



Shire Hall  
Westgate Street  
Gloucester  
GL1 2TG

Wednesday, 20 January 2021

## TO EACH MEMBER OF GLOUCESTER CITY COUNCIL

Dear Councillor

You are hereby summoned to attend a **MEETING OF THE COUNCIL** of the **CITY OF GLOUCESTER** to be held virtually via Microsoft Teams on **Thursday, 28th January 2021** at **6.30 pm** for the purpose of transacting the following business:

### AGENDA

#### VIEWING ARRANGEMENTS FOR REMOTE MEETINGS

View the meeting here: <https://bit.ly/2KxgKQD>

The meeting is being broadcast live using Microsoft Teams. We recommend that you install the Microsoft Teams app on your device for the best viewing experience. If viewing via a web browser, please note that this is not possible if using Safari; instead please download the Microsoft Teams app or the Microsoft Edge browser.

Further advice on accessing meetings through Teams, is available here: <https://support.office.com/en-us/article/Attend-a-live-event-in-Teams-a1c7b989-ebb1-4479-b750-c86c9bc98d84>

#### 1. **APOLOGIES**

To receive any apologies for absence.

#### 2. **MINUTES (Pages 9 - 30)**

To approve as a correct record the minutes of the Council Meeting held on 19 November 2020.

To approved as a correct record the exempt minutes of the Special Council meeting held on 15 December 2020. As the minutes contain exempt information as defined in Paragraph 3 of Schedule 12A of the Local Government Act 1972 as amended (information relating to the financial or business affairs of any particular person (including the authority holding that information), should Members wish to propose any revisions, Council will need to resolve to exclude the press and public from the meeting and move into private session at the end of the public part of the meeting.

3. **DECLARATIONS OF INTEREST**

To receive from Members, declarations of the existence of any disclosable pecuniary, or non-pecuniary, interests and the nature of those interests in relation to any agenda item. Please see Agenda Notes.

4. **CALL OVER**

- (a) Call over (items 9-15) will be read out at the meeting and Members invited to reserve the items for discussion.
- (b) To approve the recommendations of those reports which have not been reserved for discussion.

5. **PUBLIC QUESTION TIME (15 MINUTES)**

The opportunity is given to members of the public to put questions to Cabinet Members or Committee Chairs provided that a question does not relate to:

- Matters which are the subject of current or pending legal proceedings or
- Matters relating to employees or former employees of the Council or comments in respect of individual Council Officers.

6. **PETITIONS AND DEPUTATIONS (15 MINUTES)**

A period not exceeding three minutes is allowed for the presentation of a petition or deputation provided that no such petition or deputation is in relation to:

- Matters relating to individual Council Officers, or
- Matters relating to current or pending legal proceedings

7. **ANNOUNCEMENTS**

To receive announcements from:

- a) The Mayor
- b) Leader of the Council
- c) Members of the Cabinet
- d) Chairs of Committees
- e) Head of Paid Service

8. **MEMBERS' QUESTION TIME**

- a) Leader and Cabinet Members' Question Time (30 minutes)

Any member of the Council may ask the Leader of the Council or any Cabinet Member any question without prior notice, upon:

- Any matter relating to the Council's administration
- Any matter relating to any report of the Cabinet appearing on the Council's

summons

- A matter coming within their portfolio of responsibilities

Only one supplementary question is allowed per question.

c) Questions to Chairs of Meetings (15 Minutes)

## **ISSUES FOR DECISION BY COUNCIL**

### **9. CLIMATE CHANGE STRATEGY (Pages 31 - 190)**

To consider the report of the Leader of the Council and Cabinet Member for Environment concerning the Climate Change Strategy for the council.

### **10. KINGS QUARTER DELIVERY PROPOSAL (Pages 191 - 264)**

To consider the report of the Leader of the Council and Cabinet Member for Environment concerning the continuing delivery of Kings Quarter and required approvals.

As Appendices B-F contain exempt information as defined in Paragraph 3 of Schedule 12A of the Local Government Act 1972 as amended (information relating to the financial or business affairs of any particular person (including the authority holding that information), should Members wish to discuss the information contained in these appendices, Council will need to resolve to exclude the press and public from the meeting and move into private session at the end of the public part of the meeting.

### **11. LOCAL COUNCIL TAX SUPPORT SCHEME (Pages 265 - 448)**

To consider the report of the Cabinet Member for Performance and Resources concerning the Local Council Tax Support for 2021/22.

### **12. LICENSING ACT 2003 - REVISED LICENSING POLICY STATEMENT (Pages 449 - 514)**

To consider the report of the Head of Place concerning the consultation on the Draft Revised Licensing Policy Statement and seeking the adoption of the final document.

### **13. CONSTITUTIONAL CHANGES (Pages 515 - 574)**

To consider the report of the Head of Paid Service concerning a number of proposed changes to the council's Constitution.

### **14. REVIEW OF APPOINTMENTS TO AND REPRESENTATION ON OUTSIDE BODIES (Pages 575 - 600)**

To consider the report of the Corporate Director and Monitoring Officer concerning appointments to Outside Bodies.

**15. PROGRAMME OF MEETINGS, MAY 2021-APRIL 2023 (Pages 601 - 634)**

To consider the report of the Corporate Director concerning the Programme of Meetings for 2021-23 and a number of the amendments to the current programme.

**MOTIONS FROM MEMBERS**

**16. NOTICES OF MOTION**

**1. PROPOSED BY COUNCILLOR BRAZIL**

“This council notes the increase in cycling as a mode of transport since the beginning of the Covid-19 pandemic. It agrees we should encourage improvements in facilities for cyclists in Gloucester and throughout Gloucestershire.

This council notes that many cyclists might also want to carry their bicycle on public transport, especially on buses.

This council calls on the county council to investigate the provision of carrying bikes on buses in the county and request they work with the bus companies looks at how this may be achieved.

This council agrees that we need to work towards encouraging and sustaining climate friendly transport.”

**2. PROPOSED BY COUNCILLOR HILTON**

“This council notes that on 26<sup>th</sup> December the Ministry of Housing, Communities and Local Government awarded £830 million to 72 areas in England to help transform their high streets.

Despite Gloucester City Council putting in a 17-page bid, this council records its disappointment that the city centre didn't get a penny from MHCLG.

Others city and town centres nearby, were successful. Swindon got £25m and Kidderminster £20.5m, with provisional funding awarded of £10m to Leamington Spa, £10m to Yeovil and £14m to Taunton.

This council calls on the leader to provide members with a written report of what went wrong. Highlighting the strengths and weaknesses of the submission and what could have been done better.”

**3. PROPOSED BY COUNCILLOR PULLEN**

“Council notes that elections to Gloucester City Council, Gloucestershire County Council and for Gloucestershire Police and Crime Commissioner are scheduled to take place on Thursday 6<sup>th</sup> May 2021.

Council further recognises that the Covid-19 pandemic is likely to deter people from turning up in person to exercise their vote at polling stations.

Council believes it is essential that people have the opportunity to vote and should make every effort to encourage electors to exercise their democratic right.

Council resolves:

- To organise a comprehensive campaign of voter registration to ensure as many people as possible are registered to vote.
- To inform people of their right to vote by post and encourage people to sign up for postal votes.
- To further remind people that if they are unable to vote in person or are absent for the election that they can appoint a proxy to vote on their behalf.”

#### **4. PROPOSED BY COUNCILLOR STEPHENS**

“That in March 2020 in response to the coronavirus pandemic Universal Credit was uplifted by £20.00 per week to alleviate poverty amongst the poorest households. The uplift is worth £1,040 a year for all claimants.

The ‘temporary’ uplift is due to end on 1<sup>st</sup> April 2021.

In its recent report: “Universal Credit the wait for a first payment” the House of Commons Work and Pensions Committee concluded that the DWP was “right” to increase Universal Credit and that it should “commit to maintaining the increases in support that have been provided during the pandemic”.

A coalition of over 50 national charities has written an open letter to the Chancellor demanding that the uplift is made permanent.

Research by the Joseph Rowntree Foundation has calculated that 16 million households would be affected by the ending of the uplift, that 700,000 more people will fall into poverty, including 300,000 children.

In Gloucester official government figures show that in August 2020 there were 9,620 claimants in Gloucester. This is likely to have increased significantly during the 2<sup>nd</sup> national lock down.

In Gloucester thousands of our poorest households face significant cuts in their income and living standards.

Council resolves:

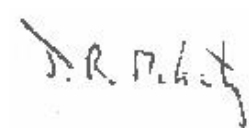
- To support calls by charities, campaigning organisations and the Work and Pensions Committee of the House of Commons to make the £20.00 uplift in Universal Credit permanent.

- To lobby the government to give effect to the above.
- To write to the City MP to lobby the government and urging him to support calls for the 'temporary' uplift in Universal Credit to be made permanent."

17. **WRITTEN QUESTIONS TO CABINET MEMBERS (Pages 635 - 640)**

Written questions and answers. Only one supplementary question is allowed per question.

Yours sincerely

A handwritten signature in black ink, appearing to read "J. R. McGinty".

**Jon McGinty**  
**Managing Director**

## NOTES

### Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<u>Interest</u>	<u>Prescribed description</u>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous 12 months (up to and including the date of notification of the interest) in respect of any expenses incurred by you carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between you, your spouse or civil partner or person with whom you are living as a spouse or civil partner (or a body in which you or they have a beneficial interest) and the Council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land	Any beneficial interest in land which is within the Council's area.  For this purpose "land" includes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner or person with whom you are living as a spouse or civil partner (alone or jointly with another) to occupy the land or to receive income.
Licences	Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge) – (a) the landlord is the Council; and (b) the tenant is a body in which you, your spouse or civil partner or a person you are living with as a spouse or civil partner has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to your knowledge) has a place of business or land in the Council's area and (b) either – i. The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share

- capital of that body; or
- ii. If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, your spouse or civil partner or person with whom you are living as a spouse or civil partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose, “securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**NOTE:** the requirements in respect of the registration and disclosure of Disclosable Pecuniary Interests and withdrawing from participating in respect of any matter where you have a Disclosable Pecuniary Interest apply to your interests and those of your spouse or civil partner or person with whom you are living as a spouse or civil partner where you are aware of their interest.

#### **Access to Information**

Agendas and reports can be viewed on the Gloucester City Council website: [www.gloucester.gov.uk](http://www.gloucester.gov.uk) and are available to view five working days prior to the meeting date.

For enquiries about Gloucester City Council’s meetings please contact Democratic Services, 01452 396126, [democratic.services@gloucester.gov.uk](mailto:democratic.services@gloucester.gov.uk).

If you, or someone you know cannot understand English and need help with this information, or if you would like a large print, Braille, or audio version of this information please call 01452 396396.

#### **Recording of meetings**

Please be aware that meetings may be recorded. There is no requirement for those wishing to record proceedings to notify the Council in advance; however, as a courtesy, anyone wishing to do so is advised to make the Mayor aware before the meeting starts.





## COUNCIL

**MEETING** : Thursday, 19th November 2020

**PRESENT** : Cllrs. Haigh (Mayor), Lugg (Sheriff & Deputy Mayor), Cook, H. Norman, Gravells, Melvin, Morgan, Watkins, Hilton, Stephens, Tracey, Hanman, Lewis, Wilson, Bhaimia, Williams, D. Brown, Organ, Dee, Taylor, Field, Hansdot, Finnegan, Patel, Toleman, D. Norman, Pullen, Hampson, Brooker, Brazil, J. Brown, Coole, Derbyshire, Hyman, Ryall, Walford and Bowkett

### Others in Attendance

Managing Director  
Corporate Director – Partnerships  
Corporate Director – Transformation  
Head of Communities  
Head of Cultural Services  
Head of Place  
Head of Policy and Resources  
Solicitor  
Policy and Governance Manager  
Democratic and Electoral Services Team Leader

**APOLOGIES** : None

### 34. MINUTES

34.1 The minutes of the meeting held on 24 September 2020 were confirmed as a correct record.

### 35. DECLARATIONS OF INTEREST

35.1 There were no declarations of interest.

### 36. CALL OVER

36.1 The Mayor invited Members to indicate if they wished to reserve agenda item 9 for discussion. No Member indicated that they wished to do so.

36.2 Councillor Cook (Leader of the Council) moved and Councillor Hannah Norman (Deputy Leader of the Council) seconded that the Revocation of

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Planning Briefs, Supplementary Planning Guidance and Supplementary Planning Documents be approved.

- 36.3 **RESOLVED** that: - The Revocation of Planning Briefs, Supplementary Planning Guidance and Supplementary Planning Documents is **APPROVED**.

**37. PUBLIC QUESTION TIME (15 MINUTES)**

- 37.1 There were no public questions.

**38. PETITIONS AND DEPUTATIONS (15 MINUTES)**

- 38.1 Councillor Hyman presented a petition signed by residents of Ebor Road and part of Armscroft Road, both in his Ward, in opposition to the withdrawal of the garden waste collection service.

- 38.2 Councillor Cook stated that he would be happy to receive the petition and advised that he would examine it once he had sight of it.

**39. ANNOUNCEMENTS**

**The Mayor**

- 39.1 The Mayor informed Members that she had participated in a number of events to commemorate Remembrance Sunday. She had attended a ceremony at the North Warehouse for Members of the Corporation who lost their lives in the First World War. The Mayor, on Remembrance Sunday, attended the Cross of Sacrifice and War Memorials at the Old and New Cemeteries in Tredworth. She also informed Members that she had attended the memorial in the park and the Hussars Memorial outside the Cathedral. Due to Covid, these were private ceremonies with very limited attendance including her Chaplain, the City Marshall and Councillor Coole.

- 39.2 The Mayor informed Members that she had presented a wreath for the Great Western Railway (GWR) poppy train to London with a number of other organisations in the City. A service was conducted at Paddington Station and could be watched back on the GWR website. The Mayor also participated by contributing a line from a poem along with other Civics from around the South West.

- 39.3 The Mayor also brought to Members' attention that the Christmas lights had been switched on in the City Centre with a scaled down switch on. She also regretfully informed Members that the Children's Christmas party would not be taking place this year due to Covid and that it was hoped an event could be held in the spring.

- 39.4 The Mayor further announced that the 20 November was Trans day of Remembrance and that she would be attend St Mary de Crypt to light a candle in remembrance of trans people who had been killed. She further stated that the Council would be flying the trans flag.

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- 39.5 In relation to the Saintbridge Trust, The Mayor announced that there would be a training session for all Members who also act as Trustees of the Trust on 2 December. There would subsequently be a meeting of all Trustees on 15 December.

**Leader of the Council**

- 39.6 The Leader, Councillor Cook, advised Members that a recent compliance report in relation to the crematorium had taken place by The Federation of Burial and Cremation Authorities and received 330 out of 330. He conveyed his congratulations to all who worked at the Crematorium.

**Members of the Cabinet**

- 39.7 The Cabinet Member for Communities and Neighbourhoods, Councillor Watkins announced that a bid for £3.8m had been successful for vulnerable people in housing need during the pandemic. It would provide 50 one and two bedroom flats in Gloucester, Stroud and the Forest of Dean. Councillor Watkins further announced that 37 of these would be in Gloucester. An element of the funding would be to support those individuals to ensure they can move on and secure stable tenancies. Some of the funding would also cover hotel costs incurred during lockdown.
- 39.8 The Cabinet Member for Culture and Leisure, Councillor Morgan, announced that in the next couple of weeks, the Bright Lights installation would be launched. It would involve local communities as well as international and local artists to produce a series of installations in the City Centre, Podsmead and Matson through December and into January.
- 39.9 The Cabinet Member for Planning and Housing Strategy, Councillor Gravells, informed Members that the City Council's response to the Planning White Paper had been submitted and thanked the three political groups for their contributions and ensuring it was not presented along party political lines. He further informed Members that the City Plan had been submitted to the Planning Inspectorate and it was anticipated the inspectorate would begin work in early 2021.
- 39.10 The Cabinet Member for Economic Growth and Recovery, Councillor Melvin, informed Members that on 16 November, the online portal for business grant applications went live. There was not a current deadline and applications were open.

**Chairs of Committees**

- 39.11 The Chair of the Overview and Scrutiny Committee, Councillor Coole, informed Members that budget scrutiny would take place on Monday 7 December. He stated that much of the discussion would likely be in the context of Covid. They encouraged those Members who did not sit on the Committee to attend and to submit any questions they might have to democratic services by 2 December.

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**40. MEMBERS' QUESTION TIME**

- 40.1 Councillor Hilton asked if the Marketing Gloucester liquidator's original draft letter was different from the one he received on 4 November. Councillor Cook responded that he understood that Councillor Hilton had written to the Managing Director on this matter and would receive a response in due course.
- 40.2 Councillor Hilton asked that all correspondence between the liquidator and the City Council be stored safely and if he could have a copy of the liquidator's report as it was prior to it being amended. Councillor Cook reassured Councillor Hilton that all documents would be stored appropriately. In relation to the liquidator's report, as the original was marked confidential, Councillor Cook advised that he would need to check whether it could be released to Councillor Hilton.
- 40.3 Councillor Hilton asked Councillor Melvin what she was doing to help the Farmer's Market at the Cross survive and recovery from the pandemic. Councillor Melvin advised that, other than the grants available for the self-employed, there were various other grants including the discretionary grants. She advised that she had provided her contact details to all traders and that they could get in touch in the event of their being in difficulties.
- 40.4 Councillor Stephens asked Councillor Cook for an update regarding improving safety as part of development works at the Railway station underpass in response to a series of sexual assaults in the vicinity. Councillor Cook advised that he had asked the project board overseeing to ensure that the underpass improvements would be seen as a priority. He further advised that he had asked officers to work with City Safe to provide additional security staff throughout the week to provide confidence to pedestrians that the underpass was safe to use and that the costs would be provided from the grant made available by the Local Enterprise Partnership. Network Rail and GWR were examining providing temporary lighting prior to the scheme starting.
- 40.5 Councillor Stephens asked Councillor Cook what action would be taken to improve the impending lack of provision for tree cutting as well as hedgerow and shrubbery maintenance currently undertaken by Amey. He also asked when a proposed Cabinet report in relation to this would be tabled. Councillor Cook advised that he was hopeful that a report would be ready for the next Cabinet meeting. With regard tree cutting, he advised that many operatives had been reassigned to different roles due to Covid. Amey were also considerably behind in this work due to three major summer storms. He was confident that, had these events not occurred, the budgetary provision would have been adequate.
- 40.6 Councillor Stephens asked Councillor Cook to resolve issues regarding the inter-agency agreement with the County Council which he viewed as financial burdensome for the City Council. Councillor Cook stated that this would be examined in the coming months and advised that work was

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underway to document all the Council's land in the City which would assist with making a decision.

- 40.7 Councillor Wilson reported that a resident in Hucclecote was having difficulties registering with the My Gloucester portal and that the site said it was still at the 'beta' stage – i.e. untested. He asked why the public were being advised to register when it may not be yet ready. Councillor Hannah Norman advised that she would speak with the Head of IT about it as well as the Managing Director.
- 40.8 Councillor Coole asked the Cabinet Member for Communities and Neighbourhoods, Councillor Watkins, what provision for access to food was available to those who have been placed in temporary accommodation. Councillor Watkins advised that accommodation providers were made aware of what individual issues there were and that considerable work had been undertaken with a range of partners to ensure residents had access to food across the city.
- 40.9 Councillor Coole informed Members that someone who had been placed in temporary accommodation had not eaten for two days. He asked what a person in such a position should do. Councillor Watkins advised that she would hope that Members would raise such cases with officers and that there was provision to supply emergency food through the Gloucestershire Community Help Hub.
- 40.10 In response to a question from Councillor Field, the Cabinet Member for Planning and Strategy Housing, Councillor Gravells provided reassurance that all responses to the Podsmead Regeneration consultation would be considered.
- 40.11 Councillor Pullen shared his view that flytipping was becoming a major issue in the City including on private land. He asked the Cabinet Member for Environment, Councillor Cook, if he would reconsider Labour's budget amendment which was tabled in 2019 to provide funds for additional officers and an education programme to tackle flytipping. Councillor Cook stated that he had not received evidence that flytipping had increased and that 3GS worked with the Council to investigate, enforce and take additional action where necessary. Councillor Pullen further asked what Councillor Cook intended to do in relation to 3GS underperforming. Councillor Cook disputed that there were performance issues and Fixed Penalty Notices were regularly issued to offenders.
- 40.12 Councillor Hansdot stated that he had spoken with homeless people in the City and asked Councillor Watkins if the Council was housing people. Councillor Watkins advised that, everyone has been offered accommodation but that unfortunately, on occasion the placements were unsuccessful for a range of reasons. She encouraged Councillor Hansdot to raise the matter with Street Link and/or with officers.
- 40.13 Councillor Finnegan asked the Cabinet Member for Culture and Leisure. Councillor Morgan, to elaborate further on the bright lights campaign

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organised for later in the year. Councillor Morgan that the programme was still being worked on and that two internationally renowned artists had been engaged. He stated that he hoped the installations would bring some joy to Gloucester and encourage people back to the City Centre.

40.14 Councillor Brazil asked what would happen to the Hempsted meadow site once Covid testing had concluded and whether the car boot sale would continue. Councillor Cook advised that it would remain with the NHS until the end of March at earliest. He further advised that the Cabinet Member for Economic Growth and Recovery had prepared some of her own plans for when the site becomes available again.

**41. REVOCATION OF PLANNING BRIEFS, SUPPLEMENTARY PLANNING GUIDANCE AND SUPPLEMENTARY PLANNING DOCUMENTS**

41.1 **RESOLVED that:** - The Revocation of Planning Briefs, Supplementary Planning Guidance and Supplementary Planning Documents be approved.

**42. POLITICAL BALANCE ON COMMITTEES - REVIEW**

42.1 Councillor Cook (Leader of the Council) moved and Councillor Hannah Norman (Deputy Leader of the Council) seconded the motion.

42.2 **RESOLVED that:** - Council

(1) Approve the proposed changes to membership of Committees as set out in the report.

(2) Receive and note nominations to the following Committees as required by the proposed changes:

- Overview and Scrutiny Committee – 1 additional seat (Liberal Democrat)
- Planning Committee – 1 replacement seat (Labour).

**43. NOTICES OF MOTION**

43.1 Councillor Hilton proposed and Councillor Field seconded the following motion:

This council welcomes the gathering of £6 million of public funds to carry out major refurbishment of Gloucester Railway Station.

This council agrees that the proposed changes at the railway station will enhance the rail passenger experience and along with our new bus station give Gloucester a first class public transport hub fit for the 21st Century.

This council agrees that Gloucester has waited a long time for the railway station upgrade with the proposals for the underpass upgrade being on the cards since the early noughties.

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This council agrees that the long awaited upgrade of the underpass from Great Western Road to Bruton Way must be the first priority for construction and completion.

This council agrees that the project team should ensure that construction work is started in the first quarter on 2021.

- 43.2 Councillor Cook proposed and Councillor Stephens seconded the following amendment:

“This council welcomes the gathering of £6 million of public funds to carry out major refurbishment of Gloucester Railway Station.

This council agrees that the proposed changes at the railway station will enhance the rail passenger experience and along with our new bus station give Gloucester a first class public transport hub fit for the 21<sup>st</sup> Century.

This council agrees that Gloucester has waited a long time for the railway station upgrade with the proposals for the underpass upgrade being on the cards since the early noughties.

This council agrees that the long awaited upgrade of the underpass from Great Western Road to Bruton Way ~~must be the first~~ **is the highest** priority ~~for construction and completion~~ **and must start on site as soon as possible.**

This council agrees that the project team should ensure that construction work is started ~~in the first quarter of 2021~~ **as soon as possible and if practical no later than the first quarter of 2021.”**

- 43.3 Councillor Hilton accepted the amendment which became the substantive motion. The motion was put to the vote and was carried.

- 43.4 **RESOLVED that:-**

This council welcomes the gathering of £6 million of public funds to carry out major refurbishment of Gloucester Railway Station.

This council agrees that the proposed changes at the railway station will enhance the rail passenger experience and along with our new bus station give Gloucester a first class public transport hub fit for the 21<sup>st</sup> Century.

This council agrees that Gloucester has waited a long time for the railway station upgrade with the proposals for the underpass upgrade being on the cards since the early noughties.

This council agrees that the long awaited upgrade of the underpass from Great Western Road to Bruton Way is the highest priority and must start on site as soon as possible.

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This council agrees that the project team should ensure that construction work is started as soon as possible and if practical no later than the first quarter of 2021.

- 43.5 Councillor Melvin proposed and Councillor Williams seconded the following motion:

“In January 2018 Gloucester City Council adopted the MND Charter and in doing so agreed to help achieve better outcomes for those living with motor neurone disease.

The five points of that charter were

- the right to an early diagnosis and information;
- the right to access quality care and treatments;
- the right to be treated as individuals and with dignity and respect;
- the right to maximise their quality of life; and carers of people with MND have the right to be valued, respected, listened to and well-supported.

This disease is fatal, rapidly progressing and it has no cure. It affects around 5,000 adults in the UK at any one time and sadly, due to the speed it progresses, many of these adults die without the right care, a suitable wheelchair, or any support to communicate with their loved ones.

This Council recognises that we work with many individuals with a range of illnesses and disabilities and, although we don't directly provide care or equipment, we do have a role to play to make sure our residents are supported in ways which best meet their needs. Whilst the Council cannot prioritise one disease or disability over another we do recognise the unique and personal ways people's lives are affected by MND.

This motion is to reiterate our commitment to the Charter adopted in January 2018.

This Council commits to:

- We commit to understanding the experiences of those living with MND and how our services can better respond to their progressive illness.
- We commit to monitoring and reviewing services being delivered to those with MND to ensure that everything that can be done will be done to make their lives as dignified as possible.
- We commit to a communications campaign that would help to hear the voices of people with MND and their experiences of dealing with/ working with the Council & schedule in next year's comms planning.”

- 43.6 The motion was put to the vote and was carried.

- 43.7 Councillor Hansdot proposed and Councillor Pullen seconded the following motion:



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“Council notes:

Commonwealth veterans have a long and proud history of service in the British military, from conflicts old, such as World War Two to recent conflicts such as Iraq and Afghanistan, Commonwealth veterans have served with distinction alongside British born veterans.

However, when their service is complete many are left with extortionate charges to remain in the UK. Commonwealth veterans are supposed to receive indefinite leave to remain in the UK however many veterans state that the army failed to inform them that they needed to make an immediate application to the Home Office for leave to remain in the UK when their service was complete. Many thought the process was automatic, yet this is not the case.

Fees for indefinite leave to remain have also dramatically increased. Since 2015 fees for definite leave to remain have increased by nearly 127% from £1051 - £2381 with a family of four having to pay nearly £10000 to remain in the UK, this figure doesn't include associated legal fees that some who have struggled with immigration applications may wish to pay. This can lead to many facing spiralling debt and uncertain immigration status because if a veteran is unable to pay they and their family face the prospect of taking on large amounts of debt or failing to pay leaves their immigration status in doubt and the very real prospect of deportation.

Whilst their applications are ongoing commonwealth veterans are also unable to seek employment or claim benefits.

Council resolves:

1. To make our armed forces champion and lead officers aware of the difficulties experienced by commonwealth veterans and ensure that those who are currently experiencing problems, whether financial or immigration difficulties, are not disadvantaged whilst their applications are ongoing.
2. That the Leader of the Council writes to the Prime Minister, Kevin Forster the Minister of State for Immigration and Johnny Mercer the Minister of State for Veteran Affairs outlining this Council's support for all commonwealth veterans who have served a minimum of 4 years being granted automatic and free of charge right to remain in the UK and that any veteran who completes 12 years of service be automatically given British Citizenship.
3. That Council lobbies Gloucester MP Richard Graham to ask that he presses the government for a change in the legislation affects those that have served diligently and honourably for this Country.”

43.8 Councillor Watkins proposed and Councillor Lewis seconded the following amendment:

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“Council notes:

Commonwealth veterans have a long and proud history of service in the British military, from conflicts old, such as World War Two to recent conflicts such as Iraq and Afghanistan, Commonwealth veterans have served with distinction alongside British born veterans.

However, when their service is complete many are left with extortionate charges to remain in the UK. Commonwealth veterans are supposed to receive indefinite leave to remain in the UK however many veterans state that the army failed to inform them that they needed to make an immediate application to the Home Office for leave to remain in the UK when their service was complete. Many thought the process was automatic, yet this is not the case.

Fees for indefinite leave to remain have also dramatically increased. Since 2015 fees for definite leave to remain have increased by nearly 127% from £1051 - £2381 with a family of four having to pay nearly £10000 to remain in the UK, this figure doesn't include associated legal fees that some who have struggled with immigration applications may wish to pay. This can lead to many facing spiralling debt and uncertain immigration status because if a veteran is unable to pay they and their family face the prospect of taking on large amounts of debt or failing to pay leaves their immigration status in doubt and the very real prospect of deportation.

Whilst their applications are ongoing commonwealth veterans are also unable to seek employment or claim benefits.

Council resolves:

1. To make our armed forces champion and lead officers aware of the difficulties experienced by commonwealth veterans and ensure that those who are currently experiencing problems, whether financial or immigration difficulties, ~~are not disadvantaged~~ **are treated respectfully, fairly and equitably whilst their applications are ongoing.**
2. That the Leader of the Council writes to the Prime Minister, Kevin Forster the Minister of State for Immigration and Johnny Mercer the Minister of State for Veteran Affairs outlining this Council's support for all commonwealth veterans who have served a minimum of 4 years being granted automatic and free of charge right to remain in the UK and that any veteran who completes 12 years of service be automatically given British Citizenship.
3. That Council ~~lobbies~~ **recognises that** Gloucester MP Richard Graham leads on a campaign to ~~presses~~ the government for a change in the legislation **which** affects those that have served diligently and honourably for this Country.”

**COUNCIL**  
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43.9 Councillor Hansdot accepted the amendment which became the substantive motion. The motion was put to the vote and was carried.

43.10 **RESOLVED that:-**

“Council notes:

Commonwealth veterans have a long and proud history of service in the British military, from conflicts old, such as World War Two to recent conflicts such as Iraq and Afghanistan, Commonwealth veterans have served with distinction alongside British born veterans.

However, when their service is complete many are left with extortionate charges to remain in the UK. Commonwealth veterans are supposed to receive indefinite leave to remain in the UK however many veterans state that the army failed to inform them that they needed to make an immediate application to the Home Office for leave to remain in the UK when their service was complete. Many thought the process was automatic, yet this is not the case.

Fees for indefinite leave to remain have also dramatically increased. Since 2015 fees for definite leave to remain have increased by nearly 127% from £1051 - £2381 with a family of four having to pay nearly £10000 to remain in the UK, this figure doesn't include associated legal fees that some who have struggled with immigration applications may wish to pay. This can lead to many facing spiralling debt and uncertain immigration status because if a veteran is unable to pay they and their family face the prospect of taking on large amounts of debt or failing to pay leaves their immigration status in doubt and the very real prospect of deportation.

Whilst their applications are ongoing commonwealth veterans are also unable to seek employment or claim benefits.

Council resolves:

1. To make our armed forces champion and lead officers aware of the difficulties experienced by commonwealth veterans and ensure that those who are currently experiencing problems, whether financial or immigration difficulties, are treated respectfully, fairly and equitably whilst their applications are ongoing.
2. That the Leader of the Council writes to the Prime Minister, Kevin Forster the Minister of State for Immigration and Johnny Mercer the Minister of State for Veteran Affairs outlining this Council's support for all commonwealth veterans who have served a minimum of 4 years being granted automatic and free of charge right to remain in the UK and that any veteran who completes 12 years of service be automatically given British Citizenship.
3. That Council recognises that Gloucester MP Richard Graham leads on a campaign to press the government for a change in the legislation which affects those that have served diligently and honourably for this Country.”

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43.11 Councillor Stephens proposed and Councillor Hampson seconded the following motion:

“Council values the importance of the UN’s 17 Sustainable Development Goals (SDGs) that address the global challenges we face including poverty, inequality, climate, environmental degradation and prosperity.

Council recognises that we have a decade of action if we are to deliver the goals by 2030.

Council believes that all levels of government work together and that local government is a key component to successful domestic implementation of the SDGs.

Council notes that in 2019 the cross-party Local Government association unanimously adopted a motion recognising the vital roles that councils could play in planning, implementation and monitoring the UK’s progress on meeting the ambitions of the Agenda 2030.

Council resolves:

1. To lobby central government for them to recognise the vital role local government must play in terms of the planning, implementation and monitoring in local areas, and fully resource councils to do that work, to deliver the UK’s progress on meeting the ambitions of the 2030 Agenda.
2. To continue to engage our areas through local partnerships and with our citizens to share research and engagement with our networks, partners, and citizens, particularly given our sector’s continuing funding pressures.
3. To formalise our commitment to the Goals and therefore adopts the Sustainable Development Goals (SDG), agreeing to pursue the Goals in the work undertaken by the Council.
4. To begin work by mapping which targets are relevant using the LGA and UKSSD Sustainable Development Guide.”

43.12 Councillor Cook proposed and Councillor Watkins seconded the following amendment:

“Council values the importance of the UN’s 17 Sustainable Development Goals (SDGs) that address the global challenges we face including poverty, inequality, climate, environmental degradation and prosperity.

Council recognises that we have a decade of action if we are to deliver the goals by 2030.

Council believes that all levels of government work together and that local government is a key component to successful domestic implementation of the SDGs.

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Council notes that in 2019 the cross-party Local Government association unanimously adopted a motion recognising the vital roles that councils could play in planning, implementation and monitoring the UK's progress on meeting the ambitions of the Agenda 2030.

Council resolves:

1. To lobby central government for them to recognise the vital role local government must play in terms of the planning, implementation and monitoring in local areas, and fully resource councils to do that work, to deliver the UK's progress on meeting the ambitions of the 2030 Agenda.
2. ~~To continue to engage our areas through local partnerships and with our citizens to share research and engagement with our networks, partners, and citizens, particularly given our sector's continuing funding pressures.~~ **To recognise the role that the Council's policies on Social Value can play in delivering against key aspects of the Sustainable Development Goals and to continue to build local partnerships, share knowledge and research and engage with new and existing networks, partners and citizens to deliver social value.**
3. ~~To formalise our commitment to the Goals and therefore adopts the Sustainable Development Goals (SDG), agreeing to pursue the Goals in the work undertaken by the Council.~~
3. To begin work by mapping which targets are relevant using the LGA and UKSSD Sustainable Development Guide.
4. **To formalise the City Council's commitment to the Goals by embedding the principles into relevant City Council policies, plans and strategies as and when those documents are developed, reviewed or replaced."**

43.13 Councillor Stephens accepted the amendment which became the substantive motion. The motion was put to the vote and was carried.

43.14 **RESOLVED that:-**

Council values the importance of the UN's 17 Sustainable Development Goals (SDGs) that address the global challenges we face including poverty, inequality, climate, environmental degradation and prosperity.

Council recognises that we have a decade of action if we are to deliver the goals by 2030.

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Council believes that all levels of government work together and that local government is a key component to successful domestic implementation of the SDGs.

Council notes that in 2019 the cross-party Local Government association unanimously adopted a motion recognising the vital roles that councils could play in planning, implementation and monitoring the UK's progress on meeting the ambitions of the Agenda 2030.

Council resolves:

1. To lobby central government for them to recognise the vital role local government must play in terms of the planning, implementation and monitoring in local areas, and fully resource councils to do that work, to deliver the UK's progress on meeting the ambitions of the 2030 Agenda.
2. To recognise the role that the Council's policies on Social Value can play in delivering against key aspects of the Sustainable Development Goals and to continue to build local partnerships, share knowledge and research and engage with new and existing networks, partners and citizens to deliver social value.
3. To begin work by mapping which targets are relevant using the LGA and UKSSD Sustainable Development Guide
4. To formalise the City Council's commitment to the Goals by embedding the principles into relevant City Council policies, plans and strategies as and when those documents are developed, reviewed or replaced.

43.15 Councillor Coole proposed and Councillor Stephens seconded the following motion:

“Council notes that protests on Great Western Road, near to Hope House and Gloucestershire's Sexual Assault Referral Centre, are ongoing.

Council believes that patients have the right to access healthcare, medical procedures, and advice free from intimidation, particularly when some will have had to make difficult decisions at a vulnerable time in their lives.

Council notes that other local authorities have used Public Spaces Protection Orders to create “buffer zones” around similar facilities, including the first such order concerning a Marie Stopes clinic in the London Borough of Ealing, which has been upheld by the Court of Appeal.

Council notes that other councils have implemented, or intend to implement, similar measures, including Manchester Metropolitan Borough Council, Richmond London Borough Council and Somerset West and Taunton District Council.

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Council resolves that the Cabinet Member for Communities and Neighbourhoods should prepare a report investigating the potential for extending the existing PSPO, and/or similar measures, to the relevant area of Great Western Road, to be laid before Cabinet and other relevant committees.”

- 43.16 Councillor Watkins proposed and Councillor Melvin seconded the following amendment:

“Council notes that protests on Great Western Road, near to Hope House and Gloucestershire’s Sexual Assault Referral Centre, are ongoing.

Council believes that patients have the right to access healthcare, medical procedures, and advice free from intimidation, particularly when some will have had to make difficult decisions at a vulnerable time in their lives.

Council notes that other local authorities have used Public Spaces Protection Orders to create “buffer zones” around similar facilities, including the first such order concerning a Marie Stopes clinic in the London Borough of Ealing, which has been upheld by the Court of Appeal.

Council notes that other councils have implemented, or intend to implement, similar measures, including Manchester Metropolitan Borough Council, Richmond London Borough Council and Somerset West and Taunton District Council.

Council resolves that the Cabinet Member for Communities and Neighbourhoods ~~should prepare a report~~ **commits to** investigating the potential for extending the existing PSPO, ~~and/or similar measures,~~ to the relevant area of Great Western Road, ~~to be laid before Cabinet and other relevant committees.~~ **subject to evidence, at the scheduled annual review in January 2021.”**

- 43.17 Councillor Coole accepted the amendment which became the substantive motion. The motion was put to the vote and was carried.

- 43.18 **RESOLVED:-**

Council notes that protests on Great Western Road, near to Hope House and Gloucestershire’s Sexual Assault Referral Centre, are ongoing.

Council believes that patients have the right to access healthcare, medical procedures, and advice free from intimidation, particularly when some will have had to make difficult decisions at a vulnerable time in their lives.

Council notes that other local authorities have used Public Spaces Protection Orders to create “buffer zones” around similar facilities, including the first such order concerning a Marie Stopes clinic in the London Borough of Ealing, which has been upheld by the Court of Appeal.

Council notes that other councils have implemented, or intend to implement, similar measures, including Manchester Metropolitan Borough Council,

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Richmond London Borough Council and Somerset West and Taunton District Council.

Council resolves that the Cabinet Member for Communities and Neighbourhoods commits to investigating the potential for extending the existing PSPO, to the relevant area of Great Western Road, subject to evidence, at the scheduled annual review in January 2021.

**44. WRITTEN QUESTIONS TO CABINET MEMBERS**

- 44.1 In respect of question 2, Councillor Field asked if the Cabinet Member for Environment was concerned by reports of accidents involving e-scooters and misuse of them. Councillor Cook shared Councillor Field's concern. He advised that he was in regular contact with the CEO of the company running scheme particularly in relation to visually and hearing impaired users. Councillor Cook also expressed concerns around intoxication and had raised these issues.
- 44.2 In respect of question five, Councillor Field asked Councillor Cook whether he agreed that it would be preferable for street signs to be in place for the completed roads at the development at one end of Bristol Road while street signs were already in place for unfinished parts of the development. Councillor Cook responded that officers would be engaging with the development company to get the job done.
- 44.3 In respect of question 6, Councillor Field asked Councillor Melvin if she had the report valuing the continental market and if so, could it be shared. Councillor Melvin advised that she would be in touch with him early the following week.
- 44.4 In respect of question 7, Councillor Field noted that there had been several comments regarding fireworks and safety in recent weeks. He asked if further action was required such as banning their sale. Councillor Melvin shared her view that it was an important debate and it might be prudent to canvass a wide range of views. Councillor Cook acknowledged that there were considerable environmental issues to be considered and that it was likely that such measures be introduced by bodies other than local authorities.
- 44.5 In respect of question 9, Councillor Field asked, given the widespread recognition that local government had assisted with responding to the Covid-19 pandemic, was Councillor Hannah Norman making the case that Councils needed to be fully funded in order to respond to such crises. Councillor Hannah Norman agreed and stated that continual lobbying of the MP was taking place. She outlined what funds had been received from Central Government and that further funds were forthcoming but could take some time.
- 44.6 In respect of question 10, Councillor Stephens stated he was disappointed to see that there were approximately eleven rough sleepers in city when at start of pandemic it was zero. He sought assurance that everything was being



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done to house them. Councillor Stephens also stated that Members had issues contacting the out of hours service. He asked Councillor Watkins if this was being resolved and queried what those presenting to closed offices with no access to a phone were to do. Councillor Watkins confirmed that the number cited was a snapshot in time and, as such, would fluctuate. There were individuals who the Council was working hard with but were not accepting accommodation and that further work was required to help. With regard to contacting the Council 'out of hours' Councillor Watkins stated that she had not been made aware of any performance issues in respect of the out of hours team. There was a freephone number and a map with phones indicated as well as free Wi-Fi in the city centre.

**Time of commencement: 6.30 pm hours**  
**Time of conclusion: 9.00 pm hours**

**Chair**

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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# Gloucester City Council

<b>Meeting:</b>	<b>Cabinet Council</b>	<b>Date:</b>	<b>9 December 2020 28 January 2021</b>
<b>Subject:</b>	<b>Climate Change Strategy</b>		
<b>Report Of:</b>	<b>Leader of the Council and Cabinet Member for Environment</b>		
<b>Wards Affected:</b>	<b>All</b>		
<b>Key Decision:</b>	<b>No</b>	<b>Budget/Policy Framework:</b>	<b>Yes</b>
<b>Contact Officer:</b>	<b>Meyrick Brentnall, Climate Change and Environment Manager</b>		
	<b>Email: Meyrick.brentnall@gloucester.gov.uk</b>		<b>Tel: 396829</b>
<b>Appendices:</b>	<b>1. CLS Report</b>		

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

- 1.1 To present the findings of a report into how the City Council can reduce our carbon emissions to zero by 2030 in line with our climate emergency resolution.

### 2.0 Recommendations

- 2.1 Cabinet is asked to **RESOLVE** that:

- (1) the draft action plan be subject to a targeted consultation with the Environment and Ecology Forum and the Climate Change cross-party Member Group
- (2) authority be delegated to the City Council Climate Change Manager, in consultation with the Cabinet Member for Environment, to make any changes to the actions following the consultation referred to above prior to submitting a report to Full Council in early 2021.
- (3) the steps needed to move the whole City towards carbon neutrality by 2050 are noted as per the appendix report, and that officers continue to develop this city-wide action plan.

- 2.2 Cabinet is asked to **RECOMMEND** to Council that, subject to 2.1 (1) and (2) above, the actions contained in the CLS report (Appendix 1) are adopted as a plan for achieving the goal of net zero carbon emissions by the city council by 2030.

- 2.3 Council is asked to **RESOLVE**

- (1) That following the implementation of 2.1 (1) and (2) above, the actions contained in the CLS report (Appendix 1) are adopted as a plan for achieving the goal of net zero carbon emissions by the city council by 2030.

- (2) The steps needed to move the whole City towards carbon neutrality by 2050 are noted as per the appendix report, and that officers continue to develop this city-wide action plan.

### **3.0 Background and Key Issues**

- 3.1 In July 2019 the city council adopted a climate emergency resolution, this required the city council to become carbon neutral by 2030 and the City as whole by 2050. This report will deal predominantly with the former. In March of this year a road map of how these targets could be met was agreed at Cabinet. This included a recommendation to employ an expert to do a thorough baseline assessment of our emissions and give guidance as to how we should hit our 2030 target.
- 3.2 In the summer of this year, following a competitive process, CLS were commissioned to take this work forward. The brief was to undertake the following:
1. A scoping exercise identifying what Council carbon emissions are to be included, taking account of current best practice
  2. Taking into account point 1 above, provide a carbon audit of buildings and operations
  3. A high-level assessment of what modifications to buildings/machinery, behavioral operations and renewable capacity can be instigated to reduce emissions
  4. A number of broadly costed scenarios detailing how over the next 10 years the city council can become a net zero emissions council.
  5. 5 Looking more broadly at the emissions of the whole city, to develop a methodology for calculating the baseline emissions of the city of Gloucester taking on current advice and best practice.
- 3.3 Appendix 1 contains the findings of the consultant's report. The CLS report is very long and at times detailed, however, the main thrust of the report can be gleaned from reading pages 7 to 26. This summarises what the Council's carbon emissions currently are, and what is needed to bring them down to net zero by 2030.
- 3.4 This covering report will run through the above five areas of commissioned work, before moving on to a wider overview of the assessor's report and how its findings can be implemented.

#### ***The Scoping exercise***

- 3.5 What to include in our emissions reporting is not as straightforward as it may seem. Fortunately, the UN has published some guidance on this and has divided how we calculate CO2 emissions into 3 distinct categories: scope 1, 2 and 3.
- 3.6 Put simply, scope 1 is the direct energy burnt by the organisation. This would include fleet fuel and gas for heating and, in our case, the gas burnt to generate electricity at GL1 in the combined heat and power plant. Scope 2 is scope 1 plus electricity use and any energy usage the organisation is directly accountable for, so this would include all lighting, heating, computer use and fleet activity. Scope 3 is everything from the embodied energy in the buildings we own, to the emissions associated with the food sold in our retail outlets.

- 3.7 Reporting to scope 3 is an onerous and costly exercise and goes beyond what most would consider a reasonable carbon audit. Certainly, most authorities and organisations undertaking similar exercises have included scope 1 and 2 only, and this is what the consultant has recommended Gloucester City Council adopts. As we begin to understand CO2 reporting more, we may move to scope 3 at a later date.
- 3.8 Even when the scope has been decided, there will still be issues as to exactly what buildings and processes to include. For example, do we include the Amey operations, those of Aspire or indeed the airport? There is no firm guidance on this, however, the consultant has drawn the line at buildings and operations that we own and either directly or indirectly pay the bills. This will include Amey and Aspire but exclude the airport and our city centre commercial estate. This is also broadly in line with what other authorities in Gloucestershire are currently undertaking.

### ***The carbon audit of buildings***

- 3.9 For a number of years, we have had remote metering installed in most of our properties and this allows easy access to the required information, including in some instances half hourly meter readings. These provide an insight into how a building works and whether or not energy is being wasted. CLS supplemented this information with site visits to get a feel for how the buildings operate at a human level (e.g. are windows left open with air conditioning on), as well as allowing subtle sub-metering with 'clamps' around cables to further refine the energy monitoring. COVID-19 has meant that access was not always straightforward and of course buildings were mostly empty. This will impact on the final result but is taken into account in the report.

### ***A high-level assessment of what modifications to buildings/machinery, behavioral operations and renewable capacity can be instigated to reduce emissions***

- 3.10 This forms the lion's share of the report at appendix 1. CLS visited almost all of our buildings that had a loading of more than a few Kwh and produced a series of recommendations to increase energy efficiency and, where appropriate, put forward renewable energy suggestions. An overview is included later on in this covering report. As mentioned above, COVID-19 did hamper the investigations, making site visits difficult and not allowing certain aspects of energy use to be monitored in detail.

### ***A number of broadly costed scenarios detailing how over the next 10 years the city council can become a net zero council.***

- 3.11 Three scenarios are put forward that detail how we can reduce our emissions. The first scenario covers energy efficiency, the second energy efficiency, renewables and an electric fleet, the third looks at innovative ways in which to reduce our gas usage. This is explored by the consultant and summarised later in this report.

### ***A Methodology for calculating the baseline emissions of the city of Gloucester taking on board current advice and good practice.***

- 3.12 This concluding section of the assessor's report sets the scene for a city-wide strategy to be produced in the future, as to how we can reach the goal of a carbon neutral city by the year 2050.

### **CLS Report Overall Summary**

- 3.13 For the city council operation the Scope 2 headline figure of energy consumption is 15.82 Giga Watt hours (GWh) of energy per year **or 3438 tonnes of CO2 per year**. When renewables are added it is reduced slightly to **3425 tonnes**. This includes Amey, Aspire as well as fleet transport use from Amey and the Council. If all the interventions recommended are implemented, this consumption could be reduced by 32.4% with regard to electricity, 22.9% for gas and 18.8% for vehicles. This is considered conservative and the consultant expects greater savings to be realised. All the interventions have a short (typically 5–6 years) pay back and therefore could be viably funded through borrowing.
- 3.14 Even with the above actions implemented, a significant amount of carbon will have to be accounted for; as such the next step is to generate low carbon energy preferably on site utilising predominantly solar on existing buildings. When this is factored along with the proposed energy efficiencies, we can deliver 131% of our electricity demand, thus enabling us to offset some of our gas/fossil fuel consumption. When looking at this in more detail it is probably best to talk of carbon rather than kWhs. To help illustrate this, the report has three graphs on pages 20 and 21 depicting predicted carbon emissions over the period 2020 - 2030. The first graph shows the reduction in carbon anticipated if the recommendations on energy efficiencies are implemented: this shows a reduction from 3500 tonnes per year to 2000 tonnes by 2030. The second graph shows the same as above but takes into account changing the fleet (predominantly the waste and recycling fleet) to low carbon (i.e. electric, either by battery or hydrogen fuel cell). This reduces the overall carbon budget by another 1000 tonnes leaving 1000 tonnes a year left. Graph 3 depicts the regression to zero carbon and this final 1000 tonnes reduction will be the most difficult to achieve, as it is largely as a result of burning gas at GL1 and the crematorium.
- 3.15 While technology is constantly changing, the most likely response at GL1 will be to move to heat pumps powered by electricity, preferably generated by ourselves on one of our sites. To get a good spread across the year, this should be a combination of wind, solar and even low head hydro and could involve for example a solar farm on council land or a third party site where we invest in the infrastructure and 'sleeve' the energy for our use. Reducing gas usage at the Crematorium may be the hardest of all as any significant change in operations will need sensitive treatment. The report recommends a change in technology from cremation to resomation. This process, based on alkaline hydrolysis, takes about 4 hours and leaves a liquid and powdered bones, the latter of which can be returned to the next of kin as ashes. The temperatures required for this are lower and can be achieved with heat pump technology. Clearly this a very emotive subject and will only be followed with public support. The only alternative is to 'offset' in some way, either



through generation elsewhere, third party energy efficiency or tree planting. All have their problems.

- 3.15 Having broadly mapped out the trajectory of how to get to zero carbon, the report goes into a degree of detail on how to achieve the savings and provides useful figures as to what the cost will be, the pay back and the carbon saved. This is all set out in the tables on pages 24 and 25. The first table lists a suite of measures ME1 to ME19 that reduces our energy consumption through efficiencies, the second MF1 – MF10 looks at fuel use. The third R1 – R14 displays the potential contribution from renewables, predominantly solar. This and the narrative in pages 34 – 139 are the core of the report and detail the interventions needed to reach our carbon reduction goals.
- 3.16 It is proposed therefore that the CLS report broadly forms the work programme for the next few years, to be implemented by the climate change manager and asset management colleagues in partnership with the various end users such as the Guildhall, Aspire and Amey.
- 3.17 The final part of report looks at the emissions from the City of Gloucester as a whole. Perhaps the most useful table here is the one on page 144. This describes the tonnage of CO2 emitted by: electricity (157,667), gas (184,328), and transport fuel (80,187).
- 3.18 Reaching the 2050 target for electricity should be straightforward and the majority of vehicles by then will probably be electric in some shape or form too. The real problem will be gas, in particular the 109,640 tonnes emitted from domestic boilers. This will require a massive investment in insulation and the move from gas boilers to electric (probably heat pumps). This of course raises issues (as does the electrification of transport) for the generation of low carbon electricity to support these new technologies. The report puts forward a number of ideas but is at pains to point out that although the city council only uses 1% of Gloucester's carbon, it's influence could potentially be much greater. One of the most important things the city council can do is lead by example, thus encouraging others to follow, hence the importance of the Council getting on with reducing its own emissions over the next few years.

#### **4.0 Social Value Considerations**

- 4.1 Climate change will impact on all aspects of our lives and if unchecked will have a significant negative impact on the social fabric of our communities. Anything that mitigates against climate change will have positive social value.

#### **5.0 Environmental Implications**

- 5.1 The report supports the reduction in CO2 and other greenhouses gasses and therefore has positive environmental implications

#### **6.0 Alternative Options Considered**

- 6.1 To not develop a comparable action plan would mean the city council would miss its climate change targets, find it difficult to persuade local residents and businesses to cut their emissions and waste money on energy.
- 6.2 To go further and faster, while this may bring emissions down quicker, would come at more expense and may generate resistance from a public not used to the compromises and costs involved.

## **7.0 Reasons for Recommendations**

- 7.1 The city council has adopted ambitious climate change targets, in particular a desire to be a carbon neutral authority by 2030. If this target is to be met along with all the co-benefits around energy security, cost, local emissions etc then the strategy as laid out in this report and in the appendix will need to be broadly followed.

## **8.0 Future Work and Conclusions**

- 8.1 The report tells us how we can achieve the 2030 target of carbon neutrality with a suite of detailed actions to be taken forward over the coming months and years. Some of the proposals are straight forward, others are more complex, and some will be subject to outside funding sources and political will. As time moves on the recommendations will need to be re-appraised and certainly some of the more long-term projects may be subject to significant change. To ensure the projects are scrutinised and not falling behind, it is proposed to monitor progress on the action plan at the climate change cross-party Member group. It is also envisaged that further reports will be put to cabinet when particularly significant or controversial projects are rolled out.
- 8.2 What the report does not do is solve how to reduce carbon emissions in the city as a whole. The consultant's report did give a hint to how big the issue is, in that approximately 434,301 tonnes of carbon is emitted by Gloucester each year. For now, it is proposed to try and reduce emissions on an ad hoc basis by being opportunistic with funding streams and finding savings where we can. As the city council brings its emissions down, then we will engage more with local residents and business to help them bring their emissions down.

## **9.0 Financial Implications**

- 9.1 The financial implications for the Council will be assessed on a project by project basis. The merits of each project will be considered to determine whether they provide good value for money in relation to the carbon benefits achieved from undertaking them. Those with business cases that provide the best value for money i.e. achieve the greatest carbon benefits with the shortest payback in relation to the investment made will be considered more favourably.
- 9.2 The projects undertaken will be subject to both financial and value for money scrutiny to ensure that the business cases presented are met. Progress and financial monitoring reports in relation to the projects will be presented to the Climate Change Member Group.
- 9.3 This is a developing area in relation to formal accounting and auditing standards with significant focus from the international accounting bodies. It is expected that

there will be formalisation of the annual reporting required in this area in the next decade including audited value for money statements. Hence it will be important to ensure appropriate processes are implemented at the outset to capture this data.

- 9.4 It should also be noted that the Council has set aside £100,000 to assist delivery of those projects that need to go ahead for carbon benefit but do not necessarily offer the best financial value. The use of these funds will be assessed based on the business cases provided to the Climate Change Member Group.  
(Financial Services have been consulted in the preparation of this report.)

## 10.0 Legal Implications

- 10.1 The overriding legislative context for the council's climate change strategy for 2030 is the Climate Change Act 2008. This Act places a legal duty on central government to set legally binding targets to reduce UK greenhouse gas emissions to net-zero by 2050. The UK legal framework on climate change is also shaped by both caselaw and international agreements.

(One Legal have been consulted in the preparation of this report.)

