

# Cabinet – Supplementary agenda No.1

**A meeting of the Cabinet will be held on:**

**Date:** 17 December 2013

**Time:** 3.00pm

**Venue:** Meeting Room 2 - Level 3, Gun Wharf, Dock Road, Chatham ME4 4TR

## Items

- |    |  |                          |
|----|--|--------------------------|
| 5. | <b>Youth Justice Plan (Policy Framework) – Appendices A-C</b>          | <b>(Pages 3 - 58)</b>    |
| 7. | <b>Localising Support for Council Tax – Appendix C</b>                 | <b>(Pages 59 - 310)</b>  |
| 9. | <b>Local Development Framework Medway Monitoring Report – Volume 1</b> | <b>(Pages 311 - 384)</b> |

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Date: 9 December 2013



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বাংলা	331780	ગુજરાતી	331782	ਪੰਜਾਬੀ	331784	كوردی	331841	ارو	331785	Русский	332374
中文	331781	हिंदी	331783	Polski	332373	এহ্‌শফ	331786	فارسی	331840	Lietuviškai	332372

Appendix A



**PART OF THE COMMUNITY  
SAFETY PARTNERSHIP**

**The Family and Adolescent Centre  
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**MEDWAY  
YOUTH OFFENDING**

**STRATEGIC PLAN  
2012-2014**

**(Refresh September 2013)**

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## Introduction

This document sets out our aims and objectives for April 2012 to March 2014 in relation to working with young people who offend or who are at risk of offending.

Medway has seen a steady reduction in the number of first time entrants to the Youth Justice System; a significant element of this success has been the 'point of arrest' Triage pilot programme developed in partnership with Police and Health services. However, in the current economic climate there are many difficulties ahead especially with reduced resources for young people coming into the justice system with increasingly challenging behaviour.

The plan takes into account the new environment in which the Youth Offending Service will now operate as a result of the reduction of central government targets and the changes to the Youth Justice Board who now take more of a supporting role rather than "regulator".

It is now confirmed that the continuation of financial support from the YJB will be linked to developing and sustaining best practice. Best practice will be a recurring theme throughout this plan.

The new context now means that priorities for youth offending can be determined locally that reflect the objectives of both the Medway Children's Services and the Medway Community Safety Partnership.

We recognise that whilst the primary function of our youth offending service is to prevent youth offending and reduce the impact of youth crime upon our community, another factor that needs to be taken into consideration is that these children are also 'children in need' for whom we have a duty to provide support.

The plan also highlights the need to respond to the outcomes of legislative changes such as the introduction of Police and Crime Commissioners and new remand arrangements. Changes to working arrangements must be accomplished whilst planning and conducting core business, delivering value for money, achieving the best outcomes for young people, their families and victims of crime.

The current two year plan builds on the successes of the previous plan, which has seen rising levels of performance in respect of:

- Reducing offending rates and levels
- Challenging education and training targets for young people achieved
- A significant reduction in those young people who are not in suitable accommodation
- Major success has been achieved in working with some of the highest risk young people who are part of the Deter Young Offender cohort jointly identified and worked with by our police partners.

A YOT restructure was completed which has significantly contributed to increased performance through the introduction of the 'Scaled Approach', this has enabled all clients to be allocated to the most appropriate worker taking into account the most experienced and qualified workers, based around the identified risks and vulnerabilities of each young person.

The complexities of a multi agency team and multiple funding routes along with the implementation of the post Inspection Improvement Plan have made it both a difficult period of change but with many rewarding outcomes.

If there were one overall achievement to be highlighted from last year's plan, it would be the successful establishment of the arrest diversion scheme, which has led to a significant reduction in first time entrants to the youth justice system and diversion to more appropriate services.

## **National Context**

"Youth Justice System" is the formal process that begins once a child reaches the age of 10 years but under the age of 18 years and:

- has committed an offence
- receives a reprimand or a warning
- charged to appear in court

However, from April 2013 reprimands and warnings have been replaced by restorative solutions or cautions.

The Youth Justice System was set up under the Crime and Disorder Act 1998. The aim of the Youth Justice System is to prevent offending by children and young people aged 10 to 17 years. As part of that Act, local Youth Offending Services were set up and regularly monitored by a national Youth Justice Board.

There was until recently, an intention under the Public Bodies Bill to abolish the Youth Justice Board, however this decision was reversed. The role of the Youth Justice Board is now to:

- Oversee the youth justice system in England and Wales

- Work to prevent offending and reoffending by children and young people under the age of 18
- Ensure that custody for them is safe, secure, and addresses the causes of their offending behaviour

The Youth Justice Board will also support local Youth Offending Services to deliver against three outcomes which have been set by central government, these are listed below, which Medway is fully committed to.

- 1) Reducing the number of first time entrants to the youth justice system
- 2) Reducing re-offending of those young people already within the youth justice system.
- 3) Reducing the number of young people receiving a custodial sentence.<sup>1</sup>

## **Medway's Youth Offending Service**

It is the duty of all agencies to try to reduce offending behaviour under the Crime and Disorder Act 1998. Medway Youth Offending Service is a partnership of voluntary and statutory agencies.

Our Youth Offending Team (YOT) is staffed by a multi-agency team working with children and young people who have demonstrated or are at risk of developing anti-social behaviour.

The service currently consists of approximately forty staff drawn from seven partnership agencies (Appendix 1: staff structure chart) which includes a detached team of staff located at Youth Offending Institution (YOI) Cookham Wood, with the aim of providing a comprehensive resettlement service.

### **Partnership Agencies**

- Medway Council (Children's Social Care, Youth Service and Education)
- Kent Police
- Kent Probation
- Medway Youth Trust (Connexions Service)
- KCA (formally Kent Council for Addictions)
- Medway Primary Care Trust
- Kent Youth Offending Service (Intensive Supervision & Surveillance)
- Kent Police and Crime Commissioner

The team works closely with young people and their families to provide an early intervention service to curtail anti-social behaviour and to prevent crime. It assists victims of crime and where appropriate, includes them in the youth justice process to take part in a restorative justice programme.

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<sup>1</sup> <http://open.justice.gov.uk/breaking-the-cycle-response.pdf> & Youth Justice Board Corporate Plan 2012 - 15

Youth Offending Team (YOT) workers also provide intensive supervision and surveillance programmes for persistent young offenders and operate effective plans for preparing young people to return into the community from custody and reduce the risk of them re-offending.

Parenting programmes are also provided by Medway YOT which offers practical support and advice to enhance the skills of parents and thus reduce the risk of their children offending or re-offending. This includes those requiring preventative services, supervision while on community-based court orders and the support of young people who had been sent to custody.

A dedicated Youth Offending Team Manager leads the YOT Management Team who is supported by an Operations & Performance Manager and two Senior Practitioner leads.

To help drive forward the work of the Youth Offending Service, a Medway Youth Offending Management Board is in place which is made up of Senior Managers and officers from across the seven partnership agencies. The group formally meet at least four times a year and is chaired by the Chief Executive of Medway Council. Current representation on the YOT Management Board Includes:

- Assistant Director, Children's Social Care Medway Council
- Assistant Director, Inclusion and Improvement Medway Council
- Assistant Director, Commissioning and Strategy Medway Council
- Portfolio Member, Children's Services Medway Council
- Services Director, Medway Youth Trust (Connexions)
- Chief Executive, Kent and Medway Police and Crime Commissioner
- Housing Strategy Manager Medway Council
- Integrated Youth Support Service Manager, Medway Council
- Integrated Children's Services Manager, YOI Cookham Wood
- Chief Inspector, Kent Police
- Chair, North Kent Youth Bench
- Director, North Kent Probation
- Operations Director, Medway Community Healthcare
- Young Peoples Commissioner DAAT, Medway Council
- Head of Business Area South East, Youth Justice Board

The YOT Management Board has a well defined role in setting the strategic objectives of the YOT, ensuring that it is adequately resourced to carry out its functions, scrutinise the work of the YOT and act as "critical friend" across a range of activities and functions, with a particular emphasis around safeguarding and risk.



## About Medway

The Youth Offending Team operates within the wider context of Medway. Demographics will shape the type of services that must be offered and will highlight particular areas for focus. This section aims to outline the key facts for young people living and growing up in Medway.

According to the Office of National Statistics mid-2010 estimates of ward level population for England and Wales there are 256,699 people living in Medway, an increase of 1,912 since 2009. Of those living in Medway, 66,005 are aged between 0 to 19 years of age, which is a slight decrease from 66,020 during 2009. However, this still means that just over a quarter of Medway's population is made up of children and young people.

In terms of young offender health, responsibility for commissioning services will sit with the Medway Health and Well-being Board, at which the Director of Children Services has agreed to act as the YOT champion.

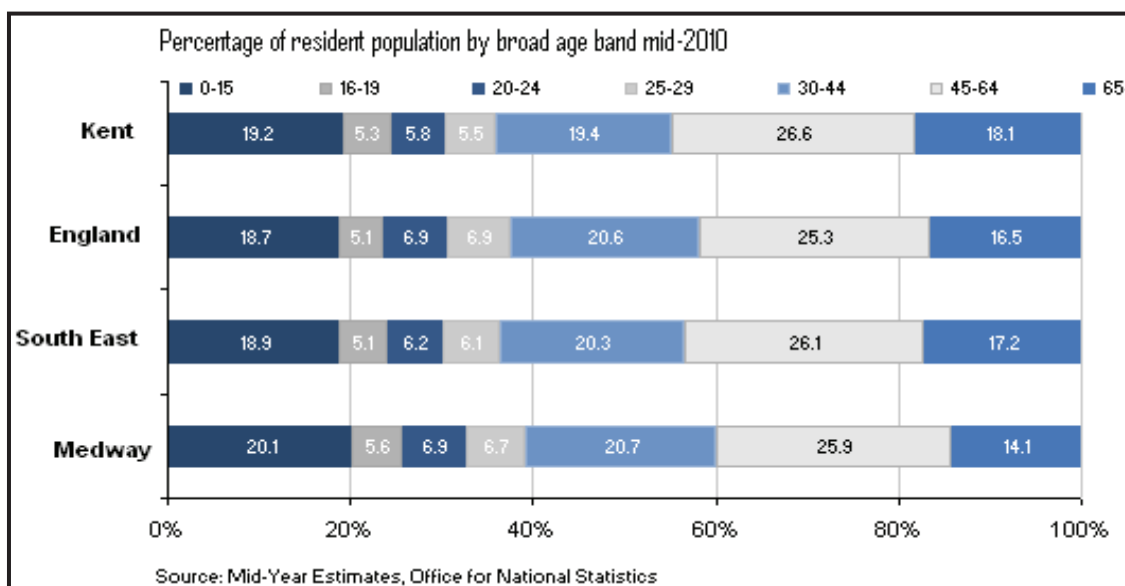
The table below show the percentage of population by broad age bands. <sup>2</sup>

Population by bespoke broad age band mid-2010								
	All persons	0-15	16-19	20-24	25-29	30-44	45-64	65+
	Count	Count	Count	Count	Count	Count	Count	Count
<b>Medway</b>	256,700	51,600	14,500	17,800	17,100	53,200	66,500	36,200
<b>South East</b>	8,523,100	1,609,700	438,100	531,200	516,100	1,732,100	2,227,000	1,468,900
<b>England</b>	52,234,000	9,766,300	2,651,100	3,605,700	3,589,700	10,775,500	13,239,400	8,606,300
<b>Kent</b>	1,427,400	274,400	76,100	83,200	79,100	276,200	379,900	258,500

Source: Mid-Year Estimates, Office for National Statistics

There are currently proportionally more young people aged between 0 to 19 years of age living in Medway than both regionally and nationally. However there are proportionally a lot less aged 65 and over living in Medway when compared to Kent, South East and England averages. <sup>3</sup>

The chart below shows the percentage of resident population by broad age band using mid-2010 population estimates. <sup>4</sup>



### Age Breakdown of Medway's children and young people:

Age Group	2010 Population	2011 Population	% Change from 2010
Age 0 - 4	16,812	17,284	0.41%
Aged 5 - 9	15,246	16,136	0.30%
Age 10 - 14	16,035	16,677	0.11%
Age 15 - 19	17,912	18,858	0.21%
<b>Total</b>	<b>66,005</b>	<b>68,955</b>	<b>2,950</b>

### Ward level Population – Young People

The chart below shows the distribution of Medway's 0-19 year olds. The graph also shows if the youth population has increased or decreased since the 2010 population estimates. The greatest number of children and young people live in the wards of: <sup>5</sup>

#### **Greatest Medway population of 0 - 19 year olds 2011**

Ward	Population Count
Chatham Central	4,838
Gillingham North	5,532
Gillingham South	4,666
Luton and Wayfield	4,082
Strood South	4,148

#### **Smallest Medway population of 0 - 19 year olds**

Ward	Population Count
Cuxton and Halling	1,334
Hempstead and Wigmore	1,757
Rainham North	1,939

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<sup>5</sup> 2011 Ward Population Estimates for England and Wales, mid-2011 (experimental statistics); based on the results of the 2011 Census

Website Link: <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-301951>

Ward Name	2010 Count	%	2011 Count	%	% Change	Change from 2010
Chatham Central	4,712	7.14%	4,838	7.02%	-0.12%	▼
Cuxton and Halling	1,307	1.98%	1,334	1.93%	-0.05%	▼
Gillingham North	4,703	7.13%	5,532	8.02%	0.90%	▲
Gillingham South	4,364	6.61%	4,666	6.77%	0.16%	▲
Hempstead and Wigmore	1,742	2.64%	1,757	2.55%	-0.09%	▼
Lordswood and Capstone	2,294	3.48%	2,277	3.30%	-0.17%	▼
Luton and Wayfield	4,088	6.19%	4,082	5.92%	-0.27%	▼
Peninsula	3,121	4.73%	3,209	4.65%	-0.07%	▼
Princes Park	2,945	4.46%	3,044	4.41%	-0.05%	▼
Rainham Central	2,757	4.18%	2,699	3.91%	-0.26%	▼
Rainham North	1,899	2.88%	1,939	2.81%	-0.07%	▼
Rainham South	3,182	4.82%	3,338	4.84%	0.02%	▲
River	2,328	3.53%	2,392	3.47%	-0.06%	▼
Rochester East	2,526	3.83%	2,677	3.88%	0.06%	▲
Rochester South and Horsted	2,972	4.50%	3,091	4.48%	-0.02%	▼
Rochester West	2,578	3.91%	2,666	3.87%	-0.04%	▼
Strood North	3,271	4.96%	3,560	5.16%	0.21%	▲
Strood Rural	3,532	5.35%	3,583	5.20%	-0.15%	▼
Strood South	3,838	5.81%	4,148	6.02%	0.20%	▲
Twydall	3,274	4.96%	3,351	4.86%	-0.10%	▼
Walderslade	2,351	3.56%	2,461	3.57%	0.01%	▲
Watling	2,221	3.36%	2,311	3.35%	-0.01%	▼
<b>Medway Total</b>	<b>66,005</b>		<b>68,955</b>			

<sup>5</sup> 2011 Ward Population Estimates for England and Wales, mid-2011 (experimental statistics); based on the results of the 2011 Census

Website Link: <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-301951>

## Ethnicity

According to mid-2009 estimated resident population by broad ethnic group, (experimental statistics), 88.8% of children aged 0-15 in Medway are 'White'. The largest minority ethnic group are 'Asian' or 'Asian British', comprising 4.1% of all children aged 0-15 in Medway.

However, according to the Pupil Level Annual School Census (PLASC) Spring 2011, 85.9% of pupils on the school roll in Medway are 'White', down from 87.1% when compared to 2010.

The largest minority ethnic group of pupils on the school roll in Medway is 'Mixed Dual Background', comprising 4.7%, up slightly from 4.6% in 2010.

The Chatham Central ward has the largest proportion of children from 'Minority Ethnic Groups' in school with 26%, followed by Gillingham South of 23% and the River ward at 21%. The PLASC for 2008 to 2011 shows an increase in minority ethnic groups amongst the population on the school roll from 11% to 13%.

## Languages

The table below shows the most widely spoken language other than English using school census (PLASC) information collected in 2011 and reflects the changing pattern of movement into Medway.

The table below shows the most widely spoken languages in schools after English <sup>6</sup>

	2008	2009	2010	2011
Number of languages spoken	111	127	131	141
3 most widely spoken Languages	Punjabi Bengali Urdu	Punjabi Bengali Yoruba	Punjabi Bengali Slovak	Punjabi Slovak Polish

<sup>6</sup> Data source: Pupil Level Annual School Census 2011, Management Information Team. Records where pupils do not reside in Medway have been excluded

## The Index of Deprivation

The Index of Deprivation (ID) 2010 - combines a number of indicators that covers a range of areas. The nine domains are then combined into a single overall deprivation score for each neighbourhood in England. The nine domains are:

- Child Poverty
- Crime
- Education and Skills
- Elderly Poverty
- Employment
- Health Disability
- Barriers to housing
- Income
- Living Environment

Medway is currently ranked 132nd out of 325 Local Authorities in the country in terms of deprivation. Which means Medway is within the 41% most deprived Local Authority nationally. This is a slight decline from The Index of Multiple Deprivation (IMD) 2007, when Medway was within the 43% most deprived, indicating that Medway is now relatively more deprived.

In particular the income domain of the Indices of Deprivation, Medway is ranked 65<sup>th</sup> out of 325. The employment domain for Medway is ranked 69<sup>th</sup> out of 325. The Index of Multiple Deprivation (IMD) 2010, shows that 35,754 people living in Medway experienced income deprivation, the equivalent of 23.6% of Medway's population. The IMD also shows that 13,830 people in Medway experienced employment deprivation, which is the equivalent of 13.3% of Medway's population.

Gillingham North, Chatham Central and Luton & Wayfield are Medway's most deprived wards and are amongst the 20% most deprived in England. While these three wards all suffer different key deprivation issues, all three fair well on 'barriers to housing & services'.

Chatham Central and Gillingham North have both seen relative deterioration in the crime theme, while Luton & Wayfield appears to have deteriorated most in the 'health & disability' domain.

13 (59%) of Medway's 22 wards have 'Education, training & skills' as their weakest domain. These wards are most likely to have either 'Barriers to housing & services' or 'Living environment' as their strongest IMD domain.<sup>7</sup> In England, people living in the poorest neighbourhoods will, on average die seven years earlier than people living in the richest neighbourhood.<sup>8</sup> At ward

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<sup>7</sup> Source: Index of Deprivation 2010 - Medway Wards June 2011. Development Plans and research, information reformatted by the Research and Information Team

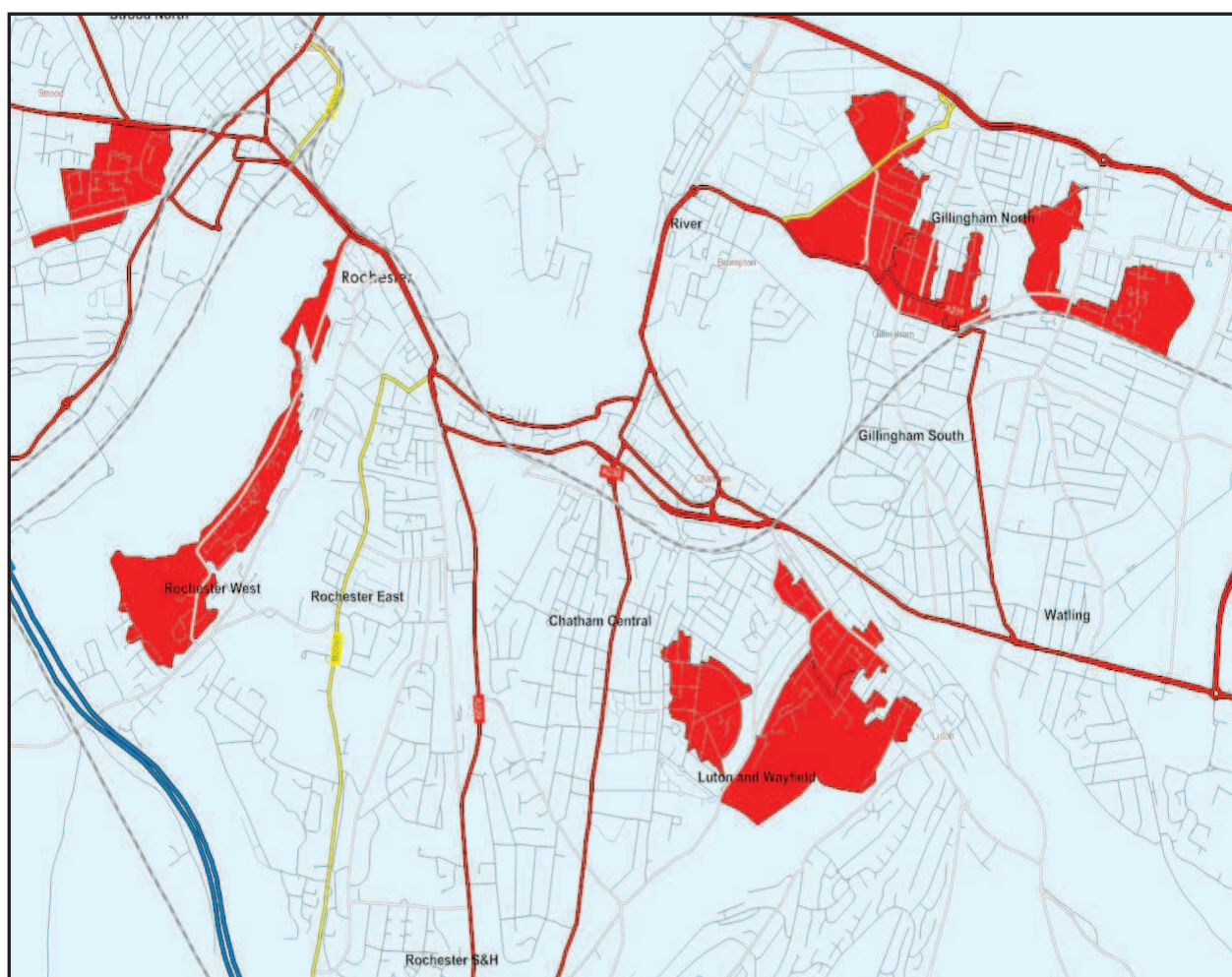
<sup>8</sup> The Marmot Review 2010

level within Medway the gap in life expectancy is 6.6 years, but this is well below that seen in some big cities.<sup>9</sup>

The Child poverty index is a sub-category of the income domain. It represents the proportion of 0-15 year olds living in income-deprived households. Child poverty is most severe in the wards of:

- Gillingham North
- Luton & Wayfield
- Chatham Central

Super Output Area (SOA 012A) in Gillingham North is ranked within the 3% most deprived areas nationally for Child Poverty.<sup>10</sup> The map below shows the eight SOAs within Medway, which are in the bottom 10% nationally in terms of child poverty.<sup>11</sup>



<sup>9</sup> London Health Observatory – Marmot Indicators for Local Authorities in England 2012. Figure for Medway as a whole is an average of the male and female values, weighted by mid-2010 population estimates.

<sup>10</sup> Research, Plan and Review Team, Index of Deprivation 2010, May 2010 information sheet.

<sup>11</sup> IMD 2010, super output level - Map produced by Research and Information Team using CACI Insight

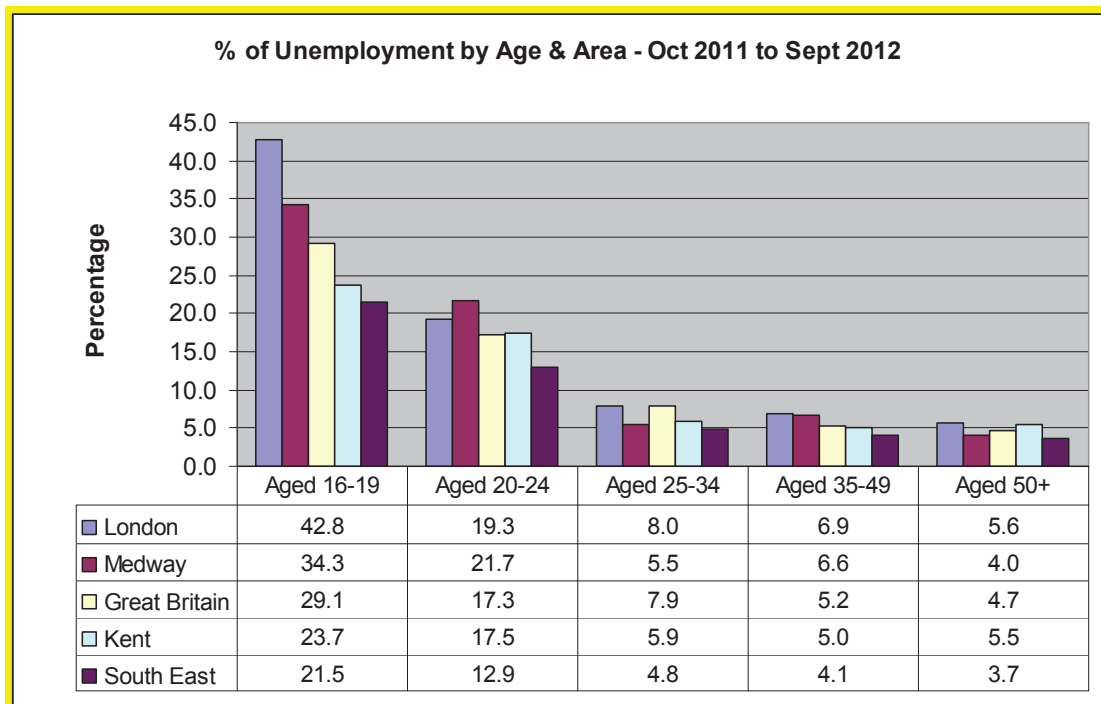


## Employment

The unemployment rates in Medway for October 2010 to September 2011 were at 7.9% of the employment aged population. Which is greater than the South East region of 5.9% but not significantly different from the England average of 7.8%.

The age group 16 to 19 years in the general population accounted for 49.3% of unemployment within the Medway area. This age group had a significantly higher rate of unemployment when compared with those aged 25 to 34 years (9%) and those aged 35 to 49 years (4.5%) living in Medway.

Within the unemployment population, 49% of this falls into the 16 – 19 year old group. Medway's rate of unemployment for those aged 16 to 19 years is greater than the South East region and England averages.<sup>12</sup>



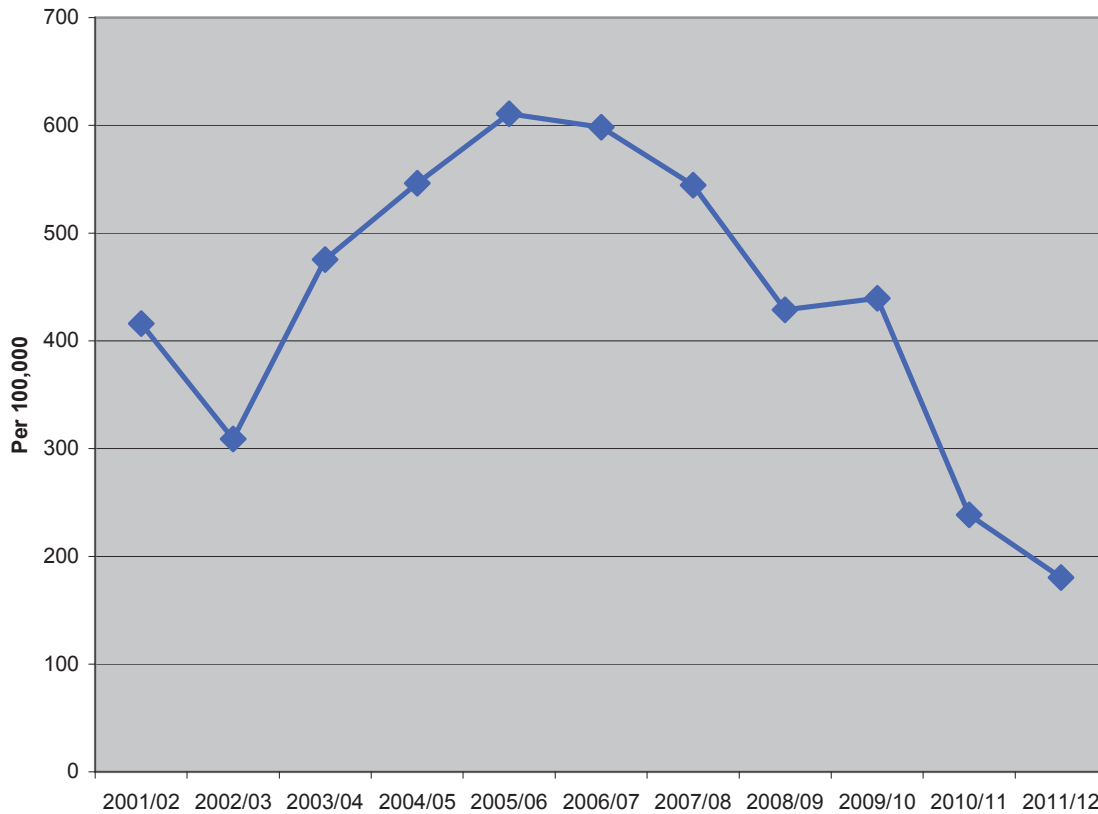
**Source: Annual Population Survey, NOMIS, ONS**

However through working in partnership across Medway, the proportion of YOT clients who are classed as not in Education, Employment or Training (NEET) has continued to reduce over time. The figures for 2011-12 show that 81% of YOT clients, over the school leaving age, were at the end of their order in Education, Employment or Training.

<sup>12</sup> Office of National Statistics: Local profiles, April 2012

## First Time Entrants

The graph shows the numbers of young people aged 10-17 years receiving their first reprimand, warning or conviction per 100,000 10-17 year olds in the population living in Medway, 2000/01 - 2011/12. <sup>13</sup>



Since 2005 Medway has seen a steady decline in the number of young people aged 10 – 17 years receiving their first reprimand, warning or conviction. However, Medway's rates are slightly above both regional and national averages, although they are lower than Kent.

<sup>13</sup> Source: Youth Justice Website - <http://www.justice.gov.uk/statistics/criminal-justice/criminal-justice-statistics>



The graph below shows how Medway compares in the rate of 10-17 year olds receiving their first reprimands, warning or conviction by regional and national figures.<sup>14</sup>



<sup>14</sup> Source: Youth Justice Website - <http://www.justice.gov.uk/statistics/criminal-justice/criminal-justice-statistics>

Offending by children who have been looked after continuously for at least twelve months, 2012.<sup>15</sup>

<b>Area - Data as at 31 March 2012</b>	Number of children looked after at 31 March who had been looked after for at least twelve months <sup>1</sup>		Number of children aged 10 -17, at 31 March <sup>2</sup>	Number convicted or subject to a final warning or reprimand during the year	Percentage convicted or subject to a final warning or reprimand during the year
Bracknell Forest	60		45	x	x
Brighton and Hove	335		210	10	5.3
Buckinghamshire	280		170	10	6.4
East Sussex	435		275	20	6.6
Hampshire	760		525	35	7.1
Isle of Wight	110		85	5	8.1
Kent	1,175		760	65	8.8
<b>Medway</b>	<b>300</b>		<b>170</b>	<b>18</b>	<b>10.6</b>
Milton Keynes	190		110	x	x
Oxfordshire	265		190	15	7.4
Portsmouth	230		130	10	7.6
Reading	145		85	x	x
Slough	110		65	x	x
Southampton	275		155	20	13.6
Surrey	520		355	25	7.1
West Berkshire	85		55	10	15.1
West Sussex	490		350	25	6.9
Windsor and Maidenhead	60		40	x	x
Wokingham	50		30	x	x
<b>ENGLAND</b>	<b>46,590</b>		<b>29,800</b>	<b>2,060</b>	<b>6.9</b>
<b>SOUTH EAST</b>	<b>5,870</b>		<b>3,800</b>	<b>270</b>	<b>7.1</b>

During 2012, 10.6% of children aged 10 years or older that had been looked after by Medway Council as at 31<sup>st</sup> March 2012 for at least 12 months had been subjected to a final warning or reprimanded. This compared to the South East 7.1% and nationally 6.9%.

Reducing Looked After Children, First Time Entrants into the Criminal Justice System is a major priority for the Medway YOT, working with partners, partner agencies and the Kent Criminal Justice Board.

<sup>15</sup> DfE Data via GOV.UK - <https://www.gov.uk/government/publications/outcomes-for-children-looked-after-by-local-authorities-in-england-31-march-2012>

## Type of Offences

The table shows offences committed by young people living in Medway that resulted in court outcomes during 2011/12, which has also been broken down into age and by gender. <sup>16</sup>

Offences resulting in a disposal 2011/12	Age				Gender		TOTAL
	10 - 14	15	16	17+	Female	Male	
Arson	0	0	1	0	0	1	1
Breach Of Bail	1	3	3	5	1	11	12
Breach Of Conditional Discharge	0	4	1	1	1	5	6
Breach Of Statutory Order	2	7	9	13	4	27	31
Criminal Damage	13	12	16	16	6	51	57
Death Or Injury By Dangerous Driving	0	0	0	0	0	0	0
Domestic Burglary	3	3	9	4	1	18	19
Drugs	1	1	2	12	1	15	16
Fraud And Forgery	0	0	1	9	3	7	10
Motoring Offences	10	6	14	21	5	46	51
Non Domestic Burglary	5	3	2	7	0	17	17
Other	1	1	4	6	3	9	12
Public Order	5	5	9	12	10	21	31
Racially Aggravated	0	0	2	0	1	1	2
Robbery	2	2	3	5	2	10	12
Sexual Offences	1	0	3	0	0	4	4
Theft And Handling Stolen Goods	23	19	40	21	19	84	103
Vehicle Theft / Unauthorised Taking	2	4	8	5	2	17	19
Violence Against The Person	32	25	34	23	48	66	114
<b>TOTAL</b>	<b>101</b>	<b>95</b>	<b>161</b>	<b>160</b>	<b>107</b>	<b>410</b>	<b>517</b>

## Medway Offence Comparison between 2010 - 12

Year	Total Offences
2010/11	778
2011/12	517
Reduction	261
% of Reduction	-34%

<sup>16</sup> Source: Youth Justice Statistics Regional Data - <https://www.gov.uk/government/publications/youth-justice-statistics>

## Use of Custody

The table below shows how many young people during 2011/12 aged 10 to 17 years received a custodial sentence in the South East area. <sup>17</sup>

<b>Use of Custody 2011/12</b>			
<b>YOT</b>	<b>Custodial Sentences</b>	<b>10-17 Population 2011</b>	<b>Rate per 1.000 of 10-17 population</b>
Bracknell Forest	3	11,825	0.25
Brighton and Hove	12	21,522	0.56
Buckinghamshire	25	52,557	0.48
East Sussex	17	49,646	0.34
Isle of Wight	11	13156	0.84
Kent	59	148,947	0.40
<b>Medway</b>	<b>12</b>	<b>27,538</b>	<b>0.44</b>
Milton Keynes	25	25,285	0.99
Oxfordshire	28	60,609	0.46
Reading	11	12,811	0.86
Slough	18	14,464	1.24
Surrey	14	109,123	0.13
Wessex	132	165,486	0.80
West Berkshire	2	16,289	0.12
West Sussex	28	74,339	0.38
Windsor and Maidenhead	5	14,549	0.34
Wokingham	0	15,854	0.00
<b>TOTAL</b>	<b>402</b>	<b>834,000</b>	<b>0.48</b>

## **Medway Comparison between 2010 - 2012**

<b>Description</b>	<b>Custodial Sentences</b>
2010/11	19**
2011/12	12*
Reduction	7
% of Reduction	-37%

<sup>17</sup> \*Source: Youth Justice Statistics Regional Data - <https://www.gov.uk/government/publications/youth-justice-statistics>

\*\*Source: Youth Justice Statistics (Use of custody, regionally, 2010-11) - <https://www.gov.uk/government/publications/youth-justice-statistics>

## Client Outcomes

The table below shows the number of client outcomes involving Medway children and young people during 2011/12.<sup>18</sup>

Regional Disposals 2011/12	Age				Gender			TOTAL
	10 - 14	15	16	17+	Female	Male	Not Known	
<b>Pre-court</b>								
Police Reprimand	39	13	20	18	40	50	0	90
Final Warning	15	10	16	9	10	40	0	50
Conditional Caution	0	0	0	0	0	0	0	0
<b>First-tier</b>								
Absolute Discharge	2	0	0	0	1	1	0	2
Bind Over	0	0	0	0	0	0	0	0
Compensation Order	2	5	7	10	4	20	0	24
Conditional Discharge	4	3	8	8	2	21	0	23
Fine	3	2	5	13	2	21	0	23
Referral Order	14	10	25	26	18	57	0	75
Reparation Order	0	0	0	0	0	0	0	0
Sentence Deferred	0	0	0	0	0	0	0	0
<b>Community</b>								
Action Plan Order	0	0	0	0	0	0	0	0
Attendance Centre Order	0	1	0	0	0	1	0	1
Community Punishment and Rehabilitation Order	0	0	0	0	0	0	0	0
Community Punishment Order	0	0	0	0	0	0	0	0
Community Rehabilitation Order	0	0	0	0	0	0	0	0
Curfew Order	0	1	0	4	0	5	0	5
Drug Treatment and Testing Order	0	0	0	0	0	0	0	0
Supervision Order	0	0	0	0	0	0	0	0
Youth Rehabilitation Order	5	19	17	26	10	57	0	67
Youth Default Order	0	0	0	0	0	0	0	0
<b>Custody</b>								
Detention and Training Order	0	1	8	3	0	12	0	12
Section 226 (Life)	0	0	0	0	0	0	0	0
Section 226 (Public Protection)	0	0	0	0	0	0	0	0
Section 90-91 Detention	0	0	0	0	0	0	0	0
Section 228	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>84</b>	<b>65</b>	<b>106</b>	<b>117</b>	<b>87</b>	<b>285</b>	<b>0</b>	<b>372</b>

<sup>18</sup> Source: Youth Justice Statistics Regional Data (Disposals by Region) - <https://www.gov.uk/government/publications/youth-justice-statistics>

This table indicates the range of client outcomes, which Medway young people were subject to at that time and how the relationship between those subject to pre court client outcomes by the police in comparison to those made with the Youth Court. This was the transition year in respect to court client outcomes, with a now simplified sentencing framework for young people in place.

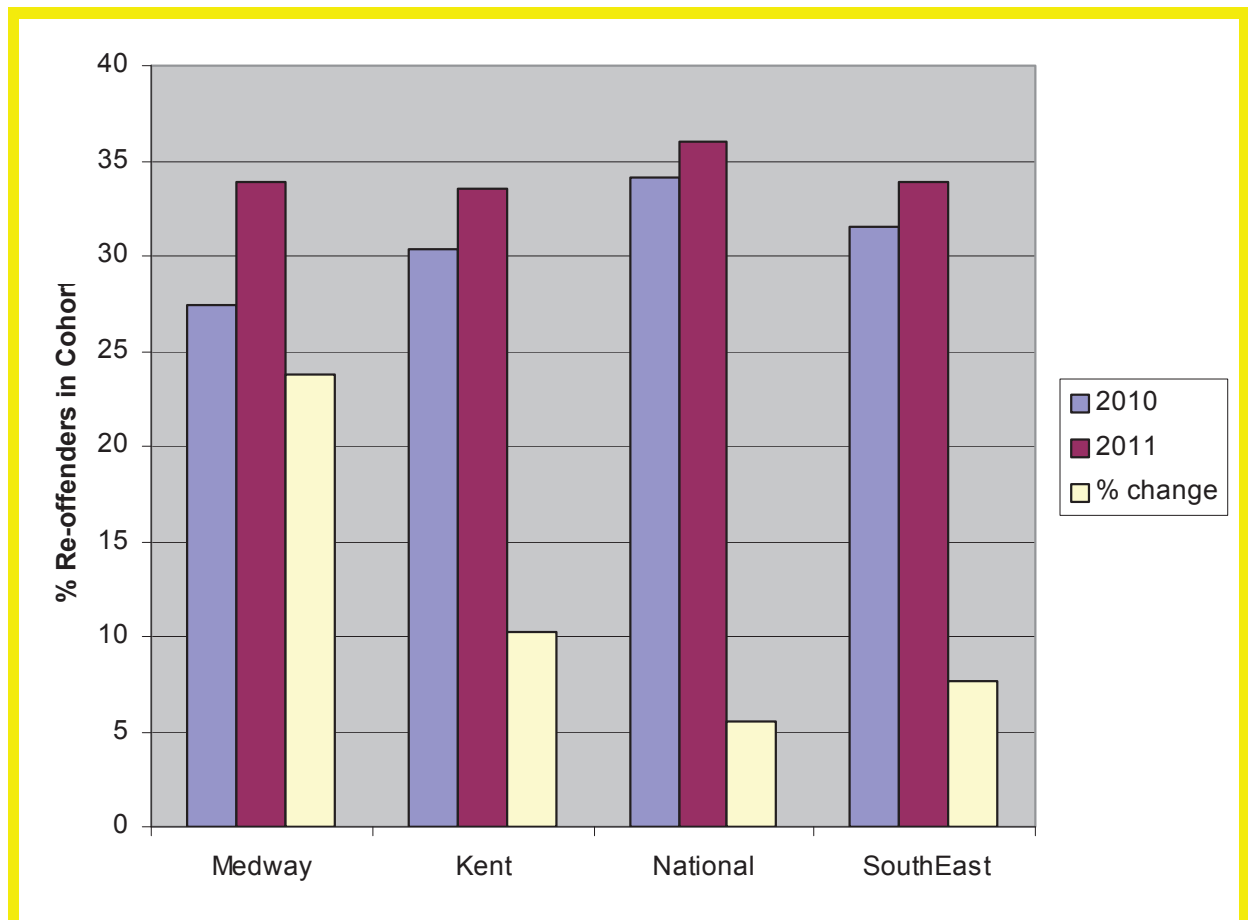
### **Medway Client outcomes Comparison between 2010 - 2012**

<b>Description</b>	<b>Total Outcomes</b>
2010/11	599
2011/12	372
Reduction	227
% of Reduction	-38%

## Re-Offending

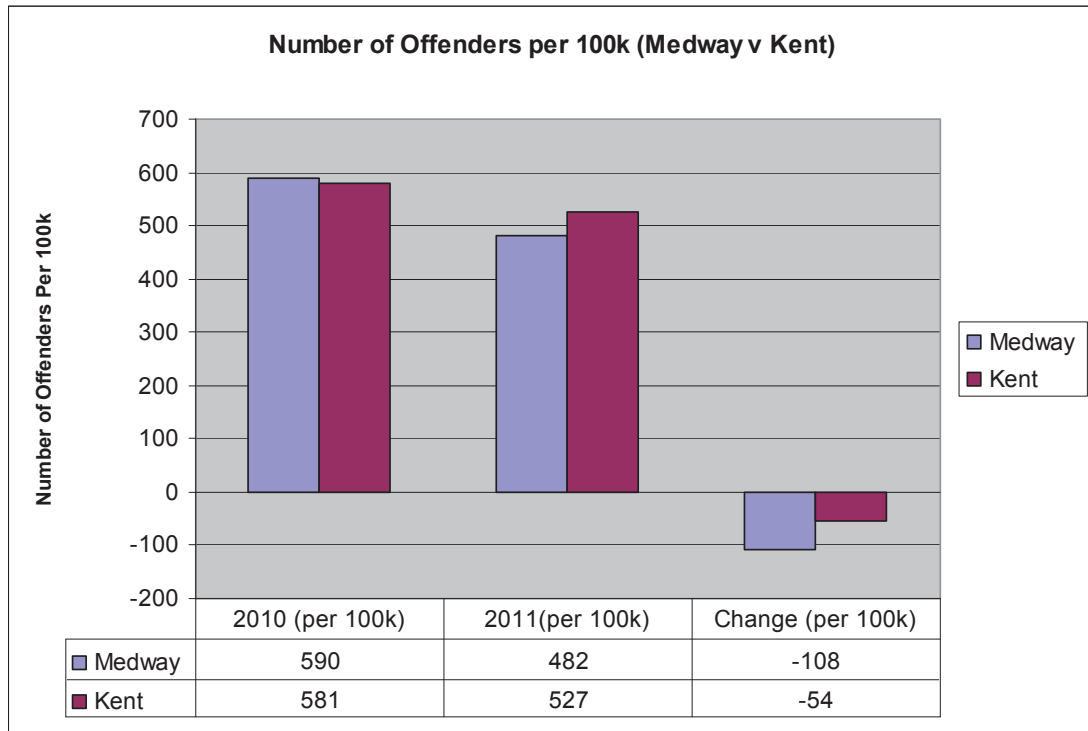
This report is based on data published in the YJB Re-offending toolkit, which in turn is compiled from information extracted from the Police National Computer system. No local YOT data is used in this report. The latest report available compares cohorts from 2009/10 with 2010/11.

### % Offenders who re-offend



It was agreed by the MYOT Management Board to introduce local measures derived from data held in the Medway YOT CMS to support the National re-offending measure published by the YJB and reported to the YOT Management Board. This is the first of these, focussing on the rate of re-offending after the end of a court-imposed programme of intervention.

The graph below compares the number of re-offenders per 100,000 between Medway & Kent by using data published in YJMIS Re-offending toolkit as above. This is based on the latest YJB data reports available which compare cohorts from 2009/10 with 2010/11.



#### SUPPORTING INFORMATION

- Although Medway has seen an increase in the percentage of re-offending locally, Medway has a greater decrease in the total number of re-offenders per 100k between 2010 & 2011 compared to Kent in the same period, however Kent represents a larger population.
- Data was taken from the latest YJMIS Re-Offending Toolkit Jul 2010 to Jun 2011 (v5.0.0) on 23 July 2013



The table shows Medway's overall performing in terms of youth crime during 2012/ 13 <sup>19</sup>

Quarterly Monitoring Indicators	Target	Q1	Q2	Q3	Q4	YTD	RAG
NI19 Re-offending (%) - those on a court order have re-offended 6 months after the completion of the order.	< 35%	35%	48%	29%	37%	37%	Red
NI43 Custodial Convictions	<5%	12%	4%	8%	2%	6%	Red
% Medway YP Population who receive a custodial sentence - custody in any three month period is no more than 6% of the total court order disposals (not including pre court and diversion, only actual orders made by the courts)	< 6%	10%	5%	8%	2%	6%	Green
NI45 Engaged in suitable education, training or employment (Pre 16s)	>95%	100%	94%	91%	100%	96%	Green
NI45 Engaged in suitable educations, training or employment (Post 16s)	>70%	91%	90%	89%	89%	90%	Green
NI46 Suitable Accommodation (%)	>95%	95%	98%	100%	89%	96%	Green
LM: Accommodation status of YP after release from custody	>90%	100%	100%	100%	100%	100%	Green
NI111 Number of First Time Entrants to YJ System	5% Reduction: <275 (by 31 March 2014)	29	41	43	48	161	Green
LM: Looked After Children in YOT caseload - (There is no Target for the number of LAC young people known to Medway YOT.; this is an indication only, i.e. the % of LAC within the total YOT cohort)	% of LAC within the total YOT cohort. (No Target)	23%	27%	29%	25%	26%	

<sup>19</sup>Source: Internal records

	STATUS
Red	Target Missed
Amber	At Risk of Missed Target
Green	Achieved

The above table indicates that the YOT last year performed well in the majority of its targets and objectives. Custody levels remained high as a percentage of overall client outcomes but are low in terms of actual numbers. The proportion of Looked After Children (LAC) young people in the Youth Justice System (YJS) remains frustratingly high and will be a focus of partnership working over the life of the new plan to reduce this figure.

## Summary

- The number of young people receiving their first reprimands, warning or conviction (First Time Entrant / FTE) within Medway has been steadily falling with a total of 611 young people in 2005/06 compared to a total of 180 young people in 2011/12.
- Medway rate per 100,000 of 10 – 17 year olds receiving their first reprimand, warning or conviction (FTE) in 2011/12 is just above the South East rate but below the Kent & England rate.
- During 2012 6% of children who were aged 10 years or older that had been looked after by Medway Council as at 31<sup>st</sup> March during 2012 for at least 12 months had been subjected to a final warning or reprimand. This compares to the South East at 7.1% and nationally at 6.9% for the same period.
- Overall there were 517 offences committed by a young person that resulted in a court outcome during 2011/12. 79.3% of the crimes committed were by a male. Someone aged between 16-17 years of age committed 62.1% of these crimes totalling 321 offences out of the year total of 517.
- During 2011/12, 12 children and young people in Medway received a custodial sentence, which is a rate of 0.44 per 1,000 (10 to 17 years olds). Medway's rate is below the South East rate of 0.48 but above the Kent rate of 0.40.

## Medway Children & Young People's Plan

The Medway Youth Justice Plan directly supports important elements of the Children and Young People's Plan. Within the Medway Children and Young People's Plan are a number of priorities and actions that enhance and support the work that we are already doing to support children and young people.

The Medway Children and Young People's Plan (CYPP) 2011-14 sets out the Children's Social Care priorities for the next three years and what we will do to help implement the priorities. The Council and partners agreed on 12 priorities and 64 supporting actions, which they will work on together. The priorities have been grouped into the three stages of a child and young person's life:

- Pregnancy and the foundation years
- Schools years
- Becoming an adult

In terms of supporting young people, much has been done to celebrate the achievement of children and young people and the contribution that they make to Medway and preparing them for becoming an adult. We have encouraged more young people to give their time and energy to making Medway a good place to live and learn:<sup>20</sup> Opportunities to engage in positive activities is an essential part of preventative work, and can be used by the YOT to re-engage vulnerable young people who become YOT clients.

- Prevention is everyone's business and forms an essential part of the pre court YOT multi agency work.
- Recently Volunteering England completed a mapping exercise on the involvement of young people in volunteering and made recommendations on how it might be developed further in the future.
- The Medway Youth Forum continues to grow, offering all young people the opportunity to join and participate in the forum and recently achieved the National 'Hear by Right Silver' award.
- The achievements of looked after children were celebrated at an annual event 'Time to shine'. The Children in Care Council also held their annual social event supported by members of the Corporate Parenting Group.
- Medway Young Inspectors were commissioned to evaluate reparation procedures within the YOT. The feedback from the Young Inspectors has resulted in a number of changes being implemented to improve both the attendance of young people on the reparation projects and make the projects more educational and socially useful.

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<sup>20</sup> Review of the Children and Young People's Plan 2012

- Medway held a '100 Apprenticeships in 100 days' campaign, which received 190 pledges from 75 employers, with 100+ starts by the end of December 2011. To increase the number of Apprenticeship opportunities a GAP project was launched to follow on from the '100 Apprenticeships in 100 days' campaign.
- To increase the number of LAC into Pre-Apprenticeship a working group has been established to map the current level of support and programs on offer to them.
- During 2010/11 there were 2,337 Medway students in Year 11 of those 1,780 (76.16%) continued their education and went onto year 12.
- There are two websites, which offer young people in Medway advice and guidance on possible next steps on leaving school. The main sites receive on average 3,900 hits per month and the job search site receiving 1,000 per month.
- Overall a total of 404 (16-18 Apprenticeship) starts were achieved from August 2011 to January 2012 compared to 359 in the previous year, which is an increase of 12.5%. The South East only saw an increase of 1% in the number of 16-18 year olds Apprenticeship starts during the same period.
- 732 young people were identified in year 11 with 70% chance that they would become NEETs; support was quickly introduced resulting in 52% progressing onto education, employment or training.
- During September 2011, Medway Youth Trust (MYT) placed a guidance practitioner and an Intensive Advisor within the MILAC team to support looked after children onto further education, training or employment.
- Overall, nearly half (48.7%) of respondents to the TellUs 5 survey said they had received some kind of support to help them plan for their future once they have finished Year 11.
- 1,000 young people sign up for the Duke of Edinburgh Award Scheme in Medway every year. This includes young people from the Pupil Referral Units, YOT and Secure Training Centre.
- Medway is making steady improvements in the number of care leavers in education, employment or training at the age of 19 years. During 2009 the Medway percentage figure was at 42.4%, during 2010 this increased to 45.7% and in 2011 now stands at 50%. Although when compared to its statistical neighbour at 60.6%, it is still some way behind and even further behind when compared to the national average of 61.2%. Although the outcome for Medway's looked after children seems worse, it is worth remembering that within Medway, unemployment rates are much higher at 9.3% when compared to regional averages of 6.1%.

- The rate of Medway's young people who were not in employment, education or training (NEETs) was at its highest during September 2010 with nearly 10% of Medway's young people being recorded as NEETs, September figures always show a 'spike' as young people are supported into pathways following the release of academic results during August. During 2011/12 this figure has now reduced with predicted figures at 7.2%. Those young people who don't end up doing anything are regularly contacted and offered advice and support.
- The number of Year 13 students progressing onto higher education is steadily improving each year. However the number of students is lower than regional averages.
- The Tier 3 CAMH service has been re tendered, which should mean a better level of service with reduced waiting times and an improved integration at all levels. In particular the service ensures that effectively supporting LAC and 17 year olds and children with ADHD/ASD and high level Learning Disabilities.
- Procedures are now in place should a looked after children go missing from care all cases are recorded and there is an opportunity to discuss the reasons for leaving.
- In respect of LAC, the YOT and partner IYSS agencies are working together to develop strategies to ensure better outcomes for Medway's LAC including improved support and reducing their presence within the youth justice system.

## What the YOT are doing to improve both practice and performance

The YOT, with the support of the YJB and Medway YOT management board continues to strive to improve its practice and performance across its full range of activities.

All YOT clients are placed into one of three categories depending on the level of identified risk in respect of re-offending and potential harm to the public, this process is known as the Scaled Approach. The identification of risk factors also determines the level of intervention by YOT specialists such as Health, Education, Parenting, Intensive Supervision and Surveillance (ISS) and Group Work.

