard to health;
- a particular food handling or food preparation practice is found to entail a previously unsuspected hazard to public health;

- a foodstuff previously thought to be safe is found to be hazardous to health;
- a food with widespread distribution is found to be contaminated and thereby presents a significant hazard to public health;
- widely distributed foodstuff is the subject of fraud in labelling or presentation
- Notifications of single cases of significant infectious disease e.g. E coli 0157
- Outbreaks of infectious disease of any type

As a consequence lower risk work will suffer and a secondary strategy will have to be devised to deal with the back log of work arising from the realignment of priorities. This may include:

- Lesser qualified Officers making a first response
- Qualified agency staff brought in on a temporary basis
- Response by phone/letter/email only
- Signposting to other agencies or legal advisors.

Walsall Council implemented the Food Hygiene Rating Scheme on the 1<sup>st</sup> April 2011: It is encouraging to see that the proportion of businesses that are ranked “Broadly Compliant” (scoring 3, 4 or 5) has increased year upon year, despite the continued financial pressure on businesses.

Rating	Number of Businesses							
	April 2013	April 2014	April 2015	April 2016	April 2017	April 2018	April 2019	April 21
5 (Very Good)	328	373	585	565	679	725	751	785
4 (Good)	308	349	347	368	390	355	349	372
3 (Generally Satisfactory)	336	353	321	306	295	298	307	294
2 (Improvement Necessary)	130	121	98	91	91	89	67	51
1 (Major Improvement Necessary)	180	149	153	153	118	84	75	54
0 (Urgent Improvement Necessary)	10	8	15	11	8	8	4	1
% achieving satisfactory ratings	75.2	79.5	81	83	86.5	88.4	90.6	92.9

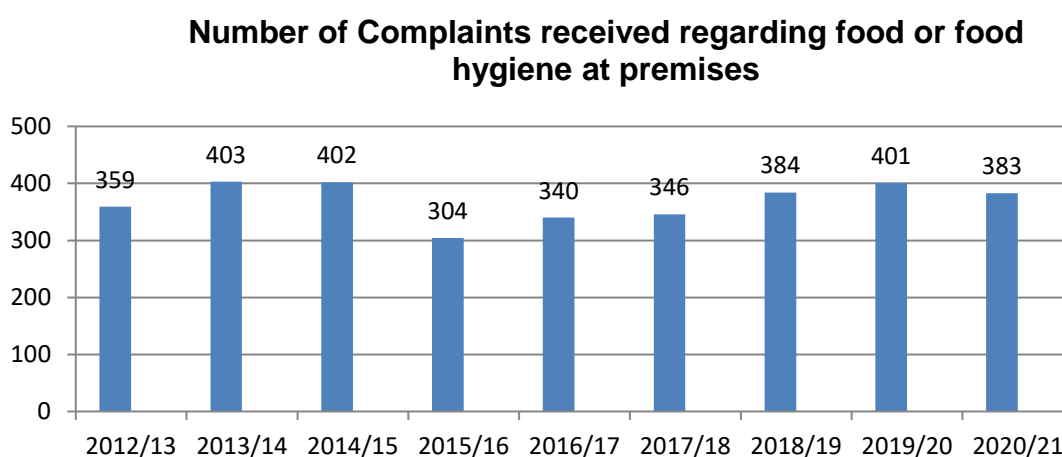
2072 businesses are recorded on the FHRS, 1557 are rated the other 515 being at present exempt, excluded, sensitive or awaiting inspection. Taking 3 and above as satisfactory

then 92.9% of rated Walsall Businesses are at least satisfactory with 7.1% requiring varying levels of improvement. Staff are trained in the consistent rating of food premises having attended a number of FSA training sessions relating to this area. The results are therefore an honest reflection of the situation within the Borough.

### 3.2 FOOD COMPLAINTS

Complaints are prioritised on the basis of the nature and severity of the matter reported. Many complaints relate to dissatisfaction with the condition of food and often fail because the continuity of evidence has been broken i.e. it is possible the contamination entered the food after opening. To allow staff to focus on areas of highest priority information will be made available to complainants on actions they may be able to take to resolve low risk complaints.

Environmental Health received 401 complaints relating to the condition of food and concerns over food practices or the hygiene of food premises in 2019/20 and 383 in 2020/21.



Trading Standards received 122 food and drink related complaints in 2019/20 and 92 in 2020/21 relating to out of date, food fraud, improperly described, contaminated and incorrectly labelled food.

### 3.3 HOME AUTHORITY PRINCIPLE AND PRIMARY AUTHORITY SCHEME

#### PRIMARY AUTHORITY

The Primary Authority Principle has its basis in law and is a government priority. The authority is permitted to recover its costs for advice given under the scheme and if the business follows the “assured advice” then enforcement action such as a prosecution by other authorities is not likely to be successful. On the 2<sup>nd</sup> July 2014 Cabinet approved the



adoption and charging regime for this scheme. To date no Primary Authority partnerships have been signed up to.

### **Home Authority Principle**

This principle was developed as an aid to good enforcement practice and aims to:

- Encourage Authorities to place special emphasis on goods and services originating within their area.
- Provide businesses with a Home Authority source of guidance and advice.
- Support efficient liaison between Local Authorities.
- Provide a system for the resolution of problems and disputes.

The principle has the support of local authorities, Government, trade and industry associations, consumer and professional regulatory bodies.

### **3.4 ADVICE TO BUSINESS**

The authority has always provided appropriate and competent advice, to local businesses and residents, within available resource constraints.

In recent times there has been an increase in the number of people wanting to prepare food for sale in their domestic kitchens. Officers recognise that certain low risk food items such as cakes can be prepared in a domestic kitchen and a number of factsheets for domestic caterers have been produced.

The services website has been made easier to use, with information about setting up a food business and application forms that businesses and members of the public can download free of charge. Additional work is needed to update and amend older information in line with proposals set out in Walsall Councils Proud Programme work streams.

Where possible advice is given to businesses before they commence trading. It is easier to give advice on layout, equipment and practices at the planning stage before a business commences trading. Under the FHRS, a business that does not have a fully implemented Food Safety Management System cannot score higher than 1 (Major Improvement Necessary) so where time permits, officers carry out coaching visits to Food Business Operators to ensure they understand the importance of this requirement.

The Environmental Health twitter account @EHWalsall has 974 followers and over 3000 messages have been 'tweeted'.

The Trading Standards Twitter account @Savvyshopper6 has 492 followers and has tweeted over 2600 messages.

We will continue to use social media for communicating food safety, trading standards, infectious disease and health and safety messages. The Tweets are made by officers and managers within the team and are regularly retweeted by other councils, businesses and members of the public.

### **3.5 FOOD SAMPLING**

#### **Microbiological Food Sampling**

Microbiological food sampling is carried out to meet four main objectives:

- To determine the current state of food safety in the Borough
- To improve the effectiveness of food hygiene inspections.
- To investigate suspect cases of food poisoning linked with local businesses.
- To investigate complaints about food.

Microbiological examinations will be carried out using credits allocated by Public Health (England). Samples will be taken by qualified staff.

#### **Sampling Programme 2018/19 Manufacturers selling mainly by retail.**

No food sampling has been undertaken during the period of restrictions due to COVID19. With the various backlogs of inspections and capacity within the team proactive microbiological sampling will not be undertaken during 2021-22.

Should an outbreak of food borne disease or some major issue be identified at a manufacturer or other food business Officers will undertake relevant reactive sampling.

The situation will be reviewed for the financial year 2022-23 and should sufficient capacity be available to carry out proactive sampling this will be implemented otherwise the service will continue with reactive sampling in response to specific issues.

#### **Food Sampling (Food Standards)**

An annual sampling programme is drawn up to ensure that food is accurately labelled and meets compositional and safety standards. It also facilitates the support and auditing of local businesses and contributes to national healthy food / healthy eating campaigns. It is enhanced by additional sampling in response to complaints. The Authority also successfully contributes to regional sampling programmes. This provides economies of

scale, associated value for money and a greater impact from a larger results base. We also participate in additional FSA food authenticity projects

The Trading Standards Service targets its proactive sampling at locally produced foods, those products/ingredients from companies that manufacture in, are based in, or import into Walsall. In addition, foods are targeted which are causing current concerns. These are identified through communication with the Food Standards Agency, the National Food Crime Unit, the Department of the Environment, Food and Rural Affairs and the European Commission; through local, regional and national intelligence held by local authorities; and through consultation with the Public Analyst.

Emerging food fraud risks can also be identified by looking at economic drivers: High value / high volume products, products in short supply; products with rising prices; products with a complex global food chain. Looking at some of these factors gives us a chance of identifying the next 'horsegate'.



All sampling undertaken by officers is in accordance with relevant legislation and all formal food and animal feed samples are taken in accordance with the relevant Food or Feed Law Codes of Practice.

Samples are analysed and/or examined by the Service's Public/Agriculture Analyst appointed in accordance with the procedures laid down in Regulations and relevant Food and Feed Law Codes of Practice. Alternatively, some samples are examined/tested in house, if it is appropriate to do so.

### **Food Standards Sampling Projects 2019 -21**

The Trading Standards service took 85 samples during 2019/20 and 17 samples during 2020/21 with 40% being analysed as unsatisfactory, including issues with undeclared allergens, labelling, nutrition declaration, misleading claims, and deficient meat contents.. This resulted in several recalls, warning letters and formal cautions. Many of these samples were taken covertly by Trading Standards Officers posing as customers.

### **Allergens – Milk in takeaway Donner Kebabs.**

Following the death of a non-Walsall based allergy suffering teenager after eating a donner kebab contaminated with milk, undercover officers posing as milk allergy sufferers bought kebabs from a number of takeaways. Many of these samples were analysed and found to contain milk so further samples were taken of the raw kebabs supplied to the takeaways.