## 11.0 Risk & Opportunity Management Implications

11.1

<b>Risk</b>	<b>Impact</b>	<b>Level of impact</b>	<b>Likelihood of impact</b>	<b>Mitigating measures</b>
Projected pay back times incorrect. Issues with finance generally	Carbon financial benefits not realised	2	2	Work to bring in external finance
Not enough officer resource to deliver outcomes	Carbon financial benefits not realised	2	2	Prioritise work to ensure at least some outcomes are realised
Waste recycling contractors and Leisure Service operators do not deliver intended outcomes	Carbon financial benefits not realised	2	2	Work closely with partners and define and manage contract procurements correctly.
Grants and other support are not available as expected	Carbon financial benefits not realised	2	3	Be clear as to expectations and work closely with funders
<b>Opportunities</b>	<b>Impact</b>	<b>Level of Impact</b>	<b>Likelihood of impact</b>	<b>Maximising measures</b>
Financial	More efficient	2	3	Ensure that

benefits of Carbon management projects	services			financial benefits are integral to projects
Better working with partners	Greater aggregate impact	2	2	Closer working

**12.0 People Impact Assessment (PIA) and Safeguarding:**

12.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact; therefore, a full PIA was not required.

**13.0 Community Safety Implications**

13.1 It is not considered that there are any specific community safety implications of this report.

**14.0 Staffing & Trade Union Implications**

14.1 None.

**Background Documents:** None



Cromwell House, Cromwell Way. Oxford. OX5 2LL. Registered 08920046. VAT Registered: 202897895

29<sup>th</sup> October 2020

Report for Meyrick Brentnall

[Meyrick.Brentnall@gloucester.gov.uk](mailto:Meyrick.Brentnall@gloucester.gov.uk)

of Gloucester City Council

From CLS Energy Ltd

version 1.4



Contact: Alan Asbury, Director

e-mail: [alan.asbury@clsenergy.com](mailto:alan.asbury@clsenergy.com)

Telephone: 01865 421008

With thanks to Meyrick Brentnall and all officers at Gloucester City, Aspire and Amey that kindly assisted in providing data and access to buildings, operations, and fleet.



**CLS Energy (Consultancy) Ltd**

Cromwell House  
Cromwell Way  
Oxford. OX5 2LL

Phone: +44 (0)1865 421008

E-Mail: [info@clsenergy.com](mailto:info@clsenergy.com)

Web: [www.clsenergy.com](http://www.clsenergy.com)



# 2030

## Part I: City Council Plan 2050

### Gloucester Greenhouse Gas Reduction Report

#### Introduction:

#### 1. Background

As part of Gloucester's objective to Respond to Challenges to the Environment, as well as its 2019 public commitment to achieve net zero carbon emissions by 2030 and the same for the city by 2050, the Council is seeking to gain an understanding of its current carbon emissions from its principle consuming sites and has enlisted the services of CLS Energy (Consultancy) Ltd in order to do this.

#### 2. Key Aims and Objectives

The Council aims to gain an understanding of its carbon emissions at these sites, as well as how and where they could expect to make large savings in energy use, and consequent reductions in Carbon equivalents (CO<sub>2e</sub>) emissions.

#### 3. Outputs

The Council have worked with CLS Energy (Consultancy) Ltd to carry out carbon emissions assessments at the following locations:

##### 17<sup>th</sup> August 2020 (Day 1):

- GL1 Leisure Centre, Gloucester
- Plock Court
- Council Depot and fleet

##### 25<sup>th</sup> August 2020 (Day 2):

- Gloucester Life (Folk) Museum
- Gateway Offices
- North Warehouse - and Enterprise car rental (EHI) fleet
- City Museum
- Coney Hill Crematorium
- Arbor Tea Room

### 11th September 2020 (Day 3):

- Guildhall
- Eastgate Market

### 29<sup>th</sup> September 2020 (Day 4):

- Blackfriars Priory
- Eastgate Complex

We have also visually inspected:

- Longsmith Street MSCP
- Kings Walk Multi-Storey Car Park (MSCP) (also referred to as Eastgate Complex upper car park)

Outputs include reports on the carbon emissions of the Council and, recommendations of where and how the Council can reduce their emissions. For example, through behavioural change or new technologies.

### Project Scope

To conduct investment grade site energy audits and assessments at the 13 aforementioned sites to BS-EN 16247-1 and ISO 50001 guidance standards. These include (where data available), desktop assessments of billing data, normalisation of heating (gas or heating oil) data to permit the execution of regression analysis so as to remove variables such as weather, and to assess where heat is being wasted.

Comprehensive assessment of half hourly data (for electricity and gas where available/provided) at all code 5 (00 profile) sites to establish energy misuse as well as on-site plant and equipment assessment and profiling using technologies including data logging, infra-red thermography, visual assessment and meter calculations in order to provide a building baseline of energy use and carbon (CO<sub>2</sub>e) emissions for the agreed 12-month reference period.

CLS Energy Ltd will identify and report where possible, on costed energy efficiency recommendations for areas of significant energy consumption within appropriate timeframes and payback periods and draw together a summary plan alongside a formal investment grade and detailed professional report, setting out these energy and cost saving measures. These visits will also include for an assessment of viability of appropriate renewable energy technologies.

- For each such measure and opportunity recommended, we will:
- Report on the typical capital cost
- Year one financial savings
- Year one energy savings (KWh)
- Year one CO<sub>2</sub>e reductions
- Payback period for each significant opportunity also ranked as high, medium, and low
- Assess and rank the most cost-effective actions/opportunities.
- Assess and lay out case for renewable energy generation at these sites.

### Background:

In compiling carbon (CO<sub>2</sub>e) data, organisations are typically required to report on their scopes 1 and 2 emissions with an option to report on some of their scope 3 emissions.

**Scope 1:** Direct emissions. These are emissions from activities owned or controlled directly by the organisation. In the case of Gloucester, this includes gas used at its corporate buildings and fuel used by its own vehicles. Emissions from gas usage are calculated using gas meter reads. Emissions from fleet fuel usage are calculated using annual fuel usage reports.

**Scope 2:** Indirect emissions. These are emissions which are caused by the organisations energy use but are released at source, not at the location owned or controlled by the organisation. In the case of Gloucester, this covers the electricity used at its corporate buildings. Emissions from electricity usage are calculated using electricity meter reads, billing, and half hourly data.

**Scope 3:** Other indirect emissions. Emissions other than scope 2 emissions, that are caused by an organisations actions but do not occur at locations owned or controlled by the organisation. How this is factored when the Council owns but does not operate a facility may have impacts on where this is counted.

It is important to set out the scope and boundaries in any such report because what is included/excluded will impact on final figures. Scope 3 emissions are a particular example of this. Similarly knowing how much renewable energy generated is consumed on site or exported to grid will also impact. At the request of the Council, this report focusses on scopes 1 and 2.

In this instance, scope 1 is natural gas and transport fuel, and scope 2 is electricity. We have factored scope 1 and 2 data for all buildings that are owned and operated by the Council or



Cromwell House, Cromwell Way. Oxford. OX5 2LL. Registered 08920046. VAT Registered: 202897895 operated on their behalf. The latter group includes depot (Amey) and GL1 (Aspire). Whilst these sites have their energy bills paid by the two private companies, at any time the Council may elect to take these properties and operations back in-house. Public perception is that a Council cannot wash its hands of a swimming pool or its waste services. We have not included the sites that the Council owns and leases to tenants such as B&Q as the Council has no direct ability to influence energy use at these sites. Similarly, the airport whilst 50% owned by the Council is neither operated nor controlled by the Council, the energy bills are paid for by others. There may be a local perception-based case for the sites such as the airport, as there is for the leisure centre and waste depot. In any event, these properties should all be considered priority in advancing the second stage of this report, namely, the 2050 City Plan. By acting to engage and work with local companies at this early stage, the Council puts itself in a strong position to meet its 2050 targets going forward.

### **Caveat**

The site assessments conducted were carried out with the understanding that, due to Covid-19 and operational issues, we would not be able to conduct fully 'data-led' assessments. It is always preferable to assess sites and equipment with energy and data loggers in place so as to verify the actual energy consumption of plant and equipment. As such, the visits were carried out on the basis of fact-finding audits. Consequently, all of our calculations herein are conservative. We would expect to see greater savings than those set out in the report. Indeed, the Carbon Trust stipulate that up to 10% of savings can be derived from behavioural adjustments alone. Our behavioural savings are derived only from equipment led observations and half hourly data (HHD) analysis at certain sites where this is available. We would expect to see larger behavioural savings than these.

The data in this report constitutes the carbon baseline for the council based on information provided. It excludes aspects such as any remaining owned estate, 'Fluorinated' F gases, waste, water etc. This report and associated calculations are the property of CLS Energy and may not be copied or used without their written authorisation.

We would always recommend any organisation with a target to deliver net carbon zero to have a baseline that includes their total energy and fuel consumption measures in litres, kWh and have these converted to carbon in terms of greenhouse gas emissions (CO<sub>2</sub>e).

Without an accurately produced baseline, it would be impossible to be able to demonstrate the achievement of a carbon zero figure in 2030. Emissions figures have been calculated based on Government data for green-house gases GHG (CO<sub>2</sub>e) for the year 2019 and extrapolated by fuel type and then factored into appropriate scope.

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## Baseline

A Council's carbon baseline should be established using carbon dioxide equivalents (CO<sub>2</sub>e) which are the mix of seven gases making up the basket of greenhouse gases (GHGs) as agreed under the Kyoto Protocol, ratified by the UK in 2005. Gloucester's data has been scoped for the year 2019/20 and includes the following parameters:

- Electricity
- Gas
- Fleet Diesel
- Enterprise Hire Car (EHI) Fleet details
- Renewables (estimated where not known)

Aspects that should be considered going forward would include:

- Fleet unleaded petrol
- Electricity generation
- Heat generation
- Other heating or operational fuels (e.g. generator diesel, red diesel, LPG, or kerosene)
- Private Mileage Reimbursement (Grey Fleet) vehicles

Aspects that may also be considered would include

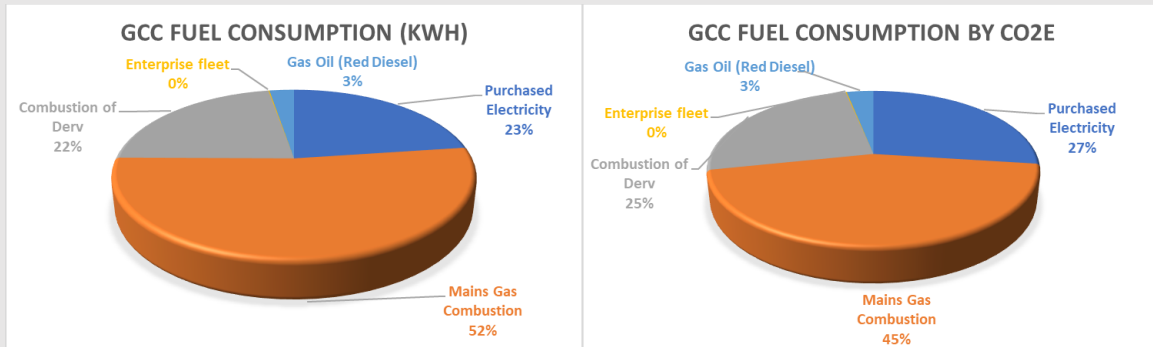
- Fluorinated (F) Greenhouse Gases
- Water Supply and Treatment
- Commuter travel
- Commercial Waste
- Owned but not operated properties

The tables below set out the total energy consumption (in kWh) and factors CO<sub>2</sub>e emissions by percentage of the total in metric tonnes:



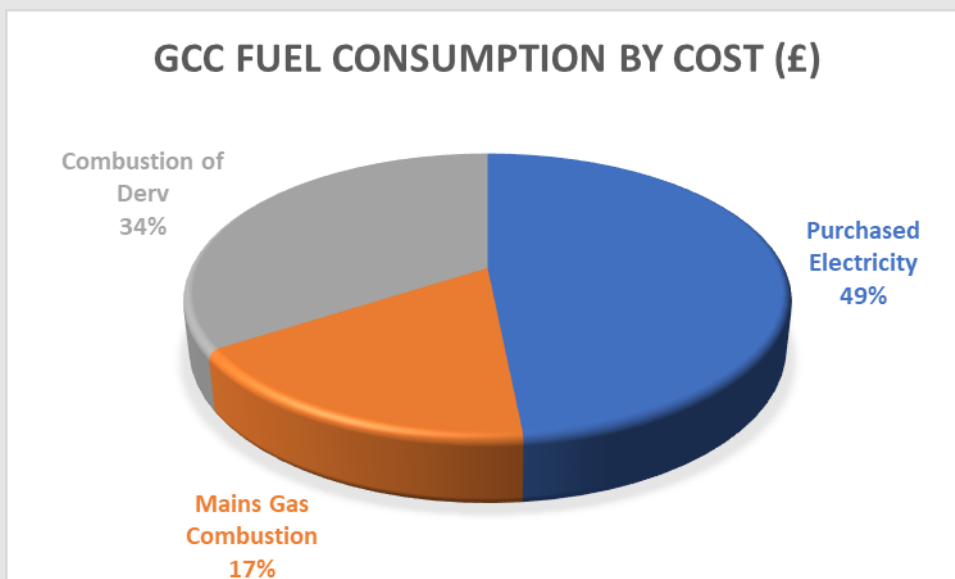
This equates to a Council Carbon (CO<sub>2</sub>e) footprint for its sites and fleet of 3,461 tonnes for this baseline year which is reduced by 14 tonnes by the Council’s renewables taking the figure to 3,447 tonnes.

The split of Greenhouse Gas (GHG) emissions by fuels and measured in kWh can be shown as follows with gas (orange) amounting to 52%:



The graph alongside it alters subtly when measured by CO<sub>2</sub>e emissions as the conversion factors for electricity and gas (orange), (like all fuels), is different and is adjusted annually in line with the national grid mix which is decreasing coal and increasing renewable energy. Gas in this graph is 45%.

A more striking difference is seen with energy fuel by **cost** where, as can be seen below, the graph compared to kWh broadly inverts due to the fact that the purchase price of gas (orange), 17% by cost at present, is a great deal less expensive than electricity.



Gas has become a large issue for Gloucester City Council, not least because of the Combined Heat and Power (CHP) Engine at Gloucester Leisure Centre (operated by Aspire) that generates heat and power through the consumption of gas, in large part for space and pool heating. The use of this CHP (whilst beneficial in many ways) has increased the Council's gas use (in the reduction of its electricity use). This makes it more difficult to find gas savings for the organisation. This in turn increases the Council's carbon footprint. It would be our view that as far as possible going forward, electrically powered heating technologies be considered which are allied to local electricity generation from allied and appropriate on-site renewable energy generating technologies. This way energy used can be provided by carbon free or low carbon generation.

The Council's vehicle fleet are also heavily CO<sub>2</sub>e emitting and it would be worthwhile addressing through a consideration of all options. These would include for example, telematic and fuel data assessment, fleet profiling, aerodynamics, controls, driver behaviour as well as technologies such as alternative fuels, battery electric vehicles (BEVs) and vehicle to grid (V2G).

Other areas may be worthwhile considering. These might include for example:

- Grey fleet (where this remains post Enterprise car club)
- Commuter fleet
- Water
- F Gases
- Waste and Recycling

## Findings

Following site audits conducted at the 13 high consuming sites, we have established a number of opportunities which we would recommend are followed to permit energy and fuel savings to be made and which will lead to significant cost and carbon reduction.

## Headline Consumption

The Council's building electricity use in kWh is set out below for the higher consuming sites for day, followed by night consumption. Where there are more than two rows, the site has more than one electric meter (green sites are those that were inspected):

Location	Address	Postcode	Total kWh
Gloucester Leisure Centre (GL1)	Bruton Way	GL1 1DT	532,470
Gloucester Leisure Centre (GL1)	Bruton Way	GL1 1DT	281,684
Docks Complex	Herbert Warehouse	GL1 2EQ	377,584
Docks Complex	Herbert Warehouse	GL1 2EQ	114,744
Plock Court (Oxstalls tennis)	Tewkesbury Road	GL1 3LR	285,995
Plock Court (Oxstalls tennis)	Tewkesbury Road	GL1 3LR	25,725
Oxstalls Sports Park Uni Sports Hall	Tewkesbury Road	GL2 9DW	226,045
Oxstalls Sports Park Uni Sports Hall	Tewkesbury Road	GL2 9DW	59,018
Eastern Avenue Depot	Eastern Avenue	GL4 6PG	198,412
Eastern Avenue Depot	Eastern Avenue	GL4 6PG	54,354
North Warehouse	The Docks	GL1 2EP	144,600
North Warehouse	The Docks	GL1 2EP	52,268
Gloucester Crematorium	Coney Hill Road	GL4 4PA	143,440
Gloucester Crematorium	Coney Hill Road	GL4 4PA	35,570
Eastgate Market	The Forum	GL1 1PL	144,461
Eastgate Market	The Forum	GL1 1PL	16,615
Guildhall Arts Centre	23 Eastgate Street	GL1 1NS	93,440
Guildhall Arts Centre	24 Eastgate Street	GL1 1NS	23,915
Eastgate Complex upper car park	Brunswick Road	GL1 1PL	61,519
Eastgate Complex upper car park	Brunswick Road	GL1 1PL	26,219
Gloucester Bus Station		GL1 1DG	69,401
Gloucester Bus Station		GL1 1DG	23,373
City Museum & Art Gallery	Brunswick Road	GL1 1HP	81,519
City Museum & Art Gallery	Brunswick Road	GL1 1HP	17,296
The Pumping Station	Inner Relief Road	GL1 2DA	3,990
Longsmith Street MSCP	Longsmith Street	GL1 2HH	51,014
Longsmith Street MSCP	Longsmith Street	GL1 2HH	19,442
Gloucester Folk Museum	Gloucester City Council	GL1 2PG	20,463
Gloucester Folk Museum	Gloucester City Council	GL1 2PG	6,091
Eastgate Complex upper car park	Brunswick Road	GL1 1PL	27,050
Eastgate Complex upper car park	Brunswick Road	GL1 1PL	6,731
Blackfriars Priory	Blackfriars	GL1 2HN	16,226
Blackfriars Priory	Blackfriars	GL1 2HN	15,236
Blackfriars Priory	Blackfriars	GL1 2HN	4,768
Blackfriars Priory	Blackfriars	GL1 2HN	1,118
Gateway	92 96 Westgate St	GL1 2PE	14,551
Gateway	93 96 Westgate St	GL1 2PE	14,034
Gateway	94 96 Westgate St	GL1 2PE	34,117
Gateway	95 96 Westgate St	GL1 2PE	7,800
King's House, Market Parade	Gloucester City Council	GL1 1RL	49,393
King's House, Market Parade	Gloucester City Council	GL1 1RL	25,733
Coney Hill Cemetery	Arbor Tea Rm Coney Hill	GL4 4PA	17,648
County Shire Hall			40,673
Robinswood Hill Rangers Hut	Reservoir Road	GL4 6SX	6,338
Robinswood Hill Rangers Hut	Reservoir Road	GL4 6SX	6,862
Eastgate Street		GL1 1PD	17,177

Set out below are the less energy consuming sites. Those highlighted in yellow are the market stall meters paid for by GCC, those in red look a little high for public conveniences:

Christmas Lights			14,064
Tredworth Cemetery	Cemetery Road	GL4 6PA	11,931
Hampden Way		GL1 1SX	11,674
King George V Playing Fields Pavilion	Access via Upton Close	GL4 3EZ	10,719
Hempsted Meadows, Car Park Lighting		GL2 5LE	10,406
Streetcare UMS			10,273
St Michaels' Tower	Eastgate Street	GL1 1PD	10,268
Monument Basement Boots	New Site	GL1 1PA	9,846
63 Eastgate Market	Storeroom	GL1 1PL	9,199
Public Convenience Southgate Moorings Car Park		GL1 2DB	8,000
Permanent Meter Supplying The Bandstand		GL1 1XR	7,021
Westgate Street Car Park Public Toilets		GL1 2PA	5,874
38 The Forum		GL1 1PL	5,361
Car Parking UMS			5,138
5 Priory Place - Lighting		GL1 1TT	4,610
Streetcare UMS			4,574
Roman Bastion, Kings Walk	Kings Walk	GL1 1RY	4,490
18 The Forum		GL1 1PL	4,400
Baked Potato Stand	Eastgate Street	GL1 1NN	4,345
Council Environmental Services	The Park	GL1 1XR	4,301
Stall 41 Eastgate Market	Eastgate Street	GL1 1PL	3,862
Unit 22, Eastgate Market		GL1 1PL	2,624
Meter Cupboard Under Ramp		GL1 1RY	2,555
Tredworth Cemetery	Cemetery Road	GL4 6PA	2,290
26 The Forum		GL1 1XN	2,130
30 Eastgate Market		GL1 1PL	1,938
19 Eastgate Market		GL1 1XN	1,918
Stall 16, Eastgate Market		GL1 1XN	1,862
Stall 23a Eastgate Market		GL1 1PL	1,707
8 Grosvenor House	Station Road	GL1 1SZ	1,695
Mary Magdelan Chapel	London Road	GL1 3HN	1,456
Stall 36 Eastgate Market		GL1 1PL	1,431
Stall 24, Eastgate Market		GL1 1PL	1,142
7 The Forum		GL1 1PL	1,077
Unit 20, The Forum		GL1 1PL	929
Car Parking UMS			870
On Street Power - Outside St Michaels Tower	Eastgate Street	GL1 1PD	863
39 The Forum		GL1 1PL	800
Stockroom 48	Eastgate Market	GL1 1PL	754
25 The Forum		GL1 1PL	671
New Toilets And Stores	Little Meadow	GL1 2NW	626
3a The Forum		GL1 1PL	569
St Lucys Garden	Hare Lane	GL1 2BA	528
35 The Forum		GL1 1PL	375
Car Parking UMS			333
Streetcare UMS			285
37 Eastgate Market		GL1 1PL	212
Greyfriars Bowling Club	Constitution Walk	GL1 1TS	169
Park Store, New Inn Lane	New Inn Lane	GL1 1SD	47
The Lannett Changing Rooms	King Edwards Avenue	GL1 5DA	14
Kiosk (Opposite Sports Direct)	Northgate Street	GL1 1SL	9
The Fleece Hotel	19 Westgate Street	GL1 2UN	4
Kiosk, 1 Kings Walk	Northgate Street	GL1 1SL	1
Flood Lighting, Cathedral Grounds	Via Sacra, St Johns Lane	GL1 2AG	1
Floodlighting	Adjacent Telecom	GL1 2JF	1
Floodlighting Conservative Club	Conservative House	GL1 1TH	1
Unit 2 Southgate Street		GL1 2DH	1
Widden Street School		GL1 4AW	1
Side Of Boots Building	Eastgate Street	GL1 1NS	1
Ladybellegate House	Longsmith Street	GL1 2HT	1
27-29 Commercial Road		GL1 2ED	1
Cold Storeroom, 3 Eastgate Market	The Forum	GL1 1PL	1
11A Westgate Street		GL1 2NW	1
King's House, Market Parade	Gloucester City Council	GL1 1RL	1
23-25 Commercial Road - Lighting supply		GL1 2ED	1
Unit 11 Grosvenor House	Station Road	GL1 1SZ	1
Basement Store 17, Eastgate Market		GL1 1PL	1
Stall 3 Eastgate Market		GL1 1PL	1

Gas consumption is set out below. Where sites are repeated (as is the case with the Guildhall Arts Centre and Gloucester Life 'Folk' Museum), there are two gas meters:

Site	Postcode	Total kWh
Gloucester Leisure Centre (GL1)	GL1 1DT	4,314,265
Coney Hill Cemetery (and crematorium)	GL4 4PA	1,750,419
City Museum & Art Gallery	GL1 1HP	429,520
Docks Complex	GL1 2EQ	496,681
Plock Court	GL1 3LR	258,594
Oxstalls Sports Park Uni Sports Hall	GL2 9DW	243,849
North Warehouse	GL1 2EP	206,136
Blackfriars Priory	GL1 2HN	202,304
Gloucester Life (Folk) Museum	GL1 2PG	17,514
Guildhall Arts Centre	GL1 1NS	43,566
Guildhall Arts Centre	GL1 1NS	193,673
Gloucester Life (Folk) Museum	GL1 2PG	118,465
Greyfriars Bowling Club	GL1 1TS	0
County Shire Hall		64,696

The organisation consumes 15.96GWh of energy per year or 16.01GWh when renewables are included. This equates to CO<sub>2e</sub> emissions of 3,461 tonnes per year, reduced to 3,447 tonnes when savings from existing renewables are deducted:

<b>Total Organisational Grid Energy Consumption (TEC) kWh:</b>	15,958,449	kWh	15,958	MWh	3,461
<b>Electricity</b>	3,688,377	kWh	3,688	MWh	943
<b>Combustible Fuel</b>	8,339,682	kWh	8,340	MWh	1,538
<b>Fleet Transport</b>	3,930,390	kWh	3,930	MWh	966
<b>Renewables</b>	52,913	kWh	53	MWh	14
<b>Total Energy Consumption (inc RE)</b>	16,011,362	kWh	16,011	MWh	3,447

In assessing these 13 selected sites, we have effectively accessed 72.94% of electricity and 90.34% of gas. We have not extrapolated the remaining sites into our savings and as such the savings demonstrated only relate to the sites assessed.

Figures used are conservative, not least because we were unable to run data clamping surveys on equipment at times of visit due to Covid-19 closures. Whilst a substantial amount of savings found are from electricity (31.9% of total electricity at the 13 sites), overall savings (at 23.86%) are clouded by the large amounts of gas that the organisation consumes, predominantly by the CHP engine at GL1 and the Crematorium. The 22.7% of gas savings located are predominantly from significant change at the crematorium. Fleet savings amount to 18.8% of fuel use.



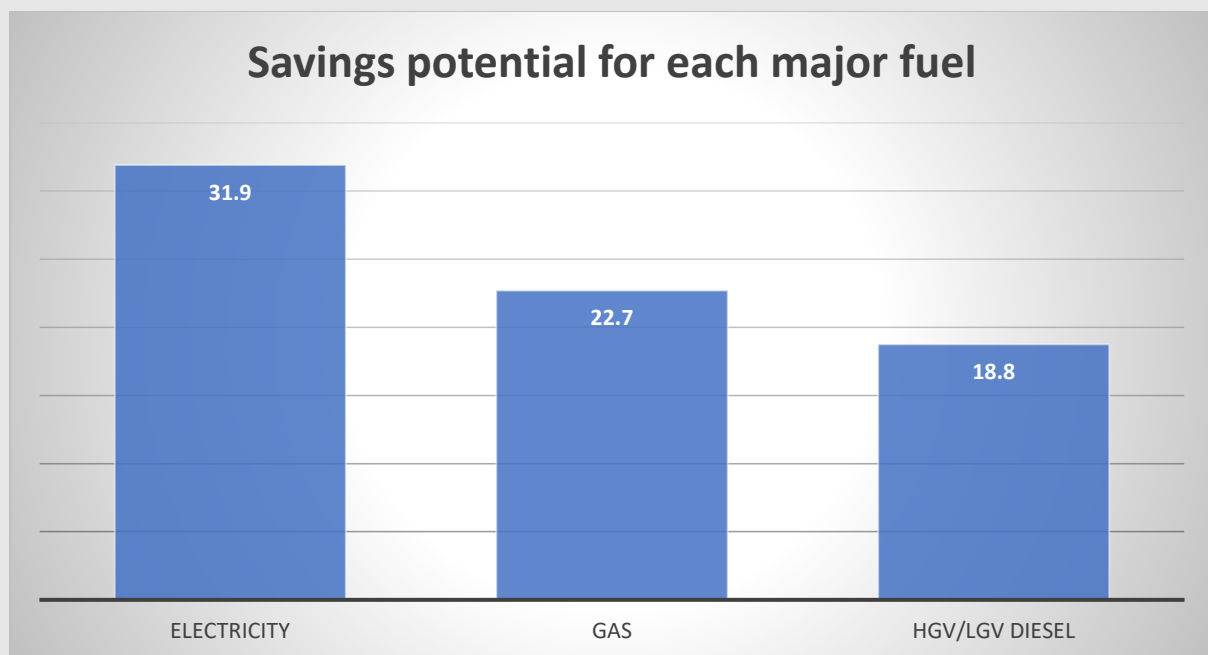
### Summary of Savings:

Excluding renewable energy technologies, energy savings potential so far highlighted, amounts to around 19.24% of total consumption from the sites. This rises to 23.86% with fleet and 27.69% with renewables. These set of figures are conservative and in fact the renewables figure could be greatly increased, even at sites viewed, but more information would be required to demonstrate this.

	Electricity & Combustible Fuel	Fleet	Renewables	Total inc RE	No RE
Energy Saving potential identified kWh	3,070,472	737,293	610,454	4,418,220	3,807,766
Carbon reduction kg CO <sub>2</sub> e	658,079	180,357	537,717	1,376,152	838,435
%age saving from total consumption	19.24	4.62	3.83	27.69	23.86
Financial saving potential identified £	273,132	68,267	297,623	639,022	341,398

Savings from Resomation (a novel technology for the disposal of bodies – see later) at the crematorium have been captured under energy and combustible fuel rather than renewable energy to avoid double counting.

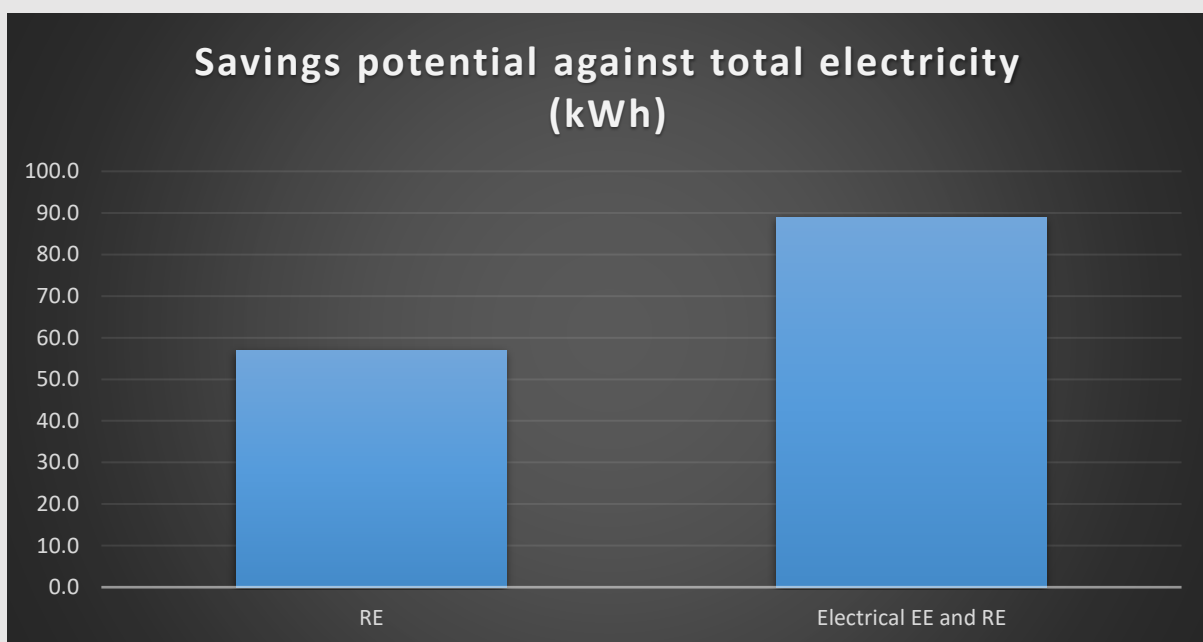
When broken down, it can be seen that savings per fuel, when viewed against total energy consumption for each fuel type, shows the following percentage potential for savings:



Clearly, the largest energy savings potential is energy efficiency incorporating the use of renewables. Renewable energy technologies can be designed to effectively meet the electrical demand of the Gloucester estate. Naturally, energy efficiency should always be addressed first because the ROI is almost always much higher. It is important to synchronise

consumption against generation and plan for what is done with over supply. This is discussed more later with regard to the Oxstalls University site. Gas is more of an issue and as a consequence, we have placed a large focus on the gas use at the Crematorium. It is with this in mind that we have also placed a heavy focus in renewable energy and the future electrification of technologies that are currently using gas.

Renewable energy generation technologies at the sites visited could provide Gloucester City Council with around 58% of its electricity consumption. When factored alongside energy efficiency measures, it is likely to meet around 90% of the Councils electricity demands:



Naturally, matching generation to demand is crucial in this and as such we have factored where possible, at locations where there is potential to use or otherwise distribute power.

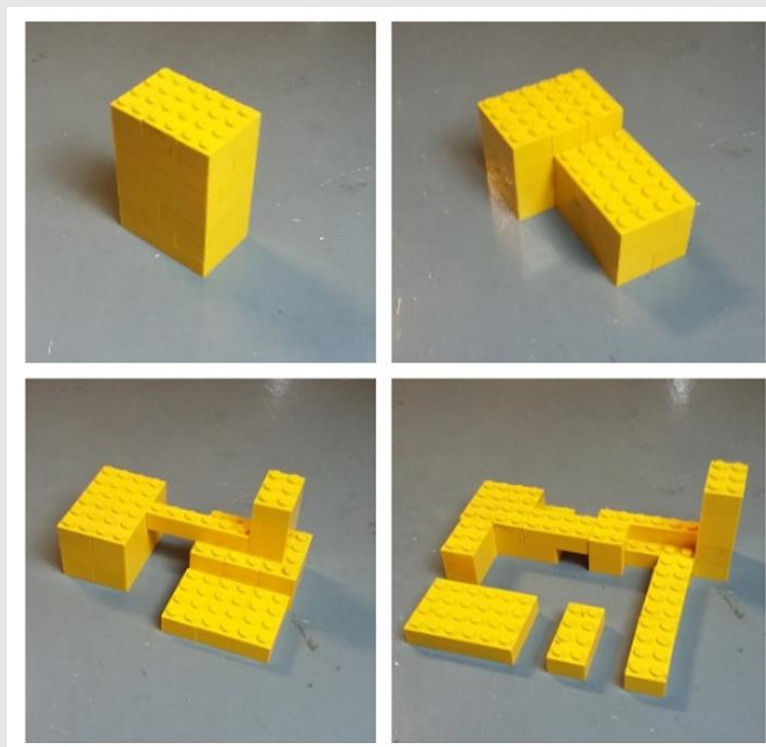
Further assessment of this at other sites is recommended to assist the Council to decarbonise its gas use, moving to electrical heating etc powered by renewable energy.

As discussed, the 58% RE figure of energy generated against total electricity consumed at these sites has the potential to be a great deal higher. We would also expect to see large and potentially linked savings opportunities for the Council's fleet. We have factored for wind at the Crematorium, effectively removing the gas use there when combined with resomation.

### General Benchmarking:

A Councils Carbon baseline can only be established with all of its Scope 1 and 2 emissions from its entire estate and fleet. The Council's sites appear to compare well to national benchmarks. National benchmarks for this sort of building are based on kWh/m<sup>2</sup>.

This is a rather blunt tool because the surface areas of a building can vary greatly for the same given volume as the example in Lego shows below, each image being constructed with the same number and volume of bricks but clearly with very different exposed surface areas at roof, walls and floor:



### Half Hourly Data (HHD)

HHD has been assessed at various sites that have appropriate metering. An example of this is shown below for Plock Court during December 2019:

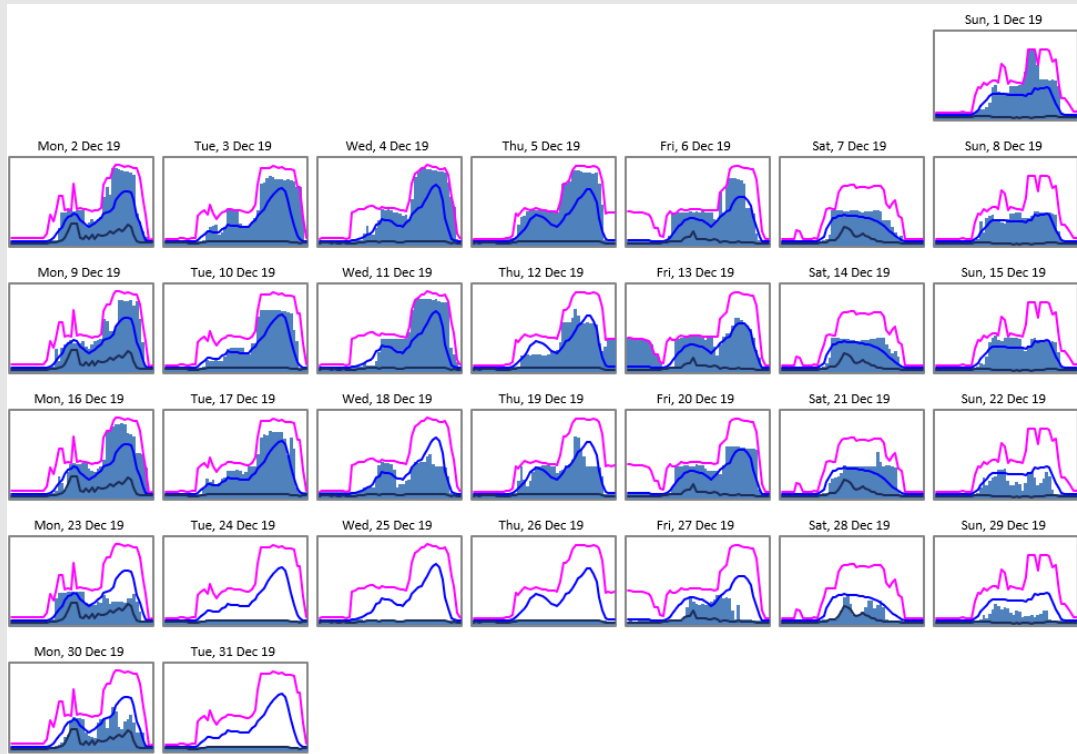
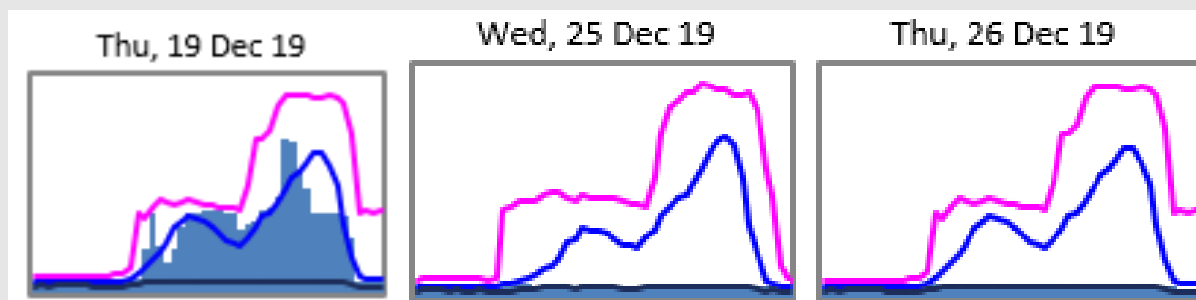


Image above shows December divided into 31 days and each box represents one day.

The pink line (top of the box) is the maximum electricity use on any given day (so for Christmas day below, any given Wednesday that year), the green line (bottom of the box) is the minimum and the blue line is the average (middle of the box).

The blue mass is electricity consumed per half hour throughout the day. As can be seen, at this site, the energy use typically commences around 07:00 and drops off at around 21:30. As can also be seen, night time use looks to be low during this month and during Christmas when we would expect to see site closure and little or no electricity use, this is indeed the case:



## Heating Degree Days (HDD)

### Regression Analysis:

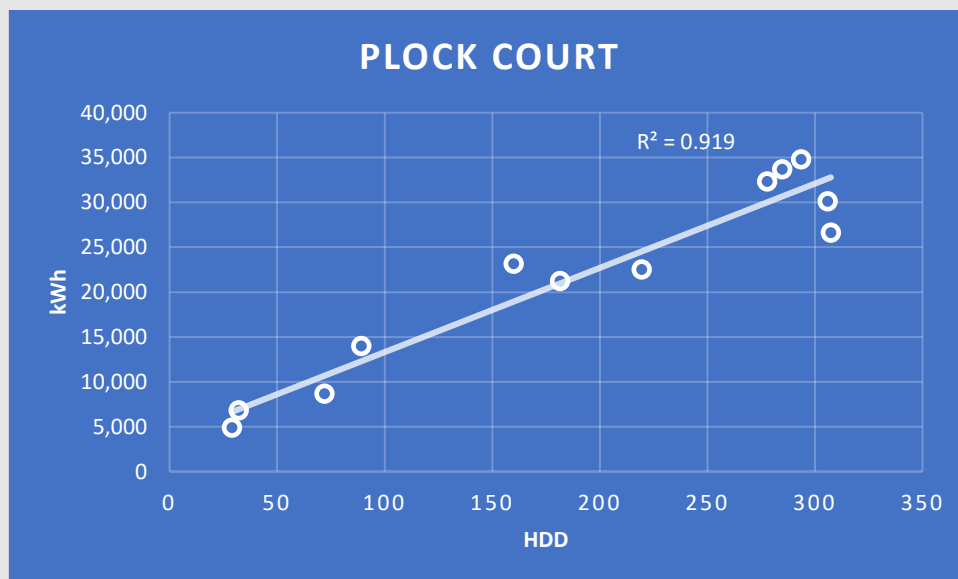
Degree day analysis allows us to compare heating (in this case gas central heating) use, with seasonal temperatures for the Gloucester area during the 12-month period observed.

An  $R^2$  figure of 0.95 or higher shows statistical significance and a direct correlation between heat use when outside temperatures reach a certain pre-set level.

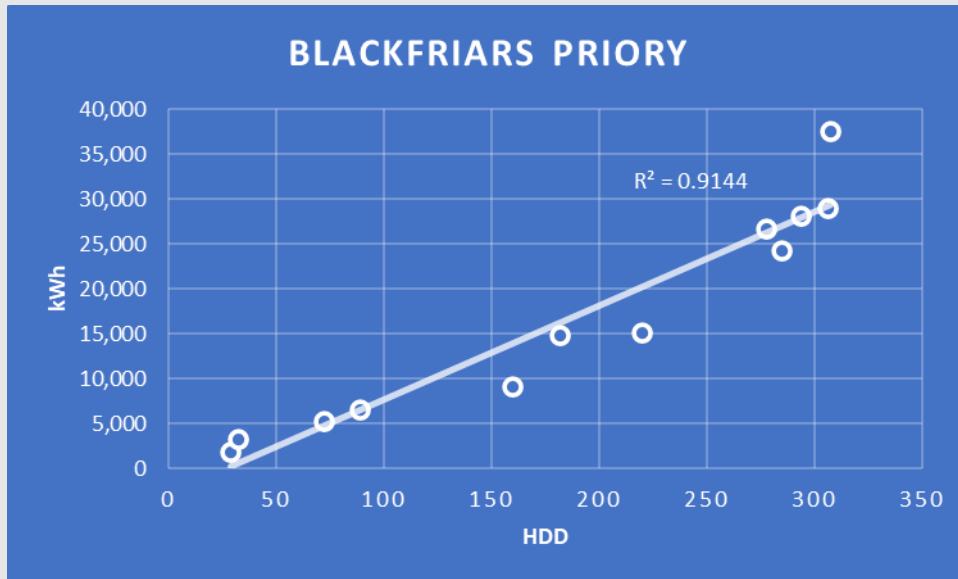
We have conducted regression analysis of the sites where there was sufficient gas data. This allows us to normalise the data and establish where heating is taking place at times when it need not have been. By assessing gas use data against local weather station data over the period, we can establish where heating systems have potentially been over-ridden and are providing heat when it ought not to be required:

The best controlled sites in terms of gas use set against outside weather temperatures were Plock Court and Blackfriars Priory, both of which have well operated BMS systems.

Plock Court has an  $R^2$  of 0.919:



Blackfriars priory has an  $R^2$  of 0.9144:



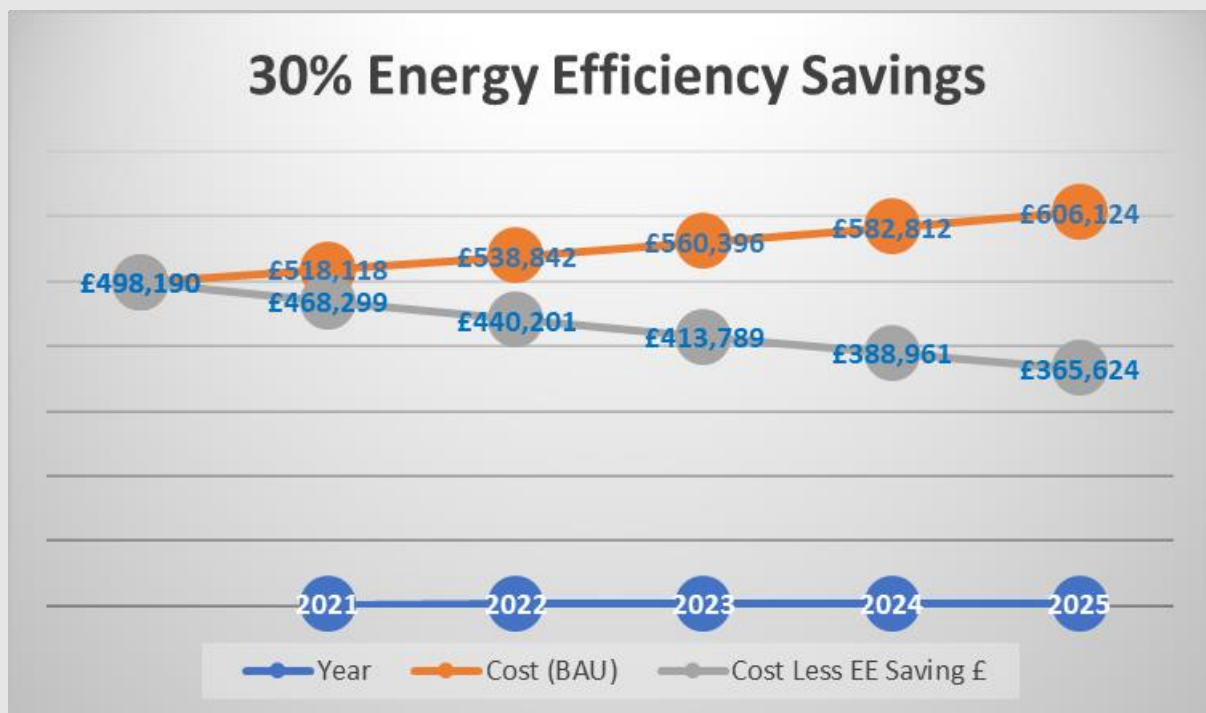
An  $R^2$  figure of 0.95 would show significance and as can be seen at the two sites above, these figures are remarkably close. The Facilities Managers should be congratulated for this level of control.

More data is always beneficial in further investigations into regression analysis.

### Value at Stake

The electricity consumption provided for the estate for a one-year period amounts to 3,688,377kWh. Averaging the cost per kWh across these sites give us a rate of £0.137206/kWh (13.7p/kWh). **Electrical** savings found through surveys amount to 1,177,173kWh or 31.9% - almost one third of total electricity used from the buildings assessed. Extrapolation to the remaining buildings would further increase this. We have factored for a conservative 30% and assessed the numbers for this below.

Excluding electricity charged at County Hall over which the City Council have no control, electricity consumption is 3,630,964kWh (3.63GWh) at an annual cost of £498,190. Were the Council to continue as normal (business as usual), then in 5 years-time they could expect to be spending £606,124 for the same electricity. This is because energy inflation increases the cost annually. We have factored this at 4% which is a reasonable industry standard. If by contrast, Gloucester acted on most of the recommendations put forward in this report and saved 30% of their energy use, then the costs for the electricity in 2025 would be £365,624. Figures exclude County Hall which is a rental allocation of 2.84% floorspace and consequently outside the control of Gloucester City Council.



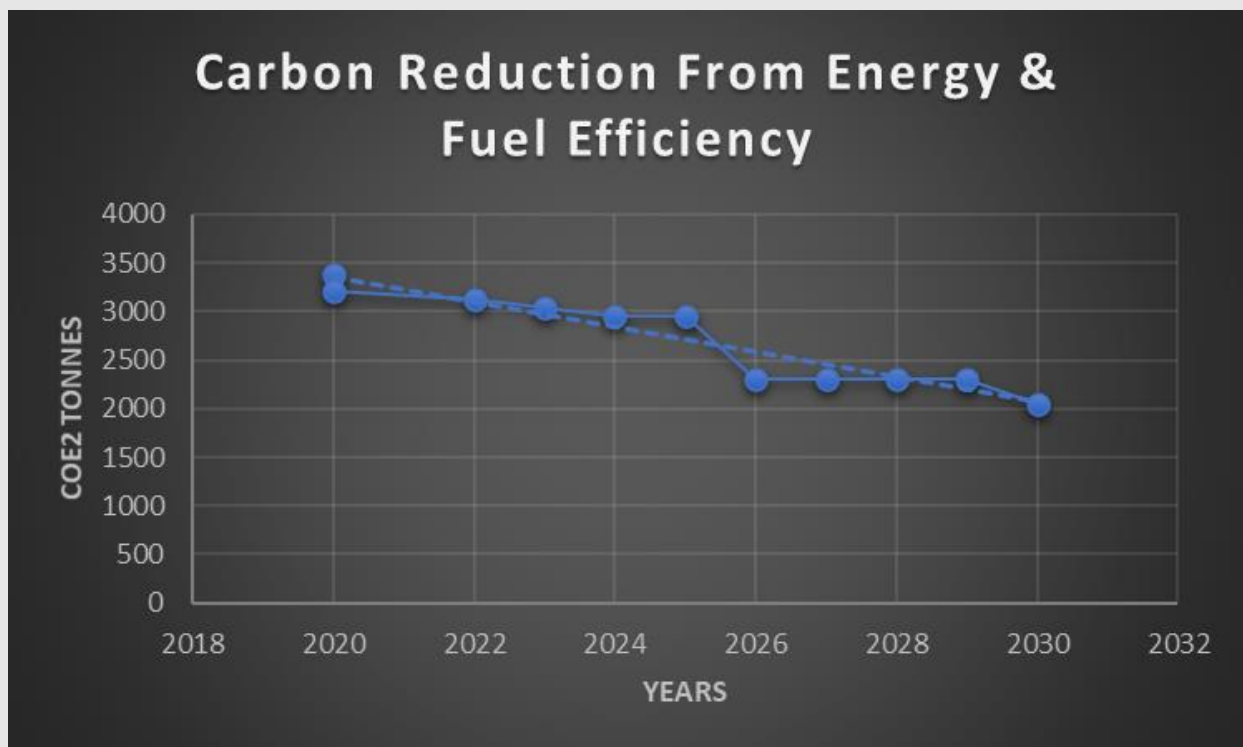
This is a cost saving of £240,501 and is the value at stake (VAS). The triangle formed between the orange and grey lines. Naturally, this could be expected to increase further if

all actions were enacted and if the remainder of the estate were brought to bear. There is likely to be some synergy between opportunities. Whilst we appreciate that the Council is looking at this as a Carbon exercise, the financial saving available will help the council to enact future carbon saving measures and so should always be considered.

### 2030 Trajectory

#### Graph 1:

The council’s ambition to be net carbon zero by 2030 is described below in three charts. The first shows the direction of travel if the Council integrates all of the 41 recommendations in this report.



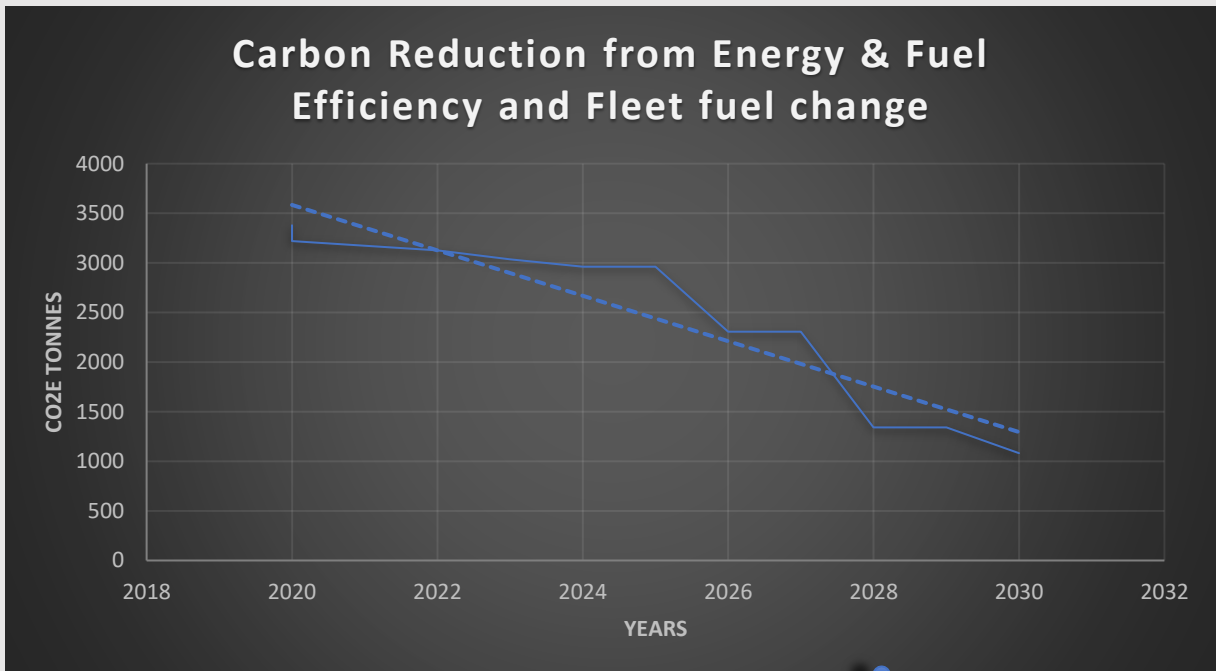
*It must always be remembered that in certain instances, a recommendation may have impacts on another recommendation. As an example, whilst changing the belt type of a motor will make a saving, replacing the same motor with a more efficient one will make a greater saving. Only one of these options can be pursued for the gain to be made.*

*We do not normally advocate for planning in CO2e because the factors are affected each year by the way in which national power is sourced and generated.*



## Graph 2

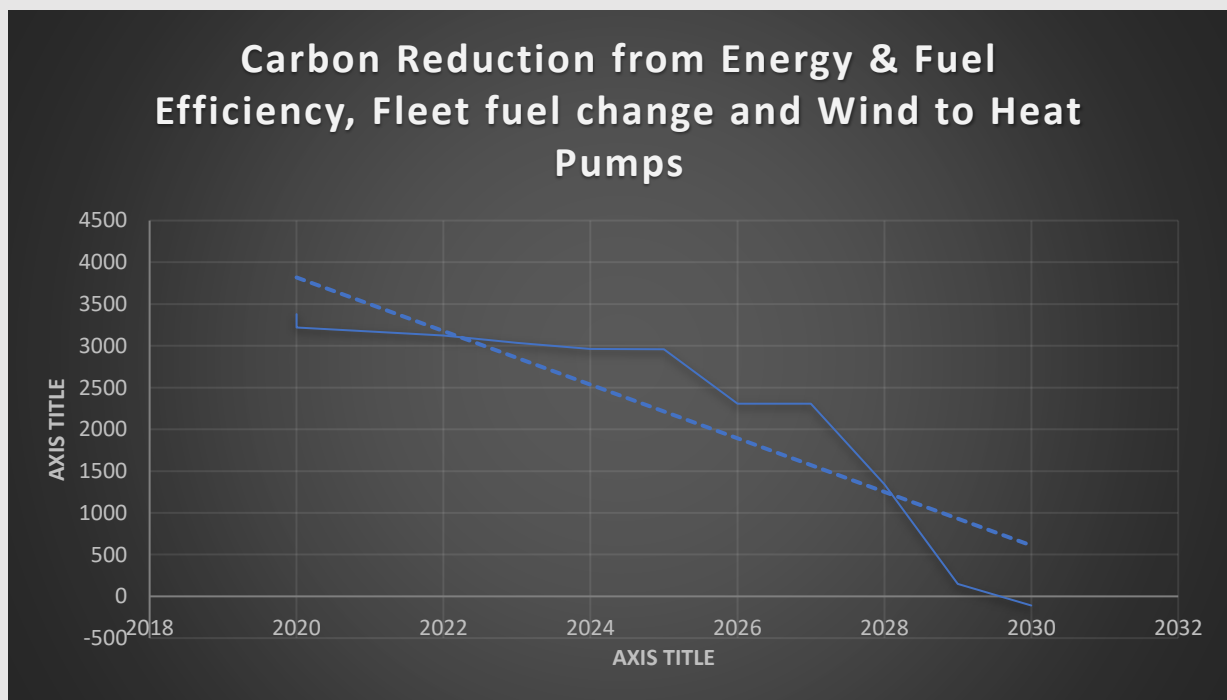
Graph two shows the same data as above alongside a replacement of refuse, recycling fleet and street cleaning and commercial van fleet with alternative zero carbon fuels:



The graph above is looking at technologies that are currently available but that are not yet financially viable.