In order to establish the quality and effectiveness of the work undertaken by YOT Practitioners there is now in place a comprehensive system around auditing and quality assurance processes that are now routinely carried out across the full range of YOT activities. This auditing process provides a valuable insight into what is going well and why, and conversely identifying areas for improvement.

In March 2012 the YOT Operational Manager presented a paper to the YOT Management Board based on an analysis of Asset's of young people who were also LAC. The summaries of those findings are;

- The 'Lifestyle' and 'Thinking and behaviour' risk factors were the two risk factors that were the least amenable to change.
- 'Thinking and behaviour' retained its prominence as a risk factor for the cohort of LAC young people, but 'Motivation to change', increased in prominence in terms of it being a risk factor not amenable to YOT intervention for the LAC cohort.
- Within these two risk factors we can identify specific factors / behaviours that were not amenable to YOT intervention and closely associated with re-offending. Particularly, lack of consequential thinking, impulsivity, poor control of temper, destruction of property, aggression towards others, associating with pro-criminal peers and having nothing much to do with their spare time.
- Of the LAC young people who re-offended whilst under YOT supervision and those that did not re-offend, there appears to be little difference in terms of the ages at which these young people were taken into care. There also appears to be no significant pattern regarding their care status (as to whether they were taken into care as a result of the Southwark Judgement, section 20 / voluntarily, or in respect to a care order). What is noticeable is that a large number of young people supervised by the YOT (who both re-offended and did not re-offend) were looked after during their teenage years.

- An analysis of recent significant incidents (known as Critical Learning reviews) that are reported to the YJB has indicated a need to undertake work around young people engaging in self-harming and the need for emotional health support.
- The young people who were identified from the Asset as having been 'Angry' (Destruction of property, Aggression towards others) the majority of these were LAC.
- A recommendation from the auditing process is that the Youth Offending Team would benefit from specialist training in respect of the issues around young males with anger and trauma.



## Resources

The Medway YOT is resourced through the strategic partnership both in terms of direct funding and the secondment of staff. All strategic partners currently contribute towards the resourcing of Medway YOT either in terms of seconded staff or cash grants.

The current financial climate for public services remains a very difficult one, which has continued to impact upon the YOT, and will make the financial period 2013/14 challenging in respect of balancing statutory requirements and policy commitments against the available level of resources.

All principal funding agencies have confirmed their levels of contribution for the period 2013/14.

In the case of the Probation Service, there is no longer a financial contribution in line with agreed reductions in support. However the seconded staffing levels remain, at present, unchanged.

The Police contribution is now incorporated into the grant awarded by the Police & Crime Commissioner (PCC) and has been sustained at historical levels.

Medway Council funding has been reduced as a result of implementation of the better for less programme recommendations, this has been achieved through planned savings without any reduction to front line services.

The Youth Justice Board have continued to reduce the level of support to the YOT by some 9% in 2013-14. This has been absorbed across the range of YOT functions. The former Home Office element of the YOT grant is now incorporated within the PCC grant. However the PCC has strongly indicated that future support cannot be taken for granted and will be subject to a full review of all grants, which have been made during the current financial year. The current value of the PCC grant to the YOT is £104000.

A new funding formula was expected to be introduced by the Youth Justice Board for the re-distribution of YOT grant from March 2013. However as an interim measure the YOT grant has been directly linked to effective practice and is required to be identified against a funded effective practice plan incorporated into the Youth Justice Plan. (See appendix 3).

The YOT expects to be able to continue its current commitments, in terms of staffing, during 2013/14 through continued efficiency savings, however the scope for further savings is now extremely limited.

There are opportunities for the YOT to earn funding through the successful participation in the Action for Families (Troubled Families) agenda, if the YOT can demonstrate sustained successes with identified families, working

in partnership with their involved agencies. However, funding through the Action for Families route cannot be for existing statutory activity.

Discussions are ongoing with our colleagues in Kent YOS to explore the possibility of sharing functions and if appropriate, joint working arrangements to achieve savings to both services.

The YOT expects to be able to continue its current commitments, in terms of Medway Youth Offending Unit Cost 2013/14.

In terms of unit costs for Medway YOT, the cost of providing YOT services based on 2012/13 activity are as follows:

### Inclusive Costs

	Caseload April 2012 - March 2013
<b>Allocated YOT Budget</b>	£1,032,000
<b>Client Total</b>	632
<b>Unit cost per Young Person / Outcome</b>	£1,632.91

Note that the unit cost per young person is both comparable and favourable to other YOT's of a similar size and composition.

### Agency Contributions to YOT Resources 2013/14

AGENCY	Staffing Costs total cost of the seconded to the employer, including on-costs	Payments in kind	Other Delegated Funds cash contributions from partner agencies to be used at YOT Managers' discretion	Total
Police	48,000	0	104,000	152000
Probation	69,000	0		69000
Health	46,000	0		46000
Local authority	466,000	0		466000
YJB	366,000	0		366000
Other	390,000			390000
<b>TOTAL</b>	1385000	0	104000	1489000

(Total YOT costs include the value of staff seconded into the YOT by other agencies but exclude the costs of the resettlement service provided to HMYOI Cookham Wood provided under a service level agreement).

In terms of gauging effectiveness, the YOT employs a number of measures, which include the following:

- Data collected for the YOT Management Board and returns for the YJB.
- Monitoring of outcomes for ISS and Prevention clients over a period of time post intervention.
- Recording of compliance with national standards, such as compliance with orders and return to court.
- Assessment of accredited Parenting Programme outputs.

Outcomes and impact of YOT services are reported on a quarterly basis via the Assistant Directors Quarterly Report to the Medway Director of Children's Services and to the YOT Management Board.

## Costed Plan for YJB Effective Practice Grant 2013 /2014

YOT Partnership grant value £366,383

### Proposed expenditure

Prevention activities (1)	£ 85,000
ISS (2)	£118,000
Monitoring & Performance (3)	£ 58,000
Training & staff development (4)	£ 8,000
FFT & Parenting (5)	£ 20,000
Remand changes (6)	£ 10,000
Volunteer mentors (7)	£ 5,000
Resettlement (8)	£ 28,000
Reparation re-focus (9)	£ 5,000
Strategic management (10)	£ 18,000
Serious Case Review Recommendations (11)	£ 9,000
Mindfulness training & support (12)	£ 3,000
<b>Total</b>	<b>£377,000</b>

1. Prevention activities - This covers additional support to the Triage Pilot not covered by the Department of Health Funding (Health Professional only) in respect of assessment of young people, evening activities and the development of intervention programmes to divert young people from the youth court to reduce first time entrants.
2. The ISS programme is being re-structured to make it a bespoke service to meet the individual requirements of each young person in line with the recommendations of the AK Serious Case Review and to expand the scope and range of ISS activities in support of remand changes under Legal Aid, Sentencing and Punishment of Offenders Act (2012) (LASPO).

3. Monitoring & Performance activities are vital to prove the effectiveness in the YOT achieving its performance targets, complying with Youth Justice National Standards, statutory requirements and achieving both good outcomes for young people and value for money. There is now an established programme of review and auditing covering most aspects of the YOT's work and performance.
4. Training, a number of areas have been identified for training and development, for the team as a whole and for certain individuals in support of recommendations made in respect of the AK Serious Case Review and in responding to legislative change such as LASPO.
5. Functional Family Therapy (FFT) is currently being piloted in Medway with the YOT, a major refer of families to the programme. Based on early indications of success and an opportunity arising due to staff changes, it is proposed to employ a part time FFT practitioner who will deliver intensive support and parenting to young people and their families.
6. Changes to remand arrangements under LASPO have required the YOT to develop, along with partners, a range of measures to expand the scope of available bail support options to provide a realistic package of measures as alternatives to custodial Youth Detention Accommodation (custodial remand).
7. A group of volunteer mentors are being recruited and trained to support young people on community orders, returning to the community from custody and provide support and guidance to young people on bail packages.
8. Resettlement Officer, as the YOT was never in receipt of specialist funding for resettlement work as was provided to most other SE YOT's, this will continue as a pilot to review effectiveness and develop new ways of working with young people prior to release and post release to sustain and embed young people into community resources.
9. A full review of YOT reparation projects is to be undertaken to re-focus activities towards projects that have good social value, meet the needs of victims and provide a greater degree of training and transferable skills for those taking part in the activities. This is in part based on work carried out by the Medway 'Young Inspectors' during 2012.
10. The strategic management of the YOT covers important elements around governance and partner engagement. This covers the role and support of the YOT Management Board, liaison with partner agencies, including the development and review of Service Level Agreements and Partnership agreements across the YOT Partnership and other significant agencies.

11. There are three sets of recommendations that have arisen as a result of the tragic death of a young person in Custody in early 2012. These cover the Independent Management Review of the YOT's involvement, the report by the Prison & Probation Service Ombudsman and arising from the Serious Case Review itself. In total there are twenty-six individual recommendations around changes to practice, procedures and partnership working which the YOT has been tasked with implementing under the monitoring of the Medway Safe Guarding Children's Board.
  
12. Mindfulness training, the YOT is proposing to undertake a pilot around Mindfulness Training, a technique based around mediation to assist young people in dealing with difficult situations and remaining calm in stressful situations. This programme developed via Oxford University has shown some very good success when applied within school settings with young people with behavioral problems. This will be a piece of groundbreaking work by applying it within the Youth Justice setting.

## Partnership Working

Partnership working is at the very heart and essence of what YOT's are all about. Over the past eighteen months there have been a number of important developments.

Through the Integrated Offender Management Unit (IOMU), the YOT and Police jointly identify and manage those high-risk young people who have been identified as being Deter Young Offenders (DYO) status. This joint working has brought advantages to both the YOT and the Police in respect of sharing information, intelligence and setting the appropriate level of interventions into both Pre Sentence Reports and in relation to individual intervention plans.

High risk and high vulnerability cases are now the subject of regular multi agency meetings hosted by the YOT to bring together all of the key individuals and agencies who have a direct impact upon the high risk and vulnerability cases. These meetings are essential for ensuring that each agency is carrying out its agreed actions in each case and the sharing of new information or developments within each case.

Implementation of the work stream around the Action for Families Agenda has seen the YOT and IPS, working closely with Kent Probation, Police, Children's Services, Health and Job Centre Plus to establish the required parameters for the successful execution of direct partnership work with identified troubled families.

Close working with our colleagues in Health has resulted in some very swift CAMHS referrals and in one case the arranging for a special hospital admission within twelve hours of referral. The expansion of the availability of Speech & Language assessments via our health provider has greatly improved outcomes for young people.

Of particular note has been the agreement reached with Children's Social Care in respect of the seconding for a period of two years, a social worker from the Medway LAC Team. This has resulted not only in improving levels of service for vulnerable young people, but also provided the YOT with direct access in terms of support and advice with Children's Social Care. Joint training and review of policy and procedures has also been carried out.

In terms of strategic positioning, the YOT is represented upon the following strategic groups:

- Medway Safeguarding Children's Board
- Medway Community Safety Partnership
- Kent Criminal Justice Board
- Medway Health & Well-being Board
- Medway Corporate Parenting Board

- Medway Action For Families Board

In addition, there are strong links to the Medway Children's Trust Board, the Medway Drug and Alcohol Action Team (DAAT) and the Health & Well-Being Board.

The Medway YOT is fully supported by all of the statutory agencies (Crime & Disorder ACT 1998) at both YOT Board Level and at an Operational Level within the team, with no current deficiencies on either the YOT Management Board or within the Operational Team in regard to statutory agencies representation.

The YOT is fully embedded within the local Strategic Partnership arrangements. The YOT Manager represents the Medway YOT at the Kent Criminal Justice Board and at a local level on the Strategic Executive Group (SEG) of the Medway Community Safety Partnership via the Assistant Director of Inclusion & Improvement.

The Kent Criminal Justice Board is no longer directly funded via government grant, but through a system of voluntary support via its constituent members. The Medway YOT currently makes a small contribution towards the running costs of the KCJB. The KCJB performs an important role in co-ordinating Criminal Justice Strategy across the geographical County of Kent, its impact is recognised and valued by agencies involved in the delivery of Criminal Justice plans.

The Strategic Executive Group (SEG) of the CSP has conducted a review of its scope and membership in the light of reduced resources and the possible impact of the introduction of Police & Crime Commissioners later in 2012. The membership has now been reduced to those organisations identified as statutory members. However it is still responsible for the creation and execution of a Strategic Community Safety Plan for Medway.

#### Detached Team at Cookham Wood Young Offenders Institute (YOI)

The Youth Justice Board via HM Prison Service purchases from Medway YOT a range of services that directly support resettlement and re integration of young people back into the community upon release from custody. A detached team of specialist workers based within the YOI carries out this service. This team includes Social Workers, Resettlement Officers, Group Work Specialist and Family Liaison Officer. This team is employed via the Medway YOT but is paid for, including a Management fee by HM Prison Service. The work of the Detached Team provides a range of specialist services for all young people at Cookham Wood, however there are particular advantages in respect of Medway's young people at Cookham Wood, as there is an enhanced level of service that is not available to other Youth Offending Teams as a direct result of the unique and well established relationship between the Medway YOT and Cookham Wood YOI. A full inspection of Cookham Wood in March 2013 achieved an overall score of 3 but in respect of resettlement, it scored a 4 which is the



ofsted equivalent of outstanding, this is an extremely rare accolade of which the detached team should be very proud.

## Potential Risks

There are a number of risks that have been identified that may have a significant impact upon the ability of the YOT to deliver upon the YOT Plan.

Risk	Actions to mitigate risks
Reduction in YJB YOT funding with links to proven good practice development. Funding is expected to continue to reduce over the life of this plan. In addition reductions from partner agencies may also be significantly reduced along with agreed transfer of existing funding to the Police & Crime Commissioner.	Develop a strategy for protecting the core statutory functions of the YOT. Ensure that YJB funding is clearly linked to performance development and improvement. Develop sound business case for presentation to PCC. Explore the possibility of partnership working or outsourcing of some functions.
Impact of the Police & Crime Commissioner on current YOT priorities. Review being undertaken to decide PCC priority funding for 2014 and beyond.	Seek to influence the long term policing plan, working with the PCC to ensure that there is a good understanding of YOT and its role in delivering Youth Justice services.
Impact of remand changes and transfer of the costs to Local Authority if remand fails to reduce or actually increases.	Ensure that staff receives adequate levels of training and support to meet new challenges. Work with partners within Children's Social Care to develop alternatives to secure remand and challenge remand decisions where appropriate. Monitor actual remands and financial implications.
Overstretch of prevention resources due to competing and expanding demands and reduction of funding.	Consider transfer of prevention and diversion functions to main YOT Team and concentrate resources on areas of high risk and need.
Improvements to practice built upon post inspection are not sustained. Impact of a YOT Inspection being called.	Continue regular audit and review of both open and completed cases. Ensure dissemination of good practice via supervision and training events. Review relevant policies and procedures.
Continuing high levels of non-compliance with statutory orders by young people.	Develop changes to management oversight arrangements; carry out regular audits around case management and the outcomes to learn from best practice. Ensure robust responses from practitioners in respect of non-compliance.
Continuing high custody levels.	Review of resettlement arrangements. Audit and review management of high-risk cases. Explore alternatives to custody such as expanding role of Intensive Supervision & Surveillance.

	Review PSR and sentencing options and decisions.
Loss of key staff and a failure to secure timely replacements, impacts upon ability to deliver YOT services and objectives.	Monitor staff vacancies and take appropriate action for early replacements. Develop contingencies such as re-distribution of caseloads, use of temporary or agency staff.

## Our Priorities

Our priorities for the life of this plan will be:

- 1 Prevent young people from entering the Criminal Justice System.
- 2 Reduce the likelihood of re-offending by those young people currently within the Youth Justice System.
- 3 Respond to and manage the impact of changes to the custodial remand arrangements.
- 4 Identify and manage Risk & Vulnerability issues.
- 5 Promote continuing effective business change in response to the evolving Youth Justice landscape.

To help us achieve our priorities a number of targets in the following areas have been set by our YOT Management Board:

- Percentage of young people suitably accommodated at the end of their Order.
- Percentage of young people leaving custody who are in suitable accommodation.
- Percentage of young people engaged in employment, education or training at the end of their order.
- Reduction in levels of risk at the end of their Order for those young people who are identified as Looked After Children (LAC).
- Reduce the number of young people who are LAC within the youth justice system.

# Delivery Plan

## Priority 1: Prevent Young People (YP) entering the Criminal Justice System Outcome: Young people are diverted via alternative appropriate provisions and services

Description of planned activity	Critical success factors	Links to LA/ Partners plans	Completion date	Target Group	Lead Officer	Current position	Status	Risk Likelihood A. Very high B. High C. Significant D. Low E. Very low F. Almost impossible	Impact 1. Catastrophic (Showstopper) 2. Critical 3. Marginal 4. Negligible
1. Develop further the Triage project to minimise young people entering the Criminal Justice System.	Significant reduction of first time entrants. Signposting where appropriate and, delivering focused intervention. Target a reduction of 10% on 2011/12.	Children's Plan IYSS Plan CSP KCJB Business Plan	March 2014	YP at risk of offending	Senior Practitioner (Prevention and Diversion)	Responsibility transferred from IPS to YOT August 2013.		B	2
2. Development of inter agency protocol to reduce number of LAC entering Criminal Justice System.	Significant reduction in number of LAC entering the Criminal Justice System no more than 5 individuals.	Children's Plan IYSS Plan KCJB Business Plan	March 2014	Looked After Children	Senior Practitioner (Safeguarding)	Working party established by KCJB, agreement on participation by Director of Children's Services and Portfolio Holder.		B	2
3. Instigate identification of Health concerns and Learning needs at initial stages. Appoint new Health Professional.	Health issues are identified and signposted to relevant partner agencies. At least 30 referrals are made.	Children's Plan IYSS Plan	October 2013	Prevention Health Lead Officer	YOT Manager	New Health Professional appointed due in post September 2013 duties currently undertaken by YOT Health Officer.		B	2
4. Review referral criteria for prevention and diversion with partner agencies.	Referral criteria to be agreed and published.	Children's Plan IYSS Plan	October 2013	YP at risk of offending & entering social care	YOT Operational Manager	Discussions in progress.		A	1
5. Deliver elements of the Action for Families Agenda and act as lead professional as appropriate.	Action for Families are identified and where appropriate interventions are tailored to meet the assessed needs. Lead professional in at least 10 cases.	Children's Plan IYSS Plan Medway Council Plan CSP Plan	March 2014	YP at risk of offending	YOT Operational Manager	Recruiting a specialist Troubled Families YOT Practitioner.		C	2

6. Develop joint working practices with the Youth Service.	Young people have positive activities during and after prevention interventions. Better inter agency use of resources. 90% of young people have a positive activity at the end of involvement.	Children's Plan IYSS Plan	December 2013	YP being at risk of offending & completed interventions	Senior Practitioner	Discussions underway with Youth Service and other providers.	C	3
7. Work with PCC to ensure that prevention work maintains a high degree of priority and is continued to be funded via the PCC.	Prevention funding continues to be supported by the PCC.	Children's Plan IYSS Plan Medway Council CSP Plan	April 2014	PCC and prevention cohort	YOT Manager	Regular consultations and discussions held with the PCC.	A	1

Priority 2: Reduce the likelihood of re-offending by those YP currently within the YJS Outcome: Young people are able to achieve their potential and make a positive contribution to our community									
Description of planned activity	Critical success factors	Links to LA/Partners plans	Completion date	Target Group	Lead Officer	Current position	Status	Risk Likelihood	Impact
1. Target resources on high risk, DY0 cases and Resettlement cases.	20% reduction in offending by identified cohort.	Children's Plan Medway Council KCJB Business Plan	March 2014	High risk cohort	YOT Operational Manager	Bespoke plans developed by Practitioners in respect of identified cohort.		B	2
2. Support troubled families agenda (Action for families) through providing enhanced support to those YOT clients within the identified list.	PBR outcome is achieved in 50% of identified cases.	Children's Plan Medway Council CSP Plan IYSS Plan	March 2014	Troubled families identified within YOT cohort Enhanced cohort	YOT Operational Manager	Initial cohort target achieved. Recruiting specialist Troubled Families YOT Worker to be funded by PBR payments.		B	2
3. Provide training to practitioners in response to auditing and evaluation of YOT cases.	95% of practitioners receive training. Improvement in subsequent audits of 20%.	IYSS Plan	June 2013	YOT Practitioners	YOT Operational Manager	First tranche of training delivered.		C	2
4. Move reparation projects towards more socially useful outcomes.	60% of reparation tasks are judged to be socially useful.	Children's Plan IYSS Plan CSP Plan	June 2013	Reparation cohort	Reparation Officer	New projects identified and being undertaken.		C	3
5. Develop ISS towards individually designed programmes for participants.	Reduction in use of custody and ISS by 5%.	Medway Council Children's Plan CSP Plan KCJB Business Plan	October 2013	Intense client group	YOT Operational Manager	Individual plans now in place and normal practice.		C	2
6. Develop mindfulness training for selected practitioner group to deliver to identified cohort.	Six members of staff trained and delivering and practising mindfulness.	Children's Plan IYSS Plan	March 2014	YOT Practitioner Group	YOT Operational Manager	Programme Provider identified. Training yet to commence.		D	2
7. Create a joint post of YOT Functional Family Therapy Practitioner.	A reduction in re-offending by young people who are part of a chaotic family group subject to FFT. 30% reduction in re-offending.	Children's Plan IYSS Plan KCJB Business Plan CSP Plan	March 2014	Chaotic and Dysfunctional families 44	YOT Operational Manager	Post approved and recruiting underway.		C	2



### Priority 3: Respond to and manage the impact of changes to the custodial Remand arrangements Outcome: Children and young people have appropriate effective alternatives to custody

Description of planned activity	Critical success factors	Links to LA/ Partners plans	Completion date	Target Group	Lead Officer	Current position	Status	Risk Likelihood	Impact
1 Track remand costs and monitor and report to YOT Board.	Real time cost data is available to inform financial planning and decision-making.	Medway Council Plan CSP Plan KCJB Business Plan Children's Plan	March 2014	Remand cohort	Information Officer	Progressing as planned.		A	1
2. Deliver joint staff training with Medway magistrates around remand changes and new legislation.	90% of YOT practitioners & 60% of Magistrates receive training.	YSS Plan CSP Plan KCJB Business Plan	December 2012	Practitioners and Magistrates	YOT Operational Manager	Successfully completed.		C	2
3. Increase hours and days that ISS bail scheme is available using Youth Service and other resources to supplement ISS.	ISS can deliver a 7 day a week service up to 21.00.	Children's Plan CSP Plan KCJB Business Plan YSS Plan	March 2013	Remand cohort	YOT Manager	Resources have been identified by the Youth Service.		C	2
4. Develop a range of measures to reduce number of remands in partnership with Children's Social Care. Including development of Volunteer mentoring scheme.	YOT Court team are able to develop robust and sustainable alternatives to custodial remand based upon best practice principals.	Children's Plan CSP Plan	June 2013	YOT & Children's Services Management	YOT Operational Manager	Programme of alternatives approved by YOT Management Board.		B	2
5. Explore remand fostering programme with Kent.	At least one Medway Remand bed is available on demand. Remand fostering is used instead of custodial remands.	Children's Plan CSP Plan KCJB Business Plan YSS Plan	October 2013	Kent & Medway Commissioners	YOT Manager	Subject to partner negotiation and funding being available. Providers identified and contract discussions underway.		C	2



**Priority 4: Identify and manage vulnerability issues**  
**Outcome: Young people with identified vulnerabilities receive effective services to promote their safety and well-being**

Description of planned activity	Critical success factors	Links to LA/ Partners plans	Completion date	Target Group	Lead Officer	Current position	Status	Risk Likelihood	Impact
1. Embed findings of AK Serous case review into YOT procedures and develop best practice.	Changes to practice are identified and fully implemented. An in service review confirms that best practice principals apply	Medway Council Plan Children's Plan IYSS Plan MSCB Business Plans	January 2014	All Operational staff	YOT Manager	Report published August 2013 implementation of recommendations approved by MSCB.	A	A. Very high B. High C. Significant D. Low E. Very low F. Almost impossible	1. Catastrophic (Showstopper) 2. Critical 3. Marginal 4. Negligible
2. Develop closer working relationships with LAC team conduct review of policies and procedures.	Regular joint case and review meetings held. Reduction in offending by LAC cohort. Joint review meetings held in 95% of appropriate cases.	Medway Council Plan IYSS Plan Children's Plan Children's Services MSCB Business Plan	December 2013	Joint LAC/YOT staff group.	Senior Practitioner (Safeguarding)	Seconded LAC Social worker in YOT. Review of policy and procedures underway.	C		2
3. Undertake regular multi agency reviews all high vulnerability cases.	All high vulnerability cases reviewed on a three monthly basis. Target of 100%	Children's Plan IYSS Plan MSCB Business Plan	March 2014	Operational staff	Operational Manager	Reviews underway	B		2
4. Conduct audit of YOT safeguarding procedures.	Reported to YOT Management Board and MSCB.	Medway Council Plan Children's Plan IYSS Plan MSCB Business Plan	September 2013	All young people who interface with YOT	SP Safeguarding & CP	Outcome to be reported to YOT Board in September 2013.	B		2
5. Develop effective management oversight and QA of all vulnerability and safeguarding cases.	QA process embedded into gate keeping process and outcomes reported to YOT Board. Correct assessment is made in 95% of all cases audited.	Medway Council Plan Children's Plan MSCB Business Plan	March 2014	Operational staff	Operational Manager	Processes in place.	C		2

## Priority 5: Promote effective business change in response to the changing Youth Justice landscape

### Outcome: Young people continue to receive services that are to a high standard and the statutory obligations of the YOT continue to be discharged

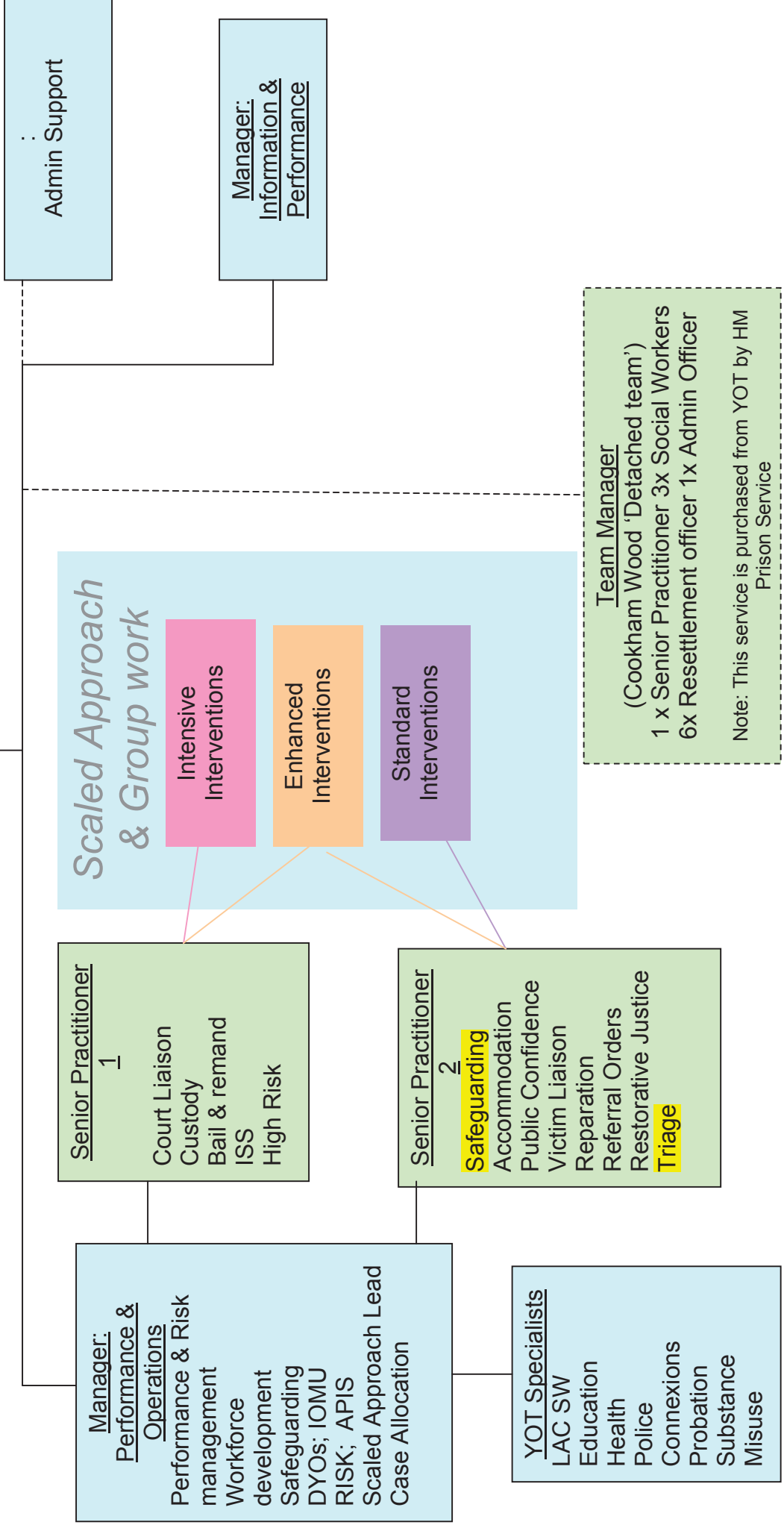
Description of planned activity	Critical success factors	Links to LA/ Partners plans	Completion date	Target Group	Lead Officer	Current position	Status	Risk Likelihood	Impact
1. Respond to Introduction of PCC through developing a relationship with the PCC to ensure that there is a high profile for Youth Justice and that existing initiatives and funding continue, while exploring new ways of delivering best practice in Youth Justice.	Existing work and funding maintained and PCC has an enhanced awareness of YOT role & functions.	Medway Council Plan KCJB Business Plan CSP Plan	March 2013	YOT Board & PCC	YOT Manager	Good working relationship established.	A	A. Very high B. High C. Significant D. Low E. Very low F. Almost impossible	1. Catastrophic (Showstopper) 2. Critical 3. Marginal 4. Negligible <b>1</b>
2. Implement Better for Less review outcomes in respect of creation of a YOT remote admin hub and the transfer back to the YOT of court support activities.	Admin & Support re-configured and identified savings and efficiencies achieved.	Medway Council Plan	March 2013	Support staff and Court Admin Officer	YOT Manager	Changes successfully implemented.	B	B	2
3. Develop contingencies for a reduction in YOT grant and partner support, ensuring that core statutory functions are identified and maintained.	Core statutory functions are maintained at a level that enables the YOT to discharge its responsibilities.	Medway Council Plan YSS Plan	March 2014	Whole YOT function	YOT Manager	Reductions to YOT budget successfully managed for period 2013/2014.	A	A	1
4. Re-negotiate SLA's and partnership agreements in line with new working practices.	New SLA's and partnership agreements are in place and functioning in 100% of agreements.	Medway Council Plan YSS Plan Children's Plan CSP Plan	March 2014	Partner agencies	YOT Manager	Work currently in progress.	B	B	2
5. Facilitate with YJB peer group self-assessment of the YOT as part of the preparations for YOT inspection.	Outcome of peer review to be reported to YOT Board in 2014.	Children's Plan YSS Plan KCJB Business Plan CSP Plan	March 2014	Whole YOT function	YOT Manager	Planning underway, provisional agreement with YJB for January 2014.	B	B	2
6. Ensure that the planned move of the YOT and IPS to new premises is successfully completed with minimum business disruption.	Move is successfully completed within a two-week time frame and that 75% of normal business continues during the move period.	YSS Plan	March 2013	Whole YOT function	YOT Manager	Suitable accommodation has not yet been identified.	A	A	2
7. Develop best practice principals through audit & review of aspects of the YOT work and disseminate through supervision and staff training.	YOT national Standards are complied with in respect of assessment, planning, supervision and review of orders in 95% of cases.	Children's Plan YSS Plan CSP Plan	March 2014	Whole YOT function	YOT Operations & Performance Manager	Successfully being implemented.	B	B	2

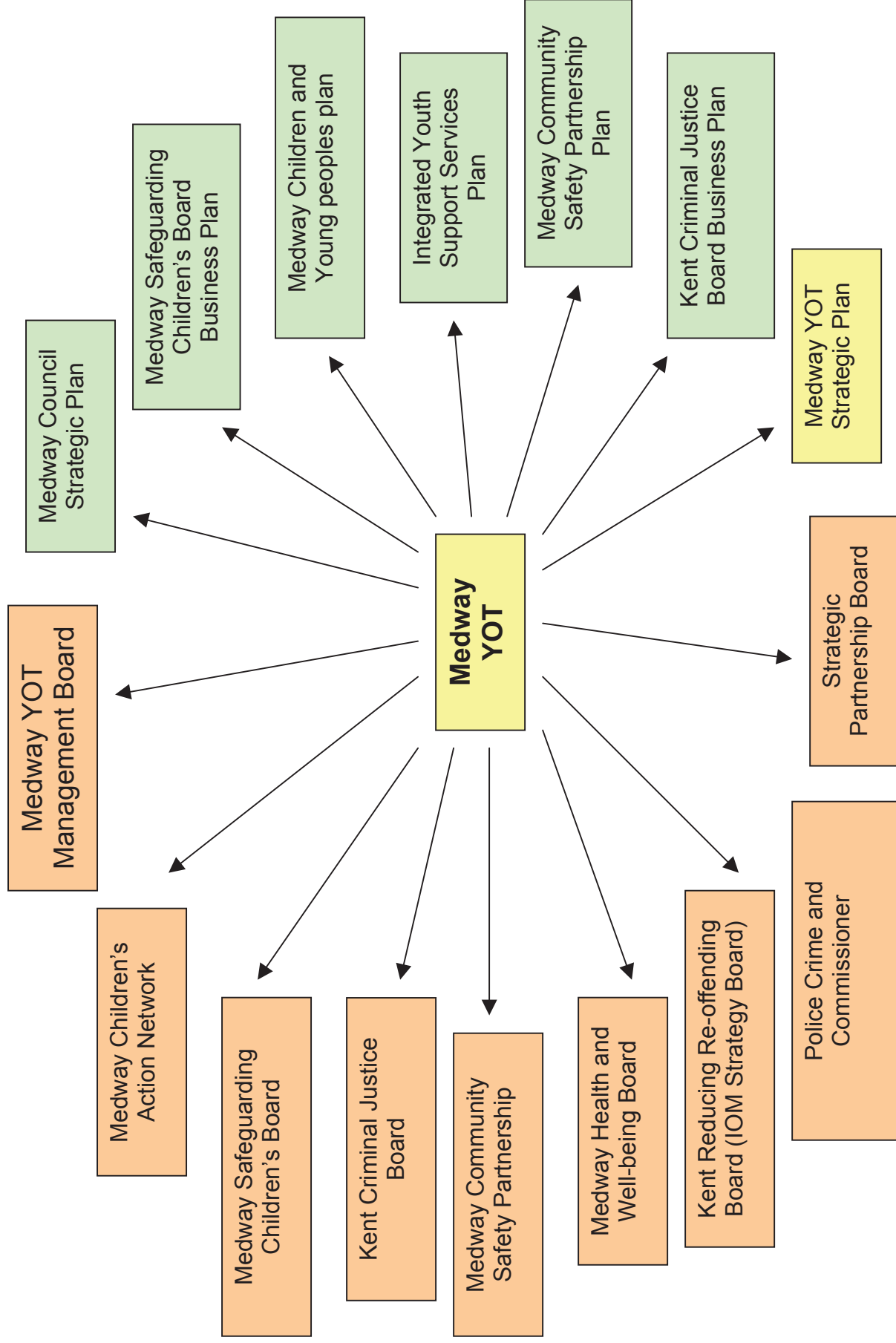
8. Successfully implement Asset Plus programme onto placement for current YOT Assessment Tool.	Staff fully trained and system operational with no loss of historical data.	YJB Business Plan YOT National Standards	March 2014	Whole YOT function	YOT Senior Practitioner	Operational and technical leads identified. Timetable agreed with YJB.		A	1
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# Medway Youth Offending Team Areas of Responsibility & Reporting

## Appendix 1

**MEDWAY YOT MANAGER**  
Resource & Governance  
YOT Plan





## **Glossary of Terms**

YOT – Youth Offending Team  
YOS – Youth Offending Service  
YJB – Youth Justice Board  
YISP – Youth Inclusion Support Panel  
YP – Young People  
YOI – Young Offenders Institute  
KCJB – Kent Criminal Justice Board  
KPA – Kent Police Authority  
LAA – Local Area Agreement  
NI – National Indicators  
PCT – Primary Care Trust  
OLASS – Offender Learning and Skills Service  
SP – Strategic Plan  
SEG – Strategic Executive Group  
DYO – Deter Young Offenders  
CJSSS – Criminal Justice Simple Speedy Summary  
FTE – First Time Entrants (to the Youth Justice System)  
IPT - Integrated Prevention Team  
MSCB – Medway Safeguarding Children Board  
QA – Quality Assurance  
IYSS – Integrated Youth Support Service  
CAF – Common Assessment Framework  
ECM – Every Child Matters  
DTO – Detention and Training Order  
IOMU – Integrated Offender Management Unit  
ASDAN – Educational achievement award  
ISS – Intensive Support and Surveillance  
FTE – First Time Entrants (to the Youth Justice System)  
ETE – Education Training and Employment  
NEET – Not in Education Training or Employment  
NHS – National Health Service  
PCC – Police & Crime Commissioner  
PVE – Prevention of Violent Extremism  
Baseline – The starting position for comparative statistical analysis  
TYS – Targeted Youth Support

Refreshed YOT Plan 2013-14

**Summary of Refreshed YOT Action Plan Work Areas**

**(Latest position on all YOT Plan 2013-14 objectives that have been updated)**

**Priority 1: Prevent Young People (YP) entering the Criminal Justice System**

**Outcome: Young people are diverted via alternative appropriate provisions and services**

2. Development of inter agency protocol to reduce number of LAC entering Criminal Justice System.
3. Instigate identification of Health concerns and Learning needs at initial stages. Appoint new Health Professional.
4. Review referral criteria for prevention and diversion with partner agencies.
11. Work with PCC to ensure that prevention work maintains a high degree of priority and is continued to be funded via the PCC.

**Priority 2: Reduce the likelihood of re-offending by those YP currently within the YJS**

**Outcome: Young people are able to achieve their potential and make a positive contribution to our community**

1. Target resources on high risk, DY0 cases and Resettlement cases.
6. Develop mindfulness training for selected practitioner group to deliver to identified cohort.
7. Create a joint post of YOT Family Function Therapy Practitioner.

**Priority 3: Respond to and manage the impact of changes to the custodial Remand arrangements**

**Outcome: Children and young people have appropriate effective alternatives to custody**

- 1 Track remand costs and monitor and report to YOT Board.
3. Increase hours and days that ISS bail scheme is available using Youth Service and other resources to supplement ISS.
4. Develop a range of measures to reduce number of remands in partnership with Children's Social Care. Including development of Volunteer mentoring scheme.
5. Explore establishing a remand fostering service. Develop joint programme with Kent.

**Priority 4: Identify and manage vulnerability issues**

**Outcome: Young people with identified vulnerabilities receive effective services to promote their safety and well-being**

2. Develop closer working relationships with LAC team conduct review of policies and procedures.

**Priority 5: Promote effective business change in response to the changing Youth Justice landscape**

**Outcome: Young people continue to receive services that are to a high standard and the statutory obligations of the YOT continue to be discharged**

6. Ensure that the planned move of the YOT and IPS to new premises is successfully completed with minimum business disruption.
8. Successfully implement Asset Plus programme onto placement for current YOT Assessment Tool.





## SUMMARY OF PERFORMANCE 2012-13 FOR YOT PLAN

YJB Nationally reported data derived from Police National Computer (PNC) system					
YJB published data (YJMIS latest version August 2012)					
First time Entrants (to YJ system)	England	SE Region	Kent	Medway	Result
Rate per 100,000 of Medway Population 2010-11	884	819	1009	895	Better than Kent Worse than SE Region Better than England
Rate per 100,000 of Medway Population 2011-12	712	579	810	676	
% difference	-19.5%	-29.3%	-19.7%	-24.5%	
<b>Use of Custody for YP (by Courts)</b>					
Rate per 100,000 of Medway population July 2010- Jun11	0.88	0.44	0.45	0.71	Better than Kent Better than SE Region Better than England
Rate per 100,000 of Medway population July 2011- Jun12	0.79	0.42	0.41	0.04	
difference	0.09	0.02	0.04	0.67	
<b>3.3 Reoffending (number of YP who reoffend)</b>					
Binary rate of July 2008-June 2009 cohort	32.6%	31.5%	30.0%	31.2%	
Binary rate of Oct 2009-Sep 2010 cohort	34.8%	32.3%	31.8%	31.3%	Better than Kent Better than SE Region Better than England
difference	2.2%	0.8%	1.7%	0.1%	

YOT Reported data derived from local case management system									
Quarterly monitored indicators	Target	Q1	Q2	Q3	Q4	YTD	RAG		
3.1 First Time Entrants to the YJ system (YOT data)	275	29	41	43	38	151	Green		
3.2 Medway population of YP who receive a custodial sentence (YOT data)	<5.8%	9.5%	5.3%	7.7%	2%	6.1%	Amber		
4.1 YP leaving YJ system engaged in suitable ETE (pre 16 years old)	>95%	100%	94%	91%	100%	96%	Green		
4.2 YP leaving YJ system engaged in suitable ETE (post 16 years old)	>70%	91%	90%	91%	89%	90%	Green		
4.3 YP leaving YJ system with access to suitable accommodation	>95%	95%	98%	100%	89%	90%	Green		
4.4 YP leaving custody with access to suitable accommodation in 48hrs	>90%	100%	100%	100%	100%	100%	Green		
4.5 Reducing re-offending of YP leaving the YJ system *	<50%	36%	48%	29%	37%	38%	Green		
4.6 Reducing re-offending of YP leaving the Medway IPS service *	<50%	6%	13%	13%	12%	11%	Green		
4.7 Reducing re-offending of YP leaving DYO cohort of the YJ system *	TBA	37%	0%	0%	0%	30.8%			
4.9 The number of YP with LAC status in the YJ system	TBA	23%	27%	29%	25%	26%	Snapshot of caseload		

\* Reducing re-offending (50% of YOT cohort are not to re-offend within 6 months of completing their intervention. Each quarter measures new cohort)

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**Medway Council**

**The Council Tax Reduction Schemes (Medway Council) 2013**

Approved and Made by Council  
Coming into effect

24 January 2013  
1 April 2013

*Medway Council makes the following Scheme in exercise of the functions conferred (a) by sections 13A(1)(a), 13A(1)(c), 13A(2), 13A(3) and Schedule 1A to the Local Government Finance Act 1992 and all other enabling powers, (b) pursuant to Regulations made under section 113(1) and (2) of the 1992 Act and paragraph 2 of Schedule 1A to the Local Government Finance Act 2012 and (c) in accordance with Parts 1 to 3 and Schedules 7 to 8 of The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012.*

***Citation, commencement and application***

*(1) This scheme may be cited as the Council Tax Reduction Schemes (Medway Council) 2013 and comes into effect on 1 April 2013.*

*(2) This scheme applies in relation to the billing authority in England known as Medway Council.*

***Prescribed Statutory Requirements***

*The authority sets out the statutory provisions that must apply to all applicants for a reduction in accordance with the Prescribed Requirements Parts 1 to 3 and Schedules 7 to 8.*

*The authority further sets out the statutory provisions that apply to pensioners in accordance with the Prescribed Requirements Schedules 1 to 6*

***Local Scheme Requirements***

*Subject to amendments to Parts 1,2,4, 6,7,8,9,12, and inclusion of Schedules 6A and 8A, the local scheme requirements set out the provisions of the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012, which the authority has adopted as its scheme.*

*Name*

*Proper Officer*

*Date*

*Medway Council*

## SCHEDULE

### Medway Council Local Council Tax Reduction Scheme 2013

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## PART 1

### Introduction

#### Introduction

1. This Scheme relates to the financial year beginning with 1 April 2013 and may be cited as The Council Tax Reduction Schemes (Medway Council) 2013.
2. This Local Council Tax Reduction Scheme is implemented by Medway Council and is intended to assist people in financial need, by the award of a reduction in their council tax liability. The Government has prescribed that the reduction given to pensioners will not be any less than they would have received under the previous Council Tax Benefit provisions. The Council has decided that this protection will be extended to working age applicants in receipt of a war pension.

The Council has prescribed that the local reduction scheme will result in all working age claimants being liable to pay a minimum of 25% of their annual council tax liability, alternative maximum council tax benefit (second adult rebate) will be withdrawn, and a deduction in respect of non dependants will be extended to include those on a mean tested benefit.

3. This scheme will be reviewed after 1<sup>st</sup> April 2013 and subject to revision or replacement a decision will be made as to any scheme which will take effect from 1<sup>st</sup> April 2014
4. This scheme meets Medway Council's statutory duties under the following provisions:
  - Equality Act 2010 s.149, public sector equality duties with regard to age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation, and
  - Child Poverty Act 2010, the duty to mitigate the effects of child poverty, and
  - Disabled Persons (Services, Consultation and Representation) Act 1986, and
  - Chronically Sick and Disabled Persons Act 1970, the duties relating to the welfare needs of disabled people, and
  - Housing Act 1996, the duty to prevent homelessness, and
  - Armed Forces Covenant, to recognise what our Armed Forces do for us, especially the injured and the bereaved

through the inclusion of premia, allowances, disregards and extended reductions within the assessment of any reductions under this Scheme in order to protect those in financial need and to incentivise work initiatives and additional premia intended to benefit families, lone parents and the disabled as well as disregards of child benefit and certain disability allowances. Earnings disregards and extended reduction provisions apply in specified cases.

Additionally the Council will protect those persons who would be entitled to a reduction and who are in receipt of a war widows, war widowers or war

disablement pension. A full equalities impact assessment has been carried out and will be subject to ongoing review.

## PART 2

### Interpretation

#### Interpretation

2. (1) — In this scheme:  
“scheme” means council tax reduction scheme  
In relation to the scheme:  
the “authority” means the billing authority that is Medway Council  
“2012 Act” means Local Government Finance Act 2012  
“Prescribed Requirements” means The Council Tax Reduction Schemes (Prescribed Requirements Scheme) (England) Regulations 2012 SI 2885  
“Default Scheme” means The Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886  
“the 1992 Act” means the Local Government Finance Act 1992;  
“Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or unincorporated 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**(a)**;  
“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**(b)**;  
“alternative maximum council tax reduction” means the amount determined in accordance with paragraph 31 and Schedule 4;  
“applicable amount” means—  
(a) in relation to a pensioner, the amount calculated in accordance with paragraph 25 and Schedule 2, and  
(b) in relation to a person who is not a pensioner, the amount calculated in accordance with—  
(i) paragraph 26 and Schedule 3; or  
(ii) paragraph 28,  
as the case may be;  
“applicant” means a person who has made an application;  
“application” means an application for a reduction under this scheme;  
“assessment period” means—  
(a) in relation to pensioners—  
(i) in relation to the earnings of a self-employed earner, the period determined in accordance with paragraph 43 for the purpose of calculating the weekly earnings of the applicant; or  
(ii) in relation to any other income, the period determined in accordance with paragraph 40 for the purpose of calculating the weekly income of the applicant;  
(b) in relation to persons who are not pensioners, such period as is set out in paragraphs 47 to 49 over which income falls to be calculated;

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**(a)** 1996 c.18. Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c.22) and amended by the Work and Families Act 2006 (c.18), Schedule 1, paragraphs 33 and 34.

**(b)** 2004 c.32.

“attendance allowance” means—

- (a) an attendance allowance under Part 3 of the SSCBA**(a)**;
- (b) an increase of disablement pension under section 104 or 105 of that Act;
- (c) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983**(b)** or any analogous payment; or
- (d) 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” has the meaning given by the Income Tax Act 2007**(c)**;

“the benefit Acts” means the SSCBA, the Jobseekers Act 1995**(d)**, the State Pension Credit Act 2002**(e)** and the Welfare Reform Act 2007**(f)**;

“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;

“care home” has the meaning given by section 3 of the Care Standards Act 2000**(g)** and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001**(h)** 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**(i)** 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;

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- (a) 1992 c.4. See sections 64 to 67 of that Act in relation to attendance allowance; relevant amendments are referenced elsewhere in these Regulations.
  - (b) S.I. 1983/686; relevant amending instruments are S.I. 1984/1675, 2001/420.
  - (c) 2007 c.3. Section 989 defines basic rate by reference to section 6(2) of that Act. Section 6(2) was amended by section 5 of the Finance Act 2008 (c.9) and section 6 of, and paragraphs 1 and 2 of Schedule 2 to, the Finance Act 2009 (c.10).
  - (d) 1995 .18.
  - (e) 2002 c.16.
  - (f) 2007 c.5.
  - (g) 2000 c.14. Section 3 was amended by paragraphs 1 and 4 of Schedule 5 to the Health and Social Care Act 2008 (c.14).
  - (h) 2001 asp 8.
  - (i) S.I. 2003/431 (N.I. 9).

“child” means a person under the age of 16;

“child benefit” has the meaning given by section 141 of the SSCBA<sup>(j)</sup>;

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002<sup>(k)</sup>;

“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;

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<sup>(j)</sup> Section 141 was amended by section 1 of the Child Benefit Act 2005 (c.6).  
<sup>(k)</sup> 2002 c.21; section 8 is repealed by the Welfare Reform Act 2012 (c.5), Schedule 14, Part 1 (not yet in force).

“concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act 2002(a) are charged;

“contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act 2007(b);

“council tax benefit” means council tax benefit under Part 7 of the SSCBA;

“couple” has the meaning given by paragraph 4;

“designated office” means the office of the authority designated by it for the receipt of applications—

- (a) by notice upon or with a form supplied by it for the purpose of making an application; 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 and without charge; or
- (c) by any combination of the provisions set out in paragraphs (a) and (b);

“disability living allowance” means a disability living allowance under section 71 of the SSCBA(c);

“earnings” has the meaning given by paragraph 41, 44, 51 or 53 as the case may be;

“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 Electronic Communications Act 2000(d);

“employed earner” is to be construed in accordance with section 2(1)(a) of the SSCBA(e) 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;

“the Employment, Skills and Enterprise Scheme” means a scheme under section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Jobseekers Act 1995(f) known

by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist claimants for job-seekers allowance to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);

“employment zone” means an area within Great Britain designated for the purposes of section

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- (a) 2002 c.21.
  - (b) 2007 c.5. Part 1 concerns employment and support allowance; relevant amendments are referenced elsewhere in these Regulations.
  - (c) 1992 c.4. Section 71 was amended by section 67(1) of the Welfare Reform and Pensions Act 1999 (c.30) and repealed by section 90 of the Welfare Reform Act 2012 (not yet in force).
  - (d) 2002 c.7; that definition was amended by the Communications Act 2003 (c.21), Schedule 17, paragraph 158.
  - (e) Section 2(1)(a) was amended by the Income Tax (Earnings and Pensions) Act 2003, Schedule 6, paragraphs 169 and 171 (c.1).
  - (f) Section 17A was inserted by the Welfare Reform Act 2009 (c.24), section 1 and amended by the Welfare Reform Act 2012 (c.5), Schedule 7, paragraphs 1 and 4, and Schedule 14, Parts 1 and 3 (not yet in force). The section is repealed by Part 4 of Schedule 14 to that Act (not yet in force).



60 of the Welfare Reform and Pensions Act 1999<sup>(g)</sup> and an “employment zone programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;  
“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;

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<sup>(g)</sup> 1999 c.30.

“extended reduction” means a reduction under this scheme for which a person is eligible under Part 12 (extended reductions);

“extended reduction period” means the period for which a person is in receipt of an extended reduction in accordance with paragraph 89, 96 or 101;

“extended reduction (qualifying contributory benefits)” means a reduction under this scheme for which a person is eligible in accordance with paragraph 88 or 95;

“family” has the meaning given by paragraph 6;

“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;

“guarantee credit” is to be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002;

“a guaranteed income payment” means a payment made under article 15(1)(c) (injury benefits) or 29(1)(a) (death benefits) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011**(a)**;

“housing benefit” means housing benefit under Part 7 of the SSCBA;

“an income-based jobseeker’s allowance” and “a joint-claim jobseeker’s allowance” have the meanings given by section 1(4) of the Jobseekers Act 1995**(b)**;

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

“independent hospital”—

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

(b) in Wales has the meaning given by section 2 of the Care Standards Act 2000**(d)**; and

(c) in Scotland means an independent health care service as defined by section 10F of the National Health Service (Scotland) Act 1978**(e)**;

“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;

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- (a) S.I. 2011/517.
- (b) 1995 c.18. Section 1(4) was amended by the Welfare Reform and Pensions Act 1999, Schedule 7, paragraphs 1 and 2(1) and (4); the Civil Partnership Act 2004 (c.33); section 4 of the Welfare Reform Act 2009 (c.24), and is repealed by the Welfare Reform Act 2012, Schedule 14, Part 1 (not yet in force).
- (c) 2006 c.41. The definition of “health service hospital” has been amended by the Health and Social Care Act 2012 (c.7), Schedule 4, paragraph 138 (not yet in force).
- (d) 2000 c.14; section 2 was amended by the Health and Social Care Act 2008 (c.14), Schedule 5, paragraphs 1 and 3.
- (e) 1978 c.29; section 10F was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8).

“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;

“the London Bombings 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(a) except in Part 1 of Schedule 3;

“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(b);

“maximum council tax reduction amount” means the amount determined in accordance with paragraph 29;

“member of a couple” means a member of a married or unmarried couple;

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

“mobility supplement” means—

- (a) in relation to pensioners, a supplement to which paragraph 5(1)(a)(vii) of Schedule 5 refers;
- (b) in relation to persons who are not pensioners, a supplement to which paragraph 13 of Schedule 8 refers;

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(a) Section 2(1)(b) is amended by the Welfare Reform Act 2012, Schedule 23, paragraph 24 (not yet in force); section 4 is repealed by Part 1 of Schedule 14 to that Act (not yet in force).