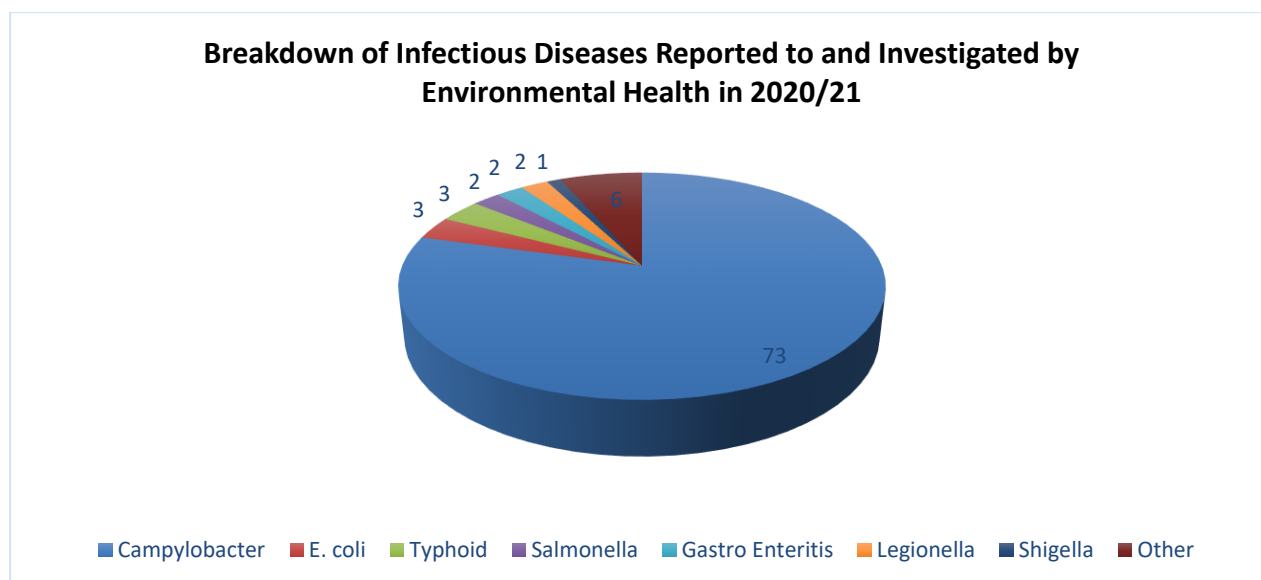
These raw kebabs were also found to contain milk that wasn't declared on the ingredients list. The resultant follow-up work and corrective actions taken by the manufacturers has helped to ensure that takeaways throughout the region can provide accurate allergen information to their customers.

### 3.6 CONTROL AND INVESTIGATION OF FOOD RELATED INFECTIOUS DISEASE

Public Health England (PHE) are appointed to act as Proper Officer for Walsall Council in respect of infectious disease notifications. PHE notify Environmental Health of food poisoning cases in the Borough via secure electronic communication. Environmental Health have a statutory duty to carry out an investigation to ascertain the source of the illness and check to ensure that there is no risk of the illness spreading further.

Environmental Health staff work closely with colleagues in PHE and have powers to formally exclude people from work or school if they are classed as a high risk case and their actions place other people at risk of catching communicable disease.

Campylobacter remains the primary pathogen with 73 notified cases in the Borough. A breakdown of all notified cases of infectious diseases in 19/20/21 is shown in the pie chart below. During 2020/21 the service also received allegations of food poisoning where people claim to have been ill but have not had a formal diagnosis. This led to an additional 73 cases of potential food poisoning highlighting the large amount of undiagnosed food borne illness that may be present in society but not formally identified and recorded.

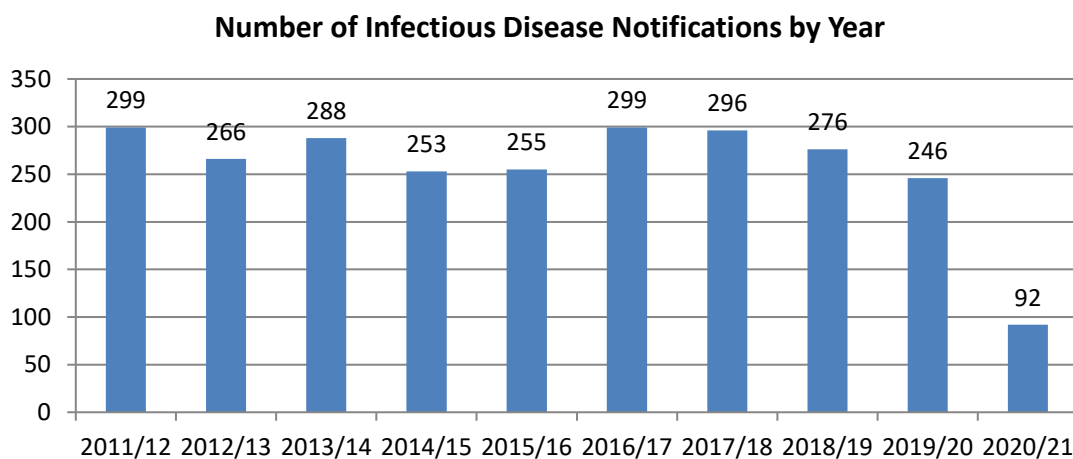


Responses to infectious disease notifications are measured against the PHE document - Roles and Responsibilities for Investigation of Gastrointestinal Infectious Diseases. Having no specific out of hour's duty staff for responding to infectious disease notifications

does however pose a difficulty in dealing with emergency notifications i.e. those required within 24 hours.

This issue is currently addressed by invoking the Emergency Planning procedure of identifying and contacting relevant Senior Managers. The services response rate to infectious disease notifications which is agreed with Public Health England currently stands at 90%

In a large scale outbreak the Council could draft in staff from other services to assist in some of the basic duties. For additional resource from expert or qualified officers assistance may have to be requested from other West Midlands Councils through the Memorandum of Understanding that all 7 Councils have signed up to.



The COVID pandemic clearly had a major impact on the number of reported gastrointestinal illnesses during 2020-21 due to home working, closure of the hospitality sector, GP surgeries restricted and emphasis by PHE and others on the pandemic response. The total number of notifications received in 2020/21 was 92 compared to 246 in 2019/20 and 276 in 2018/19.

### **3.7 FOOD SAFETY INCIDENTS**

The Food Standards Agency issues information about product withdrawals and recalls to let consumers and local authorities know about problems associated with food. This information is issued electronically to Environmental Health and Trading Standards.

A Product Withdrawal Information Notice or a Product Recall Information Notice is issued where a solution to the problem has been put in place – the product has been, or is being, withdrawn from sale or recalled from consumers, for example.

A Food Alert for Action is issued where enforcement by authorities is required. These notices and alerts are often issued in conjunction with a product withdrawal.

During 2018/19 Trading Standards instigated 2 food alerts and corresponding product withdrawals

### **3.8 LIAISON WITH OTHER ORGANISATIONS**

The Authority works in partnership with the following organisations either on an ongoing basis or as the result of targeted work programmes:

1. Food Standards Agency (FSA)
2. Public Health England (PHE)
3. Director of Public Health
4. Eurofins – Public Analyst
5. Central England Trading Standards Authorities Management Board
6. Central England Environmental Health Management Board (CEEHMB)
7. Department of Health, DEFRA and the Animal and Plant Health Agency (APHA)

#### **CEEHMB Food Liaison Group**

This Group represents the seven West Midlands councils but is also linked by a coordinating board to Food Liaison Groups in Staffordshire and Shropshire, Warwickshire and Worcestershire. It aims to provide consistency of enforcement, acts as a facilitator for benchmarking activities and provides ‘standardisation’ exercises to facilitate consistency. It provides comments on consultations on behalf of the region and provides a valuable link between local authorities and the FSA.

#### **CEnTSA Food Standards Liaison Group**

The above Group is made up of food standards lead officers plus the regional Public Analysts. Walsall’s Food Standards Lead officer is Chair of this group and as such is responsible for leading on regional projects including sampling, guidance to business, legislative consultations and sharing best practice.

#### **National Food Standards and Labelling Focus Group**

Walsall’s Food Standards Lead officer also sits on the National Food Standards and Labelling Focus Group which gives guidance to regulators and industry as well as working with FSA, DEFRA and DoH on consultations and codes of practice.

#### **Knowledge Hub**

The Knowledge Hub is the LGA's professional network which helps people in local government connect and share in a secure environment. It is used as a vital tool for sharing intelligence and best practice, both regionally and nationally.

### **Rapid Alert System for Food and Feed (RASFF) and the European Commission**

This system provides EU food and feed authorities with an effective tool to exchange information about measures taken responding to serious risks. This exchange of information helps Member States to act more rapidly and in a coordinated manner in response to a health threat caused by food or feed. However, the EU-UK trade agreement does not provide the UK with access to the RASFF but it does ensure exchange of food safety information which the FSA can then use as part of its incident detection and management system.

### **IDB and FSA Intelligence Databases**

Intelligence on food issues is also collected by Trading Standards departments in the CEnTSA region through the national Intelligence Database - IDB which also inputs into the Food Standards Agency food fraud database. Data from IDB and the FSA database is used to produce a Regional Control Strategy.

### **Walsall Council Safety Advisory Group**

A Representative from Environmental Health, Trading Standards and Licensing attends the Safety Advisory Group to provide advice and direction to event organisers so that events are run safely – food safety is a significant part of the application form and discussions at the meetings.

## **3.9 FOOD SAFETY AND STANDARD PROMOTIONAL WORK**

Most of the focus for Environmental Health since 2019 has been COVID 19 messaging. However from Autumn 2021 normal service will be resumed with focus on core areas of work

### **Social Media Campaigns**

Environmental Health and Trading Standards use Social Media such as Twitter and Facebook to communicate current messages of local, regional or national importance. This can include checking Food Ratings, Food Alerts, safe summer food, BBQ's, picnic safety, Christmas food preparation etc.

## **Presentations**

From time to time and where resources allow staff will carry out presentations to schools, colleges or other forums to promote the work of the service and the profession.

## **Trading Standards Business News.**

CEnTSA publish a quarterly online business newsletter covering a range of regulatory articles. Walsall Environmental Health and Trading Standards are regularly contributors notably for food safety, allergens, food labelling and have also contributed to articles in relation to waste duty of care, licensing of events and pest control.

The articles can be found at <http://tsbn.org.uk/>.

## **Health Switch Award**

The Health Switch Award is implemented using funding from Public Health and has continued to grow and become more successful each year since it began.

The service will again aim to work closely with businesses to ensure that they understand the concepts and principles of basic healthy eating and how they can use this knowledge to positively influence both the food they offer for sale and their business, making changes to their menu. Maintenance of standards and fulfilment of the award criteria will be monitored during routine food hygiene inspections.

Activity in relation to the award scheme was significantly curtailed over the last 18 months due to the restrictions placed on businesses during the pandemic. Moving forward the team is implementing a recovery plan to support businesses. During the restrictions the team took the opportunity to revitalise and review all the resources associated with the award scheme and has developed a comprehensive new resource pack and associated promotional material for future use.