### Graph 3

Graph three shows the same data as above (the replacement of refuse, recycling fleet and street cleansing and commercial van fleet with alternative zero carbon fuels) and with the implementation of large wind (or solar) technology at a site or sites to be agreed (an example for the latter may be the airport) and the installation of heat pumps to provide electrified heat to replace that currently provided by mains gas:

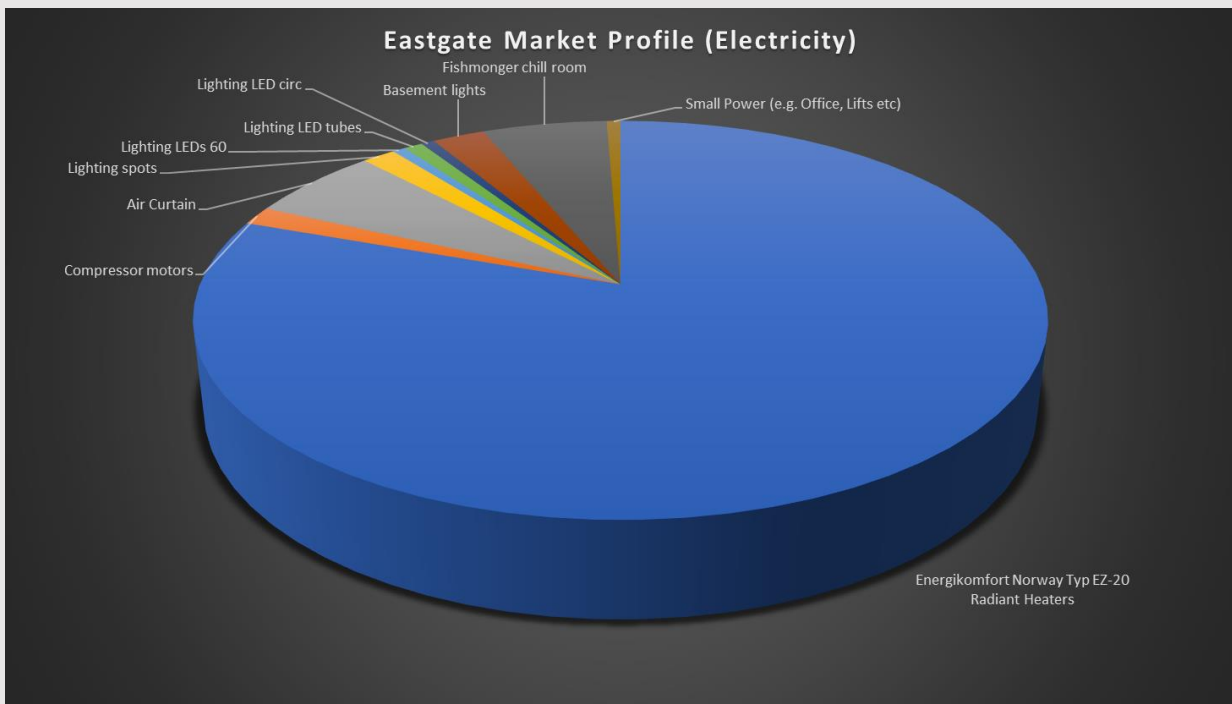


In this scenario, we have factored for a turbine of around 145m to tip as the most efficient route to generation. We have similarly factored for this energy to be used, appropriately distributed, or sleeved to power heat pumps which would be the most efficient method of heating carbon-free and powered by the appropriate renewable energy. These could be expected to achieve at least 2.5kW for every kW input. The above makes assumptions that, for example, heat pumps will be acceptable and viable at sites as yet unseen, that a site or sites may be available to install a large turbine or solar field and that it is appropriately grid connectable. At sites such as GL1, Ground Source Heat pump (GSHP) technology would be preferred and a comprehensive study would need to be conducted to establish whether or not the access and ground conditions around the rear of the site might be suitable. It also assumes that any remaining (too difficult to achieve ) CO<sub>2e</sub> emissions that cannot be factored, are addressed via locally sourced sequestration.

All three of the above graphs are based on current (2019) carbon conversion factors that will change year on year going forward based on how the mix in the national grid is met.

### Profile - Eastgate market

We have profiled the Eastgate Market because, as a single location, there is great potential for action here. It is also a long standing and recognised building to use by way of demonstration. Total consumption looks to be focussed around the 36# 2kW radiant heaters around the ceiling. Assumed to be on for 5 months of the year and for 12 hours per day, these look to represent just over 80% of the site’s electricity consumption. The air curtains look to be around 6%. The fishmongers chilled waste room looks to be around 5.6%, vent compressors 1.5% and basement lighting 2.3% (this could be higher as several appear to be (red) on 24/7 – we have factored for 12 hours per day.



Lighting use across all Council sites observed look to be around 21% of total energy consumption which is high although more so due to sites such as Kings Walk MSCP that appear to have heavy duty light operating on the open air roof 24/7.

## Recommendations

A full set of recommendations are broken down below into three tables setting out:

- energy (electricity and gas, where gas measures are highlighted in yellow),
- fleet - blue table
- renewables - pink table.

Recommendations are ranked by payback (with the quickest to achieve returns at the top) and then as high, medium low in the final column using a RAG colour code. The table below sets out a summary of energy measures:

Assessment Findings:								
	Detail of Measure Identified	Assessed By	Applicability	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kg CO2e Reduced	Capital cost to instigate (£)	Ranked Payback Period
<b>Energy Measures</b>								
Measure ME1	Meter Reassociation	Site/Desk Assessment	EM	26,652	3,657	6,812	0	0.00
Measure ME2	ASC	Site/Desk Assessment	GL1, GBS, BP, GO	0	5,772	0	200	0.03
Measure ME3	Server Room AC	Site/Desk Assessment	EAD, GO, NW	72,020	9,882	18,408	900	0.09
Measure ME4	Air Curtains	Site/Desk Assessment	PC, G, EM	24,960	2,996	6,380	270	0.09
Measure ME5	BMS Control	Site/Desk Assessment	EAD, BP, ATR	54,838	1,673	14,017	400	0.24
Measure ME6	Chiller Control	Site/Desk Assessment	G, NW, EM	56,021	7,686	14,319	2,000	0.26
Measure ME7	HHD Assessment	Site/Desk Assessment	CHC, EAD, EM, NW	116,159	14,752	29,690	5,200	0.35
Measure ME8	VSD control on AHUs	Site/Desk Assessment	EM	6,599	905	1,687	450	0.50
Measure ME9	Site Behaviours	Site/Desk Assessment	FM, G, GO, GL1, AED	56,137	6,067	14,349	3,550	0.59
Measure ME10	Regression	Site/Desk Assessment	OxU, FM, NW, G, CM	143,482	3,088	26,379	1,960	0.63
Measure ME11	Comfort Zones	Site/Desk Assessment	GL1, PC, GO	5,780	793	1,477	820	1.03
Measure ME12	Radiants	Site/Desk Assessment	EM, EAD, BP	247,280	10,527	63,205	11,200	1.06
Measure ME13	Pipe Insulation	Site/Desk Assessment	GL1, PC, FM, NW, G, CM, BP	34,324	609	6,310	1,100	1.81
Measure ME14	F&V Lagging	Site/Desk Assessment	GL1, PC, FM, NW, G, CM, BP	37,130	591	6,826	1,210	2.05
Measure ME15	Cavity Insulation	Site/Desk Assessment	GL1, FM, GO	37,400	1,392	6,876	2,943	2.11
Measure ME16	Lighting	Site/Desk Assessment	GL1, PC, EAD, FM, NW, CM, CHC, G, EM, EGC, KW	271,279	44,925	49,875	103,214	2.30
Measure ME17	Boiler Optimisation	Site/Desk Assessment	GL1, PC, NW, CM, BP	137,348	3,116	25,252	10,050	3.23
Measure ME18	AHU EC Fans and Cogs	Site/Desk Assessment	GL1, NW, CM	239,449	30,860	44,023	114,520	3.71
Measure ME19	Compressors	Site/Desk Assessment	EM, EAD, BP	10,327	504	1,899	2,100	4.17
<b>Total Energy Measures</b>				<b>1,577,183</b>	<b>149,796</b>	<b>337,783</b>	<b>262,087</b>	<b>1.75</b>

The table below sets out a summary of fleet measures. Recommendations are again ranked by payback (with the quickest to achieve payback at the top) and then as high, medium low in the final column using a RAG colour code:

Fleet Measures RCV, Commercial Van and Car	Detail of Measure Identified	Assessed By	Applicability	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kg CO2e Reduced	Capital cost to instigate (£)	Ranked Payback Period
MF1	Eco Training using telematics	Site/Desk Assessment	All Fleet	116,041	10,731	28,386	5,100	0.48
MF2	Over revving	Site/Desk Assessment	RCVs and kerbsiders	99,127	9,167	24,248	5,100	0.56
MF3	Rolling Resistance	Site/Desk Assessment	All Fleet	59,450	5,498	14,543	4,200	0.76
MF4	Speed Restriction	Site/Desk Assessment	Commercial vans	46,628	4,312	11,406	4,900	1.14
MF5	EV Vans	Desk Assessment	2 vans	12,904	1,864	3,157	2,160	1.16
MF6	Idling reduction	Desk Assessment	RCVs and kerbsiders	33,042	3,056	8,083	5,100	1.67
MF7	Electrify Enterprise Fleet	Desk Assessment	6 cars	15,319	828	3,747	1,680	2.03
MF8	Maintenance Regimes	Site/Desk Assessment	All Fleet	17,485	1,617	4,277	4,200	2.60
MF9	Spec (Beacons/ Faring)	Site/Desk Assessment	Kerbsiders	21,081	1,950	5,157	5,600	2.87
MF10	CNG	Site/Desk Assessment	Kerbsiders	316,216	29,243	77,353	280,000	9.57
				737,293	68,267	180,357	318,040	4.66

The table below sets out a summary of renewable energy measures. Recommendations are once more ranked by payback (with the quickest to achieve payback at the top) and then as high, medium low in the final column using a RAG colour code, this time using yellow for long and red for extended payback:

Renewable Measures	Detail of Measure Identified	Assessed By	Applicability	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kg CO2e Reduced	Capital cost to instigate (£)	Ranked Payback Period
Renewables Current	Solar and Wind		Plock Court, Bus Station, Guildhall, Turbine	52,913				
Measure R1	Solar Array A	Desktop Assessment	GL1	500,202	64,306	127,852	336,157	5.23
Measure R2	Solar Array B	Desktop Assessment	Plock Court	325,471	50,028	83,190	251,073	5.02
Measure R3	Solar Array C	Desktop Assessment	Eastern Avenue Depot	335,093	44,327	85,650	225,197	5.08
Measure R4	Solar Array D	Desktop Assessment	Gateway	16,363	2,075	4,182	10,997	5.30
Measure R5	Solar Array E	Desktop Assessment	Crematorium	30,592	4,019	7,819	20,559	5.12
Measure R6	Solar Array F	Desktop Assessment	Guildhall	7,440	856	1,902	5,000	5.84
Measure R7	Solar Array G	Desktop Assessment	Eastgate market	75,684	10,057	19,345	50,863	5.06
Measure R8	Solar Array H	Desktop Assessment	Blackfriars Priory	12,450	1,521	3,182	8,367	5.50
Measure R9	Solar Array Car Port I	Desktop Assessment	Longsmith Street MSCP	187,000	25,085	47,797	290,000	11.56
Measure R10	Solar Array Car Port J	Desktop Assessment	Kingswalk MSCP and Eastgate Complex	519,680	69,997	132,830	828,800	11.84
Measure R11a	Wind 180kWp	Desktop Assessment	Crematorium and resomation	1,493,289	123,336	320,296	714,640	5.79
Measure R12	GSHP	Desktop Analysis	Depot	66,137	2,722	16,905	8,000	2.94
Measure R13	Plock Court	Assessment	Engineers Inspection Req'd	27,629	12,129	7,062	700	0.06
Measure R14	Plock Court	Assessment	Negotiation	0	10,500	0	0	0.00
Total Renewable Measures				2,103,743	420,959	858,013	2,750,354	6.53
Total All				4,418,220	639,022	1,376,152	3,330,480	5.21

Total for all three sections is in the green line above.

Renewables that are in place currently (red Line at the top of this table) above, represent the renewable energy that the Council is currently generating from operations at Plock

Court, Guildhall and Lock Cottage. There is also a solar array at the Gloucester Bus Station, and this has been assumed as a 20kWp array (similar to that at the Guildhall) as data was unavailable.

**Applicability Key:**

- GL1 GL1 Leisure Centre, Gloucester (contract change potentially 2022)
- PC Plock Court
- CD Council Depot and fleet
- FM Gloucester Life (Folk) Museum
- GO Gateway Offices
- NW North Warehouse (and EHI fleet)
- CM City Museum
- CHC Coney Hill Crematorium
- G Guildhall
- EM Eastgate Market
- BP Blackfriars Priory
- EGC Eastgate Complex
- LSS Longsmith Street MSCP
- KW Kings Walk MSCP

We would propose that any energy efficiency measure with a suitably long persistence factor (lifetime of the measure/equipment) should be enacted. Most private companies would tend to work on a maximum 3-year payback. However, technologies such as those above with over 3-year paybacks have long life expectancy and will deliver maintenance savings as well as quality and performance improvements.

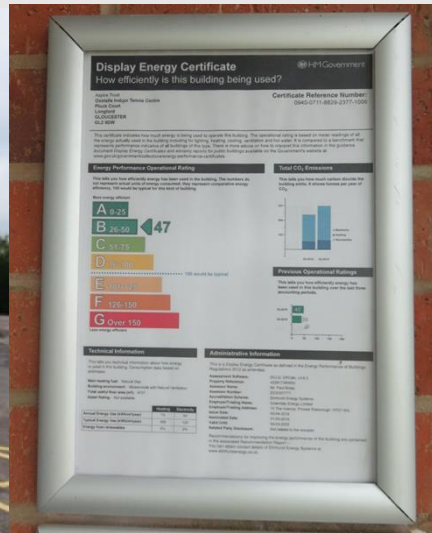
**Summary of Sites Inspected:**

**GL1 GL1 Leisure Centre, Gloucester**

Managed by Aspire with contract due to expire or extend potentially around 2022. Site is a leisure complex with pools.

**PC Plock Court**

Plock court attendance with Paul Dewsbery and Meyrick Brentnall. The DEC for the building shows a useful floor area of 4,727m2 and an encouragingly high B47 rating. This despite the fact that the DEC has neither recognised nor referred to the solar PV array on the roof.



The site is managed by a BMS system which operates boilers, reception and changing areas. There is an electric, gas and water meter on site. Readings below:



Opening hours (when not in Covid-19 operation) are 8:30 AM to 10:00 PM Monday to Sunday. Closing periods are Christmas Day, Boxing Day and New Year's Day and all bank Holidays with half day operation on Christmas Eve .

8# Powrmatic heaters (imaged above right) are in place in the tennis courts which are not used and ought to be disconnected from the mains gas. Controls for these are at either end east or west of the tennis courts.

#### **CD Council Depot and fleet**



The Council depot site is operated by Amey. Windows are open with portable air conditioning units left on. These units are extracting through windows using 6-inch pipes this needs to be resolved using appropriate permanent AC units or extraction holes through walls. Distance from the site to the materials recycling facility (MRF) is short because the MRF is at the Depot and the disposal of waste is to the energy from waste site. Telematics have been provided. Operating hours at the site are 6:00 AM to 6:00 PM Monday to Friday. There is some Saturday working in the workshop .

The MRF has conveyor motors and also an 11kW compaction motor. The conveyor Motors are much smaller. Lighting throughout the building is fluorescent and should be replaced with LED, the server room is the only area that has its own air conditioning permanent unit and that should be adjusted given that it is a 24/7 operation.



## FM Gloucester Life (Folk) Museum

The Gloucester Life (Folk) Museum Westgate Street is a Grade 2 listed building.



Much of the lighting has been replaced with LED spots. Rooms temperatures are controlled on thermostats. Boiler service is overdue since April 2019 as a result of Covid-19.

## GO Gateway Offices

The building is 100% electrically powered with no gas on site.



The site has undergone a good standard of retrofit which has included windows with high quality argon filled double glazed units, re-lamping with LEDs and sensors, heating, and cooling with LG heat pumps. Lighting lux levels are particularly good.

**NW North Warehouse (and Enterprise fleet)**



The North Warehouse has floors 1 and 2 occupied by Regus. The basement and 3<sup>rd</sup> floor are occupied by the Council. Plant is stored in the basement.

Two of the three boilers appear to be operational

Metering in the building leads us to believe that the split of energy is not being carried out reasonably. The sub meter on the 3<sup>rd</sup> floor was not operational on day of visit and there is no obvious sub metering to floors. The Chiller unit outside the plant room, paid for by the Council at the basement is not being metered and is utilised by Regus at the cost of the Council.

**CM City Museum**



The museum is a grade 2 listed building. Unsurprisingly, it has a low DEC rating of G 165.

**CHC Coney Hill Crematorium**



The crematorium has three gas fired cremators fired from a single gas fired boiler. The site has a compressor, and the three cremators are managed externally and via on site BMS through Facultative Technologies. All three units are identical and can be used interchangeably.



**G Guildhall**



**EM Eastgate Market**

Opening hours: 0700 to 1800 Mon to Sat

December: Mon-Sun 0700 (0930 – 1700) 1800 public in brackets

Observation: Some of the stalls have meters paid for by GCC.



## BP Blackfriars Priory



## EGC Eastgate Complex



**LSS Longsmith Street MSCP**



**KW Kings Walk MSCP**

All lighting columns at the top floor of this site were found to be on in broad daylight.



Calculated together for the relevant sites and not extrapolated to the remaining sites, the report's specific recommendations are set out below on a technology by technology basis:

## Energy Efficiency Recommendations

### ME1 Transition – Repatriate stall meters

Some of the Eastgate Market stalls have meters paid for by GCC. In the year assessed, these consumed 26,652kWh of electricity at a cost to the Council of £3,657. From a fairness approach, it seems unreasonable that some stalls should receive free electricity when others do not. Whilst moving this cost to stall holders arguably simple moves the producer of the carbon, it is broadly accepted that when an owner is paying for their own electricity, they will be a good deal more careful in its use and the amounts of energy used are likely to reduce.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure E1	Meter	26,652	3,657	6,812	0	0.00

### ME2 Available Supply Capacity (ASC) Adjustment

There is potential at GL1, Gloucester Bus Station, Blackfriars Priory and Gateway Offices to reduce the available supply capacity (ASC) at these sites. Whilst this would have no effect on carbon, it will reduce costs.

It must be understood that offering this capacity back to the grid and recovering income for the same must only be done if the operators are sure that they will not be expanding the sites or equipment in the future or otherwise increasing specific demand at key points of the day.

Once lost, there is no guarantee in the future that the grid can offer this capacity back and, if they can, there may be infrastructural costs levied. It is always good practice to run these assessments on at least two years of data before making a commitment.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure E2	ASC	0	5,772	0	200	0.03

## ME3 Server Rooms

### Depot

All cooling in the server room that is set at 20C or below should be allowed to rise to 22C.

It is also important to ensure that all rooms are set at the same temperatures.

Were units operating at x and y are in same room at different set points, they will be working much harder than necessary by fighting against each other to achieve an impossible dual set point.

### North Warehouse Server room (3F)

It is understood that the Council server room is served by a Mitsubishi SRC63ZK-SAC unit adjacent the chiller. The unit has a 1.76kW input cooling capacity.



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure E3	Server Room AC	72,020	9,882	18,408	900	0.09

### ME4 Disconnect Door Warm Air Curtains

There are door curtains at various sites. Where door curtains are not covering the entire width of the door opening, warm air will escape from either side of the air curtain and no benefit will be achieved. At all of the sites below, this is the case. The curtain at Plock Court is serving no useful purpose and should be replaced or preferably removed/disconnected:

#### Plock Court



#### Guildhall

For similar reasons, we would recommend the removal of these two door curtains which are serving no real purpose and allowing warm air to escape either side and down the centre of these units:





### Eastgate Market

Disconnect three front of Market Air Curtains that are currently all controlled from an on/off switch:



These curtains are switched on (one switch all three with no control over velocity, wattage, or temperature) when a trader complains. This provides no real advantage to anyone. The total door opening is 9.07m wide x 2.59m high. Each unit is less than 900mm wide.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure E4	Air Curtains	24,960	2,996	6,380	270	0.09

## ME5 Building Management System (BMS) Control

Building management systems (BMSs) are computerised programmes and equipment designed to control the switching, timing and set points of electrical and in some cases, gas equipment. There is evidence of some good practice BMS control at some of the buildings visited.

We would propose that BMS systems be moved to remote desktop and ideally be web enabled where this is not currently the case (effectively at all sites except GL1).

### Depot Trend BMS

The BMS is set incorrectly and needs to be adjusted.

#### Zone 1: 1<sup>st</sup> Floor LHS Optimiser Schedule

This is set to operate from 0600 to 1800 Monday to Friday which matches the stated operational hours of the site. There is no weekend usage as can be seen below:



#### Zone 2: HWS Schedule

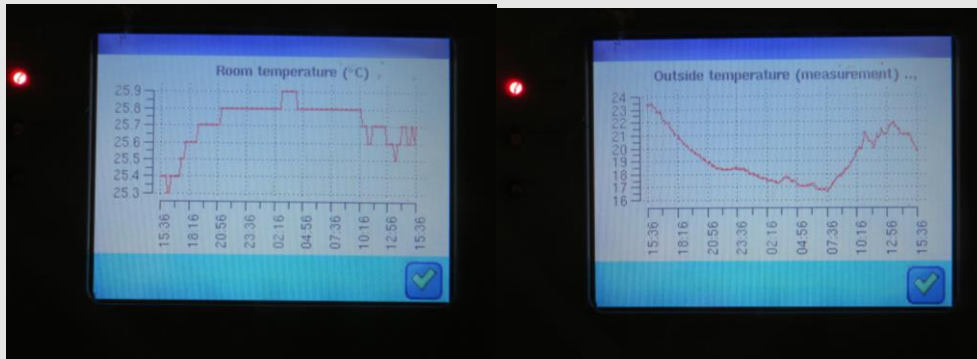
This schedule shows HWS operating from 0500 to 1800 Monday to Friday. However, it is also operating on Saturday and Sunday.



We would recommend that the BMS be interrogated and properly set up. The saving from addressing this alone will be significant.

### Crematorium Arbor Tea Room

Boilers are due for their next service in November 2020. Hot water and heating in the building is managed by a BMS.



Room temperatures look to have been set within a reasonable range. However, on considering outside temperatures over the most recent 24-hour period, with outside temperatures dropping over night to around 16.8C, internal temperatures overnight were typically over 25C suggesting that heating is being left on overnight. Indeed, at time of visit with outside temperatures at 19.7C, the internal room temperatures were 25.8C.



## Blackfriars Priory

At this site, the BMS controls boiler heating and hot water.

Site is only open Fri, Sat and for ad-hoc events and marriages. It is typically, open then until 12 midnight.



- Mon 0700 – 1000 and 1700- 1900 (5)
- Tue 0600 – 1200 and 1730 – 2200 (8.5)
- Wed 1700 – 2200 (5)
- Thu 0600 – 2400 (18)
- Fri 0600 – 2400 (18)
- Sat 0700 - 0900 and 1800 – 2000 (4)
- Sun 0800 - 1100 and 1700 – 2100 (7)
- Total week: 65.5 hours (average 9.4hrs)

Recommend adjustment of controls – recognising the need to maintain heat on to remove damp and keep warm through hot pipes in floor but do not need heating on all of the time.

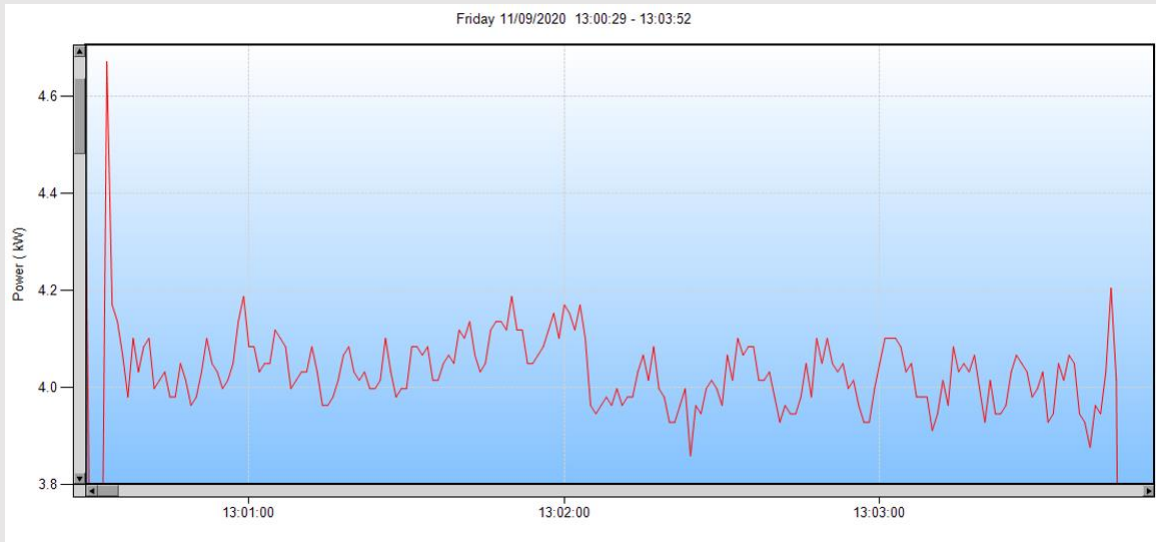
We would propose dropping Thu to Monday hours (18 becomes 5 and saves 13 hours) and dropping Sun hours to Sat hours (7 hours becomes 4 and saves 3 hours each week) 16 hours saved or 25%. This can be tweaked to optimise effects and results.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure E5	BMS Control	54,838	1,673	14,017	400	0.24

### ME6 Chiller Control

There are a number of chillers that could be better controlled across the estate.

The 5 chill rooms (one of which not operating) all have meters. Clamping here on the butcher's room (2) shows fan power input 290W with actual draw on meter in room at 4kW:



Chiller unit

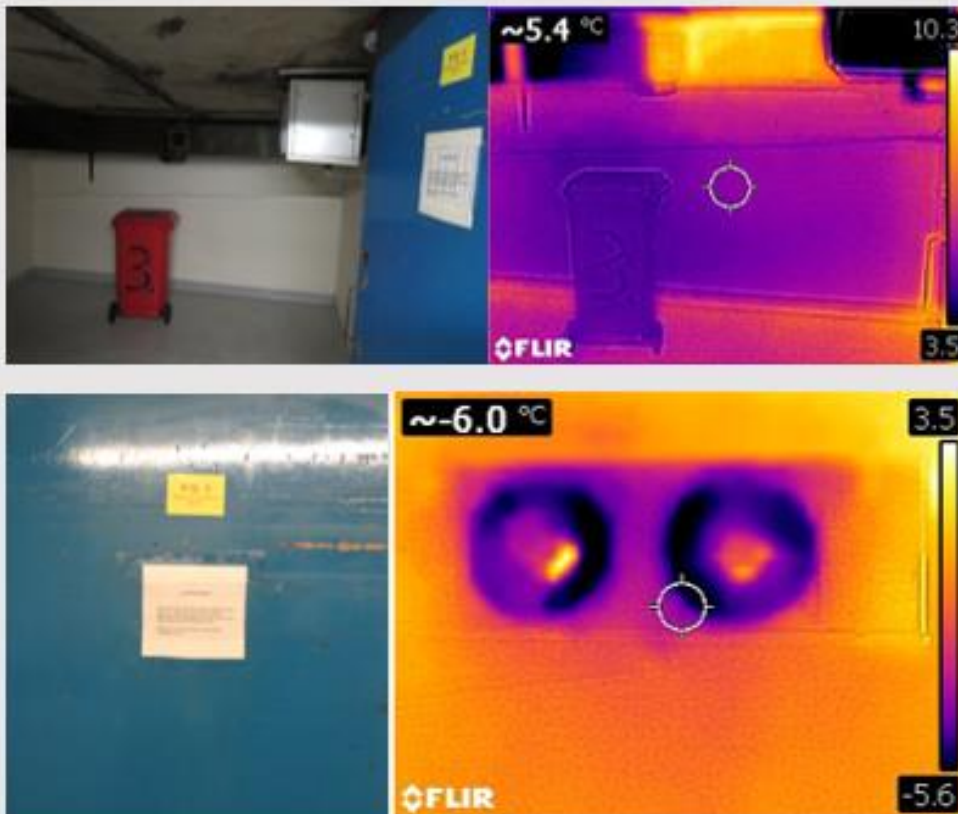


### Eastgate Market Fishmongers

We would suggest that the room containing a 240lt wheeled bin of fishmonger waste is repatriated to the Fishmongers new walk-in chill room within an appropriate container.



This chill room (FS1) that is currently chilled at significant cost of the council 24/7/52 will make a significant saving. This chilled room for the fish monger shows 290W input & power draw and will be similar to the butcher's unit. Assume cycles during 24-hour operation. The room contains only one 240 litre red wheelie bin with fish remains emptied weekly:



## Variable Frequency Drive (VFD) on Chillers

### North Warehouse

The air cooled Geoclima chiller in the basement foyer (VHA-C 116/66) has not been serviced or F gas tested since 28 Sep 2017. It is used by Regus for their server room, but it is not sub metered and it appears that the Council, are paying for its energy consumption. Third floor metering does not appear to be operational.

### Chiller

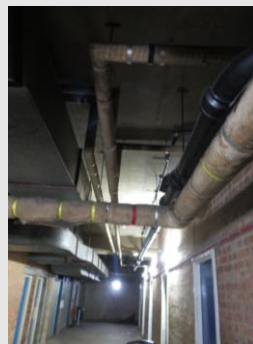
The chiller unit mentioned above has a Vacon variable speed drive (VSD) installed. It was not possible to access the caged area to view this bit given lack of internal controls equipment and issues with AHU (see later), it is anticipated that this VSD needs to be correctly set and adjusted.



We would recommend that a meter is installed to remove these costs on the Council which will be significant. Naturally, movement of energy and carbon to Regus only improves the Councils 2030 target. However, if Regus have to pay for this power they will be more likely to better manage and reduce it. This is all discussed in more detail in chapter 2: the 2050 target.

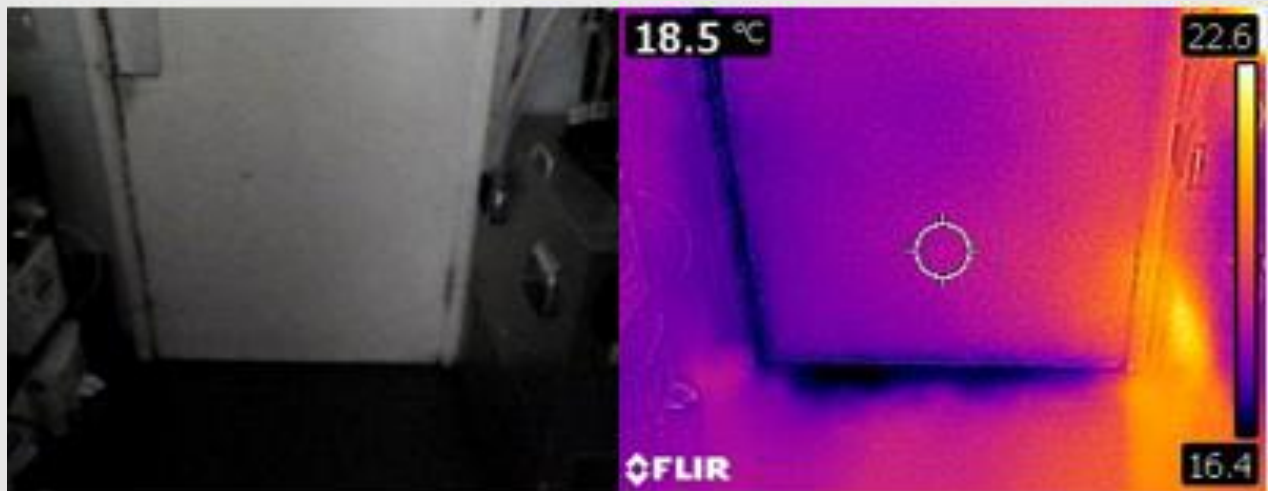
### Eastgate Market – basement

Chiller rooms (Five – one not currently operational).



## Guildhall

The chiller (1.03kW) serving the beer cask room should be turned off when not in use. When operational, install a VSD for times when is in use. It would also be worthwhile to seal around the chiller room door for reasons that can be observed below:



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure E6	Chiller Control	56,021	7,686	14,319	2,000	0.26

## ME7 Behaviours and Use of Half Hourly data to address energy wastage over time

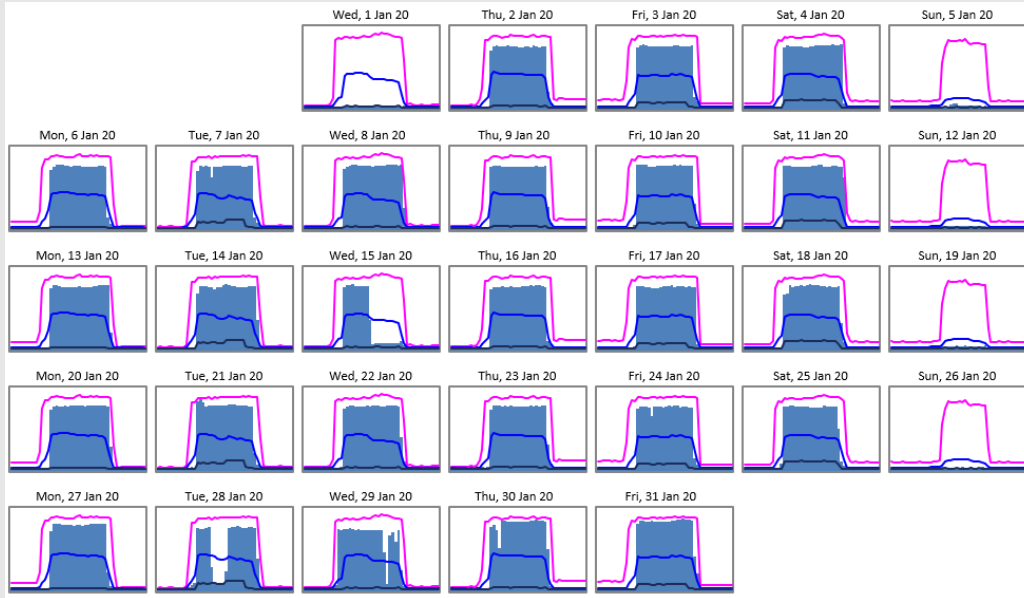
Certain high energy consuming sites have electricity meters capable of recording consumption every half hour. This allows us to view when energy is being consumed at times when it should not be.

The site below is Eastgate market. As an indoor market, the site is in very regular use and rarely closes other than at night.

Looking at the graph below for January 2020, it can be seen that whilst there is good on/off control over evenings and Sundays, consumption throughout the day is solid. This is largely due to the fact that controls are simple on/off switches and so no thermostatic or other controls are in place. The graph below shows energy use with each box representing one day (24-hour period). The blue mass is energy consumed, the pink line is the highest energy



consumed on any given day of the week throughout the period, green line is lowest on any given day and the blue line is average:



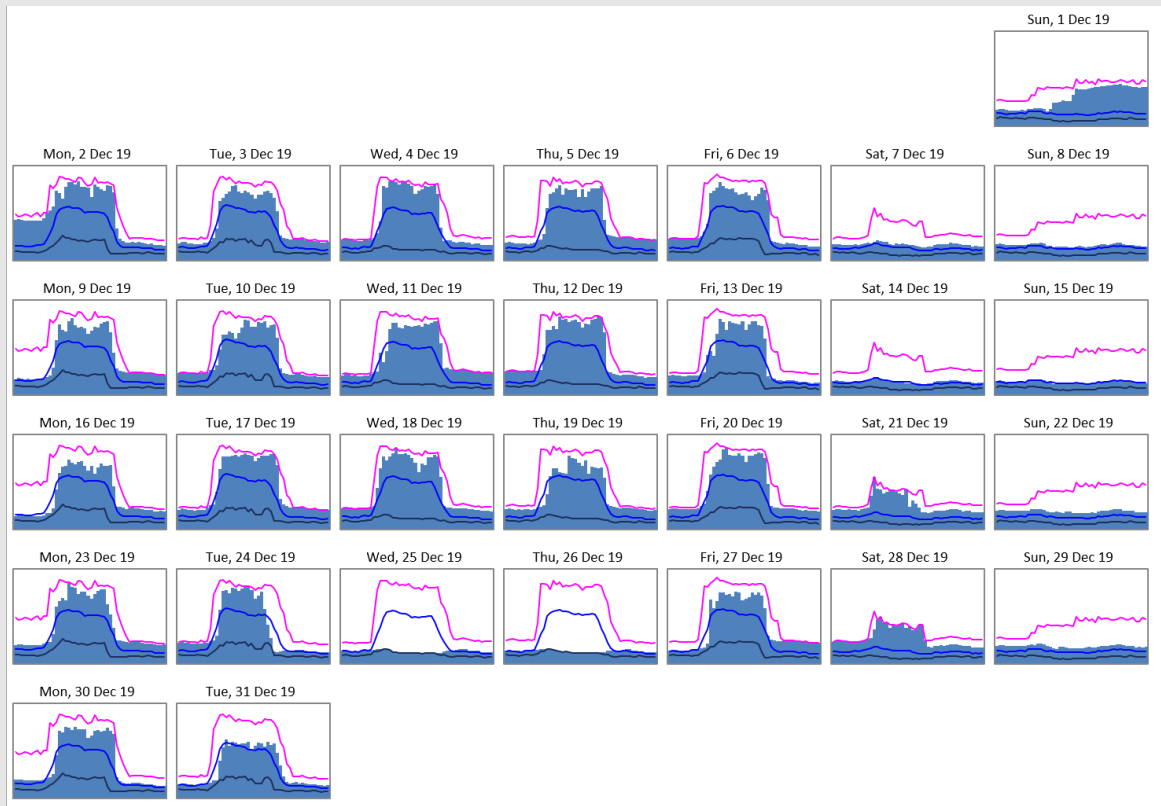
Energy consumption can be greatly reduced with better controls at this site.

As can be seen, energy use in the summer is a great deal less and this further demonstrates the effect of the all-day radiant heating and air curtain usage taking place during the winter:

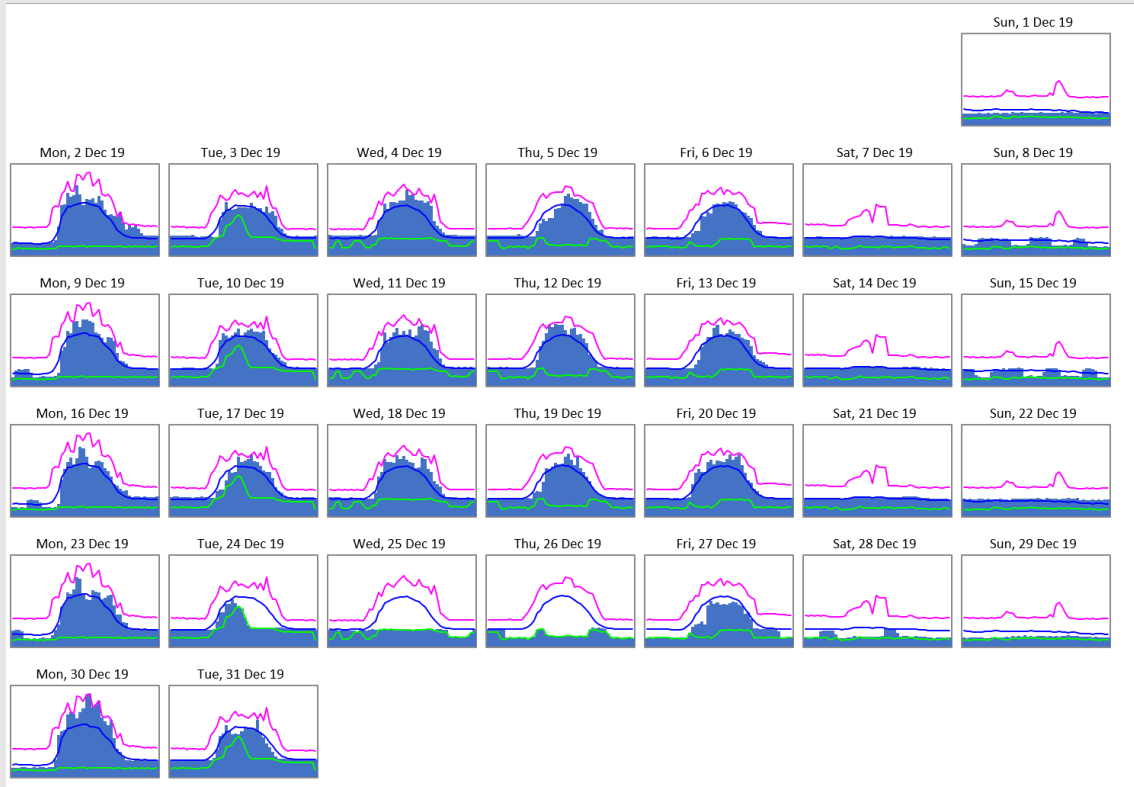


Eastern Avenue Depot energy use also is suggestive of relatively high night-time use which suggests equipment is being left running throughout the night. Even on Christmas Day, the midday load is around 13kW/hour.

This is equivalent to the constant boiling of around 9 kettles.

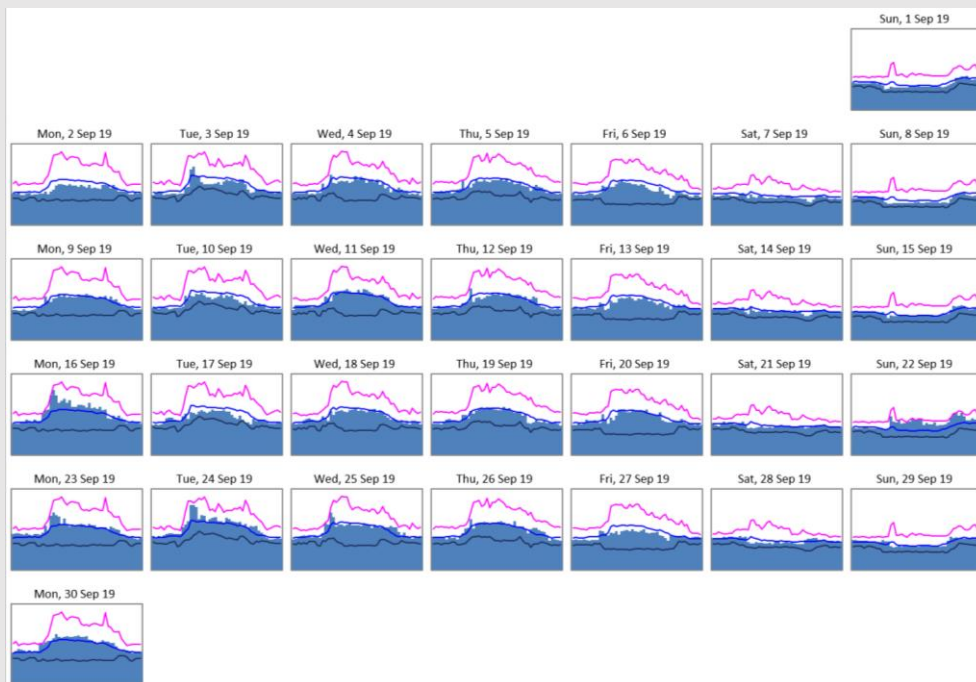


Similarly, the Crematorium's energy use is suggestive of relatively high night-time, weekend and Christmas baseline use which suggests equipment is being left running during these times. On Christmas day, the midday load is around 12.5kW/hour and typical Saturday loads are around 14kW/hour. This is equivalent to the constant boiling of around 10 kettles.



Finally, the North Warehouse is showing significant consumption around the clock. There may be a metering issue here as it is accepted that Regus use the Council's Chiller and their operations may go beyond normal office hours. However, night-time profiles of 17 to 20 kW/h are much too high for this office environment and are deserving of further investigation.

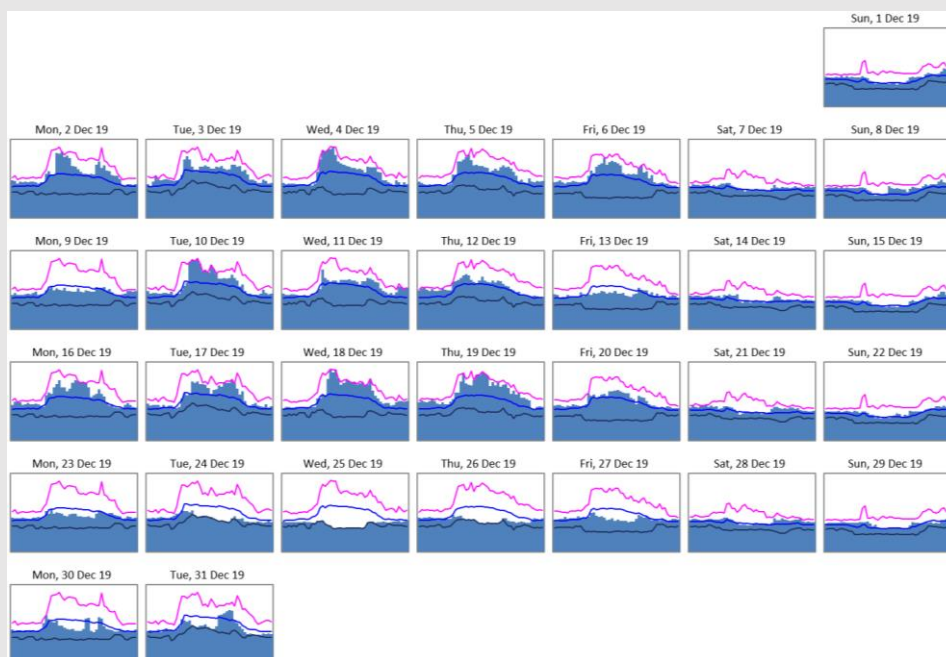
September 2019 shows little change between day and night consumption where peak daytime loads are around 28kW/h and night-time loads are around 17kW/h:



December 2019 shows what the baseload for this building looks like typically when we look at Christmas Day. The lowest energy consumption throughout the whole day is 15kW/h with 17kW/h at night. For context, one day, 'Christmas Day' at North Warehouse consumed 392kWh of electricity. Enough electricity to run an average house for five weeks.

If we could halve this base load, then the saving at this site alone for the year would be 71,540kWh which at average rates for GCC would amount to a saving of around £8,585 per year.

It is clear when comparing this to the savings in the table below, that, like all of our calculations herein, there is potential for a great deal more energy and cost saving:



As such, we would contend that there is potential for more control during night-time and to a lesser extent, during holiday periods. Conservatively we would expect to see the following savings from acting on the half hourly data:

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure E7</b>	HHD Assessment	116,159	14,752	<b>29,690</b>	5,200	0.35

### ME8 VSD to Air handling Units (AHUs) and control of existing AHUs and Extract fans

There is some evidence of VSDs in place on AHUs that are not being set or used appropriately. As with a number of aspects, it would be beneficial to install clamp data capture on some of this equipment when it is operating normally (outside of Covid-19 times) to get a clearer understanding of where energy is potentially being wasted.

AHUs are all indirect v belt driven. We would ideally propose that these be replaced with direct drive EC fans or, at the very least, the belts be changed to cogged belts for enhanced efficiency and VSDs installed and controlled.

At GL1, North Warehouse and the City Museum, the AHU motors should be replaced with direct EC drive or cogged belts and VSDs. These recommendations are set out at ME18.

### North Warehouse Air Handling Unit

The only AHU available to the Council on this site is a Carrier unit housed in the basement. We understand that this unit was serviced and repaired less than a year ago. However, there are some concerns:



On inspection of the fan motors, it was found that both belts had sheared and snapped meaning that although the unit was drawing power and motor spinning, the motor was not able to turn the fan and so no ventilation has been taking place since this occurred:



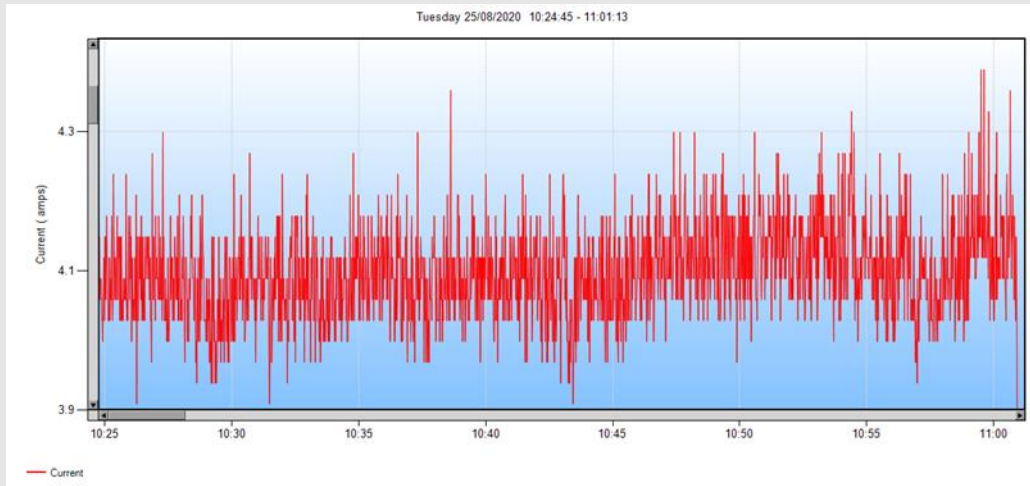
The belts themselves are a low quality/efficiency V belt and should be replaced with cogged belts for higher efficiency. The motor is old and if an investment could be made possible, it may be worthwhile replacing with a direct drive EC fan motor which, as well as being much more efficient, would not fail with the shearing of drive belts.

One of the two pre filters that stop dirty outside air from entering the ventilation system was not properly housed meaning that no real filtration was taking place. These are also dirty and have not been changed for some considerable time.

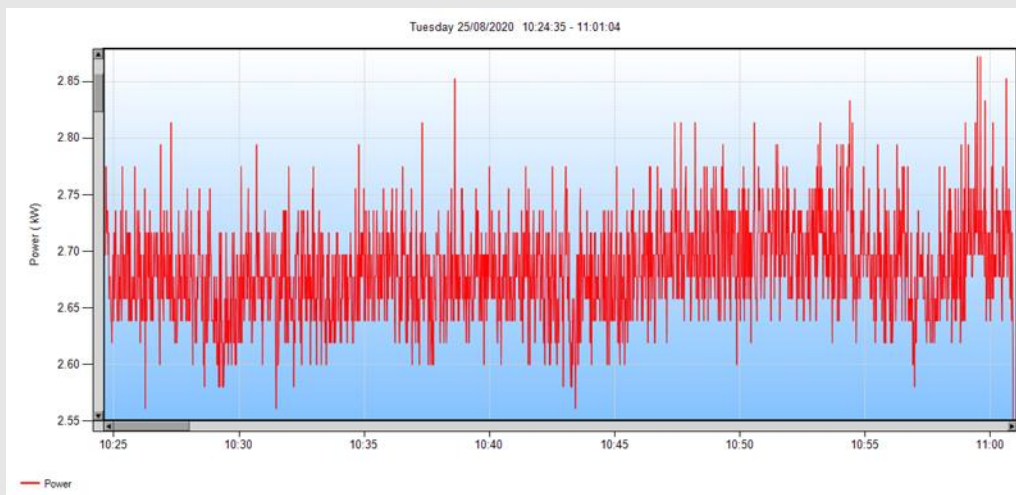


The pipework to this AHU should be more adequately lagged, particularly to flanges and valves:

On clamping the power supply to this AHU, we found a residual current of 4.2 amps.



It was understood from Paul (our guide on the day of visit) that this unit operates around the clock (24/7). With a mean rating of 2.75kW, even three months of operation with these broken belts would mean 6,138kWh of wasted energy.



Propose installation of a VSD to this unit.



### City Museum AHU Ventilation

The site is ventilated from a large AHU and two extract fans. Vents are built into walls as seen below:



The air handling unit itself is housed in the upper areas of the building. It is a 4kW Brook Hansen fan motor and is belt driven with 3 V belts. Install cogged belts and a VSD.



## Eastgate Complex

AHU to toilets (S and E) Both operate on indirect drives with cogged belts

Bag filters should be changed to a vertical position.

VSDs on each of the 4 motors (each look to be 1.5kW) Only Supply Fan 1 and Extract fan 1 are operating and at 50Hz and these should be adjusted and controlled.



Extracts fan VSDs all at 30Hz which is more encouraging.



## Extract Fans

### GL1

Control of extract fans is current via light switch in:

- Squash courts (EF 1-4)
- Creche kitchen area (EF 8)
- Office kitchen (EF 9)

Recommend that this changes to separate control at a cost of around £800.

## Eastgate Market

Market hall extract fans 1-3. All are on VSDs.



Extracts 2 and 3 operate at 30Hz. These should be controlled by a BMS. Since they are not, all extracts (including #1 – image on right) should – as appropriate, be set to 30Hz for uniformity and energy reduction.



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure E8</b>	VSD control to AHUs	6,599	905	<b>1,687</b>	450	0.50

### ME9 Site Behaviour Change

By addressing instances and causes of poor energy behaviours, there is potential for reasonable savings. The Carbon Trust contend that there are achievable savings of up to 10% through addressing staff behaviours. Addressing energy behaviour is never a quick fix and requires ongoing campaigns and actions to instil and then maintain changed behaviour.

As a consequence, it is recommended that staff are invited to volunteer to act as energy champions. They will need to be trained and given reasons to act but once on-board, they will ideally encourage their peers to do the right thing and point out when they are doing the wrong thing.

We would be happy to quote to provide energy or indeed environmental, waste, carbon, climate change, sustainability, fleet, or water management training to staff and/or members if this were deemed worthy of your consideration. Once trained, the energy champions will be able to deliver training in-house.

Points for behaviours include such issues as removal of portable devices such as under desk heaters and fans, particularly where buildings are heated and cooled with heat pumps and Chillers such as at the Gateway, Depot and North Warehouse.

### Gateway

A well-appointed office such as this should not need windows opened or fans and heaters introduced.



2,250W Hand dryers should also be replaced with efficient air blades.



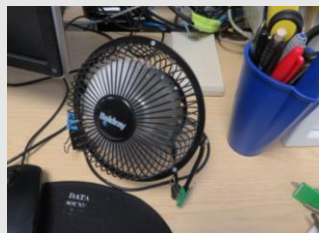
## North Warehouse



Other aspects to be addressed would include more frequent filter changes to the AHU at North Warehouse and at the AHUs on the roof of GL1.

In practical terms at Gloucester offices, we would recommend that the organisation removes all fans and heaters from above and under desks. Replace with only USB fans where absolutely necessary.

An example of a USB desktop fan:



### Depot Heating

Heating in the workshop (11.88 wide by 21.74 long by 8.65m high) is all electric using radiant wall heaters (10#) at two kilowatts with 2# 15kW electric industrial fan heaters (now that propane gas blow heaters have been taken away for safety reasons):



Consider install of insulated suspended ceiling, wall cladding and the use of radiant Ambirad type heating. The roof of the workshop regularly drips water from condensation in that building so insulation would be beneficial.