(b) 1996 c.18

“mover” means an applicant who changes the dwelling in which the applicant is resident, and in respect of which the applicant is liable to pay council tax, from a dwelling in the area of the authority to a dwelling in the area of a second authority;

“net earnings” means such earnings as are calculated in accordance with paragraph 42 or 52, as the case may be;

“net profit” means such profit as is calculated in accordance with paragraph 61;

“new dwelling” means, for the purposes of the definition of “second authority” and paragraphs

91, 98 and 103, the dwelling to which an applicant has moved, or is about to move, in which the applicant will be resident;

“non-dependant” has the meaning given by paragraph 9;

“occasional assistance” means any payment or provision made by a local authority, the Welsh

Ministers or the Scottish Ministers for the purposes of—

- (a) meeting, or helping to meet an immediate short-term need—
  - (i) arising out of an exceptional event or exceptional circumstances, or
  - (ii) that needs to be met to avoid a risk to the well-being of an individual, and
  
- (b) enabling qualifying individuals to establish or maintain a settled home, and—
  - (i) “local authority” has the meaning given by section 270(1) of the Local Government Act 1972(c); and
  - (ii) “qualifying individuals” means individuals who have been, or without the assistance might otherwise be—
    - (aa) in prison, hospital, an establishment providing residential care or other institution, or
    - (bb) homeless or otherwise living an unsettled way of life;

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(c) 1972 c. 70. The definition of local authority was amended by section 102 of, and paragraph 8 of Schedule 16 and Schedule 17 to, the Local Government Act 1985. Other amendments have been made to that definition but they are not relevant to these Regulations.

and “local authority” means a local authority in England within the meaning of the Local Government Act 1972 **(a)**; “occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“occupational pension scheme” has the same meaning as in section 1 of the Pension Schemes Act 1993**(b)**;

“partner”, in relation to a person, means—

- (a) where that person is a member of a couple, the other member of that couple;
- (b) subject to paragraph (c), where that person is polygamously married to two or more members of his household, any such member to whom he is married; or
- (c) where that person is polygamously married and has an award of universal credit with the other party to the earliest marriage that still subsists, that other party to the earliest marriage;

“paternity leave” means a period of absence from work on ordinary paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996 or on additional paternity leave by virtue of section 80AA or 80BB of that Act**(c)**;

“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;

“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995**(d)**;

“pensioner” has the meaning given by paragraph 3(2)(a);

“person on income support” means a person in receipt of income support;

“person treated as not being in Great Britain” has the meaning given by paragraph 21; “person who is not a pensioner” has the meaning given by paragraph 3(2)(b);

“personal independence payment” has the meaning given by Part 4 of the Welfare Reform Act 2012**(e)**;

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- (a)** 1972 c.70. See section 270(1) of that Act for the definition of “local authority”; a relevant amendment was made to that definition by the Local Government Act 1985 (c.51), Schedule 17.
  - (b)** 1993 c.48. The definition of “occupational pension scheme” was substituted by section 239 of the Pensions Act 2004 (c.35) and amended by S.I. 2007/3014.
  - (c)** 1996 c. 18; sections 80A and 80B were inserted by section 1 of the Employment Act 2002 (c. 22) and sections 80AA and 80BB were inserted by section 3 of the Work and Families Act 2006 (c. 18). Relevant regulations made under these sections are S.I. 2002/2788 and S.I. 2003/921 (made under sections 80A and 80B) and S.I. 2010/1055 and S.I. 2010/1059 (made under sections 80AA and 80BB).
  - (d)** 1995 c.26; paragraph 1 has been amended by the State Pension Credit Act 2002 (c.16), Schedule 2, paragraph 39; the Welfare Reform Act 2007, Schedule 3, paragraph 13; the Pensions Act 2007 (c.22), Schedule 3, paragraph 4; and section 1 of the Pensions Act 2011 (c.19).
  - (e)** 2012 c.5.

“personal pension scheme” means—

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993**(f)**;
- (b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988**(g)** or a substituted contract within the meaning of section

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**(f)** 1993 c.48; the definition of “personal pension scheme” was substituted by section 239 of the Pensions Act 2004 (c.35) and amended by the Finance Act 2007 (c.11), Schedule 20, paragraph 23 and Schedule 27, Part 3.

**(g)** 1988 c.1.

622(3) of that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004**(a)**;

- (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 any marriage to which paragraph 5 applies;

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

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

“qualifying contributory benefit” means—

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

“qualifying income-related benefit” means—

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

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

“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 week”, in relation to any particular day, means the week within which the day in question falls;

“remunerative work” has the meaning given by paragraph 10;

“rent” means “eligible rent” to which regulation 12 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**(c)** refer, less any deductions in respect of non-dependants which fall to be made under paragraph 30 (non-dependant deductions);

“savings credit” is to be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002**(d)**;

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

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- (a) 2004 c.12  
(b) 2002 c.16.  
(c) S.I. 2006/214; amended by S.I. 2007/1356, 2007/2869.  
(d) 2002 c.16. Section 3 was amended by the Civil Partnership Act 2004 (c.33), Schedule 24, paragraph 140 and S.I. 2002/1792.



“self-employed earner” is to be construed in accordance with section 2(1)(b) of the SSCBA; “self-employment route” means assistance in pursuing self-employed earner’s employment whilst participating in—

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

“service user group” means a group of individuals that is consulted by or on behalf of—

- (a) a Health Board, Special Health Board or the Agency in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978**(c)**;
- (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985**(d)**;
- (c) a public authority in Northern Ireland in consequence of a function under section 49A of the Disability Discrimination Act 1995**(e)**;
- (d) a public authority in consequence of a function under section 149 of the Equality Act 2010**(f)**;
- (e) a best value authority in consequence of a function under section 3 of the Local Government Act 1999**(g)**;
- (f) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001**(h)**;
- (g) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006**(i)**;
- (h) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006**(j)**;
- (i) the Care Quality Commission in exercise of a function under section 4 or 5 of the Health and Social Care Act 2008**(k)**;
- (j) the regulator or a private registered provider of social housing in consequence of a function under section 98, 193 or 196 of the Housing and Regeneration Act 2008**(l)**; or
- (k) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

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- (a) 1973 c.50. Section 2 was substituted by section 25(1) of the Employment Act 1988 (c.19) and repealed in part by the Employment Act 1989 (c.38), Schedule 7, Part 1.
  - (b) 1990 c.35.
  - (c) 1978 c.29.
  - (d) 1985 c.68; section 105 was amended by S.I. 1996/2325; the Government of Wales Act 1998 (c.38), Schedule 8, paragraph 5 and Schedule 16, paragraph 5, and S.I. 2010/866.
  - (e) 1995 c.50; section 49A was inserted in respect of Northern Ireland by S.I. 2006/312 (N.I. 1). (f) 2010 c.15.
  - (g) 1999 c.27; section 3 was amended by the Local Government and Public Involvement in Health Act 2007 (c.28), section 137.
  - (h) 2001 asp 10
  - (i) 2006 c.41.
  - (j) 2006 c.42.
  - (k) 2008 c.14; section 4 has been amended by section 189 of the Health and Social Care Act 2012 (c.7) but those amendments are not yet in force.
  - (l) 2008 c.17; section 193 was amended by the Localism Act 2011 (c.20), Schedule 17, paragraphs 1 and 4 and Schedule 25, Part 27.



for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons;

“single applicant” means an applicant who neither has a partner nor is a lone parent;

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

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

“the SSCBA” means the Social Security Contributions and Benefits Act 1992(b);

“state pension credit” means state pension credit under the State Pension Credit Act 2002(c); “student” has the meaning given by paragraph 73;

“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 Chief Executive of Skills Funding or the 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, that department or approved by that 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,

but 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 Employment and Training Act 1973(d), or is training as a teacher;

“the Trusts” (except where the context otherwise requires) means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No. 2) Trust and “Trustees” is to be construed accordingly;

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- (a) 1993 c.39; subsection (2) was amended by S.I. 1996/3095, 1999/1663
  - (b) 1992 c.4.
  - (c) 2002 c.16.
  - (d) 1973 c.50; section 2 was substituted by the Employment Act 1988 (c.19), section 25 and amended by the Employment Act 1989 (c.38), Schedule 7, Part 1.

“universal credit” has the meaning given by section 1 of the Welfare Reform Act 2012<sup>(e)</sup>; “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<sup>(f)</sup>;

“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<sup>(g)</sup>,

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(e) 2012 c.5.

(f) 2003 c.1; subsection (2) was inserted by the Finance Act 2005 (c.7), section 19.

(g) 1991 c.56.

(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**(a)**, in so far as such charges are in respect of the dwelling which a person occupies as his home;  
“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002**(b)**;  
“young person” means a person who falls within the definition of qualifying young person in section 142 of the SSCBA**(c)**.

(2) In this scheme, where an amount is to be rounded to the nearest penny, a fraction of a penny must be disregarded if it is less than half a penny and must otherwise be treated as a whole penny.

(3) For the purpose of this scheme, 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 because of a reduction in accordance with section 19 or 19A or regulations made under section 17A or 19B of the Jobseekers Act 1995**(d)** (circumstances in which a jobseeker’s allowance is not payable);
- (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 section 19 or 19A or regulations made under section 17A or 19B of that Act; or

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(a) 2002 asp 3; section 29A was substituted together with sections 29B to 29G for section 29 as originally enacted by section 21 of the Water Services etc. (Scotland) Act 2005 (asp 3).

(b) 2002 c.21.

(c) Section 142 was amended by section 1 of the Child Benefit Act 2005 (c.6).

(d) 1995 c.18; section 19 (together with sections 19A to 19C), has been substituted by section 46 of the Welfare Reform Act 2012 (c.5) but that amendment is not yet in force (sections 19A to 19C are however); section 17A has been repealed by Part 4 of Schedule 14 to that Act although that provision is not yet in force. In the meantime amendments have been made to section 17A by sections 48 and 59 of, and Schedules 7 and 14 to, the 2012 Act.

(c) in respect of which an income-based 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(e) (loss of benefit provisions).

(4) For the purposes of this scheme, 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 2007(f) (disqualification); or

(b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act (employment and support allowance: supplementary provisions) 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.

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- (e) 2001 c.11; section 6B was amended by sections 9, 24 and 58 of, and paragraphs 9 and 10 of Schedule 2 and Part 1 of Schedule 7 to, the Welfare Reform Act 2009 (c.24); sections 31, 113, 118, 119, 121 and 147 of, paragraphs 56 and 58 of Schedule 2, paragraphs 15 and 16 of Schedule 3, Parts 1 and 12 of Schedule 14, to the Welfare Reform Act 2012 (c.5), of which only those made by section 113 (to subsection (1)(b)) are in force. Section 7 was amended by section 14 of, and Part 3 of Schedule 3 to, the State Pension Credit Act 2002 (c.16); sections 28 and 49 of, and paragraph 23 of Schedule 3 to, the Welfare Reform Act 2007 (c.5); sections 9, 24 and 58 of, and paragraphs 9 and 11 of Schedule 2, Part 1 of Schedule 4 and Part 1 of Schedule 7 to, the Welfare Reform Act 2009 (of which those made by sections 9, 31 and Schedule 7 are not yet in force); S.I. 2011/2298; sections 31, 118, 119 and 147 of, and paragraphs 56 and 59 of Schedule 2, paragraphs 15 and 17 of Schedule 3 and Part 1 of Schedule 14 to, the Welfare Reform Act 2012, none of which are yet in force. Section 8 has been repealed by section 147 of, and Part 1 of Schedule 14, to the Welfare Reform Act 2012, but that repeal is not yet in force. Amendments have also been made by sections 1, 24, and 58 of, and Part 1 of Schedule 4 and Part 3 of Schedule 7 to, the Welfare Reform Act 2009; sections 31, 48, 113 and 147 of, and paragraphs 56 and 60 of Schedule 2, paragraph 12 of Schedule 7 and Part 12 of Schedule 14 to, the Welfare Reform Act 2012, of which only those made by section 113 are in force. Section 9 was amended by section 14 of, and Part 3 of Schedule 2 to, the State Pension Credit Act 2002; sections 28 of, and paragraph 23 of Schedule 3 to, the Welfare Reform Act 2007; sections 9 and 58 of, and Part 1 of Schedule 7 to, the Welfare Reform Act 2009, none of which are in force; sections 31, 113 and 147 of, and paragraphs 56 and 61 of Schedule 2 and Part 1 of Schedule 14 to, the Welfare Reform Act 2012, of which only those made by section 113 are in force.
- (f) 2007 c.5.

(5) For the purposes of this scheme, two persons must be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.

(6) In this scheme, 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(a) (small amounts of state pension credit).

### **Application of scheme: pensioners and persons who are not pensioners**

3. (1) This scheme applies to—
- (a) pensioners who fall within any of classes A to C(b); and
  - (b) persons who are not pensioners who fall within any of classes D to H(c).
- (2) In this scheme—
- (a) a person is a “pensioner” if—
    - (i) he has attained the qualifying age for state pension credit; and
    - (ii) he is not, or, if he has a partner, his partner is not—
      - (aa) a person on income support, on an income-based jobseeker’s allowance or on an income-related employment and support allowance, or
      - (bb) a person with an award of universal credit; and
  - (b) a person is a “person who is not a pensioner” 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—
      - (aa) a person on income support, on an income-based jobseeker’s allowance or on an income-related employment and support allowance, or
      - (bb) a person with an award of universal credit.

### **Meaning of “couple”**

4. (1) In this scheme “couple” means—
- (a) a man and woman who are married to each other and are members of the same household;
  - (b) a man and woman who are not married to each other but are living together as husband and wife;
  - (c) two people of the same sex who are civil partners of each other and are members of the same household; or
  - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.
- (2) Two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes.

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(a) S.I. 2002/1792.  
(b) See paragraphs 13 to 15 of this scheme.  
(c) See paragraphs 16 to 18(B) of this scheme.

## **Polygamous marriages**

5. (1) This paragraph applies to any case where—
- (a) a person is a husband or wife by virtue of a marriage entered into under a law which permits polygamy; and
  - (b) either party to the marriage has for the time being any spouse additional to the other party.
- (2) For the purposes of paragraph 4 (meaning of “couple”) neither party to the marriage is to be taken to be a member of a couple.

## **Meaning of “family”**

6. (1) In this scheme “family” means—
- (a) a couple;
  - (b) a 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; or
  - (c) a person who is not a member of a couple and a member of the same household for whom that person is responsible and who is a child or a young person.
- (2) The references to a child or young person in sub-paragraph (1)(b) and (c) include a child or young person in respect of whom section 145A of the SSCBA(a) applies for the purposes of entitlement to child benefit, but only for the period prescribed under section 145A(1).
- (3) The references to a young person in sub-paragraph (1)(b) and (c) do not include a young person who is—
- (a) on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance, or has an award of universal credit; or
  - (b) a person to whom section 6 of the Children (Leaving Care) Act 2000(b) (exclusion from benefits) applies.

## **Circumstances in which a person is to be treated as responsible or not responsible for another**

7. (1) A person is to be treated as responsible for a child or young person who is normally living with him, including a child or young person to whom paragraph 6(2) applies.
- (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 must be treated for the purposes of sub-paragraph (1) as normally living with—
- (a) the person who is receiving child benefit in respect of that child or young person, or

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(a) Section 145A inserted by the Tax Credits Act 2002 (c.21), section 55(1).  
(b) 2000 c.35.

- (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.

(3) For the purposes of this scheme a child or young person is 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 paragraph is to be treated as not so responsible.

## Households

8. (1) Subject to sub-paragraphs (2) and (3), an applicant and any partner and, where the applicant or his partner is treated (by virtue of paragraph 7) as responsible for a child or young person, that child or young person and any child of that child or young person, are to be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.

(2) A child or young person is 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 22C or 23(2)(a) of the Children Act 1989**(a)** or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the applicant or his partner under a relevant enactment; or
- (b) placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
- (c) placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002**(b)** or the Adoption Agencies (Scotland) Regulations 2009**(c)** or the Adoption (Northern Ireland) Order 1987**(d)**.

(3) Subject to sub-paragraph (4), sub-paragraph (1) does not apply to a child or young person who is not living with the applicant and who—

- (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.

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(a) 1989 c.41; section 23 was substituted by sections 22A to 22F by section 8(1) of the Children and Young Persons Act 2008 (c.23). Section 22C is in force in England but not yet in force in Wales. Section 59(1)(a) was amended by section 49 of the Children Act 2004 (c.31) and paragraph 2 of Schedule 1 to the Children and Young Persons Act 2008.

(b) 2002 c.38.

(c) S.I. 2009/154.

(c) S.I. 1987/2203 (N.I. 22)

(d) 1955 c.18.



(4) The authority must treat a child or young person to whom subparagraph (3)(a) applies as being a member of the applicant's household in any reduction week where—

(a) that child or young person lives with the applicant for part or all of that reduction week;

and

(b) the authority considers that it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.

(5) In this paragraph "relevant enactment" means—

(a) the Army Act 1955**(e)**;

(b) the Air Force Act 1955**(f)**;

(c) the Naval Discipline Act 1957**(g)**;

(d) the Matrimonial Proceedings (Children) Act 1958**(h)**;

(e) the Social Work (Scotland) Act 1968**(i)**;

(f) the Family Law Reform Act 1969**(j)**;

(g) the Children and Young Persons Act 1969**(k)**;

(h) the Matrimonial Causes Act 1973**(l)**;

(i) the Children Act 1975**(m)**;

(j) the Domestic Proceedings and Magistrates' Courts Act 1978**(n)**;

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(e) 1955 c.19

(f) 1957 c.53

(g) 1958 c.40.

(h) 1968 c.49

(i) 1969 c.46.

(j) 1969 c.54.

(k) 1973 c.18.

(m) 1975 c.72; this Act was repealed in respect of England and Wales by Schedule 15 to the Children Act 1989 (c.41). It continues to have effect in Scotland.

(n) 1978 c.22.



- (k) the Adoption and Children (Scotland) Act 2007**(a)**;
- (l) the Family Law Act 1986**(b)**;
- (m) the Children Act 1989;
- (n) the Children (Scotland) Act 1995**(c)**; and
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012**(d)**.

### **Non-dependants**

9. (1) In this scheme, “non-dependant” means any person, except someone to whom sub-paragraph (2) applies, who normally resides with an applicant or with whom an applicant normally resides.

(2) This paragraph applies to—

- (a) any member of the applicant’s family;
- (b) if the applicant is polygamously married—
  - (i) where the applicant has (alone or jointly with his partner) an award of universal credit, any—
    - (aa) party to such a marriage other than the applicant’s partner; and
    - (bb) any child or young person who is a member of his household and for whom he or his partner or another party to the polygamous marriage is responsible; or
  - (ii) in any other case, 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 paragraph 8 (households);
- (d) subject to sub-paragraph (3), any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under section 6 or 7 of the 1992 Act (persons liable to pay council tax);
- (e) subject to sub-paragraph (3), any person who is liable to make payments on a commercial basis to the applicant or the applicant’s partner in respect of the occupation of the dwelling;
- (f) a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.

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(a) 2007 asp 4  
 (b) 1986 c.55.  
 (c) 1995 c.36.  
 (d) 2012 c.10.

(3) Excepting persons to whom sub-paragraph (2)(a) to (c) and (f) refer, a person to whom any of the following paragraphs applies is 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 his 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 a 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 change giving rise to the new liability was not made to take advantage of a council tax reduction scheme.

### **Remunerative work**

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

(2) Subject to sub-paragraph (3), in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard must be had to the average of hours worked over—

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

(3) Where, for the purposes of sub-paragraph (2)(a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work must be disregarded in

establishing the average hours for which he is engaged in work.

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

(5) A person must be treated as engaged in remunerative work during any period for which he is absent from work referred to in sub-paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(6) A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any reduction week is to be treated as not being in remunerative work in that week.

(7) A person must not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave, or is absent from work because he is ill.

(8) A person must not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which—

- (a) a sports award has been made, or is to be made, to him; and
- (b) no other payment is made or is expected to be made to him.

## **PART 3**

### **Procedural matters**

#### **Procedure for reduction applications and appeals against reduction decisions**

11. Schedule 1 contains provisions about the procedure—
- (a) by which a person may apply for a reduction under this scheme;
  - (b) by which a person may make an appeal against certain decisions of the authority;
  - (c) by which a person can apply to the authority for a reduction under section 13A(1)(c) of the 1992 Act.

## PART 4

### Classes of person entitled to a reduction under this scheme

#### Classes of person entitled to a reduction under this scheme

12. (1) The classes of person described in paragraphs 13 to 18(B) are entitled to a reduction under this scheme.

(2) In those paragraphs, references to the applicant's income or capital include, in a case where that income or capital cannot accurately be determined, references to the applicant's estimated income or capital.

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

13. 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<sup>(a)</sup>;
- (b) who, subject to paragraph 19 (periods of absence from a dwelling), 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 not entitled to a reduction under this scheme;
- (e) whose income (if any) for the relevant week does not exceed his applicable amount, and
- (f) who has made an application.

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

14. 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 19 (periods of absence from a dwelling), 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 not entitled to a reduction under this scheme;
- (e) whose income for the relevant week is greater than his applicable amount;
- (f) in respect of whom amount A exceeds amount B where—
  - (i) amount A is the maximum council tax reduction in respect of the day in the applicant's case; and
  - (ii) amount B is  $2 \frac{6}{7}$  per cent of the difference between his income for the relevant week and his applicable amount, and
- (g) who has made an application.

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(a) See section 6(5) of the Local Government Finance Act 1992 for the meaning of "resident" in relation to a dwelling.

## **Class C: alternative maximum council tax reduction – pensioners**

15. (1) 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 19 (periods of absence from a dwelling), 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 not entitled to a reduction under this scheme;
  - (e) who has made an application; and
  - (f) in relation to whom the condition in sub-paragraph (2) is met.

(2) The condition referred to in sub-paragraph (1)(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 incomes, of one or more residents to whom this sub-paragraph applies (3) Sub-paragraph (2) 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 (persons disregarded for the purposes of discount), 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.

**Class D: persons who are not pensioners whose income is less than the applicable amount**

16. On any day class D consists of any person who is not 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 19 (periods of absence from a dwelling), 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 not entitled to a reduction under this scheme;
  - (e) whose income (if any) for the relevant week is less than his applicable amount, and
  - (f) who has made an application.

**Class E: persons who are not pensioners whose income is greater than the applicable amount**

17. On any day class E consists of any person who is not 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 19 (periods of absence from a dwelling), 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 not entitled to a reduction under this scheme;
  - (e) whose income for the relevant week is greater than his applicable amount;
  - (f) in respect of whom amount A exceeds amount B where—
    - (i) amount A is the maximum council tax reduction in his case; and
    - (ii) amount B is  $2 \frac{6}{7}$  per cent of the difference between his income for the relevant week and his applicable amount, and
  - (g) who has made an application.

**Class F: alternative maximum council tax reduction – persons who are not pensioners and who are in receipt of a war pension, war disablement pension, war widows pension, war widower's pension**

18. (1) Subject to paragraphs 16 and 17, on any day class F consists of any person who is not a pensioner and who receives any of the following, namely - :
- (i) a war disablement pension; and
  - (ii) a war widow's pension or war widower's pension;

as defined by the Schedule of The Housing Benefit and Council Tax Benefit (War Pensions Disregards) Regulations 2007 (as amended by SI 2010/2449)

- (iii) 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;
- (iv) a guaranteed income payment;
- (v) 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;
- (vi) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (i) to (iv) above;
- (vii) 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.

and;

- (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 19 (periods of absence from a dwelling), 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 not entitled to a reduction under this scheme;
- (e) who has made an application; and
- (f) in relation to whom the condition in sub-paragraph (2) is met.

(2) The condition referred to in sub-paragraph (1)(f) is that no other resident of the dwelling is liable to pay rent to the person in question 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 incomes, of one or more residents to whom this sub-paragraph applies.

(3) Sub-paragraph (2) 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; and
- (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 for the reduction 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 for reduction 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.

(4) A person referred to in sub-paragraph (1) is to be given further reductions as the authority thinks fit under section 13A(1)(c) of the 1992 Act.

(5) On any day an applicant who falls within Class F may also fall within any of the Classes A to H, but not more than one at any one period of time.

**Class G: persons who are not pensioners and who are in receipt of a war pension, war disablement pension, war widows pension, war widower's pension whose income is less than the applicable amount**

**18(A).** (1) Subject to paragraphs 16 and 17, on any day class G consists of any person who is not a pensioner and who receives any of the following, namely - :

- (i) a war disablement pension; and
- (ii) a war widow's pension or war widower's pension;

as defined by the Schedule of The Housing Benefit and Council Tax Benefit (War Pensions Disregards) Regulations 2007 (as amended by SI 2010/2449)

- (iii) 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;
  - (iv) a guaranteed income payment;
  - (v) 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;
  - (vi) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (i) to (iv) above;
  - (vii) 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.
- and;

- (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 19 (periods of absence from a dwelling), 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 not entitled to a reduction under this scheme;
- (e) whose income (if any) for the relevant week is less than his applicable amount, and
- (f) who has made an application

(2) A person referred to in sub-paragraph (1) is to be given further reductions as the authority thinks fit under section 13A(1)(c) of the 1992 Act.

(3) On any day an applicant who falls within Class G may also fall within any of the Classes A to H, but not more than one at any one period of time.

**Class H: persons who are not pensioners and who are in receipt of a war pension, war disablement pension, war widows pension, war widower's pension whose income is greater than the applicable amount**

**18(b).** (1) Subject to paragraphs 16 and 17, on any day class H consists of any person who is not a pensioner and who receives any of the following, namely - :

- (i) a war disablement pension; and
- (ii) a war widow's pension or war widower's pension;

as defined by the Schedule of The Housing Benefit and Council Tax Benefit (War Pensions Disregards) Regulations 2007 (as amended by SI 2010/2449)

- (iii) 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;
- (iv) a guaranteed income payment;
- (v) 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;
- (vi) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (i) to (iv) above;
- (vii) 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.

and;

- (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 19 (periods of absence from a dwelling), 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 not entitled to a reduction under this scheme;
- (e) whose income for the relevant week is greater than his applicable amount;
- (f) in respect of whom amount A exceeds amount B where—
  - (i) amount A is the maximum council tax reduction in his case; and
  - (ii) amount B is  $2 \frac{6}{7}$  per cent of the difference between his income for the relevant week and his applicable amount, and
- (g) who has made an application

(2) A person referred to in sub-paragraph (1) is to be given further reductions as the authority thinks fit under section 13A(1)(c) of the 1992 Act.

(3) On any day an applicant who falls within Class H may also fall within any of the Classes A to H, but not more than one at any one period of time.

### **Periods of absence from a dwelling**

**19.** (1) A person is not absent from a dwelling in relation to any day which falls within a period of temporary absence from that dwelling.

(2) In sub-paragraph (1), a “period of temporary absence” means—

- (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as—
  - (i) the person resides in that accommodation;
  - (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 that absence, where and for so long as—
  - (i) the person intends to return to the dwelling;
  - (ii) the part of the dwelling in which he usually resided is not let or sub-let;
  - (iii) the person is a person to whom sub-paragraph (3) applies; and
  - (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

(3) This sub-paragraph applies to a person who—

- (a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—
  - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
  - (ii) in premises approved under section 13 of the Offender Management Act 2007(a), or is detained in custody pending sentence upon conviction;
- (b) is resident in a hospital or similar institution as a patient;

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(a) 2007 c.21.

- (c) is undergoing, or whose partner or dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
- (d) is following, in the United Kingdom or elsewhere, a training course;
- (e) is undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
- (f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
- (g) is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
- (h) is a student;
- (i) is receiving care provided in residential accommodation and is not a person to whom sub-paragraph (2)(a) applies; or
- (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.

(4) This sub-paragraph applies to a person who is—

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

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

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

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(a) 1983 c.20.  
 (b) 2003 asp 13.  
 (c) 1995 c.46.  
 (d) S.I. 1986/595 (N.I. 4)  
 (e) 1952 c.52.  
 (f) 1989 c.45.

(6) In this paragraph—

“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 in—

(a) a care home;

(b) an independent hospital;

(c) an Abbeyfield Home; or

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

(e)

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

## PART 5

### Classes of person excluded from this scheme

#### Classes of person excluded from this scheme

20. The classes of person described in paragraphs 21 to 24 are not entitled to a reduction under this scheme.

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

21. (1) The class of person described in this paragraph consists of any person treated as not being in Great Britain.

(2) Except where a person falls within sub-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.

(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.

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

- (a) regulation 13 of the EEA Regulations or Article 6 of Council Directive No 2004/38/EC<sup>(a)</sup>; or
- (b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen)<sup>(b)</sup>.

(5) A person falls within this sub-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 paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
- (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;

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(a) OJ No L 158, 30.4.04, p 77.

(b) A consolidated version of this Treaty was published in the Official Journal on 0.3.2010 C 83.

- (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
- (e) a person granted limited leave to enter or remain in the United Kingdom outside the provisions of the rules made under section 3(2) of the Immigration Act 1971(c) on the rejection of their claim for asylum;
- (f) a person who has humanitarian protection granted under those rules; or
- (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999(d) 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.

(6) A person falls within this sub-paragraph if the person is a Crown servant or member of Her Majesty's forces posted overseas.

(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.

(8) In this paragraph—  
 "claim for asylum" has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999(e);  
 "EEA Regulations" means the Immigration (European Economic Area) Regulations 2006(f).

### **Class of person excluded from this scheme: persons subject to immigration control**

22. (1) Persons subject to immigration control are not entitled to a reduction under this scheme.

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

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(c) 1971 c.77.

(d) 1999 c.33.

(e) Relevant amendments to section 94(1) have been made by section 44 of the Nationality, Immigration and Asylum Act 2002 (c.41) but those provisions are not in force. Other amendments have been made but they are not relevant to these Regulations.

(f) S.I. 2006/1003; relevant amending instruments are S.I. 2011/544, 2012/1547, 2012/2560.



**Class of person excluded from this scheme: capital limit**

**23.** (1) The class of person described in this paragraph consists of any person whose capital exceeds £16,000**(a)**.

(2) Capital for the purposes of sub-paragraph (1) is to be calculated in accordance with Part 10 of this scheme.

**Class of person excluded from this scheme: students**

**24.** The class of person described in this paragraph consists of any student to whom paragraph 75(1) applies (except to the extent that a student may be entitled to an alternative maximum council tax reduction by virtue of paragraph 18).

## PART 6

### Applicable amounts

#### Applicable amounts: pensioners

25. (1) The applicable amount for a pensioner**(b)** for a week is the aggregate of such of the following amounts as apply in his case—
- (a) an amount in respect of his personal allowance, determined in accordance with paragraph 1 of Schedule 2 (personal allowance);
  - (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 2 of that Schedule (child or young person amounts);
  - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of that Schedule (family premium);
  - (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums).

(2) In Schedule 3—

“additional spouse” means a spouse by the party to the marriage who is additional to the party to the marriage;

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005**(c)**.

#### Applicable amounts: persons who are not pensioners

26. (1) Subject to paragraphs 27 and 28, the applicable amount for a week for a person who is not a pensioner is the aggregate of such of the following amounts as may apply in his case—
- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 of Schedule 3;
  - (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 3 of that Schedule;
  - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part 2 of that Schedule (family premium);

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(a) See Part 10, Chapters 1 and 7, of this scheme in relation to the capital of an applicant and the calculation of tariff income from capital.  
(b) Including pensioners in polygamous marriages, by virtue of paragraph 5 of the scheme.  
(c) S.I. 2005/3360

- (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums);
- (e) the amount of either the—
  - (i) work-related activity component; or
  - (ii) support component,

which may be applicable to him in accordance with Parts 5 and 6 of that Schedule (the components**(a)**);

- (f) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

(2) The right to prescribe the amounts of applicable amounts conferred by sub-paragraph (1) includes the right by the authority to set the amounts annually in accordance with the Default Scheme, annual uprating of applicable amounts, to take effect at the beginning of each financial year

(3) In Schedule 3—

“additional spouse” means a spouse by the party to the marriage who is additional to the party to the marriage;

“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 2008**(b)**;

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005**(c)**.

### **Polygamous marriages: persons who are not pensioners**

27. (1) This paragraph applies where an applicant who is not a pensioner is a member of a polygamous marriage and does not have (alone or jointly with a party to a marriage), an award of universal credit.

(2) The applicable amount for a week of an applicant where this paragraph applies is the aggregate of such of the following amounts as may apply in his case—

- (a) the amount applicable to him and one of his partners determined in accordance with paragraph 1(3) of Schedule 3 as if he and that partner were a couple;

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(a) The amount of the components is set out in Part 6 of that Schedule.  
 (b) S.I. 2008/794.  
 (c) S.I. 2005/3360.

- (b) an amount equal to the difference between the amounts specified in sub-paragraphs (3) and (1)(b) of paragraph 1 of that Schedule in respect of each of his other partners;
- (c) an amount determined in accordance with paragraph 2 of that Schedule (main phase employment and support allowance) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;
- (d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part 2 of that Schedule (family premium);
- (e) the amount of any premiums which may be applicable to him determined in accordance with Parts 3 and 4 of that Schedule (premiums);
- (f) the amount of either the—
  - (i) work-related activity component; or
  - (ii) support component,
 which may be applicable to him in accordance with Parts 5 and 6 of that Schedule (the components);
- (g) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

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

28. (1) Subject to sub-paragraph (2), in determining the applicable amount for a week of an applicant who is not a pensioner—

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

an award of universal credit, the authority must use the calculation or estimate of the maximum amount of the applicant, or the applicant and his partner jointly (as the case may be), subject to the adjustment described in sub-paragraph (3).

(2) In determining the applicable amount for a week of an applicant who is a member of a polygamous marriage, the fact that two people are husband and wife is to be disregarded if—

- (a) one of them is a party to an earlier marriage that still subsists; and
- (b) the other party to that earlier marriage is living in the same household.

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

(4) In this paragraph “maximum amount” means the maximum amount calculated by the Secretary of State in accordance with section 8(2) of the

Welfare Reform Act 2012(a).

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(a) 2012 c.5.

## PART 7

### **Maximum council tax reduction for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction**

#### **Maximum council tax reduction amount under this scheme: pensioners**

29. (1) Subject to sub-paragraphs (2) to (4), a person's maximum council tax reduction amount in respect of a day is 100 per cent of the amount  $A/B$  where—
- (a) A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
  - (b) B is the number of days in that financial year, less any deductions in respect of non-dependants which fall to be made under paragraph 30 (non-dependant deductions: pensioners).

(2) In calculating a person's maximum council tax reduction under this scheme 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 (other than a reduction under this scheme), is to be taken into account.

(3) Subject to sub-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, in determining the maximum council tax reduction in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.

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

(5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly and severally liable for council tax, where the applicant is a person who is not a pensioner, does not include a student to whom paragraph 75(1) (entitlement of students to a reduction under this scheme) applies.

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

#### **Maximum council tax reduction amount under this scheme: persons who are not pensioners**

- 29A (1) Subject to paragraphs (2) to (4), the amount of a person's maximum council tax reduction in respect of a day is 75% per cent of the amount  $A/B$  where –

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

less any deductions in respect of non-dependants which fall to be made under paragraph 30A (non-dependant deductions – persons who are not pensioners).

(2) Where an applicant falls within paragraphs 18, or 18A, or 18B (Classes F, or G, or H: persons who are not pensioners and who are in receipt of a war pension, war disablement pension, war widows pension, war widower's pension), the amount of a person's maximum council tax reduction in respect of a day is 100% per cent of the amount A/B.

(3) In calculating a person's maximum council tax reduction under this scheme 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 (other than a reduction under this scheme), is to be taken into account.

(4) Subject to paragraph (5), 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, in determining the maximum council tax reduction in his case in accordance with paragraph (1) or (2), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.

(5) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, paragraph (4) does not apply in his case.

(6) The reference in paragraph (4) to a person with whom an applicant is jointly and severally liable for council tax does not include a student to whom paragraph 75(1) applies.

(7) In this article "relevant financial year" means, in relation to any particular day, the financial year within which the day in question falls

### **Non-dependant deductions: pensioners**

**30** (1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 29 are—

- (a) in respect of a non-dependant aged 18 or over in remunerative work, £9.90 x 1/7;
- (b) in respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, £3.30 x 1/7.

(2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies, where it is shown to the appropriate authority

that his normal gross weekly income is—

- (a) less than £183.00, the deduction to be made under this paragraph is that specified in sub-paragraph (1)(b);
- (b) not less than £183.00 but less than £316.00, the deduction to be made under this paragraph is £6.55;
- (c) not less than £316.00 but less than £394.00, the deduction to be made under this paragraph is £8.25.

(3) Only one deduction is to be made under this paragraph in respect of a couple or, as the case may be, members of a polygamous marriage (other than where there is an award of universal credit) 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 is to be deducted.

(4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of that sub-paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.

(5) Where in respect of a day—

- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
- (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of spouses and civil partners); and
- (c) the person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant must be apportioned equally between those liable persons.

(6) No deduction is to 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 10 of Schedule 3 (additional condition for the disability premium); or
- (b) receiving in respect of himself—
  - (i) attendance allowance, or would be receiving that allowance but for—
    - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
    - (bb) an abatement as a result of hospitalisation; or
  - (i) the care component of the disability living allowance, or would be receiving that component but for—



- (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
- (bb) an abatement as a result of hospitalisation; or

- (iii) the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients); or
- (iv) 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.

(7) No deduction is to 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 youth training established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) he is a full-time student within the meaning of Part 11 (students); or
- (d) he is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
  - (i) “patient” has the meaning given in paragraph 19(6), and
  - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.

(8) No deduction is to be made in respect of a non-dependant—

- (a) who is on income support, state pension credit, an income-based jobseeker’s allowance or an income-related employment and support allowance; or
- (b) to whom Schedule 1 to the 1992 Act applies (persons disregarded for purposes of discount) but this paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.

(9) In the application of sub-paragraph (2) there is to be disregarded from the non-dependant’s weekly gross income—

- (a) any attendance allowance, disability living allowance, 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 paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind); and
- (c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).

### **Non-dependant deductions – persons who are not pensioners**

**30(A)**(1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 29(A) are—

- (a) in respect of a non-dependant aged 18 or over in remunerative work, £9.90 x 1/7;
- (b) in respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, £3.30 x 1/7.

(2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is—

- (a) less than £183.00, the deduction to be made under this paragraph is that specified in sub-paragraph (1)(b);
- (b) not less than £183.00 but less than £316.00, the deduction to be made under this paragraph is £6.55;
- (c) not less than £316.00 but less than £394.00, the deduction to be made under this paragraph is £8.25.

(3) Only one deduction is to be made under this paragraph in respect of a couple or, as the case may be, members of a polygamous marriage (other than where there is an award of universal credit) 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 is to be deducted.

(4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of that sub-paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.

(5) Where in respect of a day—

- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
- (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of

- spouses and civil partners); and
  - (c) the person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant must be apportioned equally between those liable persons.
- (6) No deduction is to 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 10 of Schedule 3 (additional condition for the disability premium); or
  - (b) receiving in respect of himself—
    - (i) attendance allowance, or would be receiving that allowance but for—
      - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
      - (bb) an abatement as a result of hospitalisation; or
    - (ii) the care component of the disability living allowance, or would be receiving that component but for—
      - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
      - (bb) an abatement as a result of hospitalisation; or
    - (iii) the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients); or
    - (iv) 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.
- (7) No deduction is to 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 youth training established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
  - (c) he is a full-time student within the meaning of Part 11 (students); or
  - (d) he is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
    - (i) “patient” has the meaning given in paragraph 19(6), and
    - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient

continuously for a period equal in duration to the total of those distinct periods.

(8) For classes of persons G and H no deduction is to 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

8(A) No deduction is to be made in respect of a non-dependant –

- (a) to whom Schedule 1 to the 1992 Act applies (persons disregarded for purposes of discount) but this paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.

(9) In the application of sub-paragraph (2) there is to be disregarded from the non-dependant's weekly gross income—

- (a) any attendance allowance, disability living allowance, 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 paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind); and
- (c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).

## PART 8

### **Alternative maximum council tax reduction for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction**

#### **Alternative maximum council tax reduction under this scheme: pensioners and persons who are not pensioners**

31. (1) Subject to sub-paragraphs (2) and (3), the alternative maximum council tax reduction in respect of a day where the conditions set out in paragraph 15 (alternative maximum council tax reduction: pensioners) or 18 (alternative maximum council tax reduction: persons who are not pensioners and who are in receipt of a war pension, war disablement pension, war widows pension, war widower's pension ) are fulfilled, is the amount determined in accordance with Schedule 4 (amount of alternative council tax reduction).

(2) Subject to sub-paragraph (3), 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, in determining the alternative maximum council tax reduction in his case, the amount determined in accordance with Schedule 4 must be divided by the number of persons who are jointly and severally liable for that tax.

(3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, solely by virtue of section 9 of the 1992 Act (liability of spouses and civil partners), sub-paragraph (2) does not apply in his case.

## PART 9

### Amount of reduction under this scheme

#### Amount of reduction under this scheme: Classes A to H

32. (1) Where a person is entitled to a reduction under this scheme in respect of a day, the amount of the reduction to which he is entitled is as follows.

(2) Where the person is within class A, D or G(a), that amount is the amount which is the maximum council tax reduction in respect of the day in the applicant's case.

(3) Where the person is within class B, E or H(b), that amount is the amount found by deducting amount B from amount A, where "amount A" and "amount B" have the meanings given in paragraph 14(f) or 17(f) or 18(B)(f), as the case may be.

(4) Where the person is within class C or F(c), that amount is the amount which is the alternative maximum council tax reduction in respect of the day in the applicant's case.

(5) Sub-paragraph (6) applies where both—

- (a) sub-paragraph (2) or sub-paragraph (3), and
- (b) sub-paragraph (4), apply to a person.

(6) The amount of the reduction to which the person is entitled is whichever is the greater of—

- (a) the amount of the reduction given by sub-paragraph (2) or sub-paragraph (3), as the case may be, and (b) the amount of the reduction given by sub-paragraph (4).

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(a) As to which, see paragraphs 13 and 16 respectively.  
(b) As to which, see paragraphs 14 and 17 respectively.  
(c) As to which, see paragraphs 15 and 18 respectively

## **PART 10**

### **Income and capital for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction**

#### **CHAPTER 1**

##### **Income and capital: general**

#### **Calculation of income and capital: applicant's family and polygamous marriages**

**33.** (1) The income and capital of—

- (a) an applicant; and
- (b) any partner of that applicant,

is to be calculated in accordance with the provisions of this Part.

(2) The income and capital of any partner of the applicant is to be treated as income and capital of the applicant, and in this Part any reference to the applicant applies equally to any partner of that applicant.

(3) Except where paragraph 37 applies, where an applicant or the partner of an applicant is married polygamously to two or more members of his household—

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

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

**34.** (1) Sub-paragraph (2) applies where it appears to the authority that a non-dependant and an applicant have entered into arrangements in order to take advantage of this scheme and the non-dependant has more income and capital than the applicant.

(2) Except where—

- (a) the applicant is a pensioner and is on a guarantee credit, or
- (b) the applicant is not a pensioner and is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance,

the authority must treat the applicant as possessing income and capital belonging to that non-dependant and, in such a case, any income and capital which the applicant does possess is to be disregarded.

(3) Where an applicant is treated as possessing income and capital belonging to a non-dependant under sub-paragraph (2) the income and capital of that non-dependant must be calculated in accordance with the following provisions of this Part in like manner as for the applicant and, except where the context otherwise requires, any reference to the “applicant” is to be construed for the purposes of this Part as if it were a reference to that non-dependant.

## CHAPTER 2

### Income and capital: pensioners in receipt of guarantee credit or savings credit

#### Applicant in receipt of guarantee credit: pensioners

35. In the case of an applicant who is a pensioner and who is in receipt, or whose partner is in receipt, of a guarantee credit, the whole of his capital and income must be disregarded.

Calculation of applicant’s income and capital in savings credit only cases: pensioners

36. (1) In determining the income and capital of an applicant who is a pensioner and who has, or whose partner has, an award of state pension credit comprising only the savings credit, subject to the following provisions of this paragraph, the authority must use the calculation or estimate of the applicant’s or as the case may be, the applicant’s partner’s income and capital made by the Secretary of State for the purpose of determining the award of state pension credit(a).

(2) Where the calculation or estimate provided by the Secretary of State includes the amount taken into account in that determination in respect of net income, the authority may only adjust that amount so far as necessary to take into account—

- (a) the amount of any savings credit payable;
- (b) in respect of any dependent children of the applicant, child care charges taken into account under paragraph 57(1)(c) (calculation of income on a weekly basis);
- (c) the higher amount disregarded under this scheme in respect of—
  - (i) lone parent’s earnings; or
  - (ii) payments of maintenance, whether under a court order or not, which is made or due to be made by—
    - (aa) the applicant’s former partner, or the applicant’s partner’s former partner; or

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(a) See paragraph 22A for the capital limit for eligibility of £16,000.



- (bb) the parent of a child or young person where that child or young person is a member of the applicant's family except where that parent is the applicant or the applicant's partner;
- (d) any amount to be disregarded by virtue of paragraph 10(1) of Schedule 5 (sums disregarded from applicant's earnings: pensioners);
- (e) the income and capital of any partner of the applicant who is treated as a member of the applicant's household under paragraph 8, to the extent that it is not taken into account in determining the net income of the person claiming state pension credit;
- (f) paragraph 34 (circumstances in which capital and income of a non-dependant is to be treated as applicant's), if the authority determines that that provision applies in the applicant's case;
- (g) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act<sup>(b)</sup> (power of billing authority to reduce amount of council tax payable);
- (h) any amount to be disregarded by virtue of paragraph 6 of Schedule 5 (exempt work).

(3) Paragraphs 39 to 46 (calculation of income: pensioners) and 57 to 61 (calculation of income: pensioners and persons who are not pensioners) do not apply to the amount of the net income to be taken into account under sub-paragraph (1), but do apply (so far as relevant) for the purpose of determining any adjustments to that amount which the authority makes under sub-paragraph (2).

(4) If sub-paragraph (5) applies, the authority must calculate the applicant's capital in accordance with paragraphs 63, 65 to 68 and 70 (calculation of capital: pensioners).

(5) This sub-paragraph applies if—

- (a) the Secretary of State notifies the authority that the applicant's capital has been determined as being £16,000 or less or the authority determines his capital as being £16,000 or less;
- (b) subsequent to that determination the applicant's capital rises to more than £16,000; and
- (c) the increase occurs whilst there is in force an assessed income period within the meaning of sections 6 and 9 of the State Pension Credit Act 2002.

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(b) Section 13A is substituted by section 10 of the Local Government Finance Act 2012 (c.17).

## CHAPTER 3

### Income and capital where there is an award of universal credit

#### Calculation of income and capital: persons who are not pensioners who have an award of universal credit

37. (1) In determining the income of an applicant—

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

an award of universal credit the authority must, subject to the following provisions of this paragraph, use the calculation or estimate of the amount 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.

(2) The authority must adjust the amount of the income referred to in sub-paragraph (1) by multiplying the amount by 12 and dividing the product by 52.

(3) The authority may only adjust the amount of the income as adjusted in accordance with sub-paragraph (2) so far as necessary to take into account—

- (a) the amount of the award of universal credit, determined in accordance with sub-paragraph (3);
- (b) paragraph 34 (circumstances in which income and capital of non-dependant is to be treated as applicant's), if the authority determines that the provision applies in the applicant's case;
- (c) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable).

(4) The amount for the award of universal credit to be taken into account for the purposes of sub-paragraph (3)(a) is to be determined by multiplying the amount of the award of universal credit by 12 and dividing the product by 52.

(5) Paragraph 34 (income and capital of non-dependant to be treated as applicant's) applies for the purpose of determining any adjustments which fall to be made to the figure for income under sub-paragraph (3).

(6) 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 the award of universal credit.

## CHAPTER 4

### Income: other pensioners

#### Calculation of income and capital where state pension credit is not payable: pensioners

38. Where neither paragraph 35 (applicant in receipt of guarantee credit: pensioners) nor 36 (applicant in receipt of savings credit only: pensioners) applies in the applicant's case, his income and capital is to be calculated or estimated in accordance with paragraphs 39 to 46 and 57 to 62 (calculation of income) and Chapter 7 of this Part (calculation of capital).

#### Meaning of "income": pensioners

39. (1) For the purposes of classes A to C in this scheme, "income" means income of any of the following descriptions—
- (a) earnings;
  - (b) working tax credit;
  - (c) retirement pension income within the meaning of the State Pension Credit Act 2002;
  - (d) income from annuity contracts (other than retirement pension income);
  - (e) a war disablement pension or war widow's or widower's pension;
  - (f) a foreign war disablement pension or war widow's or widower's pension;
  - (g) a guaranteed income payment;
  - (h) a payment made under article 29(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(a), in any case where article 31(2)(c) applies;
  - (i) income from capital(b) other than capital disregarded under Part 1 of Schedule 9;
  - (j) social security benefits, other than retirement pension income or any of the following benefits—
    - (i) disability living allowance;
    - (ii) personal independence payment;
    - (iii) an AFIP;
    - (iv) attendance allowance payable under section 64 of the SSCBA (entitlement to attendance allowance);
    - (v) an increase of disablement pension under section 104 (increase for constant attendance) or 105 of that Act (increase for exceptionally severe disablement);
    - (vi) child benefit;

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(a) S.I. 2011/517.

(b) See paragraph 71 for the calculation of income from capital so far as relating to pensioners

- (vii) any guardian's allowance payable under section 77 of the SSCBA (guardian's allowance);
- (viii) any increase for a dependant, other than the applicant's partner, payable in accordance with Part 4 of that Act (increases for dependants);
- (ix) any—
  - (aa) social fund payment made under Part 8 of the SSCBA (the social fund), or
  - (bb) occasional assistance;
- (x) Christmas bonus payable under Part 10 of that Act (Christmas bonus for pensioners);
- (xi) housing benefit;
- (xii) council tax benefit;
- (xiii) bereavement payment;
- (xiv) statutory sick pay;
- (xv) statutory maternity pay;
- (xv) ordinary statutory paternity pay payable under Part 12ZA of the SSCBA(c);
- (xvi) additional statutory paternity pay payable under Part 12ZA of the SSCBA;
- (xviii) statutory adoption pay payable under Part 12ZB of that Act (statutory adoption pay);
- (xix) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland;
- (k) all foreign social security benefits which are similar to the social security benefits mentioned above;

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(c) Part 12ZA was inserted by section 2 and Part 12ZB was inserted by section 4 of the Employment Act 2002 (c.22).

- (l) a payment made—
  - (i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006**(a)** (award for children who have reached the child's age limit), in any case where article 30(1)(b) applies; or
  - (ii) under article 12(8) of that Order (unemployability allowances: children who have reached the child's age limit), in any case where sub-paragraph (b) of that article applies;
- (m) a 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;
- (n) payments under a scheme made under the Pneumoconiosis etc. (Worker's Compensation) Act 1979**(b)**;
- (o) payments made towards the maintenance of the applicant by his spouse, civil partner, former spouse or former civil partner or towards the maintenance of the applicant's partner by his spouse, civil partner, former spouse or former civil partner, including payments made—
  - (i) under a court order;
  - (ii) under an agreement for maintenance; or
  - (iii) voluntarily;
- (p) payments due from any person in respect of board and lodging accommodation provided by the applicant;
- (q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (r) 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;
- (s) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-health or disability;
- (t) any sum payable by way of pension out of money provided under—
  - (i) the Civil List Act 1837**(c)**,
  - (ii) the Civil List Act 1937**(d)**,
  - (iii) the Civil List Act 1952**(e)**,
  - (iv) the Civil List Act 1972**(f)**, or
  - (v) the Civil List Act 1975**(g)**;
- (u) any income in lieu of that specified in paragraphs (a) to (r);

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- (a) S.I. 2006/606
  - (b) 1979 c.41.
  - (c) 1837 c.2.
  - (d) 1937 c.32.
  - (e) 1952 c.37.
  - (f) 1972 c.7.
  - (g) 1975 c.82.

- (v) any payment of rent made to an applicant who—
  - (i) owns the freehold or leasehold interest in any property or is a tenant of any property;
  - (ii) occupies part of the property; and
  - (iii) has an agreement with another person allowing that person to occupy that property on payment of rent;
- (w) any payment made at regular intervals under an equity release scheme;
- (x) PPF periodic payments within the meaning of section 17(1) of the State Pension Credit Act 2002.

(2) Where the payment of any social security benefit referred to in sub-paragraph (1) is subject to any deduction (other than an adjustment specified in sub-paragraph (4)) the amount to be taken into account under sub-paragraph (1) is to be the amount before the deduction is made.

(3) Where an award of any working tax credit or child tax credit is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.

(4) The adjustments specified in this sub-paragraph are those made in accordance with—

- (a) the Social Security (Overlapping Benefits) Regulations 1979**(a)**;
- (b) the Social Security (Hospital In-Patients) Regulations 1975;
- (c) section 30DD or section 30E of the SSCBA**(b)** (reductions in incapacity benefit in respect of pensions and councillor's allowances);
- (d) section 3 of the Welfare Reform Act 2007 (deductions from contributory employment and support allowance in respect of pensions and councillor's allowances) and regulations made under it.

(5) In sub-paragraph (1)(w), "equity release scheme" means a loan—

- (a) made between a person ("the lender") and the applicant;
- (b) by means of which a sum of money is advanced by the lender to the applicant by way of payments at regular intervals; and
- (c) which is secured on a dwelling in which the applicant owns an estate or interest and which he occupies as his home.

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(a) S.I.1979/597.

(b) Section 30DD was inserted by the Welfare Reform and Pensions Act 1999 (c.30), section 63; section 30E was inserted by the Social Security (Incapacity for Work) Act 1994 (c.18), section 3. Both sections are repealed by the Welfare Reform Act 2007 (c.5), Schedule 8 (not yet in force).