It is envisaged that by achieving the award local publicity may heighten public interest in the businesses as well as encouraging other businesses to enrol onto the scheme leading to a greater roll out.

During 2021/22 the team's priorities are:

- Working with the providers of soft play, sports club and children's after school activities using a bespoke young person's pack in order to encourage greater provision of healthier choices for children and younger persons when they snack or eat out.



- Whilst working jointly with Clean and Green and Public Health, in relation to events and festivals, mobile traders will be prioritised to ensure that healthier alternatives are available wherever possible.
- The development of YOU TUBE clips has continued and additional clips to encourage and support healthier food preparation techniques and choices have been added.
- The premises mentoring scheme for those premises achieving a 3 on the FHRS scheme will continue to be rolled out. This initiative which involves mentoring and supporting businesses to improve their FHRS rating alongside the Health Switch offer is very popular with businesses wishing to improve their offer and appeal to customers.
- The Health Switch team have adopted and actively promote the Refill Scheme which is a campaign run by Severn Trent Water and the City to Sea organisation. The campaign aims to reduce plastic pollution by making it easier to reuse and refill your bottle with free tap water rather than buying a new one. It also supports healthier lifestyle choices by encouraging people to consume more water. The team continue to promote this scheme to all businesses' they work with.
- The team have developed a bespoke resource and scheme to work with organisations that work with older and vulnerable people this includes support and resources for organisations working with these groups, carers and individual's to promote the making healthier choices. This will be piloted during 2021/22.

## 4.0 RESOURCES

### 4.1 FINANCIAL ALLOCATION

The table below shows the cost of Food Safety for 2019/20, 2020/21 and includes an estimate of its cost for 2021/2022.

	2019/20	2020/21	2021/22 Estimate
Staffing Costs	342,660	363,914	346,392
Support Services	0	0	0
Supplies and Services	24,672	26,152	27,721
Transport Costs	3,262	1,274	3,572
Income	-6,742	-4,479	-8,118
<b>Expenditure</b>	<b>363,852</b>	<b>386,861</b>	<b>369,567</b>

## **4.1 STAFFING ALLOCATION**

Environmental Health and Trading Standards staff also undertake a great deal of work in relation to health and safety, animal health and welfare, skin piercing, public funerals, product safety, rogue trading, weights and measures, age restricted sales, counterfeiting etc.

The allocation below relates primarily to the food safety function.

The Team Leader Environmental Health and Team Leader Trading Standards are responsible for delivery of their respective services in line with current corporate, regional and national priorities.

Presently there are 11 Environmental Health posts 10 require a qualification to undertake food safety duties of which 5.6 FTE's work predominantly on Food Safety, 2.5 FTE's work on Health and Safety related matters the remaining 2.9 FTE's work on animal licensing, nuisance, licensing and other regulatory activity.

Trading Standards is delivered in one Borough-wide team of 3.3 FTE Senior TSO's, 3 FTE TSO's, 1 FTE Enforcement Officer and 1 Compliance Officer (0.5 FTE) supervised by a Team Leader. The amount of resource dedicated to Food Standards equates to 2 FTE members of staff.

The amount of resource dedicated to Feed Hygiene equates to 0.10 FTE members of staff. The service also uses a contractor to undertake certain aspects of work coordinated regionally using national funding.

Income received from Public Health for commissioned work allowed three fixed term contract officers to be employed to assist in the provision of the Health Switch programme. The qualifications and competency of food officers is set out in legislation (Regulation (EC) No.882/2004 on Official Controls) and implemented in the Food Law Code of Practice published by the FSA.

The Food Law COP has clarified the requirements for suitably qualified and competent officers and this will be reviewed each year. This could result in additional training costs and time out of the Office attending training courses or similar.

Environmental Health Officers all possess a BSc. or MSc. in Environmental Health and are registered with the Environmental Health Officers Registration Board (EHORB). The Food Safety Officer has a Higher Certificate in Food Premises Inspection from the EHORB. Trading Standards Staff working in food and feed law enforcement possess the relevant qualifications required by the Food/Feed Law Code of Practice.

For both services the level of staffing described above allows for compliance with a basic statutory service or relevant and agreed national or regional priorities. Where work is required beyond that basic service the service will either not be able to fulfil that additional requirement or have to stop other statutory functions in order to carry out the work. In the event of a major emergency all staff will be directed to work to control the emergency and basic work will cease for an agreed period - recovery from this will inevitably take time.

#### **4.3 STAFF DEVELOPMENT**

Walsall Council has a regime of Annual Performance Conversations where action plans including training requirements are drawn up for each staff member. These reviews will take account of the food law code of practice requirements as set out above. This may pose an additional cost to the service to ensure all staff are fully qualified and competent.

External and internal training provision will then be identified in accordance with staff and service requirements. To maximise budgetary provision wherever possible support is given to courses provided by CEnTSA or other Local Authorities who have proven to be cost effective training suppliers. The FSA has recently withdrawn much of its free training due to their own budget constraints and so alternative providers will need to be sought. Officers are also able to identify forthcoming training via the CEnTSA annual training plan. In house development in the form of workshops and cascade training is also utilised where appropriate.

#### **Officer Training Programme**

- Legalities and Technicalities of Food Law Enforcement
- Traceability e learning
- Licensing & Street Trading Training Workshop
- Outbreak Investigation and Management
- Vacuum Packing e learning
- Nutritional Health Claims
- Food Allergens
- Labelling and Compositional Standards

#### **5.1 QUALITY ASSESSMENT AND INTERNAL MONITORING**

The Team Leader makes periodic accompanied visits with Environmental Health Staff this includes the checking of formal notices and paperwork.

Officers will participate in national and regional standardisation exercises, benchmarking and peer reviews as and when they are organised.

It will be the Management Team's responsibility to react swiftly to performance monitoring reports. This will include reflection on inspections where non-compliant premises are found to ensure the right level of intervention has taken place.

The Regulatory Services Manager will undertake a regular assessment of the work of the service culminating in the Annual Review which is part of the Food Law Enforcement Service Plan process.

The Councils Internal Audit Team last inspected Environmental Health in 2012 giving an assurance level of Significant.

The FSA last audited Environmental Health in 2010 with a revisit in 2011 on the subject of Local Authority Assessment of Hazard Analysis and Critical Control Points (HACCP) Compliance in Food Business Establishments.

Each May the Service provides data to the FSA through the LAEMS return. This data is scrutinised by the Agency and published on their web site. For the pandemic period 2020/21 no LAEMS returns were required however basic information was provided to the FSA for a more superficial review of activity.

In October 2019, the Food Standards Agency contacted Walsall Council asking for reassurance in relation to the outstanding inspections from the 2018/19 service plan and LAEMS return. A full response was made and was positively received by the Agency who also asked for examples of work undertaken at Walsall as case studies that may be useful for other authorities with similar burdens.

## 6.0 WORKPLAN AND REVIEW

Action	Target		Action lead
Implement the Food Law Enforcement Service Plan	Target 21/22	<ul style="list-style-type: none"> <li>Plan to be submitted to Cabinet &amp; Council for approval</li> <li>Quarterly monitoring of the Plan shared with Management team and staff.</li> </ul>	David Elrington/ Stuart Powell/ Paul Rooney
	Review		
Identify and carry out appropriate interventions at high risk premises in relation to food standards	Target 21/22	<ul style="list-style-type: none"> <li>Premises requiring intervention to be agreed.</li> <li>100% of identified high risk premises to receive an appropriate intervention</li> </ul>	David Elrington/ Stuart Powell
	Review		
Comply with the requirements of the FSA Recovery Plan	Target 21/22	<ul style="list-style-type: none"> <li>Premises requiring inspection to be identified.</li> <li>100% of premises identified to receive a visit</li> </ul>	David Elrington/ Paul Rooney
	Review		
Maintain the Food Hygiene Rating System	Target 21/22	<ul style="list-style-type: none"> <li>Fortnightly uploads to the national database</li> <li>Results reported back to Inspecting officers</li> <li>All appeals dealt with in compliance with the brand standard.</li> </ul>	David Elrington/ Paul Rooney
	Review		

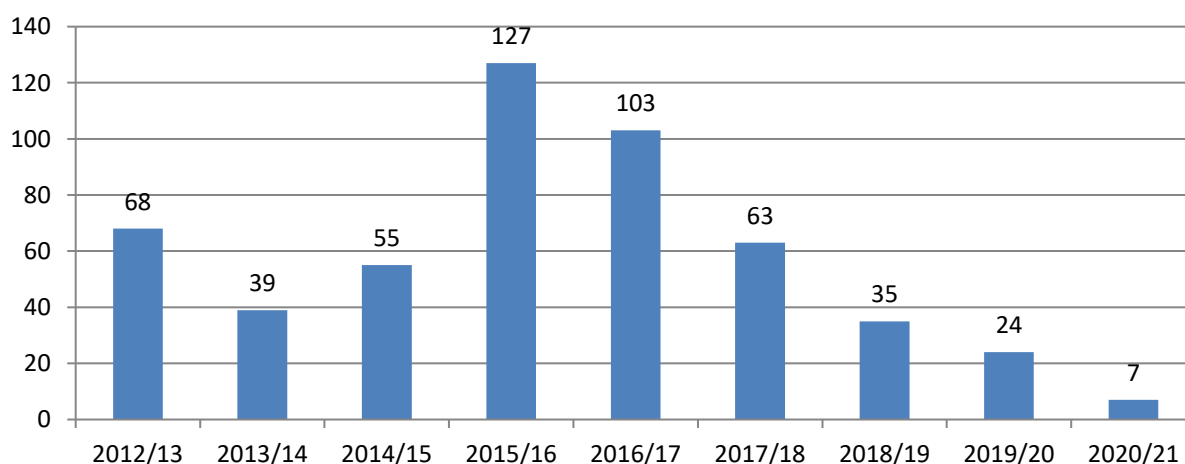
Carry out a reactive microbiological food sampling programme focusing on high risk premises and manufacturers	Target 21/22	<ul style="list-style-type: none"> <li>100% of premises where failures or issues identified receive a follow up intervention.</li> </ul>	David Elrington/ Paul Rooney
	Review		
Implement the CEnTSA regional food standards sampling programme	Target 21/22	Premises requiring sampling to be agreed. 100% of premises receive a sampling visit 100% of premises where failures or issues identified receive a follow up intervention	David Elrington/ Stuart Powell
	Review		
Implement a local food standards sampling programme	Target 21/22	Premises requiring sampling to be agreed. 100% of premises receive a sampling visit 100% of premises where failures or issues identified receive a follow up intervention	David Elrington/ Stuart Powell
	Review		
Implement the FSA Feed delivery programme	Target 21/22	Premises requiring inspection to be agreed. 100% of premises receive an inspection 100% of premises where failures or issues identified receive a follow up intervention	David Elrington/ Stuart Powell
	Review		
	Target 21/22	100% response within PHE recommended timescales	David Elrington/