### Gloucester Life (Folk) Museum

Shelves (free standing) should be installed over radiators beside windows to allow the heat to be channelled into the room via convection rather than outside through single glazed and leaky framed windows. Boilers should also be serviced.

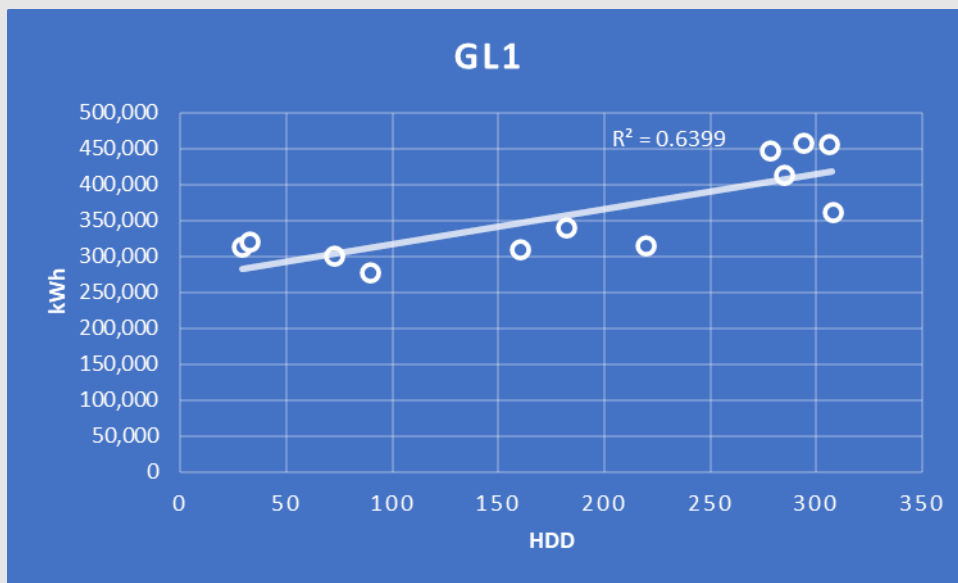
By enacting these measures, the organisation ought to be able to make the following savings:

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure E9	Site Behaviour	56,137	6,067	14,349	3,550	0.59

### ME10 Regression Savings

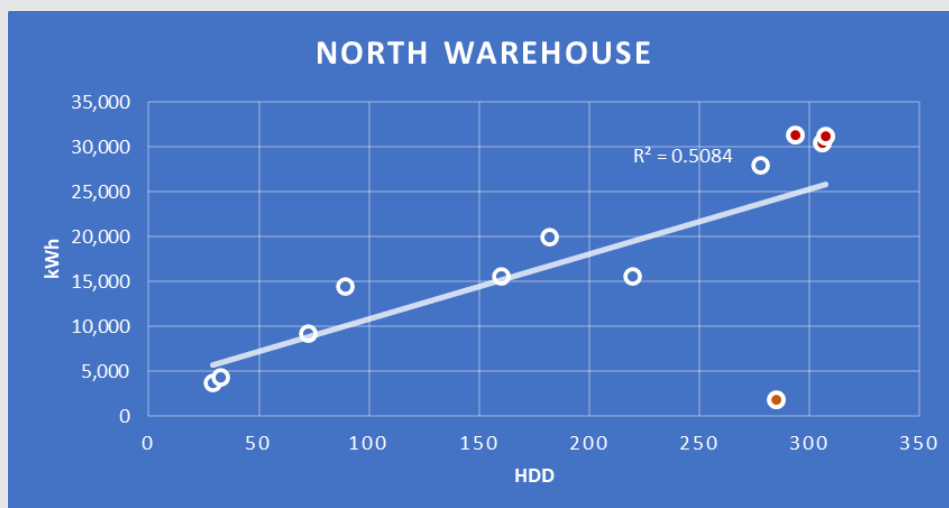
There are significant available savings apparent from better control of heating at certain sites. As discussed earlier, regression analysis is best conducted on 3 or more years of data. This is because gas billing can often be estimated, corrected, adjusted, and poorly recorded:

GL1 Data is skewed by the CHP use:



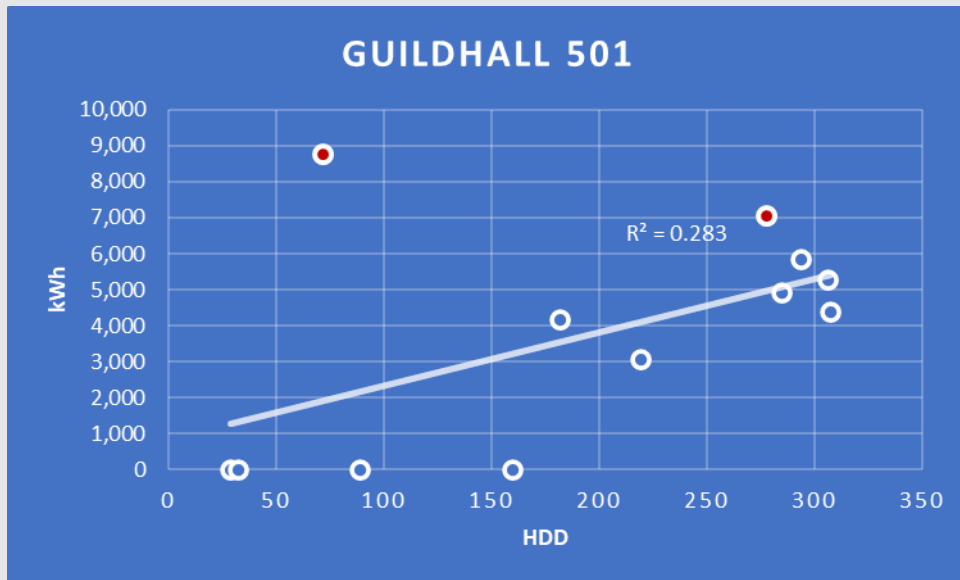
Sites that show some levels of concern as graphed below:

North Warehouse areas in red and orange should be investigated:

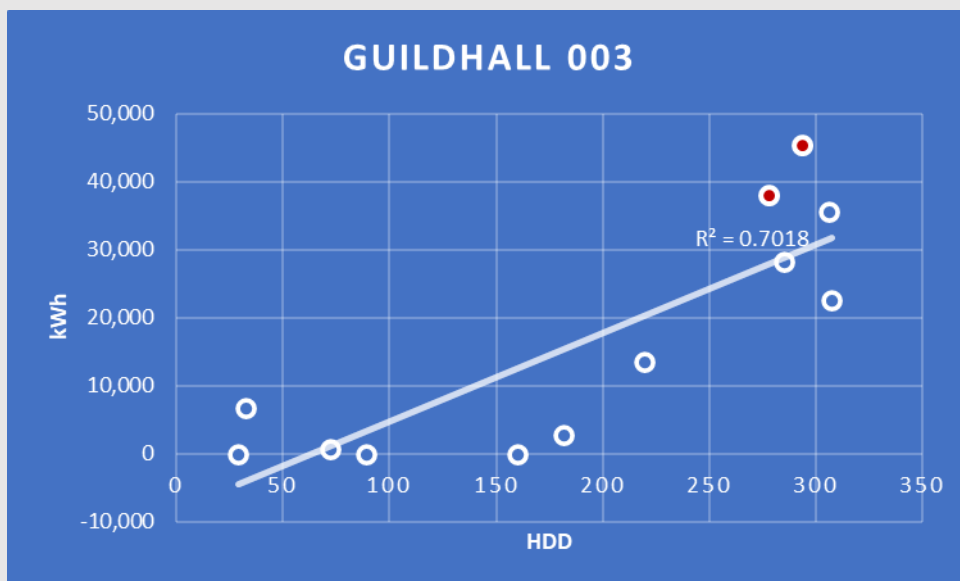




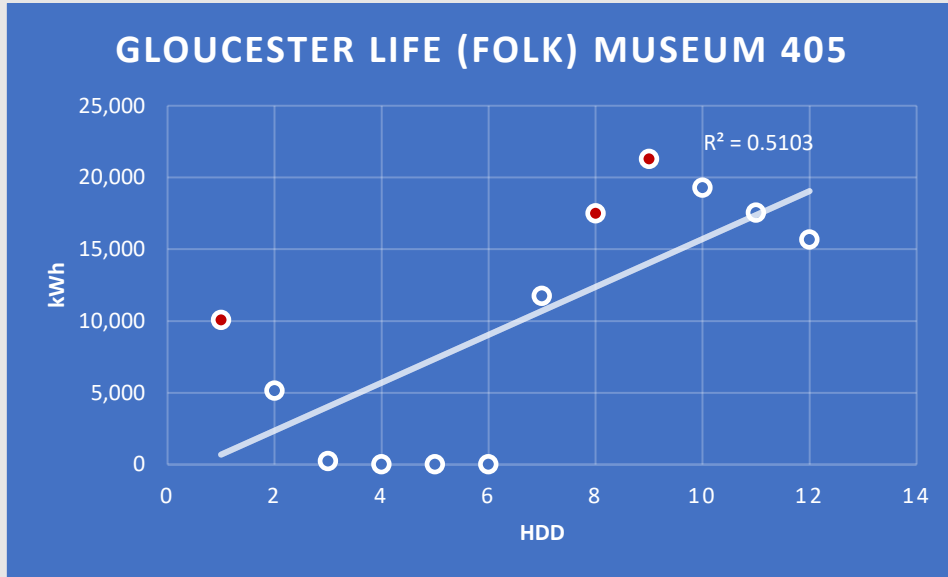
At the Guildhall and MPRN ending 501 data looks to be a case of poor billing but more information would be required to better understand and confirm this:



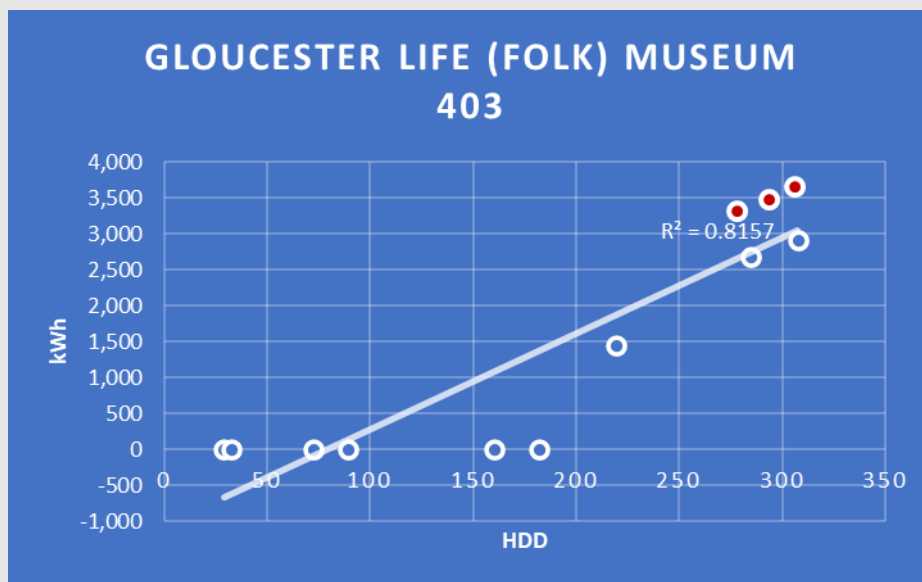
The Guildhall MPRN ending 003 looks better:



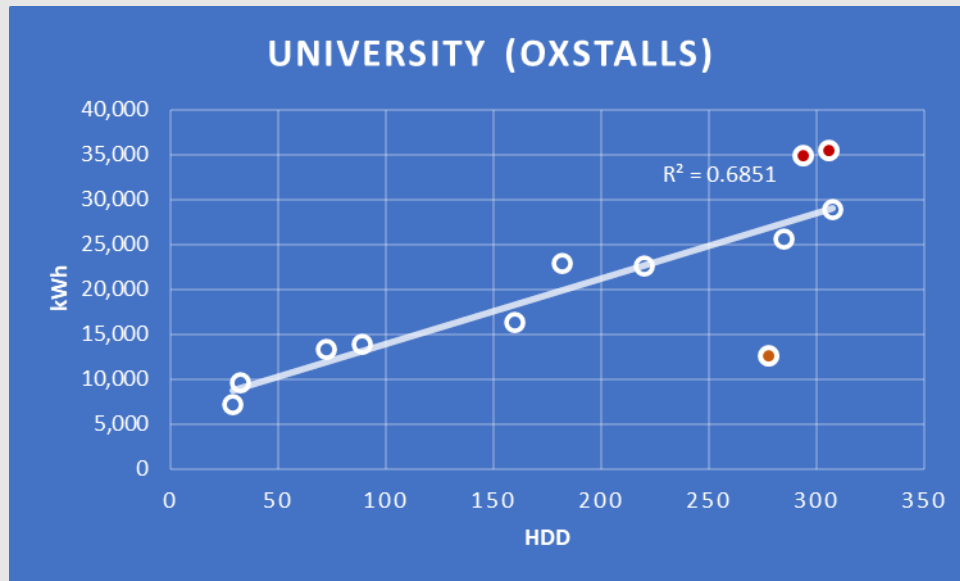
Gloucester Life (Folk) Museum MPRN ending 405 data looks to be badly billed:



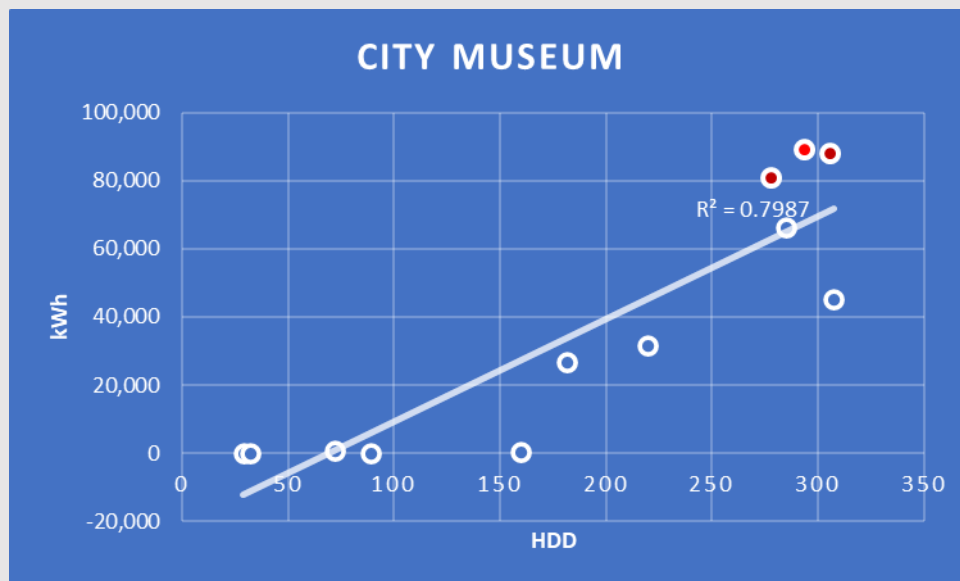
Similarly, to the Guildhall, the Gloucester Life (Folk) museum MPRN 403 looks to be more accurately billed:



The Oxstalls University building shows areas in red and orange which should be investigated:



There are some anomalies with the City Museum, but they do not look to be major:



By adjusting the points at seven sites where there is overuse against weather data, we have located an array of savings against reduced gas use and payments:

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure E10	Regression	143,482	3,088	26,379	1,960	0.63

## ME11 Comfort Zones

### GL1

Available settings on A/C controllers around the building can be as wide as between 18 and 30C.



We would recommend locking these within a small range and by adjusting to 1C either side and adding this adjustment in 0.5C increments. Experience states that as long as staff are able to feel that they are in control, they do not need to move the dial particularly far. Heating for the site is managed on a Trend 963 BMS with the A/C units being managed by FM on a separate centralised Daikin controller.

Many staff when cold (perhaps having just walked into the office from a frosty outside environment) will increase these settings to the highest level in the expectation of achieving more rapid change in temperature. This will not occur.

Instead, the temperature will rise at a fixed speed until this set point is achieved. As can be seen above, in several cases these units will allow temperatures of up to 28C or 32C. At some point, members of staff will decide that the room is now too warm and may drop the temperature to a lower level (potentially down to 16C). This will then again overshoot and cause the room to remain out of equilibrium throughout the day. In some cases, staff may open windows, further exacerbating the situation.

We would recommend that all controls are locked within comfort zones of between 19 and 21C. This will allow staff the ability to adjust, but not to adjust outside of a reasonable range that will cost the organisation excessively in energy costs. Electric heating and cooling, even with heat pumps is expensive.

## Plock Court

Similarly, at Plock Court, controls allow for changes between 19 and 30C. This upper level should be brought down to around 21C to avoid unnecessary adjustments being made.



## Depot

### New Heat Pumps

The site has no gas and is electrically heated and cooled. Cooling is via portable air conditioning units which are typically rated at 1.5kW to 2.0kW.



The major problem with these is that there is no capacity for their heat outlet and so the c 6 inch (150mm) pipe that exhausts this heat is placed through open windows. This means that windows need to be wide open on hot days to expel the heat. Consequently the room

never gets cool as the A/C unit attempts to cool the surrounding world. Because of this, the installation of permanent heat pumps will lead to savings based on the building envelope being sealed so that the A/V unit does not need to work so hard and, if appropriate units are installed, the site will benefit from a higher coefficient of performance. Ground Source Heat Pumps (GSHPs) can provide up to 4kW output for every 1kW input. If carried out before April 2021, the install would also potentially benefit from the RHI.

### GSHP

We understand that the site had a Ground Source Heat Pump which is no longer operational. This was also observed on the BMS. It may well be worthwhile reintegrating, replacing or reinstalling this:



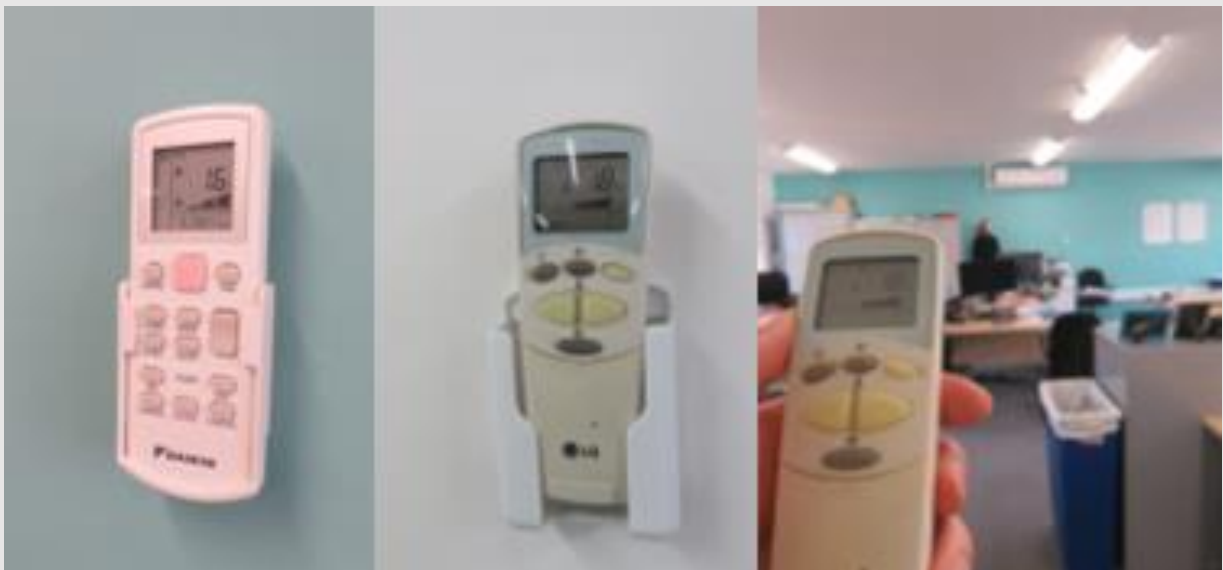
### Gateway Comfort Zones

16-30 possible. Found at 27C. Ensure range is locked



### Set Points

Ensure that open plan offices are not set at different temperatures. Images below show two DX wall mounted AC units with controls set at 16C and 18C in the same small open plan office. This means that the two units will be constantly fighting one another to reach a temperature set point that will never be met:



### Eastgate Market Office

Electric wall heaters should, where possible be replaced with heat pumps



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure E11	Comfort Zones	5,780	793	1,477	820	1.03

### ME12 IR Heating / Heating Control

#### Eastgate Market

The market has 36# 2kW Energikomfort radiant heaters in the roof and these are controlled in the suspended managers office with a simple on/off switch. Whilst there are slightly more efficient radiant heaters on the market, the easy saving here is control. By installing black bulb thermostats to the site, these heaters need not be on all day and could be operating only as required and not as a result of the first complaint by a trader.







	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure E12	Infra red Heating	247,280	10,527	63,205	11,200	1.06

### ME13 Insulation to radiator pipework runs

Much of the radiator pipework around many of the buildings is not lagged. As such, when radiators are turned off at the thermostatic radiator valve (TRV), the pipework is still heating the room leading to windows being used as a control measure.

### Plock Court

At Plock Court, radiator pipework around the building is observably unlagged.



### Gloucester Life (Folk) Museum

Pipework lagging to radiators should take place.

Build shelves over radiators under windows to encourage convection currents and reduce losses through single glaze windows and insulated roof.

### North Warehouse

Radiator pipework. There are long runs of exposed pipework on the third floor connecting radiators.



## City Museum

The radiator system around the building is largely older cast iron units. There are runs of pipework that would benefit from being insulated so as to better control the heating in the building when radiator TRV valves are turned down.



## Crematorium

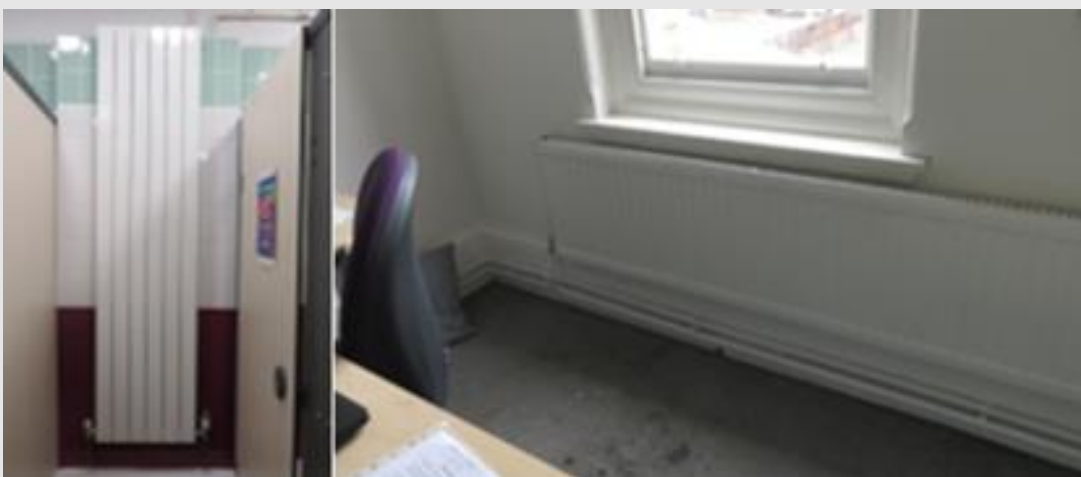
### Radiators

The radiators in the chapel are heating a large expanse through convection. Much of this will be lost to walls and high windows. We would recommend installing shelving above the radiators to permit the convection flow to enter the room.



## Guildhall

Pipework lagging should be installed to radiators all around the building:





	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure E13	Pipe insulation	34,324	609	6,310	1,100	1.81

#### ME14 Plantroom Flange and Valve (F&V) pipe lagging

There is a certain amount of pipework, but more importantly flanges and valves that are not lagged in certain of the plant rooms. This should be rectified to reduce heat loss and gas wastage.

#### Plock Court and Depot

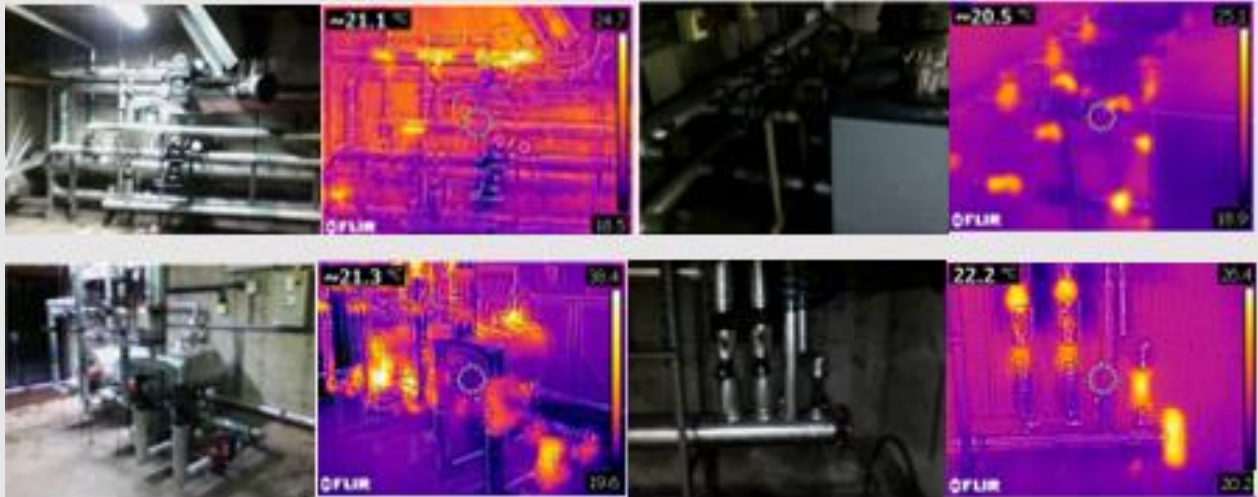
F&V insulation is required in plant room as can be seen below:



## North Warehouse

F&V insulation to boilers

Boilers were not generally operational due to the audit taking place in August (summer). However, where they were, it is clear that there are areas where pipework is not properly insulated:



## City Museum: Flange and Valve Insulation

Whilst the boilers were not operating (summer months), it was observed that the flanges and valves in the plant room have not been insulated. This means that there is a great deal of wasted heat before this heated water leaves the plant room. As a rule of thumb, due to its surface area, a flange or valve emits the equivalent heat of a one metre length of similar diameter pipe:



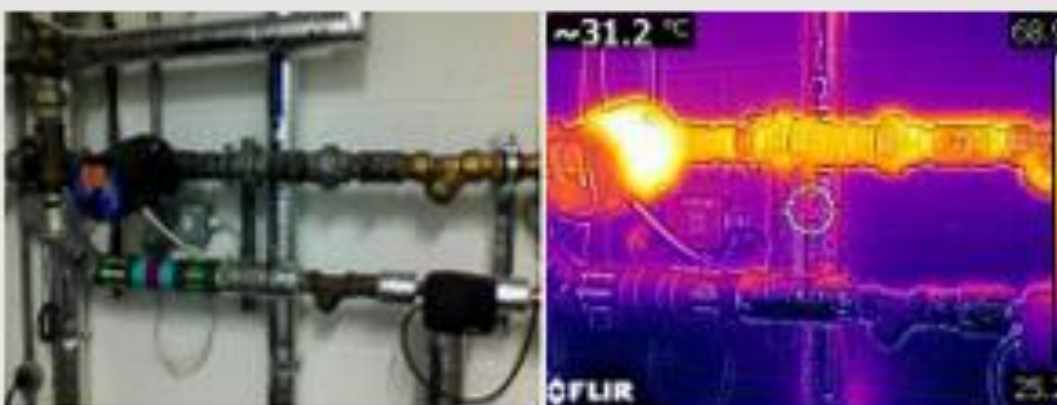
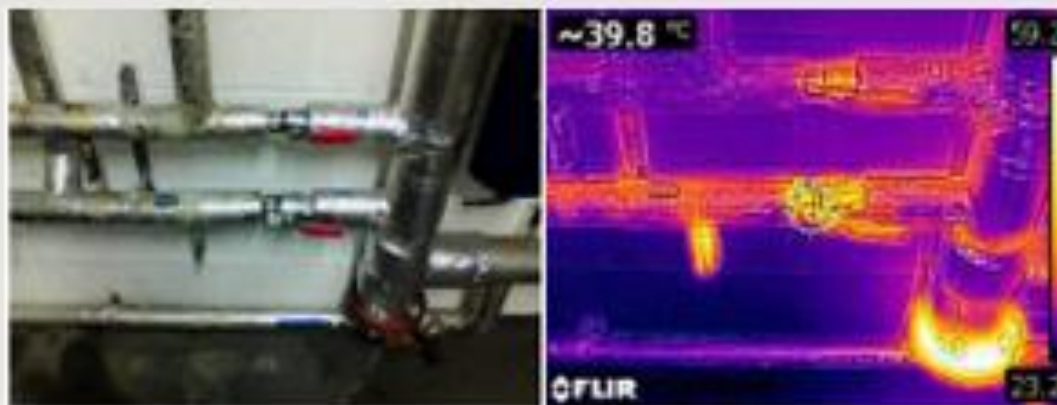
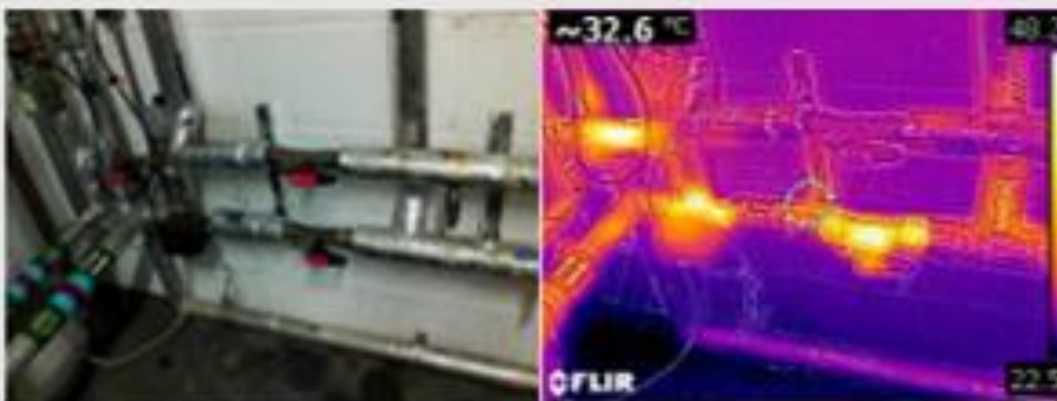
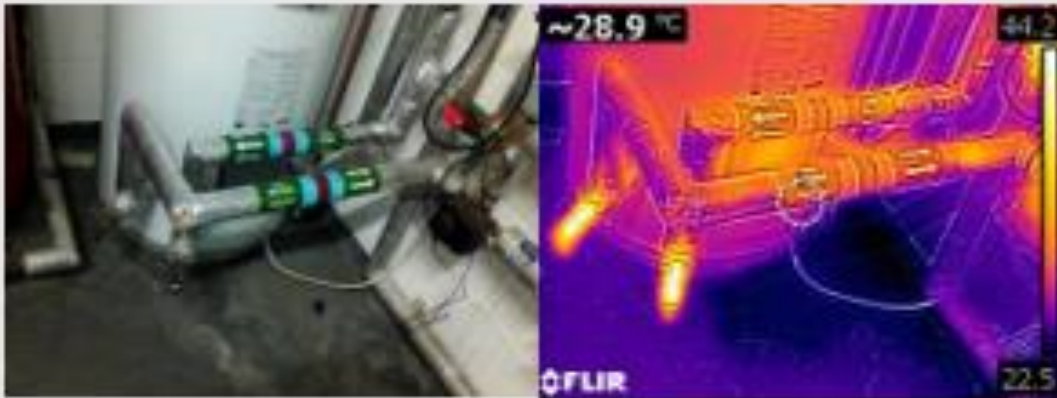


Similarly heating pipework serving the AHU should be lagged.

### Crematorium

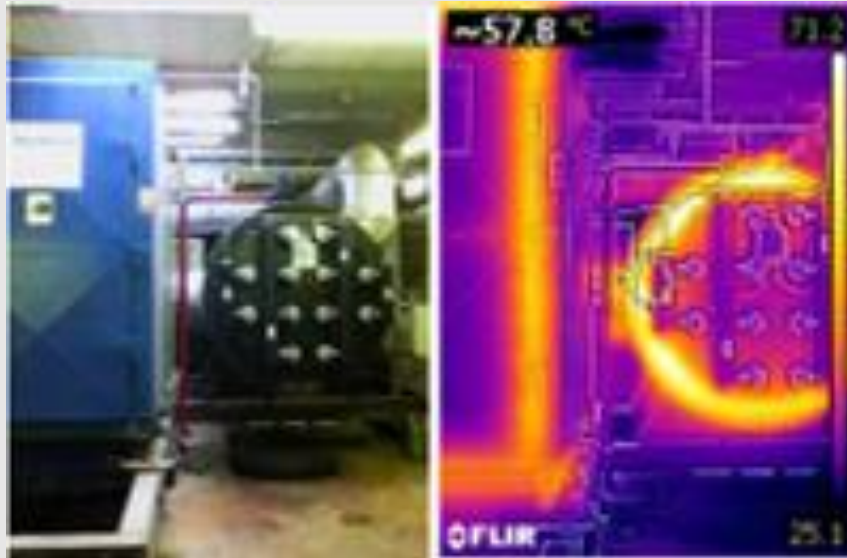
F&Vs should be lagged.







Boiler and tank lagging should be enacted:



### Boiler (Cremators)

There is flue gas treatment present in the operation as would be expected in a facility of this type.



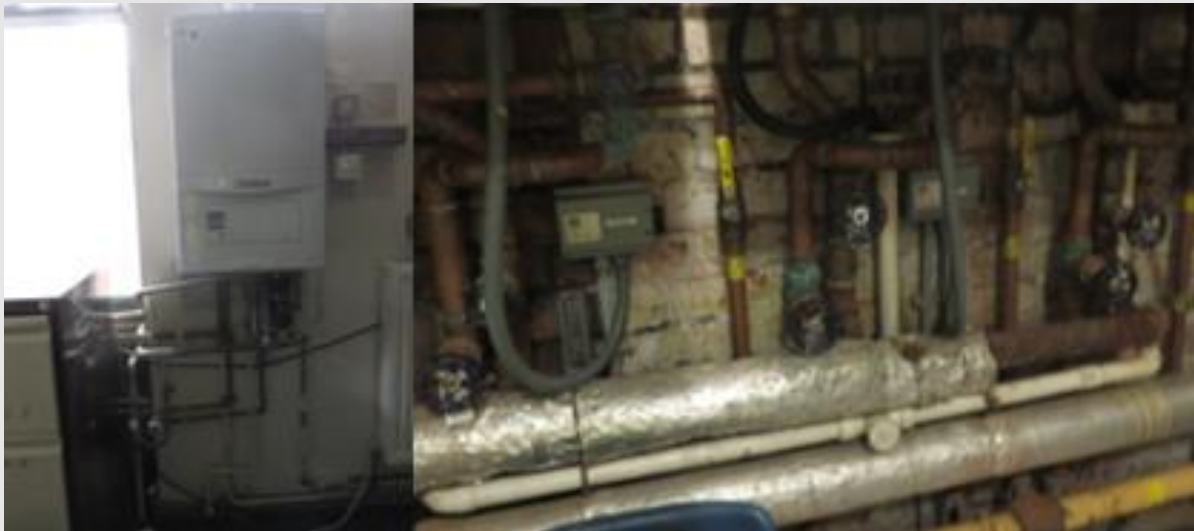
### Crematorium Arbor Tea Room

Flange and valve insulation requirements can be seen below:



### Guildhall

Pipework under 3 boilers requires insulation:



Pump room



Thermostat control



F&V lagging required in boiler rooms.

Move electric heaters in toilets to gas radiators on system or more preferably, to heat pumps.

**Eastgate Market**

Basement lagging is old and ineffective. Replace.



Also, lag hot water pipes.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure E14</b>	F&V insulation	37,130	591	<b>6,826</b>	1,210	2.05

### ME15 Cavity Wall Insulation (CWI)

The walls at the rear section building of GL1 do not appear to be cavity insulated:



Given the heat loss potential at this site, this should be investigated. The age of the site makes it unlikely that insulation was installed at time of construction. There is no evidence of these walls being insulated as a retrofit. We would recommend an endoscope survey be conducted and if required, insulation pumped into the cavity.

### Gloucester Life (Folk) Museum

Similarly, there looks to be need for CWI to the cavity at the rear cafeteria area:



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure E15</b>	Cavity wall Insulation	37,400	1,392	<b>6,876</b>	2,943	2.11

## ME16 Lighting and Controls

Lighting across the Gloucester City estate is now predominantly LED. There are a few exceptions to this where LEDs are being phased in and where a plan is in place to replace.

### GL1:

There is potential for replacing the current lighting at GL1 with LEDs and controls. Lighting that remains ready for change includes:

- T5 fluorescents
- Circular 2 x 326W 4Pin2D
- Underslung T8s
- 60cm x 60cm T8 18W tubes

Exterior lighting should also be addressed here.

### Plock Court

On the courts, luminaires are angled to avoid glare and are 6# by 4 pin 2 D 55W T5 PL lamps. They are slung beneath the skylights to replicate natural light during the evenings or dark days when this is not available:



Lux levels measured at centre of court with no lights on at 12 noon read 284 to 344 lux.

With lights in, the lux levels ranged from 476 to 566.

Height to apex is 9.92m at eaves this height is 5.25m.

Each court length is 36.54m and the lengths of all courts (6 widths) is 95.57m

Number of luminaires in the tennis hall:

**Ends** 12 x 2 = 24      **Courts** 24 x 5 =120

There are 144# Luminaires with a total of 864 tubes each at 55W plus ballast.

Having sought advice from the Lawn Tennis Association LTA, with regard to their requirements, here is what they have advised:

“We recommend an average lighting level of 500 Lux (minimum 400 Lux) for the principle playing area (area within the lines) with of 0.7 Uniformity. For the total playing area the recommended level is 400 Lux (minimum 300 Lux) with a uniformity of 0.6”.

We have factored this into our calculations.

Currently, Lux with lights out at noon is 300, with lights in, this is around 400-500.

Replace the 30# 2 by 26 what CFL lamps all throughout the corridors. Soft play has dual T5 49W tubes and outer area has had its 4P2D lamps replaced with LEDs.



External floodlights to be replaced with controlled LEDs:



Floodlights look to be halides and are likely to be 400W each. The poles are able to be flexed at the bases with the right equipment which will save significantly in scaffold/access costs.



External wall lighting:



### Depot Lighting

Reception has 5 x T5 tubes 49W

Reception office has 4# LED LG7

1F Offices has 30# 60 x 60 54W PL tubes on PIRs

External lighting is 250W halides

Workshop has 32# Dual 49W T5 tubes. We would propose that all be replaced with LEDs and sensors.



### Gloucester Life (Folk) Museum

LEDs required to remaining main area fluorescent tubes.

### North warehouse

#### Lighting

The top floor provides Cllr offices and meeting rooms. Lighting is dual 26W circular CFL PLs, 3 and 4 x T5 14W fluorescent tubes, 4 x T8 14W LG7 tubes, 28W 4pin 2Ds and 50W halogens.



Cabinet lighting in the Council Chamber Civic Suite is 7W LEDs. All lighting is controlled on a labelled switch bank:



Illuminance levels around the Civic Suite in daylight with all lights on are sub 100 lux. This is an insufficient light level for a room of this type.

There are 4# 400W external lights outside of the North Warehouse which should be replaced with LEDs.



## Longsmith Street MSCP



Whilst we were not tasked to carry out an assessment at this car park, we did note during our visit that whilst most lighting had been changed to LED tubes, there remained T8 fluorescent tubes in the building. For reference, we also observed some damaged fittings as can be seen below



Roof area has controlled LEDs:



## City Museum Lighting

The lighting in the museum is predominantly fluorescent with T5 tubes in the shop, 60 x 60 PLs and 58W T8 tubes, many of which with old style switch start ballasts:



Whilst most halogens spotlights have been replaced with LEDs; There remain lamps that would benefit from being converted to LED:



## Crematorium

Lighting

Lighting varies around the building but included 4Pin2D (some of which converted to LED), 80W T8 Fluorescent tubes,



### Tea room

Lighting in this building is a range of 18W dual PLs, high power 80-100w Erco spotlights, and T8 fluorescents:



We would look to replace these tracked lights with another Erco product but LED such as this, which would be a 19W (23W) unit:



## Guildhall

Suggest that the site opens the curtains in hall when not in use, so as not to need to leave lights on.



## Lighting



## Lighting

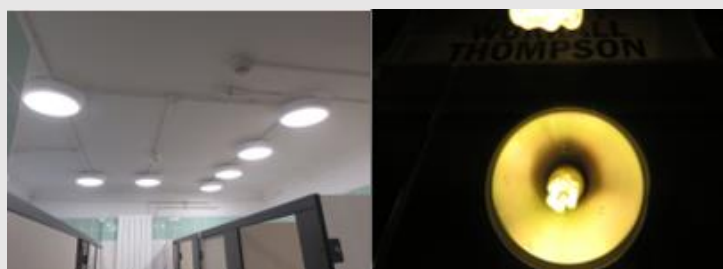
Main Hall Halogens

Film display posters (4 x 30W T8 SS x 9 posters).

Sitting behind these panels are 4# 30W T5 fluorescent tubes with switch start ballasts.



There would be benefit in replacing compact fluorescents:



As well as offices that were recently replaced with T5 fluorescent tubes:



Broadly the site has fluorescents throughout.

### **Eastgate Market**

Lighting

Office lights are Cat 2 T8 fluorescents and should be changed to LED:



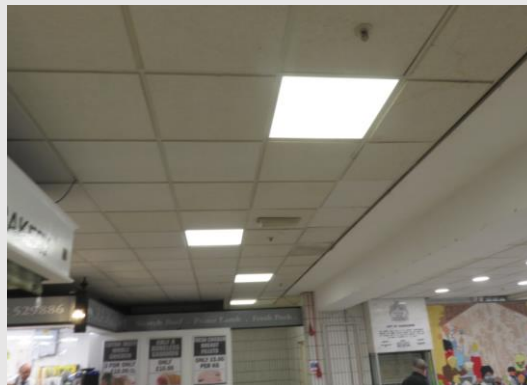
Basement and loading bay lights (3# 250W) on from 0700 to 1800 Mon to Sat. (7 days for December). Install sensors.



Red switches are left on 24/7. Install movement sensors on these fittings:



Front of market area new LED panels and circulars:



### Kings Walk MSCP

Car Park over bridge (to Guildhall) Kings walk MS car park.

We were not tasked to attend this site but in a cursory visit, we found that on the open top floor, all of the lighting was found to be on, permanently.



Lamps are 5.4 m to lamp from car park floor. These will break for replacements



### Eastgate Market

Lower floors are LED tubes. Lighting apart from LEDs at front and 13 x dual Cat 2 LED tubes over café area is all LED spots:





There are 11# Eastgate market stalls at which GCC are paying for electricity bills at 43,555kWh per year. Will be transferring carbon issues to tenants but if paying themselves they are more likely to reduce energy use. Stall #63 Eastgate market is consuming 9,199kWh per year (more than 2 houses worth).

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure E16	Lighting	271,279	44,925	49,875	103,214	2.30

### ME17 Burner Optimisation

#### Plock Court

It may be worth considering dynamic burner optimisation for the boiler burners at Plock Court. Suggest cycling be controlled on the BMS as this should be less expensive than the option proposed within our calculations. Use of BMS requires that the in-house knowledge is in place and training is initiated and maintained:



## North Warehouse

Boilers look to be 81.35 to 84.5% efficient and will not need servicing again until December 2020. Optimisation would again be beneficial here.



## City Museum

There are eight Hamworthy boilers but only three are now operational and these have been serviced in November 2019 and have an efficiency of 85%. Optimisation would again be advantageous here.



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure E17	Boiler	137,348	3,116	25,252	10,050	3.23

### ME18 AHU fans to EC fans

GL1

The indirect driven fans on the eight major Air Handling Units (AHUs) at GL1 should be replaced with direct drive where possible and with cogged belts controlled with VSDs where not:



#	VSD	Location Served	Supply	Extract
AHU1	Y	Main Pool	37kW	37kW
AHU2	Y	Leisure and Learner Pool	15kW	15kW
AHU3	Y	Training Pool	11kW	11kW
AHU4	Y	Wet Changing	22kW	5.5kW
AHU5	Y	General Ventilation	37kW	37kW
AHU6	Y	Wet Health Suite	5.5kW	5.5kW
AHU7	Y	Aerobics and Multi Gym	7.5kW	5.5kW
AHU8	Y	Gymnasium	7.5kW	5.5kW
AHU9	N	Health Suite Supply	1.1kW	
AHU10	N	Soft Play Store	0.6kW	0.6kW
AHU11	N	Multi-Purpose and Event Change	0.55kW	0.55kW
AHU12	N	Sports Hall	7.5kW	
AHU13	N	Sports Hall	7.5kW	
AHU14	N	Sports Hall	7.5kW	

AHUs 1-3: Should be ramped down to 40% when not required.

AHU's 4, 5, 6, 7 and 8 were set at on zero at time of visit due to Covid-19 lockdown and so not possible to see these operationally active.

Change AHUs 1-8 to EC fans direct drive all have variable speed drives controlled by the BMS all appeared to be well controlled.

Enact regular filter replacements to the pre filters on the GL1 roof which are excessively dirty (AHUs 12-14) – sports halls each with 7.5kW supply fans. These three AHUs (12-14) serving the Sports Hall should have VSDs installed and be changed to cogged belts:

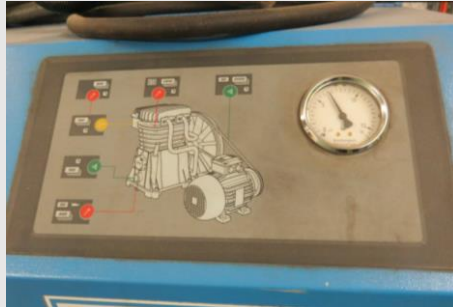


	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure E18</b>	AHU EC Fans and Cogs	239,449	30,860	<b>44,023</b>	114,520	3.71

## ME19 Compressor

### Depot

The Worthington Cressona Decibar 100 7.5kW compressors used for air tools, tyres and the tyre removal clamp and is operating at 6.6 atmospheres. Suggest this is reduced and a booster installed if higher pressures are required for tyre pressures.



### Depot MRF

#### Conveyor and compressor motors

11kW 3 phase. Not variable. Add VSD

### Coney Hill Cemetery

#### Compressor

The 5.5kW Atlas Copco GA5 unit is set at 7.7 bar. We would advise reduction of this pressure. There appear to be some leaks.



## Eastgate market

Compressor for extract fans

Significant pressurised air leakage is observable and audible in the office and is operating 24/7/52. Compressed air is an expensive commodity and should be handled with extreme care.

Pipe leaks in managers office, even as vents are shut and not operating:



Two motors running round the clock operating alternate motors. Manufactured motors Dec 2016. TanAir B23B-BM-415. Ser No: 101823 and 101824. Both are 2HP.

Fire safety department have apparently stated that there is no longer a need for this and in fact, Council site management only open vents at the whims of one market trader. We have recommended replacement with mechanical controls.



Eastgate Market:

Compressor (7.7 bar) - remove and replace with mechanical vent opening.

Vents opened mechanically when café chef gets hot or if fire service still require this (the latter we understand from site staff is no longer the case).



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure E19</b>	Compressors	10,327	504	<b>1,899</b>	2,100	4.17

## Fleet Recommendations

### MF1 Eco Training

Telematic data for the RCV and recycling fleet shows savings available here. There is only one person currently paying any attention to telematics and they are not doing this full time and not only looking at the poorest drivers.

There are invariably opportunities to improve on driver behaviour and deeper control of the telematics will facilitate this. There is significant evidence of improved miles per gallon (mpgs) through Driver Development Managers. We have included a bonus each week for most improved driver mpg and use of train the trainer following initial specialist training. We would be happy to propose excellent eco-trainers.

By instigating control over telematic data, beyond simply reporting on idling and over revving, the company should expect to make significant savings. Training the trainer (using your best drivers as the new trainers) avoids ongoing external trainer costs.

Using train, the trainer techniques and utilising Amey's consistently better drivers to train poorer drivers (acceleration, harsh braking and cornering, etc) as well as bringing drivers towards the fleet 's specific average, will also keep costs down and skills in house and deliver savings alongside safer and better skilled drivers.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure MF1	Eco Training (Telematics)	116,041	10,731	28,386	5,100	0.48

### MF2 Over revving

Telematic data for the RCV and recycling fleet shows savings available here which could be established through more consistent use of telematics, driver training and awareness. Over revving on an RCV fleet can be as high as 40+Litres/hour on an RCV. By addressing and focussing on some of the other recommendations in this report, over revving (a significant cost to the company) will also be addressed.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure MF2	Over revving	99,127	9,167	24,248	5,100	0.56



### MF3 Rolling Resistance

All tyres are available in a range of options to improve various aspects of their delivery. One of these is rolling resistance. The higher the rating, the better the efficiency. Higher rated tyres will typically be less robust and so care should be taken where vehicles are regularly travelling distances on construction type tracks as tyre damage may occur more frequently. We have factored for efficient but not the most efficient tyres at next natural change as 'A rated' tyres (which are less physically robust) may not meet the needs of the environment.

Selecting a good RR tyres mean that fuel efficiency is improved. We understand that the fleet do not enter landfill sites and are always on tarmacked or concrete hard standing. As such they would benefit from a move to more fuel-efficient tyres.



As such, B or C rated RR tyres (which are less robust than D or E rated tyres) ought to be acceptable for the application and would save significant fuel.

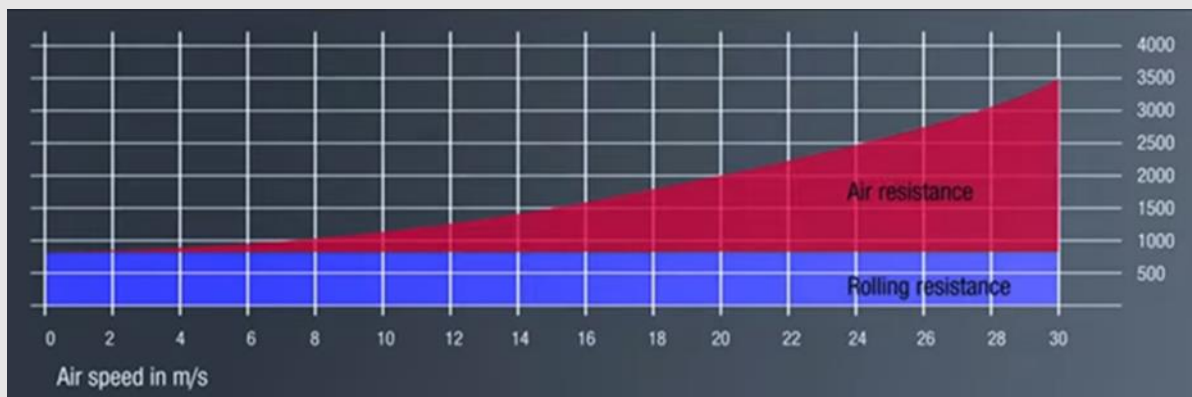
	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure MF3</b>	Rolling Resistance	59,450	5,498	<b>14,543</b>	4,200	0.76

## MF4 Speed Restriction

Whilst the RCV vehicles will not tend to get up to sufficient speed to justify adjustments here, the commercial vans do, and these should be restricted to reduce fuel wasted with speed. We have only run calculations on the smaller commercial vehicles, but speeding savings will apply across the fleet.

Vehicles that are not speed restricted use significantly more fuel than those that are. We understand that GCC, operate on A roads and dual carriageways and the presence of speed restrictions will remind staff of the importance of keeping within limits.

At average speeds above 60kph, wind resistance consumes more fuel than all other aspects of the vehicle put together. Once all vehicles are speed limited (around 53mph) the opportunities lie in reducing parasitic drag or wind resistance.



As can be seen in the graph above, a doubling of speed leads to 4-fold increase in air resistance (red). The highest point here - 30m/s equates to 67.1mph.



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure MF4	Speed restriction	46,628	4,312	11,406	4,900	1.14

## MF5 EV Vans

There is potential for a move to electric vans from the current diesel vans. We have factored for two of these where there is sufficient information, but it is likely that the numbers here could be increased.



From an assessment of fleet movements and costs, we have established that there look to be at least two company vehicles that would readily lend themselves to replacement with battery electric vehicles (BEVs). For the purposes of this exercise we have elected to replace with Nissan Leaf Mk2s or eNV200 – other alternatives are available.

A more exact assessment using actual miles driven per day will ensure that these vehicles will cope with the range delivered by these EV models. Savings from EVs are most especially made in terms of fuel costs. Further to this, the changes to benefit in kind (BIK) recently announced, make EVs an attractive company car option. With around half of all new cars obtained by companies, and because benefit in kind (BIK) makes a significant difference to an individual's monthly wages, BIK represents a very potent lever available to government to encourage adoption of the lowest emitting vehicles.

In July 2019, following consultation, HM Treasury announced their intent to strongly incentivise full (BEVs) using these rates, and offer a more modest incentive on plug-in hybrid electric vehicles (PHEV).

The changes incentivise companies and employees to purchase BEVs, effective from 6th April 2020. At this point, these new lower rates are effective (all BEVs will pay no company car tax in 2020-21, just 1% in 2021-22 and 2% in 2022-23). Current BIK rates for zero emission vehicles are up to 16%.

Inevitably, some of the messaging around the running costs of EVs tends to be quite general in order to reduce complication.

Positive messages tend to focus on the fact that EVs could cost as low as £0.02 per mile whereas the more pragmatic messages use a default £0.04 per mile (the HMRC Advisory Electric Rate for business mileage).

However, it is important to remember that, just like petrol and diesel cars, not all EVs are the same in terms of their cost per mile and so it is important to understand and be able to calculate the differences before making your choice.

Like any car, the larger / heavier it is the less efficient it is likely to be. There will also be differences between the technologies incorporated by different manufacturers.

The types of journey, season, driving style, load weight, passengers, temperature, and weather will all affect these indicative figures together with the use of public charge points.

A constant and incorrect perception around EVs which is repeated by the media and suppliers within the automotive sector is around annual mileage.

A recurring message is that EVs are best suited to short journeys and this then translates into a message that EVs are only suitable for people who do low annual mileage or as a second urban car.

This perceived annual mileage threshold at which an EV becomes unsuitable varies but it is usually 10,000 or 15,000 miles per year.

However, if you drive 110 miles a day for work, 5 days a week for 46 weeks of the year this equates to 25,000 miles. When you factor in extra weekend private mileage this could easily be 30,000 miles a year.

The real-life average range of EVs on the market today is approximately 190 miles. Most are more than capable of achieving 110 miles a day. We have factored on the safe side using an average 100 miles per day as we do not have granular data for driving at GCC.

Of course, this also ignores the fact that on longer journeys you can always charge up for extra range and rapid chargers at all UK motorway service stations can charge a car from dead to 80% within 40 minutes (broadly the time it takes to drink a cup of coffee).

In short, EV range is no longer an issue and it is important to question anyone who tries to suggest otherwise.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure MF5	EV Vans	12,904	1,864	<b>3,157</b>	2,160	1.16

### MF6 Idling Reduction

The telematics data evidences higher than expected idling by the refuse and recycling fleets.

Idling is an index that demonstrates driver behaviour. Reducing the instances of idling will affect a range of driving attitudes and bring down fuel use and emissions.