## Calculation of weekly income: pensioners

40. (1) Except in a case within sub-paragraph (2) or (4), for the purposes of calculating the weekly income of an applicant who is a pensioner, where the period in respect of which a payment is made—

- (a) does not exceed a week, the whole of that payment is to be included in the applicant's weekly income;
- (b) exceeds a week, the amount to be included in the applicant's weekly income is to 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 a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52;
  - (iii) in a case where that period is a year, by dividing the amount of the payment by 52;
  - (iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number of days in the period in respect of which it is made.

(2) Sub-paragraph (3) applies where—

- (a) the applicant's regular pattern of work is such that he does not work the same hours every week; or
- (b) the amount of the applicant's income fluctuates and has changed more than once.

(3) The weekly amount of that applicant's income is to be determined—

- (a) if, in a case to which sub-paragraph (2)(a) applies, there is a recognised cycle of work, by reference to his average weekly income over the period of the complete cycle (including, where the cycle involves periods in which the applicant does no work, those periods but disregarding any other absences); or
- (b) in any other case, on the basis of—
  - (i) the last two payments if those payments are one month or more apart;
  - (ii) the last four payments if the last two payments are less than one month apart; or
  - (iii) calculating or estimating such other payments as may, in the particular circumstances of the case, enable the applicant's average weekly income to be determined more accurately.

(4) For the purposes of sub-paragraph (3)(b) the last payments are the last payments before the date the application was made or treated as made.

(5) If the applicant is entitled to receive a payment to which sub-paragraph (6) applies, the amount of that payment is to be treated as if made in respect of a period of a year.



(6) This sub-paragraph applies to—

- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (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; and
- (c) any payment which is made on an occasional basis.

(7) The period under which any benefit under the benefit Acts is to be taken into account is to be the period in respect of which that benefit is payable.

(8) Where payments are made in a currency other than Sterling, the value of the payment is to be determined by taking the Sterling equivalent on the date the payment is made.

(9) The sums specified in Schedule 5 are to be disregarded in calculating—

- (a) the applicant's earnings; and
- (b) any amount to which sub-paragraph (6) applies where the applicant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work referred to in sub-paragraph (6)(b).

(10) For the purposes of sub-paragraph (9)(b), and for that purpose only, the amounts specified in sub-paragraph (6) is to be treated as though they were earnings.

(11) Income specified in Schedule 6 is to be disregarded in the calculation of the applicant's income.

(12) Schedule 9 (capital disregards: pensioners) has effect so that—

- (a) the capital specified in Part 1 is disregarded for the purpose of determining an applicant's income; and
- (b) the capital specified in Part 2 is disregarded for the purpose of determining an applicant's income under paragraph 71 (calculation of tariff income from capital: pensioners).

(13) In the case of any income taken into account for the purpose of calculating a person's income any amount payable by way of tax is disregarded.



## Earnings of employed earners: pensioners

41. (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as an employed earner who is a pensioner, means 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;
  - (d) any holiday pay;
  - (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—
    - (i) travelling expenses incurred by the applicant between his home and 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;
  - (g) 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<sup>(a)</sup>;
  - (h) statutory sick pay and statutory maternity pay payable by the employer under the SSCBA;
  - (i) statutory paternity pay payable under Part 12ZA of that Act;
  - (j) statutory adoption pay payable under Part 12ZB of that Act;
  - (k) any sums payable under a contract of service—
    - (i) for incapacity for work due to sickness or injury; or
    - (ii) by reason of pregnancy or confinement.

(2) Earnings does not include—

- (a) subject to sub-paragraph (3), any payment in kind;
- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- (c) any occupational pension;
- (d) any lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme;
- (e) any payment of compensation made pursuant to an award by an employment tribunal established under the Employment Tribunals Act 1996<sup>(b)</sup> in respect of unfair dismissal or unlawful discrimination;

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(a) S.I. 2001/1004.  
(b) 1996 c.17.

- (f) any payment in respect of expenses arising out of the applicant's participation in a service user group.

(3) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub-paragraph (1)(g).

### **Calculation of net earnings of employed earners: pensioners**

**42.** (1) For the purposes of paragraph 57 (calculation of income on a weekly basis), the earnings of an applicant who is a pensioner derived or likely to be derived from employment as an employed earner to be taken into account must, subject to paragraph 40(5) and Schedule 5 (sums to be disregarded from earnings: pensioners), be his net earnings.

(2) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (5) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—

(a) any amount deducted from those earnings by way of—

- (i) income tax;
- (ii) primary Class 1 contributions under the SSCBA;

(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 sub-paragraph (4) in respect of any qualifying contribution payable by the applicant; and

(d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the SSCBA.

(3) In this paragraph “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.

(4) The amount in respect of any qualifying contribution is to 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 paragraph the daily amount of the qualifying contribution is to 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.

(5) Where the earnings of an applicant are determined under paragraph 40(2)(b) (calculation of weekly income: pensioners) his net earnings is to be calculated by taking into account those earnings over the assessment period, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 the Income Tax Act 2007(a) (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

#### **Calculation of earnings of self-employed earners: pensioners**

**43.** (1) Where the earnings of an applicant who is a pensioner consist of earnings from employment as a self-employed earner, the weekly amount of his earnings is to be determined by reference to his average weekly earnings from that employment—

- (a) over a period of one year; or
- (b) where the applicant has recently become engaged in that employment or there has been a change which is likely to affect the normal pattern of business, over such other period (“computation period”) as may, in the particular case, enable the weekly amount of his earnings to be determined more accurately.

(2) For the purposes of determining the weekly amount of earnings of an applicant to whom sub-paragraph (1)(b) applies, his earnings over the computation period are to be divided by the number equal to the number of days in that period and the product multiplied by 7.

(3) The period over which the weekly amount of an applicant’s earnings is calculated in accordance with this paragraph is to be his assessment period.

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(a) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) (“2012 Act”); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

## Earnings of self-employers earners: pensioners

44. (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner who is a pensioner, means the gross income of the employment.

(2) “Earnings” in the case of employment as a self-employed earner does not include—

- (a) where an applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation for which payment is made, those payments;
- (b) any payment made by a local authority to an applicant—
  - (i) with whom a person is accommodated by virtue of arrangements made under section 22C or 23(2)(a) of the Children Act 1989(a) or, as the case may be, section 26(1) of the Children (Scotland) Act 1995(b); or
  - (ii) with whom a local authority fosters a child under the Looked After Children (Scotland) Regulations 2009(c) or who is a kinship carer under those Regulations;
- (c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations);
- (d) 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—
  - (i) a local authority but excluding payments of housing benefit made in respect of the person concerned;
  - (ii) a voluntary organisation;
  - (iii) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948(d);
  - (iv) the National Health Service Commissioning Board or a clinical commissioning group established under section 14D of the National Health Service Act 2006(e); or
  - (v) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006(f);
- (e) any sports award.

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- a) 1989 c.41; section 23 was substituted by sections 22A to 22F by section 8(1) of the Children and Young Persons Act 2008 (c.23). Section 22C is in force in England but is not yet in force in Wales.
  - b) 1995 c.36; section 26 was amended by paragraph 1 of Schedule 3 to the Adoption and Children (Scotland) Act 2007 (asp 4).
  - c) S.I. 2009/210.
  - d) 1948 c.29; section 26(3A) was inserted by section 42(4) of the National Health Service and Community Care Act 1990 (c.19).
  - e) 2006 c.41. The Commissioning Board is established under section 1H of that Act (inserted by section 9 of the Health and Social Care Act 2012 (c.7)); section 14D was inserted by section 25 of the 2012 Act.
  - f) 2006 c.42.

## Notional income: pensioners

45. (1) An applicant who is a pensioner is to be treated as possessing—
- (a) subject to sub-paragraph (2), the amount of any retirement pension income—
    - (i) for which no claim has been made; and
    - (ii) to which he might expect to be entitled if a claim for it were made;
  - (b) income from an occupational pension scheme which the applicant elected to defer.
- (2) Sub-paragraph (1)(a) does not apply to the following where entitlement has been deferred—
- (a) a Category A or Category B retirement pension payable under sections 43 to 55 of the SSCBA;
  - (b) a shared additional pension payable under section 55A of the SSCBA;
  - (c) graduated retirement benefit payable under sections 36 and 37 of the National Insurance Act 1965(a).
- (3) For the purposes of sub-paragraph (2), entitlement has been deferred—
- (a) in the case of a Category A or Category B pension, in the circumstances specified in section 55(3) of the SSCBA;
  - (b) in the case of a shared additional pension, in the circumstances specified in section 55C(3) of the SSCBA; and
  - (c) in the case of graduated retirement benefit, in the circumstances specified in section 36(4) and (4A) of the National Insurance Act 1965.
- (4) This sub-paragraph applies where a person who has attained the qualifying age for state pension credit—
- (a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme;
  - (b) fails to purchase an annuity with the funds available in that scheme; and
  - (c) either—
    - (i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder, or
    - (ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or
    - (iii) income withdrawal is not available to him under that scheme.

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(a) 1965 c.51.

(5) Where sub-paragraph (4) applies, the amount of any income foregone is to be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.

(6) The amount of any income foregone in a case where sub-paragraph (4)(c)(i) or (ii) applies is to be the maximum amount of income which may be withdrawn from the fund and must be determined by the authority, taking account of information provided by the pension fund holder.

(7) The amount of any income foregone in a case where sub-paragraph (4)(c)(iii) applies is to be the income that the applicant could have received without purchasing an annuity had the funds held under the relevant scheme been held under a personal pension scheme or occupational pension scheme where income withdrawal was available and is to be determined in the manner specified in sub-paragraph (6).

(8) In sub-paragraph (4), “money purchase benefits” has the same meaning as in the Pension Schemes Act 1993.

(9) Subject to sub-paragraphs (10) and (12), a person is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a reduction under this scheme or increasing the amount of the reduction.

(10) Sub-paragraph (9) does not apply in respect of the amount of an increase of pension or benefit where a person, having made an election in favour of that increase of pension or benefit under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005(a), changes that election in accordance with regulations made under Schedule 5 or 5A to that Act in favour of a lump sum.

(11) In sub-paragraph (10), “lump sum” means a lump sum under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005.

(12) Sub-paragraph (9) does not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant’s participation in a service user group.

(13) Where an applicant is in receipt of any benefit 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 must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects to apply, to the date on which the altered rate is to take effect.

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(a) S.I. 2005/454.



(14) In the case of an applicant who has, or whose partner has, an award of state pension credit comprising only the savings credit, where the authority treats the applicant as possessing any benefit at the altered rate in accordance with sub-paragraph (13), the authority must—

- (a) determine the income and capital of that applicant in accordance with paragraph 36(1) (calculation of applicant's income in savings credit only cases: pensioners) where the calculation or estimate of that income and capital is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter; and
- (b) treat that applicant as possessing such income and capital at the altered rate by reference to the date selected by the relevant authority to apply in its area, for the purposes of establishing the period referred to in sub-paragraph (13).

(15) For the purposes of sub-paragraph (9), a person is not to be regarded as depriving himself of income where—

- (a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme, and
- (b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004**(b)**.

(16) In sub-paragraph (15), “registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004.

### **Income paid to third parties: pensioners**

**46.** (1) Any payment of income, other than a payment specified in sub-paragraph (2) or (3), to a third party in respect of an applicant who is a pensioner is to be treated as possessed by the applicant.

(2) Sub-paragraph (1) does not apply in respect of a payment of income made 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—

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(b) 2004 c.12.

- (a) 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**(a)**;
  - (b) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
  - (c) the person referred to in paragraph (a) and his partner does not possess, or is not treated as possessing, any other income apart from that payment.
- (3) Sub-paragraph (1) does not apply in respect of any payment of income other than earnings, or earnings derived from employment as an employed earner, arising out of the applicant's participation in a service user group.

## CHAPTER 5

### Income: persons who are not pensioners

#### Average weekly earnings of employed earners: persons who are not pensioners

47. (1) Where the income of an applicant who is not a pensioner consists of earnings from employment as an employed earner his average weekly earnings must be estimated by reference to his earnings from that employment—
- (a) over a period immediately preceding the reduction week in which the application is made or treated as made and being a period of—
    - (i) 5 weeks, if he is paid weekly; or
    - (ii) 2 months, if he is paid monthly; or
  - (b) whether or not paragraph (a)(i) or (ii) applies, where an applicant's earnings fluctuate, over such other period preceding the reduction week in which the application is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.
- (2) Where the applicant has been in his employment for less than the period specified in sub-paragraph (1)(a)(i) or (ii)—
- (a) if he has received any earnings for the period that he has been in that employment and those earnings are likely to represent his average weekly earnings from that employment his average weekly earnings must be estimated by reference to those earnings;
  - (b) in any other case, the authority must estimate the applicant's average weekly earnings**(b)**.

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(a) 1980 c.46.

(b) Powers in section 14A of the LGFA 1992 may be used to confer power to require employers to provide information for these purposes.



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

(4) For the purposes of this paragraph the applicant's earnings are to be calculated in accordance with paragraphs 51 and 52 (earnings of employed earners: persons who are not pensioners).

#### **Average weekly earnings of self-employed earners: persons who are not pensioners**

48. (1) Where the income of an applicant who is not a pensioner consists of earnings from employment as a self-employed earner his average weekly earnings must be estimated by reference to his earnings from that employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period must not in any case exceed a year.

(2) For the purposes of this paragraph the applicant's earnings must be calculated in accordance with paragraphs 53, 61 and 62 (earnings, and net profit, of self-employed earners).

#### **Average weekly income other than earnings: persons who are not pensioners**

49. (1) The income of an applicant who is not a pensioner which does not consist of earnings must, except where sub-paragraph (2) applies, be estimated over such period as is appropriate in order that his average weekly income may be estimated accurately but the length of the period must not in any case exceed 52 weeks; and nothing in this paragraph authorises an authority to disregard any such income other than that specified in Schedule 8 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners).

(2) The period over which any benefit under the benefit Acts is to be taken into account is to be the period in respect of which that benefit is payable.

(3) For the purposes of this paragraph income other than earnings is to be calculated in accordance with paragraph 54 (calculation of income other than earnings: persons who are not pensioners).

#### **Calculation of weekly income of employed earners: persons who are not pensioners**

50. (1) For the purposes of paragraphs 47 (average weekly earnings of employed earners), 49 (average weekly income other than earnings) and 59 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made—

(a) does not exceed a week, the weekly amount is to be the

amount of that payment; (b) exceeds a week, the weekly amount is to 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 product by 7.

(2) For the purposes of paragraph 48 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant is to 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 product by 7.

### **Earnings of employed earners: persons who are not pensioners**

51. (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as an employed earner of a person who is not a pensioner, means 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—
    - (i) travelling expenses incurred by the applicant between his home and 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;
  - (g) 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);
  - (h) 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);
  - (i) any such sum as is referred to in section 112 of the SSCBA (certain sums to be earnings for social security purposes);
  - (j) 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;
- (k) 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;
- (l) 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.

(2) Earnings does not include—

- (a) subject to sub-paragraph (3), any payment in kind;
- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- (c) any occupational pension;
- (d) any payment in respect of expenses arising out of the applicant's participation in a service user group.

(3) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub-paragraph (1)(l).

### **Calculation of net earnings of employed earners: persons who are not pensioners**

**52.** (1) For the purposes of paragraph 47 (average weekly earnings of employed earners: persons who are not pensioners), the earnings of an applicant who is not a pensioner derived or likely to be derived from employment as an employed earner to be taken into account must, subject to sub-paragraph (2), be his net earnings.

(2) There is to be disregarded from an applicant's net earnings, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners).

(3) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (6) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—

- (a) any amount deducted from those earnings by way of—
- (b)
  - (i) income tax;
  - (ii) primary Class 1 contributions under the SSCBA;
- (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 sub-paragraph (5) in respect of any qualifying contribution payable by the applicant; and
- (d) where those earnings include a payment which is payable under

any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the SSCBA.

(4) In this paragraph “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.

(5) The amount in respect of any qualifying contribution is to 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 paragraph the daily amount of the qualifying contribution is to 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.

(6) Where the earnings of an applicant are estimated under paragraph 47(2)(b) (average weekly earnings of employed earners: classes D to F), his net earnings is to be calculated by taking into account those earnings over the assessment period, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007<sup>(a)</sup> (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

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(a) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) (“2012 Act”); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009

### **Earnings of self-employed earners: persons who are not pensioners**

53. (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner of a person who is not a pensioner, means the gross income of the employment.

(2) “Earnings” does not include any payment to which paragraph 31 or 32 of Schedule 8 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant’s care) nor does it include any sports award.

(3) This paragraph applies to—

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

where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.

(4) Where the applicant’s earnings consist of any items to which sub-paragraph (3) applies, those earnings must be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction is to be treated as a corresponding fraction of a week) by dividing the earnings by—

- (a) the amount of reduction under this scheme to which the applicant would have been entitled had the payment not been made, plus
- (b) an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) as appropriate in the applicant’s case.

### **Calculation of income other than earnings: persons who are not pensioners**

54. (1) For the purposes of paragraph 49 (average weekly income other than earnings: persons who are not pensioners), the income of an applicant who is not a pensioner which does not consist of earnings to be taken into account must, subject to sub-paragraphs (2) to (8), be his gross income and any capital treated as income under paragraph 55 (capital treated as income: persons who are not pensioners).

(2) There is to be disregarded from the calculation of an applicant’s

gross income under sub- paragraph (1), any sum, where applicable, specified in Schedule 8.

(3) Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under sub-paragraph (1) must be the gross amount payable.

(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 2008(a), the amount of that benefit to be taken into account is the amount as if it had not been reduced.

(5) Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002 is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.

(6) Sub-paragraphs (7) and (8) apply where—

- (a) a relevant payment has been made to a person in an academic year; and
- (b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.

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

$$(A - (B \times C)) / D$$

where—

- (a) A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under paragraph 81(5) (costs of travel, books and equipment);
- (b) 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;

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(a) S.I. 2008/794.



- (c) C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under paragraph 81(2) (treatment of student loans) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to a reduction under this scheme immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit;
- (d) D = the number of reduction weeks in the assessment period.

(8) 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 sub-paragraph (1) in respect of a person to whom sub-paragraph (7) applies, is to be calculated by applying the formula in sub-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, less any deduction under paragraph 81(5).

(9) In this paragraph—

“academic year” and “student loan” have the same meanings as in Part 11 (students); “assessment period” means—

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

“quarter” in relation to an assessment period means a period in that year beginning on—

- (c) 1st January and ending on 31st March;
- (d) 1st April and ending on 30th June;
- (e) 1st July and ending on 31st August; or
- (f) 1st September and ending on 31st December;

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in paragraph 76(7) or both.

(10) For the avoidance of doubt there must be included as income to be taken into account under sub-paragraph (1)—

- (a) any payment to which paragraph 41(2) or 51(2) (payments not earnings) applies; or
- (b) in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act 1999 including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act 1999.

### **Capital treated as income: persons who are not pensioners**

55. (1) Any capital payable by instalments which are outstanding at the date on which the application is made or treated as made, or, at the date of any subsequent revision or supersession, must, if the aggregate of the instalments outstanding and the amount of the applicant’s capital otherwise calculated in accordance with Chapter 7 of this Part exceeds £16,000, be treated as income.

(2) Any payment received under an annuity is to be treated as income.

(3) Any earnings to the extent that they are not a payment of income is to be treated as income.

(4) Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 is to be treated as income.

(5) Where an agreement or court order provides that payments must 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 by virtue of this Part), is to be treated as income.

### **Notional income: persons who are not pensioners**

56. (1) An applicant who is not a pensioner is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a reduction under a council tax reduction scheme or increasing the amount of the reduction.

(2) Except in the case of—

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;



- (c) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
- (d) any sum to which paragraph 50(2)(a) of Schedule 10 (capital disregards: persons who are not pensioners) applies which is administered in the way referred to in paragraph 50(1)(a);
- (e) any sum to which paragraph 51(a) of Schedule 10 refers;
- (f) rehabilitation allowance made under section 2 of the Employment and Training Act 1973;
- (g) child tax credit;
- (h) working tax credit, or
- (i) any sum to which sub-paragraph (11) applies,

any income which would become available to the applicant upon application being made, but which has not been acquired by him, is to 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.

(3) Any payment of income, other than a payment of income specified in sub-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) must, 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) must, where it is not a payment referred to in 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) must 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.

(4) Sub-paragraph (3) does not apply in respect of a payment of income made—

- (a) under or by 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**(a)** (concessionary coal);
- (c) pursuant to section 2 of the Employment and Training Act 1973 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 1996**(b)**;
  - (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 person's participation in the Work for Your Benefit Pilot Scheme;
- (e) in respect of a person's participation in the Mandatory Work Activity Scheme;
- (f) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (g) 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**(c)**;
  - (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 sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

(5) Where an applicant is in receipt of any benefit 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 must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects, to the date on which the altered rate is to take effect.

(6) Subject to sub-paragraph (7), where—

- (a) an 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,

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(a) 1994 c.21.  
 (b) S.I. 1996/207.  
 (c) 1980 c.46

the authority must 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.

(7) Sub-paragraph (6) does 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 1996, 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.

(8) In sub-paragraph (7)(c) "work placement" means practical work experience which is not undertaken in expectation of payment.

(9) Where an applicant is treated as possessing any income under any of sub-paragraphs (1) to (8), the foregoing provisions of this Part apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

(10) Where an applicant is treated as possessing any earnings under sub-paragraph (6) the foregoing provisions of this Part apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph 42(2) or 52(3) (calculation of net earnings of employed earners: pensioners and persons who are not pensioners, respectively) do not apply and his net earnings are to 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 basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007(a) (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
  - (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA 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.
- (11) Sub-paragraphs (1), (2), (3) and (6) do not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant's participation in a service user group.

## **CHAPTER 6**

### **Income: further provisions applying to pensioners and persons who are not pensioners**

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

- 57.** (1) Subject to paragraph 60 (disregard of changes in tax, etc.), the income of an applicant is to be calculated on a weekly basis—
- (a) by estimating the amount which is likely to be his average weekly income in accordance with this Part;
  - (b) by adding to that amount the weekly income calculated—
    - (i) if the applicant is a pensioner, under paragraph 71 (tariff income: pensioners);
    - (ii) if the applicant is a person who is not a pensioner, under paragraph 72 (tariff income: persons who are not pensioners);
 and

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(a) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) ("2012 Act"); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

(c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which paragraph 58 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that sub-paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in sub-paragraph (3) applies in his case.

(2) The conditions of this paragraph are that—

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

(3) The maximum deduction to which sub-paragraph (1)(c) above refers is to be—

- (a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week;
- (b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.

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

**58.** (1) This paragraph applies where an applicant (within the meaning in this paragraph) is incurring relevant child care charges and—

- (a) is a lone parent and is engaged in remunerative work;
- (b) is a member of a couple both of whom are engaged in remunerative work; or
- (c) is a member of a couple where one member is engaged in remunerative work and the other—
  - (i) is incapacitated;
  - (ii) is an in-patient in hospital; or
  - (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).

(2) For the purposes of sub-paragraph (1) and subject to sub-paragraph (4), a person to whom sub-paragraph (3) applies must be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he—

- (a) is paid statutory sick pay;
- (b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the SSCBA;
- (c) is paid an employment and support allowance;

- (d) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support (General) Regulations 1987<sup>(a)</sup>; or

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(a) S.I. 1987/1967.

- (e) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975<sup>(a)</sup>.

(3) This sub-paragraph applies to a person who was engaged in remunerative work immediately before—

- (a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
- (b) the first day of the period in respect of which earnings are credited, as the case may be.

(4) In a case to which sub-paragraph (2)(d) or (e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.

(5) Relevant child care charges are those charges for care to which sub-paragraphs (6) and (7) apply, and are to be calculated on a weekly basis in accordance with sub-paragraph (10). (6) The charges are paid by the applicant for care which is provided—

- (a) in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or
- (b) in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.

(7) The charges are paid for care which is provided by one or more of the care providers listed in sub-paragraph (8) and are not paid—

- (a) in respect of the child's compulsory education;
- (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with paragraph 7 (circumstances in which a person is treated as responsible or not responsible for another); or
- (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.

(8) The care to which sub-paragraph (7) refers may be provided—

- (a) out of school hours, by a school on school premises or by a local authority—

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(a) S.I. 1975/556.

- (i) for children who are not disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or
  - (ii) for children who are disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday; or
- (b) by a child care provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999**(b)**; or
  - (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010**(c)**; or
  - (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010**(d)**; or
  - (e) by—

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(b) S.I. 1999/3110.  
(c) 2010 c.1.  
(d) S.I. 2010/2574 (W.214).



- (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010**(a)**; or
- (ii) local authorities registered under section 83(1) of that Act,

where the care provided is child minding or day care of children within the meaning of that Act; or

- (f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002; or
- (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006**(b)**; or
- (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
- (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
- (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of “childcare” for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
- (k) by a foster parent or kinship carer under the Fostering Services Regulations 2011**(c)**, the Fostering Services (Wales) Regulations 2003**(d)** or the Looked After Children (Scotland) Regulations 2009**(e)** in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or
- (l) by a provider of personal care within the meaning of paragraph 1 of Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010**(f)** and being a regulated activity prescribed by those Regulations; or
- (m) by a person who is not a relative of the child wholly or mainly in the child’s home.

(9) In sub-paragraphs (6) and (8)(a), “the first Monday in September” means the Monday which first occurs in the month of September in any year.

(10) Relevant child care charges must be estimated over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to information as to the amount of that charge provided by the child minder or person providing the care.

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(a) 2001 asp 8.  
 (b) 2006 c.21.  
 (c) S.I. 2011/581.  
 (d) S.I. 2003/237.  
 (e) S.I. 2009/210.  
 (f) S.I. 2010/781; amended by S.I. 2012/1513.

- (11) For the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where—
- (a) the applicant is a pensioner and the other member of the couple is aged not less than 80;
  - (b) the applicant is a pensioner and the other member of the couple is aged less than 80, and—
    - (i) the additional condition specified in paragraph 10 of Schedule 3 (additional condition for the disability premium) to this scheme is treated as applying in his case; and
    - (ii) he satisfies that conditions or would satisfy it but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
  - (c) the applicant is not a pensioner, the applicant's applicable amount includes a disability premium on account of the other member's incapacity or the support component or the work-related activity component on account of his having limited capability for work;
  - (d) the applicant is not a pensioner, the applicant's applicable amount would include a disability premium on account of the other member's incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
  - (e) the applicant's applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008;
  - (f) he is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;
  - (g) he is, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
    - (i) there is payable in respect of him one or more of the following pensions or allowances—
    - (ii) long-term incapacity benefit or short-term incapacity

- benefit at the higher rate under Schedule 4 to the SSCBA;
  - (iii) attendance allowance under section 64 of the SSCBA;
  - (iv) severe disablement allowance under section 68 of the SSCBA; (iv) disability living allowance under section 71 of the SSCBA;
  - (v) personal independence payment;
  - (vi) an AFIP;
  - (vii) increase of disablement pension under section 104 of the SSCBA;
  - (viii) a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under sub-paragraph (ii), (iv), (v) or (vii) above;
  - (ix) main phase employment and support allowance;
- (i) a pension or allowance to which sub-paragraph (vii) or (viii) of paragraph (h) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this paragraph means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005;
  - (j) an attendance allowance under section 64 of the SSCBA or disability living allowance would be payable to that person but for—
    - (i) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
    - (ii) an abatement as a consequence of hospitalisation;
  - (k) the daily living component of personal independence payment would be payable to that person but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
  - (l) an AFIP would be payable to that person but for any suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
  - (m) paragraph (h), (i), (j) or (k) would apply to him if the legislative provisions referred to in those paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or

- (n) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006(a) or under section 46 of the National Health Service (Scotland) Act 1978(b) or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972(c).

(12) For the purposes of sub-paragraph (11), once sub-paragraph (11)(f) applies to the person, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that sub-paragraph is, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter to apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.

(13) For the purposes of sub-paragraph (11), once sub-paragraph (11)(g) applies to the person, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter to apply to him for so long as he has, or is treated as having, limited capability for work.

(14) For the purposes of sub-paragraphs (6) and (8)(a), a person is disabled if he is a person—

- (a) to whom an attendance allowance or the care component of disability allowance is payable or would be payable but for—
  - (i) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
  - (ii) an abatement as a consequence of hospitalisation;
- (b) to whom the daily living component of personal independence payment is payable or would be payable but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
- (c) who is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or

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(a) 2006 c.41; paragraph 9 has been amended by sections 17(10) of the Health and Social Care Act 2012 (c.7) (to replace references to the Secretary of State with references to clinical commissioning groups), but those provisions are not yet fully in force.

(b) 1978 c.29.

(c) S.I. 1972/1265 (N.I. 14)

(d) who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.

(15) For the purposes of sub-paragraph (1) a person on maternity leave, paternity leave or adoption leave is to be treated as if he is engaged in remunerative work for the period specified in sub-paragraph (16) ("the relevant period") provided that—

- (a) in the week before the period of maternity leave, paternity leave or adoption leave began he was in remunerative work;
- (b) the applicant is incurring relevant child care charges within the meaning of sub-paragraph (5); and
- (c) he is entitled to either statutory maternity pay under section 164 of the SSCBA(a), ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, additional statutory paternity pay by virtue of section 171ZEA or 171ZEB of that Act, statutory adoption pay by of section 171ZL of that Act, maternity allowance under section 35 of that Act or qualifying support.

(16) For the purposes of sub-paragraph (15) the relevant period begins on the day on which the person's maternity, paternity leave or adoption leave commences and ends on—

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

whichever occurs first.

(17) In sub-paragraphs (15) and (16)—

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

(18) In this paragraph "applicant" does not include an applicant—

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

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- (a) 1992 c.4; section 164 was amended by paragraph 12 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and section 20 of, and paragraph 6 of Schedule 7 and paragraph 1 of Schedule 8 to, the Employment Act 2002 (c.22).
  - (b) S.I. 1987/1967; Schedule 1B was inserted by S.I. 1996/206.

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

59. (1) This paragraph applies where an applicant receives a tax credit.
- (2) Where this paragraph applies, the period over which a tax credit is to be taken into account is the period set out in sub-paragraph (3).
- (3) Where the instalment in respect of which payment of a tax credit is made is—
- (a) a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;
  - (b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;
  - (c) a two weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;
  - (d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.
- (4) For the purposes of this paragraph “tax credit” means child tax credit or working tax credit.

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

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

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

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

61. (1) For the purposes of paragraphs 48 (average weekly earnings of self-employed earners: persons who are not pensioners) and 57 (calculation of income on a weekly basis) the earnings of an applicant to be taken into account must 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 who is a pensioner whose employment is carried on in partnership, his share of the net profit derived from that employment, less—
  - (i) an amount in respect of income tax and of social security contributions payable under the SSCBA calculated in accordance with paragraph 62 (deduction of tax and contributions of self-employed earners); and
  - (ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium;
- (c) in the case of a self-employed earner who is not a pensioner 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(a), his share of the net profit derived from that employment, less—
  - (i) an amount in respect of income tax and of social security contributions payable under the SSCBA calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and
  - (ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(2) There must be disregarded from the net profit of an applicant who is not a pensioner, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners).

(3) For the purposes of sub-paragraph (1)(a) the net profit of the employment must, except where sub-paragraph (9) applies, be calculated by taking into account the earnings of the employment over the assessment period less—

- (a) subject to sub-paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of that employment;
- (b) an amount in respect of—
  - (i) income tax; and
  - (ii) social security contributions payable under the SSCBA, calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and
- (c) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

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(a) S.I. 1975/529.

(4) For the purposes of sub-paragraph (1)(b) the net profit of the employment is to be calculated by taking into account the earnings of the employment over the assessment period less, subject to sub-paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

(5) Subject to sub-paragraph (6), no deduction is to be made under sub-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) in the case of an applicant who is not a pensioner, any debts, except bad debts proved to be such, but this paragraph does not apply to any expenses incurred in the recovery of a debt.

(6) A deduction is to be made under sub-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; or
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

(7) The authority must refuse to make a deduction in respect of any expenses under sub-paragraph (3)(a) or (4) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.

(8) For the avoidance of doubt—

- (a) a deduction must not be made under sub-paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction must 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.

(9) Where an applicant is engaged in employment as a child minder the net profit of the employment is to be one-third of the earnings of that



employment, less—

- (a) an amount in respect of—
  - (i) income tax; and
  - (ii) social security contributions payable under the SSCBA, calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and
- (b) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(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 must not be offset against his earnings in any other of his employments.

(11) The amount in respect of any qualifying premium is to 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 paragraph the daily amount of the qualifying premium must be determined—

- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing 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.

(12) In this paragraph, “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 application.

### **Calculation of deduction of tax and contributions of self-employed earners**

**62.** (1) The amount to be deducted in respect of income tax under paragraph 61(1)(b)(i), (3)(b)(i) or (9)(a)(i) (calculation of net profit of self-employed earners) must be calculated—

- (a) on the basis of the amount of chargeable income, and

(b) 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 sections 35 to 37 of the Income Tax Act 2007<sup>(a)</sup> (personal allowances) as is appropriate to his circumstances.

(2) But, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph must be calculated on a pro rata basis.

(3) The amount to be deducted in respect of social security contributions under paragraph 60(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) is the total of—

(a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the SSCBA 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 that Act (small earnings exception) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year must be reduced pro rata; and

(b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the SSCBA (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 must be reduced pro rata.

(4) In this paragraph "chargeable income" means—

(a) except where paragraph (b) applies, the earnings derived from the employment less any expenses deducted under sub-paragraph (3)(a) or, as the case may be, (5) of paragraph 61;

(b) in the case of employment as a child minder, one-third of the earnings of that employment.

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(a) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) ("2012 Act"); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

## CHAPTER 7

### Capital

#### Calculation of capital

**63.** (1) The capital of an applicant(**a**) to be taken into account must be, subject to sub-paragraph (2), the whole of his capital calculated in accordance with this Part and (in the case of persons who are not pensioners) any income treated as capital under paragraph 64 (income treated as capital: persons who are not pensioners).

(2) There must be disregarded from the calculation of an applicant's capital under sub-paragraph (1), any capital, where applicable, specified in—

- (a) Schedule 9, in relation to pensioners;
- (b) Schedule 10, in relation to persons who are not pensioners.

(3) In the case of an applicant who is a pensioner, his capital is to be treated as including any payment made to him by way of arrears of—

- (a) child tax credit;
- (b) working tax credit;
- (c) state pension credit,

if the payment was made in respect of a period for the whole or part of which a reduction under this scheme was allowed before those arrears were paid.

(4) The capital of a child or young person who is a member of the family of an applicant who is not a pensioner must not be treated as capital of the applicant.

#### Income treated as capital: persons who are not pensioners

**64.** (1) This paragraph applies in relation to persons who are not pensioners.

(2) Any bounty derived from employment to which paragraph 9 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) applies and paid at intervals of at least one year is to be treated as capital.

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

(4) Any holiday pay which is not earnings under paragraph 41(1)(d) or 51(1)(d) (earnings of employed earners) is to be treated as capital.

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(a) See paragraph 22A for the capital limit for eligibility of £16,000.

(5) Except any income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17, 30 to 33, 50 or 51 of Schedule 10 (capital disregards: persons who are not pensioners), any income derived from capital is to be treated as capital but only from the date it is normally due to be credited to the applicant's account.

(6) In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer is to be treated as capital.

(7) 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, is to be treated as capital.

(8) There is to 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.

(9) Any arrears of subsistence allowance which are paid to an applicant as a lump sum must be treated as capital.

(10) Any arrears of working tax credit or child tax credit must be treated as capital.

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

**65.** Capital which an applicant possesses in the United Kingdom is to be calculated at its current market or surrender value less—

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

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

**66.** Capital which an applicant possesses in a country outside the United Kingdom must 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.

### **Notional capital**

**67.** (1) An applicant is to be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to a reduction or increasing the amount of that reduction except to the extent that that

capital is reduced in accordance with paragraph 68 (diminishing notional capital rule).

(2) A person who is a pensioner who disposes of capital for the purpose of—

- (a) reducing or paying a debt owed by the applicant; or
- (b) purchasing goods or services if the expenditure was reasonable in the circumstances of the applicant's case, is to be regarded as not depriving himself of it.

(3) Sub-paragraphs (4) to (6) apply in relation to applicants who are not pensioners.

(4) 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 9; or
- (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
- (e) any sum to which paragraph 50(2)(a) of Schedule 10 (capital disregards: persons who are not pensioners) applies which is administered in the way referred to in paragraph 50(1)(a); or
- (f) any sum to which paragraph 51(a) of Schedule 10 refers; or
- (g) child tax credit; or
- (h) working tax credit,

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

(5) Any payment of capital, other than a payment of capital specified in sub-paragraph (6), 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) must, 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) must, where it is not a payment referred to in 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 the family) must 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.
- (6) Sub-paragraph (5) does 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 Employment and Training Act 1973 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 1996;
- (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 Work for Your Benefit Pilot Scheme;
- (d) in respect of a person's participation in the Mandatory Work Activity Scheme;
- (e) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (f) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
- (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
- (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
- (iii) the person referred to in sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

(7) 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 must, notwithstanding paragraph 63 (calculation of capital) be disregarded; and
- (b) he must, subject to sub-paragraph (8), 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 Chapter apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(8) 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 sub-paragraph (7) is to be disregarded.

(9) Where an applicant is treated as possessing capital under any of sub-paragraphs (1), (4) or (5) the foregoing provisions of this Chapter apply for the purposes of calculating its amount as if it were actual capital which he does possess.

### **Diminishing notional capital rule: pensioners**

**68.**—(1) Where an applicant who is a pensioner is treated as possessing capital under paragraph 67(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
  - (i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or
  - (ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by an amount determined under sub-paragraph (3);
- (c) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—
  - (i) that week is a week subsequent to the relevant week; and
  - (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied, is to be reduced by the amount determined under sub-paragraph (5).

(2) This sub-paragraph applies to a reduction week where the applicant satisfies the conditions that—

- (a) he is in receipt of a reduction under this scheme; and
- (b) but for paragraph 67(1), he would have received a greater reduction in council tax under this scheme in that week.

(3) In a case to which sub-paragraph (2) applies, the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) must be equal to the aggregate of—

- (a) an amount equal to the additional amount of the reduction in council tax to which sub-paragraph (2)(b) refers;
- (b) where the applicant has also claimed state pension credit, the



amount of any state pension credit or any additional amount of state pension credit to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 21(1) of the State Pension Credit Regulations 2002 (notional capital);

- (c) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of housing benefit to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (notional capital);
- (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and
- (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).

(4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b) the condition is that the applicant is a pensioner and would have been entitled to a reduction in council tax under this scheme in the relevant week but for paragraph 67(1).

(5) In such a case the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(b) is equal to the aggregate of—

- (a) the amount of the reduction in council tax to which the applicant would have been entitled in the relevant week but for paragraph 67(1);
- (b) if the applicant would, but for regulation 21 of the State Pension Credit Regulations 2002, have been entitled to state pension credit in respect of the benefit week, within the meaning of regulation 1(2) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;
- (c) if the applicant would, but for regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—
  - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
  - (ii) in any other case, the amount equal to the additional amount



of housing benefit to which he would have been entitled;

- (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled; and
- (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.

(6) But if the amount mentioned in paragraph (a), (b), (c), (d) or (e) of sub-paragraph (5) ("the relevant amount") is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—

- (a) dividing the relevant amount by the number equal to the number of days in that part-week, and
- (b) multiplying the result of that calculation by 7.

(7) The amount determined under sub-paragraph (5) is to be re-determined under that sub-paragraph if the applicant makes a further application and the conditions in sub-paragraph (8) are satisfied, and in such a case—

- (a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words "relevant week" there were substituted the words "relevant subsequent week"; and
- (b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.

(8) The conditions are that—

- (a) a further application is made 26 or more weeks after—
  - (i) the date on which the applicant made an application in respect of which he was first treated as possessing the capital in question under paragraph 67(1);
  - (ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (11), the date on which he last made an application which resulted in the weekly amount being re-determined, or
  - (iii) the date on which he last ceased to be entitled to a reduction under this scheme, whichever last occurred; and
- (b) the applicant would have been entitled to a reduction under this scheme but for paragraph 67(1).

(9) The amount as re-determined pursuant to sub-paragraph (7) must not

have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.

(10) For the purposes of this paragraph—

“part-week”—

- (a) in relation to an amount mentioned in sub-paragraph (5)(a), means a period of less than a week for which a reduction in council tax under this scheme is allowed;
- (b) in relation to an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;
- (c) in relation to an amount mentioned in sub-paragraph (5)(c), (d) or (e), means—
  - (i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker’s allowance is payable; and
  - (ii) any other period of less than a week for which it is payable;

“relevant week” means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 67(1)—

- (a) was first taken into account for the purpose of determining his entitlement to a reduction;
- or
- (b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to a reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction;

and where more than one reduction week is identified by reference to paragraphs (a) and (b) of this definition, the later or latest such reduction week or, as the case may be, the later or latest such part-week is the relevant week;

“relevant subsequent week” means the reduction week or part-week which includes the day on which the further application or, if more than one further application has been made, the last such application was made.

### **Diminishing notional capital rule: persons who are not pensioners**

**69.** (1) Where an applicant who is not a pensioner is treated as possessing capital under paragraph 67(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
  - (i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or

- (ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by an amount determined under sub-paragraph (3);
- (b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—
  - (i) that week is a week subsequent to the relevant week; and
  - (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied, is to be reduced by the amount determined under sub-paragraph (5).

(2) This sub-paragraph applies to a reduction week (or, in the case of persons who are not pensioners, part-week) where the applicant satisfies the conditions that—

- (a) he is in receipt of a reduction in council tax under this scheme; and
- (b) but for paragraph 67(1), he would have received a greater reduction in council tax under this scheme in that week.

(3) In a case to which sub-paragraph (2) applies, the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) is equal to the aggregate of—

- (a) an amount equal to the additional amount of the reduction in council tax to which sub-paragraph (2)(b) refers;
- (b) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 49(1) of the Housing Benefit Regulations 2006 (notional capital);
- (c) where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 51(1) of the Income Support (General) Regulations 1987 (notional capital);
- (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and
- (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).

(4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b) the condition is that the applicant is not a pensioner and would

have been entitled to a reduction in council tax in the relevant week but for paragraph 67(1).

(5) In such a case the amount of the reduction in the amount of capital he is treated as possessing must be equal to the aggregate of—

- (a) the amount of council tax benefit to which the applicant would have been entitled in the relevant week but for paragraph 67(1);
- (b) if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—
  - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
  - (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled;
- (c) if the applicant would, but for regulation 51(1) of the Income Support (General) Regulations 1987, have been entitled to income support in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;
- (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled; and
- (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.

(6) But if the amount mentioned in paragraph (a), (b), (c), (d) or (e) of sub-paragraph (5) ("the relevant amount") is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—

- (a) dividing the relevant amount by the number equal to the number of days in that part-week, and
- (b) multiplying the result of that calculation by 7.

(7) The amount determined under sub-paragraph (5) is to be re-determined under the appropriate sub-paragraph if the applicant makes a further application and the conditions in sub-paragraph (8) are satisfied, and in such a case—

- (a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words

“relevant week” there were substituted the words “relevant subsequent week”; and

- (b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.

(8) The conditions are that—

(a) a further application is made 26 or more weeks after—

- (i) the date on which the applicant made an application for a reduction under this scheme in respect of which he was first treated as possessing the capital in question under paragraph 67(1);
- (ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (7), the date on which he last made an application under this scheme which resulted in the weekly amount being re-determined, or
- (iii) the date on which he last ceased to be entitled to a reduction under this scheme, whichever last occurred; and

(b) the applicant would have been entitled to a reduction under this scheme but for paragraph 67(1).

(9) The amount as re-determined pursuant to sub-paragraph (6) must not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.

(10) For the purposes of this paragraph—

“part-week”—

- (a) in relation to an amount mentioned in sub-paragraph (5)(a), means a period of less than a week for which a reduction under this scheme is allowed;
- (b) in relation to an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;
- (c) in relation to an amount mentioned in sub-paragraph (5)(c), (d) or (e), means—
  - (i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker’s allowance is payable; and
  - (ii) any other period of less than a week for which it is payable;

“relevant week” means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 67(1)—

(a) was first taken into account for the purpose of determining his

entitlement to a reduction;

or

- (b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to a reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction,

and where more than one reduction week is identified by reference to paragraphs (a) and (b) of this definition, the later or latest such reduction week or, as the case may be, the later or latest such part-week is the relevant week;

“relevant subsequent week” means the reduction week or part-week which includes the day on which the further application or, if more than one further application has been made, the last such application was made.

### **Capital jointly held**

70. Except where an applicant possesses capital which is disregarded under paragraph 67(7) (notional capital), where an applicant and one or more persons are beneficially entitled in possession to any capital asset they must be treated, in the absence of evidence to the contrary, 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 Chapter 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.

### **Calculation of tariff income from capital: pensioners**

71. The capital of an applicant who is a pensioner, calculated in accordance with this Part(a), is to be treated as if it were a weekly income(b) of—
- (a) £1 for each £500 in excess of £10,000 but not exceeding £16,000; and
- (b) £1 for any excess which is not a complete £500.

### **Calculation of tariff income from capital: persons who are not pensioners**

72. The capital of an applicant who is not a pensioner, calculated in accordance with this Part(c), is to be treated as if it were a weekly income(d) of—
- (a) £1 for each £250 in excess of £6,000 but not exceeding £16,000; (b) £1 for any excess which is not a complete £250.

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- (a) See Chapters 1 and 7 of Part 10 in particular, and the capital to be disregarded in accordance with Schedule 9.
- (b) Income from capital is taken into account in calculating the income of an applicant who is a pensioner; see paragraph 39(1)(i).
- (c) See Chapters 1 and 7 of Part 10 in particular, and the capital to be disregarded in accordance with Schedule 10.
- (d) Income from capital is taken into account in calculating the income of an applicant who is not a pensioner; see paragraph 57(1)(b)(ii).



## PART 11

### Students

#### CHAPTER 1

##### General

### Interpretation

**73.** (1) In this Part—

“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 is to 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**(a)** for the purpose of providing funds on a discretionary basis to be paid to students;
- (b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980**(b)**;
- (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**(c)**; 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

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(a) 1992 c.13.

(b) 1980 c.44.

(c) 2009 c.22.

- (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 considers that it is reasonable for the following persons 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 authority as defined in section 579 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 Islands, Isle of Man or any other country outside Great Britain;

"full-time course of study" means a full-time course of study which—

- (a) is not funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;
- (b) is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
  - (i) in the case of a course funded by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either of those persons for the delivery of that course; or
  - (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or



- (c) is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—
- (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
  - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;

“full-time student” means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;

“grant” (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds or any payment to which paragraph 16 of Schedule 8 or paragraph 55 of Schedule 10 (allowances and payments for courses of study) applies;

“grant income” means—

- (a) any income by way of a grant;
- (b) any contribution whether or not it is paid;

“higher education” means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992; “last day of the course” means—

- (a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;
- (b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

“period of study” means—

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that 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 1996;

“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(a) (“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;

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(a)S.I. 2003/1994; relevant amending instrument is S.I. 2008/1477.

“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(a), section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 and includes, in Scotland, a young student’s bursary paid under regulation 4(1)(c) of the Students’ Allowances (Scotland) Regulations 2007.

(2) For the purposes of the definition of “full-time student” in sub-paragraph (1), a person must 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) subject to sub-paragraph (3), 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.

(3) For the purposes of paragraph (a) of sub-paragraph (2), the period referred to in that paragraph includes—

- (a) where a person has failed examinations or has failed successfully to 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.

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(a) 1998 c.30.

(4) In sub-paragraph (2), “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.

### **Treatment of students**

74. This scheme has effect in relation to students who are not pensioners subject to the following provisions of this Part.

### **Students who are excluded from entitlement to a reduction under this scheme**

75. (1) The students who are excluded from entitlement to a reduction under this scheme are, subject to sub-paragraphs (2) and (7)—

- (a) full-time students, and
- (b) students who are persons treated as not being in Great Britain**(b)**.

(2) Sub-paragraph (1)(b) does not apply to a student—

- (a) who is a person on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance;
- (b) who is a lone parent;
- (c) whose applicable amount would, but for this paragraph, include the disability premium or severe disability premium;
- (d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
- (e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;
- (f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
- (g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;

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(b) See paragraph 21 as to persons treated as not being in Great Britain.

- (h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989 or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;
- (i) who is—
  - (i) aged under 21 and whose course of study is not a course of higher education,
  - (ii) aged 21 and attained that age during a course of study which is not a course of higher education, or
  - (iii) a qualifying young person or child within the meaning of section 142 of the SSCBA (child and qualifying young person);
- (j) in respect of whom—
  - (i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;
  - (ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of 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 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.

(3) Sub-paragraph (2)(i)(ii) only applies to an applicant until the end of the course during which the applicant attained the age of 21.

(4) For the purposes of sub-paragraph (2), once sub-paragraph (2)(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that sub-paragraph must, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.

(5) In sub-paragraph (2)(i) 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(a).

(6) A full-time student to whom sub-paragraph (2)(i) applies must be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.

(7) Sub-paragraph (1)(b) does not apply to a full-time student for the period specified in sub-paragraph (8) if—

- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is—
  - (i) engaged in caring for another person; or
  - (ii) ill;
- (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
- (c) he is not eligible for a grant or a student loan in respect of the period specified in sub-paragraph (8).

(8) The period specified for the purposes of sub-paragraph (7) is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before—

- (a) the day on which he resumes attending or undertaking the course; or
- (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course,

whichever first occurs

## **CHAPTER 2**

### **Income**

#### **Calculation of grant income**

**76.** (1) The amount of a student's grant income to be taken into account in assessing his income must, subject to sub-paragraphs (2) and (3), be the whole of his grant income.

(2) There must 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;

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(a) 1988 c.40

- (c) on account of the student maintaining a home at a place other than that at which he resides during his course;
- (d) on account of any other person but only if that person is residing outside the United Kingdom and there is no applicable amount in respect of him;
- (e) intended to meet the cost of books and equipment;
- (f) intended to meet travel expenses incurred as a result of his attendance on the course;
- (g) intended for the child care costs of a child dependant;
- (h) of higher education bursary for care leavers made under Part 3 of the Children Act 1989.

(3) Where a student does not have a student loan and is not treated as assessing such a loan, there must 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.

(4) There must 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**(a)**.

(5) Subject to sub-paragraphs (6) and (7), a student's grant income must be apportioned—

- (a) subject to sub-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.

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(a) 1998 c.30.



(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 2003 must be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.

(7) In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither sub-paragraph (6) nor paragraph 80(2) (other amounts to be disregarded) applies, must be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.

(8) In the case of a student on a sandwich course, any periods of experience within the period of study must be excluded and the student's grant income must 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.

#### **Calculation of covenant income where a contribution is assessed**

77. (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 must be the whole amount of the covenant income less, subject to sub-paragraph (3), the amount of the contribution.

(2) The weekly amount of the student's covenant must be determined—

- (a) by dividing the amount of income which falls to be taken into account under sub-paragraph (1) by 52 or 53, whichever is reasonable in the circumstances; and
- (b) by disregarding £5 from the resulting amount.

(3) For the purposes of sub-paragraph (1), the contribution must be treated as increased by the amount (if any) by which the amount excluded under paragraph 76(2)(g) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

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

78. (1) Where a student is not in receipt of income by way of a grant the amount of his covenant income must be calculated as follows—

- (a) any sums intended for any expenditure specified in paragraph



- 76(2)(a) to (e) necessary as a result of his attendance on the course must be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, must be apportioned equally between the weeks of the period of study;
  - (c) there must be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 76(2)(f) and (3) had the student been in receipt of the standard maintenance grant; and
  - (d) the balance, if any, must be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 must be disregarded.

(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 must be calculated in accordance with paragraphs (a) to (d) of sub-paragraph (1), except that—

- (a) the value of the standard maintenance grant must be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 76(2)(a) to (e); and
- (b) the amount to be disregarded under sub-paragraph (1)(c) must be abated by an amount equal to the amount of any sums disregarded under paragraph 76(2)(f) and (g) and (3).

### **Relationship with amounts to be disregarded under Schedule 8**

- 79.** No part of a student's covenant income or grant income is to be disregarded under paragraph 19 of Schedule 8 (disregard of certain charitable and voluntary, etc., payments).

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

- 80.** (1) For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with paragraph 81 (treatment of student loans), any amounts intended for any expenditure specified in paragraph 76(2) (calculation of grant income), necessary as a result of his attendance on the course must be disregarded.

(2) But sub-paragraph (1) applies only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under paragraph 76(2) or (3), 77(3), 78(1)(a) or (c) or 81(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

### **Treatment of student loans**

- 81.** (1) A student loan is to be treated as income.

(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 is to be apportioned equally between the weeks in the period beginning with—
- (i) except in a case where sub-paragraph (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, the 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 is to be apportioned equally between the weeks in the period—
- (i) beginning with the reduction week, the first day of which coincides with or immediately follows, the first day of that academic year, and
  - (ii) 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 authority, the longest of any vacation is taken and for the purposes of this paragraph, "quarter" has 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 is to be apportioned equally between the weeks in the period beginning with—
- (i) except in a case where sub-paragraph (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 coincides 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 is to 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 June,

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

(3) A student is to 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.

(4) Where a student is treated as possessing a student loan under sub-paragraph (3), the amount of the student loan to be taken into account as income must be, subject to sub-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.

(5) There must be deducted from the amount of income taken into account under sub-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.

(6) 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.

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

**82.** (1) This paragraph applies to payments from access funds that are not payments to which paragraph 85(2) or (3) (income treated as capital) applies.

(2) A payment from access funds, other than a payment to which sub-paragraph (3) applies, must be disregarded as income.