Respond to all disease notifications using timescales developed by PHE	Review		Paul Rooney
Respond to requests for advice and visits to new premises within 21 days.	Target 21/22	Number of responses Re-establish web authors and a quarterly check of business advice on walsall.gov.uk Regular Tweets of relevant business advice.	David Elrington/ Stuart Powell/ Paul Rooney
	Review		
First Response to complaints about trading practices within service standards.	Target 21/22	100% response within standard timescales and completion of investigations within relevant timescales.	David Elrington/ Paul Rooney
	Review		
Continue the Health Switch project.	Target 21/22	Identify and work with businesses. Promote attainment of awards through the media.	David Elrington/ Paul Rooney
	Review		
Review training opportunities and number of CPD hours per Officer quarterly.	Target 21/22	Number of hours per officer and competency submissions submitted, reviewed and action determined.	David Elrington/ Stuart Powell/ Paul Rooney
	Review		

## Prosecutions and Enforcement Actions 1/4/2019 – 14/10/2021

Date	Premises	Offences	Penalty
<b>Prosecutions</b>			
10 <sup>th</sup> March 2021	The Drink Shop	Infestation and unhygienic conditions	£6400 fine, £181 victim surcharge and £2149 costs. (Total = £8,730
27 <sup>th</sup> February 2020	New Kebab Ranch	Infestation and unhygienic conditions	£480.00 fine, £480 victim surcharge and £1,021.81 costs. (Total = £1,549.81)
<b>Simple Cautions</b>			
5 <sup>th</sup> February 2020	Uppal Discount	Infestation	
<b>Closures</b>			
16 <sup>th</sup> August 2021	Dixy Chicken	Infestation	
14 <sup>th</sup> November 2019	Uppal Discount	Infestation	
29 <sup>th</sup> October 2019	The Drink Shop	Infestation	
20 <sup>th</sup> May 2019	New Kebab Ranch	Infestation	

**Number of Prosecutions or Formal Legal Actions**





## Prosecutions and Enforcement Actions 1/4/2019 – 14/10/2021 (Trading Standards)

Date	Premises	Offences	Penalty
<b>Prosecutions</b>			
16 <sup>h</sup> January 2020	Hot Chilli	Allergens	£1332.00 fine, £133 victim surcharge and £1,500 costs. (Total = £2965)
12 <sup>h</sup> December 2019	Warszawa	Unsafe food past it's use-by date	£1460 fine, £73 victim surcharge and £700 costs. (Total = £2233)
<b>Simple Cautions</b>			
20 <sup>th</sup> May 2019	One Stop /Darlaston Post Office	Unsafe food past it's use-by date	
19 March 2020	M&T Supermarket	Unsafe food past it's use-by date	

### 6.1 REVIEW AGAINST THE SERVICE PLAN

The delivery Food Safety service has been restricted since March 2020 by the Covid-19 pandemic. In order to provide a regulatory response to the pandemic it was necessary to create a Covid team which included Officers deployed from the food team. Officers who remained in the food team were restricted in the range of duties they performed as large parts of the economy were closed and because of the constraints of Covid-19 control measures. Consequently, the normal statutory food hygiene inspection programme was not implemented.

The Food Safety service delivered controls and activities prioritised by the FSA aimed at providing immediate/short responses to the pandemic including ongoing proactive surveillance through remote assessments to identify the status of businesses and changes in operation, activities or FBO. Appropriate interventions including visits were undertaken when public health concerns were identified. Additionally, urgent reactive work including the investigation food incidents/complaints and foodborne disease outbreaks and the proactive checking food businesses with Food Hygiene Ratings of 0, 1 or 2 were undertaken.

The pandemic had an unprecedented impact on the nature and quantity of outputs reported by Environmental Health for 2020/21 which included the following:

- 120 remote assessments of food businesses with food hygiene ratings of 0, 1 or 2.
- 10 assessments of overdue Category A and B food businesses.
- 21 programmed inspections of food businesses
- 83 initial inspections of unrated food businesses.
- 89 planning applications
- 5 Health and Safety Prohibition Notices for Health and Safety at food premises mainly relating to dangerous equipment
- 1 Health and Safety Improvement Notice at a food premises
- 388 new registrations of food businesses

Following the easing of restrictions the FSA introduced its national recovery plan in July 2021 setting out timelines for official controls local authorities must deliver in order to re-set their food hygiene intervention programmes. Consequently, the designated Covid-19 team was discontinued (subject to review) and the full Environmental Health team re-established. The response to the Recovery Plan included the appointment of a FSA funded Administration Officer to triage and prioritise unrated food businesses for inspection for a two month period during August and September 2021, the recommencement of the prioritised inspection of Category A and B and unrated food businesses as required by the Recovery Plan.

## **6.2 IDENTIFICATION OF ANY VARIATION FROM SERVICE PLAN**

2020/21 has been a challenging year and the Covid-19 pandemic severely restricted the implementation of the Service Plan in respect of food hygiene interventions. The adverse impact is reflected by there currently being 326 unrated businesses and 500 category B and C inspections that would have been due in a pre-Covid 19 risk based inspection regime. By the introduction of its Recovery Plan the FSA has recognised that this is a national issue and has set out its minimum expectations for local authorities to re-set their food hygiene intervention programmes. Therefore, the Recovery Plan will form the basis of the Walsall 2021/22 Food Law Service Plan.

In order to address the variation from the 2020/21 Service Plan and to implement the Recovery Plan Environmental Health has contacted unrated food businesses and completed **????I telephone questionnaires** which have been used to prioritise their inspection. Additionally, Environmental Health has aligned its intervention with Phases 1 and 2 of the Recovery Plan which is effective from 1<sup>st</sup> August 2021 until 31<sup>st</sup> March 2023

Cooperative working between Trading Standards, Environmental Health and Licensing will continue to stop the creation of duplicate premises and other anomalies

Improvements to the services ICT system including linking to the corporate address gazetteer should also assist with reducing duplicate or inaccurately recorded premises.

The number of compliant businesses using the FHRS system is 91% this is lower than regional (94.1%) or national average (95.4%). We believe our figures are accurate and have been arrived at fairly. They have continued to improve each year since the start of the FHRS system. Walsall does have a higher number of total rated premises (84%) than is the regional (78.5%) or national (81%) average which is positive but may also affect our compliance figures.

For 2021/22 the following strains on the service have been identified:

- The necessity for the authority to undertake Covid-19 regulatory enforcement resulted in some Officers from Environmental Health being taken away from food safety duties and temporarily deployed in a Covid-19 team.
- Following the retirements of an EHO and a Food Safety Officer during 2021/22 it is not possible to recruit for their full time posts before the process of restructuring in Regulatory Services completed. In the interim it is hoped to mitigate their loss by the recruitment of an agency member of staff.
- Fewer inspections undertaken during the pandemic is expected to result in a deterioration of hygiene standards in some businesses and is cause for concern. This could require increased formal enforcement action including closures (HEPN) and prosecutions. Although formal enforcement action is a key component of the Food Law Service Plan it has a major impact on programmed inspection work. It is estimated that closures and prosecution equate to 30 or more programmed inspections. However, it is considered that they are equally, if not more, significant than programmed work since they identify and tackle the most serious premises or products.
- The 'churn' of Food Businesses is an issue within Walsall where more than 10% of businesses change hands in any given year – some businesses change hands 2-3 times per year. Whilst this can lead to improvements in the operation of a business (if investment is made) it can also lead to inconsistent approaches, poor compliance levels and a decline in standards which the officers must repeatedly deal with.
- The development and introduction of protocols to deal with allergens will be an ongoing issue during 2021/22 because their implementation will increase the time to complete inspections undertaken in accordance with the Recovery Plan. Additionally, the introduction in October 2021 of a law on allergen labelling for pre-packed foods

for direct sale has increased regulatory controls that have to be verified during inspections.

- The authority has been engaged in a transformation programme aimed at making it more able to respond to future and ongoing challenges. However, the implementation of the programme has yet to benefit the food service and make a positive impact on service delivery.

Actions to mitigate these strains during 2021/22 have been identified as follows:

- The introduction of the FSA's Recovery Plan in July 2021 mitigates some the adverse impacts of Covid-19 through the suspension of the implementation of the normal statutory risk based programme required by the Food Law Code of Practice and enables local authorities to resume food inspections in accordance with a phased plan.
- The cessation of the designated Covid-19 team in late August 2021 and the consequent return of Officers from this team to Environmental Health has increased the capacity to undertake food hygiene inspections.
- As an interim measure it is planned to mitigate the vacancies arising from the retirements of an EHO and a Food Safety Officer by the recruitment of an agency member of staff to undertake food inspections.
- The shortfall in inspections has been identified on the Services Risk Register in terms of the impact it could have in terms of the view of the Food Standards Agency but also in terms of the impact on traders and the public.
- The shortfall in inspections has been reported to the Health Protection Forum which meets to provide assurance to the Director of Public Health that the health of the public in Walsall is being adequately safeguarded.
- Matters relating to food safety are regularly discussed and updates provided at monthly Portfolio Holder meetings where service and senior managers and the elected member for this area of work meet to discuss issues within the service.

### **6.3 AREAS OF IMPROVEMENT**

In addition to those activities that will mitigate strains on the service the following areas of improvement or activities will be necessary in 2021/22:

- Reducing the administrative burden of food inspections by reviewing and streamlining inspection protocols, developing documentation to expedite the preparation of inspection reports and facilitating a greater use of electronic filing systems.
- Develop, implement and monitor an inspection plan for unrated new food businesses using intelligence gained from the Phase 1 triaging and prioritisation exercises required by the FSA's Recovery Plan.
- Continue to monitor and develop a priority rating/intelligence based system for existing businesses that can be used to target work effectively taking into account statutory responsibilities in relation to the Recovery Plan, Food Law Code of Practice and FHRS Brand Standard
- Ongoing review of training and development needs in order to identify how staff can continue to be compliant with the Food Law Code of Practice Competency Framework. Specifically during 2021/22 focussed training and policy development is needed around allergens
- Continue to review the various registration and licensing processes internally so that businesses are identified and recorded appropriately e.g. Street Trading Permits, Late Night Refreshment and Premises Licences, Food Registrations and that intelligence flows around the Regulatory Services appropriately and effectively.
- Identifying efficient work methods to cope with diminishing resources using resources available as part of the Proud Programme – customer contact, income, IT development, Resilient Communities.
- Continue developing relationships with other services and partners to assist with identification of Modern Day Slavery and human trafficking and other community safety priorities.
- Keeping updated and in a state of readiness for the Commonwealth Games.