Whilst idling is not the biggest fuel user it is the easiest aspect to engage drivers on. Speeding will be the fleet’s biggest issue even with short distances travelled. By focussing on the idling (relentlessly) drivers know that managers are watching and speeding drops along with idling. Short of restrictors (which we have not factored for this heavy fleet), going after speeding alone would take up too much management time with disciplinary issues; the aim is to get drivers to save fuel within the limited (management) resources available. Once engaged they can focus on over revving which is liable to be ten times as high as idling on an RCV.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure MF6	Idling Reduction	33,042	3,056	8,083	5,100	1.67

### MF7 Enterprise Fleet

The fleet operated by Enterprise would benefit from a review. The 6 vehicles (from the ten assessed) cumulatively only travelled around 18,000 miles over the year to end March 2020 (so broadly Covid-19 unrelated). They would also benefit from an assessment for a wholesale move to Battery Electric Vehicles (BEVs) – cars and a van, rather than the one on the fleet currently.



Vehicles observed:

Make	Model	Type	Fuel	Registration	Colour
Nissan	Leaf	Car	BEV	DV69 GVA	White
Toyota	Yaris	Car	Hybrid petrol	FL68 WUW	White
Vauxhall	Vivaro	Van	Diesel	DL69 AGO	Silver
Hyundai	Ionic	Car	Hybrid	EA68 UKV	Silver
Hyundai		Car		EF67 AEY	Blue
Toyota	Yaris	Car	Hybrid petrol	FP68 ACX	Grey

From the data provided for the year, it appears that these six vehicles are the only ones on the contract. The four vehicles within the data provided have been replaced with some of these.

Our calculations have only factored for a move to one electric van, 3 electric cars and 1 e-bike. As such, we have ‘greened’, and reduced the fleet by one. The use of daily hire cars should also be reviewed alongside the pool fleet for potential savings as there look to be savings available here.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure MF7	Adjust EHI Fleet	15,319	828	<b>3,747</b>	1,680	2.03

### MF8 Maintenance regimes

If tyre pressures are not regularly checked and maintained, then there is significant space for improvement. For example, a five PSI underinflation has the drag effect equivalent to an additional cab-mounted extremity with consequent increase in fuel consumed of 0.2-0.5%. We would expect extremely fast payback on such measures. We understand that vehicles are maintained on site and by local dealerships, frequency and level of checking should be investigated along with assessments by drivers. As with HGVs, it is common amongst fleets that tyre pressures and tracking are not checked and adjusted as often as necessary. We would recommend at least monthly, before driving at high speed and more ideally, weekly. Appropriate engine oil and tappit checks etc should also be regularly addressed.



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure MF8	Maintenance	17,485	1,617	4,277	4,200	2.60

## MF9 Specification

In specifying future vehicles, there are improvements that can be made that will enhance fuel efficiency and keep down costs and carbon emissions. An example would be built-in beacons into installed cab fairings. It is encouraging to note that certain of the beacons are housed within the cab or shell of the Refuse Collection Vehicles (RCVs). However, there are commercial vehicles and kerb-siders with protrusions that should be designed into the vehicle.

As a rule of thumb, vehicles that have protruding beacons or similar, demonstrate relevant aerodynamic losses for any such protrusion. Roof racks have a far more detrimental effect. Whilst beacons are required, future vehicles can be procured with these built into the bodywork (see RCV in image above) and we would advise this for future leasing and procurement of vehicles.



Whilst the RCVs generally do not travel fast enough to justify significant investment in aerodynamics, some of the commercial fleet do. Installation of cab fairings on vehicles such as cage trucks and box vans will make a large difference in fuel consumption and reduce emissions significantly.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure MF9	Spec	21,081	1,950	5,157	5,600	2.87



### MF10 Compressed natural gas (CNG)

Due to the capital cost and limited distance travelled and fuel consumed by the fleet, it is difficult to justify electric recycling vehicles at this time.

Whilst Hydrogen as a fuel is available today, it is not yet commercially viable. Nor are there adequate numbers of filling stations to make this viable for GCC. A short to mid-term solution for the Council may be CNG.

As the world of heavy goods looks to alternative fuels following net zero emissions targets by 2050 climate emergencies and ‘diesel-gate’, considerations for viable low emission alternatives to diesel are required.

CNG offers an attractive 40% discount in fuel cost per kWh at a roughly 20% reduction in combustion efficiency, the net gain in real world conditions is approximately 20% reduction in fuel cost for the same work/distance.

This can and is being produced from sustainable biofuels and has significantly lower emission than diesel and less cost per litre. We are currently conducting trials on these vehicles and would be pleased to work with you on our independent findings following these tests and perhaps more specific assessment for GCC at a later date.

Importantly, as the world moves to more and more low emissions zones (LEZ), dramatic reductions in harmful emissions (NOx, SOx, PMs, CO etc) are available using CNG. This will enable entry to low emission zones and avoidance or reduction in congestion charges. CNG in use is Renewable, Sustainable Biomethane, 100% sourced from waste, independently verified, and approved by the Department for Transport’s Renewable Transport Fuel Obligation (RTFO).

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure MF10	CNG	316,216	29,243	<b>77,353</b>	280,000	9.57

## Renewable Energy

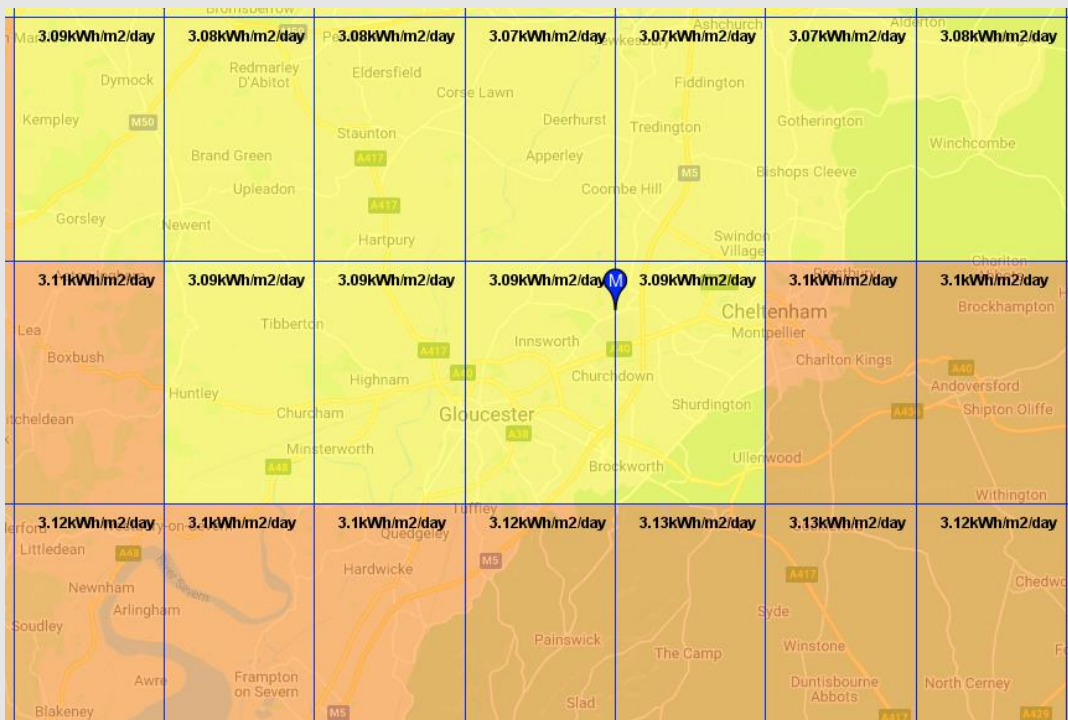
### Solar PV

The installation of solar arrays at certain of the sites visited would provide significant benefits including:

- Guaranteed energy costs for the next 20-25 years
- Payback on investment in around 5-6 years
- Security of supply
- Strong return on investment (ROI) potential
- Environmental and reputational credentials
- Greenhouse gas reduction

Solar irradiation around Gloucester is around 3.09kWh/m<sup>2</sup> per day.

Solar plan of area below shows solar irradiance levels at Gloucester for key oriented buildings of significantly over 900kWh/kWp All of these are suitable locations for the right oriented roofs to be installed with solar arrays.



Source: Google Earth

**Table 6.1:** Specific photovoltaic power output – hourly averages [Wh/kWp]

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
0 - 1	-	-	-	-	-	-	-	-	-	-	-	-
1 - 2	-	-	-	-	-	-	-	-	-	-	-	-
2 - 3	-	-	-	-	-	-	-	-	-	-	-	-
3 - 4	-	-	-	-	-	-	-	-	-	-	-	-
4 - 5	-	-	-	-	1	9	2	-	-	-	-	-
5 - 6	-	-	-	3	37	50	38	10	-	-	-	-
6 - 7	-	-	0	55	112	127	110	69	21	-	-	-
7 - 8	-	0	55	153	212	229	210	161	106	30	0	-
8 - 9	8	54	145	255	303	319	302	258	199	124	42	6
9 - 10	62	128	221	334	370	386	376	328	272	192	105	56
10 - 11	120	196	290	394	417	420	414	374	338	255	164	110
11 - 12	161	251	353	439	454	461	454	412	372	313	196	142
12 - 13	174	272	373	446	460	464	465	423	373	282	195	147
13 - 14	151	231	323	413	434	444	448	401	341	242	159	123
14 - 15	109	186	275	364	401	424	419	364	285	192	111	78
15 - 16	50	134	221	302	341	366	361	307	231	133	43	18
16 - 17	1	54	138	214	255	279	279	229	149	31	-	-
17 - 18	-	0	40	110	156	186	183	134	49	0	-	-
18 - 19	-	-	0	18	65	93	90	43	0	-	-	-
19 - 20	-	-	-	-	8	25	21	1	-	-	-	-
20 - 21	-	-	-	-	-	0	-	-	-	-	-	-
21 - 22	-	-	-	-	-	-	-	-	-	-	-	-
22 - 23	-	-	-	-	-	-	-	-	-	-	-	-
23 - 24	-	-	-	-	-	-	-	-	-	-	-	-
<b>Sum</b>	<b>835</b>	<b>1507</b>	<b>2434</b>	<b>3498</b>	<b>4027</b>	<b>4284</b>	<b>4172</b>	<b>3515</b>	<b>2735</b>	<b>1795</b>	<b>1013</b>	<b>680</b>

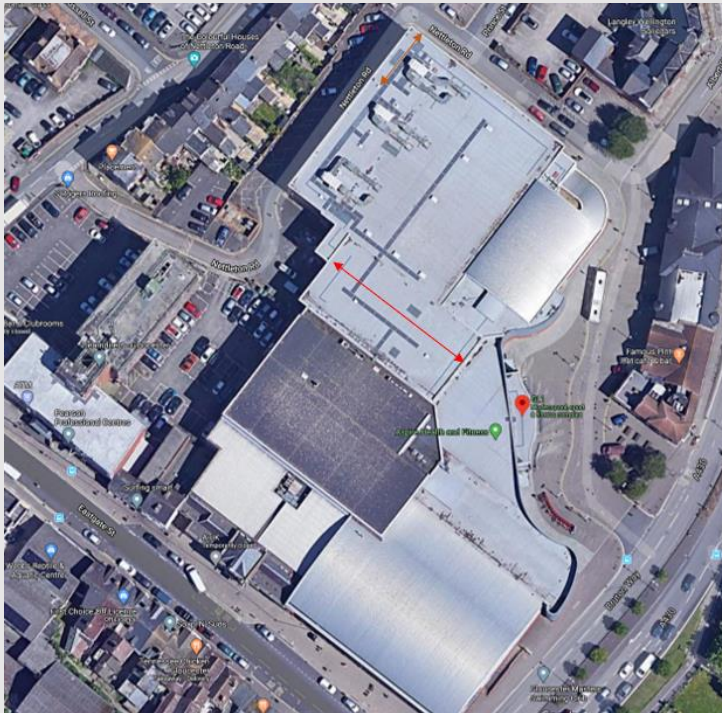
Solar Arrays would typically be designed to match site consumption whilst electrical energy storage costs remain high.

A professionally installed solar roof array should be delivering 80% of its initial yield at 20 years into the future. We would always recommend a minimum of three quotes, sizing of array to meet consumption load and the inspection of array post install to ensure proper stringing and cabling. This is something we would be happy to assist with.

With all recommendations discussed below, it is always worth recognising that energy efficiency measures should be enacted before investment in renewables as the ROI is far greater.

## MR1 GL1

There is potential to install Solar PV arrays to large areas of these roofs, as with all recommendation, a structural engineers reports should be sought and there are roofs we have ignored on this site due to advice from Aspire. As such we have factored for only two roof areas. More may well be possible.



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure R1	PV GL1	500,202	64,306	127,852	336,157	5.23



Provided that it is structurally sound, there is potential for a significantly large array to be installed on this large SSW facing roof.

We have calculated irradiance (sunlight falling) on this SSW facing roof and it is shown as 929kWh/kWp which is excellent for this part of the Country.

Given that the pitch of this roof is only 12-14 degrees, it may be possible to more than double this array using the larger NNE facing roof space. Having calculated irradiance for this roof, we are seeing a lower, but still credible irradiance level of 749kWh/kWp.



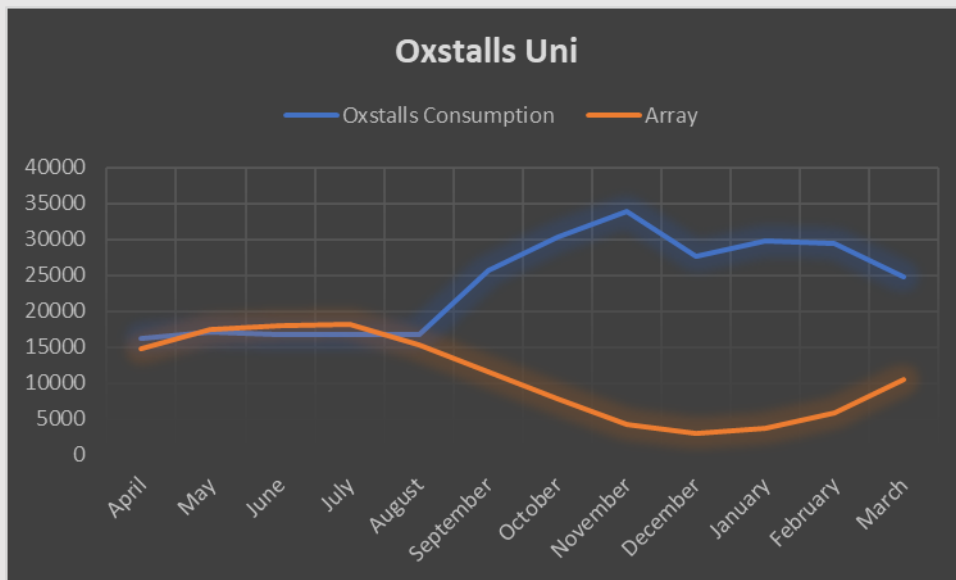
There may be an option for a soft dig trench and cable supply of energy generated to the university sports building (lighting, air handling, cooling etc). It is understood that University roof itself would not take this additional structural load.



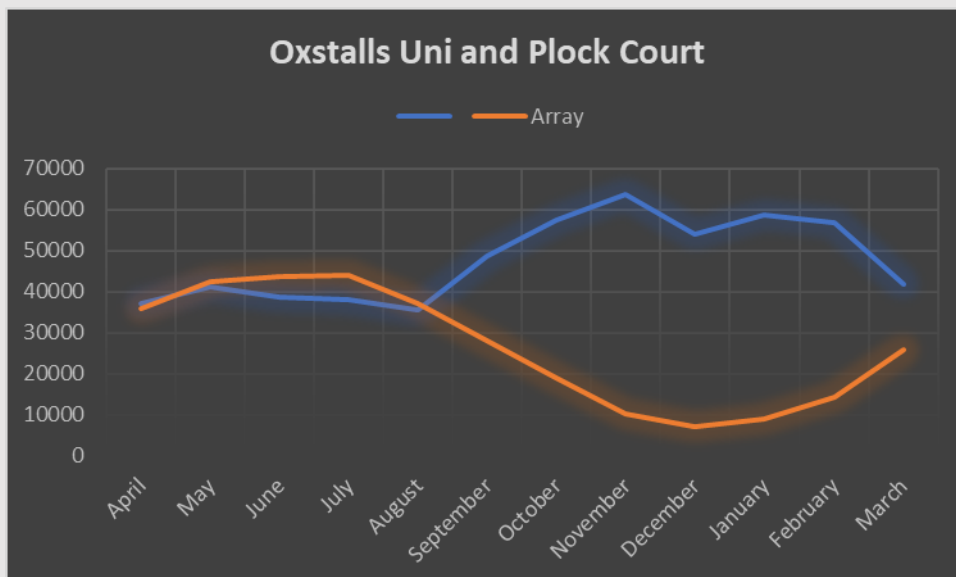
The distance between the nearest walls of the tennis Centre and university building is 78m and the majority of this would be soft dig. The additional distances between plant rooms must be considered.



Limited consumption data provided by the University shows that an array to broadly cover the south facing roof of Plock Court with electricity exported to the University building would broadly serve their daytime\* summer demand. In the three graphs below, the blue line is site consumption and orange line show PV energy generation:



Maximising the array across all Plock Court roofs could potentially achieve all of Plock Court and Oxstalls University’s daytime summer demands.

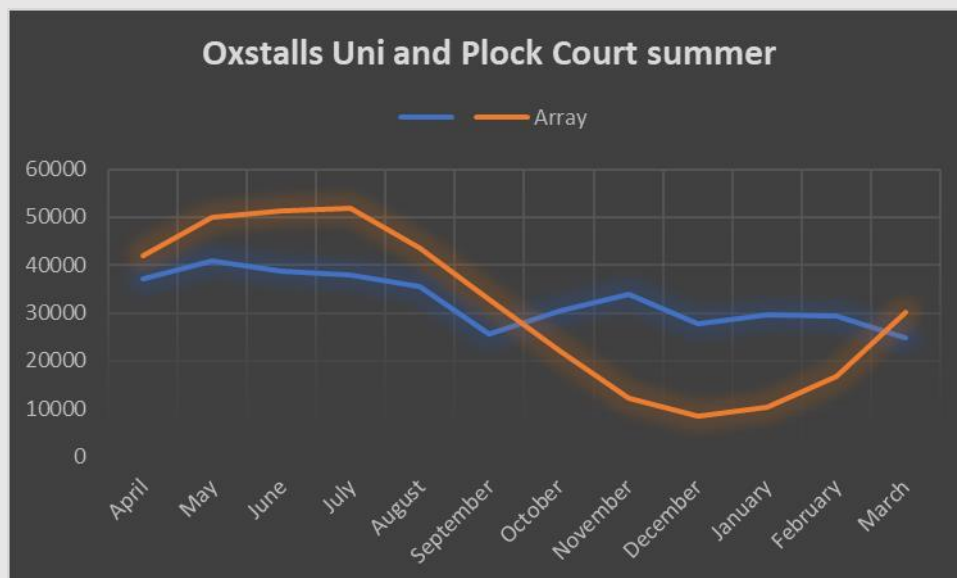




\*Data provide by Oxstalls was total electricity, not split by day/night tariff. Nor was HHD supplied so that actual daytime/sunlight consumption is unknown. Data provided also included five months of CV-19 lockdown period. Energy data for Plock Court should be significantly reduced with changes as proposed in this report, in particular with regard to lighting, albeit this will be broadly night-time savings. This is all dependent on whether such a venture is allowable as a process between separate MPANs.

Calculations can be provided with more accuracy with a more real time period and half hourly data provision.

A scenario whereby all Plock Court roofs are maximised with PV and energy is provided to both sites from March until August and then only to Oxstalls thereafter might look like this (previous caveats apply):



An array of this size could provide around much of the current energy demand of the site. If there were interest in this going forward, we would suggest a more comprehensive assessment looking at, for example, energy efficiencies available at Oxstalls, demand time against solar delivery times and options to link to EV charging vehicle to grid opportunities.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure R2</b>	PV Plock Court	325,471	50,028	<b>83,190</b>	251,073	5.02

### MR3 Eastern Avenue Depot

There are several roofs that would lend themselves to Solar PV at this site.



The site consumes a relatively high amount of electricity and we have factored our array based on an oversupply of energy which would factor for an element of renewable EV charging in future fleet or sale of electricity to properties in the linked industrial estate.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure R3	PV Depot	335,093	44,327	85,650	225,197	5.08

## MR4 Gateway

As a pure electric building, this site would benefit greatly from a solar array to power the pumps of the heat pumps.



We have factored for an array that would generate around 1/3<sup>rd</sup> of annual daytime electricity consumption.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
Measure R4	PV Gateway	16,363	2,075	4,182	10,997	5.30

## MR 5 Crematorium

There are relatively small roof areas at the crematorium and the nearby on-site Arbor tea rooms that would lend themselves to solar PV arrays. It would be particularly important at the latter site to ensure that the energy efficiency measures, specifically lighting, be undertaken before embarking on this as a change to the main 'Erco' spotlighting in the two major event rooms will make a substantive reduction to the electricity consumed on site.

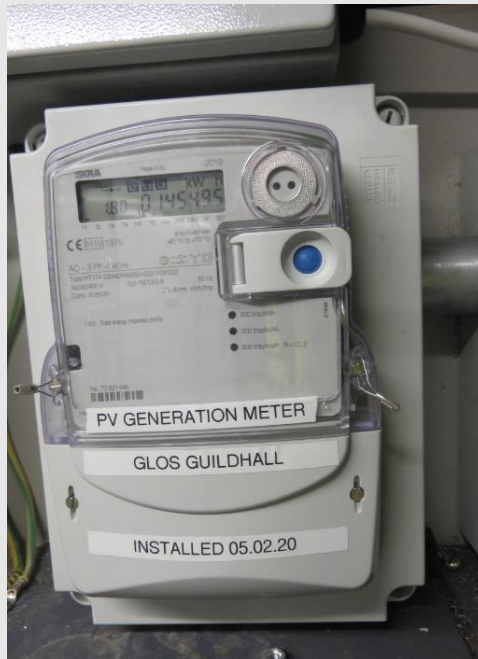


	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure R5</b>	PV Crematorium	30,592	4,019	<b>7,819</b>	20,559	5.12

## MR6 Guildhall

The Guildhall has a 20kWp array that was installed in February 2020. It is delivering significant yields in its first seven months. Meter below shows 14,549.5kWh

### PV Generation meter:

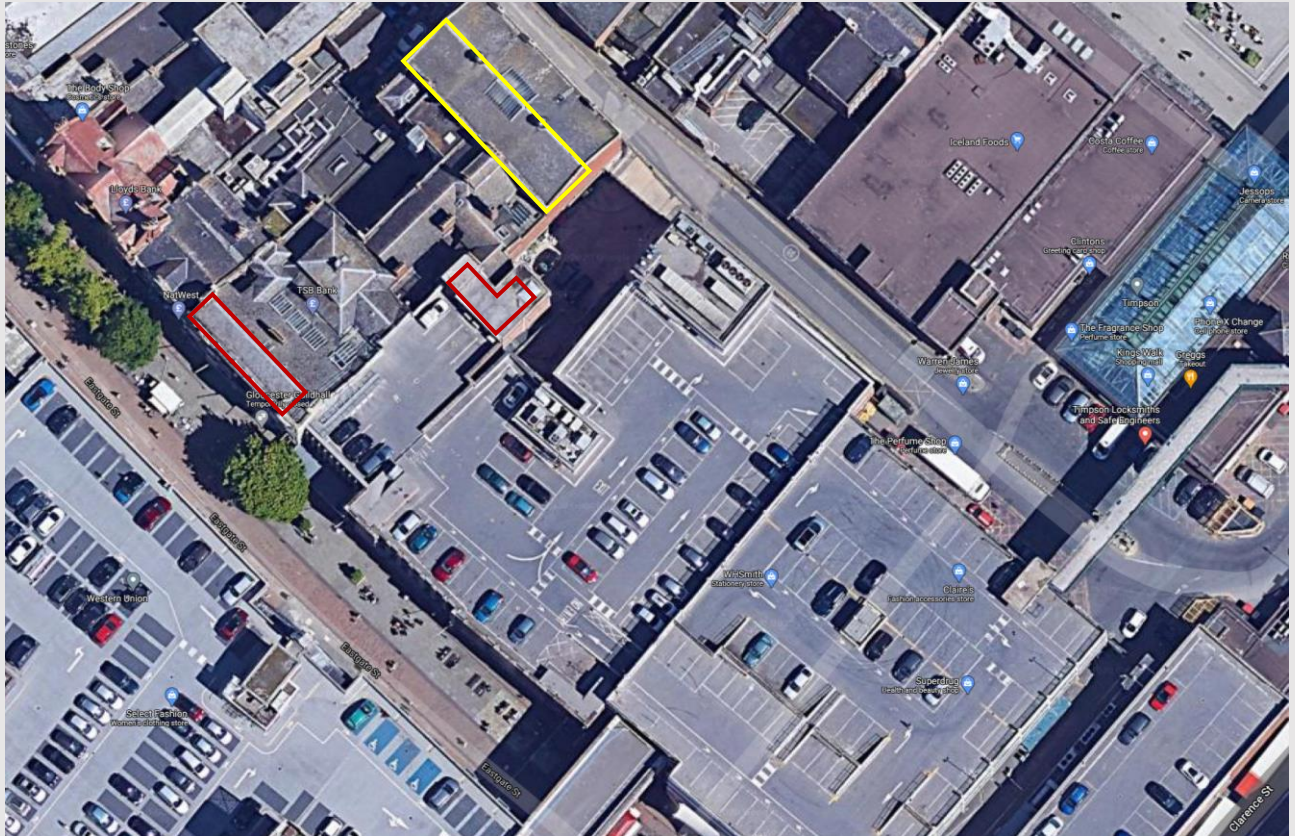


For the PV generation on this roof to have delivered 14,550kWh since installation on 5<sup>th</sup> February 2020 from a 19.5kWp array, is both impressive and further evidence (where it needed) of the fact that the 9.91kWp array at Plock Court is not delivering what it should be in a similar part of the country.

Solar Car ports are a possibility for the car park adjoining the Guildhall.



Areas marked in red may lend themselves to additional PV roofs, albeit the front building is currently occupied by Nat west bank.



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure R6</b>	PV Guildhall	7,440	856	<b>1,902</b>	5,000	5.84

## MR7 Eastgate Market

PV south facing upper roof



Area in question:

Triangle areas would need to be on raised platforms and with solar edge technology to avoid adverse shading affects



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure R7</b>	PV Eastgate Market	75,684	10,057	<b>19,345</b>	50,863	5.06

### MR8 Blackfriars Priory

Proposed installation of PV array to new roofs (SE) and portable IR panels in main hall to make the room viable for more events – can then move panels for other locational events



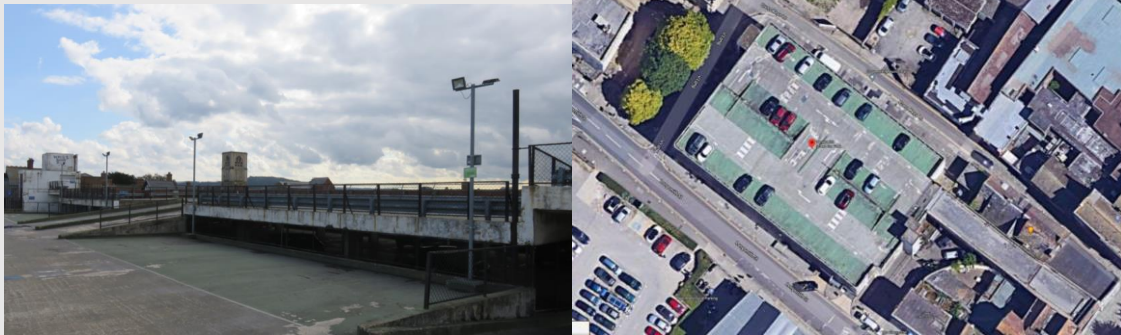
Specifically:



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure R8</b>	PV Blackfriars Priory	12,450	1,521	<b>3,182</b>	8,367	5.50



### MR9 Longsmith Street MSCP Upper level



Provided the site is considered secure, there is potential here for PV car ports that could generate 3.5 times the daytime demands of the site. Power could be sold/shared/sleaved locally for other sites and used for EV charge points. Local connection points may need to be upgraded if larger systems are to be fed into them. Full planning will be required for car ports. This may not be the case for a ballasted array that would effectively close the top floor of the car park.

The Carports considered exclude development works such as structural investigation / Civils, DNO costs and upgrade works.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure R9</b>	PV Car Port Longsmith Street MSCP	187,000	25,085	<b>47,797</b>	290,000	11.56

### MR10 Kings Walk MSCP

There is potential here for PV car ports on the 4<sup>th</sup> (top) floor that could generate 5.8 times the daytime demands of the site. Spare power could be sold/shared/sleeved locally for retail sites and used for EV charge points. Local connection points may need to be upgraded if larger systems are to be fed into them. Full planning will be required for car ports. This may not be the case for a ballasted array that would effectively close the top floor of the car park.

The Carports considered exclude development works such as structural investigation / Civils, DNO costs and upgrade works. Lighting controls should be implemented before any further action takes place as the daytime top floor light use is skewing and increasing the energy use of this site dramatically.

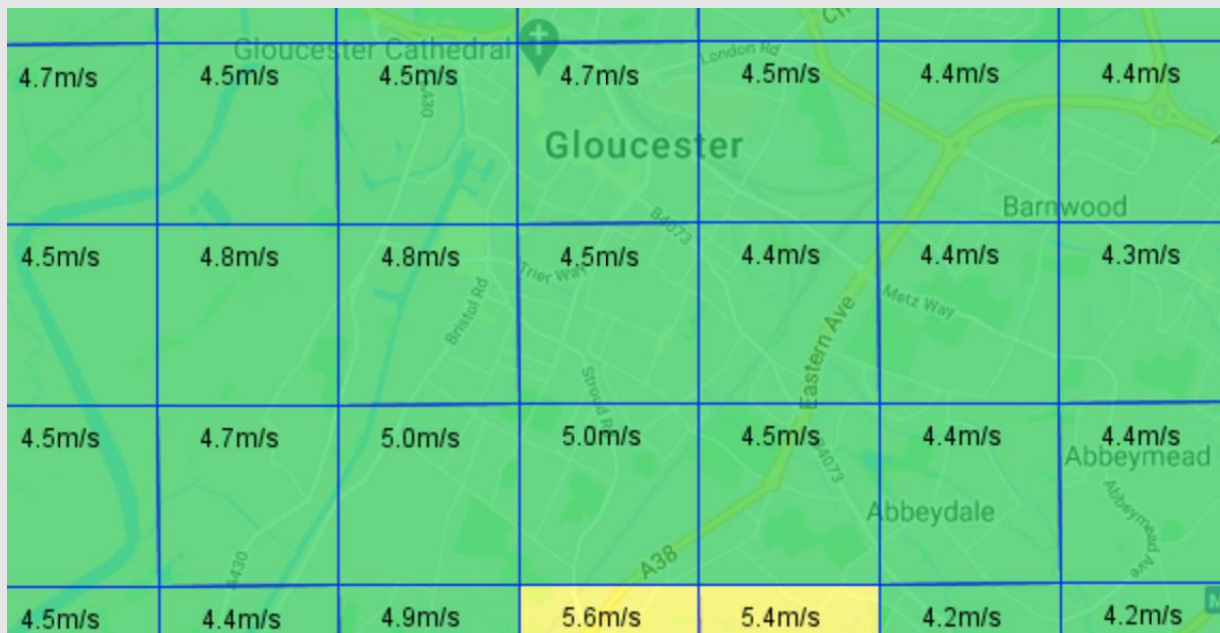


	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure R10</b>	PV Car Port Kingswalk MSCP	519,680	69,997	<b>132,830</b>	828,800	11.84

## MR11 Crematorium

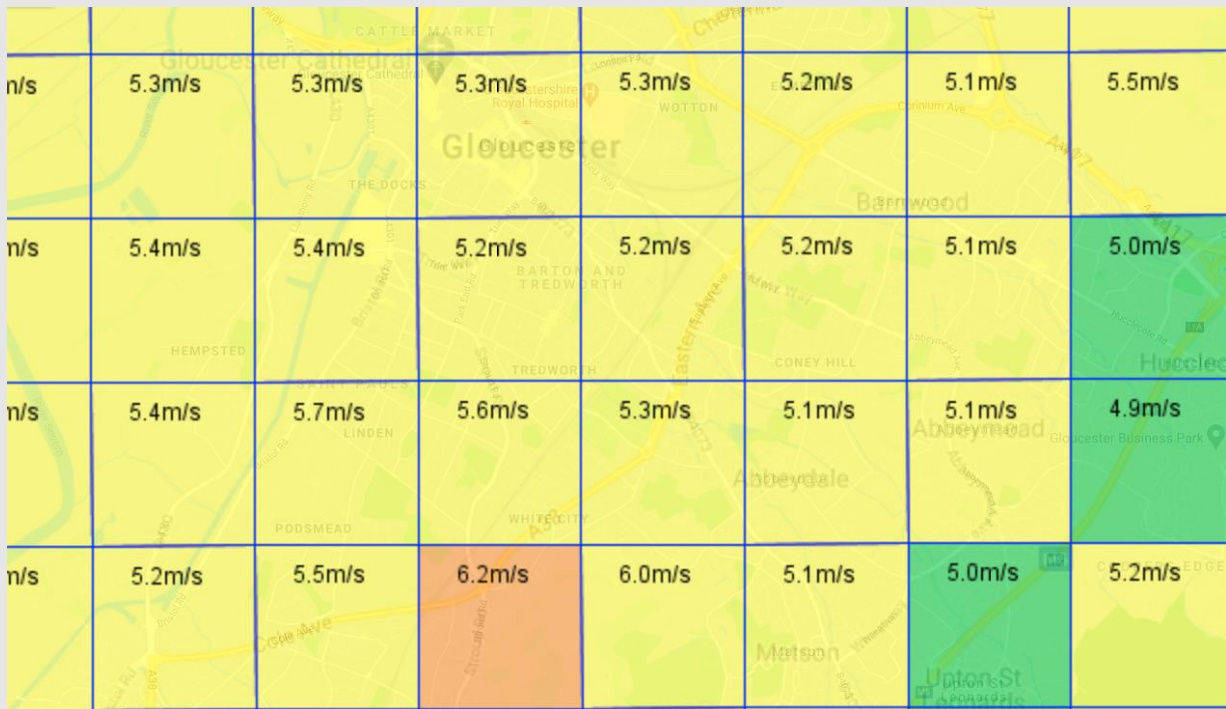
### Wind Turbine linked to Electrical Cremation (Resomation)

A more contentious opportunity might be a wind turbine. Even at a low hub height of 10m, wind speeds of around 4.5m/s are reasonably good and the Coney Hill site which has a reasonable amount of land onto which a moderately sized wind turbine could be installed.

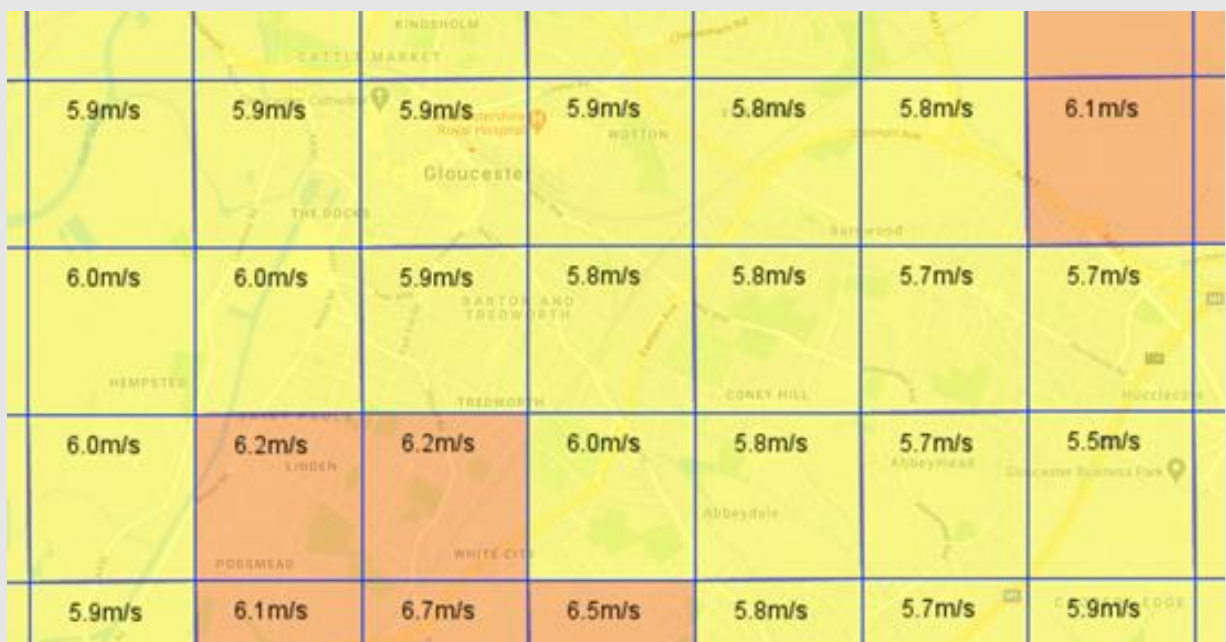


Source: Google maps

A taller tower (25 metre) which we would recommend given energy demand requirement, would provide wind speeds in excess of 5.2m/s which, with suitable frequency becomes viable.



A hub height at 45m shows speeds at 5.8m/s:



Source: Google Earth

An 80kW wind turbine at this site could provide around all of the current electrical energy demand of the site. If there were interest in this going forward, we would suggest a more comprehensive assessment looking at, for example, actual energy demand time against a

more precise assessment of wind speeds and an accurate assessment of local wind frequency. There are options to link to EV charging vehicle to grid opportunities.

We have factored for a small solar array at the crematorium building and tea rooms. If resomation were to be taken seriously, we would recommend a wind turbine to this site.

An 180kW wind turbine at this site could provide around all of the current electrical energy demand as well as future Resomation demands of the site. We would suggest a more comprehensive assessment looking at, for example, actual energy demand time against a more precise assessment of wind speeds and an accurate assessment of local wind frequency.

We appreciate that this is cemetery is surrounded on all sides by residential and retail properties and so will not have an easy route through the planning process.

### Resomation - Crematorium

It is widely assumed that heat created through the burning of bodies at a Crematorium can be distributed to heat nearby premises. Typically, the Crematorium at Coney Hill will cremate 8 bodies per day, during the Covid-19 pandemic, this figure was significantly higher.

A problem with piping heat over long distances is heat loss, although this can be ameliorated to some extent with good quality pipe insulation. However, the main problem is that cremations occur year-round and only Monday to Friday during office hours, to make use of the generated heat, there needs to be an all year-round demand.

Space heating is only required during winter months. Consequently, without a sump load such as a swimming pool nearby, there is no viable payback opportunity for piping waste heat.

Cremation uses significant volumes of natural gas which produces high levels of global warming gases. Since electric heat pump technology cannot achieve the temperatures required, the obvious solution is to power the process using renewably delivered electricity. This then needs a whole new method of body disposal.



By installing renewable electricity generation technologies at the crematorium site at Coney Hill, the site would have the option of becoming electrically powered. Installation of a roof mounted solar PV array and 180kW of wind turbines would provide the site with its aggregate demand, connected to the electrical grid for peaks in demand and sale of energy to the national grid during hours of closure.

If electrical 'cremation' technology is introduced to replace gas cremators over time, then the site becomes largely self-financing, close to zero carbon, non-polluting, requiring of no gas scrubbing and has no need for chimney stacks.

### Introduction – Gas Solution

A cremator can handle 4 bodies per day. As such, understanding that the site currently cremates an average of 1,800 bodies per year or 6.92 bodies per day, we have factored for two cremators that together should be able to handle 8 bodies per day or 2,080 per year.

Gas use on site currently amounts to 1,750MWh at a cost of over £40,500 per year.

Industry analysis suggests that gas energy prices are expected to increase by a minimum 1% year on year for the foreseeable future and likely much more than this as the Government attempts to move away from gas.

Electrical demand for pre-heating cremators amounts to 150kWh/week or 7,800kWh/year at a cost of **£1,000**/year.

The gas scrubbing technology involved in traditional gas-powered cremation (to ensure that the emissions leaving the chimney do not contain furans and dioxins) costs in the region of **£10,000** every ten years (£1,000 per year).

### A Site Powered by Renewables

Clearly the single gas cremator on site operating as follows would see a doubling of gas and electricity use with the introduction of the second cremator in the future (see table below):

The case is founded on the fact that the site becomes electrically powered and that the site is well located for both Solar PV energy generation and likely wind turbine energy generation. NOABL wind speed database shows speeds of over 5.0m/s which would be more than adequate if they are of reasonable frequency. In order to test this, a Wiebel Distribution test should be performed with a mast of around 15 to 20 metres on site for 3 months +.

The fact that the electric cremators could operate almost entirely from this on site renewable energy would mean that it will also be expected to pay for itself within around 6 years and the site can then become financially sustainable beyond its 7<sup>th</sup> year of operation. The savings in electricity purchased from the grid (which will have increased by min 4% each year) will be very real.

Wind technology is effectively twice as efficient as solar PV. The combination of the two will help to balance intermittency of load. There is expected to be some requirement for grid electricity or stored electricity, but more analysis will be required here. Sale/sleeving of excess power should be able to offset this.

The use of electrical cremation will result in the removal of scrubbers and effectively remove the need for hazardous and carbon emissions to air. The liquid solution at the Resomation end of the process is an alkali which can be treated with CO<sub>2</sub> or mild acid to neutralise.

### Electrical Solution

Total electrical demands 257MWh to operate two units each year. Predominantly delivered by renewable means.

This excluding for peaks in demand which could be levelled out with the electrical grid connection which would be required anyway to export power when not required (weekend and during the hours of night for wind) this could be largely covered with a suitably sized solar array wind turbines.

### UK Government Position

The UK Ministry of Justice (MoJ) (Coroners, Burial, Cremation) have been aware of technologies such as Alkaline Hydrolysis (AH) and Resomation (AH based in Scotland operating on higher temperatures and pressures), as well as Gasification/Pyrolysis since at least 2008.

The technology is not regulated (because it is not burning and falls outside the scope of burials and cremations). Therefore, it is neither legal nor illegal in England and Wales. As such, a Resomation (Alkaline Hydrolysis) unit could be installed today but if it could not satisfy the relevant departments as to its disposals and effluents, then it could not be operated for the purposes of human disposals.

## Operations Elsewhere

These technologies have been in operation, licenced, and proven in the US and Canada for human disposal in direct replacement for burial or cremation since before 2011.

The technology has been used for body part disposal in hospitals and universities for decades across the UK, Europe and beyond.

The image below shows the unit in operating position alongside two standard gas cremators: In terms of Alkaline Hydrolysis, assuming sufficient space, the technology can be retrofitted on-site inside a day.



## Alkaline Hydrolysis (aka Resomation or Dissolution)

A flameless process that uses water instead of fire. A gentle and respectful process. No emissions of mercury or other harmful greenhouse gases to the atmosphere. 90% less energy use than gas cremation. A fraction of the carbon footprint of burial or cremation.

Capital Costs:

US \$235,000 U.S. for a high temperature unit (4 bodies per day)

£183,300 (Oct 2020 prices) + shipping + 1 day install cost.

Caustic Alkalines required (ca 10kg for average sized body)



The predominant (75%) alkali known as NaOH (sodium hydroxide, or caustic soda) is derived by electrolysis of salt (NaCl) water into sodium hydroxide. Earth has abundant quantities of sodium chloride (salt) to produce this alkali. (NaOH is commonly used in making hard soap and other personal hygiene products ). After the process of hydrolysis, sodium chloride (table salt) reforms as one of the end products.

The remaining 25% alkali known as KOH (potassium hydroxide, caustic potash, or potash lye) is derived by electrolysis of potassium salt water into potassium hydroxide. Earth has abundant quantities of potassium chloride to produce this alkali. KOH is commonly used in the making of soft soap among other products, many of which are used for personal hygiene. Potassium (K) is an essential nutrient for plant growth; found in every bag of fertilizer. After the process of hydrolysis, potassium remains as one of the end products.

### The Funeral Service

The traditional funeral ceremony and returning of remains is unchanged. In both cases, mourners see their loved one go behind a curtain. In the case of flame cremation, the body is put into a cremation device (retort), in the case of dissolution (alkaline hydrolysis) the body is placed in a water vessel. The remains from dissolution (alkaline hydrolysis), like fire-based cremation, are returned to the family in an urn. In AH, the body does have to be input outside of a coffin using a body bag so this might have to be disposed of separately.

There appears to be sufficient space in front of the cremator exit area (imaged below) is 2.78m x 11.18m. There is also a courtyard directly outside of this (right of the image) that is of a similar size and could potentially be adapted/expanded into which would effectively double the width of this area to over 5m x 11.18m. The area at the far end of the image by the Hi Vis jackets is access to the front (input) end of the cremators



	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure R11</b>	Wind and Res'n Crematorium	1,493,289	123,336	<b>320,296</b>	714,640	5.79

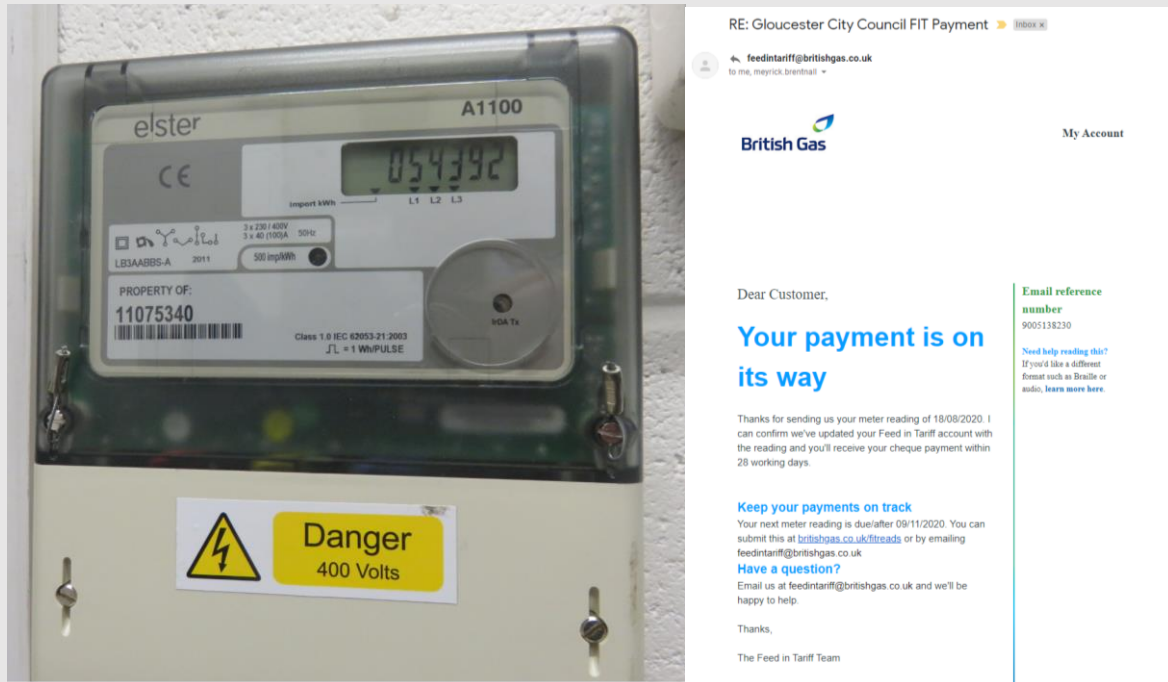
## MR12 GSHP

The depot at Eastern Avenue already has a GSHP installed which is not operational. Much of the cost of a GSHP is in its installation of pipework. It would be worthwhile investigating the reinstatement of this unit as the cost of cooling and heating the site right now is excessive, not least due to the use of portable AC units exhausting through open windows.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure R12</b>	GSHP Depot	66,137	2,722	<b>16,905</b>	8,000	2.94

## MR13 Plock Court

The site has a small array of 45 modules installed shortly after the feed in tariff came into being. Electricity generation since install amounts to 54,392kWh:



On meeting at this site, CLS Energy were given to understand that the Council had not received Government FIT payments for the solar array at this site since 2012. Following conversations and emails and information being located, we were able to establish that payments are still available to the Council and CLS Energy were successful in resurrecting these.

We understand that a cheque for £10,500 has now been received by Gloucester City Council.

Our capex cost here relates to point R14. It is based on an engineer's investigation and the expectation that any fault found can be held against the installer. The cost of a new inverter installed, and strings properly attached is likely to be under £2,000. In our view, despite the inverter now being out of warranty, where a fault is found, this should not fall on the Council.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure R13</b>	PV Repair Plock Court	27,629	12,129	<b>7,062</b>	700	0.06

## MR14 Plock Court

The site has an existing small array of 45 modules installed shortly after the feed in tariff came into being in 2011. Electricity generation in the nine years since this install amounts to 54,392kWh:



The amount of energy generated according to the meter above is low in comparison to what we would expect at a site with a 9.81kWp array in this location of the UK.

We have queried this as, over the 9 years since install, we would expect to see this array delivering at least 82,000kWh, meaning that the Council may have missed energy savings and generation payments from 28,000kWh. At an arbitrary £0.11/kWh grid electricity cost over the period and a FIT rate of £0.48/kWh and lost deemed export payments. Total of lost revenue to the Council from this yield loss is around £17,000.

Following our query, the install site to inspect and report back in October. We will be pleased to provide expert independent analysis and inspection should this be required.

### Important

Our observation on assessing Plock Court was that the meter reading showing energy generated since the solar PV install and commissioning on 16<sup>th</sup> September 2011 did not match our expectations for solar yield on an array of this size in this part of the UK. On challenging this, the installer has visited site and claims that the Fronius inverter is faulty and the Council should purchase a new one to rectify this problem. From what we have seen, this inverter appears to have been operating only 2 of its 3 strings from installation. This would account for why it has only generated 2/3rds of what we would have expected from this array. The cost of this loss of yield to the Council over its 9-year life is as follows:

82.021MWh- 54.392MWh = 27,629kWh

Generation tariff: (£0.4829/kWh – rate paid 1 Aug to 29 Sep 2011) £13,342.04

Grid energy not purchased: (say £0.11/kWh average) £3,039.19

Deemed Export Tariff: 50% of energy generated at £0.045/kWh £621.65

**Estimated loss of income to the Council over the 9 years of: £17,002.88**

<https://www.ofgem.gov.uk/environmental-programmes/fit/fit-tariff-rates>

It would be our view that recovery be sought over this. In order to make a claim on this, the Council would need to evidence its case against the installer. If our belief over the case of this is correct, then an independent engineer's inspection of the inverter should demonstrate this. We can arrange this on a day rate if the Council wishes to pursue it.

This will aim to establish whether the stringing of the inverter is at fault. We would also recommend that if the Council is to make a case, the installer is not permitted to remove/dispose of the old inverter.

	Detail of Measure Identified	Identified Energy Savings Yr 1 (kWh)	Averaged annual savings (£)	kG CO2 Saving	Capital cost to instigate (£)	Ranked Payback Period
<b>Measure R14</b>	PV FIT recover Plock Court	0	10,500	0	0	0.00

Over and above the detail above, CLS were able to negotiate unpaid feed in tariff (FIT) payments since 2012, between CLS Energy and the energy supply company. This has resulted in a £10,500 cheque payed to Gloucester City Council which more than covers the cost of this report. These FIT payments have now been resurrected and payments will be paid quarterly on the installed FIT rate plus RPI inflation rates provided that the Council continue to provide meter readings until the year 2031.

It is important to bear in mind that while the array continues to yield at only 2/3<sup>rd</sup> of its capacity, the Council, will continue to receive underpayments for the remaining 11 years of the FIT scheme. Action is recommended on this array to avoid a further £20,000+ of lost income and carbon savings.

## General

### Loft Insulation

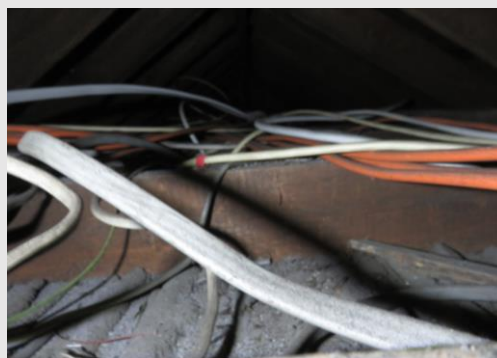
#### Depot - Office (1F) loft insulation

There was found to be no insulation above the suspended ceiling. Suggest this be installed to avoid heat being contained beneath insulated metal profile roof as part of a warm roof design.



### Guildhall

Loft insulation looks to be absent in certain roof spaces. It was not possible to access a reasonable number of areas to accurately assess this. Such works should be conducted as loft insulation is one of the least expensive and easy to implement savings opportunities for a site such as this and could save up to around 25% of space heat.



Renewable energy is a good technology and would assist the Council towards achieving zero carbon. However, given that energy that is not consumed by their sites will be exported to the national grid and payment for this is currently low, it makes sense to get the Council's estate in order first. Specifically, by addressing energy efficiency measures laid out earlier in this report, energy consumption is reduced along with carbon emissions and cost and the

investment required to fill, or part fill the remaining energy use is reduced meaning less renewable energy required and less cost. There are opportunities to utilise vehicle batteries going forward as storage for excess renewable energy generated and we would be pleased to discuss such opportunities with you.

### **Gloucester Specific Next Steps:**

The Council may like to consider the following additional related services:

#### **Commuter assessment**

An assessment of the carbon emissions produced by staff commuting to and from the workplace. Formal [Commuter](#) carbon assessment.

#### **Waste and Water assessment**

Assessment of council water use and how to reduce it; assessment of in-house waste and recycling and improvements to be made.

#### **Electric Vehicle Infrastructure Assessment**

An assessment of our current Electric Vehicle Infrastructure and where future infrastructure would be most effective.

#### **Owned Sites assessment**

Properties owned but not operated by the Council such as Gloucester airport and various commercial and retail buildings.

**Beyond this is a list of potential next steps and opportunities to enact or move the savings agenda forward. We would be pleased to discuss any aspect of these.**

- Set up a route-map to zero carbon by an agreed year.
- Assistance with working up Salix grant project
- Assist with instigation of any of the measures recommended in this report.
- Assessment of quotes received for technologies and or renewable energy.
- Assistance with public or business consultation events.
- Drafting, updating checking, or writing of policies and strategies (for example: Carbon Management Plan, Energy Strategy, Travel Plan, Travel Action Plan, Low Carbon Impacts Profile, data normalisation etc).
- Support at Cabinet and Member briefings.
- Provide Staff and member training.
- Work up proposals and/or specifications for solar arrays based on consumption vs generation, roof area, storage, and vehicle to grid (V2G) storage options.



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- Assess and work up consideration of CNG or Hydrogen for next refuse truck purchase.
- Assessment and independent advice on renewable energy, specification provisions and engineer's inspection of final installation.





## 2050

### Part II City-Wide Plan 2050



Gloucester City Council has made a commitment to achieving net zero carbon across the city of Gloucester by 2050.

To understand how it will achieve this, as with part I of this piece of work (set out above), there is a need for a baseline to be produced.

The UK Government hold baseline data for regions of the UK and we have used this as a starting point for this exercise.

The most recent data available is more than a year older than the baseline used in part I and it must be decided how best to address this. We would propose utilising the most recent data until such time as comparable data can be accessed.

The most recent data (2018) extrapolated for Gloucester City local authority region is set out below.

### Electricity

Gloucester City has around 57,000 domestic electricity meters and around 4,000 commercial property electric meters.

Domestic electricity consumption is around 196GWh with commercial at 361GWh meaning that total electricity consumption is around 557GWh.

Domestic mean consumption is around 3,463kWh per household compared with 2,895kWh as a median figure. In matters such as this, we would tend to use the mean figure as more reliable.

Commercial mean consumption is around 80,505kWh per business compared with 8,098kWh as a median figure. In matters such as this, we would tend to use the median figure as more reliable.

### Mains Gas

Gloucester City has around 52,000 domestic gas meters and around 1,000 commercial property gas meters.