(3) Subject to sub-paragraph (4) of this paragraph and paragraph 40 of Schedule 8 (disregards in the calculation of income other than earnings: persons who are not pensioners)—

- (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,

must be disregarded as income to the extent of £20 per week.

(4) Where a payment from access funds is made—

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

that payment must be disregarded as income.

## **Disregard of contribution**

**83.** 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 must be disregarded for the purposes of assessing that other partner's income.

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

**84.** Where any part of a student's income has already been taken into account for the purposes of assessing his entitlement to a grant or student loan, the amount taken into account must be disregarded in assessing that student's income.

## **Income treated as capital**

**85.** (1) Any amount by way of a refund of tax deducted from a student's

covenant income must be treated as capital.

(2) An amount paid from access funds as a single lump sum must be treated as capital.

(3) An amount paid from access funds 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, must be disregarded as capital but only for a period of 52 weeks from the date of the payment.

### **Disregard of changes occurring during summer vacation**

86. In calculating a student's income the authority must 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.

## **PART 12**

### **Extended reductions**

#### **CHAPTER 1**

#### **Extended reductions: pensioners**

#### **Extended reductions: pensioners**

87. Paragraphs 88 to 93 apply in relation to applicants who are pensioners.

#### **Extended reductions (qualifying contributory benefits): pensioners**

88. (1) Except in the case of an applicant who is in receipt of state pension credit, an applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes A to C is entitled to an extended reduction (qualifying contributory benefits) where—
- (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
  - (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—
    - (i) commenced employment as an employed or self-employed earner;
    - (ii) increased their earnings from such employment; or
    - (iii) increased the number of hours worked in such employment,

and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;

- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.

(2) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of classes A to C where—

- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
- (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

**Duration of extended reduction period (qualifying contributory benefits): pensioners**

89. (1) Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended reduction period ends—

- (a) at the end of a period of four weeks; or
- (b) on the date on which the applicant who is receiving the extended reduction (qualifying contributory benefits) has no liability for council tax, if that occurs first.

**Amount of extended reduction (qualifying contributory benefits): pensioners**

90. (1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) the applicant is entitled to is the greater of—

- (a) the amount of council tax reduction to which the applicant was entitled by virtue of falling within any of classes A to C in the last

- reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
- (b) the amount of reduction under this scheme to which the applicant would be entitled under by virtue of falling within any of classes A to C for any reduction week during the extended reduction period, if paragraph 88 (extended reductions (qualifying contributory benefits): pensioners) did not apply to the applicant; or
  - (c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes A to C, if paragraph 88 did not apply to the applicant.

(2) Sub-paragraph (1) does not apply in the case of a mover.

(3) Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for a reduction under this scheme, the authority must not award a reduction in pursuance of that application during the extended reduction period.

### **Extended reductions (qualifying contributory benefits)—movers: pensioners**

**91.** (1) This paragraph applies—

- (a) to a mover<sup>(a)</sup>; and
- (b) from the Monday following the day of the move.

(2) The amount of the extended reduction (qualifying contributory benefits) awarded from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

(3) Where a mover's liability to pay council tax in respect of the new dwelling is to a second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from this authority to—

- (a) the second authority; or
- (b) the mover directly.

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(a) See also paragraph 103 in relation to persons moving into the area of the authority from another authority's area.



## **Relationship between extended reduction (qualifying contributory benefits) and entitlement to a reduction by virtue of classes A to C**

**92.** (1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 88(1)(b), that reduction does not cease to have effect until the end of the extended reduction period.

(2) Part 13 (when entitlement begins and change of circumstances) does not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 90(1)(a) or paragraph 91(2) (amount of extended reduction — movers: pensioners).

## **Continuing reductions where state pension credit claimed: pensioners**

**93.** (1) This paragraph applies where—

- (a) the applicant is entitled to a reduction under this scheme;
- (b) sub-paragraph (2) is satisfied; and
- (c) either—
  - (i) the applicant has attained the qualifying age for state pension credit or, if his entitlement to income-based jobseeker's allowance or income-related employment and support allowance continued beyond that age, has attained the age of 65; or
  - (ii) the applicant's partner has actually claimed state pension credit.

(2) This sub-paragraph is only satisfied if the Secretary of State has certified to the authority that the applicant's partner has actually claimed state pension credit or that—

- (a) the applicant's award of—
  - (i) income support has terminated because the applicant has attained the qualifying age for state pension credit; or
  - (ii) income-based jobseeker's allowance or income-related employment and support allowance has terminated because the applicant has attained the qualifying age for state pension credit or the age of 65; and
- (b) the applicant has claimed or is treated as having claimed or is required to make a claim for state pension credit.

(3) Subject to sub-paragraph (4), in a case to which this paragraph applies, a person continues to be entitled to a reduction under this scheme for the period of 4 weeks beginning on the day following the day the applicant's entitlement to income support or, as the case may be, income-based jobseeker's allowance, income-related employment and support allowance, ceased, if and for so long as the applicant otherwise satisfies the conditions for entitlement to a reduction under this scheme.



(4) Where a reduction under this scheme is awarded for the period of 4 weeks in accordance with sub-paragraph (3) above, and the last day of that period falls on a day other than the last day of a reduction week, then a reduction under this scheme must continue to be awarded until the end of the reduction week in which the last day of that period falls.

(5) Throughout the period of 4 weeks specified in sub-paragraph (3) and any further period specified in sub-paragraph (4)—

- (a) the whole of the income and capital of the applicant is to be disregarded;
- (b) the maximum council tax reduction amount of the applicant is to be that which was applicable in his case immediately before that period commenced.

(6) The maximum reduction is to be calculated in accordance with paragraph 29(1) if, since the date it was last calculated—

- (a) the applicant's council tax liability has increased; or
- (b) a change in the deduction under paragraph 30 falls to be made.

## CHAPTER 2

### Extended reductions: persons who are not pensioners

#### Extended reductions: persons who are not pensioners

94. Paragraphs 95 to 104 apply in relation to applicants who are not pensioners.

#### Extended reductions: persons who are not pensioners

95. (1) An applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes D to H is entitled to an extended reduction where—

- (a) the applicant or the applicant's partner was entitled to a qualifying income-related benefit;
- (b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner—
  - (i) commenced employment as an employed or self-employed earner;
  - (ii) increased their earnings from such employment; or
  - (iii) increased the number of hours worked in such employment,

and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more; and

- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying

income-related benefit ceased.

(2) For the purpose of sub-paragraph (1)(c), an applicant or an applicant's partner is to be treated as having been entitled to and in receipt of a qualifying income-related benefit or jobseeker's allowance during any period of less than five weeks in respect of which the applicant or the applicant's partner was not entitled to any of those benefits because the applicant or the applicant's partner was engaged in remunerative work as a consequence of their participation in an employment zone programme.

(3) For the purpose of this paragraph, where an applicant or an applicant's partner is entitled to and in receipt of joint-claim jobseeker's allowance they must be treated as being entitled to and in receipt of jobseeker's allowance.

(4) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of classes D to H where—

- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
- (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

(5) This paragraph does not apply where, on the day before an applicant's entitlement to income support ceased, regulation 6(5) of the Income Support (General) Regulations 1987<sup>(a)</sup> (remunerative work: housing costs) applied to that applicant.

### **Duration of extended reduction period: persons who are not pensioners**

**96.** (1) Where an applicant is entitled to an extended reduction, the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying income-related benefit.

(2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying income-related benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended reduction period ends—

- (a) at the end of a period of four weeks; or
- (b) on the date on which the applicant to whom the extended reduction is payable has no liability for council tax, if that occurs first.

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(a) S.I. 1987/1967.

### **Amount of extended reduction: persons who are not pensioners**

97. (1) For any week during the extended reduction period the amount of the extended reduction to which an applicant is entitled is to be the higher of—
- (a) the amount of the reduction under this scheme to which the applicant was entitled by virtue of falling within any of classes D to H in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying income-related benefit;
  - (b) the amount of reduction under this scheme to which the applicant would be entitled by virtue of falling within any of classes D to H for any reduction week during the extended reduction period, if paragraph 95 (extended reductions: persons who are not pensioners) did not apply to the applicant; or
  - (c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes D to H, if paragraph 95 did not apply to the applicant.
- (2) Sub-paragraph (1) does not apply in the case of a mover.
- (3) Where an applicant is in receipt of an extended reduction under this paragraph and the applicant's partner makes an application for a reduction under this scheme, no amount of reduction under this scheme is to be awarded by the authority during the extended reduction period.

### **Extended reductions—movers: persons who are not pensioners**

98. (1) This paragraph applies—
- (a) to a mover; and
  - (b) from the Monday following the day of the move.
- (2) The amount of the extended reduction awarded from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme to which the mover would have been entitled had they, or their partner, not ceased to be entitled to a qualifying income-related benefit.
- (3) Where a mover's liability to pay council tax in respect of the new dwelling is to a second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from this authority to—
- (a) the second authority; or
  - (b) the mover directly.

### **Relationship between extended reduction and entitlement to a reduction by virtue of classes D to H**

99. (1) Where an applicant's entitlement to a reduction under this scheme would have ended when the applicant ceased to be entitled to a

qualifying income-related benefit in the circumstances listed in paragraph 95(1)(b), that entitlement does not cease until the end of the extended reduction period.

(2) Paragraphs 106 and 107 do not apply to any extended reduction payable in accordance with paragraph 95(1)(a) or 98(2) (amount of extended reduction—movers: persons who are not pensioners).

**Extended reductions (qualifying contributory benefits): persons who are not pensioners**

**100.** (1) An applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes D to H is entitled to an extended reduction (qualifying contributory benefits) where—

- (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—
  - (i) commenced employment as an employed or self-employed earner;
  - (ii) increased their earnings from such employment; or
  - (iii) increased the number of hours worked in such employment,

and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;

- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.

(2) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of classes D to H where—

- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
- (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

**Duration of extended reduction period (qualifying contributory benefits): persons who are not pensioners**

**101.** (1) Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended reduction period ends—

- (a) at the end of a period of four weeks; or
- (b) on the date on which the applicant entitled to the extended reduction (qualifying contributory benefits) has no liability for council tax, if that occurs first.

**Amount of extended reduction (qualifying contributory benefits): persons who are not pensioners**

**102.** (1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) payable to an applicant is to be the greater of—

- (a) the amount of reduction under this scheme to which the applicant was entitled by virtue of falling within any of classes D to H in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
- (b) the amount of reduction under this scheme to which the applicant would be entitled by virtue of falling within any of classes D to H for any reduction week during the extended reduction period, if paragraph 100 (extended reductions (qualifying contributory benefits): persons who are not pensioners) did not apply to the applicant; or
- (c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes D to H, if paragraph 100 did not apply to the applicant.

(2) Sub-paragraph (1) does not apply in the case of a mover.

(3) Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for a reduction under this scheme, no amount of reduction may be allowed by the appropriate authority during the extended reduction period.

**Extended reductions (qualifying contributory benefits)—movers: persons who are not pensioners**

**103.** (1) This paragraph applies—

- (a) to a mover; and
- (b) from the Monday following the day of the move.

(2) The amount of the extended reduction (qualifying contributory benefit) payable from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme which was awarded to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

(3) Where a mover's liability to pay council tax in respect of the new dwelling is to a second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from this authority to—

- (a) the second authority; or
- (b) the mover directly.

**Relationship between extended reduction (qualifying contributory benefits) and entitlement to reduction by virtue of classes D to H**

**104.** (1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 100(1)(b), that reduction does not cease until the end of the extended reduction period.

(2) Paragraphs 106 and 107 (dates on which entitlement begins and change of circumstances take effect) do not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 102(1)(a) or 103(2) (amount of extended reduction—movers: persons who are not pensioners).

**CHAPTER 3**

**Extended reductions: movers in the authority's area**

**Extended reductions: applicant moving into the authority's area**

**105.** Where—

- (a) an application is made to the authority ("the current authority") for a reduction under this scheme, and
- (b) the applicant, or the partner of the applicant, is in receipt of an extended reduction from—
  - (i) another billing authority in England; or
  - (ii) a billing authority in Wales,

the current authority must reduce any reduction to which the applicant is entitled under this scheme by the amount of that extended reduction.

## **PART 13**

### **When entitlement begins and change of circumstances**

#### **Date on which entitlement begins**

**106.** (1) Subject to sub-paragraph (2), any person by whom or in respect of whom an application for a reduction under this scheme is made and who is otherwise entitled to that reduction is so entitled from the reduction week following the date on which that application is made or is treated as made.

(2) Where a person is otherwise entitled to a reduction under this scheme 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 application is made or is treated as made, he is so entitled from that reduction week.

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

**107.** (1) Except in cases where paragraph 60 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph and (in the case of applicants who are pensioners) paragraph 108 (change of circumstance where state pension credit in payment), a change of circumstances which affects entitlement to, or the amount of, a reduction under this scheme ("change of circumstances"), takes effect from the first day of the reduction week following the date on which the change actually occurs.

(2) Where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs is the day immediately following the last day of entitlement to that benefit.

(3) Subject to sub-paragraph (4), 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.

(4) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under section 11 or 11A of that Act<sup>(a)</sup> (discounts), it takes effect from the day on which the change in amount has effect.

(5) Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.

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(a) Section 11A was inserted by section 75(1) of the Local Government Act 2003 (c.26).



(6) Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.

(7) If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with sub-paragraphs (1) to (6) they take effect from the day to which the appropriate sub-paragraph from (3) to (6) above refers, or, where more than one day is concerned, from the earlier day.

(8) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the SSCBA, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances takes 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.

(9) Without prejudice to sub-paragraph (8), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

(10) Sub-paragraph (11) applies if—

- (a) the applicant or his partner has attained the age of 65; and
- (b) either—

- (i) a non-dependant took up residence in the applicant's dwelling; or
- (ii) there has been a change of circumstances in respect of a non-dependant so that the amount of the deduction which falls to be made under paragraph 30 increased.

(11) Where this sub-paragraph applies, the change of circumstances referred to in sub-paragraph (10)(b) takes effect from the effective date.

(12) In sub-paragraph (11), but subject to sub-paragraph (13), "the effective date" means—

- (a) where more than one change of a kind referred to in sub-paragraph (10)(b) relating to the same non-dependant has occurred since—
  - (i) the date on which the applicant's entitlement to a reduction under this scheme first began; or
  - (ii) the date which was the last effective date in respect of such a change,

whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred;



- (b) where paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in sub-paragraph (10)(b) occurred.

(13) If in any particular case the date determined under sub-paragraph (12) is not the first day of a reduction week, the effective date in that case is to be the first day of the next reduction week to commence after the date determined under that sub-paragraph.

### **Change of circumstances where state pension credit in payment**

**108.** (1) Sub-paragraphs (2) and (3) apply where—

- (a) the applicant is in receipt of state pension credit;
- (b) the amount of state pension credit awarded to him is changed in consequence of a change in the applicant's circumstances or the correction of an official error; and
- (c) the change in the amount of state pension credit payable to the applicant results in a change in the amount of a reduction he receives under this scheme.

(2) Where the change of circumstance is that an increase in the amount of state pension credit payable to the applicant results in—

- (a) an increase in the reduction he receives under this scheme, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the increased rate; or
- (b) a decrease in the reduction he receives under this scheme, the change takes effect from the first day of the reduction week next following the date on which—
  - (i) the local authority receives notification from the Secretary of State of the increase in the amount of state pension credit; or
  - (ii) state pension credit is increased,

whichever is the later.

(3) Where the change of circumstance (“the relevant change”) is that the applicant's state pension credit has been reduced and in consequence the reduction the applicant receives under this scheme reduces—

- (a) in a case where the applicant's state pension credit has been reduced because the applicant failed to notify the Secretary of State timeously of a change of circumstances, the relevant change takes effect from the first day of the reduction week from which state pension credit was reduced; or
- (b) in any other case the relevant change takes effect from the first day of the reduction week next following the date on which—
  - (i) the authority receives notification from the Secretary of State of the reduction in the amount of state pension credit; or

(ii) state pension credit is reduced, whichever is the later.

(4) Where the change of circumstance is that state pension credit is reduced and in consequence of the change, the amount of a reduction he receives under this scheme is increased, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the reduced rate.

(5) Where a change of circumstance occurs in that an award of state pension credit has been made to the applicant or his partner and this would result in a decrease in the amount of reduction he receives under this scheme, the change takes effect from the first day of the reduction week next following the date on which—

- (a) the authority receives notification from the Secretary of State of the award of state pension credit; or
- (b) entitlement to state pension credit begins, whichever is the later.

(6) Where, in the case of an applicant who, or whose partner, is or has been awarded state pension credit comprising only the savings credit, there is—

- (a) a change of circumstances of a kind described in any of sub-paragraphs (2) to (5) which results from a relevant calculation or estimate; and
- (b) a change of circumstances which is a relevant determination,

each of which results in a change in the amount of reduction the applicant receives under this scheme, the change of circumstances referred to in sub-paragraph (b) takes effect from the day specified in sub-paragraph (2), (3), (4) or (5) as the case may be, in relation to the change referred to in paragraph (a).

(7) Where a change of circumstance occurs in that a guarantee credit has been awarded to the applicant or his partner and this would result in an increase in the amount of a reduction the applicant receives under this scheme, the change takes effect from the first day of the reduction week next following the date in respect of which the guarantee credit is first payable.

(8) Where a change of circumstances would, but for this sub-paragraph, take effect under the preceding provisions of this paragraph within the 4 week period specified in paragraph 93 (continuing reductions where state pension credit claimed), that change takes effect on the first day of the first reduction week to commence after the expiry of the 4 week period.

(9) In this paragraph—

“official error” means an error made by—

- (a) the authority or a person—
  - (i) authorised to carry out any function of the authority relating to

- this scheme; or
- (ii) providing services relating to this scheme directly or indirectly to the authority; or
- (b) an officer of—
  - (i) the Department for Work and Pensions; or
  - (ii) the Commissioners of Inland Revenue, acting as such,

but excludes any error caused wholly or partly by any person or body not specified in paragraph (a) or (b) of this definition and any error of law which is shown to have been an error only by virtue of a subsequent decision of the court;

“relevant calculation or estimate” means the calculation or estimate made by the Secretary of State of the applicant’s or, as the case may be, the applicant’s partner’s income and capital for the purposes of the award of state pension credit;

“relevant determination” means a change in the determination by the authority of the applicant’s income and capital using the relevant calculation or estimate, in accordance with paragraph 36(1).

## PART 14

### Applications (including duties to notify authority of change of circumstances)

#### Making an application

109. (1) In the case of—

- (a) a couple or (subject to paragraph (b)) 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; or
- (b) in the case of members of a polygamous marriage to whom paragraph 37 (income and capital: award of universal credit) applies, an application is to be made by whichever one of the parties to the earliest marriage that still subsists they agree should so apply or, in default of agreement, by such one of them as the authority determines.

(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(a) 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(b), the Enduring Powers of Attorney Act 1985(c) 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.

- (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 this scheme and to receive and deal on his behalf with any sums payable to him.

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(a) 2000 asp 4.  
(b) 1971 c.27.  
(c) 1985 c.29.

- (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).
- (5) Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4)—
- (a) it may at any time revoke the appointment;
  - (b) the person appointed may resign his office after having given 4 weeks notice in writing to the authority of his intention to do so;
  - (c) any such appointment must terminate when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).
- (6) Anything required by this 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.
- (7) The authority must—
- (a) inform any person making an application of the duty imposed by paragraph 115(1)(a);
  - (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
  - (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

### **Date on which an application is made**

- 110.** (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 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 which he occupies as his home, and
  - (iii) the application to the authority is received at the designated office within one month of the date of the change,

the date on which the change takes place;

- (c) in a case where—
- (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and
  - (ii) the application is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received,

the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;

- (d) in a case where—
- (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,
  - (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
  - (iii) the application to the authority 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) the applicant is the former partner of a person who was, at the date of his death or their separation, entitled to a reduction under this scheme, and
  - (ii) where the applicant makes an application for a reduction under

this scheme within one month of the date of the death or the separation,

the date of the death or separation;

- (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 the 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 the application is received at the designated office.

(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.

(3) Where the defect referred to in paragraph 7 of Schedule 1 to this scheme (application by telephone)—

- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority 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 on the application.

(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.

(5) The conditions are that—

- (a) where paragraph 4(a) of Schedule 1 (incomplete form) applies, the authority receives at its designated office the properly completed application or the information requested to complete it or the evidence

- within one month of the request, or such longer period as the authority may consider reasonable; or
- (b) where paragraph 4(b) of Schedule 1 (application not on approved form or further information requested by authority) applies—
- (i) the approved form sent to the applicant is received at the designated office 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 under paragraph 4 of that Schedule within one month of the request,
- or, in either case, within such longer period as the authority may consider reasonable; or
- (c) where the authority has requested further information, the authority receives at its designated office 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.

(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 this scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority is to treat the application as having been made on the day on which the liability for the tax arises.

(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 this scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under this scheme for a period beginning not later than—

- (a) in the case of an application made by—
- (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

- (c) 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.

(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 for income support, a jobseeker’s allowance or an employment and support allowance.

### **Back-dating of applications: pensioners**

**111.** (1) Subject to sub-paragraph (2), the time for the making of an application under this scheme by a pensioner is as regards any day on which, apart from satisfying the condition of making an application, the applicant is entitled to such a reduction, that day and the period of three months immediately following it.

(2) In any case where paragraph 110(1)(a) applies, sub-paragraph (1) does not entitle a person to apply for a reduction under this scheme in respect of any day earlier than three months before the date on which the claim for state pension credit is made (or treated as made by virtue of any provision of the Social Security (Claims and Payments) Regulations 1987).

### **Back-dating of applications: persons who are not pensioners**

**112.** (1) Where an applicant who is a person who is not a pensioner—

- (a) makes an application under this scheme which includes (or which he subsequently requests should include) a period before the application is made; and
- (b) from a day in that period, up to the date he made the application (or subsequently requested that the application should include a past period), the applicant had continuous good cause for failing to make an application (or request that the application should include that period),

the application is to be treated as made on the date determined in accordance with sub-paragraph (2).

(2) That date is the latest of—

- (a) the first day from which the applicant had continuous good cause;
- (b) the day 6 months before the date the application was made;
- (c) the day 6 months before the date when the applicant requested that the application should include a past period.

## Information and evidence

**113.** (1) Subject to sub-paragraph (3), a person who makes an application for a reduction under this 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.

(2) This sub-paragraph is satisfied in relation to a person if—

(a) the application is accompanied by—

- (i) a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or
- (ii) information or evidence enabling the authority to ascertain the national insurance number that has been allocated to the person; or

(b) the person has made an application for a national insurance number to be allocated to him and the application for the reduction is accompanied by—

- (i) evidence of the application for a national insurance number to be so allocated; and
- (ii) the information or evidence enabling it to be so allocated.

(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**(a)**;
- (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.

(4) Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under this 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 the authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under this 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.

(5) Nothing in this paragraph requires a person to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.

(6) Where a request is made under sub-paragraph (4), the authority must—

- (a) inform the applicant or the person to whom a reduction under this scheme has been awarded of his duty under paragraph 115 (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 115, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which is to be notified.

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(a) As to which, see paragraph 21

(7) This sub-paragraph applies to any of the following payments—

- (a) a payment which is—
  - (i) disregarded under paragraph 28 of Schedule 8 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners) or paragraph 38 of Schedule 10 (capital disregards: persons who are not pensioners); or
  - (ii) made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
- (b) a payment which is disregarded under paragraph 16 of Schedule 9 (payments made under certain trusts and certain other payments), other than a payment under the Independent Living Fund (2006);
- (c) a payment which is disregarded under paragraph 30(9)(b) or (c) (payment made under certain trusts etc.) or paragraph 2(b) or (c) of Schedule 4 (payments made under certain trusts etc.) other than a payment under the Independent Living Fund (2006).

(8) Where an applicant or a person to whom a reduction under this scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, he must where the authority so requires furnish the following information—

- (a) the name and address of the pension fund holder<sup>(a)</sup>;
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

### **Amendment and withdrawal of application**

**114.** (1) A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.

(2) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the amendment may also be made by telephone.

(3) Any application amended in accordance with sub-paragraph (1) or (2) is to be treated as if it had been amended in the first instance.

(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.

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(a) For provisions requiring a pension fund holder to provide information to the billing authority see regulations under section 14A of the Local Government Finance Act 1992.

(5) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the withdrawal may also be made by telephone.

(6) Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.

(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.

### **Duty to notify changes of circumstances**

**115.** (1) Subject to sub-paragraphs (3), (6) and (7), the 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 this scheme) including at any time while the applicant is in receipt of such a reduction.

(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 this 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 or for the purposes of Part 1 of Schedule 1 unless the authority determines that in any particular case or class of case notification may not be given by telephone; or
  - (ii) in any case or class of case where the authority determines that notice may be given by telephone; or
- (c) by any other means which the authority agrees to accept in any particular case,

within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.

(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 this scheme to which he is entitled, other than the cessation of that entitlement to the benefit.

(4) For the purposes of sub-paragraph (3)(c) “relevant benefit” means income support, an income-based jobseeker’s allowance or an income-related employment and support allowance or universal credit.

(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.

(6) The duty imposed on a person by sub-paragraph (1) includes—

- (a) in the case of a person falling within class C (pensioners: 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;
- (b) in the case of a person falling within class F (persons who are not pensioners: alternative maximum council tax reduction) giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of income support, an income-based jobseeker’s allowance or an income-related employment and support allowance, the date when this occurs.

(7) A person who has been awarded a reduction under this scheme who is also on state pension credit must report—

- (a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides;
- (b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.

(8) In addition to the changes required to be reported under sub-paragraph (7), a person whose state pension credit comprises only the savings credit must also report—

- (a) changes affecting a child living with him which may result in a change in the amount of reduction under this scheme allowed in his case, but not changes in the age of the child;

- (b) any change in the amount of the applicant's capital to be taken into account which does or may take the amount of his capital to more than £16,000;
- (c) any change in the income or capital of—
  - (i) a non-dependant whose income and capital are treated as belonging to the applicant in accordance with paragraph 34 (circumstances in which income of a non-dependant is to be treated as applicant's); or
  - (ii) a person to whom paragraph 36(2)(e) (partner treated as member of the household under paragraph 8) refers,

and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.

(9) A person who is entitled to a reduction under this scheme and on state pension credit need only report to the authority the changes specified in sub-paragraphs (7) and (8).

## PART 15

### Decisions by authority

#### Decision by authority

**116.** The authority must make a decision on an application for a reduction under this scheme within 14 days of paragraphs 110 and 113 and Part 1 of Schedule 1 being satisfied, or as soon as reasonably practicable thereafter.

#### Notification of decision

**117.** (1) The authority must notify in writing any person affected by a decision made by it under this scheme—

- (a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;
- (b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.

(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 115(1)(b);
- (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.

(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.

(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 this scheme relating to the procedure for making an appeal<sup>(a)</sup>.

(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.

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(a) See paragraphs 8 to 10 of Schedule 1.



(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.

(7) For the purposes of this paragraph a person is to be treated as a person affected by a decision of the authority under this scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (8).

(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<sup>(b)</sup> 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 under paragraph 109(3).

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(b) 2000 asp 4.

## PART 16

### Circumstances in which a payment may be made

#### Payment where there is joint and several liability

118. (1) Where—

- (a) a person is entitled to a reduction under this scheme in respect of his liability for the authority's council tax as it has effect in respect of a financial year;
- (b) the person entitled to the reduction is jointly and severally liable for the council tax; and
- (c) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992 refers would be inappropriate,

it may make a payment to him of the amount of reduction to which he is entitled, rounded where necessary to the nearest penny.

(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.

(3) Where a person other than the person who is entitled to the reduction under this scheme made the application for the reduction and that first person is a person acting pursuant to an appointment under paragraph 109(3) (persons appointed to act for a person unable to act) or is treated as having been so appointed by virtue of paragraph 109(5), the amount of the reduction may be paid to that person.

## **SCHEDULE 1**

### **Procedural matters**

#### **PART 1**

#### **Procedure for an application for a reduction under this scheme**

##### **Procedure by which a person may apply for a reduction under this scheme**

1. Paragraphs 2 to 7 apply to an application for a reduction under this scheme.
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.
3. (1) An application which is made in writing must be made to the designated office on a properly completed form.  
  
(2) The form must be provided free of charge by the authority for the purpose.
4. (1) Where an application made in writing is defective because—
  - (a) it was made on the form supplied for the purpose but that form is not accepted by the authority as being properly completed; or
  - (b) it was made in writing but not on the form supplied for the purpose and the authority does not accept the application as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence,

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

(2) An application made on a form provided by the authority is properly completed if completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.
5. (1) If an application made by electronic communication is defective the

authority must provide the person making the application with an opportunity to correct the defect.

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

6. In a particular case the authority may determine that an application made by telephone is only valid if the person making the application approves a written statement of his circumstances provided by the authority.
7. (1) If an application made by telephone is defective the authority must provide the person making the application with an opportunity to correct the defect.  
  
(2) An application made by telephone is defective if the applicant does not provide all the information the authority requests during the telephone call.

## **PART 2**

### **Procedure for making an appeal**

#### **Procedure by which a person may make an appeal against certain decisions of the authority**

8. A person who is aggrieved by a decision of the authority which affects—
  - (a) the person's entitlement to a reduction under this scheme, or
  - (b) the amount of any reduction under this scheme,may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.
9. 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.
10. Where, following notification under paragraph 9(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with paragraph 9(b) within two months of the service of his notice, he may appeal to a valuation tribunal under section 16 of the 1992 Act.

## **PART 3**

### **Procedure for applying for a discretionary reduction**

#### **Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act**

11. (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 with Part 4 of this Schedule; or
  - (c) where the authority has published a telephone number for the purposes of receiving such applications, by telephone.
- (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 this scheme,

that person's application for a reduction under this scheme may also be treated as an application for a reduction under section 13A(1)(c).

## **PART 4**

### **Electronic communication**

#### **Interpretation**

12. In this Part—
- “information” includes an application, certificate, notice or other evidence;
- “official computer system” means a computer system maintained by or on behalf of the authority for the sending, receiving, processing or storing of any information.

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

13. (1) The authority may use an electronic communication in connection with applications for, and awards of, reductions under this scheme.
- (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.
- (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.

(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.

(5) The third condition is that any information sent by means of an electronic communication is in a form supplied for the purposes of this Part of this Schedule.

(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.

(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.

(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 Part of this Schedule.

### **Use of intermediaries**

**14.** 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.

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

**15.** (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 this scheme, on the day the conditions imposed—

- (a) by this Part; and

(b) by or under an enactment, are satisfied.

(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).

(3) Information must 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.

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

**16.** 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.

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

**17.** (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 must be 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.

(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 must be presumed not to be the case, if that information delivered to the relevant authority has not been recorded on an official computer system.

(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 must be presumed to be that recorded on an official computer system.

## **Proof of content of information**

- 18.** 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 must be presumed to be that recorded on an official computer system.



## SCHEDULE 2

### Applicable amounts: pensioners

#### PART 1

#### Personal allowances

##### Personal allowance

1. The amount specified in column (2) below in respect of each person or couple specified in column (1) is the amount specified for the purposes of paragraph 25(1)(a).

<i>Column (1)</i> <i>Person, couple or polygamous marriage</i>	<i>Column (2)</i> <i>Amount</i>
(1) Single applicant or lone parent—	(1)
(a) aged under 65;	(a) £142.70;
(b) aged 65 or over. (2)	(b) £161.25.
(2) Couple—	(2)
(a) both members aged under 65	(a) £217.90;
(b) one or both members aged 65 or over.	(b) £241.65
(3) If the applicant is a member of a polygamous marriage and none of the members of the marriage has attained the age of 65—	(3)
(a) for the applicant and the other party to the marriage;	(a) £217.90;
(b) for each additional spouse who is a member of the same household as the applicant.	(b) £75.20
(4) If the applicant is a member of a polygamous marriage and one or more members of the marriage are aged 65 or over—	(4)
(a) for the applicant and the other party to the marriage;	(a) £241.65;
(b) for each additional spouse who is a member of the same household as the applicant.	(b) £80.40

### Child or young person amounts

2. (1) The amounts specified in column (2) below in respect of each person specified in column (1) are the amounts, for the relevant period specified in column (1), specified for the purposes of paragraph 25(1)(b).

<i>Column (1)</i> <u>Child or young person</u>	<i>Column (2)</i> <i>Amount</i>
Person in respect of the period—	
(a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday;	(a) £64.99;
(b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	(b) £64.99.

(2) In column (1) of the table "the first Monday in September" means the Monday which first occurs in the month of September in any year.

### PART 2

#### Family premium

#### Family premium

3. The amount for the purposes of paragraph 25(1)(c) in respect of a family of which at least one member is a child or young person is £17.40.

### PART 3

#### Premiums

4. The premiums specified in Part 4 are, for the purposes of paragraph 25(1)(d), applicable to an applicant who satisfies the condition specified in this Part in respect of that premium.
5. (1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—
- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provision of those Regulations, he would be in receipt of that benefit; and
  - (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973, or by Skills Development Scotland, Scottish Enterprise or Highland and Islands

Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 9, a person is to be treated as being in receipt of a carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012 or an AFIP.

### **Severe disability premium**

6. (1) The condition is that the applicant is a severely disabled person.

(2) For the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if, and only if—

- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
  - (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP; and
  - (ii) subject to sub-paragraph (6), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
  - (iii) no person is entitled to, and in receipt of, a carer's allowance in respect of caring for him;
  
- (b) in the case of an applicant who has a partner—
  - (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP;
  - (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, each other member of that marriage is in receipt of such an allowance; and
  - (iii) subject to sub-paragraph (6), the applicant has no non-

dependants aged 18 or over normally residing with him or with whom he is normally residing,

and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of the couple or, if he is a member of a polygamous marriage, for one or more but not all the members of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any of the members of the marriage.

(3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of sub-paragraph (4), that partner is to be treated for the purposes of sub-paragraph (2) as if he were not a partner of the applicant.

(4) For the purposes of sub-paragraph (3), a person is blind if he is registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994.

(5) For the purposes of sub-paragraph (4), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(6) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—

- (a) a person receiving attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP; or
- (b) a person who is blind or is treated as blind within the meaning of sub-paragraphs (4) and

(7) For the purposes of sub-paragraph (2)(b) a person is to be treated—

- (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) as being in receipt of the daily living component of personal independence payment paid at the rate prescribed in accordance

with Part 4 of the Welfare Reform Act 2012 if he would, but for his being a patient for a period exceeding 28 days, be so in receipt, notwithstanding section 86 of that Act and regulations made thereunder;

- (c) as being in receipt of an AFIP if he would be so in receipt but for a suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
- (d) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(8) For the purposes of sub-paragraph (2)(a)(iii) and (b)—

- (a) no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid; and
- (b) references to a person being in receipt of a carer's allowance include reference to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001<sup>(a)</sup> (loss of benefit).

### **Enhanced disability premium**

7. (1) The condition is that—

- (a) the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 73(2) of that Act; or
- (b) (as the case may be) the daily living component of personal independence payment is, or would, but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012, be payable at the enhanced rate prescribed in accordance with section 78(2) of that Act,

in respect of a child or young person who is a member of the applicant's family.

(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).

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(a) 2001 c.11.

## **Disabled child premium**

8. The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—
- (a) is in receipt of disability living allowance, personal independence payment or is no longer in receipt of such allowance or payment because he is a patient, provided that the child or young person continues to be a member of the family; or
  - (b) is blind within the meaning of paragraph 6(4) or treated as blind in accordance with paragraph 6(5); or
  - (c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

## **Carer premium**

9. (1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance.
- (2) Where a carer premium has been awarded but—
- (a) the person in respect of whose care the carer's allowance has been awarded dies; or
  - (b) the person in respect of whom the premium was awarded ceases to be entitled, or ceases to be treated as entitled, to a carer's allowance,
- this paragraph is to be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).
- (3) The relevant date for the purposes of sub-paragraph (2) is—
- (a) in a case within sub-paragraph (2)(a), the Sunday following the death of the person in respect of whose care the carer's allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday);
  - (b) in a case within sub-paragraph (2)(b), the date on which that person who was entitled to a carer's allowance ceases to be entitled to it.
- (4) For the purposes of this paragraph, a person is to be treated as being entitled to and in receipt of a carer's allowance for any period not covered by an award but in respect of which a payment is made in lieu of an award.

## Persons in receipt of concessionary payments

10. For the purpose of determining whether a premium is applicable to a person under paragraphs 6 to 9, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

## Person in receipt of benefit

11. For the purposes of this Part of this Schedule, a person is to be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and is to be so regarded only for any period in respect of which that benefit is paid.

## PART 4

### Amounts of premium specified in Part 3

12. (1) Severe Disability Premium—

Provision	Amount
(a) where the applicant satisfies the condition in paragraph 6(2)(a)	(a) £58.20;
(b) where the applicant satisfies the condition in paragraph 6(2)(b)—	(b)
(i) in a case where there is someone in receipt of a carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 6(7);	(i) £58.20
(ii) in a case where there is no one in receipt of such an allowance	(ii) £116.40.
(2) Enhanced disability premium	(2) £22.89 in respect of each child or young person in respect of whom the conditions specified in paragraph 7 are satisfied.
(3) Disabled Child Premium.	(3) £56.63 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied
(4) Carer Premium.	(4) £32.60 in respect of each person who satisfies the condition specified in paragraph 9.

## SCHEDULE 3

### Applicable amounts: persons who are not pensioners

#### PART 1

##### Personal allowances

1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) are the amounts specified for the purposes of paragraphs 26(1)(a) and 27(1)(a) and (b)—

Column (1) Person or couple	Column (2) Amount
(1) A single applicant who—	(1)
(a) is entitled to main phase employment and support allowance;	(a) £71.00;
(b) is aged not less than 25	(b) £71.00;
(c) is aged not less than 18 but less than 25	(c) £56.25.
(2) Lone parent.	(2) £71.00.
(3) Couple.	(3) £111.45.

2. or the purposes of paragraph 1 an applicant is entitled to main phase employment and support allowance if—

- (a) paragraph 18 is satisfied in relation to the applicant; or  
(b) the applicant is entitled to a converted employment and support allowance.

3. 1) The amounts specified in column (2) below in respect of each person specified in column (1) are, for the relevant period specified in column (1), the amounts specified for the purposes of paragraphs 26(1)(b) and 27(1)(c)—

Column (1) Child or Young person	Column (2) Amount
Person in respect of the period—	
(a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday;	£64.99
(b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	£64.99

- (2) In column (1) of the table in sub-paragraph (1), "the first Monday in September" means the Monday which first occurs in the month of September in any year.



## PART 2

### Family premium

4. (1) The amount for the purposes of paragraphs 26(1)(c) and 27(1)(d) in respect of a family of which at least one member is a child or young person is—
- (a) where the applicant is a lone parent to whom sub-paragraph (2) applies, £22.20; (b) in any other case, £17.40.
- (2) The amount in sub-paragraph (1)(a) is applicable to a lone parent—
- (a) who was entitled to council tax benefit on 5th April 1998 and whose applicable amount on that date included the amount applicable under paragraph 3(1)(a) of Schedule 1 to the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 as in force on that date; or
  - (b) on becoming entitled to council tax benefit where that lone parent—
    - (i) had been treated as entitled to that benefit in accordance with sub-paragraph (3) as at the day before the date of claim for that benefit; and
    - (ii) was entitled to housing benefit as at the date of claim for council tax benefit or would have been entitled to housing benefit as at that date had that day not fallen during a rent free period as defined in regulation 81 of the Housing Benefit Regulations 2006,
- and in respect of whom, all of the conditions specified in sub-paragraph (3) have continued to apply.
- (3) The conditions specified for the purposes of sub-paragraph (2) are that, in respect of the period commencing on 6th April 1998—
- (a) the applicant has not ceased to be entitled, or has not ceased to be treated as entitled, to
    - (i) council tax benefit (in relation to the period prior to 1st April 2013), and
    - (ii) a reduction under this scheme (in relation to the period commencing on 1st April 2013);
  - (b) the applicant has not ceased to be a lone parent;
  - (c) where the applicant was entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has continuously, since that date, been entitled to income support, an income-based jobseeker's allowance or income-related employment and support allowance or a combination of those benefits;
  - (d) where the applicant was not entitled to income support or to an

income-based jobseeker's allowance on 5th April 1998, he has not become entitled to income support, an income-based jobseeker's allowance or an income-related employment and support allowance; and

- (e) a premium under paragraph 9 or a component under paragraph 21 or 22 has not become applicable to the applicant.

(4) For the purposes of sub-paragraphs (2)(b)(i) and (3)(a), an applicant is to be treated as entitled to council tax benefit during any period where he was not, or had ceased to be, so entitled and—

- (a) throughout that period, he had been awarded housing benefit and his applicable amount included the amount applicable under paragraph 3(1)(a) of Schedule 3 to the Housing Benefit Regulations 2006 (lone parent rate of family premium); or
- (b) he would have been awarded housing benefit during that period had that period not been a rent free period as defined in regulation 81 of the Housing Benefit Regulations 2006 and his applicable amount throughout that period would have included the amount applicable under paragraph 3(1)(a) of Schedule 3 to those Regulations.

### **PART 3**

#### **Premiums**

- 5. Except as provided in paragraph 6, the premiums specified in Part 4 are, for the purposes of paragraphs 26(1)(d) and 27(1)(e) (premiums), applicable to an applicant who satisfies the condition specified in paragraphs 9 to 14 in respect of that premium.
- 6. Subject to paragraph 7, where an applicant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium is applicable to him and, if they are different amounts, the higher or highest amount applies.
- 7. The following premiums, namely—
  - (a) a severe disability premium to which paragraph 11 applies;
  - (b) an enhanced disability premium to which paragraph 12 applies; (c) a disabled child premium to which paragraph 13 applies; and (d) a carer premium to which paragraph 14 applies,may be applicable in addition to any other premium which may apply under this Schedule.
- 8. (1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979<sup>(a)</sup> applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973 or by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 for any period during which he is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 14, a person is to be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable under Part 4 of the Welfare Reform Act 2012.

### **Disability premium**

**9.** The condition is that—

- (a) where the applicant is a single applicant or a lone parent, he has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10 is satisfied; or
- (b) where the applicant has a partner, either—
  - (i) the applicant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) or (b) is satisfied by him; or
  - (ii) his partner has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) is satisfied by his partner

### **Additional condition for the disability premium**

**10.** (1) Subject to sub-paragraph (2) and paragraph 8, the additional condition referred to in paragraph 9 is that either—

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(a) S.I. 1979/597.

- (a) the applicant or, as the case may be, his partner—
- (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal independence payment, an AFIP, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002<sup>(a)</sup>, mobility supplement, long-term incapacity benefit under Part 2 of the SSCBA or severe disablement allowance under Part 3 of that Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of him; or
  - (ii) was in receipt of long-term incapacity benefit under Part 2 of the SSCBA when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant remained continuously entitled to—
    - (aa) council tax benefit (in relation to the period prior to 1st April 2013, and
    - (bb) a reduction under this scheme (in relation to the period commencing on 1<sup>st</sup> April 2013), and

if the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or

- (iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the SSCBA or otherwise abated as a consequence of the applicant or his partner becoming a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges); or
- (iv) was in receipt of personal independence payment, but payment of that benefit has been suspended in accordance with section 86 of the Welfare Reform Act 2012 as a consequence of the applicant becoming a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges); or
- (v) was in receipt of an AFIP, but payment has been suspended in accordance with any terms of the armed and reserve forces compensation scheme which allow for suspension because a person is undergoing medical treatment in a hospital or similar institution; or

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(a) S.I. 2002/2005

- (vi) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006(a) or under section 46 of the National Health Service (Scotland) Act 1978(b) or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972(c); or
- (vii) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or

(b) the applicant—

- (i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work); and
- (ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
  - (aa) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the SSCBA, 196 days;
  - (bb) In any other case, 364 days.

(2) For the purposes of sub-paragraph (1)(a)(vii), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(3) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work he is, on again becoming so incapable of work, immediately thereafter to be treated as satisfying the condition in sub-paragraph (1)(b).

(4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, he is to continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.

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- (a) 2006 c.41; paragraph 9 has been amended by sections 17(10) of the Health and Social Care Act 2012 (c.7) (to replace references to the Secretary of State with references to clinical commissioning groups), but those provisions are not yet fully in force.
  - (b) 1978 c.29.
  - (c) S.I. 1972/1265 (N.I. 14).

(5) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods are to be treated as one continuous period.

(6) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the Act (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.

(7) In the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies, and who again becomes incapable of work for the purposes of Part 12A of the SSCBA)—

- (a) the reference to a period of 8 weeks in sub-paragraph (3); and
- (b) the reference to a period of 56 days in sub-paragraph (5),

in each case is to be treated as a reference to a period of 104 weeks.

(8) The applicant is not entitled to the disability premium if he has, or is treated as having, limited capability for work.

### **Severe disability premium**

11. (1) The condition is that the applicant is a severely disabled person.

(2) For the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if, and only if—

- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
  - (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and
  - (ii) subject to sub-paragraph (4), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
  - (iii) no person is entitled to, and in receipt of, a carer's allowance under section 70 of the SSCBA in respect of caring for him;
- (b) in the case of an applicant who has a partner—
  - (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or



middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and

- (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance; and
- (ii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,

and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of a couple or, in the case of a polygamous marriage, for one or more but not all the partners of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any partner of a polygamous marriage.

(3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2), that partner is to be treated for the purposes of sub-paragraph (2)(b)(ii) as if he were not a partner of the applicant.

(4) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—

- (a) a person receiving attendance allowance, or disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012; or
- (b) a person who is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2).

(5) For the purposes of sub-paragraph (2)(b) a person is to be treated—

- (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on

which the award is first paid.

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001(a) (loss of benefit provisions).

### **Enhanced disability premium**

**12.** (1) Subject to sub-paragraph (2), the condition is that—

- (a) the Secretary of State has decided that the applicant has, or is to be treated as having, limited capability for work-related activity; or
- (b) the care component of disability living allowance is, or would be payable at the highest rate prescribed under section 72(3) of the SSCBA, but for a suspension of benefit in accordance with regulations made under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation be payable at the highest rate prescribed under section 72(3) of the SSCBA in respect of—
  - (i) the applicant; or
  - (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit; or

- (c) the daily living component of personal independence payment is, or would be payable at either rate under Part 4 of the Welfare Reform Act 2012, but for a suspension of benefit in accordance with section 86 of the Welfare Reform Act 2012 in respect of—
  - (i) the applicant; or
  - (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit.

(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).

(3) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—

- (a) an applicant who—
  - (i) is not a member of a couple or a polygamous marriage; and
  - (ii) is a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges) and has been for a period of more than 52 weeks; or

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(a) 2001 c.11.



- (b) a member of a couple or a polygamous marriage where each member is a patient within the meaning of paragraph 58(11)(i) and has been for a period of more than 52 weeks.

### **Disabled child premium**

13. The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—
- (a) is in receipt of disability living allowance or personal independence payment or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
  - (b) is blind or treated as blind within the meaning of paragraph 10; or
  - (c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

### **Carer premium**

14. (1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance under section 70 of the SSCBA.
- (2) Where a carer premium is awarded but—
- (a) the person in respect of whose care the carer's allowance has been awarded dies; or
  - (b) in any other case the person in respect of whom a carer premium has been awarded ceases to be entitled to a carer's allowance,

the condition for the award of the premium is to be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).

- (3) The relevant date for the purposes of sub-paragraph (2) is—
- (a) where sub-paragraph (2)(a) applies, the Sunday following the death of the person in respect of whose care a carer's allowance has been awarded or the date of death if the death occurred on a Sunday;
  - (b) in any other case, the date on which the person who has been entitled to a carer's allowance ceases to be entitled to that allowance.

(4) Where a person who has been entitled to a carer's allowance ceases to be entitled to that allowance and makes an application for a

reduction, the condition for the award of the carer premium is to be treated as satisfied for a period of eight weeks from the date on which—

- (a) the person in respect of whose care the carer's allowance has been awarded dies; or
- (b) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.

### Persons in receipt of concessionary payments

15. For the purpose of determining whether a premium is applicable to a person under paragraphs 10 to 14, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

### Persons in receipt of benefit for another

16. For the purposes of this Part of this Schedule, a person is to be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and is to be so regarded only for any period in respect of which that benefit is paid.

## PART 4

### Amounts of Premiums Specified in Part 3

17. (1) Disability Premium—

Premium	Amount
(a) where the applicant satisfies the condition in paragraph 9(a);	(a) £30.35;
(b) where the applicant satisfies the condition in paragraph 9(b).	(b) 43.25.
(2) Severe Disability Premium—	(2)
(a) where the applicant satisfies the condition in paragraph 11(2)(a);	(a) £58.20;
(b) where the applicant satisfies the condition in paragraph 11(2)(b)—	
(i) in a case where there is someone in receipt of a carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 11(5);	(b)(i) £58.20;
(ii) in a case where there is no one in receipt of such an allowance.	(b)(ii) £116.40
(3) Disabled Child Premium	(3) £56.63 in respect of each child or young person in respect of whom the condition specified in paragraph 13 is

(4) Carer Premium.	satisfied. (4) £32.60 in respect of each person who satisfies the condition specified in paragraph 14.
(5) Enhanced disability premium	(5)  (a) £22.89 in respect of each child or young person in respect of whom the conditions specified in paragraph 12 are satisfied; (b) £14.80 in respect of each person who is neither— (i) a child or young person; nor (ii) a member of a couple or a polygamous marriage,  in respect of whom the conditions specified in paragraph 12 are satisfied;  (c) £21.30 where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 12 are satisfied in respect of a member of that couple or polygamous marriage.

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## PART 5

### The components

- 18.** Subject to paragraph 20 the applicant is entitled to one, but not both, of the components in paragraph 21 or 22 if—
- (a) the applicant or the applicant's partner has made a claim for employment and support allowance;
  - (b) the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work or limited capability for work-related activity; and
  - (c) either—
    - (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
    - (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.
- 19.** Subject to paragraph 20, the applicant is entitled to one, but not both, of the components in paragraphs 21 and 22 if the applicant or his partner is entitled to a converted employment and support allowance.

20. (1) The applicant has no entitlement under paragraph 21 or 22 if the applicant is entitled to the disability premium under paragraphs 9 and 10.

(2) Where the applicant and the applicant's partner each satisfies paragraph 21 or 22, the component to be included in the applicant's applicable amount is that which relates to the applicant.

### **The work-related activity component**

21. The applicant is entitled to the work-related activity component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work.

### **The support component**

22. The applicant is entitled to the support component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work-related activity.

## **PART 6**

### **Amount of Components**

23. The amount of the work-related activity component is £28.15.
24. The amount of the support component is £34.05.

## **PART 7**

### **Transitional Addition**

25. (1) The applicant is entitled to the transitional addition calculated in accordance with paragraph 28 where the applicant or the applicant's partner ("the relevant person")—
- (a) is entitled to a converted employment and support allowance; or
  - (b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2008 and—
    - (i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2008; and
    - (ii) is not in receipt of an income-related employment and support allowance,

unless the amount of the transitional addition calculated in accordance with paragraph 28 would be nil.

(2) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
- (b) the termination of the applicant's award of reduction under this scheme;
- (c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;
- (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

**26.** (1) This paragraph applies where—

- (a) the applicant's entitlement to a transitional addition ends, by virtue of the termination of the applicant's award of reduction, under—
  - (i) paragraph 25(2)(b);
  - (ii) sub-paragraph (3)(b); or
  - (iii) paragraph 27(3)(b);
- (b) within 12 weeks of that termination but before 5th April 2020 the applicant again becomes entitled to a reduction under this scheme;
- (c) in the reduction week in which the applicant again becomes entitled to a reduction under this scheme the relevant person is entitled to an employment and support allowance which is not income-related; and
- (d) at the date on which the applicant again becomes entitled to a reduction under this scheme, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the applicant is entitled, with effect from the day on which the applicant again becomes entitled to a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.

(3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
- (b) the termination of the applicant's award of a reduction under this scheme;

- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);
- (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

**27.** (1) This paragraph applies where—

- (a) the applicant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under—
  - (i) paragraph 25(2)(c);
  - (ii) paragraph 26(3)(c); or
  - (iii) sub-paragraph (3)(c);
- (b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;
- (c) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulations 2008 applies to the relevant person; and
- (d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the applicant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for the purposes of a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.

(3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
- (b) the termination of the applicant's award of a reduction under this scheme;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);
- (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;

(e) 5th April 2020.

## **PART 8**

### **Amount of Transitional Addition**

- 28.** (1) Subject to paragraph 29, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.
- (2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”) is made in respect of the relevant person—
- (a) Amount A is the basic amount that would have applied on the day that decision took effect had that decision not been made; and
- (b) Amount B is the basic amount that applied on that day as a result of that decision.
- (3) Where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the 2010 Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the 2010 Regulations—
- (a) Amount A is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated; and
- (b) Amount B is the basic amount that applied on that day as a result of the relevant person being so treated.
- (4) In this paragraph and paragraph 29, “basic amount” means the aggregate of such amounts as may apply in the applicant’s case in accordance with paragraph 26(1)(a) to (e) or paragraph 27(1)(a) to (f) (applicable amounts).
- 29.** (1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the applicant’s basic amount, the transitional addition that applies immediately before the change of circumstances must be reduced by the amount by which Amount C exceeds Amount D.
- (2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition must be reduced to nil.
- (3) Amount C is the basic amount that applies as a result of the increase.
- (4) Amount D is the basic amount that applied immediately before the increase.