## COVID-19 Local Authority Recovery Plan: guidance and advice to local authorities for the period from 1 July 2021 to 2023/24

**Local authorities should also refer to the COVID-19 Local Authority Recovery Q&A.**

### Introduction

1. This Recovery Plan sets out the Food Standards Agency's (FSA) guidance and advice to local authorities for the period from 1 July 2021 to 2023/24. The associated COVID-19 Local Authority Recovery [Q&A](#) supplements the Recovery Plan.
2. The guidance and advice aim to ensure that during the period of recovery from the impact of COVID-19, local authority resources are targeted where they add greatest value in providing safeguards for public health and consumer protection in relation to food. It also aims to safeguard the credibility of the Food Hygiene Rating Scheme (FHRS).
3. The Recovery Plan provides a framework for re-starting the delivery system in line with the Food Law Codes of Practice (for England, Wales and Northern Ireland) for new food establishments and for high-risk and/or non-compliant establishments while providing flexibility for lower risk establishments. This should be implemented alongside delivery of:
  - official controls where the nature and frequency are prescribed in specific legislation and official controls recommended by FSA guidance that support trade and enable export
  - reactive work including enforcement in the case of non-compliance, managing food incidents and food hazards, and investigating and managing complaints
  - sampling, and
  - ongoing proactive surveillance.

### Important notes

4. All local authorities are expected to have regard to the guidance and advice in this Recovery Plan. This will apply from 1 July 2021 at which time it will supersede the guidance and advice provided in response to the COVID-19 pandemic that applies to 30 June 2021.
5. We recognise and acknowledge that local authorities will be starting from different positions in terms of the impact that COVID-19 has had to date, the challenges they will face during the recovery period and the resources that they have available.

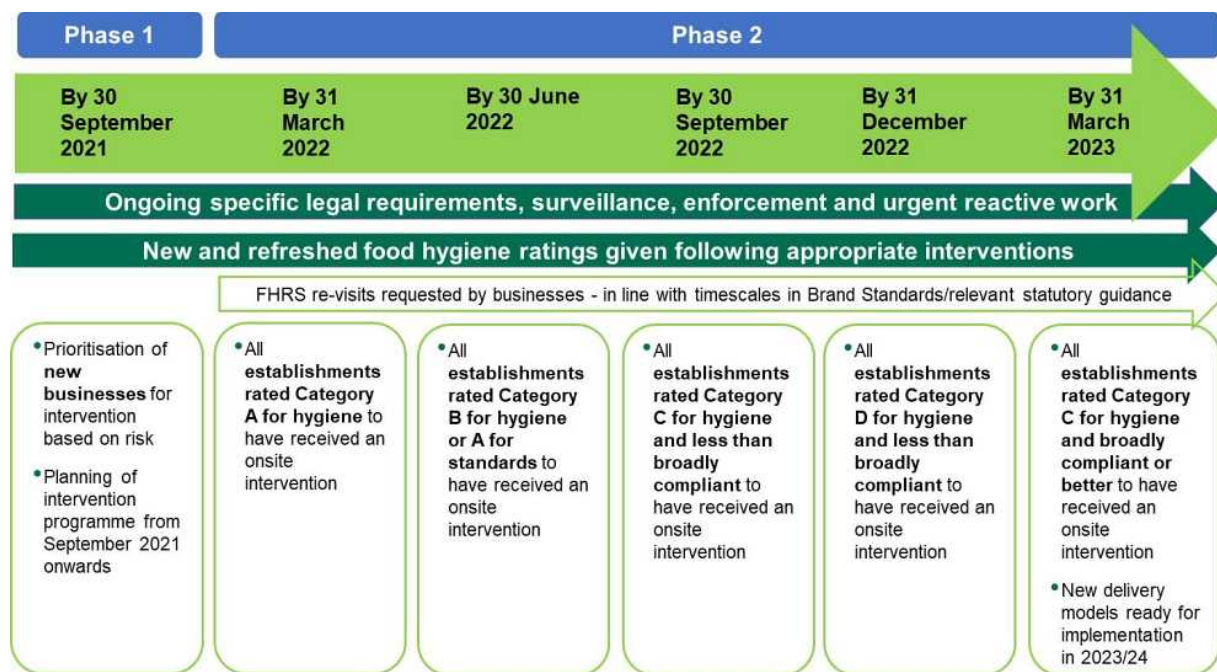
6. Local authorities should, where they can, move at a faster pace in realigning with the intervention frequencies and other provisions set out in the Food Law Codes of Practice.
7. Where local authorities are unable to deliver in line with the recovery plan, they should alert us by emailing us so that we can explore together what support we might provide. Please contact us in:
  - England at [LAengagement@food.gov.uk](mailto:LAengagement@food.gov.uk)
  - Wales at [lasupportwales@food.gov.uk](mailto:lasupportwales@food.gov.uk)
  - Northern Ireland at [executive.support@food.gov.uk](mailto:executive.support@food.gov.uk)
8. We will be keeping our guidance and advice under close review and will amend and update it as necessary in response to changes in the COVID-19 situation.

## Recovery Plan timeline

9. There are two phases to the Recovery Plan:
  - Phase 1 - 1 July to 30 September 2021
  - Phase 2 – 1 October 2021 to 2023/24.
10. In essence, Phase 2 will continue until a new food standards delivery model and a revised food hygiene intervention rating scheme are in place. The new delivery model for food standards is being piloted in England and Northern Ireland until the end of December 2021. Subject to the findings of an evaluation of the pilot and stakeholder consultation, it is anticipated that the new model will be rolled out nationally from April 2023. Work to review and revise the food hygiene intervention rating scheme is planned to commence shortly with a view to implementation in 2023/24.
11. An outline of the recovery plan is provided at Figure 1.



**Figure 1: Outline of the Recovery Plan**



#### Notes

The key milestone dates within the Recovery Plan for higher risk establishments are shown.

For lower risk establishments not shown in the figure, local authorities have the flexibility to defer planned interventions and only undertake intervention where information/intelligence suggests that risks have increased/standards have fallen or if the establishment is otherwise considered a priority for intervention due to the risk posed.

In the case of food standards, the impact on the business of the new requirements on allergen labelling for products prepacked for direct sale - that apply from 1 October 2021 - should also be taken into account.

## Principles common to Phase 1 and Phase 2

### 12. Some important principles underpin both Phase 1 and Phase 2:

- when intelligence suggests risks have increased (irrespective of the risk category) local authorities should undertake interventions to assess and address those risks
- when an onsite intervention is undertaken, local authorities should programme subsequent interventions in line with the Codes of Practice
- local authorities should give new food hygiene ratings where appropriate interventions are undertaken and the establishment falls within scope of the FHRs
- where non-compliance is found at any intervention, local authorities should take appropriate action to secure compliance including formal enforcement action where necessary
- remote assessment may be used in certain circumstances – this includes to facilitate the targeting of what to focus attention on at a subsequent onsite visit, to help inform the need for onsite intervention at lower risk premises where an intelligence/information based approach is being used and, in England, in certain limited cases for FHRs requested re-visits.



## Phase 1 (1 July to 30 September 2021)

13. In Phase 1, local authorities are expected to deliver the following:

- official controls where the nature and frequency are prescribed in specific legislation and official controls recommended by FSA guidance that are undertaken to support trade and enable export
- reactive work including enforcement in the case of non-compliance, managing food incidents and food hazards, and investigating and managing complaints
- sampling in accordance with the local authority sampling programme or as required in the context of assessing food business compliance, and any follow-up necessary in relation to the FSA Surveillance Sampling Programme
- ongoing proactive surveillance to obtain an accurate picture of the local business landscape and to: identify open/closed/recently re-opened/new businesses; as well as businesses where there has been a change of operation, activities, or Food Business Operator (FBO)
- for 'new businesses', consideration of registration information and intelligence with appropriate onsite interventions carried out where there are concerns around public health/consumer protection
- for 'new businesses' where consideration of registration information and intelligence indicates low risk, initial visits should be prioritised and undertaken in accordance with the Codes of Practice and Practice Guidance taking account of the flexibilities provided
- planning for resumption of planned intervention programmes for high-risk category and non-compliant establishments in Phase 2.

## Phase 2 (1 October 2021 to 2023/24)

14. In Phase 2, local authorities are expected to deliver the following:

- official controls where the nature and frequency are prescribed in specific legislation and official controls recommended by FSA guidance that are undertaken to support trade and enable export
- reactive work including, enforcement in the case of non-compliance, managing food incidents and food hazards, and investigating and managing complaints
- sampling in accordance with the local authority sampling programme or as required in the context of assessing food business compliance, and any follow-up necessary in relation to the FSA Surveillance Sampling Programme
- ongoing proactive surveillance to obtain an accurate picture of the local business landscape and to: identify open/closed/recently re-opened/new businesses; as well as businesses where there has been a change of operation, activities or FBO
- for 'new businesses', consideration of registration information and intelligence with appropriate onsite interventions carried out where there are concerns around public health/consumer protection

- for 'new businesses' where consideration of registration information and intelligence indicates lower risk, initial visits should be prioritised and undertaken in accordance with the Codes of Practice and Practice Guidance taking account of the flexibilities provided
- implementing planned intervention programmes for high-risk category and non-compliant establishments in accordance with the timeline in Table 2
- implementing an intelligence/information based approach for lower risk category establishments
- responding to FHRS requested re-visits in line with the timelines specified in the FHRS Brand Standard for England or the statutory guidance in Wales and Northern Ireland.

**Table 1 - Sector specific official controls and official controls that must be undertaken to support trade and enable export**

Activity	Requirements
Import controls at points of entry	Official controls in accordance with relevant legislation taking account of agreed temporary contingency measures to be taken at Border Control Posts (BCPs) during Covid-19.
Shellfish	Shellfish and water sampling from harvesting areas.
Granting of approval under Regulation (EC) No. 853/2004	Granting of approvals in accordance with the relevant legislation and the Food Law Code of Practice. 'Distance communication' can be used in exceptional circumstances prior to physical visits to minimise time onsite.
Fishing vessels	Registration and inspection of fishing vessels remains extremely important to enable export certification requirements for fish to be fulfilled.