Domestic gas consumption is around 596GWh with commercial at 406GWh meaning that total gas consumption is around 1,001GWh.

Domestic mean gas consumption is around 11,436kWh per household compared with 10,375kWh as a median figure. In matters such as this, we would tend to use the mean figure as more reliable.

Commercial mean consumption is around 770,093kWh per business compared with 151,725kWh as a median figure. In matters such as this, we would tend to use the median figure as more reliable.

## Transport Fuel

Gloucester City is a local authority area consumes the following fuel for transport within its borders:

Transport Type	Tonnes of Oil	kWh	CO2e kg	CO2e Tn
Personal (car)	26,342	306,357,456	71,617,182	71,617
Freight	8,570	99,669,099	24,686,042	24,686
<b>Total</b>	<b>34,913</b>	<b>406,038,184</b>	<b>96,303,225</b>	<b>96,303</b>

**Residual Fuel** (the remaining elements of non-electric, non mains gas and non-transport fuels)

This final section picks up the residual fuels not captured in the data above.

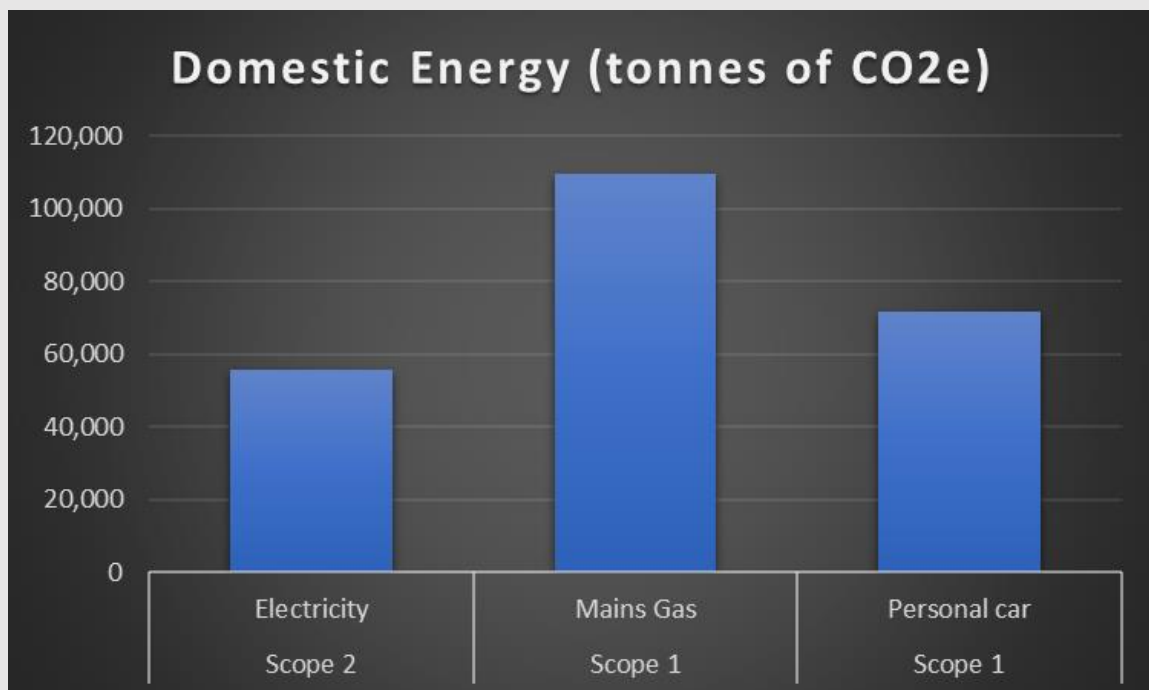
	Industrial	Domestic	Rail	Public Administration	Commercial	Agricultural
Petroleum based	5.2	0.4	0.9	0.1	0.1	0.2
Coal based	-	0.5	-	-	-	-
Manufactured Solid Fuels	0.5	0.5				
Bioenergy and wastes	-	5.9				
Total	14.0 ktoe (thousands of tonnes of oil equivalents)					

Totals:

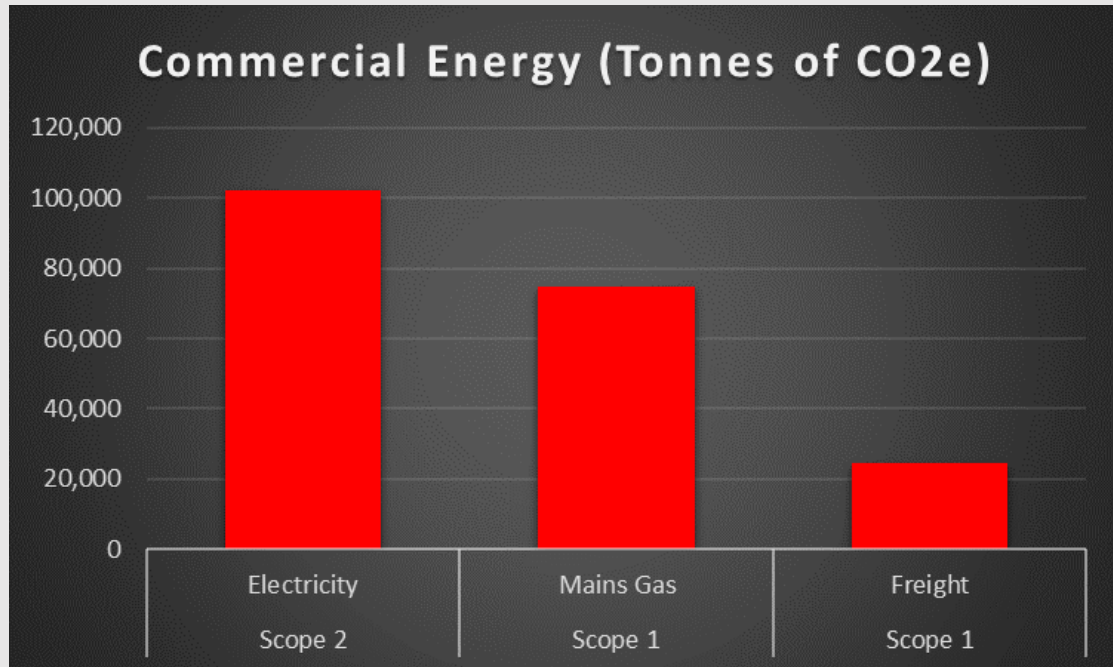
Total figures for Gloucester City are set out below:

Fuel Type	Tonnes of Oil equivalent	CO2e Tn
Electricity	Domestic	55,482
Electricity	Commercial	102,188
Mains Gas	Domestic	109,640
Mains Gas	Commercial	74,688
Personal (car)		71,617
Freight		24,686
<b>Total</b>	<b>34,913</b>	<b>438,301</b>

Graphically, domestic consumption for Gloucester City this can be shown as follows:



**And commercial:**



Naturally, there are aspects missing from this figure including residual fuels which is why it does not add up to the 468,530 tonnes of CO<sub>2</sub>e in the later table.

Consumption data such as that above can be used by and on behalf of local authorities and for targeting and monitoring a range of carbon reduction and energy efficiency policies.

In this case it is being used to provide a reasonable starting point for a baseline from which to plan methods and means of reduction against Gloucester's 2050 target.

There are many caveats contained within the use of these data.

For example, data contains estimates of the number and proportion of properties without a gas meter across Great Britain. Estimates of properties without a gas connection are calculated by subtracting the number of domestic meters from the number of properties in a region. Other assumptions include that all gas meters with consumption of 73,200 kWh or below assumed to be domestic when in fact a house with a gas heated swimming pool is likely to have consumption figure far greater than this. Similarly, electricity consumption below 100,000kWh is deemed to be domestic.

The data does not include companies that generate their own energy on site. With the exception of half hourly data, meter reads will not all be actual, and estimates will be included at around 20% of the totals.

Residual fuel data is not weather corrected.

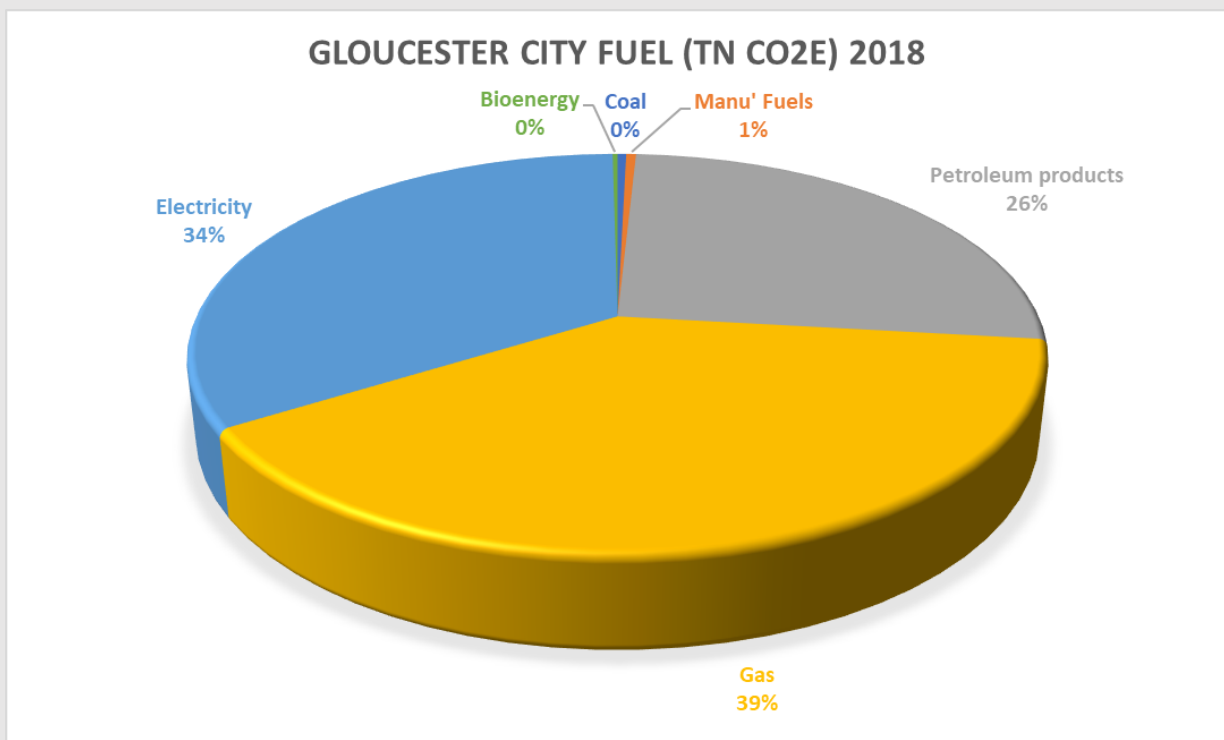
Data coverage for 2018 is:

Gas mid May 2018 to mid-May 2018

Electricity: Start Feb 2018 to end Jan 2019

Road Transport: Start Jan 2018 to 31 Dec 2018

Residual fuels: Start Jan 2018 to end Dec 2018



The pie chart above shows the split of fuel use in CO2e by tonnes for Gloucester City.

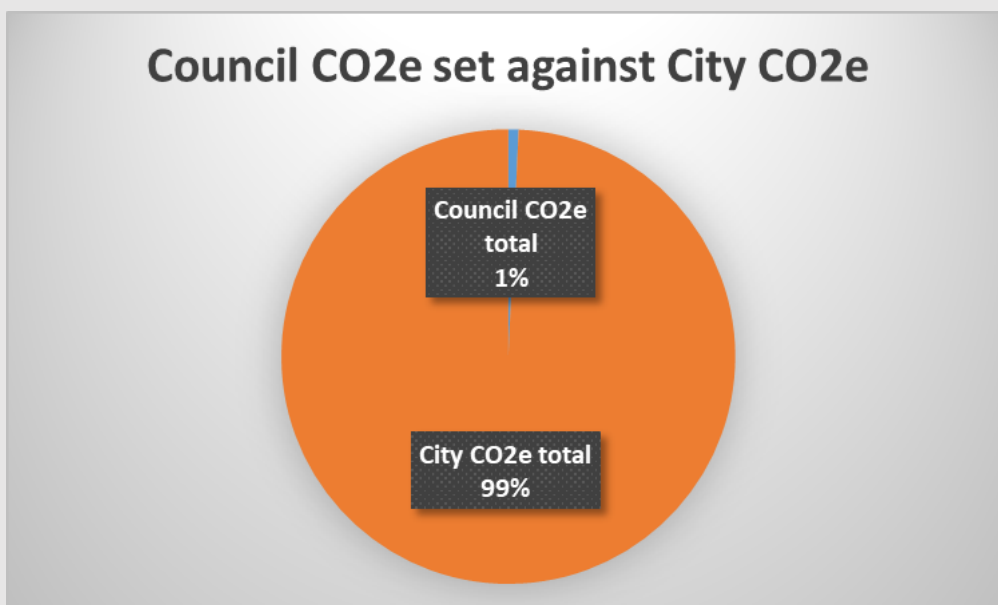
In tabular format, this looks like this:

Fuel	Scope	Tn CO2e	%age
Coal	Scope 1	1,827	0.4
Manufactured Fuels	Scope 1	2,080	0.4
Petroleum products	Scope 1	121,799	26.0
Mains Gas	Scope 1	184,199	39.3
Electricity	Scope 2	157,585	33.6
Bioenergy	Scope 1	1,039	0.2
Total (2018)		468,530	100

*This data has been weather corrected and is not calendar year data.*

By contrast to the data above and for context, the City Council’s estate, fleet, and operation amounts to 3,461 tonnes of CO2e less renewable contribution of just under 14 tonnes takes this to 3,447.

This Council emissions figure is shy of three quarters of one percent (0.73%) of the 468,530-tonne city total above. Whilst the Councils contribution may seem an insignificant amount in comparison to Gloucester City, the figure can be seen in the context of a microcosm of the UK’s contribution to CO2e across the world.



This figure is also around 1% but it is through leadership that the UK has demonstrates what can be done globally, and the same concept applies locally to GCC. As well as control over its buildings, operations and fleet, the Council has half ownership of an airport, it has huge

influence over tenanted properties and by its actions, it will encourage business and residents to follow suit. The Council operates joint ventures and arms-length companies who will be encouraged by the Councils example to address and act on its estates energy efficiency and meet its challenging 2030 target with ambitious and the sort of tangible approaches, set out in part one of this report.

The Council's move to a pool fleet with Enterprise sets a trend for other businesses to follow. Further addressing this to reduce the size of the fleet and implement pure electric vehicles will further extend this. By installing EV charge points (for which the Council can currently claim grants) across its appropriate car parks the city, the Council will encourage BEV car ownership amongst its residents and business owners and this will reduce carbon emissions, as well as air pollution, thereby reducing the incidence of lung and heart disease.

By linking renewable energy with electric charge points, the Council will permit the storage of energy going forward through BEVs and the potential for revenue streams. This will also provide the impetus for investment in electric vehicle technology. There will be a need to move to alternative fuels for the Council's heavy RCV fleet and this could potentially be achieved within the 2030 target.

The benefits of the Council's 2030 plan are that in terms of electricity through energy efficiency and renewable energy technologies, the Carbon ambition looks to be achievable currently. In regard to fleet, this looks to be achievable within the 10-year timeframe. The gas ambition may need the adjustment to renewably powered electric heat solutions and potential for sequestration to pick up any remaining emissions. We would suggest a heat strategy is produced to pick up on gas use and move towards electrification of heat along with various allied available solutions. We would be happy to produce or provide consultancy advice on all of this.

By displaying the achievement of this 2030 goal, the Council is demonstrating to others what can be done and what must be done. It is likely that the Council will need to borrow extensively to fund many of these projects. However, with interest rates at an all-time low and Public Works Loan Board (PWLB) loans available at historically low rates, energy efficiency technologies along with the renewable and fleet technologies highlighted in this report, will provide ROIs far in excess of these figures and ensure that loans can be comfortably repaid in full.



## Summary of Potential Opportunities moving forward

In order to bring the City of Gloucester, its residents, business, third sector and educational institutes on this journey to net zero carbon by 2050, the Council will need to target a number of key areas:

- Get the message across
- Talk up its actions and explain the benefits in financial savings, as well as carbon reduction terms
- Address climate change in the city, parishes, and wards
- Link up to local groups
- Set out a list of top tips for things that residents can do right now such as:
  - Insulate
  - Buy A\* rated goods
  - Minimise, repair, reuse, recycle
  - Switch to renewable energy provider
  - Install renewable energy generation
  - Drive electric
  - Car clubs
  - Travel actively
  - Reduce draughts
  - Install energy efficient technologies
- Encourage campaigns such as “Shop local – think global”
- Address Fuel poverty so as to allow those at the less affluent end of the spectrum the opportunity to act
- Explain all the benefits of resource efficiency
  - Recognise that for a variety of reasons, some people do not wish to believe in man-made climate change. The concept of finite natural resources, fossil fuel reserves or animal extinction, may be more of an acceptable argument for some of these people.
- Augment community recycling
  - Recognising that waste sent to landfill or energy from waste is lost forever and leads to further methane and carbon dioxide emissions, respectively.
- Express and set out the need to adapt to climate change and link this to 5,000 properties affected by flooding in the 2007 flood Gloucestershire event and those events in Tewkesbury in 2019
- Set and continually revise a series of climate challenges for the whole community
- Invest in community renewables



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- Celebrate successes as they occur both within the Council and across the City.
- Be an exemplar city for Carbon Reduction.

The Council will be expected to consult with its stakeholders as it progresses on this journey. The planned and systematic achievement of its targets through measures set out in this report will help it to lead by example and set a precedent for others to follow. It will be important to keep local media and businesses on board with this project and ensure that carbon reduction messages are portrayed in a positive light and to address all the reasons that the Council is embarking on this ambitious and necessary plan

**End.**

**Author: Alan Asbury**

- Fellow of the Energy Institute (FEI)
- Chartered Energy Manager
- European (Advanced) Energy Manager (EurEM)
- Chartered Member of the Institute for Logistics and Transport (CMILT)
- Member of the Institute of Car Fleet Manager (MICFM)
- Chartered Environmentalist (CEnv)
- Fellow of the Institute of Environmental Management and Assessment (FIEMA)
- Chartered Resource and Waste Manager (CRWM)
- Certified Measurement and Verification Professional (CMVP)

Email: [alan.asbury@clsenergy.com](mailto:alan.asbury@clsenergy.com)

**Director and Chair of Low Carbon Club (UK)**

**CLS Energy (Consultancy) Ltd** Telephone: 01865 421008 Mobile: 07954 702792

Cromwell House

Cromwell Way

Oxford

OX5 2LL

<https://clsenergy.com>



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[Alan Asbury CV Profile:](#)

With a background in construction site management, CLS Energy Ltd.'s Company Director Alan Asbury has been a Sustainability Manager since 1997 and an Energy Manager since 2006. A **Chartered Energy Manager, Chartered Fleet Manager, Chartered Environmentalist and Chartered Wastes Manager**, Alan was trained by the Energy Institute to its highest **European (Advanced) Energy Manager** level in 2010 and has been a full member (**MEI**) of the Energy Institute from 2011 until 2018 when was awarded Fellowship (**FEI**). He has been an Energy Institute Professional Interviewer and Assessor since 2018. Alan has been an **Associate of the Institute of Environmental Management and Assessment (IEMA)** since 2002, upgraded to **Practitioner (PIEMA)** in 2016 and elected to Fellow in 2020.

#### Academic Qualifications:

**MSc** in Environmental Management from the University of Nottingham. 1998/9

**BSc** 2:1 (Hons) Environmental Science & Management St John's College, University of Leeds. 1995/8.

#### Professional Qualifications:

Elected to **Fellow** of the Institute of Environmental Management and Assessment (**FEIMA**) 9<sup>th</sup> June 2020

Elected to **Fellow** of the Energy Institute (**FEI**) 5<sup>th</sup> September 2018.

**Chartered** Member of the Institute of Logistics and Transport (**CMILT**) since 2018.

Corporate member of the **Freight Transport Association (FTA)**

**Association of Energy Engineers Certified Measurement and Verification Professional** Jul 2014 & July 2017

Providing guaranteed savings using EVO IPMVP global industry standard software. Recertified in July 2017.

**Full Member of the Institute of Car Fleet Managers (MICFM)** since July 2017.

Announced and trained in the first 20 **ESOS** (EU Energy Efficiency Directive 2012/27/EU) **Lead Assessors** in October 2014 by virtue of his Chartered Energy Manager status.

Experienced EED (Article 8) Energy & Fleet Assessor in **Denmark & Sweden** (No: 2015-5368) since 2015.

Certified RELUX Lighting Assessor, CIBSE and LIA, March 2014.

Courses Direct; Instructional Skills Training Distinction. Jun '12 to Feb 2014

Elected as 65<sup>th</sup> **Chartered Energy Manager** (No: 0043209) in the world in Oct 2013.

Trained by the **Energy Institute** to its **European EurEM – [Advanced] (AEM) Energy Manager** level in 2010/11.

Full Member of the Energy Institute (**MEI**) since 2010 (No: 43209).

Completed TREND 963 Operators Course July 2009.

**Chartered Wastes Manager** (No:1002143) since 2004.

**Chartered Environmentalist: (CEnv)** Society for the Environment (**SocEnv**) since its inception.

Associate of the Institute of Environmental Management and Assessment (**AIEMA**) since 2002 (No: 002347).

#### Commercial Experience:

Alan has personally completed more than 20 EED (2012) ESOS Phase 1 Audits to full compliance/completion to companies including: Titan Airlines, Harvard Engineering, Ultraframe, AW Jenkinson, Uniserve, Landmark Trust, Missguided, Beiersdorf (Nivea), Regatta, ProCam, Oxford Airport and was joint Lead Assessor for Qatar Airways. Alan has conducted 41 ESOS phase 2 Audits, including 70% of returning (Phase 1) customers. Alan is registered to lead and conduct EED Article 8 (ESOS) Assessments through the Swedish Energy Agency, the Irish (Eire) Government, and the Danish Energy Agency. All assessments factored the additional use of renewable energy generation solutions. In fact, we assisted AW Jenkinson to install large arrays on their roofs in Cumbria and are currently working with Regatta and Craghoppers in Manchester to install large solar roof arrays and to achieve carbon neutrality within a 5-year plan. He is working with VW group UK on their "5-year carbon challenge". We are currently conducting a comprehensive EV fleet conversion solution for Aico.

Alan conducts energy assessments, audits, and presentations. As a qualified trainer, he provides training on behalf of CLS Energy Ltd lecturing on Sustainability to MSc Built Environment & H&S students at 2 Universities. Alan is a Critical Friend Panellist to UK Power Networks and to Western Power Networks (Distribution Networks Operators). Alan is a full member of both the Institute of Car Fleet Managers (**MICFM**), the Freight Transport Association (**FTA**), and Chartered with the Chartered Institute of Logistics & Transport (**CMILT**).

Delivering up to 47% savings for corporate fleets; He has authored professional [guides](#) to fleet assessment for the **Energy Managers Association** and the Grey Fleet [Toolkit](#) for the **Energy Savings Trust** launched on 29.1.18.

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[info@clsenergy.com](mailto:info@clsenergy.com)





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**Local Authority Experience:**

Alan has consulted for **Rother** DC under the LGA Expert programme which included scoping and assessing all estate and commercial roofs for renewable energy opportunities. Two of these sites were installed under Alan's guidance in 2019. He is now delivering a carbon neutral plan for Rother for 2030. In 2017, Alan consulted for **Hastings** BC on an Energy Options Study, addressing their built estate and land holdings with the result that they have unlocked £9m for such projects. For **Maidstone**, Alan provided consultancy advice on a series of solar arrays that were all enacted. Along with **Gloucester Council**, Alan is currently working with **Oxford**, **Copeland**, **South Northants**, **Wokingham**, **North Herts**, and **Stevenage** Councils to assist them with their route to zero carbon following their respective Carbon Emergency announcements. He has recently been invited by the LGA Expert programme to deliver similar works to **Cumbria Councils** which he began in early 2020.

A local authority sustainability manager since 2000, Alan understands how Councils operate and has delivered energy efficiency and renewable energy solutions across the Aylesbury Vale estate including Solar PV, GSHP, CHP and an Absorption Chiller. He over achieved on delivery of both Carbon Management Plans, hitting 22% a year early in **2012** and achieving 36%, 4 years early in **2016**.

**Energy and Fleet Presentations:**

- Speaker for Cambridge Cleantech at Tech Days Europe **Munich** 15<sup>th</sup> June 2020
- Chairing Low Carbon **Scotland** (Edinburgh) 4<sup>th</sup> June 2019
- Presenting at Low Carbon **Britain** (Westminster) 8<sup>th</sup> November 2018
- Presenting at Low Carbon **Scotland** (Edinburgh) 15<sup>th</sup> May 2018
- Presenting at Low Carbon **Britain** (Westminster) 8<sup>th</sup> November 2017
- Keynote speech at Low Carbon **Workspaces** event on energy and Fleet 4 July 2017
- Presented energy and fleet solutions at Low Carbon **Scotland**, Edinburgh on 23 May 2017
- Presented at Buying Business Travel (BBT) 12.5.17, Grange City Hotel, **London** and 14.6.17, **Dublin**
- Fleet presentation to Government Departments (DEFRA, EA, DWP, Police, Fire Service) at Portcullis House, Houses of Parliament 3 Nov 2016.
- Fleet presentation to major Welsh Public Bodies at Cardiff City Hall 27 April 2016.

**Awards:**

Awarded **National Sustainability Manager of the Year in Dec 2012** by the National PSSA Journal.  
 Awarded Silver at **10<sup>th</sup> National Energy Savings Trust Fleet Hero Awards** Nov 2015 (grey fleet).

**Career Summary:**

<b>Director</b>	<b>CLS Energy (Consultancy) Ltd</b>	2014 to Date
<b>Chairman</b>	Low Carbon <b>Club</b>	2015 to Date
<b>Visiting MSc Lecturer EIA</b>	University of Middlesex (H&S Dept)	2020 to Date
<b>MSc Lecturer Sustainability/Climate</b>	University of Greenwich (Built Env't Dept)	2018 to Date
<b>Senior Consultant</b>	Incgen Ltd and Novae Ltd	2015 to 2017
<b>Sustainability Team Leader</b>	Aylesbury Vale DC	2005 to 2017
<b>Waste Strategy Manager</b>	South Beds DC	2002 to 2005
<b>Sustainability Team Leader</b>	Warwick DC	2000 to 2002
<b>CSV Environment</b>	Waste Resource Development Manager	1999 to 2000
<b>Far East Travel and University</b>	Far East; (BSc) and (MSc)	1992 to 1999
<b>Asst Contracts Manager</b>	Forbes West	1990 to 1992
<b>Site Manager/Site Engineer</b>	J S Bloor Housebuilders	1988 to 1990

Alan has been a professional environmental and sustainability manager since the mid-1990s. He is passionate about the subject. He lives with his wife and two children in Oxford, England and enjoys canoeing, rowing, rugby, travel, reading and learning Chinese (Mandarin).

**Alan Asbury - Company Director** CLS Energy (Consultancy) Ltd

MSc, BSc (Hons), CEnv, FEI, CMVP®(IPMVP), EurEM (AEM), FIEMA, MCIWM, Chartered Energy Manager, MICFM, CMILT, ESOS Lead Assessor, ISO 50001 EnMS Assessor, Energy Institute Professional Assessor, AEMA.  
 Linked In: <https://www.linkedin.com/in/alanasbury/> Twitter: @AA\_CLS





<b>Meeting:</b>	<b>Cabinet Council</b>	<b>Date:</b>	<b>13 January 2021 28 January 2021</b>
<b>Subject:</b>	<b>Kings Quarter Delivery Proposal</b>		
<b>Report Of:</b>	<b>Leader and Cabinet Member for Environment</b>		
<b>Wards Affected:</b>	<b>Westgate</b>		
<b>Key Decision:</b>	<b>Yes</b>	<b>Budget/Policy Framework:</b>	<b>Yes</b>
<b>Contact Officer:</b>	<b>Philip Ardley, Consultant - Place</b>		
	<b>Email: philip.ardley@gloucester.gov.uk</b>	<b>Tel:</b>	<b>396107</b>
<b>Appendices:</b>	<b>A - Site &amp; plot layout plan</b> <b>B - Development Commercial Business Plan</b> <b>C - Heads of Terms for Development Agreement</b> <b>D - Specialist financial appraisal and cost plan</b> <b>E - Updated Legal summary for compliance and fiduciary duties</b> <b>F - Updated Legal summary for procurement issues</b>		

**FOR GENERAL RELEASE (Report and Appendix A)**

**EXEMPTIONS (Appendices B-F)**

The public are likely to be excluded from the meeting during consideration of appendices B to F of this report as they contain exempt information as defined in paragraph (3) of schedule 12A to the Local Government Act 1972 (as amended). All sections of these appendices B to F are considered confidential and commercially sensitive.

**1.0 Purpose of Report**

1.1 To secure approval from Council that they authorise Officers to enter into a legally binding Development Agreement with a partner to deliver Kings Quarter The Forum development in its entirety, following completion of the Exclusivity and Co-Operation Agreement previously approved by Cabinet on 17<sup>th</sup> June 2020.

**2.0 Recommendations**

2.1 Cabinet **RECOMMEND to COUNCIL** that The Head of Place in consultation with the Leader of the Council and Cabinet Member for Environment, the Head of Policy and Resources and the Council Solicitor is authorised to enter into a Development Agreement with our partner to implement the construction and development of Kings Quarter The Forum in its entirety at an estimated total cost to the Council of £107m, to create a high quality mixed use hub, packed with community features aimed at attracting new companies to Gloucester, based on the latest proposal outlined in this report.

- 2.2 Cabinet **RECOMMEND to COUNCIL to DELEGATE** authority to the Head of Place in consultation with the Council Solicitor to take all necessary steps and undertake necessary procedures, including entering into any legal arrangements or other documentation as may be required to implement or facilitate the Kings Quarter The Forum Redevelopment Scheme.
- 2.3 Cabinet **RECOMMEND to COUNCIL** that the estimated total cost be incorporated into the council's Capital Programme and Treasury Management Strategy.

### **3.0 Background and Key Issues**

- 3.1 This report seeks approval for the continuing delivery of Kings Quarter and directly relates to approvals and the previous updates submitted to Cabinet on the 11<sup>th</sup> March and 17<sup>th</sup> June 2020. To recap the primary approval given was:  
That the Head of Place in consultation with the Leader of the Council and Cabinet Member for Environment and the Head of Policy and Resources is authorised to enter into a Co-Operation and Exclusivity Agreement to continue to negotiate a joint venture to develop Kings Quarter into a high quality mixed use hub, packed with community features aimed at attracting new companies to Gloucester, based on the latest proposals outlined in this report. Once agreed, officers will bring a final proposal back to Cabinet and Council for approval.  
The Co-Operation and Exclusivity Agreement was duly completed, and this is now the proposal report for Council approval.
- 3.2 Both the Joint Core Strategy and the emerging City Plan clearly emphasize that “the primacy of Kings Quarter is fundamental to the delivery of the city centre regeneration and that it will act as a significant catalyst for the City’s transformation bringing considerable positive effects to the local economy”.
- 3.3 The actual delivery of the remainder of the scheme is now crucial, and the appointment of a delivery partner is the key to its success. It was reported in the last update paper that there was considerable occupier interest being generated in Kings Quarter. The Officers and Project Manager are pleased to be able to report that working together with our joint venture partner for Kings Walk, who has an adjoining land interest in Market Parade immediately adjacent to our vacant car park at the rear of Kings House, more detailed proposals have been brought forward for approval.
- 3.4 The scheme is similar to that shown in the Kings Quarter planning permission consented on 3<sup>rd</sup> March 2020 but increases the office element on plot 4 to cater for the present demand from specialist digital companies favouring this area but not being able to occupy grade A office accommodation as none presently exists in the city centre. The design has also been refined as a result of consultation and to ensure buildability. This increase in city centre offices has been welcomed by employers who are in discussion with our joint venture partner. In addition, the delivery of over 1,000 new jobs in the city centre will vitalise both the lunch time and evening economies, offer opportunities for local employment and assist struggling retailers. This is an essential objective in the City Council's overall strategy for the economic recovery of the city centre as a result of Covid-19.
- 3.5 The immediate first phase to achieve the successful re-location of Tesco and build 19 high quality apartments is located at the rear of Kings House on both the land

owned by the City Council and our joint venture partner. This is plot 3b on the plan included as Appendix A. A detailed planning application for this slightly modified development has been submitted and is presently under consideration. It is anticipated that determination of this application could be made early in January 2021.

This first phase of the development has just been tendered by our partner using the County Council's Framework Agreement and initial results show a small saving on the budget cost plan thereby assisting viability.

- 3.6 The detailed design for the remainder of the scheme together with a planning application to modify the presently consented scheme is being prepared by our partner for imminent submission with determination anticipated in Spring 2021.
- 3.7 The affordable housing for Kings Quarter, comprising some 25 units are to be built separately on plot 1 in Northgate Street which is presently being marketed by a local agent with the expectation that this will be delivered by a registered housing provider.
- 3.8 We have received detailed advice on financial viability and demand issues from specialist consultants and this is included in Appendices B and D. The viability of the whole scheme remains challenging especially in the early years as a result of the current unprecedented circumstances which result in considerable uncertainty for demand from potential tenants. This remains as one of the major risks to the scheme. This development is a very significant investment on the part of the city council largely funded by borrowing. Continuing negotiations with our development partner has resulted in financial concessions and risk mitigation during the construction period to assist cashflow until the income from the various phases is more than sufficient to fund all outgoings. In addition to the extensive regeneration and community benefits of this scheme, considerable long term income will be available to the city council for further regeneration purposes in the future. The city council will own the entire development on completion.
- 3.9 Legal fiduciary, procurement and state aid advice have been obtained from our consultant lawyers Trowers & Hamblins in conjunction with One Legal and the latest updated summaries are included at appendices E and F.
- 3.10 Whilst this is an extremely significant investment it provides a massive opportunity to regenerate the city centre thereby benefitting the Kings Walk shopping centre including many surrounding properties. Together with the enhanced railway station, bus station and refurbished Kings Square a modern and impressive gateway into the city centre will be created as well as creating very significant employment opportunities both in the short and longer term.

#### **4.0 Social Value Considerations**

- 4.1 The social value of the Council's plans for Kings Quarter are considerable and the Officers and Project Manager have been working with the Council's Economic Development Team to maximise this impact with involvement from our specialist consultants the Social Value Portal.
- 4.2 The joint development proposals for Kings Quarter expect that over the next 3-4 years an additional 1,000 new job positions could be created in the city centre. Our

joint venture partner is offering to put in place a task force to ensure that a programme to help the local community upskill appropriately is created and the development is fully linked to the new digital access programmes at local Higher Education and Further Education institutions. There have been initial discussions to ensure that the tender process includes clear guidance and expectations for delivering these community benefits, all in accordance with our Social Value Policy.

## **5.0 Environmental Implications**

5.1 The proposal emphasises how sustainable design has underpinned the redevelopment of Kings Quarter. All buildings will be constructed with a design life well beyond the 60-year industry standard, with layouts, utilities infrastructure and floor to ceiling heights future proofed for new technologies and uses. For instance, the design has incorporated a way in which the proposed multi-storey car park can be readily converted to alternative use should our current reliance on the car lessen. We have committed to incorporating features such as cycle storage, car sharing systems, electric charging points and have considered how solar panels and green walls and roofs can technically be included.

## **6.0 Alternative Options Considered**

6.1 The Council Officers have reviewed alternative options to bring forward the redevelopment of Kings Quarter. The options include:

- Solely utilising Public Works Loan Board funding and managing the redevelopment of the site in house using procured contractors for each separate phase.
- Advertising for a development partner and seeking expressions of interest.
- Selling the site on a plot by plot basis with planning consent.

6.2 There are several disadvantages with each of the reviewed options such as: insufficient internal resources and experience, inability to maintain control over an important council regeneration asset, and significant delay in achieving activity on site at a time when action is required to commence building.

## **7.0 Reasons for Recommendations**

7.1 The proposal offered has the potential to provide a high quality and rapid opportunity for the Council to see its regeneration aspirations for Kings Quarter realised. It would potentially create employment space for over 1,000 new employees, which could equate to £102m injected into the local economy each year. Being able to secure that number of new workers into the city centre would not only boost the local spend, but the provision of the 18-hour facilities proposed would extend that spending window from presently only working hours, into the evening and night-time economy.

7.2 Considerable recent negotiations have taken place both to improve the viability and reduce the risks for this scheme thereby strengthening the city council's position with regard to defining the viability within the Development Agreement. At the same time the changes have underlined that the joint venture arrangement accords with market sentiment and practice for such a significant investment.



7.3 Officers believe the proposal put forward by the joint venture party is a practical and expedient way forward and recommend that approval is given to enter into the Development Agreement to deliver the proposition at an early date. Extensive due diligence has been undertaken by our external consultants in conjunction with our Head of Policy and Resources, the Head of Place and our Regeneration Consultant to evaluate and negotiate the financial appraisal. Legal opinion has been provided by Trowers & Hamlins for procurement, state aid and to advise on the Development Agreement. The intention is to continue refining the viability and the financial returns and ultimately sign a binding legal agreement for all the phases of this regeneration scheme.

7.4 Cabinet have previously approved the in principle use of seeking a Compulsory Purchase Order to ensure “clean” title should negotiations fail to acquire the remaining small land holdings in plots 3c and 3d. Such a CPO will also be available to extinguish any rights that we may not know exist but become apparent during this development.

## **8.0 Future Work and Conclusions**

8.1 The Council will continue to require the assistance of the property experts and external lawyers to scrutinise the final Development Agreement and to negotiate the legal contract and act as the expert client during the construction phases.

## **9.0 Financial Implications**

9.1 Cabinet and Council approval is required to enter into the Development Agreement which will result in substantial costs for the planning, design and construction elements set out in Appendix D. These costs have been calculated jointly by our own and our partner’s cost consultants and quantity surveyors. The actual construction of the major phases will be procured by open tender and during negotiations our development partner has guaranteed that the construction costs detailed are capped at those shown in the final appraisal. Any savings obtained during the tender process will be apportioned between the parties. The planning and design fees were approved by Cabinet decision on 17<sup>th</sup> June 2020.

9.2 As part of the negotiations, our development partner has agreed to take an over-riding five year lease for the start-up incubator offices either on plot 2 or plot 4 from completion. In addition, guarantees are being provided for five years for the hotel income. Both these are subject to tenant incentives as set out in the cost plan. It is expected that a significant proportion of the offices on plot 4 will be let prior to construction under the test for viability. This ensures early income, avoids the vacant risk and results in these areas being properly managed on behalf of the city council. Our partner has also agreed to fund the substantial architectural design costs leading to a full planning determination and these costs would only be recoverable, if for any reason, the city council cancelled the Development Agreement, in which case they become payable on transfer of all necessary warranties and copyright of the proposals.

9.3 Appendix E rightly highlights accounting treatments for capital and investment strategies to accord with MHCLG and CIPFA guidance and our Head of Policy and Resources has had initial discussions and advice from our auditors to ensure compliance in this regard.

- 9.4 The current legal and due diligence costs were budgeted for within the original Kings Quarter approval and can be funded from existing arrangements.

(Financial Services have been consulted in the preparation of this report.)

## **10.0 Legal Implications**

- 10.1 Initial independent specialist legal advice is being provided by Trowers & Hamblins. Our lawyers have also provided advice for the procurement and State Aid issues surrounding this development and a draft summary was previously provided to Cabinet. Updated reports are included at appendices E and F following the very recent announcement from HM Treasury relating to PWLB borrowing. Providing that proper notices are submitted under EU and UK rules at the appropriate times, then Trowers & Hamblins, in consultation with One Legal, believe that any risk of challenge will be minimised, and that risk is presently very low. A Voluntary Transparency notice referred to by the solicitors has been prepared for publication. A summary of the joint venture between our partner and the City Council has been outlined in Appendix C.

(One Legal have been consulted in the preparation of this report.)

## **11.0 Risk & Opportunity Management Implications**

- 11.1 The main risks associated with this proposal are financial. The overall level of funding required to bring forward a development opportunity of this magnitude is considerable. Whilst all due diligence can be applied, investing in property can be particularly difficult to accurately predict.
- 11.2 It is a known fact that development in Gloucester can be financially challenging and whilst the latest independent financial appraisal completed on behalf of the city council for this development shows an improvement on previous assessments, there is still a potential gap between value that can be generated and total development cost especially in the early years. The development costs rarely sustain any initial land value. Therefore, we have explored mechanisms that utilise the potential income generating value of the development. When viewed over a longer-term period, the income generated can support the costs. Obviously, predicting the growth of revenue projections is difficult and there is a risk that they may not grow as predicted. Equally, there is also a possibility of greater returns than anticipated. The Council should take comfort in the fact that a private developer is sufficiently confident that an offer of a joint venture has been made, in which they intend to share in the risk and cost whilst providing some guarantees.
- 11.3 Council officers have sought independent advice to verify the financial appraisals underpinning this offer in order to mitigate future risk. Because of the significant technological survey work and planning consent process undertaken by the city council directly, it is in a good position to verify the projected development costs. The risk of further abnormal costs and complications have already been minimised by capping the construction cost. Further conditions can also be applied as part of the legal agreement to limit the financial and programme risks to the Council.

11.4 Other significant risks are outlined in appendices E and F and include fiduciary and compliance issues which are being carefully monitored and managed with considerable input from our lawyers and consultants. The relevant notices are being issued at appropriate times and any responses will receive due regard.

## **12.0 People Impact Assessment (PIA) and Safeguarding:**

12.1 At present there are no adverse impacts identified for any of the Protected Characteristic Groups. As the regeneration of Kings Quarter progresses, the design process has been carefully devised to ensure maximum community engagement with a focus on achieving engagement with disabled and other minority groups. Further Impact Assessments will be considered as part of the development process where relevant.

## **13.0 Community Safety Implications**

13.1 There are believed to be limited community safety implications at this stage. Any agreement to proceed with this proposal will involve construction taking place within a busy part of the city centre. During construction periods the contractors will be legally obliged to ensure the health and safety of not just their staff but also the local community.

13.2 The final design of the development will need to be agreed via the normal planning mechanisms and this is providing an opportunity for further scrutiny by key stakeholders such as police, counter terrorism teams, and the Fire Service.

## **14.0 Staffing & Trade Union Implications**

14.1 There are no staffing and trade union implications at this stage.

**Background Documents:** None

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**GROUND FLOOR.**

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<b>Meeting:</b>	<b>Cabinet Council</b>	<b>Date:</b>	<b>9 December 2020 28 January 2021</b>
<b>Subject:</b>	<b>Local Council Tax Support Scheme 2021/22</b>		
<b>Report Of:</b>	<b>Cabinet Member for Performance and Resources</b>		
<b>Wards Affected:</b>	<b>All</b>		
<b>Key Decision:</b>	<b>Yes</b>	<b>Budget/Policy Framework:</b>	<b>No</b>
<b>Contact Officer:</b>	<b>Alison Bell, Intelligent Client Officer (Revenues &amp; Benefits)</b>		
	<b>Email: Alison.bell@gloucester.gov.uk</b>		<b>Tel: 396014</b>
<b>Appendices:</b>	<b>1. Council Tax Support Scheme – Gloucester City Council</b>		

**FOR GENERAL RELEASE**

**1.0 Purpose of Report**

1.1 To seek approval to retain the current Local Council Tax Support Scheme for 2021/22

**2.0 Recommendations**

2.1 Cabinet is asked to **RECOMMEND** that

- (1) the current Local Council Tax Support scheme, as the approved scheme for Gloucester City in 2020/21, be adopted for 2021/22.
- (2) The scheme approved at 2.1 (1) above be updated to align with any legislation changes in January 2021 and to be implemented from 01 April 2021.
- (3) Any urgent amendments to the scheme approved at 2.1 (1) above, in the event of a national emergency and authorised by the government, be adopted and implemented immediately.

2.2 Council is asked to **RESOLVE** that

- (1) the current Local Council Tax Support Scheme, as the approved scheme for Gloucester City in 2020/21, be adopted for 2021/22
- (2) The scheme approved at 2.1 (1) above be updated to align with any legislation changes in January 2021 and to be implemented from 01 April 2021.

- (3) Any urgent amendments to the scheme at 2.1 (1) above, in the event of a national emergency and authorised by the government, be adopted and implemented immediately.

### **3.0 Background and Key Issues**

- 3.1 Members will be aware that the current Local Council Tax Support (LCTS) scheme was approved and adopted at a meeting of full Council on 30<sup>th</sup> January 2020.
- 3.2 Council Tax charges are the means by which local residents make a contribution towards the cost of local services.  
Prior to April 2013 Council Tax Benefit was administered under a national scheme set by Central Government which allowed eligible local residents to claim up to 100% reduction from their Council Tax bill – subject to legislative and means tested income requirements. The Council were able to receive full funding from the Government to cover all of the Council Tax Benefit awards made.
- 3.3 From April 2013 Council Tax Benefit was abolished and replaced with a Local Council Tax Reduction scheme. Any person who is liable to pay Council Tax can apply for a reduction in their Council Tax under the Local Council Tax Reduction scheme. The scheme is not legislated by Central Government, rather each local authority now has its own scheme. Central Government no longer fully funds this locally administered award, as there was an expectation that Local Authorities would amend their local schemes to fund the shortfall. Gloucester City Council's scheme remains more generous than many local authorities as residents can still apply for, and receive up to, 100% reduction from their council tax charge (subject to means testing)
- 3.4 As the rollout of Universal Credit continues, administratively it has made sense to align Local Council Tax Support to Universal Credit. The traditional link between Housing Benefit (which will no longer be available to new working age claimants) and Local Council Tax Support will not exist anymore, and it is essential the scheme is changed to assist those affected.
- 3.5 **Pension Age Customers** - It is important to note that those customers who are of a pension age are **NOT** affected as Council Tax support for pensioners was never localised and remains under the jurisdiction of a national scheme
- 3.6 For working age claims there is a complex means-tested assessment involving multiple aspects of the household circumstances including income, capital, residents and relationships. Although the scheme retains a number of these complex areas, some were removed in the 2020/21 scheme making it easier to administer and understand. In addition, the scheme now has a more simplified way of managing claims from people receiving Universal Credit, which all working age households receiving welfare benefit support are migrating to over the next 5 years.

### **4.0 Social Value Consideration**

- 4.1 Gloucester City Council's local council tax support scheme is more generous than many other local authorities as it retains the ability to award 100% support to those households which are most financially disadvantaged.

- 4.2 Gloucester City Council also have a Council Tax discretionary hardship scheme for those City residents who may find themselves in exceptional circumstances. For this purpose, exceptional is defined as 'not typical, entirely unusual, and only likely to happen very infrequently'. A resident would have to demonstrate financial hardship or exceptionally difficult personal circumstances and must also have applied for all other exemptions, discounts and benefits before an award can be considered. Any award made would be for the current financial year's Council Tax only.
- 4.3 The longer-term consideration of the policy is to align Gloucester City Council's Local Council Tax Support scheme to Universal Credit which will make the scheme less onerous to administer, and easier for customers to understand and assist with their budgeting. Full migration of the existing legacy benefit caseload to Universal Credit is not expected to be achieved until at least 2024.

## **5.0 Environmental Implications**

- 5.1 There are no environmental implications associated with this report

## **6.0 Alternative Options Considered**

- 6.1 Amendments to the scheme have not been considered for the 2021-22 year.

## **7.0 Reasons for Recommendations**

- 7.1 Gloucester City Council have managed to maintain the current scheme broadly mirroring the original fully funded scheme for eight years, to date. Whilst the Council are facing a range of financial pressures, it is not considered pertinent to amend the scheme at this time. The UK is undergoing an unprecedented pandemic and the uptake of the council tax support scheme has increased. The current scheme offers a degree of financial stability in uncertain financial times for our residents.
- 7.2 As government funding continues to decrease, we also need to strike a balance between a revised scheme that is fair and affordable for those who receive support, and also for all our residents who receive council services. However, we do remain committed to providing support to our residents with low incomes.

## **8.0 Future Work and Conclusions**

- 8.1 January 28<sup>th</sup> 2021 - meeting of the full Council are asked to resolve that the scheme approved at 2.1 above be updated to align with any legislation changes prior to April 2021 and be implemented from 01 April 2021, with the caveat that any urgent amendments to the scheme in the event of a national emergency and decreed by central government may be implemented immediately.

## **9.0 Financial Implications**

- 9.1 A review of the scheme is carried out annually to assess the financial cost of the scheme and to ensure it remains operationally and financially viable, taking into account ongoing changes in legislation and financial requirements. Central

Government no longer fully funds this locally administered award, as there was an expectation that Local Authorities would amend their local schemes to fund the shortfall. The funding for the local scheme reduced immediately by 10% of direct subsidy in April 2013. Overall funding has continued to reduce, including the level of admin grant.

9.2 For 2021/22 there are no changes proposed

(Financial Services have been consulted in the preparation this report.)

## **10.0 Legal Implications**

10.1 The Local Government Finance Act 2012 abolished Council Tax Benefit and instead required each authority to design a scheme specifying the reductions which are to apply to amounts of council tax. The prescribed regulations set out the matters that must be included in such a scheme.

The Local Council Tax Support 'LCTS' scheme is required under Section 9 of the Local Government Finance Act 2012.

10.2 Pensioners (those over state pension age) are protected from any changes, but otherwise the Council has discretion to decide how it wishes to design its scheme to cover any shortfall, in accordance with the prescribed requirements.

(One Legal have been consulted in the preparation of this report.)

## **11.0 Risk & Opportunity Management Implications**

11.1 Implementation of the minimum payment element of the Council Tax Support scheme has been deferred for another year.

11.2 The cost of the scheme and administration lies solely with the billing authority, however any uncollected council tax will be reflected in the collection fund. The council only has a minority stake in this of approximately 11.6%, with the majority of the revenue collected being dispersed to the preceptors; 74% to County Council and 14.4% to the Police and Crime Commissioner respectively.

## **12.0 People Impact Assessment (PIA) and Safeguarding:**

12.1 There are no changes proposed so PIA not relevant

## **13.0 Community Safety Implications**

13.1 None

## **14.0 Staffing & Trade Union Implications**

14.1 None

## **Background Documents:**

Local Government Finance Act 1972 -  
<http://www.legislation.gov.uk/ukpga/1972/70/contents>

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# Gloucester City Council

## The Council Tax Reduction Scheme Policy

### Citation, commencement and application

1. This is the council Tax Reduction Scheme Policy which was originally based on the The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (England) (Amendment) Regulations 2012 and comes into force on 1 April 2020. It will apply until it is further updated by the council.

2. This policy applies to all matters related to the administration of the scheme unless otherwise directed by governing legislation set by the government defined by Council Tax Reduction Scheme (Prescribed Requirements) (England) as laid each year and take effect from the 1 April each year. Detail of prescribed requirements are defined in the following orders;

The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2013

The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2014

The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) (No 2) 2014

The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2015

The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2016

The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2017

The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2018

The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2019

The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2020

3. The scheme set out in the Schedule to this policy is the scheme prescribed for the purposes of paragraph 4 of Schedule 1A to the Local Government Finance Act 1992.

# SCHEDULE

## Council Tax Reduction Scheme

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## PART 1

### Introduction

#### Introduction

1. This scheme relates to the financial year beginning with 1st April 2020 and may be cited as the Council Tax Reduction Scheme Policy of Gloucester City Council.

## PART 2

### Interpretation

#### Interpretation

2.—(1) In this scheme—

“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;

“attendance allowance” means—

(a) an attendance allowance under Part 3 of the SSCBA;

(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 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, the State Pension Credit Act 2002 and the Welfare Reform Act 2007;

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

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

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

“child benefit” has the meaning given by section 141 of the SSCBA;

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002;

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-

law, step-parent, step-son, step-daughter, brother, sister, or if any of the preceding persons is one member of a couple, the other member of that couple;

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

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

“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;

“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;

“employed earner” is to be construed in accordance with section 2(1)(a) of the SSCBA 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 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 60 of the Welfare Reform and Pensions Act 1999 and an “employment zone programme” means a programme established for such an area or areas designed to assist 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;

“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 201;

“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;

“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;

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

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

“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 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;

“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;

“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; 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; and “local authority” means a local authority in England within the meaning of the Local Government Act 1972;

“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;

“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;

“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;

“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;

“personal pension scheme” means—

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

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

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

“self-employed earner” is to be construed in accordance with section 2(1)(b) of the 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 (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990 (functions in relation to training for employment, etc.); or
- (c) the Employment, Skills and Enterprise Scheme;

“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;
- (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985;

- (c) a public authority in Northern Ireland in consequence of a function under section 49A of the Disability Discrimination Act 1995;
- (d) a public authority in consequence of a function under section 149 of the Equality Act 2010;
- (e) a best value authority in consequence of a function under section 3 of the Local Government Act 1999;
- (f) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001;
- (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;
- (h) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006;
- (i) the Care Quality Commission in exercise of a function under section 4 or 5 of the Health and Social Care Act 2008;
- (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; or
- (k) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

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 out of sums allocated to it for distribution under that section;

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

“state pension credit” means state pension credit under the State Pension Credit Act 2002;

“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, 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;

“universal credit” has the meaning given by section 1 of the Welfare Reform Act 2012( “voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

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

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

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

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

“water charges” means—

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

(b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002,

in so far as such charges are in respect of the dwelling which a person occupies as his home;

“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002;

“young person” means a person who falls within the definition of qualifying young person in section 142 of the SSCBA.

(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
- (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 (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 (disqualification); or  
 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.

(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; and
- (b) persons who are not pensioners who fall within any of classes D to F.

(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 or opposite 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.

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

(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.



(4) The authority must treat a child or young person to whom sub-paragraph (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;
- (b) the Air Force Act 1955;
- (c) the Naval Discipline Act 1957;
- (d) the Matrimonial Proceedings (Children) Act 1958;
- (e) the Social Work (Scotland) Act 1968;
- (f) the Family Law Reform Act 1969;
- (g) the Children and Young Persons Act 1969;
- (h) the Matrimonial Causes Act 1973;
- (i) the Children Act 1975;
- (j) the Domestic Proceedings and Magistrates' Courts Act 1978;
- (k) the Adoption and Children (Scotland) Act 2007;
- (l) the Family Law Act 1986;
- (m) the Children Act 1989;
- (n) the Children (Scotland) Act 1995; and
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

### **Non-dependants**

**9.—**(1) In this scheme, "non-dependant" means any person, except someone to whom subparagraph (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) or (4) where the claimant, or their partner if they have one, is a person with an assessment of Universal Credit, any person who is liable to make payments on a commercial basis to the applicant or the applicant's partner in respect of the occupation of the dwelling;
  - (f) a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.
- (3) 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.
- (4) Excepting persons where the claimant or their partner, if they have one are entitled to Universal Credit

### **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, shared parental leave, parental bereavement leave or adoption leave, or is absent from work because he is ill.
- (8) A non-dependant with an award of Universal Credit which includes an estimate of earned income will be considered to be in remunerative work regardless of the number of hours or days they work within the Universal Credit assessment period
- (9) 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 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;
- (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.

#### **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**

**18.—This provision has been removed from the scheme and no longer applies after 31 March 2020**

**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 or 4 weeks if the absence is outside of Great Britain, 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, or is detained in custody pending sentence upon conviction;
- (b) is resident in a hospital or similar institution as a patient;
- (c) is undergoing, or whose partner or dependent child is undergoing, 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 subparagraph (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 detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995(c) or, in Northern Ireland, under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986); and

- (a) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989.

(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.

(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;

“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; 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).

(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;
- (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 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;

“EEA Regulations” means the Immigration (European Economic Area) Regulations 2006.

### **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.

### **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.

(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 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 2—

“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.

**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, up to a maximum of two children unless an assessment of Child Tax Credits makes an allowance for more than two children in the assessment of that award, 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). This provision only exists where a claim has been continuous since prior to 1 April 2017 and has included the 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); (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);
- (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) 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;

“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.