**Amount of alternative maximum council tax reduction: pensioners and persons who are not pensioners**

1. (1) Subject to paragraphs 2 and 3, the alternative maximum council tax reduction in respect of a day for the purpose of paragraph 31 (alternative maximum council tax reduction: pensioners and persons who are not pensioners) is determined in accordance with the following Table and in this Table—

- (a) “second adult” means any person or persons residing with the applicant to whom paragraph 15(2) (class C) or 18(2) (class F) (as the case may be) applies; and
- (b) “persons to whom paragraph 75(1) of this scheme applies” includes any person to whom that paragraph would apply were they, and their partner if they had one, below the qualifying age for state pension credit and a class of person described in sub para (1)(a)

(2) In this Schedule “council tax due in respect of that day” means the council tax payable under section 10 of the 1992 Act less—

- (a) any reductions made in consequence of any enactment in, or under, the 1992 Act (other than a reduction under this scheme); and
- (b) in a case to which sub-paragraph (c) in column (1) of the table below applies, the amount of any discount which may be appropriate to the dwelling under the 1992 Act.

(1) Second adult	(2) Alternative maximum council tax reduction
(a) Where the second adult or all second adults are in receipt of income support, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker’s allowance;	(a) 25 per cent of the council tax due in respect of that day;
(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, an income-related employment and support allowance, state pension credit or an income-based jobseeker’s allowance—	(b)
(i) is less than £180.00 per week;	(i) 15 per cent of the council tax due in respect of that day
(ii) is not less than £180.00 per week but less than £231.00 per week;	(ii) 7.5 per cent of the council tax due in respect of that day;
(c) where the dwelling would be wholly occupied by one or more persons to	(c) 100 per cent of the council tax due in respect of that day.



whom paragraph 75(1) of this scheme applies but for the presence of one or more second adults who are in receipt of income support, state pension credit, an income-related employment and support allowance or are persons on an income based jobseeker's allowance.

- 2.** In determining a second adult's gross income for the purposes of this Schedule, the following must be disregarded from that income—
  - (a) any attendance allowance, any disability living allowance, any personal independence payment under Part 4 of the Welfare Reform Act 2012 or an AFIP;
  - (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 paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind); and
  - (c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).
  
- 3.** Where there are two or more second adults residing with the applicant for a reduction under this scheme and any such second adult falls to be disregarded for the purposes of discount in accordance with Schedule 1 to the 1992 Act, his income must be disregarded in determining the amount of any alternative maximum council tax reduction, unless that second adult is a member of a couple and his partner does not fall to be disregarded for the purposes of discount.

## SCHEDULE 5

### Sums disregarded from applicant's earnings: pensioners

1. Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to—
  - (a) £25 in the case of a lone parent;
  - (b) £20 in any other case.
2. In a case where an applicant is a lone parent, £25 of earnings.
3. (1) In a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.  
  
(2) This paragraph applies to employment—
  - (a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
  - (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005<sup>(a)</sup>) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
  - (c) as an auxiliary coastguard in respect of coast rescue activities;
  - (d) in the manning or launching of a lifeboat if the employment is part-time;
  - (e) as a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001.  
(3) If—
  - (a) any of the earnings of the applicant or, if he has a partner, his partner, or both of them, are disregarded under sub-paragraph (1); and
  - (b) either of them has, or both of them have, other earnings,so much of those other earnings as would not, in the aggregate with the earnings disregarded under that sub-paragraph, exceed £20.
4. (1) If the applicant or, if he has a partner, his partner is a carer, or both are carers, £20 of any earnings received from his or their employment.  
  
(2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) must not exceed £20 of the aggregated amount.

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(a) 2005 asp 5.

(3) In this paragraph the applicant or his partner is a carer if paragraph 14

of Part 3 of Schedule 3 (amount applicable for carers) is satisfied in respect of him.

5. (1) £20 is disregarded if the applicant or, if he has a partner, his partner—
- (a) is in receipt of—
    - (i) long-term incapacity benefit under section 30A of the SSCBA;
    - (ii) severe disablement allowance under section 68 of that Act;
    - (iii) attendance allowance under sections 64 of that Act;
    - (iv) disability living allowance;
    - (v) personal independence payment;
    - (vi) an AFIP;
    - (vii) 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;
    - (viii) the disability element or the severe disability element of working tax credit under Schedule 2 to the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002; or
    - (ix) main phase employment and support allowance; or
  - (b) is or are registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
  - (c) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work), and has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
    - (i) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the Act, 196 days;
    - (ii) in any other case, 364 days; or
  - (d) has, or is treated as having, limited capacity for work within the meaning of section 1(4) of the Welfare Reform Act 1997 or limited capability for work-related activity within the meaning of section 2(5) of that Act and either—
    - (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
    - (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arising does not apply) applies.
- (2) Subject to sub-paragraph (3), £20 is disregarded if the applicant or, if

he has a partner, his partner has, within a period of 8 weeks ending on the day in respect of which the applicant or his partner attains the qualifying age for state pension credit, had an award of housing benefit or council tax benefit or been in receipt of a reduction under this scheme and—

- (a) £20 was disregarded in respect of earnings taken into account in that award; and
- (b) the person whose earnings qualified for the disregard continues in employment after the termination of that award.

(3) The disregard of £20 specified in sub-paragraph (2) applies so long as there is no break, other than a break which does not exceed 8 weeks, in a person's—

- (a) entitlement to housing benefit; or
- (b) receipt of a reduction under a council tax reduction scheme; or
- (c) employment,

following the first day in respect of which that benefit is awarded under this scheme.

(4) £20 is the maximum amount which may be disregarded under this paragraph, notwithstanding that, where the applicant has a partner, both the applicant and his partner satisfy the requirements of this paragraph.

**6.** (1) Where—

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 35 (applicant in receipt of guarantee credit: pensioners) does not apply, the amount specified in sub-paragraph (7) (“the specified amount”).

(2) Where this paragraph applies, paragraphs 1 to 5 and 8 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 2, then paragraph 2 applies instead of this paragraph.

(3) Notwithstanding paragraph 33 (calculation of income and capital of members applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple (“A”) it does not apply to the other member of that couple (“B”) except to the extent provided in sub-paragraph (4).

(4) Where A's earnings are less than the specified amount, there is also to be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited

to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.

(5) This sub-paragraph applies to a person who is—

- (a) in receipt of a contributory employment and support allowance;
- (b) in receipt of incapacity benefit;
- (c) in receipt of severe disablement allowance;
- (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.

(6) “Exempt work” means work of the kind described in—

- (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be); or
- (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

7. Any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of Schedule 6 had the applicant’s income which does not consist of earnings been sufficient to entitle him to the full amount disregarded thereunder.
8. Except where the applicant or his partner qualifies for a £20 disregard under the preceding provisions of this Schedule—
  - (a) £5 is to be disregarded if an applicant who has no partner has earnings;
  - (b) £10 is to be disregarded if an applicant who has a partner has earnings.
9. Any earnings, other than earnings referred to in paragraph 40(9)(b), derived from employment which ended before the day in respect of which the applicant first satisfies the conditions for entitlement to a reduction under this scheme.
10. (1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under this Schedule is to be

increased by £17.10.

(2) The conditions of this sub-paragraph are that—

- (a) the applicant, or if he has a partner, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or
- (b) the applicant—
  - (i) is, or any partner of his is, aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or
  - (ii) if he is a member of a couple—
    - (aa) at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and
    - (bb) his applicable amount includes a family premium under paragraph 3 of Schedule 2; or
  - (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
  - (iv) is, or if he has a partner, one of them is, engaged in remunerative work for on average not less than 16 hours per week and paragraph 5(1) above is satisfied in respect of that person.

(3) The following are the amounts referred to in sub-paragraph (1)—

- (a) any amount disregarded under this Schedule;
- (b) the amount of child care charges calculated as deductible under paragraph 57(1)(c) (deductions from income of certain child care charges); and
- (c) £17.10.

(4) The provisions of paragraph 10 (remunerative work) apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph was a reference to 30 hours.

**11.** Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting to that payment into Sterling.

**Amounts to be disregarded in the calculation of income other than earnings: pensioners**

1. In addition to any sum which falls to be disregarded in accordance with paragraphs 2 to 6, £10 of any of the following—
  - (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 2 or 3);
  - (b) a war widow's pension or war widower's pension;
  - (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
  - (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 39(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011<sup>(a)</sup>, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
  - (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
  - (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
  - (g) a 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.
2. The whole of any amount included in a pension to which paragraph 1 relates in respect of—
  - (a) the applicant's need for constant attendance;
  - (b) the applicant's exceptionally severe disablement.
3. 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.

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(a) S.I. 2011/517.



4. 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.
5. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
6. (1) Any payment which is—
  - (a) made under any of the Dispensing Instruments to a widow, widower or 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
  - (b) 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).
7. £15 of any widowed parent’s allowance to which the applicant is entitled under section 39A of the SSCBA.
8. £15 of any widowed mother’s allowance to which the applicant is entitled under section 37 of the SSCBA.
9. 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 whom 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, 100 per cent. of such payments; or
  - (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent. of the excess over £20.
10. If the applicant—
  - (a) owns the freehold or leasehold interest in any property or is a tenant of any property; and



- (b) occupies a part of that property; and
- (c) has an agreement with another person allowing that person to occupy another part of that property on payment of rent and—
  - (i) the amount paid by that person is less than £20 per week, the whole of that amount; or
  - (ii) the amount paid is £20 or more per week, £20.

11. Where an applicant receives income under an annuity purchased with a loan, which satisfies the following conditions—

- (a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;
- (b) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
- (c) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling;
- (d) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid; and
- (e) that the interest payable on the loan is paid by the person to whom the loan was made or by one of the annuitants,

the amount, calculated on a weekly basis, equal to—

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;
- (ii) in any other case, the interest which is payable on the loan without deduction of such a sum.

12. (1) Any payment, other than a payment to which sub-paragraph (2) applies, made to the applicant by Trustees in exercise of a discretion exercisable by them.

(2) This sub-paragraph applies to payments made to the applicant by Trustees in exercise of a discretion exercisable by them for the purpose of—

- (a) obtaining food, ordinary clothing or footwear or household fuel;
- (b) the payment of rent, council tax or water charges for which that applicant or his partner is liable;
- (c) meeting housing costs of a kind specified in Schedule 2 to the State Pension Credit Regulations 2002.

(3) In a case to which sub-paragraph (2) applies, £20 or—

- (a) if the payment is less than £20, the whole payment;
- (b) if, in the applicant's case, £10 is disregarded in accordance with paragraph 1(a) to (g), £10 or the whole payment if it is less than £10; or
- (c) if, in the applicant's case, £15 is disregarded under paragraph 7 or paragraph 8 and—
  - (i) he has no disregard under paragraph 1(a) to (g), £5 or the whole payment if it is less than £5;
  - (ii) he has a disregard under paragraph 1(a) to (g), nil.

(4) For the purposes of this paragraph, "ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing and footwear used solely for sporting activities.

- 13. Any increase in pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 paid in respect of a dependent other than the pensioner's partner.
- 14. Any payment ordered by a court to be made to the applicant or the applicant's partner in consequence of any accident, injury or disease suffered by the person or a child of the person to or in respect of whom the payments are made.
- 15. Periodic payments made to the applicant or the applicant's partner under an agreement entered into in settlement of a claim made by the applicant or, as the case may be, the applicant's partner for an injury suffered by him.
- 16. Any income which is payable outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.
- 17. Any banking charges or commission payable in converting to Sterling payments of income made in a currency other than Sterling.
- 18. 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, 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.

**19.** (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 bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 18, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount is to 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.

**20.** (1) Where an applicant's applicable amount includes an amount by way of a family premium, £15 of any payment of maintenance, whether under a court order or not, which is made or due to be made by the applicant's spouse, civil partner, former spouse or former civil partner or the applicant's partner's spouse, civil partner, former spouse, or former civil partner.

(2) For the purposes of sub-paragraph (1), where more than one maintenance payment falls to be taken into account in any week, all such payments must be aggregated and treated as if they were a single payment.

**21.** Except in a case which falls under paragraph 10 of Schedule 5, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.

**22.** Where the total value of any capital specified in Part 2 (capital

disregarded only for the purposes of determining deemed income) of Schedule 9 does not exceed £10,000, any income actually derived from such capital.

- 23.** Except in the case of income from capital specified in Part 2 of Schedule 9, any actual income from capital.
- 24.** 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.

## SCHEDULE 6A

### **Amounts to be disregarded in the calculation of income other than earnings: pensioners where a reduction applies under S13A(1)(c) LGFA 1992**

1. Further to the disregarded items within Schedule 6, any payment of any of the following, namely:-
  - (a) a war disablement pension; and
  - (b) a war widow's pension or war widower's pension; as defined by the Schedule of The Housing Benefit and Council Tax Benefit (War Pensions Disregards) Regulations 2007 (as amended by SI 2010/2449)
  - (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 subparagraphs;
  - (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 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.

**Sums disregarded in the calculation of earnings: persons who are not pensioners**

1. In the case of an applicant who has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged—

(a) where—

- (i) the employment has been terminated because of retirement; and
- (ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions,

any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;

(b) where before the first day of entitlement to a reduction under this scheme the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—

(i) any payment of the nature described in—

- (aa) paragraph 51(1)(e) (retainer), or
- (bb) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds); and

(ii) any award, sum or payment of the nature described in—

- (aa) paragraph 51(1)(g) or (i) (compensation etc. relating to employment), or
- (bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),

including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;

(c) where before the first day of entitlement to a reduction under this scheme—

- (i) the employment has not been terminated, but
- (ii) the applicant is not engaged in remunerative work,

any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph (b)(i)

or (ii)(bb) or paragraph 51(1)(j) (statutory sick pay etc.).

2. In the case of an applicant who, before the first day of entitlement to a reduction under this scheme—

- (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and
- (b) has ceased to be engaged in that employment, whether or not that employment has been terminated,

any earnings paid or due to be paid in respect of that employment except—

- (i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i) or (ii)(bb);
- (ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) or paragraph 51(1)(j) (statutory sick pay etc.).

3. In the case of an applicant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain, would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment, any earnings derived from that employment except earnings to which paragraph 53(3) and (4) (earnings of self-employed earners) apply.

4. (1) In a case to which this paragraph applies and paragraph 5 does not apply, £20; but notwithstanding paragraph 33 (calculation of income and capital of members of an applicant's family and of a polygamous marriage) if this paragraph applies to an applicant it does not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £20.

(2) This paragraph applies where the applicant's applicable amount includes an amount by way of the disability premium, severe disability premium, work-related activity component or support component under Schedule 3 (applicable amounts: persons who are not pensioners).

(3) This paragraph applies where—

- (a) the applicant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 3; and
- (b) he or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.

5. In a case where the applicant is a lone parent, £25.

6. (1) In a case to which neither paragraph 4 nor paragraph 5 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium under

Schedule 3 (applicable amounts: persons who are not pensioners), £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with paragraph 14(2) of that Schedule as being in receipt of carer's allowance.

(2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) must not exceed £20 of the aggregated amount.

7. Where the carer premium is awarded in respect of an applicant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—
  - (a) specified in paragraph 9(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 6 exceed £20;
  - (b) other than one specified in paragraph 9(1), so much of the other member's earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 5 exceed £20.
8. In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it must not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £10.
9. (1) In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant, £20 of earnings derived from one or more employments as—
  - (a) a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(a) or a scheme to which section 4 of that Act applies;
  - (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
  - (c) an auxiliary coastguard in respect of coast rescue activities;
  - (d) a person engaged part-time in the manning or launching of a life boat;
  - (e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001;

but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this



paragraph applies to an applicant it must not apply to his partner except to the extent specified in sub-paragraph (2).

(2) If the applicant's partner is engaged in employment—

- (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the applicant's earnings disregarded under this paragraph exceed £20;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £20.

10. Where the applicant is engaged in one or more employments specified in paragraph 9(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment, so much of his earnings from that other employment, up to £5 if he is a single applicant, or up to £10 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 9 exceed £20.

11. In a case to which none of the paragraphs 4 to 10 applies, £5.

12. (1) Where—

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 14 does not apply,

the amount specified in sub-paragraph (7) ("the specified amount").

(2) Where this paragraph applies, paragraphs 4 to 11 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 5, then paragraph 5 applies instead of this paragraph.

(3) Notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ("A") it does not apply to the other member of that couple ("B") except to the extent provided in sub-paragraph (4).

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(a) 2004 c.21.

(4) Where A's earnings are less than the specified amount, there must also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.

(5) This sub-paragraph applies to a person who is—

- (a) in receipt of a contributory employment and support allowance;
- (b) in receipt of incapacity benefit;
- (c) in receipt of severe disablement allowance; or
- (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.

(6) "Exempt work" means work of the kind described in—

- (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be)
- (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

13. Any amount or the balance of any amount which would fall to be disregarded under paragraph 23 or 24 of Schedule 8 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.
14. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, his earnings.
15. Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.
16. Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting that payment into Sterling.
17. Any earnings of a child or young person.

18. (1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 4 to 12 must be increased by £17.10.

(2) The conditions of this sub-paragraph are that—

- (a) the applicant, or if he is a member of a couple, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or
- (b) the applicant—
  - (i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or
  - (ii) is a member of a couple and—
    - (aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and
    - (bb) his applicable amount includes a family premium under paragraph 4 of Schedule 3; or
  - (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
  - (iii) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and—
    - (aa) the applicant's applicable amount includes a disability premium under paragraph 9, the work-related activity component under paragraph 21 or the support component under paragraph 22 of Schedule 3 respectively;
    - (bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the disability premium or either of the components referred to in paragraph (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or
- (c) the applicant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.

(3) The following are the amounts referred to in sub-paragraph (1)—

- (a) the amount calculated as disregardable from the applicant's earnings under paragraphs 4 to 12;

- (b) the amount of child care charges calculated as deductible under paragraph 57(1)(c); and
- (c) £17.10.

(4) The provisions of paragraph 10 (remunerative work) apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph were a reference to 30 hours.

- 19.** In this Schedule “part-time employment” means employment in which the person is engaged on average for less than 16 hours a week.

**Sums disregarded in the calculation of income other than earnings:  
persons who are not pensioners**

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Pilot Scheme.
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.
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.
4. Any amount paid by way of tax on income which is to be taken into account under regulation 30 (calculation of income other than earnings).
5. 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) a volunteer,if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under paragraph 56(5) (notional income: persons who are not pensioners).
6. Any payment in respect of expenses arising out of the applicant's participation in a service user group.
7. 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.
8. 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.
9. 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.

10. 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(a) as in force at that date, the whole of his income.
11. Any disability living allowance, personal independence payment or an AFIP.
12. Any concessionary payment made to compensate for the non-payment of—
  - (a) any payment specified in paragraph 11 or 14;
  - (b) income support;
  - (c) an income-based jobseeker's allowance;
  - (d) an income-related employment and support allowance.
13. 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.
14. Any attendance allowance.
15. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.
16. (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 the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or

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(a) S.I. 1999/2734.

- (ii) regulations made under section 181 of that Act; or
- (c) 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).

- 17. 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.
- 18. (1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990(a) 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 Employment and Training Act 1973 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.

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(a) 1990 c.35.

19. (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 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 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) does 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.

20. Subject to paragraph 40, £10 of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 13 or 14);
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in 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.

- 21.** Subject to paragraph 40, £15 of any—
- (a) widowed mother's allowance paid pursuant to section 37 of the SSCBA;
  - (b) widowed parent's allowance paid pursuant to section 39A of the SSCBA.
- 22.** (1) Any income derived from capital to which the applicant is or is treated under paragraph 70 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17 or 30 to 33 of Schedule 10.
- (2) Income derived from capital disregarded under paragraphs 5, 7 or 30 to 33 of Schedule 10 but only to the extent of—
- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
  - (b) any council tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.
- (3) The definition of "water charges" in paragraph 2(1) (interpretation) applies to sub-paragraph (2) of this paragraph with the omission of the words "in so far as such charges are in respect of the dwelling which a person occupies as his home".
- 23.** 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, 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.
- 24.** (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 bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 23, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount must 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.

**25.** Any payment made to the applicant by a child or young person or a non-dependant.

**26.** Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 25 or 27 refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or
- (b) where the aggregate of any such payments is £20 or more per week, £20.

**27.** 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, 100 per cent of such payments;
- (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent of the excess over £20.

**28.** (1) Any income in kind, except where paragraph 54(10)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act 1999 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.

- 29.** 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.
- 30.** (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(a) (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 (Northern Ireland) Order 1995, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);
  - (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (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.
- 31.** 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).

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(a) 2008 c.28.

**32.** 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 11 of the National Health Service (Wales) Act 2006.

**33.** 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).

**34.** (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.

**35.** (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<sup>(a)</sup> 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) is only to 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—

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(a) 1974 c.39.

- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (1)(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).
- 36.** Any payment of income which by virtue of paragraph 64 (income treated as capital: persons who are not pensioners) is to be treated as capital.
- 37.** Any—
- (a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or
  - (b) occasional assistance.
- 38.** Any payment under Part 10 of the SSCBA (Christmas bonus for pensioners).
- 39.** 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.
- 40.** The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under paragraph 33(3) (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph 77(2)(b) and paragraph 78(1)(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 81(2) (treatment of student loans), paragraph 82(3) (treatment of payments from access funds) and paragraphs 20 and 21 must in no case exceed £20 per week.
- 41.** (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 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 benefit a 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 is to 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.

- 42.** Any housing benefit.
- 43.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 44.** 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.
- 45.** Any payment in consequence of a reduction of council tax under section 13 of the 1992 Act (reduction of liability for council tax).
- 46.** (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).
- 47.** 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).

48. 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.
49. (1) Where an applicant's applicable amount includes an amount by way of family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.
- (2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments must be aggregated and treated as if they were a single payment.
- (3) A payment made by the Secretary of State in lieu of maintenance must, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).
50. (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 sub-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<sup>(a)</sup>;
- (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.

51. 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<sup>(b)</sup> to assist disabled persons to obtain or retain employment despite their disability.

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(a) 1991 c.48.  
(b) 1944 c.10.



- 52.** Any guardian's allowance.
- 53.** (1) If the applicant is in receipt of any benefit under Part 2, 3 or 5 of the SSCBA, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that 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.
- 54.** 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.
- 55.** In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
- 56.** (1) Any payment which is—
- (a) made under any of the Dispensing Instruments to a widow, widower or 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
- (b) 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).
- 57.** Any council tax benefit to which the applicant is entitled.
- 58.** Except in a case which falls under sub-paragraph (1) of paragraph 18 of Schedule 7, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.

- 59.** 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).
- 60.** (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) applies only in respect of payments which are paid to that person from the special account.

- 61.** (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.
- 62.** 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.
- 63.** 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.
- 64.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001**(a)**.

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(a) S. I. 2001/1167

**65.**—(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.

**66.** Any payment of child benefit.

## SCHEDULE 8A

### **Sums disregarded in the calculation of income other than earnings: persons who are not pensioners**

1. Further to the disregarded items within Schedule 8, any payment of any of the following, namely:-

- (a) a war disablement pension; and
- (b) a war widow's pension or war widower's pension;

as defined by the Schedule of The Housing Benefit and Council Tax Benefit (War Pensions Disregards) Regulations 2007 (as amended by SI 2010/2449)

- (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 subparagraphs;
- (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 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.

**Capital disregards: pensioners****PART 1****Capital to be disregarded**

1. 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.
2. 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.
3. 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.
4. Any premises occupied in whole or in part—
  - (a) by a person who is a relative of the applicant or his partner 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 does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
5. 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.
6. Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from his former partner or the dissolution of a 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.

7. Any premises where the applicant is taking reasonable steps to dispose of the whole of his interest in 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.
8. All personal possessions.
9. 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 those assets.
10. The assets of any business owned in whole or in part by the applicant if—
  - (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 application for a reduction under this scheme is 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.

11. The surrender value of any policy of life insurance.
12. The value of any funeral plan contract; and for this purpose, “funeral plan contract” means a contract under which—
  - (a) the applicant makes one or more payments to another person (“the provider”);
  - (b) the provider undertakes to provide, or secure the provision of, a funeral in the United Kingdom for the applicant on his death; and
  - (c) the sole purpose of the plan is to provide or secure the provision of a funeral for the applicant on his death.
13. Where an ex-gratia payment has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment 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, an amount equal to that payment.

14. (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or an applicant's partner who is—
- (a) a diagnosed person;
  - (b) a diagnosed person's partner or was a diagnosed person's partner at the time of the diagnosed person's death; or
  - (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.
- (2) Where a trust payment is made to—
- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph applies 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 applies for the period beginning on the date on which the trust payment is made and ending two years after that date.
- (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 an applicant's partner who is—
- (a) the diagnosed person;
  - (b) a diagnosed person's partner or was a diagnosed person's partner at the date of the diagnosed person's death; or
  - (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.
- (4) Where a payment such as referred to in sub-paragraph (3) is made to—
- (a) a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the payment is made and ending on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (3)(c), that sub-paragraph applies for the period beginning on the date on which the payment is made and ending two years after that date.
- (5) In this paragraph, a reference to a person—
- (a) being the diagnosed person's partner;
  - (b) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death includes 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 or an independent hospital.

- (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 Creutzfeldt-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 Creutzfeldt-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

“trust payment” means a payment under a relevant trust.

15. 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 civil partner or the applicant’s partner’s deceased spouse or 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.

16. (1) Any payment made under or by—

- (a) 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 London Bombings Relief Charitable Fund (collectively referred to in this paragraph as “the Trusts”); or
- (b) 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 and which is made to or for the benefit of that person’s partner or former partner—

- (a) from whom he is not, or where that person has died was not, estranged or divorced, or
- (b) 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.

(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 which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of the person who is suffering from haemophilia or who is a qualifying person.

(4) Sub-paragraph (3) does not apply if—

- (a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or
- (b) 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.

(5) 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 who is or had been a member of that person's household; 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 or a student who has not completed his full-time education and has no parent or step-parent, to any person standing in the place of his parent,

but only for a period from the date of the payment until the end of two years from that person's death.

(6) 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, 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 who was or had been a member of his household; 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 or a student who had not completed his full-time education and had no parent or step-parent, to any person standing in place of his parent,

but only for a period of two years from the relevant date.

(7) In the case of a person to whom or for whose benefit a 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.

**17.** (1) An amount equal to the amount of any payment made in consequence of any personal injury to the applicant or, if the applicant has a partner, to the partner.

(2) Where the whole or part of the payment is administered—

- (a) by the High Court or the County Court under Rule 21.11(1) of the

Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;

- (b) in accordance with an order made under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules; or
- (c) in accordance with the terms of a trust established for the benefit of the applicant or his partner,

the whole of the amount so administered.

- 18. Any amount specified in paragraph 19, 20, 21 or 25 for a period of one year beginning with the date of receipt.
- 19. Amounts paid under a policy of insurance in connection with the loss of or damage to the property occupied by the applicant as his home and to his personal possessions.
- 20. So much of any amounts paid to the applicant or deposited in the applicant's name for the sole purpose of—
  - (a) purchasing premises which the applicant intends to occupy as his home; or
  - (b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the applicant as his home.
- 21. (1) Subject to paragraph 22 any amount paid—
  - (a) by way of arrears of benefit;
  - (b) by way of compensation for the late payment of benefit;
  - (c) in lieu of the payment of benefit;
  - (d) to rectify, or compensate for, an official error, as defined for the purposes of paragraph 22, being an amount to which that paragraph does not apply;
  - (e) by a local authority out of funds provided under either section 93 of the Local Government Act 2000(a) under a scheme known as "Supporting People" or section 91 of the Housing (Scotland) Act 2001.

(2) In sub-paragraph (1), "benefit" means—

  - (a) attendance allowance under section 64 of the Act;
  - (b) disability living allowance;
  - (c) personal independence payment;
  - (d) an AFIP;
  - (e) income support;
  - (f) income-based jobseeker's allowance;
  - (g) state pension credit;
  - (h) housing benefit;
  - (i) council tax benefit;
  - (j) child tax credit;
  - (k) an increase of a disablement pension under section 104 of the SSCBA (increase where constant attendance is needed), and any

further increase of such a pension under section 105 of the Act (increase for exceptionally severe disablement);

- (l) any amount included on account of the applicant's exceptionally severe disablement or need for constant attendance in a war disablement pension or a war widow's or widower's pension;
- (m) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001
- (n) working tax credit; or
- (o) income-related employment and support allowance.

**22.** (1) Subject to sub-paragraph (3), any payment of £5,000 or more which has been made to rectify, or to compensate for, an official error relating to a relevant benefit and which has been received by the applicant in full on or after the day on which he became entitled to a reduction under this scheme.

(2) Subject to sub-paragraph (3), the total amount of any payments disregarded under—

- (a) paragraph 7(2) of Schedule 10 to the Income Support (General) Regulations 1987;
- (b) paragraph 12(2) of Schedule 8 to the Jobseeker's Allowance Regulations 1996;
- (c) paragraph 9(2) of Schedule 5 to the Council Tax Benefit Regulations 2006; (d) paragraph 20A of Schedule 5 to the State Pension Credit Regulations 2002,
- (e) paragraph 11(2) of Schedule 9 to the Employment and Support Allowance Regulations 2008,

where the award in respect of which the payments last fell to be disregarded under those Regulations either terminated immediately before the relevant date or is still in existence at that date.

(3) Any disregard which applies under sub-paragraph (1) or (2) has effect until the award comes to an end.

(4) In this paragraph—

“the award”, except in sub-paragraph (2), means—

- (a) the award of a reduction under the authority's scheme during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received; and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided that, for such further awards, the applicant—
  - (i) is the person who received the relevant sum;
  - (ii) is the partner of that person; or
  - (iv) was the partner of that person at the date of his death;

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(a) 2000 c.22.

“official error”—

- (a) where the error relates to housing benefit, or council tax benefit (in respect of any period before 1st April 2013), has the meaning given by regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(a); and
- (b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999; “the relevant date” means the date on which the application for a reduction under this scheme was made;

“relevant benefit” means any benefit specified in paragraph 21(2); and “the relevant sum” means the total amount referred to in sub-paragraph (1).

- 23. Where a capital asset is held in a currency other than Sterling, any banking charge or commission payable in converting that capital into Sterling.
- 24. The value of the right to receive income from an occupational pension scheme or a personal pension scheme.
- 25. Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 6 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.
- 26. The dwelling occupied as the home; but only one dwelling is to be disregarded under this paragraph.
- 27. (1) Subject to sub-paragraph (2), where an applicant falls within class C (alternative maximum council tax reduction: pensioners), the whole of his capital.  
  
(2) Sub-paragraph (1) does not apply where an applicant falls within class B and class C.
- 28. Where a person elects to be entitled to a lump sum under Schedule 5 or 5A to SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005, or is treated as having made such an election, and a payment has been made pursuant to that election, an amount equal to—
  - (a) except where sub-paragraph (b) applies, the amount of any payment or payments made on account of that lump sum;
  - (b) the amount of that lump sum,

but only for so long as that person does not change that election in favour of an increase of pension or benefit.

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(a) S.I. 2001/1002.

**29.** Any payments made by virtue of regulations made under—

- (a) section 57 of the Health and Social Care Act 2001 (direct payments);
- (b) section 12B of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services);
- (c) sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care);
- (d) Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972**(a)** (general social welfare); or
- (e) section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002**(b)** (direct payments).

## **PART 2**

### **Capital disregarded only for the purposes of determining deemed income**

- 30.** The value of the right to receive any income under a life interest or from a life rent.
- 31.** 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.
- 32.** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 33.** Where property is held under a trust, other than—
  - (a) a charitable trust within the meaning of the Charities Act 1993; or
  - (b) a trust set up with any payment to which paragraph 16 applies,

and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the applicant or the applicant's partner, or both, that property.

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(a) S.I. 1972/12656 (N.I. 14).  
(b) 2002 c.6.

**Capital disregards: persons who are not pensioners**

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Scheme but only for 52 weeks beginning with the date of receipt of the payment.
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 but only for 52 weeks beginning with the date of receipt of the payment.
4. 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, but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), only one dwelling is to be disregarded under this paragraph.
5. 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.
6. 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.
7. 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 does 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.

8. 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.
9. 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.
10. 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.
11. (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 application for a reduction under this scheme 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.  
  
(4) 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.
12. (1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—



- (a) any payment specified in paragraphs 11, 13 or 14 of Schedule 8;
- (b) an income-related benefit under Part 7 of the SSCBA;
- (c) an income-based jobseeker's allowance;
- (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
- (e) working tax credit and child tax credit;
- (f) an income-related employment and support allowance,

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

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as "the relevant sum") and is—

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and
- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) has effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the period of an award of a reduction under this scheme, for the remainder of that period if that is a longer period.

(3) For the purposes of sub-paragraph (2), "the period of an award of a reduction under this scheme" means—

- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant—
  - (i) is the person who received the relevant sum; or
  - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death.

### 13. 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.

**14. Any sum—**

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 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.

- 15.** 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 a reduction under this scheme or to increase the amount of that reduction.
- 16.** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 17.** 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.
- 18.** (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).

19. The value of the right to receive any income under a life interest or from a life rent.
20. The value of the right to receive any income which is disregarded under paragraph 15 of Schedule 7 or paragraph 29 of Schedule 8.
21. The surrender value of any policy of life insurance.
22. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
23. 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).
24. (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.
25. Any—
  - (a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or
  - (b) occasional assistance.
26. 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.

27. Any capital which by virtue of paragraph 55 or 81 (capital treated as income: persons who are not pensioners, treatment of student loans) is to be treated as income.
28. 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.
29. (1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund.  
  
(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
  - (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.  
(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person 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) Sub-paragraph (3) does not apply if—
  - (a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or

(b) 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.

(5) 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.

(6) 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 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.

(7) In the case of a person to whom or for whose benefit a 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.

(8) For the purposes of sub-paragraphs (2) to (6), any reference to the

Trusts is to 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.

- 30.** (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.
- 31.** 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.
- 32.** 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.
- 33.** 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.
- 34.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 35.** The value of the right to receive an occupational or personal pension.
- 36.** The value of any funds held under a personal pension scheme.
- 37.** 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.

38. 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).
39. Any payment made pursuant to section 2 of the Employment and Training Act 1973 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.
40. Any payment in consequence of a reduction of council tax under section 13 of the 1992 Act (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.
41. Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988(a) or section 66 of the Housing (Scotland) Act 1988(b) (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.
42. Any arrears of supplementary pension which is disregarded under paragraph 54 of Schedule 8 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.
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),

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(a) 1988 c.50.  
(b) 1988 c.43.

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 receipt of the payment or repayment.

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), but only for a period of 52 weeks from the date of receipt of the payment.
45. Any payment made under Part 8A of the SSCBA (entitlement to health in pregnancy grant).
46. 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.
47. 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(a) to assist disabled persons to obtain or retain employment despite their disability.
48. Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958(b) to homeworkers assisted under the Blind Homeworkers' Scheme.
49. (1) Subject to sub-paragraph (2), where an applicant falls within class F (alternative maximum council reduction: persons who are not pensioners), the whole of his capital.  
  
(2) Sub-paragraph (1) does not apply where an applicant falls within class E and class F.
50. (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.

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(a) 1944 c.10.  
(b) 1958 c.3



(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.

**51.** 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.

**52.** Any payment to the applicant as holder of the Victoria Cross or George Cross.

**53.** 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.

**54.** (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.

**55.** (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 the Welsh Ministers 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
- (c) 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).

- 56.** 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.
- 57.** 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.
- 58.** 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 internment 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.
- 59.** (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 applies 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 applies 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 applies 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 applies 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 applies 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 applies 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 includes 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.

- 60.** 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.
- 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 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 sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care).
- 63.** Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 64.** Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).



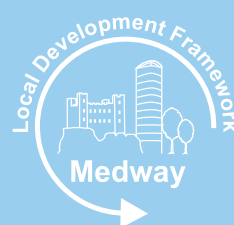
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# Medway Monitoring Report 2013

## Volume 1 - Main Report

December 2013



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## Volume 1 - Main report

December 2013





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## Executive Summary

The format of this report reflects the policy themes in the Medway Core Strategy and reports progress against these. Detailed statistical tables continue to be provided in a separate volume.

Particular highlights of the year included:

- Continuing progress with the regeneration programme despite the continuing economic downturn. Phase 1 was completed at Rochester Riverside.
- Housing completions at 565 were down on the Medway annual average to date, but were proportionately higher than elsewhere in Kent. Affordable housing completions were again well above target at 33% of gross completions.
- Housing in Medway is now relatively more affordable than it was in 2006. It is also more affordable than the national average and substantially more affordable than large parts of the southeast.
- The overall town centre vacancy rate of 10% remained below the national level (14%).
- There was a 5% increase in the number of businesses in Medway.
- In 2012/13 five sites retained Green Flag status, Riverside Country Park and The Vines for the fifth consecutive year.
- Medway's carbon footprint remained substantially below the national average
- A high number of planning applications were submitted for renewable energy installations
- There was a significant increase in community volunteering - up by 45%.
- Increases in visitor numbers to the Guildhall Museum and other visitor attractions

## Introduction

This report provides monitoring information and statistical data for the period April 2012 – March 2013, with references to previous years for comparison purposes. It gives details of economic, social and environmental data to allow a measure of how Medway is performing as an area, and understanding its needs. It is a key mechanism for the Council in assessing the progress being made towards achieving its goals for economic growth, protecting the natural and historic environment, and meeting the needs of its communities.

The Council has followed the established protocol for producing this Monitoring Report on an annual basis in December for the preceding financial year.

### Local Development Scheme (LDS)

The current Local Development Scheme (LDS) dates from August 2011. (<http://www.medway.gov.uk/pdf/Local%20Development%20Scheme%20August%202011.pdf>)

The scheme covers the timetable for the production of a Local Development Framework for Medway, with the following key documents:

Document Title	Key dates
Medway Core Strategy	Submission - March 2012 Hearing Sessions - July 2012 Adoption – October 2012
Land Allocations and Development Management DPD	SEA/SA Scoping – June 2013-11-28 Submission – May 2014 Hearing Sessions – September 2014 Adoption – January 2015
Community Infrastructure Levy	Preparation – July 2012 Public Consultation on draft CIL – January 2013 Examination – June 2013 Adoption – September 2013

The draft Core Strategy was submitted for independent Examination slightly ahead of schedule in February 2012. Hearing Sessions were held in June 2012. At the Hearing Session held to consider a strategic development allocation at Lodge Hill on the Hoo Peninsula, the RSPB presented information collected from a survey of nightingales in Spring 2012. This indicated an increase in the population of birds across the proposed development site. The Inspector subsequently asked for further work to be carried out on this matter, to consider the feasibility of developing a mitigation/compensation package that could address the potential loss of nightingale habitat at Lodge Hill. The Examination was suspended from September 2012 to January 2013 to allow this additional work to be carried out. A further Hearing Session was held in May 2013.

In the light of the new survey information, Natural England revised its advice on Lodge Hill, and commenced the process of notifying the site as a Site of Special Scientific Interest (SSSI). Pending the outcome of this process, the Examination was

again suspended in Summer 2013 until late November 2013. On 19 November, the Natural England Board confirmed the notification of the Lodge Hill site as a SSSI for its nightingale, grassland and woodland interest. As a direct result of this decision, Medway Council withdrew the Core Strategy from the Examination process.

The Council will now prepare a new Local Development Scheme to set out a programme for the production of a new Local Plan for Medway.

Given the reporting period for this Monitoring Report, the Council has used the themes and targets set out in the Submission draft Core Strategy. This includes reporting on housing delivery against the target proposed in the draft Core Strategy.

The draft Core Strategy considered the key themes of sustainable development and reflected the aspirations of the Medway Community Plan. These themes therefore continue to be appropriate in structuring the content of the authority's Monitoring Report.

### **Monitoring Period**

The report has been informed by information gathered from planning applications still to be determined and those already determined at 31<sup>st</sup> March 2013. In addition it takes account of a number of sites that are not yet subject to a planning application but have been identified in the Strategic Land Availability Assessment (SLAA).

It should be noted that the report also only refers to matters up to the end of the monitoring period. That is 31 March 2013. Events occurring after that date will be reflected in next year's report.

### **National Policy changes**

On 27 March 2012, the government published the National Planning Policy Framework (NPPF), which must now be taken into account in the preparation of local plans, and is a material consideration in planning decisions. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It replaces the former suite of Planning Policy Guidance notes and Planning Policy Statements.

Plans prepared before the publication of the NPPF (such as the Adopted Medway Local Plan – May 2003) are not automatically considered to be out of date just because they were adopted before the national policy was published. Policies had full weight for 12 months (until 26 March 2013), even where there was limited conflict with the NPPF. Local plans not in conformity with the NPPF would be likely to be considered out of date after that date, and the provisions of the NPPF will then take precedence over local policies. The Council has produced a report that assesses how each individual adopted local plan policy is compliant (or not) with the NPPF.

As of 1<sup>st</sup> April 2012 the Infrastructure Planning Commission was replaced by the National Infrastructure Directorate of the Planning Inspectorate.

### **Revocation of South East Plan**

Regional planning policy set out in the South East Plan was formally revoked in March 2013.

## **Community Infrastructure Levy**

The Council carried out consultation on a preliminary draft charging schedule in Spring 2013. However due to uncertainty on an adoption date for the Core Strategy, further work was delayed, pending the outcome of the Examination process.

## **Neighbourhood Plans and Neighbourhood Development Orders**

There are no Neighbourhood Plans or Neighbourhood Development Orders underway or adopted in Medway.

## **Local Aggregate Assessment**

In line with the requirements of the National Planning Policy Framework and government guidance on the Managed Aggregate Supply System<sup>1</sup>, the Council has prepared a Local Aggregate Assessment covering 2012. This provides an assessment of the demand and supply for aggregate minerals to meet local and wider strategic needs. This is included as Volume 3 of this Monitoring Report.

## **Duty to Cooperate**

The Council is required to cooperate with neighbouring local planning authorities and other statutory bodies to ensure a constructive approach to planning for sustainable development on strategic matters. It does so in a variety of ways and through a variety of forums. Medway Council has responded to consultation on development planning documents drafted by neighbouring local planning authorities and has engaged in information sharing with these Councils and other statutory bodies.

There has been formal engagement with Tonbridge and Malling Borough Council in the production of a masterplan for the Rochester Airport site. This straddles the administrative boundary. A Planning Officer from TMBC has been a member of the project group overseeing the development of the masterplan for this key site.

Regular meetings have been held with Gravesham Borough Council, Swale Borough Council and Maidstone Borough Council.

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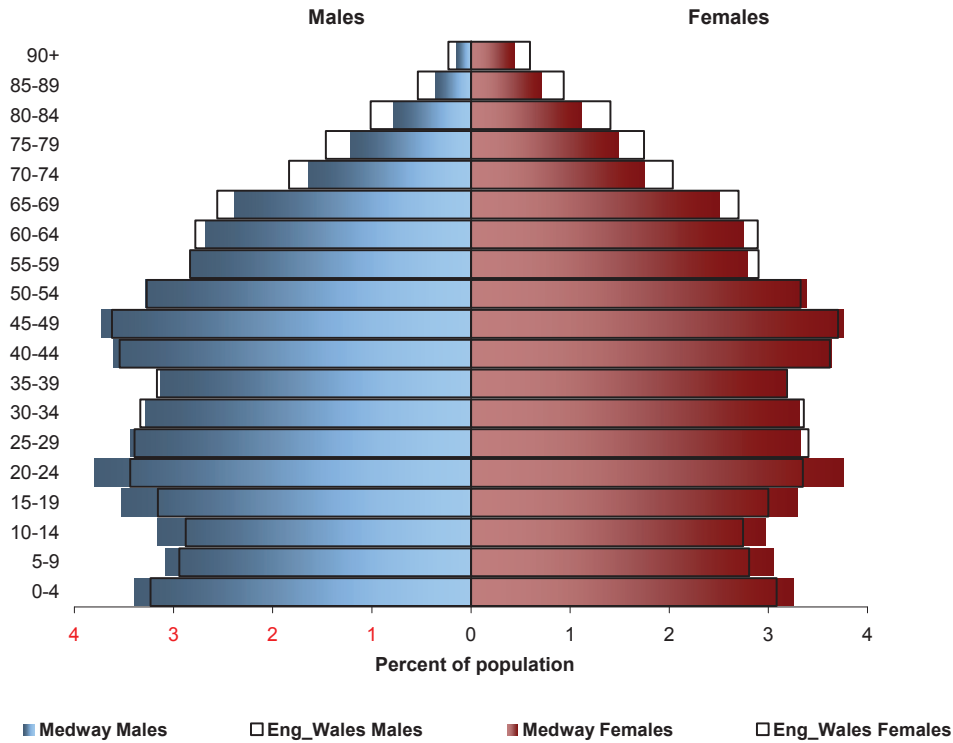
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# Medway population profile

## Population

The 2012 mid-year figure indicates that the population of Medway reached 268,218, an increase of 3,333 persons (+1.3%) on the 2011 mid-year estimate.

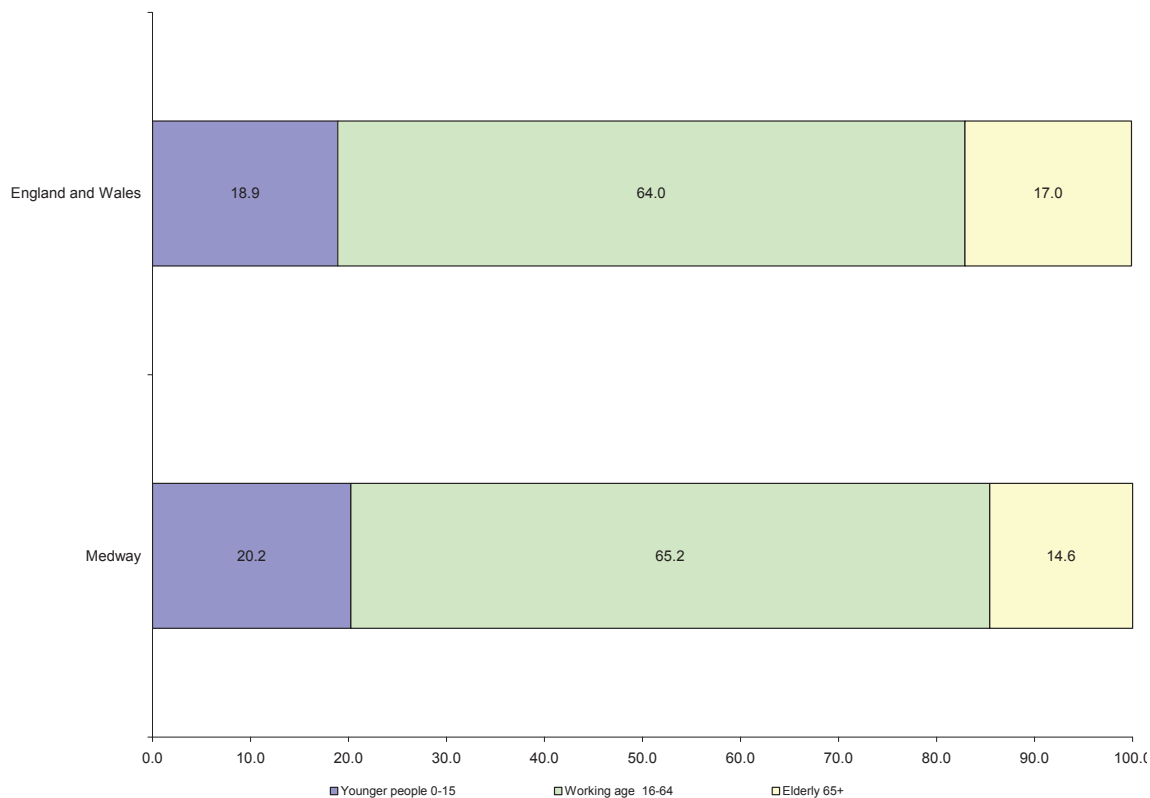


Population growth in Medway since the 2011 Census can be attributed to both natural growth – births exceeding deaths (+1,500) and inward migration (+1,800).

Over the past ten years natural growth has been the major contributor to overall growth. The birth rate in Medway has been rising over the past ten years peaking at 3,600 births per annum in the last two years.

The population has grown more rapidly in recent years, with an increasing trend towards net in migration. Prior to 2005 net out migration offset the effect of natural growth'.

Breaking down the population by broad age group - Medway has a slightly larger working age population at 65.2% than nationally (64%), a larger younger persons population (20%) and a smaller elderly population (15%).



### Population change

Population trend - 2006 to 2012							
	Previous mid year estimate	Live births	Deaths	Natural change	Net migration & other changes	Total change	Current mid year estimate
<b>2011/12</b>	<b>264.9</b>	3.6	2.1	1.5	1.8	3.3	<b>268.2</b>
2010/11	262.7	3.6	2.1	1.5	0.6	2.1	264.9
2009/10	260.2	3.5	2.0	1.5	1.1	2.5	262.7
2008/09	258.2	3.5	2.1	1.4	0.6	2.0	260.2
2007/08	255.8	3.4	2.1	1.3	1.1	2.4	258.2
2006/07	253.5	3.3	2.0	1.2	1.1	2.3	255.8
<b>2006-12</b>	-	20.9	12.4	<b>8.4</b>	<b>6.3</b>	<b>14.6</b>	-

## Migration

Inward migration exceeded outward migration in 2012 by around 1,800 persons, the highest figure in the last ten years.

Medway migration flows 2012					
Internal Migration			International Migration		
In	Out	Net	In	Out	Net
+11,823	-10,280	+1,543	+1,174	-924	+250

Inward migration to Medway in 2012 was largely from movements within the United Kingdom, with around +1,500 (83%) people moving to Medway from other parts of the country.

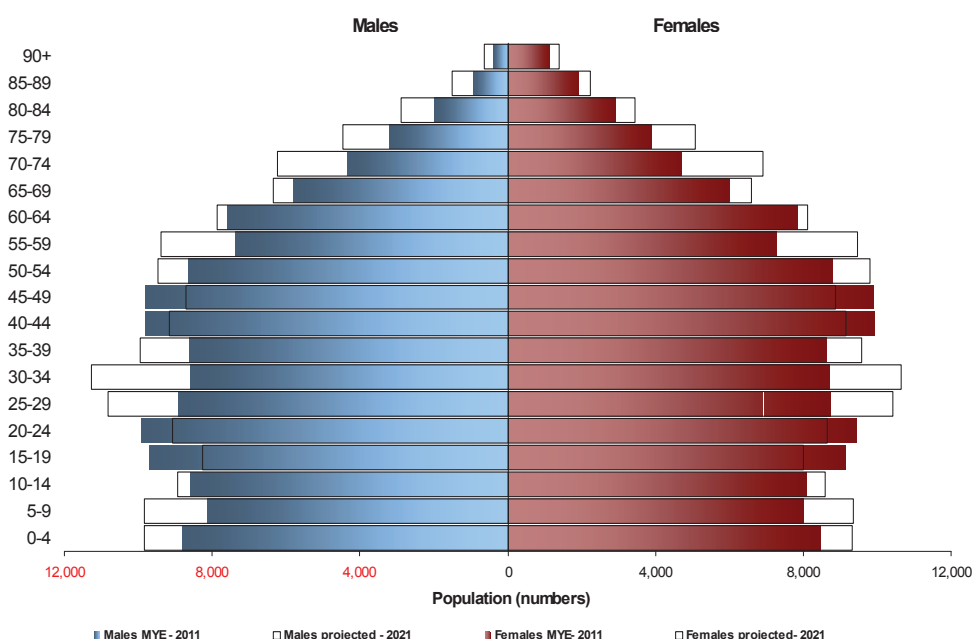
The largest migratory flows were from South East London with Greenwich, Lewisham, Bexley and Bromley accounting for almost half of the in migrants from the whole of Greater London.

## Population projection

At the end of September 2012, the ONS published Interim 2011 based population projections to 2021. These are based on the latest 2011 mid year estimate and take account of the 2011 Census.

The population of Medway is forecast to increase from 264,885 in 2011 to 290,337 in 2021; this represents an increase of 9.6% (+25,500).

The largest growth in the Medway population is seen amongst those of retirement age, with over 64's increasing by 28% (+10,400), 0-15's increasing by 11% (+5,800) and those of working age up by 5% (+9,300).



Population trend – 2011 to 2021						
2011 Mid Year estimate	Live births	Deaths	Natural change	Net migration & other changes	Total change	2021 estimate
<b>265,000</b>	+38,000	-21,000	+17,000	+9000	<b>+24,000</b>	<b>290,000</b>

*The Government explicitly titles the new projections as ‘interim’, which did not apply to the 2008 projections. It is understood that this caution has been added by DCLG since full, long term, 25-year projections are due to be published in 2014. These will be able to reflect the full results of the 2011 Census and the latest population projections. So they will be more informative than the data currently available.*

## Planning policy themes

<b>Regenerating Medway</b>
<i>Priority given to the established regeneration programme</i>
<b>Completion of retail, mixed use and commercial floor space in Chatham centre, Rochester Riverside, Chatham Historic Dockyard, Interface Land, St Mary's Island, Gillingham Waterfront</b>
Despite the economic downturn Phase 1 of the Rochester Riverside development was completed and the pace of development increased on St. Mary's Island. Good progress also continued on the Gillingham Waterfront development. However much remains to be done.
<b>Rochester Riverside</b>
The first phase of housing and infrastructure works on Rochester Riverside was completed, with the delivery of 73 affordable apartments managed through Hyde Housing, and the completion of the 'Southern Gateway' public square. Bath Hard Lane has now reopened, as has the Riverside Walk, providing pedestrian access to the waterfront. The Council is working with Network Rail to deliver further environmental improvements to the Doust Way railway arches.
<b>Chatham Waters</b>
In November 2011 the Council received a major application on almost 15 hectares of land, approximately 25% of the wider Chatham Docks. The land comprising the application site became available for development in 2012 when existing leases expired. The proposal is for a mixed-use scheme of up to 179,297sq.m. This includes Employment uses B1 & B2, up to 950 homes, student accommodation, hotels, leisure, conference, events and education facilities, a retail superstore, energy centre, petrol filling station and open space.  An application for reserved matters should be determined later in the year.
<b>Multiple Deprivation</b>
Medway is ranked within the 41% most deprived boroughs nationally in the Index of Deprivation (ID) 2010 (132 out of 325). This is a slight decline from ID 2007, when Medway was within the 43% most deprived, indicating that Medway is now slightly more deprived, relative to other areas.  In ID 2010, eight Super Output Areas (SOAs) were ranked in the 10% most deprived

nationally and 23 SOAs ranked in the 20% most deprived. Of the eight SOAs in the most deprived 10% nationally, three are in Gillingham North, two are in Chatham Central, two are in Luton & Wayfield and one is in River ward.