**Table 2 – Detailed timeline for Phase 2 of the recovery plan (1 October 2021 to 2023/24)**

Activity/Category	Timeline	Expectation
Food/feed import controls at points of entry	Ongoing	In accordance with relevant legislative requirements
Official control monitoring relating to shellfish harvesting areas	Ongoing	In accordance with relevant legislative requirements
Conditional and full approval visits	Ongoing	In accordance with relevant legislative requirements
Inspection of fishing vessels	Ongoing	In accordance with separately issued FSA advice

Activity/Category	Timeline	Expectation
Proactive surveillance to obtain an accurate picture of the local business landscape and to identify: <ul style="list-style-type: none"> <li>- open/closed/recently re-opened/new businesses</li> <li>- change of operation, activities or FBO</li> </ul>	Ongoing	Consideration of registration information and intelligence on the food business establishment identified through surveillance Undertake appropriate onsite interventions where there are concerns around public health/consumer protection
New food business establishments where consideration of registration information/intelligence indicates low risk	Ongoing	Initial visits should be prioritised and undertaken in accordance with the Food Law Codes of Practice
Management of food incidents and hazards (including outbreaks of foodborne illness)	Ongoing	In accordance with the Food Law Codes of Practice
Investigation and management of complaints	Ongoing	In accordance with the Food Law Codes of Practice
Enforcement action in case of non-compliance	Ongoing	In accordance with the Food Law Codes of Practice and the local authority's enforcement policy
FHRS requested re-visits	Ongoing	Wales and Northern Ireland - in accordance with the legislative requirements England – within three months of request if a charge is made and within six months if no charge but with use of remote assessment in place of onsite visit in limited circumstances on a trial basis
Sampling	Ongoing	In line with local authority sampling programme or as required in the context of assessing food business compliance, and any follow up necessary in relation to the FSA Surveillance Sampling Programme
Category A for hygiene	Over the period to 31 March 2022	All establishments should have received an onsite intervention and thereafter be back in the system for interventions in accordance with the Food Law Codes of Practice.

Activity/Category	Timeline	Expectation
Category B for hygiene	Over the period to 30 June 2022	All establishments should have received an onsite intervention and thereafter be back in the system for interventions in accordance with the Food Law Codes of Practice
Category A for standards	Over the period to 30 June 2022	All establishments should have received an onsite intervention and thereafter be back in the system for interventions in accordance with the Food Law Codes of Practice
Category C for hygiene – less than broadly compliant (FHRS 0, 1 or 2)	Over the period to 30 September 2022	All establishments should have received an onsite intervention and thereafter be back in the system for interventions in accordance with the Food Law Codes of Practice
Category D for hygiene – less than broadly compliant (FHRS 0, 1 or 2)	Over the period to 31 December 2022	All establishments should have received an onsite intervention and thereafter be back in the system for interventions in accordance with the Food Law Codes of Practice
Category C for hygiene – broadly complaint or better (FHRS 3, 4 or 5)	Over the period to 31 March 2023	<p>For establishments with two consecutive food hygiene ratings of 5 (or equivalent standards if outside the scope of FHRS) one intervention may be missed and then the establishment put back in the system for interventions in accordance with the Codes of Practice (so the due intervention date would be moved forward by 18 months)</p> <p>For other establishments – those with hygiene ratings of 3 or 4 (or equivalent if outside the scope of FHRS) - should have received an onsite intervention and thereafter be back in the system for interventions in accordance with the Codes of Practice</p>
Category D for hygiene – broadly complaint or better (FHRS 3, 4 or 5)	Ongoing	No interventions will be required during the recovery period unless intelligence/information suggests that risks have increased/standards have fallen or if the establishment is otherwise considered a priority for intervention due to the risk posed

Activity/Category	Timeline	Expectation
Category E for hygiene	Ongoing	No interventions will be required during the recovery period unless intelligence/information suggests that risks have increased/standards have fallen or if the establishment is otherwise considered a priority for intervention due to the risk posed
Category B for standards	Ongoing	No interventions will be required during the recovery period unless intelligence/information suggests that risks have increased or if the establishment is otherwise considered a priority for intervention due to the risk posed or because of the impact on the establishment of the new requirements on allergen labelling for products prepacked for direct sale
Category C for standards	Ongoing	No interventions will be required during the recovery period unless intelligence/information suggests that risks have increased or if the establishment is otherwise considered a priority for intervention due to the risk posed or because of the impact on the establishment of the new requirements on allergen labelling for products prepacked for direct sale

## COVID-19 Local Authority Recovery Plan: guidance and advice to local authorities for the period from 1 July 2021 to 2023/24

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### Important notes

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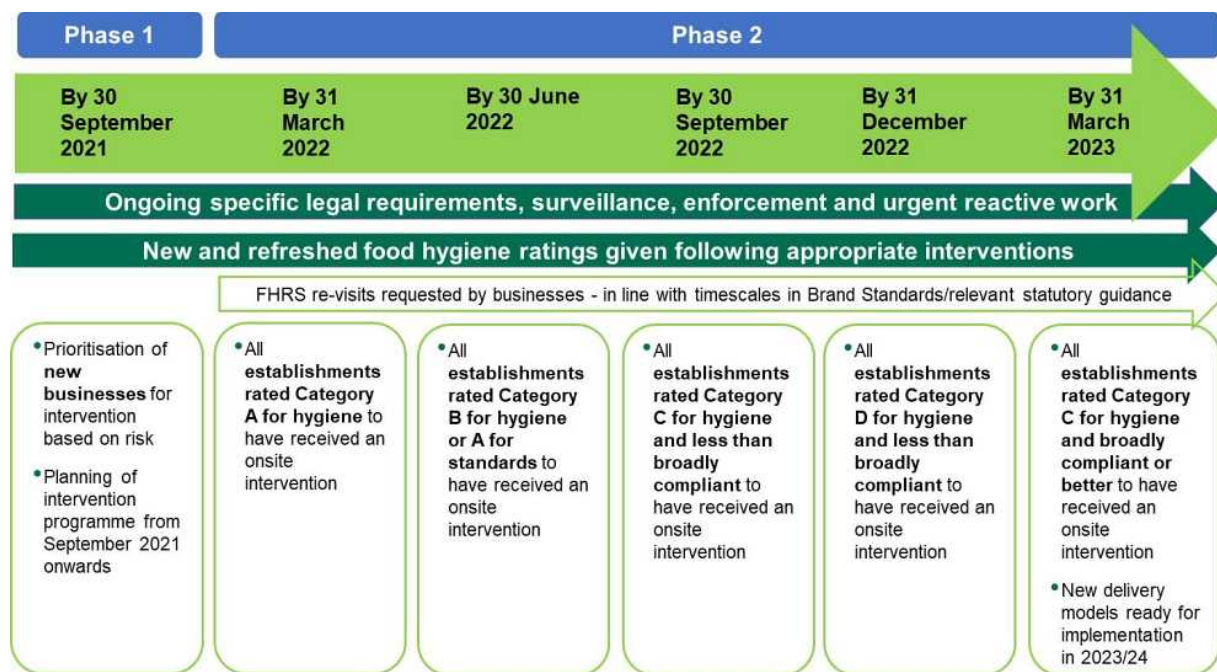
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## Recovery Plan timeline

9. There are two phases to the Recovery Plan:
  - Phase 1 - 1 July to 30 September 2021
  - Phase 2 – 1 October 2021 to 2023/24.
10. In essence, Phase 2 will continue until a new food standards delivery model and a revised food hygiene intervention rating scheme are in place. The new delivery model for food standards is being piloted in England and Northern Ireland until the end of December 2021. Subject to the findings of an evaluation of the pilot and stakeholder consultation, it is anticipated that the new model will be rolled out nationally from April 2023. Work to review and revise the food hygiene intervention rating scheme is planned to commence shortly with a view to implementation in 2023/24.
11. An outline of the recovery plan is provided at Figure 1.



**Figure 1: Outline of the Recovery Plan**



#### Notes

The key milestone dates within the Recovery Plan for higher risk establishments are shown.

For lower risk establishments not shown in the figure, local authorities have the flexibility to defer planned interventions and only undertake intervention where information/intelligence suggests that risks have increased/standards have fallen or if the establishment is otherwise considered a priority for intervention due to the risk posed.

In the case of food standards, the impact on the business of the new requirements on allergen labelling for products prepacked for direct sale - that apply from 1 October 2021 - should also be taken into account.

## Principles common to Phase 1 and Phase 2

### 12. Some important principles underpin both Phase 1 and Phase 2:

- when intelligence suggests risks have increased (irrespective of the risk category) local authorities should undertake interventions to assess and address those risks
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- local authorities should give new food hygiene ratings where appropriate interventions are undertaken and the establishment falls within scope of the FHRs
- where non-compliance is found at any intervention, local authorities should take appropriate action to secure compliance including formal enforcement action where necessary
- remote assessment may be used in certain circumstances – this includes to facilitate the targeting of what to focus attention on at a subsequent onsite visit, to help inform the need for onsite intervention at lower risk premises where an intelligence/information based approach is being used and, in England, in certain limited cases for FHRs requested re-visits.



## Phase 1 (1 July to 30 September 2021)

13. In Phase 1, local authorities are expected to deliver the following:

- official controls where the nature and frequency are prescribed in specific legislation and official controls recommended by FSA guidance that are undertaken to support trade and enable export
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- sampling in accordance with the local authority sampling programme or as required in the context of assessing food business compliance, and any follow-up necessary in relation to the FSA Surveillance Sampling Programme
- ongoing proactive surveillance to obtain an accurate picture of the local business landscape and to: identify open/closed/recently re-opened/new businesses; as well as businesses where there has been a change of operation, activities, or Food Business Operator (FBO)
- for 'new businesses', consideration of registration information and intelligence with appropriate onsite interventions carried out where there are concerns around public health/consumer protection
- for 'new businesses' where consideration of registration information and intelligence indicates low risk, initial visits should be prioritised and undertaken in accordance with the Codes of Practice and Practice Guidance taking account of the flexibilities provided
- planning for resumption of planned intervention programmes for high-risk category and non-compliant establishments in Phase 2.