**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;
- (b) an amount equal to the difference between the amounts specified in subparagraphs (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,
  - (i) any claim for reduction which is continuously paid since March 2017, any child or young person, for whom he or a partner of his is responsible and who is a member of the same household; 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) ; or
  - (ii) any claim for reduction made after 1 April 2017, any child or young person up to a maximum of 2, subject to any conditions which allow the inclusion of additional children or young people as defined within Housing Benefit Regulations, for whom he or a partner of his is responsible and who is a member of the same household; 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)

- (d) where a child or young person is considered part of the household and the claim for support from this scheme has been continuously awarded prior to 1 April 2017 an additional element defined as the “family premium” will be included. The family premium will not be included in any new award determined on or after 1 April 2017
- (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—
  - (iii) work-related activity component; or
  - (iv) 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 had an assessment 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).

(5) The authority may at any time substitute its own estimate of the maximum amount where information is held indicating the Universal Credit calculation has been made in error or ignorance of a material fact which would otherwise lead to a higher award of support from the scheme

## 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 and persons who are not 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 and persons who are not 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.

### **Non-dependant deductions: pensioners and persons who are not 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, £12.40 x 1/7;
- (b) in respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, £4.05 x 1/7.

(2) Subject to the provisions in paragraph 3, 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 £217.00, the deduction to be made under this paragraph is that specified in subparagraph (1)(b);
- (b) not less than £217.00 but less than £377.00, the deduction to be made under this paragraph is £8.25;
- (c) not less than £377.00 but less than £469.00, the deduction to be made under this paragraph is £10.35.

(3) Where the claim for support is treated under conditions of the scheme for a person who is not a pensioner and subject to provisions made in paragraphs (4) to (9), 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 £377.00, the deduction to be made under this paragraph is £6.00 or;
- (b) is not in remunerative work the deduction to be made under this paragraph is £6.00;

(4) 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.

(5) 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.

(6) 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) 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).

## 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**

**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) 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 F**

**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 or D(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 or E(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), 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).

## 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.

(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
    - (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 (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 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;

- (a) subsequent to that determination the applicant's capital rises to more than £16,000; and
- (b) 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.

### 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 adjust the amount of the income as adjusted in accordance with subparagraph (2) so far as necessary to take into account—

(a) the amount of the award of universal credit, determined in accordance with subparagraph (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)

(d) of information held by the authority which indicates the Universal Credit may be incorrect and would otherwise lead to a higher award of support from the scheme than the claimant may otherwise be entitled to. The authority shall apply these substituted figures until it is satisfied the Universal Credit assessment is correctly stated

(4) The amount for the award of universal credit to be taken into account for the purposes of subparagraph (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 subparagraph (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, in any case where article 31(2)(c) applies;
- (i) income from capital 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;
  - (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;
- (xvi) ordinary statutory paternity pay payable under Part 12ZA of the SSCBA(c);
- (xvii) 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;
- (l) a payment made—
  - (i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (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);
- (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,
  - (ii) the Civil List Act 1937,
  - (iii) the Civil List Act 1952,

- (iv) the Civil List Act 1972, or
  - (v) the Civil List Act 1975;
  - (u) any income in lieu of that specified in paragraphs (a) to (r);
  - (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;
  - (b) the Social Security (Hospital In-Patients) Regulations 1975;
  - (c) section 30DD or section 30E of the SSCBA (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.

#### **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;
- (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 in respect of unfair dismissal or unlawful discrimination;
- (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 subparagraph (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 (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.

### **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 or, as the case may be, section 26(1) of the Children (Scotland) Act 1995; 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;

(iv) the National Health Service Commissioning Board or a clinical commissioning group established under section 14D of the National Health Service Act 2006; or

(v) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;

### **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.
- (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.
- (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.

(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.

(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—

- (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;
- (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 subparagraph (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.

(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 subparagraph (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—
  - (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 (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.

### **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 subparagraph (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 subparagraph (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, 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 subparagraph (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—

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

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;
- (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 subparagraph (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 (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;
    - (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;
    - (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,

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 (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
  - (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 subparagraph 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; or



- (e) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975(a).
- (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—
    - (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; or
  - (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or

- (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010; or
  - (e) by—
    - (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010; or
    - (ii) local authorities registered under section 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; 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, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or
  - (l) by a 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 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.
- (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;
- (h) there is payable in respect of him one or more of the following pensions or allowances—
- (i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the SSCBA;
- (ii) attendance allowance under section 64 of the SSCBA;
  - (iii) 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 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.

(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
- (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; 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.

### **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, 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.
- (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 subparagraph (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) (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.

## **CHAPTER 7**

### **Capital**

## Calculation of capital

**63.**—(1) The capital of an applicant (to be taken into account must be, subject to subparagraph (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 subparagraph (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.

(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);

(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 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 subparagraph (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 incomebased 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 partweek, 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 subparagraph if the applicant makes a further application and the conditions in subparagraph (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 subparagraph (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 subparagraph (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 subparagraph (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 subparagraph (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 subparagraph (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 subparagraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).
- (4) Subject to subparagraph (7), for the purposes of subparagraph (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 redetermining 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.

## **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 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;
- (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
- (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;

“student loan” means a loan towards a student’s maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998, section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 and 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 fulltime 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.

(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.

- (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;
  - (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.

(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 subparagraph (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 subparagraph (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;

- (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
- (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
- (e) on account of any other person but only if that person is residing outside the United Kingdom and there is no applicable amount in respect of him;
- (f) intended to meet the cost of books and equipment;
- (g) intended to meet travel expenses incurred as a result of his attendance on the course;
- (h) intended for the child care costs of a child dependant;
- (i) of higher education bursary for care leavers made under Part 3 of the Children Act 1989.

(3) Where a student does not have a student loan and is not treated as possessing 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 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.

(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.

(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 subparagraph (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; 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.

**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.** The provisions in this section have been withdrawn from the scheme and no longer apply from 1 April 2020

**96.** The provisions in this section have been withdrawn from the scheme and no longer apply from 1 April 2020.

#### **Amount of extended reduction: persons who are not pensioners**

**97.** The provisions in this section have been withdrawn from the scheme and no longer apply from 1 April 2020

#### **Extended reductions—movers: persons who are not pensioners**

**98.** The provisions in this section have been withdrawn from the scheme and no longer apply from 1 April 2020

#### **Relationship between extended reduction and entitlement to a reduction by virtue of classes D to F**

**99.** The provisions in this section have been withdrawn from the scheme and no longer apply from 1 April 2020

#### **Extended reductions (qualifying contributory benefits): persons who are not pensioners**

**100.** The provisions in this section have been withdrawn from the scheme and no longer apply from 1 April 2020 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

#### **Duration of extended reduction period (qualifying contributory benefits): persons who are not pensioners**

**101.** The provisions in this section have been withdrawn from the scheme and no longer apply from 1 April 2020

**Amount of extended reduction (qualifying contributory benefits): persons who are not pensioners**

**102.** The provisions in this section have been withdrawn from the scheme and no longer apply from 1 April 2020

**Extended reductions (qualifying contributory benefits)—movers: persons who are not pensioners**

**103.** The provisions in this section have been withdrawn from the scheme and no longer apply from 1 April 2020

**Relationship between extended reduction (qualifying contributory benefits) and entitlement to reduction by virtue of classes D to F**

**104.** The provisions in this section have been withdrawn from the scheme and no longer apply from 1 April 2020

CHAPTER 3

Extended reductions: movers in the authority's area

**Extended reductions: applicant moving into the authority's area**

**105.** The provisions in this section have been withdrawn from the scheme and no longer apply from 1 April 2020

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 (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.

(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.
- (14) Where a change is applied to a claim identifying a higher award of reduction than the person was entitled to. The amount of overpaid support may be reduced by any further entitlement that may have been due if other circumstances relating to the household were known at the time of the assessment. This is referred to as underlying entitlement

### **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).

### **Change of circumstances where Universal Credit is in payment**

**108A.**—(1) Subject to the following provisions where the applicant or their partner is in receipt of Universal Credit, the claim for council tax reduction will not be subject to change due where the next or any subsequent month's universal credit assessment period award alters by an amount of less than £60.00.

(2) Where a claim for Universal Credit is restricted by the Benefit Cap the claim for support will be revised in circumstances where either;

(i) The new assessment periods contains earnings which were previously not included within the Universal Credit claim or;

(ii) The new assessment period does not contain earnings in the calculation of the award which were present in the previous assessment

(3) Where there is a change in the liability in the amount of council tax payable the claim will be updated to reflect all changes in the household's circumstances

(4) The council may alter the award on a monthly basis where it feels it is appropriate to do so to prevent hardship of the claimant

## **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 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.

(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 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 a 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 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 or employment and support allowance or, the first day of entitlement to income support, an income-based jobseeker's allowance or an award of income-related employment and support allowance arising from that claim;
  - (iii) in a case where a new claim for Universal Credit has been made and an assessment of entitlement is made by the Secretary of State the first date of entitlement to Universal Credit arising from that claim or the date the person became liable to pay council tax at their current address whichever is the latter
  - (iv) in a case where a person on Universal Credit who is subject to a change of circumstances and notification is received by the authority within one of the date of the change, the date on which the change takes place
- (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 award of income-related employment and support allowance,
  - (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 a the changes 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
- (b) in the case of an application made by a person who is not a pensioner, the thirteenth reduction week following the date on which the application is made, the authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.

(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 or a person who is in receipt of Universal Credit—

- (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 1 month before the date the application was made;
- (c) the day 1 month 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;
    - (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.
  - (c) to a person who has been awarded Universal Credit and their application is treated as being received by electronic communication directly from the Department of Work and Pensions. The application itself will be considered to satisfy the conditions of establishing and evidence of the identity and national insurance number of the claimant and their partner if they have one relying on verification carried out by that agency
- (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.

(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;
- (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.

(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.
- (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.
- (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 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).

## 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. 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.

(9) Subject to meeting the conditions above where a person has applied for and been awarded Universal Credit where the Department of Work and Pensions electronic communication of the award decision notice will be accepted as an application for support

(a) The notification must in a format which is acceptable to the authority and in a format compatible with the authority's systems to enable the form to be downloaded; and

(b) There must be an award of Universal Credit. For clarification where an award of Universal Credit is not made the decision notice will not constitute a claim for the purpose of determining support.

#### **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) £187.75
(2) Couple—	(2) £280.85
(3) If the applicant is a member of a polygamous marriage and one or more members of the marriage have attained pensionable age;	(3) £280.85
(a) for each additional spouse who is a member of the same household as the applicant.	(a) £93.10

###### 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> <i>Child or young person</i>	<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) £68.27;
(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) £68.27.

(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 £17.60.

## 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 (5).

(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 (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).

### **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—

<i>Provision</i>	<i>Amount</i>
(a) where the applicant satisfies the condition in paragraph 6(2)(a);	(a) £66.95;

(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) £66.95;
(ii) in a case where there is no-one in receipt of such an allowance.	(ii) £133.90.
(2) Enhanced disability premium.	(2) £26.60 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) £65.52 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied
(4) Carer Premium.	(4) £37.50 in respect of each person who satisfies the condition specified in paragraph 9.

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## 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). All amounts in this schedule will be updated annually in line with Housing Benefit Regulations for people who are not pensioners unless otherwise decided by the council to use alternative figures

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<i>Column (1)</i>	<i>Column (2) Person or couple</i>	<i>Amount</i>
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(1) A single applicant who—	(1)	
(a) is entitled to main phase employment and support allowance;	(a)	74.35;
(b) is aged not less than 25;	(b)	74.35;
(c) is aged not less than 18 but less than 25.	(c)	58.90.
(2) Lone parent.	(2)	74.35.
(3) Couple.	(3)	£116.80.

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2. For 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)—

<i>Column (1)</i> <i>Child or Young person</i>	<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;	£68.27
(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.	£68.27

For any new made after 1 April 2017 the maximum number of additional elements added to the applicable amount of any claim for a child or young person will be 2 unless any exemption applies in accordance with Housing Benefit Regulations 2006, as amended, pertaining to the setting of the applicable amount for claims from people of working age

(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, £17.60.

(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 applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and

(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—

- (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, 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 1st

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
- (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 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972; 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 (a) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the SSCBA, 196 days; (b) 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.

(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
  - (iii) 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 (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

### **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—

<i>Premium</i>	<i>Amount</i>
(a) where the applicant satisfies the condition in paragraph 9(a);	(a) £34.95;
(b) where the applicant satisfies the condition in paragraph 9(b).	(b) £49.80.
(2) Severe Disability Premium—	(2)
(a) where the applicant satisfies the condition in paragraph 11(2)(a);	(a) £66.95;

- (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);
  - (ii) in a case where there is no-one in receipt of such an allowance.
- (b)(i) £66.95;
- (b)(ii) £133.90.
- (3) Disabled Child Premium. (3) £65.52 in respect of each child or young person in respect of whom the condition specified in paragraph 13 is satisfied.
- (4) Carer Premium. (4) £37.50 in respect of each person who satisfies the condition specified in paragraph 14.
- (5) Enhanced disability premium (5)
- (a) £26.80 in respect of each child or young person in respect of whom the conditions specified in paragraph 12 are satisfied; (b) £17.10 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) £24.50 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.

## 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 £29.55.

**24.** The amount of the support component is £39.20.

## **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.

## SCHEDULE 4

### Amount of alternative maximum council tax reduction: 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) 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.

(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) <i>Second adult</i>	(2) <i>Alternative maximum council tax reduction</i>
(a) Where the second adult or all second adults are in receipt of income support, an income-related employment and support allowance or	(a) 25 per cent of the council tax due in respect of that day; related employment and support allowance or



state pension credit or are persons on an income-based jobseeker's allowance;

(b) where the gross income of the second adult (b)

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—

(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 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.

(c) 100 per cent of the council tax due in respect of that day.

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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 We Love Manchester Emergency Fund, the Grenfell Tower charitable funds, the Grenfell Tower Residents's Discretionary Fund, the Windrush Compensation Scheme 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) 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.

(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
- 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
- (c) 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.

## SCHEDULE 6

## Amounts to be disregarded in the calculation of income other than earnings: pensioners

1. The whole of any payment made in respect 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 or payment falling within article 39(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(a), so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded;
  - (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.
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 subparagraph (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 7

### 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 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).

(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) (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

(iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and—

(aa) the applicant's applicable amount includes a disability premium 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.

## SCHEDULE 8

### 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 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
  - (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 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.

**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.** The whole of any payment made in respect of the following —

- (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 subparagraph (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);

) 2008 c.28.

- (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).

**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(a) 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—

- (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.

(4) 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 subparagraph (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 subparagraph (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;
- (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 to assist disabled persons to obtain or retain employment despite their disability.

**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.

**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 9

### 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;

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 reengaged, 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 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

(iii) was the partner of that person at the date of his death;

“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 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.

(a) S.I. 2001/1002.

**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.

**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 (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.

## SCHEDULE 10

### 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 reengaged 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 subparagraph (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 or section 66 of the Housing (Scotland) Act 1988 (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

(a) to purchase premises intended for occupation as his home; or



- (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of those premises as his home.

**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), 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 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 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.
- (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).









# Gloucester City Council

<b>Meeting:</b>	<b>Licensing and Enforcement Committee</b>	<b>Date:</b> 8 December 2020
	<b>Council</b>	28 January 2021
<b>Subject:</b>	<b>Licensing Act 2003 – Revised Licensing Policy Statement</b>	
<b>Report Of:</b>	<b>Head of Place</b>	
<b>Wards Affected:</b>	<b>All</b>	
<b>Key Decision:</b>	<b>No</b>	<b>Budget/Policy Framework: Yes</b>
<b>Contact Officer:</b>	<b>Darren Mountford, City Centre Improvement Officer (Licensing Lead)</b>	
	<b>Email:</b> <a href="mailto:darren.mountford@gloucester.gov.uk">darren.mountford@gloucester.gov.uk</a>	<b>Tel:</b> 396240
<b>Appendices:</b>	<b>1. Draft Licensing Policy Statement</b> <b>2. List of Consultees</b> <b>3. Formal Written Responses</b>	

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

- 1.1 To present to members the result of the consultation on the Draft Revised Licensing Policy Statement.
- 1.2 To agree a final draft version of the Licensing Policy Statement for adoption by Council at the meeting on 29th January 2021.
- 1.3 To note that the cumulative impact zone, within the Statement of Licensing Policy, is currently under review. There is a separate report going before members asking for the Cumulative Impact Assessment to go out for a statutory consultation with a view to a further report being presented to the Licensing and Enforcement Committee for a final decision in March 2021.

### 2.0 Recommendations

- 2.1 The Licensing and Enforcement Committee is asked to **APPROVE** the Licensing Policy Statement and **RECOMMEND** that:
  - (1) The revised Licensing Policy Statement – Licensing Act 2003, is approved and adopted by Council.
- 2.2 Council is asked to **RESOLVE**:
  - (1) To adopt the Licensing Policy Statement 2021-2026 – Licensing Act 2003 as set out in Appendix 1.

### **3.0 Background and Key Issues**

#### **Statement of Licensing Policy**

- 3.1 The Council is the Licensing Authority for the purposes of the Licensing Act 2003.
- 3.2 In accordance with the provisions of the Act, the Council is required to determine and publish a Statement of Licensing Policy at least every five years.
- 3.3 The Council's current Statement of Licensing Policy under the Licensing Act 2003 took effect in 2016.
- 3.4 The Licensing Policy Statement is now due to be reviewed and the new Statement will need to be in place by 29<sup>th</sup> January 2021.
- 3.5 The Licensing and Enforcement Committee on 8<sup>th</sup> September 2020 approved the draft revised Licensing Policy Statement for the purposes of consultation.
- 3.6 The document has been subject to an eight week consultation that ran from 17<sup>th</sup> September 2020 until 12<sup>th</sup> November 2020.
- 3.7 A list of consultees is attached at Appendix 2.
- 3.8 In addition the consultation was published on the Council's website.
- 3.9 In total two formal written responses were made by email and these are attached as Appendix 3 and are summarised below.
- 3.10 Response from the Chair of the Licensed Victuallers Association (LVA)
- The Chair of the LVA comments were mostly complimentary and asked if under paragraph 9 of the Policy a reference to the LVA could be mentioned.
- 3.11 I have made reference to the LVA within the Policy. This can be seen at Paragraph 9.12 and is shaded in red.
- 3.12 Response from Richard Graham MP
- 3.13 Mr Graham's comments were regarding Anti-Social Behaviour and Off-licences selling alcohol to people that appear to be under the influence of alcohol.
- 3.14 These concerns have been noted and can be dealt with by way of a review of the Premise Licence if there is evidence to support this. We will continue to work with partners to gather any evidence that might help to bring a review of a particular premise.
- 3.15 Another action is through education where a written warning might suffice in order to stop any further complaints coming in against a licensed premise.

## **Cumulative Impact**

- 3.16 The section of the policy relating to Cumulative Impact at this point has been left unchanged. This is because the Council's Cumulative Impact Policy is currently subject to a separate review, which is in line with the new requirements of the Licensing Act 2003 (as amended by the Policing & Crime Act 2017).
- 3.17 By way of background, as the Committee is already aware, "cumulative impact" is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. This Council has had a Cumulative Impact Policy ("CIP") in place since 2004 and it was last reviewed in 2016. It covers a specific geographical area in the city centre. In terms of the legal effect of a CIP, the CIP does not remove the Committee's discretion to grant new premises licenses or vary existing ones and all licensing applications must be treated on their individual merits and determined in accordance with the licensing objectives and relevant legal considerations. However, what the CIP does do, is create a rebuttal presumption that the grant or variation of a premises license within the CIP area will have a cumulative impact on the promotion of the licensing objectives.
- 3.18 Where a Cumulative Impact Policy has been adopted, the Licensing Act 2003 requires the Council to periodically undertake a cumulative impact assessment, based on evidence, to determine whether the number or density of premises can be shown to be having an impact and whether that impact is undermining the Council's duty to uphold the 4 licensing objectives.
- 3.19 At the Licensing and Enforcement Committee in September members approved an eight week consultation to work with partners i.e. the Police and Public Health to seek their view on whether there is still a need for a CIP within the Statement of Licensing Policy. A separate report has been written on this for members to consider.

## **4.0 Social Value Considerations**

- 4.1 The Policy aims to provide clarity to applicants, interested parties and Responsible Authorities on how the Licensing Authority will determine applications for the supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment.

## **5.0 Environmental Implications**

- 5.1 The statement of Licensing Policy aims to balance the social and economic benefits of licensable activities against the potential adverse environmental implications, such as public nuisance.

## **6.0 Alternative Options Considered**

- 6.1 As there is a legal requirement for the licensing authority to review, consult and republish their Statement of Licensing Policy every five years, no alternative options have been considered appropriate on this occasion.

## **7.0 Reasons for Recommendations**

- 7.1 The Statement of Licensing Policy provides the framework in which the licensing function is administered and the Council's approach under the Licensing Act 2003.
- 7.2 The Licensing Act 2003 requires a statutory review of the Statement of Licensing Policy every 5 years but it does not prevent an earlier review.
- 7.3 The Licensing Authority must have regard to the statutory guidance issued under Section 182 of the Licensing Act 2003 when drafting its policy. The latest version, issued by the Home Office in 2018, has been referred to during the drafting of this policy.

## **8.0 Future Work and Conclusions**

- 8.1 The Council must publish its Licensing Policy Statement prior to 29 January 2021 so that it may be effective from that date.
- 8.2 The next review of the Policy Statement is scheduled for 2025.
- 8.3 The draft Licensing Policy Statement has been widely consulted upon and the feedback is contained within this report. Apart from minor amendments already made to the draft document, Members must decide whether they wish for any other amendments to be made before the final version is approved by Full Council.

## **9.0 Financial Implications**

- 9.1 The recommendations have no impact on the Council's budgets  
(Financial Services have been consulted in the preparation this report.)

## **10.0 Legal Implications**

- 10.1 The Council has a statutory duty to have a Statement of Licensing Policy. It is important that the Statement of Licensing Policy provides an open and transparent policy regarding the Council's functions under the Licensing Act 2003. The Statement of Licensing Policy forms an essential part of the decision making process for licensing applications.
- 10.2 The Act also requires that the Statement of Licensing Policy should be kept under review and must be re-published at least every five years.
- 10.3 Failure to determine the Statement of Licensing Policy could lead to judicial challenge.  
(One Legal have been consulted in the preparation this report.)

## **11.0 Risk & Opportunity Management Implications**

- 11.1 Failing to prepare and publish a new Statement of Licensing Policy would leave the Council in a position where it was failing to comply with its duties as a licensing authority under the provisions of the Licensing Act 2003.

## **12.0 People Impact Assessment (PIA):**

12.1 The screen stage considered risks to customers in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion. A further assessment will be conducted to consider any feedback from the consultation.

## **13.0 Other Corporate Implications**

### Community Safety

13.1 None

### Sustainability

13.2 None

### Staffing & Trade Union

13.3 None

## **Background Documents:**

Licensing Act 2003

Guidance issued under S182 of the Licensing Act 2003.

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## THE LICENSING ACT 2003

## LICENSING POLICY STATEMENT

2021/2026



## **PREAMBLE**

By virtue of the Licensing Act 2003 Gloucester City Council (the Licensing Authority) has responsibility for the licensing of all premises in the District that sell alcohol, provide regulated entertainment or serve hot food or drink to the public between 23.00 and 05.00. In addition the Authority must issue Personal Licences to persons responsible for the retail sale of alcohol and accept Temporary Event Notifications from persons requiring occasional permissions for activities licensable under the Act.

To comply with the legislation, Licensing Authorities must publish a Licensing Policy that sets out the position in relation to its duties under the Licensing Act to guide its work in implementing the Act. The Council welcomes the powers granted to it by the legislation and will continue to use them, in consultation with 'Responsible Authorities' (e.g. Police, Fire Service, Planning, Environmental Health etc), licensees, local businesses and residents, in a socially responsible way.

This document is the sixth Licensing Policy Statement to be consulted upon by Gloucester City Council. The Licensing Authority will consult widely on this issue as it affects a very large number of people in the District (e.g. licensees, residents and businesses) as well as statutory agencies and the like.

This Licensing Policy has been drawn together based on the last edition with some updates where appropriate and reflects the local balance between the commercial interests of the licensed trade and the communities they serve and impact upon. The Act requires the Council to revise and republish the policy every five years. This Policy will come into force January 2021.

**Comments and queries should be directed to:**

**Darren Mountford  
City Improvement – (Licensing Lead)  
Gloucester City Council  
Shire Hall  
Westgate Street  
Gloucester  
GL1 2TG**

**Email:**        [mailto: cityimprovement@gloucester.gov.uk](mailto:cityimprovement@gloucester.gov.uk)

**Phone:**        **01452 396396**

**Web:**            [www.gloucester.gov.uk](http://www.gloucester.gov.uk)



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## 1. INTRODUCTION

- 1.1 Gloucester City Council is situated in the County of Gloucestershire which contains 6 district councils in total. The Council area has an estimated population of 129,128 making it the largest urban Authority in the County in terms of population. In terms of area it is one of the smallest covering just 15.64 square miles. The City of Gloucester is the County town for Gloucestershire and its area is mainly urban. It is surrounded by the rural authorities of the County. The Docks, Quays and Kings Quarter area of the City is a focus of a major regeneration and there is a substantial housing development to the south of the City in an area known as Kingsway situated between the Quedgeley by-pass and the M5 Corridor.

## 2.0 THE LICENSING ACT 2003

2.1 Gloucester City Council (the Licensing Authority) is responsible for the licensing of 'licensable activities' under the Licensing Act 2003 (The Act). According to the Act, licensable activities are as follows:

- The retail sale of alcohol (including via the internet or mail order);
- The supply of alcohol to members of registered clubs;
- The provision of regulated entertainment
- The supply of hot food or hot drink between 2300 hours and 0500 hours ('late night refreshments').

2.2 The Licensing Act 2003 imposes a duty on the City Council as Licensing Authority to produce, develop and review a Licensing Policy that sets out the policies that the Licensing Authority will generally apply to promote the licensing objectives when making decisions under the Act. The Licensing Authority will actively seek to promote the four statutory licensing objectives that are set out in section 4 of the Licensing Act 2003, which are as follows:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

These 4 objectives are the only matters to be taken into account in determining the application. Each objective is of equal importance and the Licensing Authority's policy relating to each of them is given in this Licensing Policy. Where the Licensing Authority receives relevant representations regarding an application from a "Responsible Authority" (a list of Responsible Authorities is attached together with their contact details in Appendix I) or 'Other Persons' The licensing authority's discretion is invoked to consider the matter. 'Other Persons' may include any of the following:

- Residents living near the premises
- Persons with an interest in the premises or locality
- Local Councillors
- Businesses with an interest in the premises or locality
- Organisations with an interest in the locality, premises or licensable activities

The Licensing Authority may consider attaching conditions to licences to promote the licensing objectives as appropriate. If no relevant representations are received by the Licensing Authority the application will be granted in the terms sought and no additional conditions imposed; conditions will be proportionate and only those appropriate to achieve the licensing objectives will be applied.

2.3 This Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 and the Guidance issued by the Home Secretary under Section 182 of the Act. The Policy will take effect on 29 January 2021 and will remain in force for a period of not more than five years. A review and further consultation will be carried out no later than Autumn 2025. If any amendments to the Licensing Policy are needed before the review period they will only be made following consultation with those parties referred to in paragraph 2.4 below.

- 2.4 There are a number of groups who have an interest in the licensing of premises under the Licensing Act 2003, including the licensed trade, customers, residents local councillors and enforcing agencies. All these parties have views and concerns that require consideration as part of the licensing function. Before publishing the Licensing Policy and any amendments to it, the Licensing Authority will consult with Gloucestershire Police; Gloucestershire Fire and Rescue Service; City Council Planning and Environmental Health, bodies representing local holders of personal licences, premises licences and club premises certificates; and local businesses and residents in the District. In addition, the Licensing Authority may also consult with other local bodies and agencies as appropriate.
- 2.5 In drawing up and reviewing this policy the Licensing Authority must consult with:-
- The Chief Officer of Police for the area;  
 The Fire and Rescue Authority for the area;  
 Gloucestershire Public Health  
 Persons/bodies representative of local holders of premises licences;  
 Persons/bodies representative of local holders of club premises certificates;  
 Persons/bodies representative of local holders of personal licences; and  
 Persons/bodies representative of businesses and residents in its area.
- In addition the Licensing Authority will seek to identify and consult with other organisations and individuals who may be affected by this policy in an attempt to ensure that a balanced policy is achieved.
- The Policy Statement and future drafts for consultation will be placed on the City Council website which can be found at [www.gloucester.gov.uk](http://www.gloucester.gov.uk).
- 2.6 The Council will give appropriate weight to the views of consultees.
- 2.7 The objective of the licensing process is for a unified system of regulation to allow the sale and supply of alcohol, and the provision of regulated entertainment and late night refreshment, to be carried out in a way that promotes the licensing objectives. The Licensing Authority's aim is to facilitate well-run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents. To this end, conditions attached to the various permissions granted under the Act will be focused on matters within the control of the individual licensees and others granted relevant permissions.
- 2.8 Licensing law is not the primary mechanism for the general control of nuisance and anti social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres. Therefore, as a matter of policy the Licensing Authority expects every holder of their licence, certificate or permission to be responsible for minimising the impact of their activities and anti social behaviour by their patrons within the vicinity of their premises.
- 2.9 The Licensing Authority's Policy is to create a safe and family-friendly environment within the District, particularly within the City Centre.
- 2.10 The Licensing Authority is keen to promote the artistic and cultural life of the City and licensing will be approached with a view to encouraging new and innovative forms of public entertainment that are consistent with the licensing objectives.

- 2.11 When applications are considered by the Licensing Authority following receipt of relevant representations, they will be considered on their own merits. The Licensing Authority will seek to balance the needs of the wider community, local community and commercial premises and activities, against the needs of those who may be adversely affected by the activities. The views of vocal minorities will not usually predominate over the general interests of the community. Where it is necessary to depart from the national guidance, either in this policy or at any other time, the Licensing Authority will give clear and sound reasons for doing so.
- 2.12 The Licensing Authority will work in partnership with other local authorities, particularly in Gloucestershire, to ensure a consistent approach is taken to licensing matters whilst respecting the differing needs of the individual communities.

### **3.0 THE LICENSING PROCESS**

- 3.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 3.2 The Licensing Authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide an efficient service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with those matters.
- 3.3 In addition, it is expected that many of the decisions and functions will be largely administrative with no perceived areas of contention and, in the interests of efficiency and effectiveness these are delegated to Officers. Attached at Appendix A to this Licensing Policy is a Table of Delegated Functions setting out the agreed delegation of decisions and functions to the Licensing Authority's Licensing Committee, Sub-Committees and Officers. These delegations are without prejudice to Officers referring an application to a Sub Committee or the Licensing Committee if considered appropriate in the circumstances of the case. The Licensing Committee will regularly receive, review, comment and consider other relevant policies relating to employment, transport, cultural development and community safety as far as they affect its' licensing function.
- 3.4 The Licensing Act 2003 requires all applicants for new and varied premises licences to provide an Operating Schedule. Applicants when completing their operating schedule should consider the licensing objectives and state in this schedule any steps that they propose to take to promote the licensing objectives. Further details of issues that applicants may wish to consider are listed under the sections for each of the licensing objectives, sections 4 to 7 and in particular the list in paragraph 6.5.
- 3.5 The Licensing Authority will work closely with any relevant planning and transportation policies, tourism and cultural strategies, equality and diversity policies, the evening economy strategy in Gloucester, or local crime and disorder strategies and to take account of these where appropriate.
- 3.6 Operators of licensed premises are reminded that they will have to comply with planning, environmental health, fire safety, licensing and building control legislation when opening or adapting licensed premises.
- 3.7 Responsible Authorities and Other Persons may make representations about a licence application. In order for the representations to be relevant they must be made within 28 days of the application being lodged with the Licensing Authority and they must relate to one of the 4 licensing objectives (prevention of crime and disorder, public safety, prevention of public nuisance or protection of children from harm). Where relevant representations have been received from responsible authorities or other persons, the Licensing Authority will consider whether it is necessary, having regard to the representations, to modify the conditions proposed in the operating schedule. In such cases, the authority will seek to impose the minimum burden which is necessary in order to promote the licensing objectives in the individual case.

- 3.8 It is important to note that relevant representations do not have to be of a negative nature. This is why the word 'objection' is not used in the Licensing Act. The Department for Culture Media and Sport want to allow for representations urging the grant of a licence e.g. for cultural reasons. Clearly if all the representations received for an application were to be of a positive nature then there would be little point holding a Hearing. Also should a Hearing be required where both positive and negative representations have been received it will lend a more balanced and beneficial perspective to that Hearing.
- 3.9 Where relevant representations are received and upheld, the Licensing Authority will seek to avoid confusion and duplication by not imposing licence conditions that are required under other legislation, except where they can be exceptionally justified to promote the licensing objectives.
- 3.10 Where relevant representations are received applications will be considered on their individual merits and decisions made in relation to licensing applications will be made entirely separately from any decision in relation to planning.
- 3.11 Some regulations do not cover the unique circumstances of some entertainment. Where relevant representations are received, and upheld, the Licensing Authority will consider attaching conditions to premises licences and club premises certificates where these are necessary to promote the licensing objectives and are not already provided for in any other legislation.
- 3.12 In circumstances where conditions are imposed, they will be tailored to the individual style and characteristics of the premises and events concerned. In addition, the Licensing Act 2003 prescribes mandatory conditions in certain circumstances.
- 3.13 Additional information relating to the licensing application process is contained within Appendix B to the statement of Licensing Policy.

#### **How this policy applies**

- 3.14 All applications for new premises licences or variations need to be supported by an operating schedule. Applicants should specify (among other things) the steps that they propose to promote each of the licensing objectives.
- 3.15 If no responsible authority or other person lodges an objection (known as a "relevant representation") to the application, the Licensing Authority will grant the application as set out in the operating schedule, subject only to mandatory conditions under the Licensing Act 2003. The steps proposed by the applicant will become licence conditions but only insofar as they relate to the licensing objectives, are achievable by the applicant and are enforceable by the Authority. The Licensing Authority has no discretion to refuse the application or add to the conditions arising from the operating schedule.
- 3.16 Where, however, there are relevant representations, then a hearing before a licensing sub-committee will normally follow. After the hearing, the sub-committee must, having regard to the representations, take such steps as it considers necessary to promote the licensing objectives. These may include refusing the application, or adding to or modifying the conditions proposed in the operating schedule.

- 3.17 In exercising its discretion, the licensing sub-committee will have regard (amongst other things) to this Licensing Policy.
- 3.18 Where there have been relevant representations, the Licensing Authority will always consider the merits of the case, and interfere with the operating schedule only when, and to the extent, appropriate to promote the licensing objectives. Blanket or standard conditions will not be applied.



## **THE LICENSING POLICY OBJECTIVES**

### **4.0 PREVENTION OF CRIME AND DISORDER**

- 4.1 The Council places considerable importance on the prevention of crime and disorder and will fulfil its duty under Section 17 of the Crime and Disorder Act 1988 to do all it reasonably can to prevent crime and disorder in the District.
- 4.2 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, if not properly managed, can sometimes be a source of crime and disorder problems.
- 4.3 The Licensing Authority recommends that licensees of premises develop Operating Schedules that address these issues from the design of the premises through to the daily operating of the business.
- 4.4 In developing an Operating Schedule, applicants may wish to seek advice from the Licensing Authority or Gloucestershire Police. When planning and preparing Operating Schedules applicants may take into account local planning and transport policies, tourism, cultural and crime and disorder reduction strategies as appropriate.
- 4.5 The Licensing Authority along with the Police and Trading Standards fully supports the aims and objectives of the Gloucester LVA and City Safe Scheme and encourages the use of the City Safe Radio System. The Authority will also continue to work with the Safer Gloucester Partnership, NightSafe Partnership, Safer Community Teams, Neighbourhood Projects, Ward Councillors and others to help reduce crime and disorder associated with licensed premises.
- 4.6 The prevention of crime and disorder may, for example, be promoted by employing registered door supervisors, ensuring all staff have appropriate training, incorporating a search policy into the entry conditions of the premises, the location and standard of any CCTV on the premises, and the inclusion of written dispersal policies.

#### **Door Supervisors**

The Licensing Authority recommends that premises currently using door staff will continue to do so, and that premises who operate in the City Centre or premises seeking to change their style of operation, in particular to a music and dancing venue, will employ the use of door staff.

#### **CCTV**

Where appropriate applicants are encouraged to install a CCTV system that will be maintained and will record at all times the premises are open to the public. All recordings to be stored chronologically in a secure place for a period of not less than 31 days and to be produced to the Police and authorised officers of the Council on request.

- 4.7 Applicants for late night entertainment and liquor premises are advised to agree a protocol with Gloucestershire Police on the handling of illegal drugs found on their premises.

**Cumulative Impact – Special Policies** Please refer to the separate report on the Cumulative Impact Review

- 4.8 Where there is evidence that a particular area of the District is already suffering adverse effects on the licensing objectives from the concentration of late night premises, when determining any further application for premises within the area identified when relevant representations have been received and upheld the Licensing Authority will take into account:
- the character of the surrounding area;
  - the impact of the licence on the surrounding area, both individually and cumulatively with existing licences; and
  - the nature and character of the proposed operation.
- 4.9 The Licensing Committee's starting point is in terms of seeking a reduction in crime and disorder throughout the City, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998, and an improvement in local amenity through reduction of anti social behaviour.
- 4.10 The Licensing Authority recognises that the cumulative impact of a number of late night entertainment premises (including takeaway establishments) in some areas may result in an increase of people either walking through, or congregating in, streets during the night. This may in turn have a number of undesirable consequences, for example:
- an increase in crime against property and/or person;
  - an increase in noise causing disturbance to residents;
  - traffic congestion and/or parking problems;
  - littering and fouling.
- 4.11 This may result in the amenity of local residents in some areas being placed under pressure, as it will not always be possible to attribute a particular problem to customers of particular premises. This means that, whilst enforcement action may be taken to ensure conditions are complied with, this may not resolve all the problems.
- 4.12 Where, following the receipt of relevant representations, there is evidence that a particular area of the City is already suffering adverse effects from the concentration of late night premises, the Licensing Authority will take into account:
- the character of the surrounding area;
  - the impact of the licence on the surrounding area, both individually and cumulatively with existing licences; and
  - the nature and character of the proposed operation.
- 4.13 As part of this policy the Licensing Authority will not consider whether or not there is a need for any particular type of premises (as this is largely a matter for the local planning authority) but will consider the cumulative impact any new licensed premises would have.

**Special Policy in respect of Eastgate Street and area**

- 4.14 The Licensing Authority is aware of the cumulative impact that can occur from a concentration of licensed premises in a particular area, as a result of the increased number of people dispersing from licensed venues or congregating in streets late at night. Such impact can include an increase in crime, an increase in noise and other disturbance to residents, parking difficulties and general traffic congestion

and an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure but these effects may not be readily attributable to any individual premises. The Licensing Authority wishes to ensure that these adverse effects are avoided and to this end has adopted a 'Special Policy' for an area around Eastgate Street where there is a concentration of licensed premises. Where applicants are applying for a new licence in this area, it is recommended that they clearly state in their operating schedule how they will ensure that their premises does not add to the cumulative impact in respect of two of the licensing objectives, prevention of crime and disorder and prevention of nuisance.

- 4.15 This Special Policy was adopted by the Council in 2004 as a direct response to concerns and information put forward by Gloucestershire Police in relation to incidents of both crime and disorder associated with the area particularly on a Friday and Saturday night. A large number of these incidents are alcohol related. Eastgate Street has, for a number of years, borne the unfortunate distinction of having the highest crime rate for any one street in the County.
- 4.16 The current issue with Eastgate Street that led to the creation of the 'Special Policy' is that the night-time economy in Eastgate Street relies on a monoculture. This centres around "nightclub" type premises, with the music and alcohol being the only entertainment on offer, followed by a takeaway meal.
- 4.17 The Special Policy will be kept under constant review and it is anticipated that a time may come when it could be removed. However, the important considerations for removal of the special restriction should still be a matter of ensuring that crime and disorder do not increase as a result.
- 4.18 The effect of adopting this policy is to create a rebuttable presumption that applications for new premises licences, or club premises certificates or material variations will normally be refused, if relevant representations to this effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced.
- 4.19 This presumption does not relieve responsible authorities or other persons of the need to make a relevant representation before the Licensing Authority may consider giving effect to its special policy. If no representation is received, as with all other cases any application must be granted in terms that are consistent with the operating schedule submitted.
- 4.20 Accordingly applicants are advised to demonstrate why the operation of the premises would not add to the cumulative impact being experienced. This should be addressed in the applicants operating schedule.
- 4.21 The Special Policy is not absolute and the circumstances of each application will be considered carefully. Moreover, where licences are unlikely to add significantly to the cumulative impact on the licensing objectives, the licence will be granted. The diversification of venues and entertainment, to include more family orientated restaurants, a wider range of public entertainment such as theatre, cabaret type shows, live music, comedy and culturally themed premises, would clearly support the aims of the City. Applications for these types of licence would be likely to be supported by the Police, as they promote activities other than vertical drinking.
- 4.22 The area of the Licensing Authority to which this 'Special Policy' will apply is identified in the map attached at Appendix C. The area identified includes the following streets:

Eastgate Street

Clarence Street (south east side)  
 Brunswick Road (south east side)  
 Park Road (north side)  
 Bruton Way (west side from Park Road to Market Parade)  
 Station Road  
 Russell Street  
 Hampden Way  
 Wellington Street  
 Cromwell Street  
 Arthur Street  
 Belgrave Road  
 Kingsbarton Street  
 St Michael's Square  
 Market Parade (south east side)

4.23 As part of this policy, the Licensing Authority will not consider whether or not there is a need for any particular type of premises (as this is largely a matter for the local planning authority) but will consider the cumulative impact any new licensed premises would have on the City Centre.

4.24 This 'Special Policy' does not impose any quotas of premises or licences and does not include any provisions for a terminal hour in any area. As stated above types of premises and commercial need is a matter for the Planning Committee and market forces. Terminal hours will only be considered where relevant representations have been received that highlight an issue.

4.25 There are also other mechanisms that the Licensing Authority can use to help control cumulative impact.

4.26 Late Night Levy

This is a power conferred on Licensing Authorities by the Police Reform and Social Responsibility Act 2011 which enables a levy to be charged to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.

The option of introducing such a levy will be kept under review by the Council.

4.27 Early Morning Restriction Orders (EMRO'S)

An Early Morning Alcohol Restriction Order (EMRO) is a power in the Licensing Act 2003 that enables licensing authorities to restrict sales of alcohol in the whole or a part of their areas for any specified period between 12 midnight and 6 am, if they consider this appropriate for the promotion of the licensing objectives.

Gloucester City Council has no plan to apply for an order at this time.

4.28 Public Spaces Protection Order (PSPO)

PSPO's replaced the DPPO's under the ASB Crime & Police Act 2014. Public Space Protection Orders can be used to tackle problems with anti-social drinking. An Order is currently in place for the City covering the City Centre. Map of the area is attached as Appendix D.

## **5.0 PUBLIC SAFETY**

- 5.1 The Licensing Act 2003 covers a wide range of premises that require licensing including cinemas, nightclubs, public houses, village and community halls, schools, cafes, restaurants and fast food outlets/takeaways. Each of these types of premises present a mixture of risks, some of which may be common to most premises whilst others will be unique to specific operations.
- 5.2 Applicants are encouraged to seek advice from the Licensing Authority and the Fire Safety Section of Gloucestershire Fire and Rescue Service with regard to these issues and to carry out their own risk assessments.
- 5.3 In order to ensure the safety of persons at premises and to ensure a safe means of escape from fire, or other emergency, occupancy limits may be included in Operating Schedules in appropriate cases and if so should be set in consultation with Gloucestershire Fire & Rescue Service and the Council's Building Control Officers (or others if appropriate). The Licensing Authority will not normally seek to impose an occupancy limit different to that already identified by the Fire Authority in previous correspondence if this differs from the figure set in applicants Operating Schedules unless there have been relevant representations and the Fire Authority recommends a change or there are crime and disorder prevention reasons for doing so.
- 5.4 The Licensing Authority seeks to encourage the use of toughened glassware and polycarbonate on a risk based approach in licensed premises.
- 5.5 Every applicant granted a licence, certificate or permission would also be under a duty to comply with the Health and Safety at Work etc. Act 1974 and regulations made under it. In many cases, the Council will also be the enforcing authority responsible for ensuring compliance with the Health and Safety at Work etc. Act in licensed premises.

## 6.0 PREVENTION OF PUBLIC NUISANCE

6.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can sometimes cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.

6.2 The Licensing Authority is keen to protect the amenity of residents and businesses in the vicinity of licensed premises. For these purposes the Council suggests that 'vicinity' means:

***'being sufficiently close enough to be directly affected by the behaviour and activities on those premises.'***

6.3 It should be noted that other legislation is available to address nuisance issues. Furthermore it is acknowledged that licensed premises are limited with regard to controlling customer behaviour away from the immediate vicinity of their premises.

6.4 In addition, the Licensing Authority is aware of the importance of the licensed trade to the local economy and its culture and leisure aspirations. The Licensing Authority will, therefore, try to work together with all interested parties, statutory agencies and licensed businesses to ensure a mutual co-existence.

6.5 When considering licence applications where relevant representations have been received the Licensing Authority will take into account measures proposed by the applicant to promote the prevention of nuisance and/or anti-social behaviour. In particular the Licensing Authority may consider the following matters, where relevant:

- i) measures proposed for the prevention of noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- ii) measures proposed for preventing disturbance by customers and staff arriving at or leaving the premises, particularly between 2300 hours and 0700 hours;
- iii) measures proposed for the prevention of nuisance from cooking odours through installation of appropriate odour control equipment in a suitable location;
- iv) measures proposed for the prevention of nuisance from litter by ensuring adequate provision is made for disposal of waste inside, outside and within the general vicinity of late night takeaway/refreshment houses and a general positive attitude to encouraging good practice from customers;

- v) measures proposed for preventing queuing by pedestrians or vehicular traffic, or if some queuing is inevitable then ensuring the queues are diverted away from neighbouring premises, or are otherwise managed, to prevent disturbance or obstruction;
- vi) ensuring staff leave the premises quietly;
- vii) arrangements for parking by patrons and staff, and the effect of the parking on local residents;
- viii) provision for public transport (including taxis and private hire vehicles) for patrons;
- ix) whether licensed taxis or private hire vehicles are likely to disturb local residents;
- x) whether routes to and from the premises on foot, by car or other services pass residential premises;
- xi) the installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;
- xii) the use of gardens and other open-air areas;
- xiii) the location of external lighting, including security lighting that is installed inappropriately;
- xiv) other appropriate measures to prevent nuisance, such as the employment of registered door supervisors or the use of CCTV;
- xv) preventing the consumption or supply of illegal drugs, including search procedures;
- xvi) the history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees;
- xvii) proposals for using effective means of reducing disorder by communicating with other licensees and the Police information regarding the potential for anti-social behaviour or criminal behaviour (e.g. Gloucester City Safe radio, pagers, ring rounds, membership of Gloucester City Safe).

6.6 The Licensing Authority is keen to stress, however, that as well as the licensing function there are other mechanisms for addressing issues of unruly behaviour that occur away from licensed premises. These include:

- planning controls;
- powers to designate Public Space Protection Orders in parts of the District as places where alcohol may not be consumed publicly and the confiscation of alcohol in these areas.
- police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
- police enforcement of the law with regard to disorder and anti-social behaviour;
- the power of the police, licensing authority, or other persons to request a review of the licence;
- enforcement action against those selling alcohol to people who are already drunk.

## 7.0 PROTECTION OF CHILDREN FROM HARM

7.1 The Licensing Authority recognises that there are a range of activities for which licences may be sought meaning that children can be expected to visit many of these premises, often on their own, for food and/or other entertainment. The Licensing Act 2003 does not prevent children having free access to any licensed premises. The Licensing Authority recognises that limitations may have to be considered where it is deemed necessary to protect children from harm. The following are examples of premises that may raise concerns:

- where there have been convictions for serving alcohol to minors, or with a reputation for under-age drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling (this relates to substantial gambling operations and does not include premises with a small number of AWP machines) on the premises;
- where entertainment of an adult or sexual nature is provided;
- where there is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held).

7.2 The Licensing Authority expects personal licence holders to ensure that they do not serve alcohol to children under the age of 18, except in limited conditions allowed for by law. The Licensing Authority recommends that the following are preferred ways to verify a person's proof of age:

- (i) passport
- (ii) a photocard driving licence issued in a European Union country;
- (iii) a National Proof of Age Standards Scheme card (e.g. PASS card);

7.3 Where appropriate applicants are encouraged to participate in the Challenge 25 age verification scheme.

7.4 The Council recognises the potential risk to children from mobile, remote, internet and other delivery sales of alcohol being made to or accepted on the doorstep persons under 18. The Council expects applicants for internet and delivery alcohol sales to explain in their application how they will ensure that sales and deliveries are only made to persons over 18. This could include checks whilst taking bookings and ensuring a signature of a responsible adult on delivery.

7.5 Where relevant representations have been received and upheld, when deciding whether to limit the access of children to premises the Licensing Authority will judge each application on its own merits. To assist with this the Licensing Authority will consider any representations received from Gloucestershire Police, Gloucestershire Social Services and other agencies as appropriate. Where concerns have been identified in respect of individual premises and it is felt that access to the premises by children should be restricted the options available would include:

- limitations on the hours when children may be present;
- age limitations for persons under 18;
- limitations or exclusion when certain activities are taking place;
- full exclusion of person under 18 when certain licensable activities are taking place;
- limitation of access to certain parts of the premises for person under 18;



- a requirement for an accompanying adult to be present.

This list is not meant to be seen as an exhaustive list covering everything, but gives applicants examples of the conditions the Licensing Authority may seek to impose in meeting its obligation towards the protection of children.

- 7.6 The Licensing Authority will not impose any conditions that specifically require the access of children to the premises.
- 7.7 Where no conditions or restrictions are imposed, the issue of access for children remains a matter of discretion for individual licensees or clubs.

### **Children and Films**

- 7.8 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age ranges. Where premises are used for film exhibitions, a mandatory condition will apply restricting access to performances only to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the Council itself.
- 7.9 The Licensing Authority will expect licensees to ensure that age restrictions for film exhibitions are properly complied with.
- 7.10 In considering applications where relevant representations have been received and upheld, the Licensing Authority will take into account any evidence that age restrictions for film exhibitions are not being properly observed.

### **Children and Theatrical Entertainment**

- 7.11 This Authority recognises that it may be necessary to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment into their productions. In the case of theatrical entertainment aimed specifically at children it may be considered necessary to attach a condition requiring the presence of a sufficient number of adult staff to ensure the wellbeing of children during an emergency.

## 8.0 LICENSING HOURS

8.1 The Licensing Act 2003 introduced flexible opening hours for premises, with the potential for 24 hour opening, seven days a week. The Licensing Authority recognises the variety of premises for which licences will be sought and that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when people tend to leave licensed premises at the same time. When dealing with licensing hours, each application will be dealt with on its individual merits.

8.2 The Licensing Authority will have a flexible approach to opening hours and will generally deal with the issue of licensing hours having due regard to the individual merits of each application in the light of relevant representations received. The Licensing Authority will take into account requests for terminal hours in the light of the:

- environmental quality;
- residential amenity;
- character or function of a particular area; and
- nature of the proposed activities to be provided at the premises.

Where relevant representations have been received and upheld consideration may, however, be given to imposing stricter controls on noise and disturbance from particular licensed premises, such as those in mainly residential areas.

8.3 Unless there are good reason to the contrary on the grounds of public disorder or crime prevention, shops and supermarkets that sell alcohol will be licensed to do so during the same times that they would ordinarily sell other goods. It would be for interested persons or the responsible authorities to prove why this should not be so in any particular case. There may, however, be instances where it is considered that there are good reasons for restricting those hours, for, example, where police representations are made in respect of isolated shops known to be the focus of disorder and public nuisance.

8.4 Generally the Licensing Authority sees staggered trading hours as being helpful to the dispersal of patrons from licensed premises, particularly late at night. This removes some of the friction caused by sudden excessive peaks of demand at fast food outlets, taxi ranks and so on.

## 9.0 PROMOTING GOOD PRACTICE INITIATIVES

### Best Bar None

- 9.1 Best Bar None (BBN) is a National Award Scheme supported by the Home Office and the British Institute of Innkeeping aimed at promoting responsible management and operation of alcohol licensed premises.
- 9.2 Best Bar None maintains and raises standards and rewards good management of those venues that attain the Award. This is delivered at local level through active partnerships between the industry, local authorities and the police.
- 9.3 The Awards are based on core national standards with local flexibility to ensure they address local needs.
- 9.4 Assessment will be carried out by competent, impartial assessors, who will ensure consistency of approach. The assessment criteria will be clear and straight forward, with a minimum of bureaucracy and with constructive feedback provided to all entrants.
- 9.5 Applicants are encouraged to join the scheme, further details can be found at [www.safergloucester.co.uk](http://www.safergloucester.co.uk)

### Gloucester City Safe

- 9.6 Gloucester City Safe replaces the previous schemes known as Pubwatch and Shopwatch. With this in mind the Licensing Authority encourages all premises licence holders to sign up to Gloucester City Safe.
- 9.7 Gloucester City Safe is made up of members of the Business Community with the sole intention of facilitating the reduction of crime, disorder and anti-social behaviour.
- 9.8 It represents both the Day Time and Night Time Economies by working together to reduce shoplifting, theft, anti-social behaviour, alcohol related disorder and street drinking throughout Gloucester.
- 9.9 Gloucester City Safe runs an Exclusion Scheme whereby members can issue 'Yellow Card' warnings to persons who misbehave in or near their premises. Normally 2 Yellow Cards would lead to an exclusion from the services of all members of Gloucester City Safe. This includes shops, restaurants, pubs, clubs and transportation services.
- 9.10 Gloucester City Safe work hand in hand with the Police and other like minded and supportive Partners, striving to make Gloucester a safer place for all to live, work and visit.

### Licensed Victuallers Association (LVA)

- 9.11 Applicants are encouraged to join the LVA, for more information on this email [licensing@gloucester.gov.uk](mailto:licensing@gloucester.gov.uk)

### Reduced Alcohol Strength Initiatives

- 9.12 'Reducing the Strength' refers to initiatives designed to tackle the problems associated with street drinking by removing from sale low price high-strength alcohol products through voluntary agreements with local retailers. The Licensing

Authority will work in partnership with Gloucestershire Constabulary to encourage Premises Licence Holders to promote this initiative where appropriate.

### **Irresponsible Drinks Promotions**

- 9.13 Low cost alcohol sold in on and off trade premises increases alcohol consumption which can lead to crime and disorder issues. Through this policy the licensing authority would like to encourage the responsible consumption of alcohol and where there is evidence that the licensing objectives are being compromised or are likely to be compromised, the licensing authority will consider imposing controls on drinks promotions to deal with localised problems.

However, the licensing authority would prefer an approach whereby it, along with the licensed trade and other partners, are able to promote responsible retailing of alcohol instead of having to deal with the effects of irresponsible drinks promotions and drunkenness.