Medway's national ranking for income and employment - the two main domains - have worsened slightly since ID 2007. There was a slight increase in the number of people who are 'employment deprived' (+800). Despite a worsened national ranking for income deprivation fewer residents are income deprived (-1,500) than in the previous index.

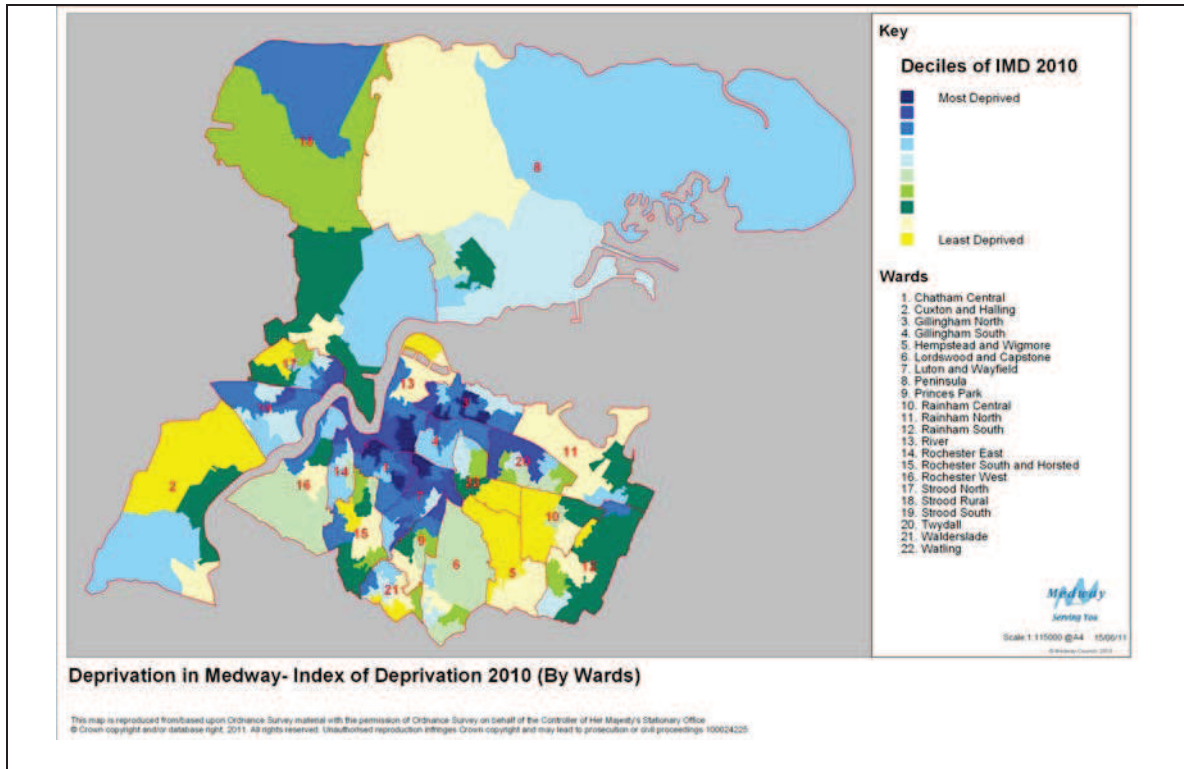
Fifty-seven percent of Super Output Areas (SOAs) in Medway had a more deprived ranking for multiple deprivation in 2010 than in 2007.

#### Medway deprivation - ID 2010 and 2007

	ID 2010	ID 2007
Medway ranking	132/325	139/325
Percentile	Within 41% most deprived LAs nationally	Within 43% most deprived LAs nationally
Income ranking	65/325 (20%)	66/325 (20%)
Employment ranking	69/325 (22%)	71/325 (22%)

#### Medway deprivation by domain – ID 2010 and 2007

	2010		2007		Change	
	10% most deprived SOAs	20% most deprived SOAs	10% most deprived SOAs	20% most deprived SOAs	10% most deprived SOA	20% most deprived SOAs
<b>Multiple deprivation</b>	<b>8</b>	<b>23</b>	<b>5</b>	<b>16</b>	<b>+3</b>	<b>+7</b>
Income	6	24	6	22	-	+2
Employment	7	24	3	16	+4	+8
Health & disability	3	15	1	6	+2	+9
Education skills & training	12	45	10	40	+2	+5
Barriers to housing & services	7	10	6	19	+1	-9
Crime	22	36	10	27	+12	+9
Living environment	21	42	14	38	+7	+5
Child poverty	8	26	4	27	+4	-1
Elderly poverty	6	19	6	19	0	0



Further more detailed information on deprivation in Medway is available via this link:  
<http://www.medway.gov.uk/pdf/Indices%20of%20Deprivation%202010.pdf>

The Index of Deprivation is to be updated by DCLG and published in 2015.

### **Quality & sustainable design**

*If Medway's regeneration is to reach its full potential good design will be critical in making the most of Medway's character and forging a new image for Medway as a good place to live and work.*

*New buildings in Medway will be expected to meet the highest architectural standards that reflect or generate local distinctiveness.*

### **Design Standards**

The Government is currently reviewing the regime of construction and design standards with a view to expanding the scope of the Building Regulations and limiting the application of local standards. Given this appropriate indicators are still being investigated to assess quality in Medway



## Mitigation & adaptation to climate change

*All development will be expected to take full account of its potential impact in terms of climate change and demonstrate that appropriate mitigation and adaptation strategies have been put in place to limit these impacts.*

### Reduction in carbon dioxide emissions (the carbon footprint)

CO2 emissions in Medway per head are lower than comparative levels nationally. This appears to be due to relatively limited levels of congestion and the high proportion of urban journeys. However while emissions in Medway are falling and remain below the national level, the gap has narrowed with national figures falling to a larger extent than in Medway.

In Medway the most significant decrease was equally in 'industrial/commercial' and domestic emissions, while nationally the largest decrease has been in domestic emissions.

Nationally and locally there has been a continuous decrease in electricity consumption and associated emissions, with a large drop between 2008 and 2009 likely to be associated with the downturn.

In 2010, emissions were slightly higher than in 2009. This was likely to be due to the coldest December on record, and the stabilisation of the economy may also have contributed. The downward trend continued in 2011 and total consumption dropped to the lowest level since 1998.

This was due to an increase in low carbon electricity generation i.e. use of renewables and nuclear over coal.

#### Medway CO2 emissions per head (kt CO2)

	Industry and Commercial	Domestic	Road Transport	Total CO2 emissions
2006	1.6	2.2	1.3	5.2
2007	1.6	2.2	1.3	5.1
2008	1.5	2.1	1.3	4.9
2009	1.3	1.9	1.2	4.4
2010	1.4	2.0	1.2	4.6
2011	1.2	1.8	1.2	4.1
Change 2006 to 2011	- 0.40	- 0.40	- 0.10	- 1.1

<b>National CO2 emissions per head (kt CO2)</b>				
	Industry and Commercial	Domestic	Road Transport	Total
2006	3.7	2.5	2.2	8.4
2007	3.5	2.4	2.2	8.2
2008	3.4	2.4	2.1	8.0
2009	2.9	2.1	2.0	7.1
2010	3.0	2.3	2.0	7.3
2011	2.7	2.0	1.9	6.7
Change 2006 to 2011	-1.0	-0.5	-0.3	-1.7

Source - Local and Regional CO2 Emissions Estimates for 2006-2011 produced by AEA for DECC – see link for further information:  
<http://www.decc.gov.uk/en/content/cms/statistics/regional/regional.aspx>)

### Energy Consumption

Domestic electricity usage in Medway was above the national level in 2011; consumption had fallen since 2006 but slightly below the drop seen nationally. Commercial/Industrial electricity use in Medway is considerably below the national level and the drop since 2006 was greater than the national figure.

### Energy Efficiency and Renewable Energy

*Medway has a strategic role in supplying power and heat to the region and the Country currently mainly from Conventional sources. There is great potential for Medway to produce much more energy from renewable sources.*

#### Renewable energy planning applications

There were eleven renewable applications determined during 2012/13

<b>Renewable energy applications</b>						
2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
2	0	2	5	6	13	11

<b>Renewable application details</b>			
<b>Application Number</b>	<b>Renewable energy type</b>	<b>Summary</b>	<b>Decision</b>
MC120354	Solar	Solar panels	Refused 25/4/12
MC120503	Solar	Photovoltaic panels	Approved 24/5/12
MC121551	Solar	Solar panels	Refused 26/9/12
MC122124	Solar	Solar Photovoltaic panel	Approved 21/11/12
MC122291	Solar	Photovoltaic panels	Approved 5/12/12
MC122292	Solar	Solar thermal panels	Approved 10/12/12
MC122297	Solar	Photovoltaic panels	Approved 5/12/12
MC122301	Solar	Solar panels	Approved 5/12/12
MC122337	Solar	Solar panels	Refused 7/12/12
MC122616	Solar	Solar panels	Refused 3/1/13 Appeal Dismissed 20/2/13
MC122812	Wind	Windfarm Consultation outside of Medway	No Objection 5/12/12



## Development and Flood Risk

*As sea levels rise and extreme weather events become more common it is vital that all developments are appropriately designed to withstand these factors and sufficient space is made for floodwater.*

*Where development is unavoidable next to rivers and the coast, as is the case in much of urban Medway, a range of sustainable flood risk management measures should be incorporated.*

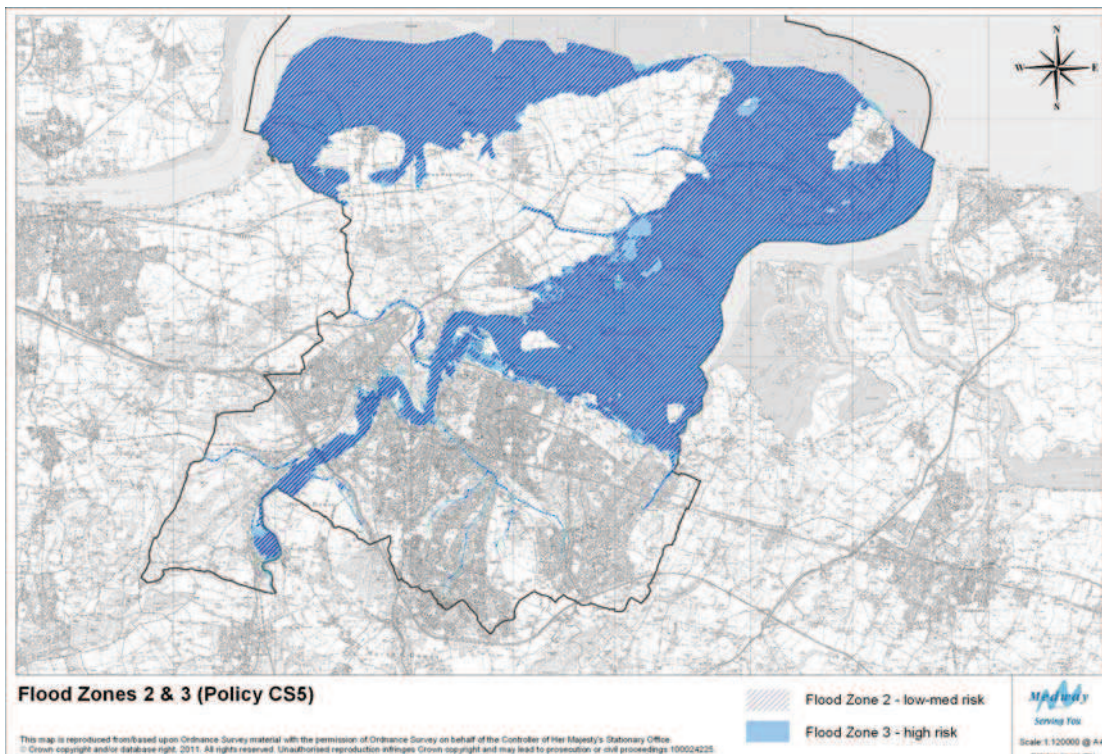
### Number of planning permissions granted contrary to Environment Agency advice on flooding and water quality grounds

No of Planning permissions granted contrary to Environment Agency advice		Objections		Details
		Flooding	Water Quality	
2006/7	0	1	0	EA objections were removed once a Flood Risk Assessment was provided and the application was subsequently approved with conditions.
2007/8	0	0	0	No data.
2008/9	0	1	0	Application was subsequently withdrawn.
			1	This was refused, but for other non-EA related reasons (countryside, Local Landscape Importance and strategic gap).
2009/10	0	1	0	Flood Risk Assessment/Flood Consequence Assessment was unsatisfactory. This application was later withdrawn.
2010/11	0	1	0	Objected to on the grounds that the Flood Risk Assessment/Flood Consequence Assessment was unsatisfactory. Once this was provided, the EA removed their objections. The application went on to receive approval with conditions.
			1	Approved with conditions ensuring that the EA's objections would be satisfied
2011/12	0	2	0	One application was objected to on the grounds that a Flood Risk Assessment/Flood Consequence Assessment was required. Once this was provided, the EA removed their objections. The application went on to be approved with conditions. Another application was also objected to on the grounds that a Flood Risk Assessment/Flood Consequence Assessment was required. The application was allowed on appeal, with conditions amongst others to satisfy the EA objection.
		0	1	Objected to on contamination and flooding grounds (it did not pass part C of the Exception Test relating to flood risk). The application was approved with conditions which included conditions in order to satisfy the EA's objections (such as land raising and surface water drainage etc...).
2012/13	0	1	0	An application was objected to by the EA on grounds that a Flood Risk Assessment/Flood Consequence Assessment was required. The application was approved with conditions amongst others to satisfy the EA objection.

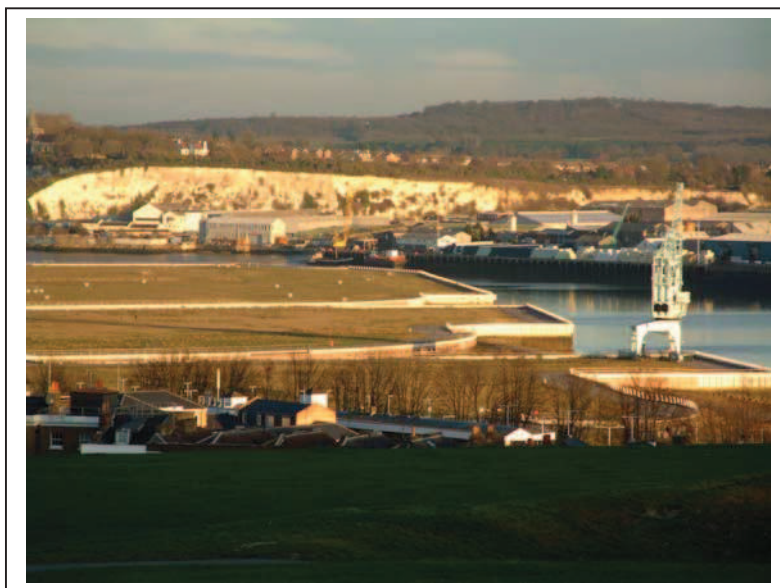
Medway Council as lead local flood authority has a number of new responsibilities under the Flood and Water Management Act 2010 and the Flood Risk Regulations 2009. The regulations cover flood risk management but the Act also introduces new local authority responsibilities for approving and adopting Sustainable Urban Drainage Systems (SUDS).



Flood Risk Areas are areas that require flood hazard and flood risk assessment, mapping and management through flood risk management plans.



For further information on flood risk areas in Medway see Flood Risk Assessment Guide : <http://tinyurl.com/9mjbxh7>



Flood defences  
at Rochester  
Riverside

## Preservation and Enhancement of Natural Assets

*Medway has a great many internationally and nationally significant landscapes including the Thames estuary and River Medway estuary marshes, the chalk grasslands of the Kent Downs, ancient woodlands as well as highly valued local areas of nature conservation value. Medway also has a large number of parks as well as a series of rural valleys, including Capstone Valley, Horsted Valley and Darland Banks.*

*Medway's open spaces and countryside have a critical role to play in helping to deliver sustainable development. However the proximity of these valuable sites to the urban area and their visitor potential poses particular challenges. Built development can lead to the fragmentation of habitats and high visitor numbers can damage the quality of designated areas.*

*A Nature Improvement Area for the Greater Thames Marshes was approved in 2012 to promote biodiversity improvements in an area, including much of the Hoo Peninsula. A Local Nature Partnership has also been established for the Thames Estuary.*

## Changes in areas of biodiversity importance

One measure is the proportion of local sites where positive conservation management has been or is being implemented.

There are sixteen wildlife sites within Medway monitored under this measure – of these sixteen, eleven were assessed as having positive management in 2012/13.

This is one less than in 2011/12, as no part of TM09 Bridge Woods is in management this year but with land management advisors again working there now this site may be counted again next year.

Proportion of local sites where positive conservation management has/is being implemented

2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
N/A	N/A	80%	67%	73%	75%	69%

Source – Kent Wildlife Trust, 2013

## Environmental Stewardship Schemes

Environmental Stewardship is an agri-environment scheme that provides funding to farmers and other land managers in England to deliver effective environmental management on their land.

Scheme	AG00265457 -Rochester
Type of Scheme	Entry Level plus Higher Level Stewardship
Total area under agreement	262.37 ha
Benefits	Farm woodlands are being maintained or restored to benefit wildlife and strengthen the local landscape character. Woodlands support many birds, plants, insects (especially butterflies) and mammals.
Work involved	The aim of woodland management is to maintain a varied structure with trees of different ages and a good ground flora. Management may include: maintaining rides and glades within the woodland by grazing or cutting, high forest management and rotational coppicing.

Scheme	AG00304670 -Rochester
Type of Scheme	Entry Level plus Higher Level Stewardship
Total area under agreement	373.63 ha
Benefits	Hedgerows are managed to provide shelter and food for many species of insects, birds and mammals such as the rare brown hairstreak butterfly, tree sparrows and the dormouse. They form corridors along which wildlife can move safely through farmland.
Work involved	Management may include sympathetic trimming (but not during the bird nesting season) to improve the structure of hedgerows; leaving some hedges uncut to grow taller and wider to provide shelter and food for wildlife; hedge laying and coppicing in a local style to rejuvenate a hedge; planting up gaps; establishing hedgerow trees; and protecting hedges from grazing animals.

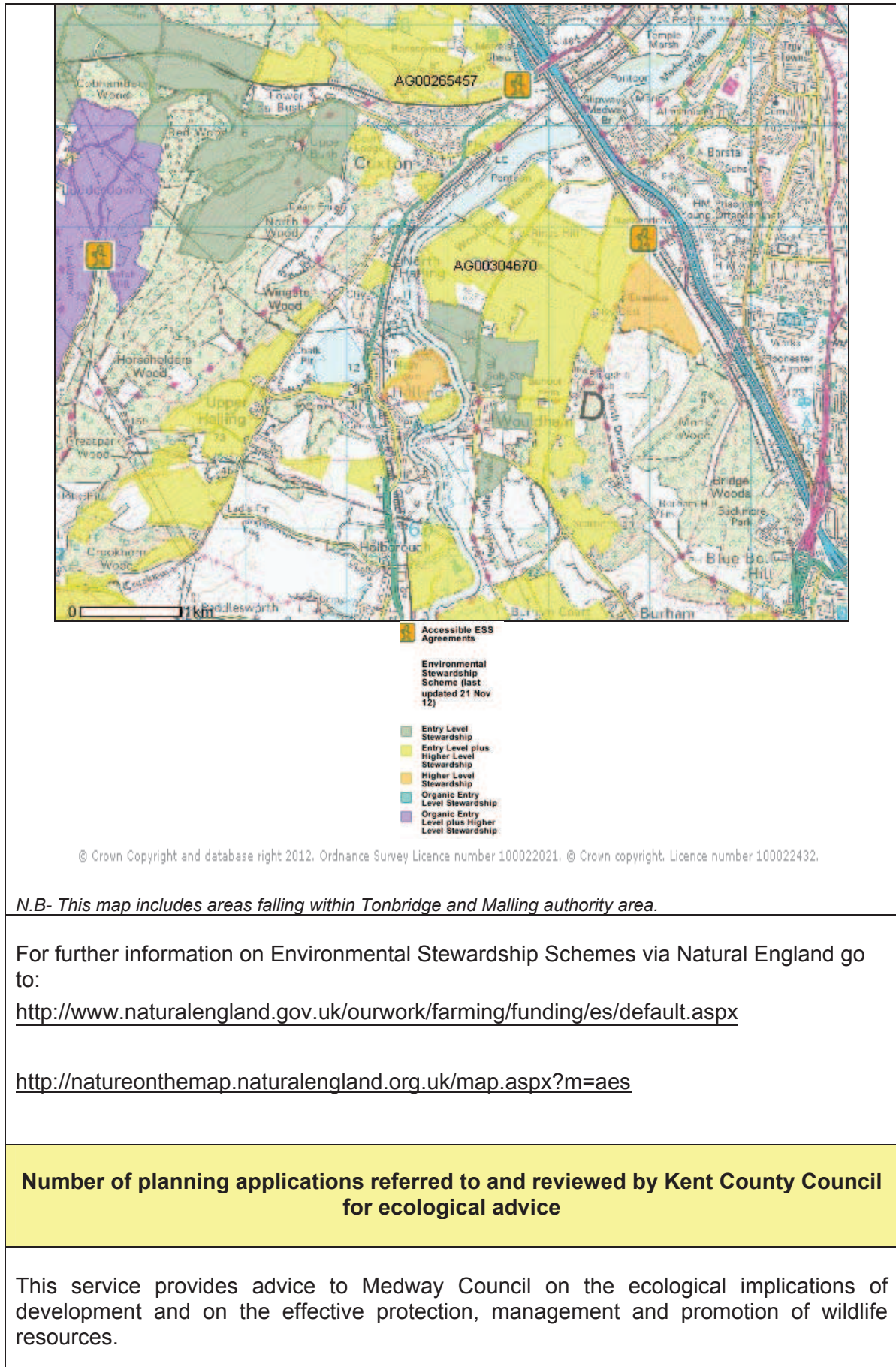
**Higher Level Stewardship**

HLS aims to deliver significant environmental benefits in priority areas. It involves more complex environmental management requiring support and advice from local advisers, to develop a comprehensive agreement that achieves a wide range of environmental benefits over a longer period of time. HLS agreements last for ten years.

**Entry Level Stewardship**

With nearly 60% of England's agricultural land now in Entry Level Stewardship, this is the basic underlying scheme open to all farmers and land managers in England. ELS agreements are for five years.







Sixty-four applications were referred to and reviewed by KCC in 2011/12.

Ninety-nine applications/cases were referred to and reviewed by KCC in 2012/13.

Advice given related to a wide range of wildlife and biodiversity, covering issues including birds, bats and vegetative diversity.



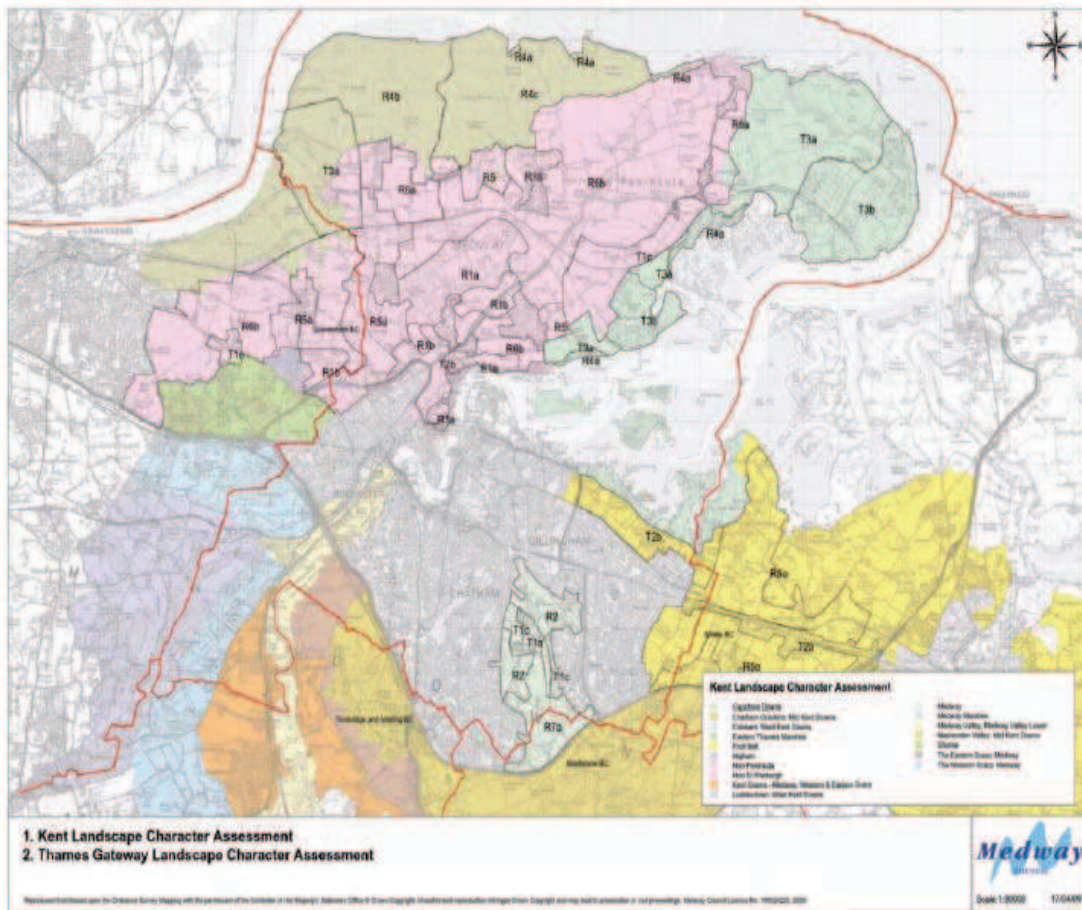
Ranscombe Farm

## Countryside and Landscape

*Medway's distinctive sense of place is closely linked to its landscape setting. Its chalk hills and valleys, the Hoo Peninsula with its wooded spine and extensive marshes and the river and its estuary all play their part.*

### Landscape Character Assessments

Medway adopted a Landscape Character Assessment in March 2011, which is a spatially mapped strategy that provides an evidence base to inform decisions on planning applications in the countryside and urban fringe. It sets out a framework for protecting and enhancing the character and function of the area's distinct landscapes.



<http://www.medway.gov.uk/environmentandplanning/conservation/landscape.aspx>

### Public Rights of Way (PROW)

Over 150 new PROWs have been created within the Medway urban areas as part of a Former Excluded Area Paths project.

Reducing maintenance budgets are being managed by building working relations with the Probation and Prison services.

Other priorities for the service included:

- Achieving successful working relationships with landowners, farmers and tenant farmers to ensure a higher percentage on path reinstatement across open land year on year.
- Joined up working with Waste Services, Green Spaces and Highway Contractors to tackle fly tipping.
- Listening to residents needs and engaging with racial minorities within rural areas to achieve improved countryside access.
- Continuing close co-operation with the Local Access Forum advisory group.



Cuxton

## Open Space, Green Grid and Public Realm

The Council will seek to provide equal opportunities for all people to enjoy accessible, high quality, well maintained and affordable open space.

Greening the Gateway Kent and Medway is leading a Green Infrastructure project on the Hoo Peninsula to develop the application of ecosystem services and promote investment in this area.

### Citizens voluntary participation

Medway Council continue to work with local communities, via 25 Friends Groups, in maintaining and improving local parks and open spaces. In 2012-13 there were 2,772 people involved, contributing to 13,188 hours of volunteering, an increase of 45% compared to 2011-12. This increase in volunteering has been aided by the appointment of a dedicated Greenspaces Partnership Officer.

Improvements this year included entrance improvements to Gillingham Green, path resurfacing and creation of a winter garden at Gillingham Park. Five sites retained the Green Flag award, Riverside Country Park and The Vines for the fifth consecutive year.

#### Volunteer hours

2009-10	2010-11	2011-12	2012-13
7,705	7,054	9,182	<b>13,188</b>

### Number of Green Flags

In 2012/13 five sites retained the Green Flag award, Riverside Country Park and The Vines for the fifth consecutive year.

The target of 5 Green Flags has been achieved from a baseline 6 years ago of no Green Flags in Medway.

This indicator recognises the enormous contribution made by volunteers to delivery and development of Greenspace and Heritage assets. In targeting year on year increase in hours and days of volunteering this indicator promotes community ownership of sites.

#### Green flag sites

Year	Total number	Site
2007	0	
2008	2	The Vines, Riverside CP



2009	3	The Vines, Riverside CP, Hillyfields
2010	4	The Vines, Riverside CP, Hillyfields, Capstone Farm CP
2011	5	The Vines, Riverside CP, Hillyfields, Capstone Farm CP, Broomhill Park
2012	5	
2013	5	

**Greening the Gateway**

Greening the Gateway Kent and Medway is leading a Green Infrastructure project on the Hoo Peninsula to develop the application of ecosystem services and promote investment in this area. Work over the last year involved mapping and analysis together with a series of Community Conversations with businesses, residents, community groups and other organisations to feed into the development of green infrastructure business plans.

See:

The Vines Management Plan

<http://www.medway.gov.uk/pdf/The%20Vines%20MMP%202012%20-%202016.pdf>

Hillyfields Community Park Management Plan

<http://www.medway.gov.uk/pdf/Hillyfields%20MMP%202012.pdf>

Broomhill Park Management Plan

<http://www.medway.gov.uk/pdf/2012%20Broomhill%20Park%20Green%20Flag%20Management%20plan%202012.pdf>

Greening the Gateway Kent and Medway

<http://www.gtgkm.org.uk>

Valley of Visions

<http://www.valleyofvisions.org.uk/>



Gillingham Gateway

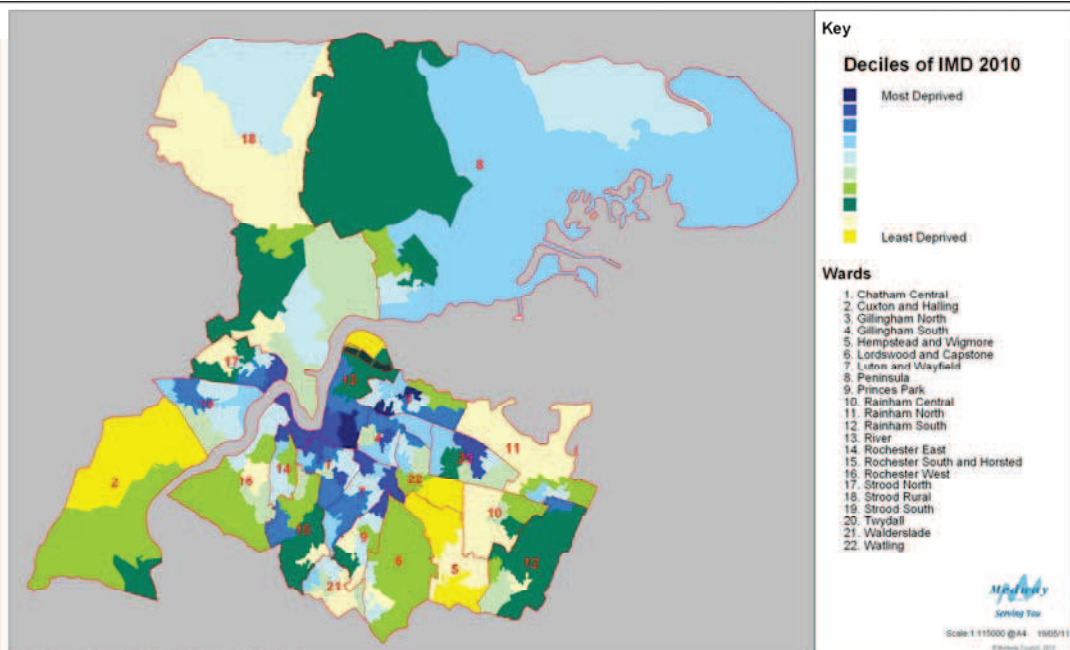
## Health and Social Infrastructure

*The council seeks to support the development of sustainable places in Medway with healthy communities and social infrastructure where residents enjoy a high quality of life having access to affordable housing, good community facilities, public open space and sport & leisure facilities.*

## Health deprivation – Index of Deprivation

The health domain appears to be one of the least significant domains in Medway in terms of deprivation when taking all SOAs into account. However this domain has shown the most relative deterioration since ID 2007, with almost three-quarters of SOAs having a worse national ranking than in the previous index.

Just three SOA's are ranked in the most deprived 10% nationally for health, two in Gillingham North and one in River. SOA 015E in River ward is ranked in the 2% most deprived areas nationally.



**Deprivation in Medway ID 2010-  
Health\_Disability (By Wards)**

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### Average life expectancy

Life expectancy in Medway is below the national level.

#### Medway life expectancy

	2005-07	2006-08	2007-09	2008-10	2009-2011
Male	76.6	76.8	77.3	77.6	78.2
Female	81.0	81.2	81.6	81.7	82.1

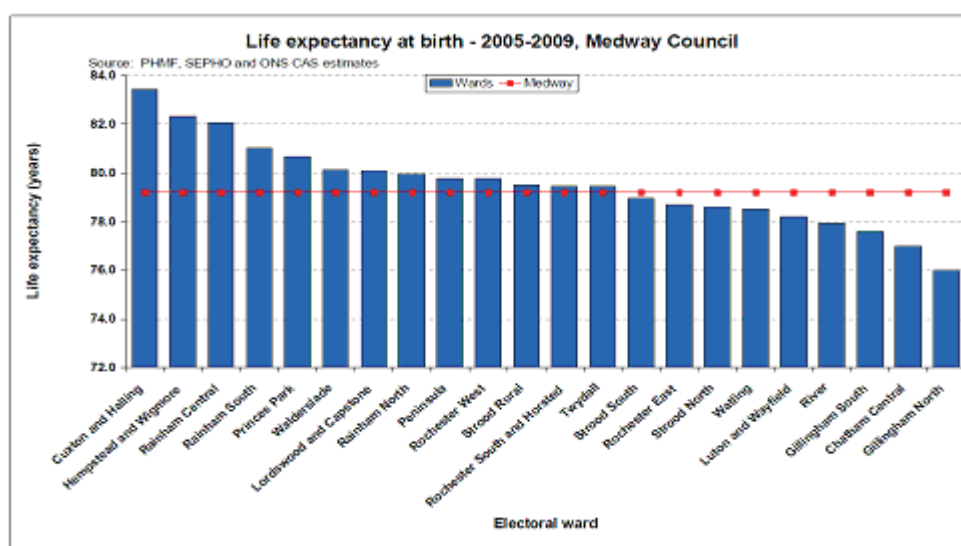
#### England authority average life expectancy

	2005-07	2006-08	2007-09	2008-10	2009-11
Male	77.7	77.9	78.1	78.5	78.9
Female	81.8	82.0	82.2	82.5	82.9

Within Medway there is a significant difference in life expectancy with residents living in the most deprived wards having a life expectancy seven years less than those living in the least deprived areas. This 'health inequality' widens to nine years difference for males.

Medway was named as one of the most obese places in Britain, with a fifth of year six children labelled obese. Workshops have been held about creating a healthier food environment.

More than 1000 people signed up to A Better Medway Healthy New Year campaign. Three pharmacies in Medway are among the first in the Country to become healthy living pharmacies. Two are in Chatham and one in Hoo.



**Early deaths – heart disease & stroke, cancer**

Deaths in Medway from 'heart disease & stroke' and cancer remain above the national level. Deaths from heart disease & stroke have fallen, deaths from cancer have increased.

**Medway early deaths**

	2005-07	2006-08	2007-09	2008-10	2009-11
Heart disease and stroke	91.9	86.1	77.8	70.4	64.8
Cancer	125.8	124.7	123.3	124.9	122.7

**England authority rate – early deaths**

	2005-07	2006-08	2007-09	2008-10	2009-11
Heart disease and stroke	79.1	74.8	70.5	67.3	60.9
Cancer	115.5	114.0	112.1	110.1	108.1

*Directly age standardised rate per 100,000 population under 75*

**Teenage pregnancy rate**

Medway has a teenage pregnancy rate above the national level, however since 2006 the rate has been dropping, a trend that is also reflected nationally.

**Medway – teenage pregnancy rate**

2005-07	2006-08	2007-09	2008-10	2009-11
46.4	46.3	45.2	44.4	41.0

**England & Wales – teenage pregnancy rate**

2005-07	2006-08	2007-09	2008-10	2009-11
41.2	40.9	40.2	38.1	34.0

Under-18 conception rate per 1000 females aged 15-17 (crude rate)  
Source: APHO and Department of Health. © Crown Copyright 2013



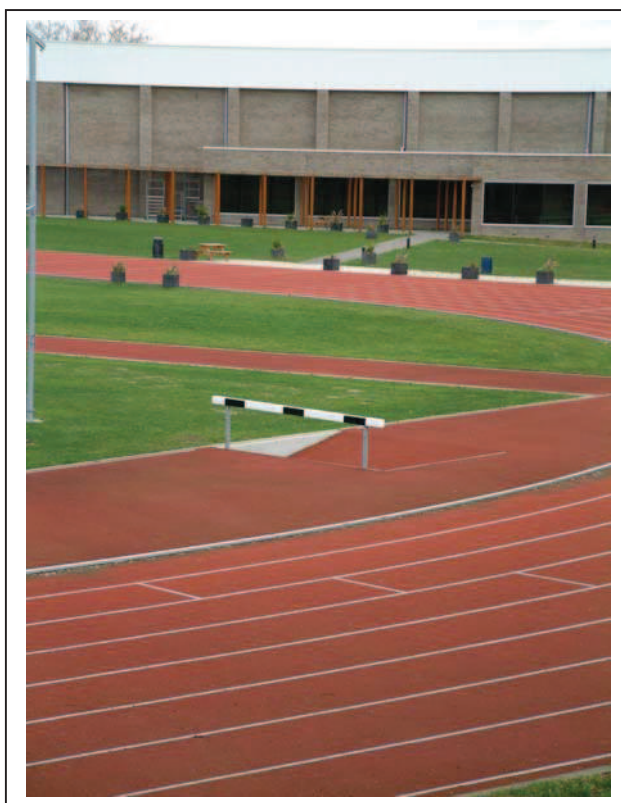
For key health and social care issues in Medway see the Medway Joint Strategic Needs Assessment (JSNA):

<http://www.medwayjsna.info>

## Sport and Recreation

*To improve the quality of life of existing and future residents of Medway and promote healthier lifestyles.*

*Monitoring measures for this policy are under development*



Medway Park

## Culture and Leisure

*To realise the significant cultural and leisure potential of the area, to improve the quality of life of existing and future residents, promote healthier lifestyles and a participative and inclusive community*

### Visitor numbers to Guildhall Museum, Rochester

Following a decline from a high in 2007-08, investment in improving the museum offer (Opening the Doors) has seen visitor numbers recover to a high in 2012-13 of 65,103.

Museum Visitors						
2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
64,422	64,442	59,007	56,610	56,304	65,637	<b>65,103</b>

### Libraries and archives

Medway Library and Archives Service attracted well over 1,100,000 visitors and issued over one million books and audiovisual items. The service is provided through sixteen Libraries, two mobile libraries and an Archives and Local Studies department.

The service uses a number of initiatives to develop literacy and engender a love of reading. Over 48,000 members of the public used these in the last year.

Three libraries are being transformed into Community Hubs, giving residents a gateway and much wider range of Council services.

During this period over 174,000 free computer sessions were provided and nearly 7,000 eBooks were issued.

## Heritage Assets

*Medway's valuable heritage assets will be preserved and enhanced.*

*Medway's historic environment is an irreplaceable asset. It is an expression of our history, heritage and culture and lies at the heart of local and regional character and sense of place. It helps to maintain varied and attractive places in which to live and work, provides historic places to visit and enjoy and encourages investment in, and re-use of, old buildings. It has the potential to act as a significant draw for inward investment and heritage led regeneration.*

## World Heritage Site

The proposed World Heritage Site In Medway includes the Historic Dockyard, Fort Amherst, Gun Wharf, Upnor Castle, the Great Lines, Brompton Village, the Royal School of Military Engineering (Brompton Barracks) and the River Medway.

There are currently 27 World Heritage Sites in the UK. Government has a shortlist of sites which it will put forward for World Heritage Status, and is allowed to propose one each year. Chatham Dockyard and its defences are already on this shortlist.

*Progress to date:*

The Chatham World Heritage steering group submitted a Technical Evaluation to government (Department for Culture, Media and Sport) in April 2012, bidding to be one of the next UK nominations for World Heritage Site status.

Government recognised the many strengths of the application but requested two principal areas of work be progressed before a nomination date is allocated. These are:

- (1) To produce a WHS planning policy document which synthesises existing policy protection for the WHS and its setting in a single place.
- (2) To enhance the comparative study of Chatham Dockyard and its Defence with the existing World Heritage Sites of Karlskrona and Kronstadt.

In response to government feedback, the former ICOMOS assessor for Karlskrona has been engaged to produce a comparative study, and the Preservation and Education Director at Chatham Historic Dockyard Trust has visited Kronshtadt. A report will be produced shortly outlining Chatham's uniqueness in both contexts.

A draft planning policy document for Chatham Dockyard and its Defences has been produced, with support from the Chatham World Heritage Steering Group.

A further Technical Evaluation was submitted to government (DCMS) in October 2013, requesting the next available UNESCO nomination date in 2016.

### Great Lines Heritage Park (GLHP)

Continued progress on the GLHP was made at Fort Amherst in the un-restored area/Spur Battery.

The RSME Bicentenary Bridge was constructed during 2012 to celebrate 200 years of the RSME in Brompton.

The community group, Friends of GLHP continue to meet regularly.

One part of the guardhouse has been brought back into use and the roof and wooden floor of the Grand Magazine were repaired. This space is now an established wedding and conference venue.

*Further information on the World Heritage Site is available at:*  
<http://www.chathamworldheritage.co.uk/>



Photo: Fort Amherst new public access footbridge

### Housing Provision and Distribution

*Provision will be made to ensure at least 17,930 new homes can be delivered between 2006 and 2028, (an average of 815 per year), of which at least 17,500 will be within the Thames Gateway Area.*

#### Net additional dwellings a) in previous years b) for reporting year c) in future years

In 2012/13 565 units were completed, which was below the annual requirement of 815 but was just above the 2011/12 AMR estimate of 540. This reflects the economic downturn.

#### Net additional dwellings in previous years

	Completions	Requirement	Surplus/deficit
2007	591	815	-224
2008	761	815	-54
2009	914	815	+99
2010	972	815	+157
2011	657	815	-158
2012	809	815	-6
2013	565	815	250
<b>2007-2013</b>	<b>5269</b>	<b>5705</b>	<b>-436</b>

#### Number of new and converted dwellings on previously developed land

In 2012/13, 395 residential completions were on previously developed land, which represents 70% of all residential completions.

Over the past 7 years, on average 63% of dwellings completed have been on previously developed land.

#### Number of new and converted dwellings on previously developed land (net)

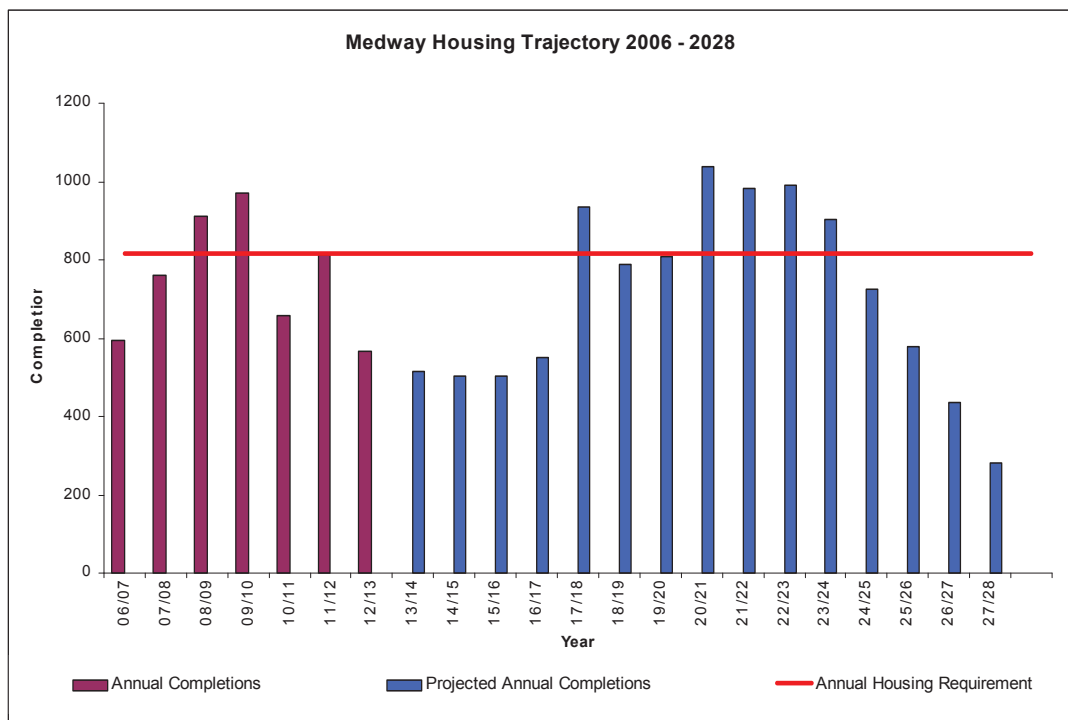
	Percent units on PDL	Units on PDL
2006/07	91%	538
2007/08	37%	408
2008/09	51%	524
2009/10	63%	622
2010/11	49%	322
2011/12	63%	513
2012/13	70%	395

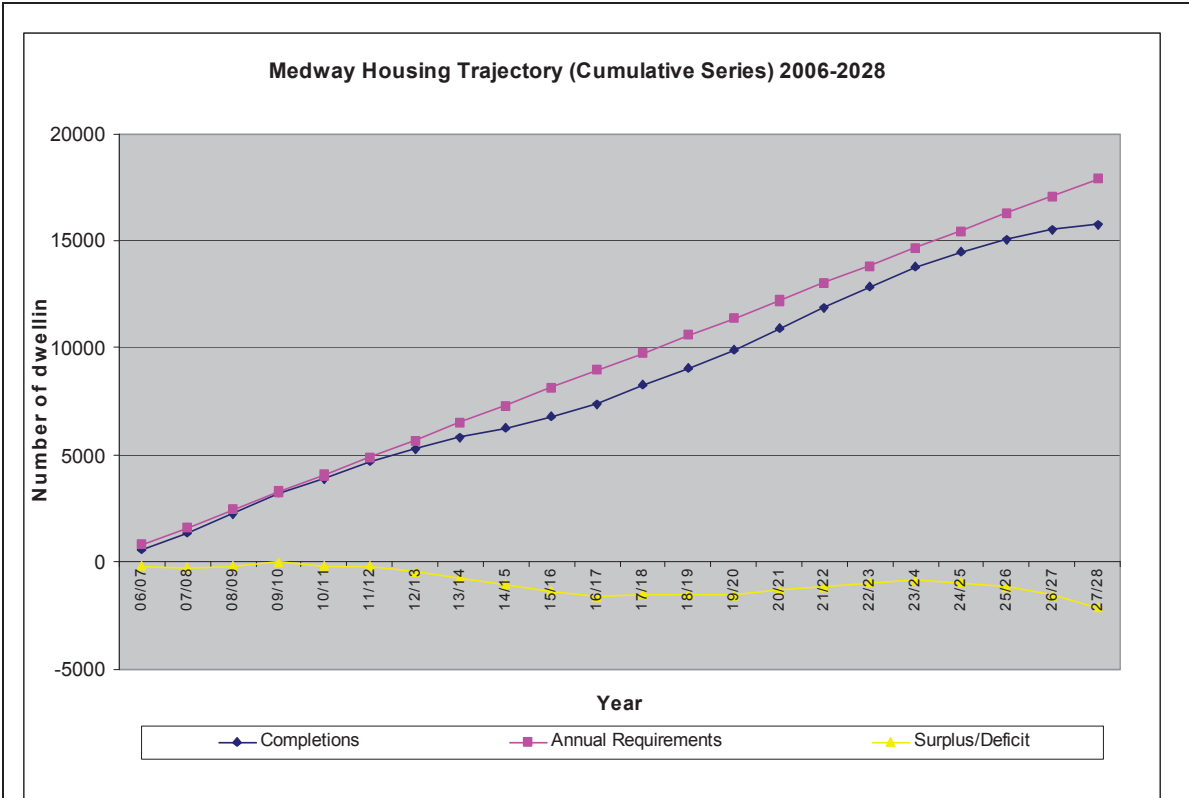
### Housing trajectory - 2006-2028

The housing trajectory shows phasing over the period 2006-2028, including contributions from past completions, sites with planning consent, local plan allocations and possible windfalls that are identified in the Strategic Land Availability Assessment.

Phasing is calculated using data from past completion rates. An annual adjustment is made taking into account other national and local factors such as current economic conditions and affordable housing funding.

06/07	07/08	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Annual Completions							Projected Annual Completions														
591	761	914	972	657	809	565	516	502	504	548	934	788	806	1039	981	993	904	725	580	437	282





### 5 year Land Supply

The 5 year supply position is calculated on a different basis, in that it just looks at live planning permissions measured against the annual housing target.

The National Planning Policy Framework (NPPF) states that *'sites need to be deliverable and available now in order to contribute to the 5-year land supply'*. It goes on to say that *'sites with planning permission should be considered as deliverable unless clear evidence suggests otherwise'*.

The table below sets out the current position for Medway showing a supply of housing exists for 8 years.

Small sites with planning permission excluding those unlikely to be implemented	245
Large sites with planning permission excluding those unlikely to be implemented	6,385
<b>Total</b>	<b>6,630</b>
Divided by the annual requirement of 815	8.1

### Property prices

Average property prices in Medway remain considerably below the national level.



There was a small upward price increase in Medway over the past year indicating that house prices may have stabilised, following a decrease in property prices since 2010.

Three Kent towns were among the top areas in the UK for house price rises, with two of these being in Medway. Rochester saw the 3<sup>rd</sup> highest increase, with a 13.3% rise on the 2011 to 2012 prices and Gillingham took 8<sup>th</sup> place with a 12.4% increase.

**Average property price in Medway 2007-2013**

Year	Medway	Kent	South East	England & Wales
March 2007	£157,400	£196,700	£219,200	£178,900
March 2008	£163,200	£207,500	£227,900	£184,000
March 2009	£134,900	£172,300	£186,900	£153,100
March 2010	£140,900	£183,700	£208,700	£165,300
March 2011	£138,500	£182,500	£206,800	£161,700
March 2012	£134,600	£179,600	£206,900	£160,400
March 2013	£136,500	£180,600	£209,200	£160,800
2007-12 % change	-14.5	-8.7	-5.6	-10.3
2012-13 % change	1.4	0.6	1.1	0.2

Source: Crown Copyright Land Registry Property Price data 13<sup>th</sup> June 2013

**Average Property Price 2007-2013**





The Fort development off City Way,  
Rochester

## Affordable Housing

*A significant proportion of the population is unable to afford the cost of purchasing, outright, a house or other type of residential accommodation. As such it is critically important to maintain an adequate supply of 'affordable housing' to ensure that the whole population has a satisfactory place to live.*

### Gross affordable completions (count) Affordable completions as proportion of all completions

The number of affordable residential completions is up on the previous year. However with a higher completion rate overall the affordable rate has dropped slightly but still remains well over the target of 25%.

*In 2013 this measure was changed to include all gross numbers.*

#### Gross affordable completions

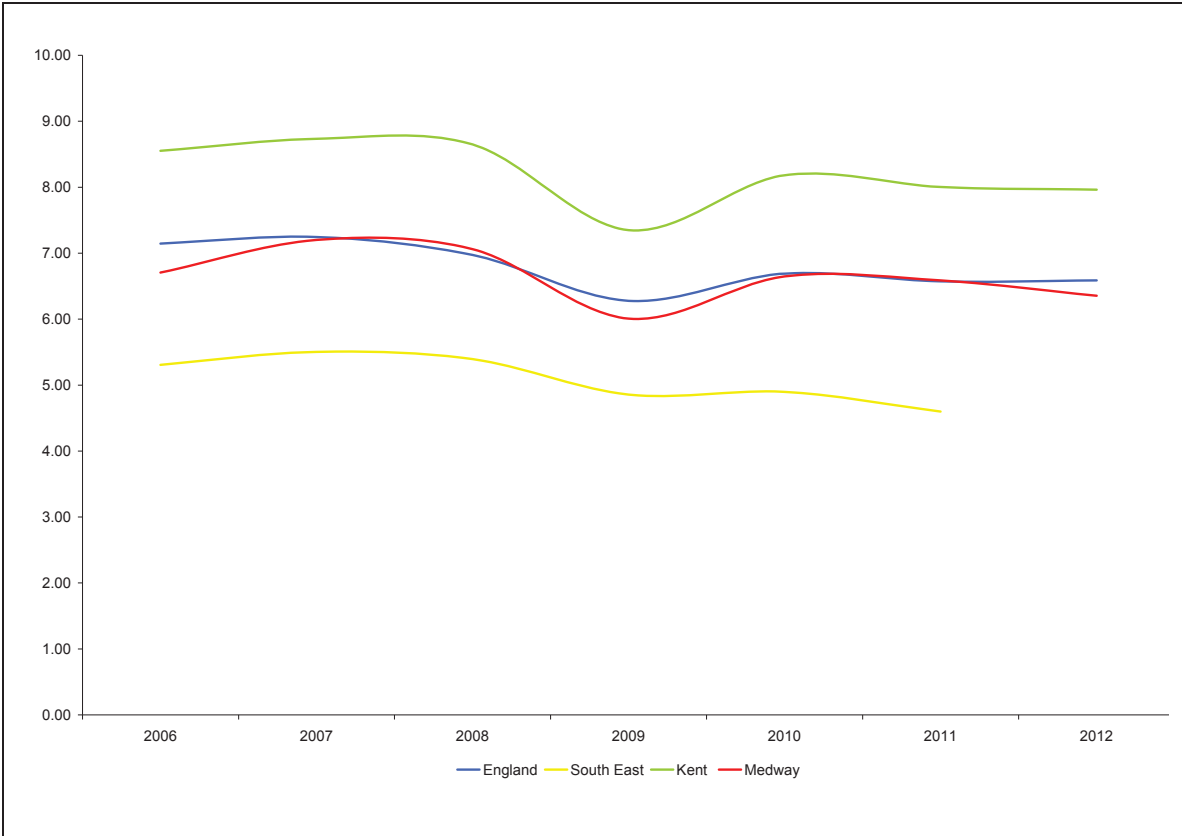
	Number of gross affordable units	Number of gross completions	As % of all gross completions
2006/07	163	658	24.8
2007/08	230	892	25.8
2008/09	408	972	42.0
2009/10	309	1043	29.6
2010/11	252	725	34.8
2011/12	303	869	34.9
2012/13	211	635	33.2

### House price to earnings ratio

Housing is more affordable in Medway than across England - in contrast to Kent - housing appears to be slightly more affordable now in all areas than in 2006.