## Phase 2 (1 October 2021 to 2023/24)

14. In Phase 2, local authorities are expected to deliver the following:

- official controls where the nature and frequency are prescribed in specific legislation and official controls recommended by FSA guidance that are undertaken to support trade and enable export
- reactive work including, enforcement in the case of non-compliance, managing food incidents and food hazards, and investigating and managing complaints
- sampling in accordance with the local authority sampling programme or as required in the context of assessing food business compliance, and any follow-up necessary in relation to the FSA Surveillance Sampling Programme
- ongoing proactive surveillance to obtain an accurate picture of the local business landscape and to: identify open/closed/recently re-opened/new businesses; as well as businesses where there has been a change of operation, activities or FBO
- for 'new businesses', consideration of registration information and intelligence with appropriate onsite interventions carried out where there are concerns around public health/consumer protection

- for 'new businesses' where consideration of registration information and intelligence indicates lower risk, initial visits should be prioritised and undertaken in accordance with the Codes of Practice and Practice Guidance taking account of the flexibilities provided
- implementing planned intervention programmes for high-risk category and non-compliant establishments in accordance with the timeline in Table 2
- implementing an intelligence/information based approach for lower risk category establishments
- responding to FHRS requested re-visits in line with the timelines specified in the FHRS Brand Standard for England or the statutory guidance in Wales and Northern Ireland.

**Table 1 - Sector specific official controls and official controls that must be undertaken to support trade and enable export**

Activity	Requirements
Import controls at points of entry	Official controls in accordance with relevant legislation taking account of agreed temporary contingency measures to be taken at Border Control Posts (BCPs) during Covid-19.
Shellfish	Shellfish and water sampling from harvesting areas.
Granting of approval under Regulation (EC) No. 853/2004	Granting of approvals in accordance with the relevant legislation and the Food Law Code of Practice. 'Distance communication' can be used in exceptional circumstances prior to physical visits to minimise time onsite.
Fishing vessels	Registration and inspection of fishing vessels remains extremely important to enable export certification requirements for fish to be fulfilled.

**Table 2 – Detailed timeline for Phase 2 of the recovery plan (1 October 2021 to 2023/24)**

Activity/Category	Timeline	Expectation
Food/feed import controls at points of entry	Ongoing	In accordance with relevant legislative requirements
Official control monitoring relating to shellfish harvesting areas	Ongoing	In accordance with relevant legislative requirements
Conditional and full approval visits	Ongoing	In accordance with relevant legislative requirements
Inspection of fishing vessels	Ongoing	In accordance with separately issued FSA advice

Activity/Category	Timeline	Expectation
Proactive surveillance to obtain an accurate picture of the local business landscape and to identify: <ul style="list-style-type: none"> <li>- open/closed/recently re-opened/new businesses</li> <li>- change of operation, activities or FBO</li> </ul>	Ongoing	Consideration of registration information and intelligence on the food business establishment identified through surveillance Undertake appropriate onsite interventions where there are concerns around public health/consumer protection
New food business establishments where consideration of registration information/intelligence indicates low risk	Ongoing	Initial visits should be prioritised and undertaken in accordance with the Food Law Codes of Practice
Management of food incidents and hazards (including outbreaks of foodborne illness)	Ongoing	In accordance with the Food Law Codes of Practice
Investigation and management of complaints	Ongoing	In accordance with the Food Law Codes of Practice
Enforcement action in case of non-compliance	Ongoing	In accordance with the Food Law Codes of Practice and the local authority's enforcement policy
FHRS requested re-visits	Ongoing	Wales and Northern Ireland - in accordance with the legislative requirements England – within three months of request if a charge is made and within six months if no charge but with use of remote assessment in place of onsite visit in limited circumstances on a trial basis
Sampling	Ongoing	In line with local authority sampling programme or as required in the context of assessing food business compliance, and any follow up necessary in relation to the FSA Surveillance Sampling Programme
Category A for hygiene	Over the period to 31 March 2022	All establishments should have received an onsite intervention and thereafter be back in the system for interventions in accordance with the Food Law Codes of Practice.

Activity/Category	Timeline	Expectation
Category B for hygiene	Over the period to 30 June 2022	All establishments should have received an onsite intervention and thereafter be back in the system for interventions in accordance with the Food Law Codes of Practice
Category A for standards	Over the period to 30 June 2022	All establishments should have received an onsite intervention and thereafter be back in the system for interventions in accordance with the Food Law Codes of Practice
Category C for hygiene – less than broadly compliant (FHRS 0, 1 or 2)	Over the period to 30 September 2022	All establishments should have received an onsite intervention and thereafter be back in the system for interventions in accordance with the Food Law Codes of Practice
Category D for hygiene – less than broadly compliant (FHRS 0, 1 or 2)	Over the period to 31 December 2022	All establishments should have received an onsite intervention and thereafter be back in the system for interventions in accordance with the Food Law Codes of Practice
Category C for hygiene – broadly compliant or better (FHRS 3, 4 or 5)	Over the period to 31 March 2023	<p>For establishments with two consecutive food hygiene ratings of 5 (or equivalent standards if outside the scope of FHRS) one intervention may be missed and then the establishment put back in the system for interventions in accordance with the Codes of Practice (so the due intervention date would be moved forward by 18 months)</p> <p>For other establishments – those with hygiene ratings of 3 or 4 (or equivalent if outside the scope of FHRS) - should have received an onsite intervention and thereafter be back in the system for interventions in accordance with the Codes of Practice</p>
Category D for hygiene – broadly compliant or better (FHRS 3, 4 or 5)	Ongoing	No interventions will be required during the recovery period unless intelligence/information suggests that risks have increased/standards have fallen or if the establishment is otherwise considered a priority for intervention due to the risk posed

Activity/Category	Timeline	Expectation
Category E for hygiene	Ongoing	No interventions will be required during the recovery period unless intelligence/information suggests that risks have increased/standards have fallen or if the establishment is otherwise considered a priority for intervention due to the risk posed
Category B for standards	Ongoing	No interventions will be required during the recovery period unless intelligence/information suggests that risks have increased or if the establishment is otherwise considered a priority for intervention due to the risk posed or because of the impact on the establishment of the new requirements on allergen labelling for products prepacked for direct sale
Category C for standards	Ongoing	No interventions will be required during the recovery period unless intelligence/information suggests that risks have increased or if the establishment is otherwise considered a priority for intervention due to the risk posed or because of the impact on the establishment of the new requirements on allergen labelling for products prepacked for direct sale

To Chief Executives of local authorities in England

21 June 2021

Dear Chief Executive,

**COVID-19 - recovery plan for local authority delivery of food law controls**

At its meeting on 26 May the Food Standards Agency (FSA) Board paid tribute to the hard work and sustained commitment of local authority officers to protecting public health at the local level during the coronavirus pandemic. I wanted to let you know that, and to add my own thanks for the efforts of your teams since March last year in safeguarding your communities and controlling the spread of the disease. This letter draws your attention to the FSA's most recent guidance and advice to local authorities on food controls which is in the form of a recovery plan.

During the time of immense pressure on your resources the FSA has been agile in revising our guidance and advice to local authorities on delivery of food controls so that you could address the wider and unprecedented challenges being faced. Now that we are well along the roadmap back to a more normal life, it is important that the focus is progressively shifted back to delivery of food law regulatory controls. These controls ensure business compliance with food law requirements and are key to safeguarding public health and consumer protection in relation to food.

I would, therefore, like to draw your attention to the recovery plan that the FSA has developed for achieving this. The plan sets out guidance and advice to local authorities for recovery over the period from 1 July 2021 to 2023/24. The FSA wrote to food teams in all local authorities in England about this on 16 June and copies of that letter and the recovery plan are appended.

The plan provides a framework for re-starting the delivery system taking a measured and risk-based approach that ensures resources are targeted where they add greatest value. It also ensures more routine operation of the Food Hygiene Rating Scheme which is important for your local businesses and consumers. The planned interventions and other activities specified are the minimum that local authorities need to undertake to fulfil their statutory duties in relation to food, so I wanted to ask for your support in following the guidance and advice.

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**FOOD HYGIENE RATING**

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In order for your authority to deliver this, I would urge you to take steps to ensure that the resources required are in place and are protected for the future. Please note that where local authorities have the resources to do so, we advise that they move at a faster pace than that set out in the plan.

The plan takes account of feedback received during development from local authority colleagues through the national focus groups and regional food liaison groups. They considered that the plan provides the most pragmatic and practical way to re-start the system and I hope that you will agree with that. At the more strategic level, we shared the plan with the MHCLG led cross-Government Regulatory Services Review Task & Finish Group and the COVID-19 Compliance Working Group, and the local authority colleagues on these Groups were positive about the approach. I should also add that through the Task and Finish Group, the FSA is fully engaged in discussions regarding the pressures facing local authority regulatory services and committed to finding ways to try to alleviate this challenge.

We will be monitoring delivery against the expectations and timelines set out within the plan through our established engagement mechanisms and by regular assessment of Food Hygiene Rating Scheme data where appropriate and also data from end year returns for 2021/22 and 2022/23. We are very aware that for some local authorities, particularly those areas of sustained transmission where staff will still be heavily involved in public health work, delivery may be challenging, and we stand ready to provide what support we can to help. The approach we will take will reflect the challenges that individual authorities are facing and the differing circumstances that COVID-19 may create at a local level during the recovery period. Where necessary, I will be in touch at chief executive level to explore with you whether the FSA can offer any specific support or assistance to your authority.

In the meantime, I would stress that it is really important that we are alerted as early as possible if you are unable to deliver against the plan. If this is the case at any point during the recovery period, I would ask that your food team contact us at [LAengagement@food.gov.uk](mailto:LAengagement@food.gov.uk). This will enable us to consider together the risks this is posing and agree any follow-up action and support we can provide at the first opportunity.

Yours sincerely,

A handwritten signature in black ink that reads "Emily Miles". The signature is fluid and cursive, with a long horizontal stroke at the bottom.

**Emily Miles**



**Portfolio Brief – Adult Social Care  
Councillor Keir Pedley**

**1. Directorate/Walsall Together response to COVID**

The Directorate has worked as a key system player at this unprecedented time. Core business priorities have continued to be reshaped/refocussed, but throughout this time, there has remained a strong emphasis on the resident and establishing ways in which we all remain safe whilst continuing to deliver our statutory duties.

Whilst for much of the year the language has been about ‘reset’, Adult Social Care has continued to meet the challenges faced from a fragile health and care system and the continual, now growing, threat of Covid.