#### Housing affordability - Ratio of median house price to median earnings

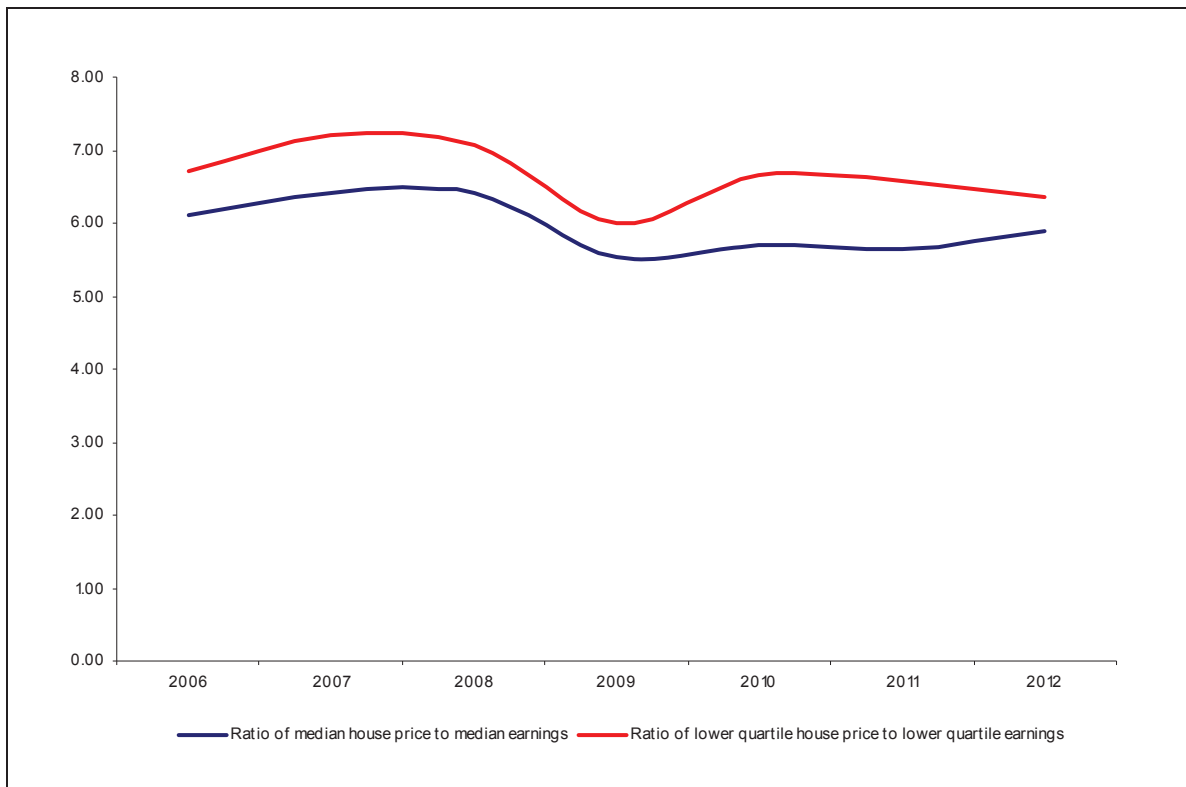
	2006	2007	2008	2009	2010	2011	2012
England	6.97	7.23	6.93	6.27	7.01	6.69	6.74
South East	7.97	8.45	8.42	7.28	8.23	7.97	-
Kent	7.92	8.01	7.85	6.80	7.66	7.25	7.42
<b>Medway</b>	<b>6.12</b>	<b>6.41</b>	<b>6.40</b>	<b>5.53</b>	<b>5.69</b>	<b>5.65</b>	<b>5.89</b>



**Medway Lower Quartile House price/earnings to median ratio**

The gap between median and lower quartile house price/earnings narrowed significantly in 2012, following a period since 2009 when the two series were widening. This indicates that housing at the lower end of the market has become relatively more affordable, though properties at the less expensive end of the market cost the equivalent of 6.4 lower end salaries compared with an ‘average’ 5.9 for Medway overall.

Lower quartile house price/earnings to median							
	2006	2007	2008	2009	2010	2011	2012
Lower quartile house price/earnings	6.71	7.20	7.06	6.01	6.65	6.59	6.35
Median house price/earnings	6.12	6.41	6.40	5.53	5.69	5.65	5.89
Difference	0.59	0.79	0.66	0.48	0.96	0.94	0.46



## Housing Design and Other Housing Requirements

*Sustainable residential communities will be created by requiring the provision of a mix and balance of good quality housing of different types and tenures.*

### Housing Quality - Building for Life Assessments

Building for Life is the national standard for well-designed homes and neighbourhoods. It has been in use since 2003 and has proven to be a useful and effective method of assessing the quality of new housing developments. In 2010 the Council began using Building for Life in assessing and negotiating on the design of planning applications for housing development. The standard was also embedded in emerging planning policy.

No further assessments were completed in 2012/13.

For further information on Building for Life Assessments in Medway see:  
<http://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=5824&nobdr=2>

<http://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=6025&nobdr=2>

### Residential completions by property type and size

Housing completions continue to show that all types of tenure are being constructed within Medway and that specialist provision is continuing to come forward for students.

The Chatham Waters permission includes 475 flats of student accommodation. Two further buildings, for more than 500 students, are being provided at Victory Pier.

Affordable housing continues to come forward at a healthy rate, with over 33% of new dwellings this year being provided by the affordable housing sector.

Medway also has a good spread of new family homes, with just over 63% of completed sites this year providing 2 and 3 bedroom homes.

For large sites built out in the year 2012/13 the breakdown of houses and flats by number of bedrooms is shown in the table below. More houses than flats were completed. The majority of new property had 3 bedrooms.

<b>Completions (gross) on large sites by property type and number of bedrooms 2012/13</b>		
Number of bedrooms	Houses	Flats
One	13	76
Two	55	91
Three	227	0
Four or more	129	0
<b>Total</b>	<b>424</b>	<b>167</b>
<b>Total % split</b>	<b>72%</b>	<b>28%</b>

## Gypsies, Travellers and Travelling Show people

In September 2012, the Council commissioned the Salford Housing & Urban Studies Unit (SHUSU) at the University of Salford to produce a Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA).

The report assesses requirements for the following periods:

- 2013 – 2018
- 2018 – 2023
- 2023 – 2028

The assessment was jointly commissioned with Tonbridge and Malling, Gravesham, Ashford, Medway and Swale to ensure a consistent approach and that cross boundary issues were taken into account.

### Summary of Gypsy, Traveller and Travelling Showpeople accommodation and pitch need (2013-2028)

	<b>Gypsy and Traveller Pitch Need Total (No. of pitches)</b>	<b>Travelling Showpeople Plot Need Total (no. of plots)</b>
Current authorised residential provision (pitches/plots)	22	5
<b>Residential need 2013-2018 (pitches/plots)</b>	<b>13</b>	<b>0</b>
Residential need 2018-2023 (pitches/plots)	4	0
Residential need 2023-2028 (pitches/plots)	5	0
<b>Residential need 2013-28 (pitches/plots)</b>	<b>22</b>	<b>0</b>

For further information please see the \*Gypsy & Traveller and Travelling Showpeople Accommodation Assessment: Medway Council Final Report (September 2013).  
 (\*the Gypsy & Traveller and Travelling Showpeople Accommodation Assessment [GTAA] was not completed and published until after the end of the monitoring year)

### Net additional pitches (Gypsy and Traveller)

Bi-annual counts of Gypsy and Traveller Caravans are published by DCLG.

The 2013 figures show capacity of twelve caravans on authorised sites with planning permission, with Council supplied figures showing that there are eleven caravans on the site at Cuxton. CLG shows a count of two caravans on unauthorised sites without planning permission.

<http://www.medway.gov.uk/housing/affordablehousing/gypsyandtravellersites.aspx>

## Economic Development

*The development of the Medway economy will be dynamic and widely based, to provide employment for the community as a whole, to provide greater choice for the workforce, offer an alternative to out-commuting and achieve a balance with housing growth.*

*The Medway Economic Strategy is currently being updated. It will cover the period 2013 - 2028. However, it will also include action plan updates at three year intervals and will operate in line with the developing aspirations of the South East Local Enterprise Partnership, the Thames Gateway Kent Partnership for North Kent and Kent's wider strategy called 'Unlocking the Potential'.*

### Amount and type of completed employment floor space

In 2011/12 there was a net gain in employment floor space for the first time in three years. However this year 2012/13 there was an overall net loss. The most significant losses occurred at Hopewell Drive where 5630 sq.m was lost to the healthcare sector falling in class D2.

#### Amount and type of completed employment floorspace – 2012/13

	B1 (m <sup>2</sup> )	B2 (m <sup>2</sup> )	B8 (m <sup>2</sup> )	Mixed B (m <sup>2</sup> )	Total
Gross	2955	3505	4213	1654	12327
Net	-4751	2423	1531	-3829	-4626

#### Amount of completed employment floor space (sq.m) 2006/07- 2012/13

	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
Gross	27966	20965	22523	5991	37848	20429	12327
Net	-2849	-6805	3017	-22650	-14632	9482	-4626

### Amount and type of floorspace coming forward on PDL

#### Amount and type of completed floorspace (gross) coming forward on previously developed land (PDL) – 2012/13

B1 (m <sup>2</sup> )	B2 (m <sup>2</sup> )	B8 (m <sup>2</sup> )	Mixed B (m <sup>2</sup> )	Total
2955	302	1972	1654	6883
(100%)	(9%)	(47%)	(100%)	(56%)



<b>Completed floor space (sq.m) on PDL (total) 2006/07-2012/13</b>						
2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
25182	19524	22478	5933	32340	17910	6883
90.1%	93.1%	98.8%	99%	85.47%	87.67%	(55.84)

**Amount and type of employment land available**

The amount of available floorspace for B1/B2/B8 with planning permission net of losses is 757,554 sq.m. The SLAA identifies a further 91,192 sq.m up to 2028 (excluding Lodge Hill).

**Amount of floor space for town centre uses**

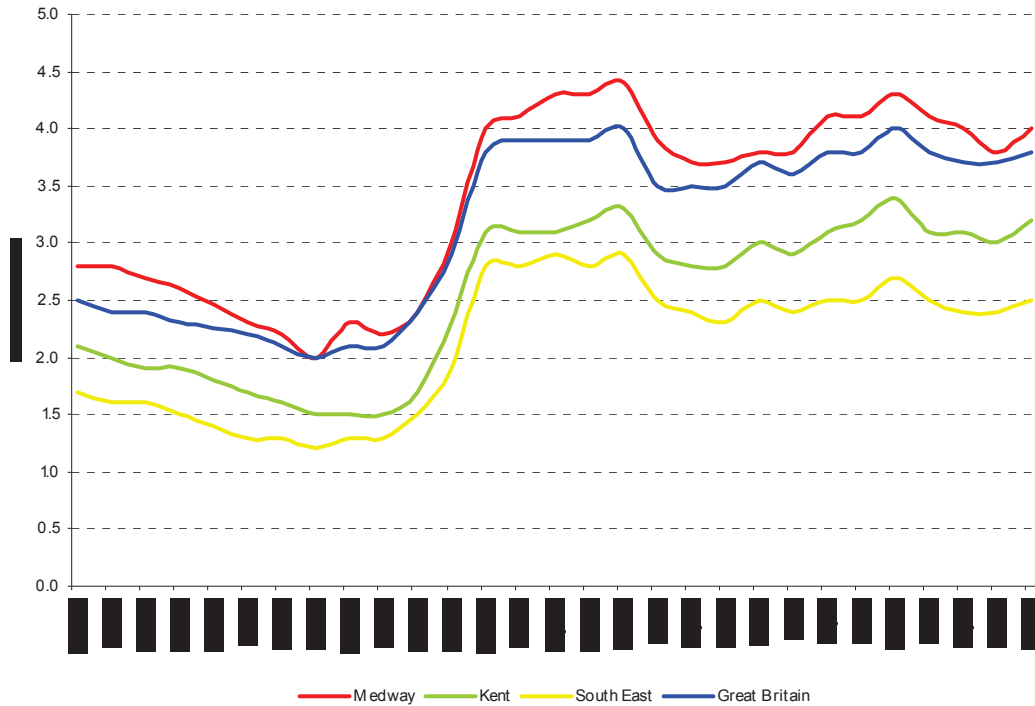
<b>Total amount of floorspace completed for town centre uses (A1/A2/B1a/D2) – 2012/13</b>										
	A1 (m <sup>2</sup> )		A2 (m <sup>2</sup> )		B1 (m <sup>2</sup> )		D2 (m <sup>2</sup> )		Total	
	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net
Town Centre	1815	1331	0	-536	547	185	487	487	2849	1467
Rest of Medway	2042	-117	60	-124	2408	-4936	365	365	4875	-4812
<b>TOTAL</b>	<b>3857</b>	<b>1214</b>	<b>60</b>	<b>-660</b>	<b>2955</b>	<b>-4751</b>	<b>852</b>	<b>852</b>	<b>7724</b>	<b>-3345</b>

<b>Total floorspace for town centre use 2006/07-2012/13</b>						
Year	Town Centres		Rest of Medway		Floor space Total	
	Gross	Net	Gross	Net	Gross	Net
2006/7	1035	-1128	32359	17279	33394	16151
2007/8	1073	-1145	15178	3139	16251	1994
2008/9	5832	2791	15339	4419	21171	7210
2009/10	2750	1278	18228	16510	20978	17788
2010/11	1568	-3592	8025	-2053	9593	-5645
2011/12	1112	-4015	6627	-1076	7739	-5091
2012/13	2849	1467	4875	-4812	7724	-3345

### Job Seekers Allowance claimants

The JSA claimant rate in Medway has been rising steadily since 2006, however it peaked in March 2012 at 4.3%, dropping back to 4.0% in March 2013. A similar trend can be seen nationally.

The JSA claimant count in March 2013 at 6,890 is 9% lower than in March 2012 (7,541).



**Job Seekers Allowance claimant rate – 2006 to 2013**

	Medway		Kent	South East	Great Britain
	Count	Rate	Rate		
Mar 2006	4,643	2.8	2.1	1.7	2.5
Jun 2006	4,553	2.8	2.0	1.6	2.4
Sep 2006	4,493	2.7	1.9	1.6	2.4
Dec 2006	4,239	2.6	1.9	1.5	2.3
Jun 2007	3,761	2.3	1.7	1.3	2.2
Sep 2007	3,612	2.2	1.6	1.3	2.1
Dec 2007	3,316	2.0	1.5	1.2	2.0
Mar 2008	3,830	2.3	1.5	1.3	2.1
Jun 2008	3,602	2.2	1.5	1.3	2.1
Sep 2008	3,987	2.4	1.7	1.5	2.4
Dec 2008	4,950	3.0	2.3	1.9	2.9
Mar 2009	6,635	4.0	3.1	2.8	3.8
Jun 2009	6,891	4.1	3.1	2.8	3.9
Sep 2009	7,194	4.3	3.1	2.9	3.9

Dec 2009	7,303	4.3	3.2	2.8	3.9
Mar 2010	7,446	4.4	3.3	2.9	4.0
Jun 2010	6,525	3.9	2.9	2.5	3.5
Sep 2010	6,173	3.7	2.8	2.4	3.5
Dec 2010	6,173	3.7	2.8	2.3	3.5
Mar 2011	6,654	3.8	3.0	2.5	3.7
Jun 2011	6,674	3.8	2.9	2.4	3.6
Sep 2011	7,120	4.1	3.1	2.5	3.8
Dec 2011	7,147	4.1	3.2	2.5	3.8
Mar 2012	7,541	4.3	3.4	2.7	4.0
Jun 2012	7,145	4.1	3.1	2.5	3.8
Sep 2012	6,938	4.0	3.1	2.4	3.7
Dec 2012	6,655	3.8	3.0	2.4	3.7
Mar 2013	6,890	4.0	3.2	2.5	3.8

### Long-term unemployment

The long-term unemployment rate in Medway peaked in December 2012 at 32%, falling the following quarter. This is a trend that has occurred across all comparative areas.

Medway has a long-term unemployment rate that is above that in Kent, the South East and England & Wales.

### Job Seekers Allowance claims over 12 months in duration

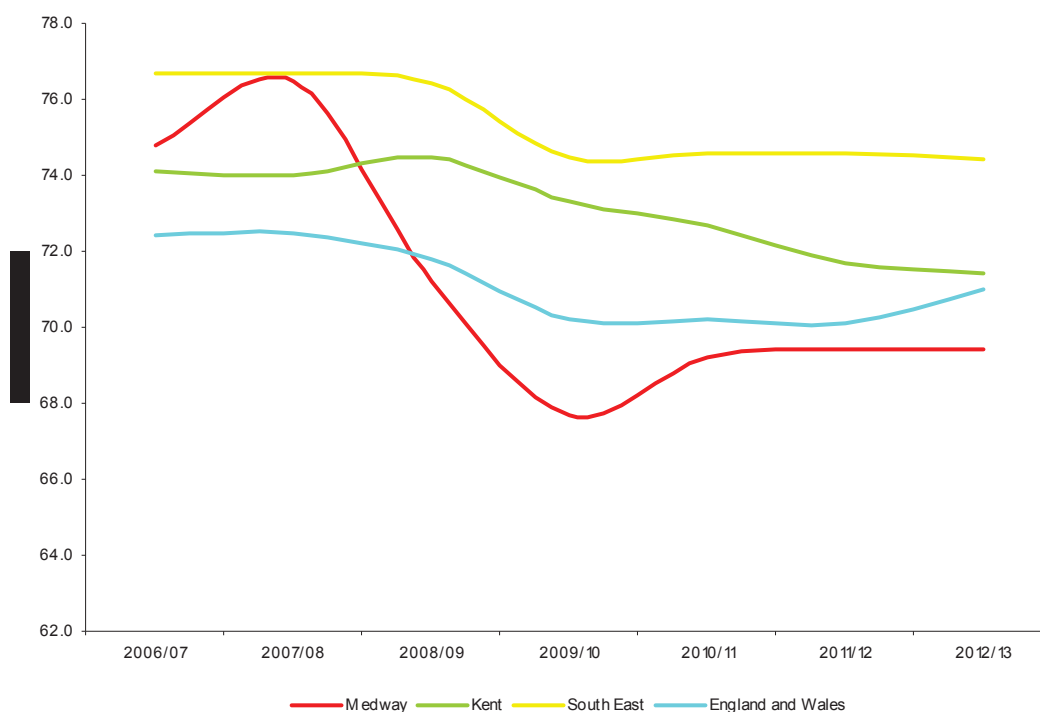
	Medway		Kent	South East	Great Britain
	No	Rate			
Mar 06	515	11.1	11.3	12.2	13.9
Jun 06	650	14.3	13.9	14.0	15.6
Sep 06	790	17.6	16.3	15.6	16.6
Dec 06	815	19.2	16.2	15.8	16.9
Mar 07	830	19.6	15.0	15.1	16.2
Jun 07	710	18.9	15.5	15.6	16.9
Sep 07	610	16.9	13.9	14.5	16.0
Dec 07	460	13.9	12.1	12.8	14.8
Mar 08	385	10.1	9.9	10.6	12.8
Jun 08	330	9.2	9.2	9.8	12.1
Sep 08	350	8.8	7.6	8.4	10.5
Dec 08	410	8.3	6.0	7.1	8.9
Mar 09	515	7.8	5.2	5.8	7.6
Jun 09	585	8.5	6.4	6.8	8.6
Sep 09	770	10.7	8.6	8.7	10.6
Dec 09	1,030	14.1	11.8	11.9	13.6
Mar 10	1,385	18.6	14.6	14.6	15.6
Jun 10	1,530	23.4	18.1	17.6	18.1
Sep 10	1,425	23.1	18.5	17.4	17.8
Dec 10	1,255	20.3	16.7	15.7	16.2
Mar 11	1,150	17.3	14.8	13.5	14.2
Jun 11	1,110	16.6	14.6	13.4	14.1
Sep 11	1,295	18.2	15.5	14.2	15.5
Dec 11	1,520	21.3	17.7	16.1	18.5
Mar 12	1,855	24.6	20.0	18.4	21.6

Jun 12	2,035	28.5	23.5	22.4	26.1
Sep 12	2,140	30.8	25.4	24.3	27.9
Dec 12	2,145	32.2	26.2	24.5	28.0
Mar 13	2,155	31.3	25.7	23.6	27.3

### Employment rate

Medway's employment rate has been increasing since 2008/09 having dipped previously from a high in 2007/08.

In 2008/09 Medway's employment rate fell below the national level though the gap is now narrowing.



### Employment rate (16-64)

		2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
Medway	Number	163,400	164,900	166,900	167,300	169,200	167,300	167,100
	Rate	74.8	76.5	71.2	67.7	69.2	69.4	69.4
Kent	Rate	74.1	74.0	74.5	73.3	72.7	71.7	71.4
South East	Rate	76.7	76.7	76.4	74.5	74.6	74.6	74.4
England and Wales	Rate	72.4	72.5	71.8	70.2	70.2	70.1	71.0

### Gross value added (GVA)

In 2011 GVA per head for Medway at £13,946 stood at 66.8% of the UK level. This is at its lowest comparative level despite growth over the last two years.

#### Gross value added per head of population

	2006	2007	2008	2009	2010	2011
United Kingdom	19,184	20,190	20,495	20,048	20,579	20,873
South East	20 505	21 636	21 877	21 266	21 898	22 369
Kent	16 202	16 985	17 100	16 595	17 040	17 322
Medway	13 708	14 237	14 165	13 565	13 851	13 946

#### Gross value added per head of population - indices

	2006	2007	2008	2009	2010	2011
United Kingdom	100.0	100.0	100.0	100.0	100.0	100.0
South East	106.9	107.2	106.7	106.1	106.4	107.2
Kent	84.5	84.1	83.4	82.8	82.8	83.0
Medway	71.5	70.5	69.1	67.7	67.3	66.8

*GVA is the value of goods and services produced by an area, minus the cost of the raw materials and other inputs used to produce them. GVA is mainly composed of the income made by employees (earnings) and the business (profits/surplus) as a result of production.*

### Business stock

In 2012 there were 6,425 businesses in Medway. Between 2011 and 2012 the number increased by 4.6% (+285); this reverses the downward trend seen since 2009.

#### Business stock and change 2009-2012

	Medway	Kent County	South East	Great Britain	
	No of businesses	Percent change			
2012	6,425	+4.6	+2.7	+3.0	+3.4
2011	6,140	-1.5	-1.1	-0.7	-0.9
2010	6,235	-2.4	-1.7	-2.1	-2.4
2009	6,390				
Change 2009-2012	+55	+0.5	-0.1	+0.1	0.0

### Average Earnings

Median annual earnings in Medway at £26,175 stood just below the national level in 2012, having increased by a higher proportion since 2006, when Medway's earnings were considerably below the national level.

#### Median annual earnings (£'s) - work-place based

	Medway	Kent	South East	Great Britain
2006	22,212	22,637	24,798	23,444
2007	23,473	23,265	25,583	24,147
2008	24,723	24,996	26,778	25,277
2009	26,240	25,398	27,458	25,905
2010	26,308	25,019	27,503	26,000
2011	26,508	25,718	27,881	26,206
2012	26,175	26,081	28,181	26,525
2006-2012 % increase	+17.8	+15.2	+13.6	+13.1



Chatham Docks

## Tourism

*Medway Council will positively promote sustainable tourism development. A diverse and high quality tourism offer will be encouraged that seeks to lengthen the tourism season, increase the number and length of visits, provide job opportunities and sustain the tourism economy, whilst maintaining and where possible, enhancing Medway's natural and built environment qualities.*

### Number of visitor stays in Medway

The last tourism survey estimated there to be 1.46 million visitor nights per annum in Medway.

Tourism employs over 6,100 local people (ONS) and is worth in the region of £292 million annually to the local economy.

### Visitors to all attractions

Medway's Year of Celebration in 2012 saw the delivery of a wide range of festivals, and events. The unique combination of the Queen's Jubilee and the Olympics during the year attracted more visitors to Medway than in the previous year. It is estimated that in 2011 Tourism was worth £292million to Medway, with 4 million visitors and 6,100 jobs (7% of the total workforce) supported the tourism industry.

Visits in 2012/13 were higher than the previous four years and the highest since 1990 when records began.

#### Number of visitors to all attractions

2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
583,178	758,269	689,895	714,146	672,915	734,113	740,956

### Number of visitors to council heritage attractions

The attractions covered within this indicator are: Guildhall Museum, Rochester Castle, Upnor Castle, Eastgate House, Temple Manor and The Brook Pumping Station.

There was a 3% increase to visitor attractions in 2012/13 compared to 11/12. 2012/13 saw the highest number of visitors to Council Tourist Attractions since 2007/08.

<b>Visits to Council Heritage Attractions</b>						
<b>2006-07</b>	<b>2007-08</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
272,117	145,110	144,019	151,716	146,426	167,713	173,004
<b>Average length of stays (in Rochester)</b>						
<p>The Rochester Visitor survey 2009 found that of a sample of 105 visitors interviewed 43% were staying in the area for 1 to 3 nights, with 38% staying for 4 to 7 nights.</p> <p>Day visitors stayed on average for 4.25 hours.</p>						
<b>Estimated hotel occupancy rate</b>						
<p>Hotel studies carried out in Medway indicate that occupancy levels in hotels in the local area stand at around 72% between 2008 and 2010, which is just above the national rate of around 69%.</p>						



Upnor Castle



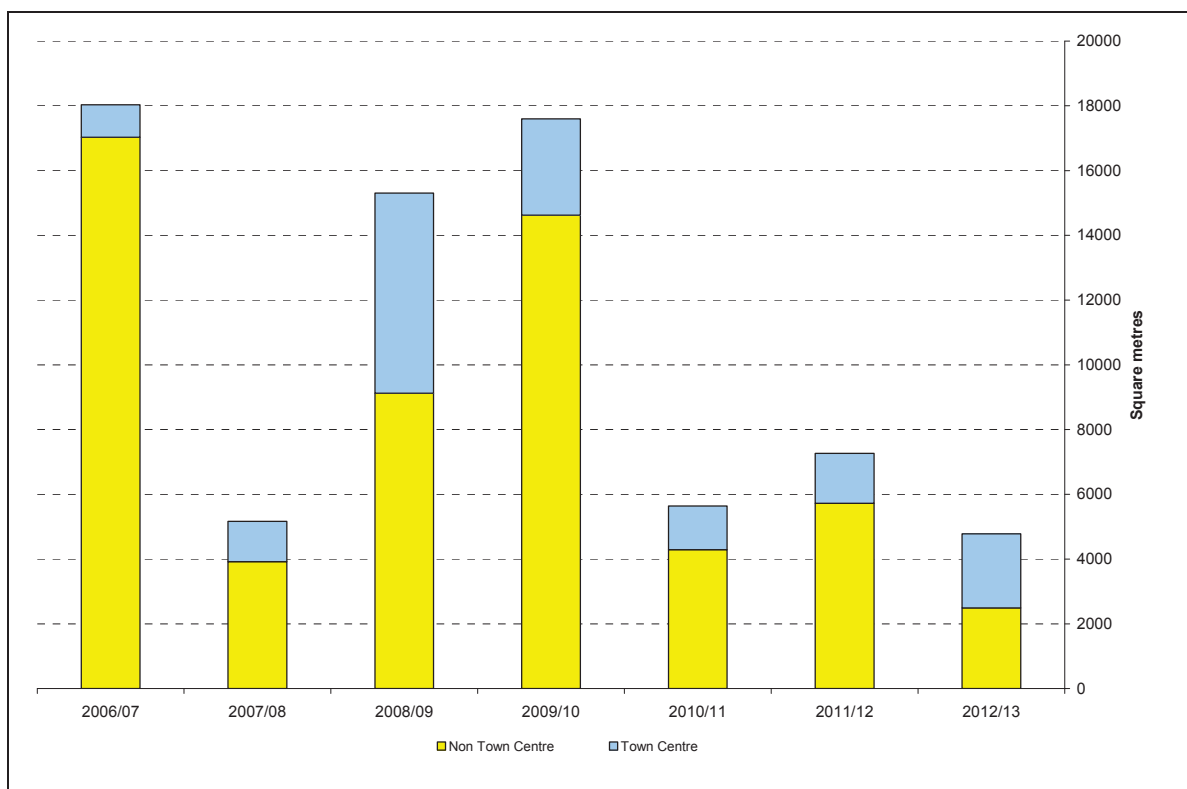
## Retail and Town Centres

*Medway Council will maintain and enhance the vitality and viability of its network of urban and rural centres and support the delivery of appropriate comparison and convenience retail, office, leisure, community, entertainment and cultural facilities.*

### Gross completions A1-A3

The amount of retail space developed in 2012/13 was down by around 34% on the previous year.

		A1	A2	A3	A1-A3
2012/13	TC	1815	0	470	2285
	Non TC	2042	60	393	2495
	<b>Total</b>	<b>3857</b>	<b>60</b>	<b>863</b>	<b>4780</b>
2011/12	TC	235	462	845	1542
	Non TC	4261	199	1262	5722
	<b>Total</b>	<b>4496</b>	<b>661</b>	<b>2107</b>	<b>7264</b>
2010/11	TC	281	624	446	1351
	Non TC	3061	99	1131	4291
	<b>Total</b>	<b>3342</b>	<b>723</b>	<b>1577</b>	<b>5642</b>
2009/10	TC	2394	291	287	2972
	Non TC	11707	55	2861	14623
	<b>Total</b>	<b>14101</b>	<b>346</b>	<b>3148</b>	<b>17595</b>
2008/09	TC	5567	177	442	6186
	Non TC	8218	144	760	9122
	<b>Total</b>	<b>13785</b>	<b>321</b>	<b>1202</b>	<b>15308</b>
2007/08	TC	772	234	238	1244
	Non TC	637	705	2579	3921
	<b>Total</b>	<b>1409</b>	<b>939</b>	<b>2817</b>	<b>5165</b>
2006/07	TC	322	629	51	1002
	Non TC	16734	27	269	17030
	<b>Total</b>	<b>17056</b>	<b>656</b>	<b>320</b>	<b>18032</b>



### Net completions in town centres

2,514 sq.m of retail floorspace was gained in town centres, over half of which was A1.

### Town centre development – 2012/13

Use	Losses (sq.m)	Gains (sq.m)	Net change (sq.m)
A1	-484	1815	1331
470	-536	0	-536
A3	0	470	470
A4	-213	13	-200
A5	0	25	25
D1	-99	1036	937
D2	0	487	487
<b>Total</b>	<b>-1332</b>	<b>3846</b>	<b>2514</b>

### Town centre vacancy rates

The proportion of retail units standing vacant varies greatly by town centre in Medway. Chatham has the highest vacancy rate in Medway at 16%, while Rainham has the lowest at just 4%.

While most places in Medway have seen an increase in vacancy rate in 2013, Rainham has seen a small decrease. The retail vacancy rate in Medway increased in 2013 but remains below the national level.

<b>Town centre vacancy rates</b>				
	2010 (March)	2011 (Feb)	2012 (March)	2013 (Jan)
Chatham	14.2%	15.6%	14.0%	16.0%
Rochester	4.8%	3.0%	6.3%	7.0%
Gillingham	8.0%	10.0%	5.9%	6.5%
Rainham	6.0%	9.0%	4.1%	4.0%
Strood	3.0%	7.0%	7.1%	8.8%
<b>Medway</b>	-	-	<b>8.7%</b>	<b>10.0%</b>
UK	-	-	14.5%	14.2%



Gillingham Market

## Education and personal development

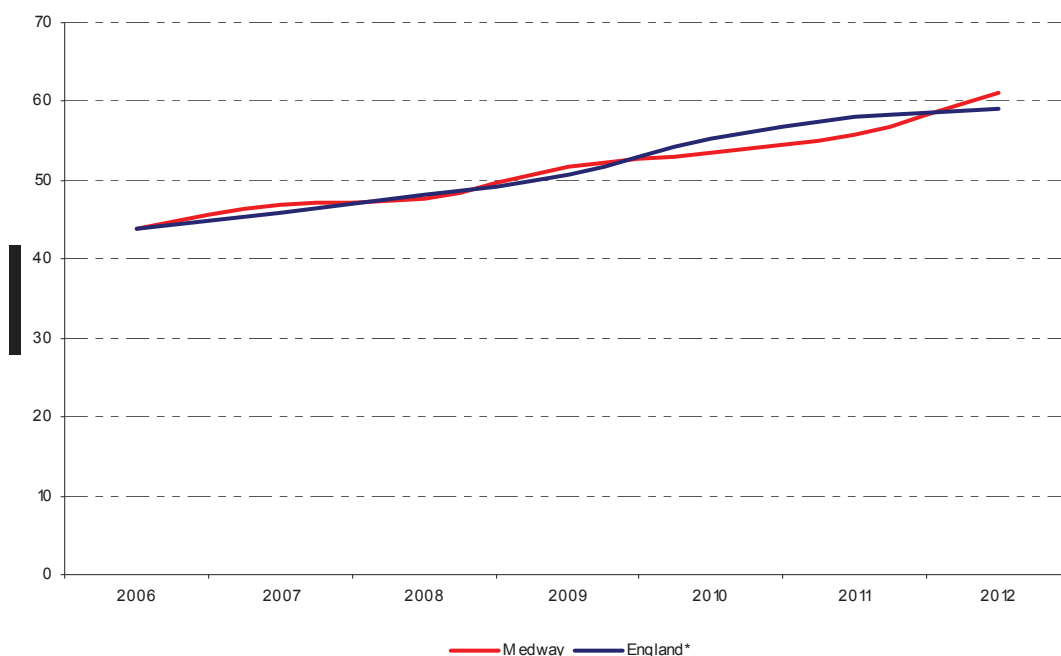
*The Council's overall aim is to enable everyone to realise his or her full potential, regardless of race, gender, disability, sexual orientation, age and religion, and make the best possible contribution to society. The Council is seeking to do this by focusing on the needs of the learner, raising aspirations, promoting the highest standards of teaching and learning and sharing good practice.*

### GCSE attainment rate

The GCSE attainment rate (A-C) in Medway continued to rise in 2012, rising above the national rate and increased by over 5 percentage points.

**Percent of pupils at the end of Key Stage 4 achieving 5+A\*-C (and equivalent) including English and maths GCSEs**

	2006	2007	2008	2009	2010	2011	2012
Medway	44.0	46.9	47.6	51.7	53.6	55.7	61.2
England*	44.0	45.8	48.2	50.7	55.2	58.2	59.0



### NVQ levels

The number of residents in Medway qualified to NVQ 1,2,3 and 4 has increased since 2006, with the number of people having a degree level qualification (NVQ4) having increased by over one third.

The number of residents with no qualifications has decreased since 2006 resulting in a rate below the national level in 2012.

2006	Medway			Kent	South East	Great Britain
	Number	Percent	Working age population	Percent	Percent	Percent
Working age population						
NVQ4 and above	29,000	18.3	158,600	25.4	30.3	27.4
NVQ3 and above	66,500	42.0	158,600	45.9	51.4	47.9
NVQ2 and above	96,100	60.6	158,600	63.5	67.6	63.6
NVQ1 and above	127,400	80.4	158,600	79.9	82.4	77.6
Other qualifications	11,700	7.4	158,600	7.5	7.8	8.6
No qualifications	19,400	12.2	158,600	12.6	9.9	13.9

2012	Medway			Kent	South East	Great Britain
	Number	Percent	Working age population	Percent	Percent	Percent
Working age population						
NVQ4 and above	39,300	23.5	166,900	29.6	36.8	34.4
NVQ3 and above	76,200	45.7	166,900	53.2	58.2	55.1
NVQ2 and above	108,300	64.9	166,900	71.1	75.4	71.8
NVQ1 and above	140,100	84.0	166,900	84.9	87.7	84.0
Other qualifications	10,600	6.3	166,900	6.9	5.4	6.3
No qualifications	16,200	9.7	166,900	8.2	6.9	9.7

### 18 to 24's in full-time education

The proportion of younger people in education in Medway continued to increase in 2012/13 as it had in the previous year following a period in which it had been dropping. However the national rate remains considerably higher at 32%.

#### Percent 18-24s in full time education

		Medway	Kent	South East	Great Britain
2005/2006	3,800	19.5	22.3	27.3	27.2
2006/2007	4,700	21.4	25.7	28.3	27.0
2007/2008	7,800	28.9	19.5	27.2	27.7
2008/2009	6,400	25.1	21.5	28.9	28.1
2009/2010	4,400	19.4	27.0	29.4	30.1
2010/2011	3,100	18.6	26.5	30.2	30.4
2011/2012	5,000	19.7	32.3	29.6	32.2
2012/2013	5,600	21.0	30.5	31.5	32.0

### Young people who are not in education, employment or training (NEET)

The number of 16 to 18 year olds in Medway who are 'not in education, employment or training' fell slightly in 2012 - the Medway rate remains above the national level.

16-18 year olds who are 'NEET'			
		2011	2012
Medway	Nos	740	700
	Percent	6.7	6.6
South East	Percent	5.8	5.4

DFES

<http://www.education.gov.uk/childrenandyoungpeople/youngpeople/participation/neet/a0064101/16--to-18-year-olds-not-in-education,-employment-or-training>

### Conventional Energy Generation & Energy Security

*Medway is nationally significant in terms of power generation, electricity distribution and liquefied natural gas storage. It generates around 15% of the country's electricity.*

*Proposals for additional power generation and energy storage capacity on the Hoo Peninsula and the Isle of Grain will be supported.*

Kingsnorth Power Station closed in March 2013; EON employed 123 full time staff at the site.

Since it was commissioned in 1970 the station generated around 310TWh, providing heat, light and the power for around two million homes.

E-on Community Investment Fund supported 85 projects across the Hoo Peninsula from 2007 to 2011. The fund allocated over £160,000 in grant aid to communities to improve local services and facilities, including halls, sports facilities, play areas and the local environment.

### Provision of Minerals

*Medway Council is the Mineral Planning Authority (MPA) for the area. It is charged with the responsibility of ensuring a steady supply of minerals to both meet local needs and contribute proportionally to regional requirements.*

**Production of primary land won aggregates**

**Primary aggregates imports**

*Detailed minerals and aggregate data is available in the Medway Local Aggregate Assessment published in Volume 3 of this report*

**Waste Management**

*As a unitary authority Medway is responsible for the contractual arrangements for the collection, treatment and disposal of the municipal solid waste stream and for the sustainable spatial planning of the necessary capacity for this and all the other waste streams represented in the area.*

**Amount of waste arising, and managed by management type**

In 2011/12 there was a significant drop in the amount of municipal waste collected down by 10.5% (13,446 tonnes). The proportion of this waste being sent to landfill has fallen again this year down to around just 25% compared to 63% two years ago.

Type	Tonnes	As % of waste
<b>All waste</b>	<b>114959</b>	
Recycled	26898	23.40%
Composted	17152	14.92%
Used to recover heat	42389	36.87%
Land filled	28479	24.77%
Re-used	41	0.04%

	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12
<b>All waste</b>	130,022	131,406	123,407	120,999	128,405	114,959
<b>Recycled /composted</b>	<b>32.6%</b>	<b>31.7%</b>	<b>33.6%</b>	<b>34.1%</b>	<b>35.9%</b>	<b>38.35%</b>
<b>Land filled</b>	<b>67.4%</b>	<b>67.4%</b>	<b>65.0%</b>	<b>63.4%</b>	<b>48.7%</b>	<b>24.77%</b>

For more detailed information on waste in Medway go to the:  
<http://www.medway.gov.uk/pdf/SOM%20Waste%202012.pdf>

## Transport and Movement

*As a transport authority, Medway Council is responsible for the local highway network, public rights of way and other transport related infrastructure. This includes 840 km of adopted highway and 293 km of public rights of way, plus the Medway Tunnel.*

### Vehicle Traffic Journey Distances

Recorded motor vehicle traffic and car traffic in Medway dropped in 2012 to its lowest level since 2007. This is a trend that is reflected nationally.

#### Vehicle traffic – million vehicle miles

	2007	2008	2009	2010	2011	2012
<b>Medway</b>	<b>853</b>	<b>851</b>	<b>844</b>	<b>845</b>	<b>846</b>	<b>835</b>
Kent	9,023	8,895	8,850	8,743	8,913	8,890
South East	<b>53,613</b>	<b>52,838</b>	<b>52,270</b>	<b>51,516</b>	<b>51,762</b>	<b>51,561</b>
GB	<b>314,064</b>	<b>311,038</b>	<b>308,092</b>	<b>303,188</b>	<b>303,777</b>	<b>302,640</b>

#### Car traffic – million vehicle miles

	2007	2008	2009	2010	2011	2012
<b>Medway</b>	<b>722</b>	<b>715</b>	<b>707</b>	<b>703</b>	<b>697</b>	<b>692</b>
Kent	5,056	4,968	4,880	4,851	4,863	4,809
South East	<b>33,463</b>	<b>32,926</b>	<b>32,395</b>	<b>31,874</b>	<b>31,859</b>	<b>31,600</b>
England	<b>183,859</b>	<b>181,314</b>	<b>179,435</b>	<b>176,483</b>	<b>175,799</b>	<b>174,396</b>

### Bus usage

Bus journeys in Medway fell slightly in 2011 but have risen in 2012 back to the 2010 level of 9.3 millions journeys.

#### Passenger journeys on local bus services - millions

	2010	2011	2012
Medway	9.3	9.0	9.3
Kent	57.8	58.6	59.2
South East	<b>331.9</b>	<b>338.2</b>	<b>345.2</b>
England	<b>4,639.0</b>	<b>4,656.0</b>	<b>4,678.4</b>



### Walking and cycling

Survey evidence indicates that walking and cycling as a means of getting around Medway, at 34%, is just below the national level.

#### Proportion of residents who walk or cycle for a least 30 minutes, at least once a month for utility purposes - 2012

Medway	34
Kent	35
South East	36
England	36

*Medway sample size 491  
Source: Active people survey – Sport England*

## The River Medway

*The Medway is one of the largest rivers in the South East and it is a defining feature of the area. The outer reaches have a long naval history and although the navy has now gone, the Medway is still an important commercial river and is increasingly recognised for its nature conservation value.*

### Port cargo traffic

Medway's combined port activities make it the twelfth busiest (of 52 major ports) in the UK, handling 12.6 million tonnes of cargo, representing around 2.5% of seaborne freight nationally.

Nationally freight traffic peaked in 2005 – an all time high, then dropped back significantly in 2008/09 with the onset of the recession.

In 2012 port traffic tonnage in Medway dropped by over one fifth (-21%) having peaked in 2011, while UK ports saw a 4% drop.

In 2012 Thamesport was the fifth busiest container port handling 175,000 containers but this was down on 2011 when 240,000 were handled at the port.

Chatham Docks occupies one of three basins of the former naval dockyard – it has eight berths and expects to take around 600 vessels annually.

#### Medway port traffic cargo tonnage (000's)

	2006	2007	2008	2009	2010	2011	2012
<b>All traffic</b>	<b>18,957</b>	<b>15,417</b>	<b>14,971</b>	<b>13,150</b>	<b>13,971</b>	<b>16,076</b>	<b>12,649</b>
Inward	16,762	13,613	12,617	11,099	11,852	13,903	10,933
Outward	2,195	1,804	2,354	2,051	2,119	2,173	1,717

Source – DFt Port Freight Statistics. For further information go to:  
<https://www.gov.uk/government/statistical-data-sets/port01-uk-ports-and-traffic>

### Medway Estuary Marine Conservation Zone

In November 2013, the Medway Estuary was designated a Marine Conservation Zone. This covers an area of 60 km<sup>2</sup> extending from Rochester towards the Isle of Grain. It recognises the importance of the estuary's environment.

## Strood

### *Progress on significant developments during the year:*

- Tesco's planned an Express store in a former pub -The Jubilee in Darnley Road
- Tesco secured planning permission for the expansion of its town centre store including a café, library and 12 flats. Provision was being made for a temporary store to be built on the former Civic Centre site, while redevelopment took place. However it is now uncertain if this project will be proceeding.
- At Medway Valley Park one outlet changed hands and another expanded, while a former nightclub was converted to a bowling alley
- The new Aldi supermarket opened in November 2012 at the rear of Angel Square
- The new look Strood Academy was finished and ready for pupils in September 2012. The £26 million project was the first new secondary school to be built in Medway for more than 40 years. It has a 60kw wind turbine, which will generate up to 17% of the academy's electricity
- The 17th century Crispin and Crispianus pub was ravaged by fire
- Approval was given to expand Wainscott Primary School to serve the new Liberty Park development

## Rochester

### *Progress on significant developments during the year:*

- Rochester Maths School completed a new art and design technology block
- A £2.1 million bid was approved to transform and conserve Eastgate House. The work should be completed in 2015
- New infrastructure was programmed to serve phase 1 of the Rochester Riverside development and Phase 1a was completed by Denne Construction on behalf of Hyde Housing
- The Stirling Centre was taken over by Kings School Rochester and renamed Kings Rochester Sports Centre. It remains open to individuals and clubs for public use
- A new fire station will be constructed on the former park and ride site in Marconi Way next to Rochester Airport
- The Bishop of Rochester Academy School formed an Academy Partnership with global logistics company Kuehne-Nagel.
- The Council began the preparation of a masterplan for Rochester Airport and adjoining land allowing the airport to be reconfigured and new employment space provided
- A recent survey showed that rising house prices in Rochester were the third highest in the Country in 2012. A contributing factor is likely to be access to HS1 rail services
- In January it was confirmed that Rochester railway station is to be relocated. The new station, which will be able to accommodate longer trains, is to be built on part of the Corporation Street car park site. It is expected to be completed in winter 2015.
- Rochester Cathedral's crypt was the latest Medway attraction to receive a lottery funding grant of £3.5 million.

## Chatham

*Progress on significant developments during the year:*

- Chatham's Historic Dockyard took second place in the Best Heritage Attraction category in the Countryfile Magazine Awards 2012
- Chatham Docks £650 million project gained planning approval. The development includes an Asda Supermarket, offices, 475 student flats, a 200-bed hotel, 950 dwellings and could create employment for 3,500 people
- Shop closures in the Pentagon included The Body Shop and HMV but two stores expanded to double in size - JD Sports and Carphone Warehouse.
- Tesco Express opened in the former Kestrel pub, Lordswood
- A £1.5 million expansion project including a therapy room and new sensory gardens at Bradfields Special School commenced in April. The number of pupils with learning difficulties and autism will rise from 235 to 275 when the project is completed
- The Brook Pumping Station, a Scheduled Ancient Monument, opened again to the public after 3 years of restoration work
- The Managing Director of Vertical Thinking spoke at the Kent Construction Expo voicing his ideas to revive plans for a cable car to run between Chatham Town Centre and Medway City Estate, inspired by the success of the Docklands cable car.
- A £3.4 million power plant could heat the Medway University of Greenwich campus on little more than sugar. The project links in with studies of emerging Combined Heat and Power technology, which reuses waste heat from power plants. A pioneering CHP plant has already been set up by EON on the Isle of Grain
- Plans to build hundreds of new homes and a restaurant on the final phase of development at St Marys Island were announced
- People living in the area from Luton Arches to Whiffens Avenue will benefit from a £1million lottery windfall for local environmental improvements
- Plans were announced to reuse offices at Sun Pier as a waterfront arts centre

## Gillingham

*Progress on significant developments during the year:*

- The adult education centre in Green Street was sold at auction and is being converted to student flats
- A new Medway Community Learning Training Centre opened at 48 Canterbury Street
- Construction began on two further buildings, which will house more than 500 students, at Victory Pier. Also at Victory Pier an extra care scheme was completed
- Medway Park continued to host various national and international events
- A major refurbishment of units at the Gillingham Retail Park was completed
- The bid to open a University Technical College in Medway was approved

## Rainham

### *Significant developments during the year:*

- In April the Trustees of Hempstead Valley Shopping Centre held a public exhibition to show their proposals for a Southern Mall Extension and in September, their plans were submitted. The works would include the creation of new shops and a restaurant area and improvements to the car park, public transport and taxi waiting facilities
- Johnson ironmongers and tool shop closed down after almost trading for 70 years in Rainham

## Hoo Peninsula and the Isle of Grain

### *Progress on significant developments during the year:*

- A £14 million new bridge designed to make the A228 safer was completed over the single-track railway line at the Stoke Crossing.
- Energy firm EON announced plans to demolish both the Grain and Kingsnorth Power Stations. Grain's chimney is the second tallest in Britain

## Medway Valley

In Halling developers Redrow Homes submitted revised plans for the former Cement Works site, including 385 houses. The plans also include a pub-restaurant, offices, storage and distribution, industrial units and a new pedestrian and cycle bridge across the A228

## Lodge Hill

The proposed development site at Lodge Hill was considered through the Core Strategy Examination process. At the Hearing Session in June 2012, RSPB introduced information from a nightingale survey at the site, which showed an increase in the bird population. This led to Natural England reversing its advice to the Council, and ultimately to the designation of a large part of the site as a Site of Special Scientific Interest.

The Council has worked with NE, Land Securities and a range of stakeholders, including environmental bodies in assessing the potential for a compensation and mitigation scheme to address potential loss of nightingale habitat at Lodge Hill. Work continues on an outline planning application, including engagement with NE on a compensation package.

<b>Developer Contributions</b>	
<p><i>Developers will be required to make provision for infrastructure where the need arises directly from development.</i></p>	
<p>It is central to government policy that new development should be sustainable, which includes that it should provide capacity and new facilities to meet the needs of new residents.</p> <p>Section 106 of the Town and Country Planning Act 1990 allows anyone with an interest in land to enter into a planning obligation, which is enforceable by a local planning authority.</p> <p>Developer contributions are required for developments of 10 or more residential units and certain other forms of development. Details below show how much revenue came from Section 106 agreements in 2012/2013. Details of the types of schemes are listed in Volume 2 of the Annual Monitoring Report.</p> <p>In light of the uncertainty over the date for the Core Strategy adoption, further work on the Community Infrastructure Levy has been suspended.</p>	
<b>Section 106 Agreements</b>	
Number signed 2012/13	16
Wards: 11 wards out of 22	Chatham Central, Luton & Wayfield, Rainham Central, Rochester South and Horsted, Rochester West, Peninsula, River Strood North, Strood Rural, Strood South, Walderslade.
Amount of Funding Received during the year	£1,726,231.29
<p><i>Further details on 106 agreements are available via link below to Medway Council's Guide to Developer Contributions (SPD)</i>  <a href="http://www.medway.gov.uk/pdf/Guide%20to%20Developer%20Contributions%20Nov%202012.pdf">http://www.medway.gov.uk/pdf/Guide to Developer Contributions Nov 2012.pdf</a></p>	

## Use Classes

Classes of land and building use as categorised by the Town and Country Planning (Use Classes) Order 1987 as amended. The various classes and categories appropriate to that class are as follows:

- A1** Shops for the sale, display or provision of goods and services (except hot food) to visiting members of the public - includes hairdresser, funeral director, post office, dress or DIY hire shop, ticket and travel agency, internet cafe, sandwich bar, dry cleaner and pet shop.
- A2** Financial or professional services (other than health or medical services) - includes betting shop, building society office, estate agent and bank.
- A3** Restaurant and cafe.
- A4** Drinking establishment – includes public house and wine bar.
- A5** Hot food takeaway
- B1** Business - includes office (a), research and development premise (b) and light industry which can be carried out in a residential area (c).
- B2** General industry - any industrial use not covered by B1.
- B8** Storage and distribution – includes wholesale warehouse (but not retail warehousing), distribution centre and repository.
- C1** Hotel – includes boarding house and guesthouse.
- C2** Residential institution – includes residential school and college and training centre, hospital and convalescent/nursing home.
- C2a** Secure residential accommodation – includes prison, young offenders institution, detention centre, custody centre, secure hospital and military barracks
- C3** Dwelling house, communal housing of the elderly and handicapped.
- D1** Non-residential institution - includes place of worship, law court, church hall, clinic, health centre, crèche, day nursery, consulting room, museum, public hall, library, art gallery, exhibition hall, non-residential education and training centre.
- D2** Assembly and leisure –includes cinema, music and concert hall, dance hall, bingo hall, sports hall, swimming bath, skating rink, gymnasium and other indoor and outdoor sport or recreation.
- Sui Generis (SG)** Uses not falling within any of the above classes - includes theatre, night club, casino, sale of motor vehicles, sale of motor fuel, taxi service, launderette, hostel, live/work unit and motor sport or firearm activities.

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