Adult Social Care staff have, in the main, continued virtual working. Frontline staff have returned to physical visits and assessments. Regular online meetings have continued to support high productivity in the face of increasing demand, whilst ensuring staff wellbeing. There has continued to be a strong emphasis on robust risk assessments when both working at home and visiting service users. Where staff members have required access to an onsite office base for their own wellbeing, or due to any inability to work from home, this has been facilitated.

The safeguarding of vulnerable residents is a key responsibility for the directorate. Safeguarding referrals have increased significantly during the year as services have reopened. This is thought to be due to increased self-neglect where vulnerable people have been reluctant to ask for help and resumed family/professional contact after a prolonged period of reduced contact during the pandemic.

Adult Social Care continues to support the broader health system as part of The Walsall Together Partnership. Despite challenges in terms of hospital admissions and workforce, the partnership continues to lead as a good national example of integrated working at a local level.

**2. ASC Service Transformation Plan**

The work in progress of the Adult Social Care Transformation Plan is key as part of the preparation for future national reforms in social care planned for 2023.

The Adult Social Care ambition through our Service Transformation Plan is:

1. To improve the health and wellbeing of residents in Walsall, supporting them to maximise their independence, and building on their strengths and those of the community they live in.
2. To work in partnership including Walsall Together, the community and voluntary sector and statutory partners



3. Ensuring that the council meets its statutory duties as outlined in the Care Act 2014 and related legislation and guidance services as effectively and efficiently as possible.

The Adult Social Care Transformational objectives are:

- Strength based assessment/approach in all service areas, including positive risk-taking approach.
- Improve joint working and co-production with residents, voluntary and community sector to develop strengths-based outcome focused services. (Resilient Communities).
- Increase the numbers of residents who self-assess or are able to make informed choices about their care and support needs at the first point of contact with the Council. By ensuring the right information support and advice is accessible to all.
- All new individuals in the community coming into Adult Social Care will be assessed to determine reablement/enablement potential and if appropriate will receive reablement care before receiving a long-term service.
- Develop leaders across the organisation that encourage a positive attitude to risk and empowers the workforce to take control and ownership over the provision of social care support, in order to facilitate innovation and creativity.
- Increase the use of assistive technology to maximise independence and reduce the need for long-term care.
- Reduce the number of adults and young people with a learning disability or mental health in long-term institutional settings including residential education placements.
- Increase in residents accessing community-based opportunities through the development of more resilient communities.
- Increase the number of people with mental health and learning disabilities living in their own accommodation or shared accommodation via a tenancy agreement.
- Commissioning of services which are outcome based. The Development of a new Adult Social Care Commissioning Strategy that focuses on “outcomes” for service user groups in our community.

### **3. All Age Disability (AAD)**

The development of the AAD approach has continued. The aim of the AAD approach is to ensure that we, as a council, along with our key stakeholders and partners, maximise the opportunities to plan with a young person and their family in a timely way for their pathway to adulthood.

The AAD approach focusses on enablement, ensuring that we are maximising and promoting independence and ensuring that local people are able to continue to live safely, irrespective of needs, working with the person and their network of support to build on their existing and aspiring strengths.

The All Age Disability Hub will represent this in a way that promotes therapies, assistive technology, employment and enablement. Statutory and non-statutory functions strongly linked with community initiatives that reduce dependency on Adult Social Care longer term and support people to receive timely and time limited support to continue to be as independent as possible.

It will promote a “whole family approach” by working collaboratively across directorates and the delivery of timely and proportionate support means that communities will be more resilient and people will, over time, start to depend less on statutory services and will be an active engaged member of the community.

#### **4. Infection Prevention Control (IPC), Rapid Testing and Workforce funding**

The Department of Health and Social Care continues to ring fence grant funding for each local authority to administer to social care providers. The purpose of these grants are to help cover the cost of implementing measures to reduce transmission of COVID-19 and support with additional recruitment and/or retention costs. To date we have administered over £8.4M, primarily to domiciliary care, residential and nursing care providers with smaller contributions to Supported Living and Extra Care schemes. A further £2.4M will be distributed to domiciliary care, residential and nursing care providers to be spend by March 2022

#### **5. ASC Provider Market**

We continue to actively engage our Provider market and support them as required.

To date we have not had any Provider failure and have had limited backlog or delayed start for care packages; where packages have been delayed to support system flow from an acute setting we have placed a small number of people into a care home setting pending package commencement.

We use our local and national monitoring tools and regular Provider meetings to proactively support our providers and analyse trends/focus support eg, Covid vaccination take up.

In addition to the grants detailed in section 4, we also implemented an ‘Additional Expenses’ process in March 2020. The Additional Expense process was a mechanism the council used to support Adult Social Care providers to deal with additional financial burdens as a result of the pandemic eg increased insurance premiums, travel and inflated PPE costs. The Additional Expenses process was superseded by the grants covered in section 4 however, between March 20 and July 2021 we reimbursed over 280 claims to providers totalling £1.9M.

We continue to work in partnership with ASC Providers to support each other with a number of continuing concerns:

- Long-standing workforce challenges; mandatory vaccination, Brexit and pay all impact on Providers ability to retain and recruit to the ASC workforce. Whilst national recruitment campaigns have largely failed to bring additional capacity to the sector we are working across Walsall Together to develop a joint Workforce and OD strategy.
- Occupancy levels in care homes remains a concern with 405 vacancies (24%) in the borough. Vacancies are due to some reluctance from families/individuals to move into the residential/nursing setting and a refocus by CQC to cancel registration of homes where there has been prolonged delivery of inadequate/requires improvement ratings. There is likely to be more home closures requiring extensive engagement with residents, family and staff to re-provide alternative placements.

Multiple concurrent Provider failures would quickly absorb available Council capacity and threaten councils' ability to ensure continuity of care.

The council previously agreed a 3-year budget for Provider uplifts. Whilst the Directorate is working hard to mitigate the challenges of recruitment and retention, and the need to transform social care, it should be noted that the budgeted 1.5% rate increase in 22/23 is unlikely to improve these challenges as the sector is currently being heavily supported through additional short-term grant funding.

During 2021, we have seen a decline in the mortality rates for people receiving care, meaning that they are requiring care packages longer than before the pandemic. This has also been noted nationally by the British Medical Journal who have reported a 45% reduction in the mortality rate for people over 85 plus in certain care settings.

All of this whilst carers have increased employment opportunities as other industries return to business offering increased rates of pay.

Care providers are also facing additional pressures including:

- Increased Insurance premiums
- Transport costs - fuel, insurance & car maintenance increased with inflation
- Recruitment costs
- Shortage of nurses
- Substantial increases in agency fees for both temporary nurses and care staff

The Government has announced that funding to support Infection Prevention will continue until the end of March 2022, which is welcomed, however, there still remains a significant risk when this funding does cease. Care providers are currently able to access free PPE, however should this stop the average home care provider will be facing increased costs for the required equipment.

## **6. Finance and Performance**

### **Adult Social Care – Financial Budget Monitoring Position 2021/22 – as at October 2021.**

The current net forecast position, after the net use of reserves is a projected over spend of £4.09m. The main reasons are:

- (£220k) – Discharges through the intermediate care service are currently funded through the hospital discharge process for a maximum of 6 weeks until end of June 2021 and for a maximum of 4 weeks until the end of the financial year and the impact of this has been included in this position. This additional funding is partly offset by a net increase in demand management placements above expected business as usual numbers for April to August.

The increase in costs is mainly associated with the impact of accelerated hospital discharges and transition into longer-term care packages from intermediate care services and offset by joint funding income and client contributions. The domiciliary

care projection for the remainder of the year has been revised based on the trend for the first 5 months.

- £390k – the Procure to Pay saving carried forward from 2019/20 was £1.29m of which £210k has been validated to date on an ongoing basis and is included in the current forecast position. This is partially offset by additional direct payments refunds of (£690k). Further work is underway to mitigate the remaining pressure including a review of existing provider payments.
- (£340k) – Under spend on core services within Adult social Care due to vacant posts across the directorate, one off use of improved better care fund and Covid19 funding partially offset by one-off costs to support Service Transformation Plan (STP) delivery.
- (£150k) – Under spend within Communications, Brand and Marketing primarily due to the one-off use of Covid-19 funding.
- £4.52m of savings within the directorate STP's not being fully achieved. To note there are currently £890k of savings identified as amber and require further work (including some of the above). Should the achievement of these savings not materialise, the over spend position would increase to £4.98m.

The Adult Social Care Directorate continues to perform well against National performance measures, with no areas of concern to report.

## **7. Summary**

Adult Social Care have been at the frontline in the Borough's response to the Covid-19 pandemic. Despite the significant shift in expectations from National government on local delivery, it has continued to meet its statutory duties in safeguarding and meeting the needs of its service users and ensuring continuity of care.

The Directorate has worked tirelessly with the Adult Social Care sector so that they are supported to provide essential services to our residents and have worked in partnership with our health, housing, community and voluntary sector, through our Walsall Together Partnership to target our collective support to those who are most vulnerable.

The current pressures in Adult Social Care are a national problem and we are awaiting further details from the Government on how these will be mitigated. We are aware from the recent White Paper that the following areas are key intentions:

- introduce a cap on personal care costs;
- provide financial assistance to those without substantial assets;
- deliver wider support for the social care system, which includes:
  - CQC oversight of Adult Social Care and ICS's
  - Developing the social care workforce
  - Supporting unpaid carers
  - Investing in Disabled Facilities Grants and Supported Housing
  - Improving information and advice for service users
- Improve the integration of health and social care systems

The new Health and Social Care levy of 1.25% will raise £36 Billion pounds over 3 years. However, it should be noted that in the first 3 years, only £5.4 billion pounds of that is

allocated to social care, with the rest supporting the recovery of the NHS. Furthermore, the plan presented, whilst going some way to addressing equity of access to social care support for those with moderate savings, it also sets out a number of clear additional burdens for the local authority, without clarity on if Councils will be fully recompensed for these. Certainly, in the short to medium term, the additional levy will not ease the profound and escalating demand and unit cost pressures on the Adult Social Care budget.

Adult Social Care therefore continues to face high demands along with other local authorities as explained, one of the reasons is the difficulty in getting enough home care to meet increasing demands:-

Over the last months the number of people medically fit for discharge from hospital has increased by 250%. The number of people awaiting a package of care in the community and hospital settings has increased by 400%.

Our officers in Adult Social Care will work closely with regional, national colleagues and the Department of Health and Social Care over the forthcoming months to seek further clarity on the reforms and the impact for Walsall and will provide a full report to members on this in due course.

Councillor Keir Pedley  
Portfolio Holder for Adult Social Care

December 2021