### **Promotion of equality**

- 9.14 The policy recognise that the Equality Act 2010 places a legal obligation on this authority to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics through the functions outlined in this policy. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

## **10.0 ENFORCEMENT AND COMPLAINTS**

- 10.1 The Licensing Authority recognises the contribution that can be made by developing effective working practices with our partner agencies. The Licensing Authority shall establish enforcement protocols with the Gloucestershire Constabulary and other relevant partnership agencies to ensure efficient deployment of Licensing Authority enforcement staff and thereby avoiding duplication of effort when carrying out inspection or enforcement matters.
- 10.2 The Licensing Authority recognises that there are a number of mechanisms for addressing unlawful or anti-social behaviour that occurs away from licensed premises, qualifying clubs and temporary events, which include -
- Planning controls
  - Enforcement of Environmental Protection legislation (e.g. on noise nuisance)
  - Positive measures to provide a safer and clean town centre environment in partnership with local businesses, transport operators and other departments of the City Council
  - Powers to designate parts of the district as places where alcohol may not be consumed publicly
  - Police enforcement of the law with regard to disorder and anti-social behaviour, including the issue of fixed penalty notices
  - Police powers to confiscate alcohol from adults and other in designated areas
  - No inspection will take place without a reason

- The Licensing Authority and its Enforcement Officers recognise that a key element of their activity will be to allow or even encourage, economic progress and only intervene when there is a clear case for protection
- 10.3 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Licensing Act 2003. The Licensing Authority will monitor premises and take any appropriate enforcement action to ensure compliance.
  - 10.4 All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Environmental Health and Regulatory Services Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat, The Department for Business Enterprise and Regulatory Reforms Regulators Compliance Code.
  - 10.5 The Licensing Authority may when appropriate employ licensing enforcement officers to investigate allegations of unlicensed activities and to ensure that licence conditions are complied with, and will seek to work actively with the Gloucestershire Police in enforcing licensing legislation.
  - 10.6 The Licensing Authority will continue to work with its partner agencies in enforcing the licensing laws and in the inspection and risk rating of premises to ensure the licensing objectives and licence conditions are met. Risk assessments will be regularly reviewed and any appropriate action that needs to be taken will be implemented immediately. In particular the Licensing Authority will target its inspection process towards those premises that are considered as 'problematic' and 'high risk' premises in particular those premises situated within the Cumulative Impact Zone that may require greater attention, while providing the 'lighter touch' in respect of low risk premises that are run well.
  - 10.7 Annual fees and suspension of licences for non-payment.- The Licensing Authority is required under section 55A of the Licensing Act to suspend premises licenses where the annual fee has not been paid. The Licensing Authority will invoice each licensee when the annual fee is due setting out the fee that is due and the consequences for non-payment. Where the fee has not been paid or there has been no claim of administrative error by the end of 21 days of the due date, the Licensing Authority will serve the required 2 working day notice to suspend the licence.
  - 10.8 Where a licence is suspended this means that no licensable activities will be authorised to be provided at the premises until the suspension is lifted on receipt of payment of the overdue fee. Officers will conduct enforcement visits to premises where a licence has been suspended and will take the appropriate action in accordance with the council's enforcement policy.
  - 10.9 If an operator does not wish to carry on the activities that require the premises licence or certificate anymore it is important the licence or certificate is surrendered to prevent maintenance fees being accrued.
  - 10.10 In undertaking the inspection of licensed premises the Licensing Authority will promote the following categories of risk weighting:

**Medium to High Risk** - City Centre Public Houses and Night Clubs

- All other premises where there is regulated entertainment
- City Centre Late Night Refreshment Houses
- Low to Medium Risk** - All other Public Houses
- Low Risk** - Licensed restaurants / cafés where the primary purpose is serving food
- All other licensed premises within the district

In addition to the above the history of the premises will also be taken into consideration in respect of the issues listed in 10.12 below. New sites not listed above - to be assessed dependent upon location and style of operation and operators.

- 10.11 Where 'Other Persons' have made a valid representation about licensed premises or a valid application for a licence to be reviewed, then the Licensing Authority will initially arrange a mediation meeting to address, clarify and try to resolve the issues of concern. 'Other Persons' are defined as at paragraph 2.2
- 10.12 The Licensing Authority can only review a licence where it is alleged that the licensing objectives are being breached. It views particularly seriously applications for the review of any premises licence where it involves the:
- use of licensed premises of the sale distribution of Class A drugs and the laundering of the proceeds of drugs crimes
  - use of licensed premises for the sale distribution of illegal firearms
  - evasion of copyright in respect of pirated films and music
  - Underage purchase and consumption of alcohol
  - Use of licensed premises for prostitution or the sale of unlawful pornography
  - Use of licensed premises of unlawful gaming
  - Use of licensed premises as a base for organised criminal activity
  - Use of licensed premises of the organisation of racist, homophobic or sexual abuse or attacks
  - Use of licensed premises of the sale of smuggled tobacco or goods
  - The use of licensed premises for the sale of stolen goods
  - Where the police are frequently called to attend to incidents of disorder
  - Prolonged and/or repeated instances of public nuisance
  - Where serious risks to public safety have been identified and the management is unable or unwilling to correct those
  - Where serious risks to children have been identified
  - Immigration Offences such as employment of persons who do not have the right to work in the UK.
- 10.13 This process will not override the right of any 'Other Persons' to ask the Council's Licensing Committee to consider their valid objections, or for any licence holder to decline to participate in a mediation meeting.

## 11.0 TEMPORARY EVENT NOTICES (TEN's)

- 11.1 The Licensing Act 2003 provides for certain occasions when small scale events (for no more than 499 people at a time and lasting for no more than 168 hours) do not need a licence providing that advance notice is given to the Police, Environmental Health and the Licensing Authority.
- 11.2 The Licensing Authority recommends that as much notice as possible be given by applicants for events. For large events organisers are encouraged to give as much as three months notice so that the Licensing Authority can help organisers plan their events safely. **The law states that at least ten working days notice must be given** but the less time that is given will increase the likelihood of the police objecting.
- 11.3 Ten working days commences with the day **after** the notification is given to the Licensing Authority and finishes the day **before** the event is due to take place. 'This means that day one will be the first working day following the day when the Temporary Event Notice is given to the Licensing Authority and the tenth working day must not be later than the day before the event is due to take place.'
- 11.4 In certain circumstances a Late Temporary Event Notice can be given this is to assist premises users who are unable to give ten working days notice for reasons outside their control. A Late Temporary Event Notice can only be accepted if it is received at least five days before the beginning of the event.
- 11.5 Organisers of temporary events are strongly advised to contact the Licensing Authority for advice at the earliest opportunity when planning events. Where necessary discussions will be held with the Police and Environmental Health to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 11.6 All events run under the terms of a temporary event notice will be risk assessed by the Licensing Authority and may be visited by a Licensing and Enforcement Officer if considered necessary.
- 11.7 This Authority takes the view that if it considers that a Temporary Event Notice has not been properly given then, in the first instance, the Authority will check with the Police and Environmental Health that they are in receipt of the notification, are satisfied with the notice given and whether or not they intend to make an objection on the basis on one or more of the licensing objectives. If they are not planning to make an objection and the Police and Environmental Health are satisfied with the notice given the Authority should not unnecessarily prohibit these events taking place on the grounds that the notification had not been properly made.
- 11.8 The number of TEN's allowed on a premises in any one calendar year is 15.

## 12.0 PERSONAL LICENCES – NEW APPLICATIONS

- 12.1 A personal licence is a licence issued to an individual authorising them to make or authorise the sale of alcohol in accordance with a premises licence. Every premises licence that authorises the sale of alcohol must specify an individual who acts as the designated premises supervisor (DPS). The DPS must hold a personal licence.
- 12.2 Applications for personal licences should be made to the licensing authority for the area where the applicant is ordinarily resident at the time they make their application.
- 12.3
- (a) The applicant is aged 18 or over
  - (b) The applicant is entitled to work in the United Kingdom
  - (c) The applicant possesses a licensing qualification or is a person of a prescribed description
  - (d) The applicant has not forfeited a personal licence in the five year period prior to their application being made
  - (e) The applicant has not been convicted of any relevant offence or any foreign offence or required to pay an immigration penalty
- 12.4 The licensing authority must reject an application if the applicant fails to meet one or more of the requirements set out in (a) to (d) above.
- 12.5 Where the applicant meets the requirements in (a) to (d) but does not meet the requirements of (e), the licensing authority must give the chief officer of police for its area a notice to this effect. Having received such a notice, if the chief officer of police is satisfied that the granting of the application would undermine the crime prevention objective, he must within 14 days, give the licensing authority a notice to that effect.
- 12.6 Where the applicant fails to meet the requirements of (e) as a result of a conviction for an immigration offence or because they have been required to pay an immigration penalty, the licensing authority must give a notice to the Secretary of State for the Home Department to that effect. The Home Office may object to an application on grounds that granting the personal licence would be prejudicial to the prevention of illegal working in licensed premises.
- 12.7 Where an objection to the grant of a personal licence is received from either the chief officer of police or the Home Office, the applicant is entitled to a hearing before the licensing authority. If no objections are received, the licensing authority must grant the application.
- 12.8 At a hearing to determine a personal licence application to which the chief officer of police or Home Office have objected, the licensing authority will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
  - The duty to promote the crime prevention objective
  - The objection notice given by the Police or Home Office
  - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
  - The seriousness of the relevant offence



- The sentence or penalty imposed on the applicant for the relevant offence
  - Any representations made by the applicant
  - Any other evidence as to the previous character of the applicant
- 12.9 If, having considered all of the circumstances, the licensing authority considers that it is appropriate for either the promotion of the crime prevention objective or for the prevention of illegal working in licensed premises to reject the application, it must do so. In all other cases the application must be granted.
- 12.10 If an application is refused, the applicant will be entitled to appeal against the decision they make. Similarly, if the application is granted despite a police objection notice or an objection from the Home Office, the chief officer of police or Home Office are entitled to appeal against the licensing authority's determination. The licensing authority will therefore record in full the reasons for any decision that it makes.

### **13.0 PERSONAL LICENSES – SUSPENSION AND REVOCATION**

- 13.1 Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and gave the power to a licensing authority to suspend or revoke personal licences that it has issued with effect from 6 April 2017.
- 13.2 When a licensing authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a licensing authority may revoke the licence or suspend it for a period of up to six months. This applies to convictions received and civil immigration penalties which a person has been required to pay at any time before or after the licence was granted, as long as the conviction was received after 6 April 2017, or the requirement to pay the civil penalty arose after 6 April 2017. Only magistrates' courts can order the forfeiture or suspension of a personal licence for convictions received prior to 6 April 2017.
- 13.3 The process which must be undertaken by the licensing authority to suspend or revoke a personal licence is set out at section 132A of the 2003 Act. The decision to revoke or suspend a personal licence must be made by the licensing committee or sub-committee, but the actions required before making a final decision may be made by a licensing officer.
- 13.4 The licensing authority may not take action if the licence holder has appealed against the conviction or the sentence imposed in relation to the offence, until the appeal is disposed of. Where an appeal is not lodged, the licensing authority may not take action until the time limit for making an appeal has expired.
- 13.5 If a licensing authority is considering revoking or suspending a personal licence, the authority must give notice to the licence holder. This notice must invite the holder to make representations about the conviction, any decision of a court in relation to the licence, or any decision by an appellate court if the licence holder has appealed such a decision. The licence holder may also decide to include any other information, for example, about their personal circumstances.
- 13.6 The licence holder must be given 28 days to make their representation, beginning on the day the notice was issued. The licensing authority does not need to hold a hearing to consider the representations. Before deciding whether to revoke or suspend the licence the licensing authority must consider any representations made by the licence holder, any decisions made by the court or appellate court in respect of the personal licence of which the licensing authority is aware, and any other information which the licensing authority considers relevant.
- 13.7 The licensing authority may not be aware of whether the court considered whether to revoke or suspend the licence, and there is no obligation on the licensing authority to find this out before making a decision themselves. Where the court has considered the personal licence and decided not to take action, this does not prevent the licensing authority from deciding to take action itself. Licensing authorities have different aims to courts in that they must fulfil their statutory duty to promote the licensing objectives, and therefore it is appropriate for the licensing authority to come to its own decision about the licence.
- 13.8 If the licensing authority, having considered a suspension and revocation and

subsequently considered all the information made available to it, proposes not to revoke the licence it must give notice to the chief officer of police in the licensing authority's area, and invite the chief officer to make representations about whether the licence should be suspended or revoked, having regard to the prevention of crime. The chief officer may make representations within the period of 14 days from the day they receive the notice from the licensing authority.

- 13.9 Any representations made by the chief officer of police must be taken into account by the licensing authority in deciding whether to suspend or revoke the licence.
- 13.10 Convictions may come to light via police in another area, for example if the personal licence holder no longer lives in the area of the licensing authority which issued the licence, or if the offence took place in another police force area. In this instance it would be good practice for the police providing the information to notify the police force in the licensing authority area, because it is the local chief officer who must provide representations if the licensing authority proposes not to revoke the licence.
- 13.11 Where the licence holder is convicted of immigration offences or has been required to pay a civil penalty for immigration matters, the licensing authority should notify Home Office Immigration Enforcement and allow representations to be made in the same way.
- 13.12 In deciding whether to suspend or revoke a personal licence, the licensing authority will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
  - The duty to promote the licensing objectives
  - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
  - The seriousness of the relevant offence
  - The sentence or penalty imposed on the licence holder for the relevant offence
  - Any representations made by the Police or Home Office Immigration Enforcement
  - Any representations made by the holder of the licence
  - Any evidence as to the previous character of the holder of the licence
- 13.13 The licensing authority must notify the licence holder and the chief officer of police of the decision made (even if the police did not make representations). The licence holder may appeal the licensing authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.
- 13.14 If the personal licence holder is a DPS, the licensing authority may notify the premises licence holder once the decision to revoke or suspend the licence has been made if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.
- 13.15 The licensing authority may also notify any person who has declared an interest in the premises under section 178 of the 2003 Act if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions

#### **14.0 LATE NIGHT REFRESHMENT EXEMPTIONS**

- 14.1 Paragraph 2A of Schedule 2 to the 2003 Act (as inserted by the Deregulation Act 2015) gives licensing authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment.
- 14.2 This authority has not resolved to exempt any premises from the requirement to have a licence to provide late night refreshment.

## **15.0 IMMIGRATION ACT 2016 – ENTITLEMENT TO WORK**

- 15.1 Section 36 of and Schedule 4 to the Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention of these changes is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.
- 15.2 The statutory prevention of crime and disorder licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The Council will work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.
- 15.3 Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amended the 2003 Act to provide that in England and Wales:
- Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;
  - Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end;
  - Immigration offences, including civil penalties, are ‘relevant offences’ as defined by the 2003 Act;
  - The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences) and applications to transfer premises licences, and in some limited circumstances personal licence applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and
  - Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.
- 15.4 The licensing authority will have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003.
- 15.5 The licensing authority will also work in partnership with the Home Office (Immigration Enforcement) and Gloucestershire Police with a view to preventing illegal working in premises licensed for the sale of alcohol or late night refreshment.

**FURTHER INFORMATION**

For further information about Gloucester City Council's Licensing Policy, the Licensing Act 2003 and any other licensing matters please contact:

City Improvement

Telephone No.: 01452 396396

Email: [heretohelp@gloucester.gov.uk](mailto:heretohelp@gloucester.gov.uk)

Gloucester City Council  
PO Box 3252  
Westgate Street  
Gloucester  
GL1 9FW

or go to the licensing pages on the Gloucester City Council website [www.gloucester.gov.uk/licensing](http://www.gloucester.gov.uk/licensing) for application forms, details of fees and factsheets.

## APPENDIX A

## TABLE OF DELEGATED FUNCTIONS

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence with unspent relevant convictions		If a representation is made	If no representation is made
Application for personal licence with unspent convictions		All Cases	
Decision whether to suspend or revoke a personal licence		All cases	
Application for premises licence/club premises certificate		If a representation is made	If no representation is made
Application for provisional statement		If a representation is made	If no representation is made
Application to vary premises licence/club premises certificate		If a representation is made	If no representation is made
Application for a minor variation			All cases
Decision whether to consult responsible authorities on minor variation applications			All cases
Application to vary designated premises supervisor		If a police or Home Office representation is made	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police or Home Office representation is made	All other cases
Application for interim authority		If a police or Home Office representation is made	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a			All cases

complaint or objection is irrelevant, frivolous, vexatious etc			
Decision to object when Licensing Authority is a consultee and not the lead authority			All cases
Determination of a EH or police representation to a TEN		All cases	
Approval of licensing policy statement	All cases		



**APPENDIX B****THE LICENSING PROCESS – ADDITIONAL INFORMATION:****Personal Licences**

Any individual may make application for a personal licence whether or not they have current employment or business interests associated with the use of the licence.

The Licensing Authority will grant a personal licence if it appears that:

- a) The applicant is over 18
- b) The applicant possesses a relevant licensing qualification
- c) The applicant has not forfeited a personal licence in the previous five years beginning with the day the application was made
- d) The applicant has not been convicted of any relevant offence
- e) The applicant has paid the appropriate fee

In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, applicants will be required to produce to the Licensing Authority a Criminal Records disclosure certificate.

**Premises Licences**

An application can be made to the Licensing Authority for any place used for licensable activities or recognised club activities within its area. Any application must be accompanied by:

- a) The required fee
- b) An Operating Schedule\*
- c) A plan of the premises, and
- d) If it is intended to sell alcohol a form of consent given by the person the applicant wishes to have specified in the Premise Licence as the Designated Premises Supervisor, and a copy of that person's Personal Licence.

\* The Operating Schedule must include a statement of:

- a) The proposed relevant licensable activities;
- b) The times during which the applicant proposes that the relevant licensable activities are to take place;
- c) Any other times during which the applicant proposes that the premises are to be open to the public and for what purpose they propose to be opened.
- d) Where the applicant wishes the licence to have effect for a limited period, that period;
- e) Where the relevant licensable activities include the sale by retail of alcohol, the name and address of the individual whom the applicant wishes to have specified as the Designated Premises Supervisor (DPS);
- f) Where the relevant licensable activities include the sale by retail of alcohol, whether such sales are proposed to be for consumption on or off the premises, or both; and
- g) The steps which the applicant proposes to take to promote the licensing objectives.

In considering the steps to be taken to promote the licensing objectives the applicant should give consideration to Appendix B of this policy above.

## **Community Premises**

These premises which would include church halls, chapel halls, parish halls, village halls, community halls and other similar buildings may be licensed for the sale of alcohol without the need for a Designated Premises Supervisor or Personal Licence Holder provided that the Licence Holder for the premises is a committee or board of individuals with responsibility for the management of the premises. This 'management committee' could then be responsible for the supervision and authorisation of all alcohol sales should it so wish.

Existing premises which fit the definition of Community Premises and currently hold an authorisation for the sale of alcohol with the mandatory condition relating to a Designated Premises Supervisor may request disapplication of this condition in favour of the alternative condition relating to a management committee.

## **Takeaway food premises**

It is recognised that takeaway premises open late at night can be associated with disorder as persons under the influence of alcohol having left, or in some cases being ejected from, late night venues congregate there.

Applicants for licences are recommended to have written policies for dealing with disorder and nuisance and should give consideration to the issues regarding takeaways.

The Licensing Authority may recommend that licensed premises principally used for selling hot food for consumption off the premises shall have suitable CCTV installed. Where Crime and Disorder issues arise the Licensing Authority may impose a requirement on the premises licence holder to employ SIA doormen.

Where the Licensing Authority considers it appropriate, it may impose conditions on a premises licence to require the operators of premises serving customers with hot food or drink to provide litter bins in the vicinity of the premises in order to prevent the accumulation of litter from its customers.

## **Sexual Entertainment Venues (SEV's)**

The Licensing Authority has adopted the amended provisions of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 ('the 2009 Act') with respect to "relevant entertainment", that is:

- a) any live performance; or
- b) any live display of nudity.

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

The adopted provisions came into effect on the 1st April 2011 in Gloucester.

Any premises that want to offer relevant entertainment on a regular basis, that is more frequent than 24 hours once a month on no more 11 occasions a year, can no longer offer this under the provisions of the Act as a result of the

abovementioned adoption. These premises must apply for a Sexual Entertainment Venue (SEV) licence.

Premises that want to offer relevant entertainment on an irregular basis can still do so under the provisions of the Act. These premises must be authorised for the performance of dance and the performance of recorded music.

The Government has seen it fit to exempt infrequent sexual entertainment from requiring a licence. Whilst the council recognises and accepts this, it is also acutely aware that unless it is properly managed there are risks to public protection and safety, an increased likelihood of associated crime & disorder and an inability of regulatory bodies to respond accordingly.

### **Pavement Cafes and External Areas**

The Local Authority wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Gloucester because of the added life and vitality this brings to the town.

Whilst the provision of tables and chairs outside a premises can enhance the attractiveness of a venue, regard should be had to the need to ensure that the use of such areas will not cause nuisance to local residents and other premises in the vicinity.

Premises that make use of external areas are expected to manage those areas in such a way that its use does not impede access to the premises, obstruct the highway and does not cause disturbance.

### **Shops Selling Alcohol (Off Licences)**

There has been a trend towards more alcohol being purchased from shops and consumed at home and less being purchased and consumed in traditional pubs, restaurants and night clubs than used to be the case in the past. The growing practice of "pre-loading" has the potential to create specific problems and detriment to the licensing objectives.

Furthermore, the availability of alcohol for consumption off the premises has the potential to cause other problems that include ease of access to alcohol by children, ease of thefts, encouragement of street drinking and an increase of crime and disorder and public nuisance.

Where there is evidence that the licensing objectives are being compromised or are likely to be compromised, the Licensing Authority will consider imposing appropriate restrictions on a licence, this could be achieved either by reviewing the premises licence or agreeing appropriate conditions that would alleviate the Licensing Authority's concerns.

### **Club Premises Certificates**

The Licensing Authority may issue a "Club Premises Certificate" to a qualifying Club. The Certificate will specify that the premises may be used for one or more of the 'recognised Club activities' and that the Club is a qualifying Club in relation to each of those activities.

Recognised Club activities are:

- a) The supply of alcohol by or on behalf of the Club to or to the order of a member of the Club;
- b) The sale by retail of alcohol by or on behalf of a Club to a guest or a member of the Club;
- c) The provision of regulated entertainment where that provision is by or on behalf of the Club for members of the Club or members of the Club and their guests.

The Club is a qualifying Club in respect of the recognised activities provided that, under the rules of the Club, a person may not be admitted to membership, or be admitted as candidates for membership, to any of the privileges of membership without an interval of at least two days between their nomination or application for membership to their admission. People becoming members without nomination or prior application may not be admitted to the privileges of membership without an interval of two days between them becoming members and their admission.

The Club must be established and conducted in good faith as a Club and have a minimum of 25 members.

A Club can apply for a Club Premises Certificate in respect of premises, which are occupied by, and habitually used for the purposes of the Club. The application must be accompanied by:

- a) The relevant fee;
- b) The Club Operating Schedule;\*
- c) A plan of the premises;
- d) A copy of the rules of the Club;
- e) Evidence that the Club is a qualifying Club in relation to each of the recognised Club activities to which the application relates.

\*The Club Operating Schedule **must** contain the following:

- a) Details of the recognised Club activities to which the application relates;
- b) The times during which it is proposed the recognised Club activities take place;
- c) Any other times during which it is proposed the premises are open to members and their guests; and
- d) The steps which it is proposed to take to promote the licensing objectives.

In considering the steps to be taken to promote the licensing objectives the applicant should give consideration to Appendix B of this policy (Factors for Consideration).

Club Premises Certificates will be dealt with in a similar manner as applications for Premises Licences.

## Temporary Event Notices (TEN)

Temporary event notices are subject to various limitations. These are concerned with:

- a) **Duration** - they are limited to events lasting for up to 168 hours;
- b) **Scale** – they cannot involve the presence of more than 499 people at any onetime;
- c) **Use of the same premises** – the same premises cannot be used more than 15 times in a calendar year; to a maximum of 21 days
- d) **The number of notices** given by one individual within a calendar year is restricted to 5 unless that person is the Holder of a Personal Licence in which case 50 is the maximum.

In any other circumstances, a temporary event at which licensable activities are to take place would require a premises licence if the premises or place at which the event is to take place is currently unlicensed for the activity or activities involved. The procedures for applying for and granting such a licence are identical to those for a permanent licence.

Temporary event notices do not require the Licensing Authority's permission. In general, only the police may object on the grounds of disorder to such an event. The Council will only ever intervene itself if the limits on the number of notices that may be given in various circumstances would be exceeded.

Many premises users giving temporary event notices will not have commercial backgrounds or ready access to legal advice. They will include, for example, people acting on behalf of charities, community and voluntary groups, schools, churches and hospitals all of which may stage public events to raise funding at which licensable activities will take place. The Licensing Authority will ensure that local guidance about the temporary permitted activities is clear and understandable and will strive to keep the arrangements manageable and user-friendly for these groups.

The Licensing Authority will not seek to attach any terms, limitations or restrictions on such events other than those set down in the legislation. However the Licensing Authority will provide local advice about proper respect for the concerns of local residents; of other legislative requirements regarding health and safety, noise pollution or the building of temporary structures; of other necessary permissions, for example, with regard to road closures or the use of pyrotechnics in public places; with regard to local bye-laws; and the need to prevent anti-social behaviour by those attending. Local publicity will also remind notice givers of relevant offences under licensing law including the laws governing sales of alcohol to minors or to any person who is drunk, and of the police powers to close down events with no notice on grounds of disorder, the likelihood of disorder or the because of public nuisance, including noise emanating from the premises.

A purpose of the notification requirement is to enable the Licensing Authority to check that the limitations set down in the Act are being observed and to intervene if they are not. Where the application is not within the parameters described above, the Licensing Authority will issue a counter notice to the person giving the notice. Where the notice is in order, the fee prescribed by the Secretary of State paid, the event falls within the limitations in the Act, and there has been no Police intervention, the Licensing Authority will record the notice in its register and send an acknowledgement to the premises user.

### Additional limitations

On receiving a temporary event notice the Licensing Authority will also check that other requirements of the Act are met. (For example, a temporary event notice would be void unless there is a minimum of 24 hours between events notified by the premises user in respect of the same premises. This is to prevent evasion of the 168-hour limit on such events, and emphasise the need to obtain a full premises licence for more major events. In addition, for these purposes, a notice is treated as being from the same premises user if an associate gives it.)

The Act defines an associate as being:

- a) the spouse of that person;
- b) a child, parent, grandchild, grandparent, brother or sister of that person or their spouse; or
- c) an agent or employee of that person or their spouse;

A person living with another person as his or her husband or wife is treated for these purposes as his or her spouse.

### **Provisional Statements**

Where premises are being constructed for the purposes of being used for one or more licensable activities or are being extended or otherwise altered for that purpose (whether or not they are already being used for that purpose) a person may apply for a Provisional Statement if they have an interest in the premises and, if an individual, they are aged 18 years or over.

An application for a Provisional Statement must be accompanied by a schedule of works that includes details of the licensable activities for which the premises will be used; a plan of the premises; and such other information as may be prescribed.

Applications for Provisional Statements will be dealt with in a similar manner as applications for a Premises Licence.

If a Provisional Statement has been issued and the person subsequently applies for a Premises Licence in respect of the premises, a part of them or premises which are substantially the same as the relevant premises (or part of them) and the application is in the same form as the Licence described in the Schedule of Works accompanying the application for that statement has been satisfactorily completed then any representations made by a person shall not be taken into account if:

- a) Given the information in the application for a Provisional Statement the person objecting could have made the same, or substantially the same, representations about the application but had failed to do so without reasonable excuse; and,
- b) There has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.

### **Variations of Licences**

Applications to vary a Premise Licence/Club Premises Certificate will be dealt with in a similar manner to applications for a new Premise Licence. If relevant representations are not received the application for variation will be granted.

If relevant representations are made and not withdrawn the Licensing Authority will hold a hearing and at that hearing the Licensing Authority may:

- a) Modify the conditions of the Licence; or
- b) Reject the whole or part of the application.

The Licence will not be varied so as to:

- a) Extend the period for which the Licence has effect; or
- b) To vary substantially the premises to which it relates.

The Licensing Authority may vary a Premise Licence so that it has effect subject to different conditions in respect of:

- a) Different parts of the premises concerned; and
- b) Different licensable activities.

### **Minor Variations**

An amendment to the Licensing Act in July 2009 allows for a simplified, faster, cheaper procedure to vary a Premises Licence or Club Premises Certificate where the proposed variations are no more than:-

- minor changes to the structure or layout of a premises
- small adjustments to licensing hours
- the removal of out of date, irrelevant, unenforceable conditions
- the addition of volunteered conditions
- the addition of certain licensable activities (not the sale or supply of alcohol)

In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.

### **Interim Authorities**

Generally a Licence will remain in force for as long as the Licensee continues to operate the business unless it is revoked or it is specified it has effect for a limited period and that period expires. However, if the holder of a Premise Licence dies, becomes mentally incapable or becomes insolvent then the Licence will lapse.

If, within a twenty eight day period of such circumstances, a person who had an interest in the premises concerned or is connected to the person who held the Premises Licence immediately before it lapsed gives the Licensing Authority an 'Interim Authority Notice' the Licence will be reinstated for a three-month period.

At the end of the three months it will lapse unless an application for a transfer of the Licence is made.

A person is connected to the former holder of a Premise Licence if, and only if:

- a) The person is the personal representative in the event of the holder's death;
- b) In respect of someone who has become mentally incapable the person is acting under section 6 of the Enduring Power of Attorney Act 1985; or,
- c) In the event of insolvency the person is acting as an Insolvency Practitioner.

Interim Authority Notices must also be served on the Police. If the Police consider that the grant of an Interim Authority Notice would undermine the prevention of crime objective the Licensing Authority will arrange a hearing to consider the Notice.

## **Transfer of Premises Licences/Club Premises Certificate**

The following persons may apply for the transfer to them of a Premise Licence/Club Premises Certificate:

- a) A person who carries on, or proposes to carry on, a business, which involves the use of a premise for the licensable activities, authorised by the Premise Licence/Club Premises Certificate;
- b) Any person who makes the application in pursuance of one or more of its statutory functions which relate to those licensable activities;
- c) A relevant Club within the meaning of the Act;
- d) A charity
- e) An educational institution;
- f) A hospital; or
- g) A person of such other description as may be prescribed.

Notice of the application must be given to the Police.

If the Police consider the granting of the application would undermine the crime prevention objective the Licensing Authority will consider their reasons for that decision and will reject the application if the Licensing Authority consider it necessary for the promotion of the crime prevention objective to do so.

An application for a transfer of a Licence can contain a request that the transfer has immediate effect. Such a request can only be made with the consent of the holder of the Premises Licence/Club Premises Certificate unless the applicant has taken all reasonable steps to obtain that consent and would be in a position to use the premises while the application is pending for the licensable activities authorised by the Premises Licence.

A full transfer of the Licence can only be made with the consent of the Premise Licence/Club Premises Certificate Holder unless identical circumstances apply.

In the event of a death, incapacity or insolvency of a Licence Holder and where no Interim Authority Notice has been given, provided that an application is made within 7 days after the Licence lapsed, a person can make an application for the transfer of the Licence to him and the Licence shall be reinstated from the time the application is received by the Licensing Authority.

## **Reviews**

Reviews of Premise Licences/Club Premises Certificates represent a key protection for the community where problems associated with disorder, public safety or disturbance are occurring. If relevant representations\* are made about a current licence the Licensing Authority will hold a hearing to consider them unless the Licensing Authority, the applicant and everyone who has made representations agreed that the hearing is not necessary.

A request to the Licensing Authority can be applied for at any time after a licence has been issued although it would be necessary for the licence to have been in operation for a reasonable period to allow the licensee to sort out any initial problems and also allow for the gathering of sufficient evidence by the person wishing to request the review. Government guidelines suggest a 12 month period is reasonable. This allows for seasonal changes should this be a relevant factor.

Before considering a request for a review it is suggested that a contact be made with the Premises Licence Holder/Designated Premises Supervisor or, in the case of a



Club, the secretary, chairman or other committee member. It may be that the problem(s) could be sorted out amicably.

#### **\*Relevant Representations**

'Relevant representations' are representations:

- a) About the effect of the Premise Licence/Club Premises Certificate on the promotion of the licensing objectives;
- b) Are made by an a responsible authority or 'other persons', have not been withdrawn and, in the case of representations made by an 'other persons' they are not in the Licensing Authority's opinion frivolous or vexatious

A Licence review will normally follow any action by the Police to close down the premises for up to 24 hours on grounds of disorder or public nuisance.

### **Appeals**

Entitlements to appeal for parties aggrieved by decisions of the Licensing Authority are set out in Schedule 5 of the 2003 Act.

An appeal against a decision by the Licensing Authority in the case of Premises Licences, Club Premises Certificates or Temporary Event Notices has to be made to the Magistrates' Court for the area in which the premises is situated. In the case of personal licenses, the appeal must be made to the Magistrates' Court for the area in which the licensing authority (or any part of it) is situated.

An appeal may be initiated by the giving of a notice of appeal by the Appellant to the Justices' Chief Executive for the Magistrates' Court within a period of 21 days beginning with the day on which the Appellant was notified by the Licensing Authority of the decision appealed against.

The Licensing Authority will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant against the representations of a responsible authority or an interested party, the holder of the premises licence or club premises certificate will also be entitled to act as a Respondent.

On determining an appeal the court may:

- a) dismiss the appeal;
- b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority; or
- c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court.

The court may make such order as to costs as it thinks fit.

### **Giving reasons for decisions**

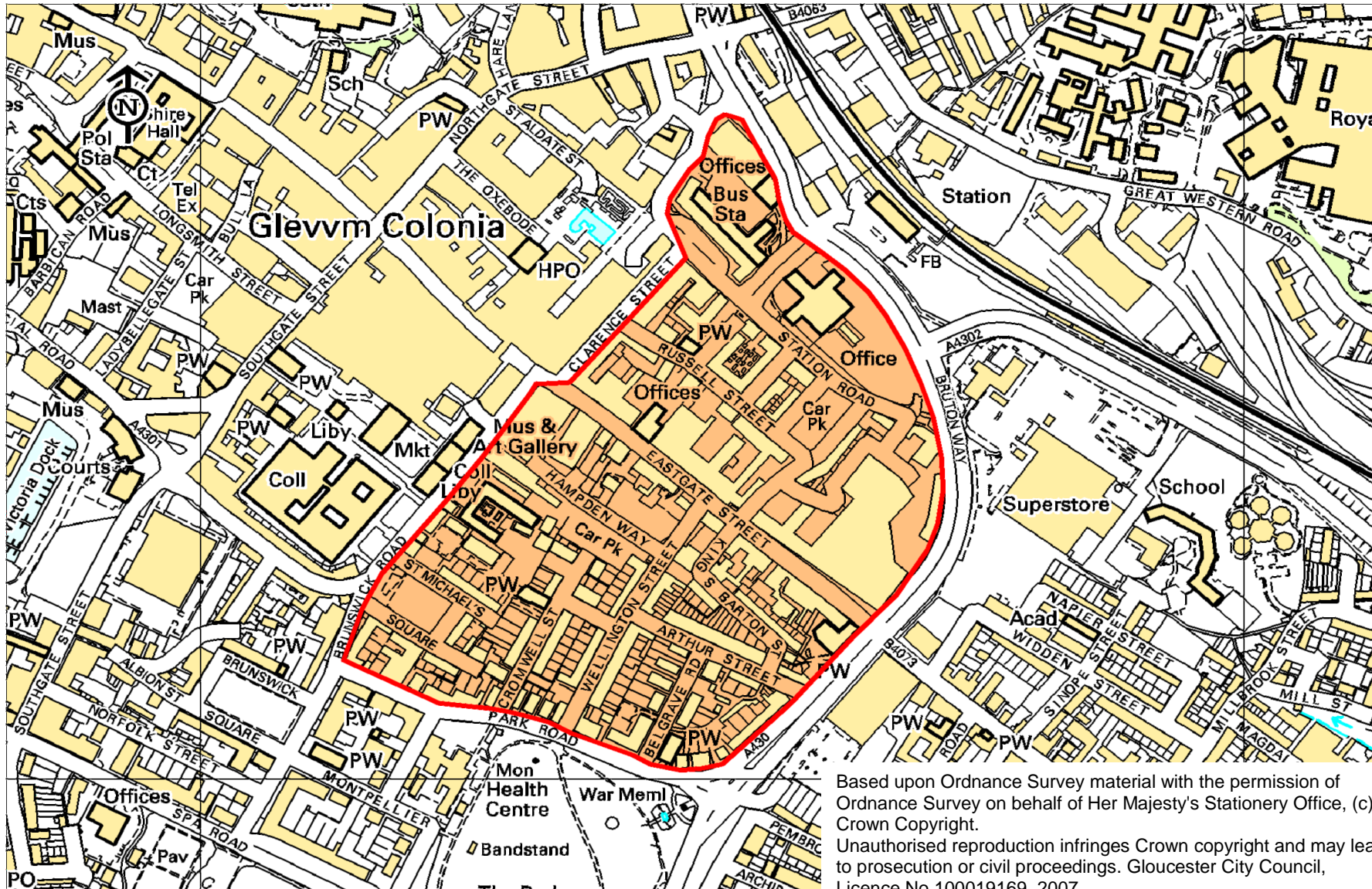
The Licensing Authority will maintain comprehensive records recording the reasons for its decisions. On making findings of fact in its reasons, the Licensing Authority will also ensure that they address the standard of proof and the burden of proof that they have adopted. The Licensing Authority will also address the extent to which the decision has been made with regard to its statement of licensing policy and the Guidance issued by the Home Office under section 182 of the Act.

**Implementing the determination of the Magistrates' Courts**

Upon notification of the Court's decision the Licensing Authority will seek to action that determination without undue delay, unless ordered by a higher court to suspend such action (for example, as a result of an on-going judicial review). The Act provides for no further appeal against the determination of the Magistrates' Courts.

APPENDIX C

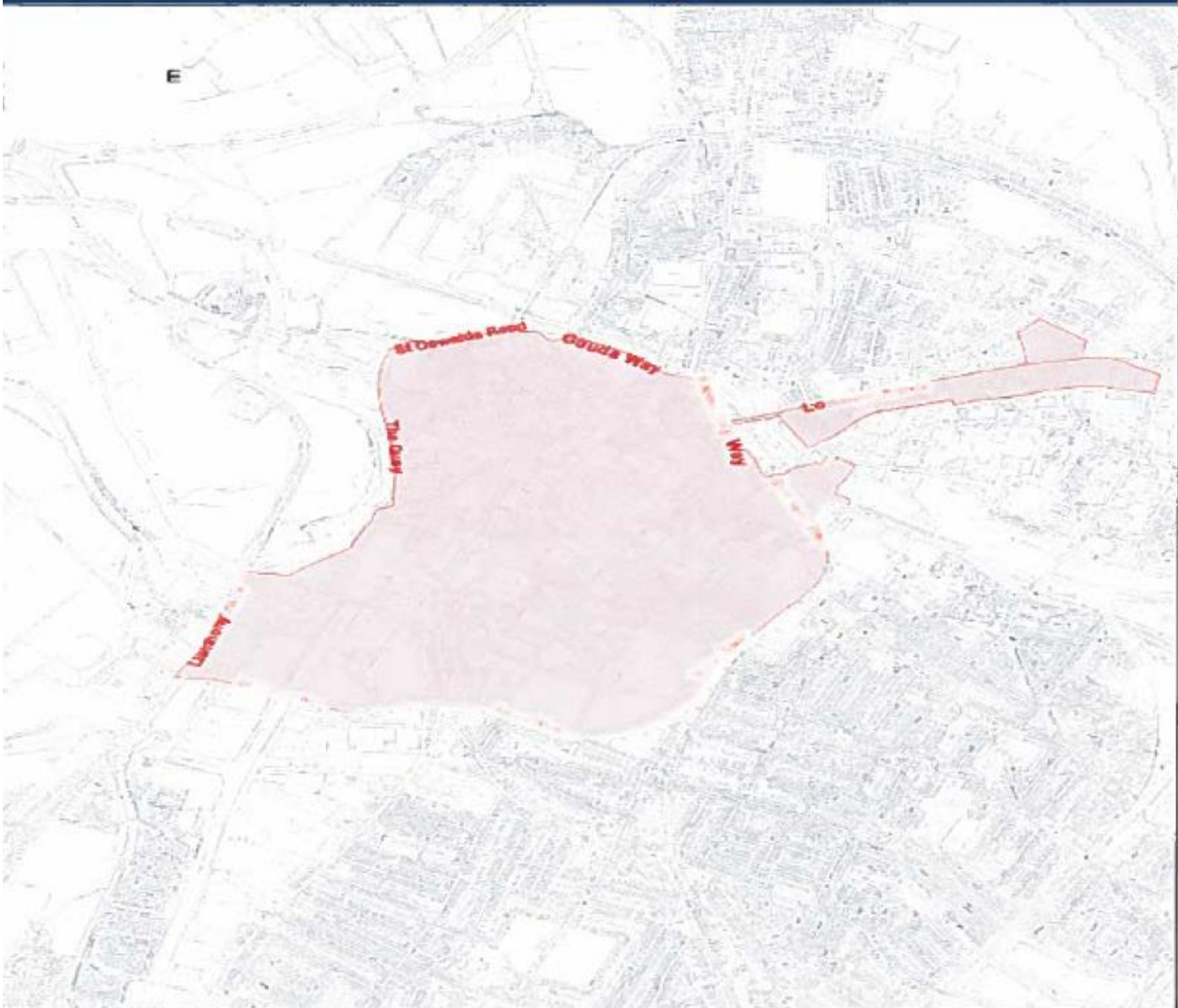
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APPENDIX D

# Gloucester City Council



P n u n . . . . . 1 1.1 1. . . . .

produced | reproduct | material | permis | copyright | Entrance | prosecution | civil proceedings

**APPENDIX E****GLOSSARY OF TERMS****“LICENSABLE ACTIVITIES”**

- Retail sale of alcohol or supply of alcohol by a club.
- Provision of regulated entertainment.
- Late night refreshment i.e. serving hot food or hot drink between 23:00 hours and 05:00 hours.

**“LICENSING AUTHORITY”**

The Council of a district in England. In this case the Licensing Authority is Gloucester City Council.

**“RESPONSIBLE AUTHORITY”**

The following have been named as Responsible Authorities in the Act and/or Regulations:

- Police
- Fire Authority
- Enforcing Authority for Health and Safety at Work etc. Act 1974 i.e. Gloucester City Council Environmental Health or Health and Safety Executive
- Local Planning Authority i.e. Gloucester City Council Planning and Building Control Services
- Gloucester City Council Environmental Protection when dealing with matters under the Environmental Protection Act
- Authority responsible for or interested in matters relating to the protection of children from harm i.e. Gloucestershire County Council, Social Services
- Any Licensing Authority in whose area part of the premises is situated.
- Gloucester City Council Licensing Authority
- Weights and measures authority
- Local Health Board

**IN RELATION TO A VESSEL:**

- A Navigation Authority (where vessel is usually moored or any waters where it is or is proposed to be navigated at the time when it is used for licensable activities)
- The Environment Agency
- The British Waterways Board, or
- The Secretary of State

**“PREMISES LICENCE”**

A licence issued by the Licensing Authority in respect of any premises which authorises the premises to be used for one (or more) licensable activity(ies). The licence is valid

indefinitely unless a shorter period is specified on the licence, or unless it is surrendered or revoked.

**“PREMISES”**

Any vehicle, vessel or moveable structure, or any place or a part of any premises used for licensable activities.

**“PERSONAL LICENCE”**

Licence granted by the Licensing Authority to an individual that authorises that individual to supply alcohol or authorise the supply of alcohol in accordance with a premises licence.

**“DESIGNATED PREMISES SUPERVISOR (DPS)”**

The individual named in the premises licence as the premises supervisor. The Designated Premises Supervisor must hold a valid Personal Licence.

**“TEMPORARY EVENT NOTICE (TEN)”**

An individual aged 18 or over may use a Temporary Event Notice (TEN) where it is proposed to use premises for one or more licensable activity during a period not exceeding 168 hours and where the maximum number of persons to be admitted is less than 500.

### **“CLUB PREMISES CERTIFICATES”**

A Club Premises Certificate may be applied for by any qualifying club that is established and conducted in good faith and possesses at least 25 members. New members to any club must wait at least two days between their nomination and admission to membership.

The grant of a Club Premises Certificate means that a qualifying club is entitled to certain benefits, namely:

- The authority to supply alcohol to members and sell it to guests without the need for any member or employee to hold a Personal Licence.
- The absence of a requirement to specify a Designated Premises Supervisor (DPS).
- More limited rights of entry for the Police and authorised persons.
- Not being subject to the police powers of instant closure, and
- Not being subject to potential orders of the Magistrates Court for a closure of all licensed premises in an area.

### **“OTHER PERSONS”**

- Residents living near the premises
- Persons with an interest in the premises or locality
- Local Councillors
- Businesses with an interest in the premises or locality
- Organisations with an interest in the locality, premises or licensable activities

## APPENDIX F

**REFERENCE SOURCES**

In addition to the guidance offered by this policy the below publications can provide applicants with useful information that should be considered when applications for licensed premises are being considered:

- ❖ [The Licensing Act 2003](#)
- ❖ Guidance issued under section 182 of the Licensing Act 2003
- ❖ The Gloucestershire Constabulary Licensing Policy
- ❖ The Event Safety Guide ('The Purple Book').  
H.S.E. BOOKS – ISBN: **0717624536** – Published: Oct 1999.



<http://www.hsebooks.com/Books/>

- ❖ Managing Crowds Safely.



<http://www.hse.gov.uk/pubns/indg142.htm>

- ❖ 5 Steps to Risk Assessment Case Studies. – ISBN **0717615650**



<http://www.hse.gov.uk/pubns/indg163.pdf>

- ❖ The Guide to Safety at Sports Grounds ('The Green Guide') - ISBN **0113410018** - published by The Stationery Office (<http://www.tso.co.uk/>)

- ❖ Safety Guidance for Street Arts, Carnival, and Large Scale Performances.



<http://www.streetartsnetwork.org.uk/cn/publications/index.php>

- ❖ Home Office Guidance:

Practical Guide for Preventing and Dealing with Alcohol related problems  
Alcohol Disorder Zone Guidance  
Selling Alcohol Responsibly  
UK Police Requirements for Digital CCTV Systems



**USEFUL REFERENCES (ORGANISATIONS)**

Association of Convenience Stores (ACS)  
<http://www.thelocalshop.com/tls/index.asp>

Association of Licensed Multiple Retailers (ALMR)  
<http://www.almr.org.uk/>

Association of Town Centre Managers (ACTM and Purple Flag)  
<http://www.atcm.org/>

British Beer and Pub Association (BBPA)  
<http://www.beerandpub.com/>

British Board of Film Classification (BBFC)  
<http://www.bbfc.co.uk>

British Institute of Inn Keeping (BII)  
<http://www.bii.org/>

British Retail Consortium (BRC)  
<http://www.brc.org.uk/>

Circus Arts Forum  
<http://www.circusarts.org.uk>

Cinema Exhibitors' Association (CEA)  
<http://www.cinemauk.org.uk/>

Department for Culture, Media and Sport (see links to the Licensing Act 2003, Explanatory Notes, Guidance and Regulations)  
<http://www.culture.gov.uk>

Equity  
<http://www.equity.org.uk/>

Independent Street Arts Network  
<http://www.streetartsnetwork.org.uk>

Institute of Licensing (IOL)  
<http://www.instituteoflicensing.org/>

Justices Clerks' Society Good Practice Guide, Licensing  
<http://www.jc-society.co.uk>

LACORS  
<http://www.lacors.gov.uk/>

Licensed Victuallers Associations (LVAs)  
<http://www.flva.co.uk/>

National Association of Local Government Arts Officers

<http://www.nalgao.org/>

National Pub Watch

<http://www.nationalpubwatch.org.uk/>

NOCTIS

(formerly Bar, Entertainment and Dance Association (BEDA))

<http://www.noctisuk.org/>

The Portman Group

<http://www.portmangroup.org.uk>

**APPENDIX H****LIST OF RESPONSIBLE AUTHORITIES****GLOUCESTERSHIRE CONSTABULARY**

Licensing Unit  
Community Engagement Department  
Police HQ  
No1 Waterwells  
Quedgeley  
Gloucester  
GL2 2AN

Telephone: 01452 754482  
Email: [licensing@gloucestershire.pnn.police.uk](mailto:licensing@gloucestershire.pnn.police.uk)

The main Police switchboard number is 0845 090 1234.

**GLOUCESTERSHIRE FIRE AND RESCUE**

Chief Fire Officer  
Fire Service Headquarters  
Waterwells Drive  
Quedgeley  
Gloucester  
GL2 2AX

Telephone: 01452 753333  
Email: [fire.safety@glosfire.gov.uk](mailto:fire.safety@glosfire.gov.uk)

**POLLUTION PREVENTION**

Gloucester City Council  
PO Box 3252  
Westgate Street  
Gloucester  
GL1 9FW

Telephone: 01452 396396  
Email: [communitywellbeing@gloucester.gov.uk](mailto:communitywellbeing@gloucester.gov.uk)

**HEALTH AND SAFETY ENFORCEMENT**

If you are uncertain who enforces Health and Safety on your premises please assume it is Gloucester City Council and forward a copy of the application to the address below:-

**WHERE THE LOCAL AUTHORITY IS THE ENFORCING AUTHORITY:**

Gloucester City Council  
Health and Safety Team  
PO Box 3252  
Westgate Street  
Gloucester  
GL1 9FW

Telephone: 01452 396396  
Email: [Communitywellbeing@gloucester.gov.uk](mailto:Communitywellbeing@gloucester.gov.uk)

**WHERE THE HSE ARE THE ENFORCING AUTHORITY:**

Health and Safety Executive  
4<sup>th</sup> Floor, The Pithay  
All Saints Street  
BRISTOL  
BS1 1ND

Telephone: 02920 263000  
Email: (i) For service employment e.g. Central and Local Government, NHS etc. the contact is [paula.Johnson@hse.gsi.gov.uk](mailto:paula.Johnson@hse.gsi.gov.uk)  
(ii) For other employment e.g. manufacture and repair, agriculture, transport, the contact is [nigel.chambers@hse.gsi.gov.uk](mailto:nigel.chambers@hse.gsi.gov.uk)

**LOCAL PLANNING AUTHORITY**

Group Manager Development Services  
Gloucester City Council  
PO Box 3252  
Westgate Street  
Gloucester  
GL1 9FW

Telephone: 01452 396396  
Email: [development.control@gloucester.gov.uk](mailto:development.control@gloucester.gov.uk)

**CHILD PROTECTION**

Gloucestershire Safeguarding Children Board  
Room 128  
1<sup>st</sup> Floor, Block 4  
Gloucestershire County Council  
Shire Hall  
Gloucester  
GL1 2TG

Telephone: 01452 426321  
Email: [gscb@gloucestershire.gov.uk](mailto:gscb@gloucestershire.gov.uk)

**GLOUCESTERSHIRE TRADING STANDARDS**

The Tri Service Centre  
Waterwells Drive  
Quedgeley  
Gloucester  
GL2 2AX

Telephone: 01452 426201  
Email: [tradstds@gloucestershire.gov.uk](mailto:tradstds@gloucestershire.gov.uk)

**LOCAL HEALTH BOARD**

Public Health Department  
Block 4, 2<sup>nd</sup> Floor  
Gloucestershire County Council  
Shire Hall  
Westgate Street  
Gloucester  
GL1 2TG

Telephone: 01452 328607  
Email: [publichealth@gloucestershire.gov.uk](mailto:publichealth@gloucestershire.gov.uk)

**CANAL & RIVER TRUST - Business Licence applications only**

The Dock Office  
Commercial Road  
Gloucester  
GL1 2EB

Telephone: 0303 040 4040

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LIST OF CONSULTEES

Gloucestershire Constabulary, Licensing Unit.

Gloucestershire Fire & Rescue Chief Fire Officer.

Gloucester City Council Pollution Control Team.

Gloucester City Council Environmental Health.

Health & Safety Gloucester City Council.

Health & Safety Executive 4th Floor, The Pithay All Saints Street Bristol BS1 1ND

Child Protection Gloucestershire Safeguarding Children Board.

Gloucestershire Trading Standards.

Gloucestershire Public Health Department.

Canal & River Trust The Dock Office Commercial Road Gloucester GL1 2EB.

British Beer and Pub Association Market Towers 1 Nine Elms Lane London GW8 5NQ.

Richard Graham MP Gloucester Conservatives.

All Premises Licence Holders.

All Club Premises Certificate Holders.

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## Appendix 3

**Sent:** Wednesday, September 16, 2020 1:54 PM  
**To:** Darren Mountford <Darren.Mountford@gloucester.gov.uk>  
**Subject:** Re: Statement of Licensing Policy review

**CAUTION:** This email originates from outside the organisation. Do not click links or open attachments unless you trust the sender and know the contact is safe. Contact IT if in doubt

**Hi Darren,**

**My points are:**

**4.6 - Agree**

**4.27 - Thankyou**

**5.4 - The LVA promotes this as a default setting**

**6.4 - Thankyou**

**7.3 - LVA Standard default setting**

**7.4 - Noted**

**9 - PLEASE CAN THE LVA Be included with Glos City Safe, BBN listings.**

**Yours Most Sincerely,**

**From:** GRAHAM, Richard <[richard.graham.mp@parliament.uk](mailto:richard.graham.mp@parliament.uk)>

**Sent:** Monday, October 5, 2020 9:42 AM

**To:** city improvement <[cityimprovement@gloucester.gov.uk](mailto:cityimprovement@gloucester.gov.uk)>

**Cc:** BROOKER, Laura <[laura.brooker@parliament.uk](mailto:laura.brooker@parliament.uk)>

**Subject:** Draft Statement of Licensing Policy consultation

**CAUTION: This email originates from outside the organisation. Do not click links or open attachments unless you trust the sender and know the contact is safe. Contact IT if in doubt**

Dear Darren,

Where there are serious anti social behaviour issues involving late night drinking, especially now that bars are closed at 10pm, with frequent public complaints: and where these are directly linked to a particular off licence, I do think that the Police or the Council needs to intervene proactively and consistently.

There should be a system of traffic light warnings to the off licence not to sell to people clearly intoxicated and already or likely to cause trouble on the street. Where the off licence proves unable or unwilling to manage the situation by refusing to sell then the Police should exercise their right to disband groups, ban individuals and create no alcohol zones. And if that doesn't work then licences have to be reviewed and the opening hours reduced.

This is particularly relevant to London Rd, but the principle is the same whether Tredworth High St, Eastgate St or anywhere else. We need to see stronger action by both the Police and the Licensing Team, with clear warnings of what will happen next at each stage of the journey, so that licencees know what might come their way and take real ownership of their social responsibilities, as well as their commercial ones.

Kind regards

Richard Graham MP

# Gloucester City Council

<b>Meeting:</b>	<b>General Purposes Committee Council</b>	<b>Date:</b>	<b>12 January 2021 28 January 2021</b>
<b>Subject:</b>	<b>Constitutional Changes</b>		
<b>Report Of:</b>	<b>Head of Paid Service</b>		
<b>Wards Affected:</b>	<b>All</b>		
<b>Key Decision:</b>	<b>No</b>	<b>Budget/Policy Framework:</b>	<b>No</b>
<b>Contact Officer:</b>	<b>Jon McGinty, Managing Director</b>		
	<b>Email: jon.mcginty@gloucester.gov.uk</b>	<b>Tel:</b>	<b>396200</b>
<b>Appendices:</b>	<ol style="list-style-type: none"> <li>1. <b>Revised Part 3B – Council Functions</b></li> <li>2a. <b>Schedule of Amendments to the Planning and Development Code of Practice</b></li> <li>2b. <b>Existing Planning and Development Code of Practice</b></li> <li>2c. <b>Revised Planning and Development Code of Practice</b></li> <li>3. <b>Revised Probity in Licensing and Enforcement – Code of Practice</b></li> </ol>		

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

- 1.1 To propose changes to the Council's Constitution to reflect a change to the functions of full Council and reviews in relation to the Codes of Practice relating to Planning and Licensing.

### 2.0 Recommendations

- 2.1 General Purposes Committee is asked to consider the information contained in the report and make **RECOMMENDATIONS** to Council on the proposed changes to the Constitution.
- 2.2 Council is asked to **RESOLVE** that, having considered the recommendations of the General Purposes Committee, the proposed changes to the Constitution be adopted and a list of all Trusts held by the Council be appended to the Constitution.
- 2.3 Council is asked to further **RESOLVE** to authorise the Head of Paid Service to amend the list of Trusts, to add, delete or amend the list as required from time to time to maintain its accuracy.

### 3.0 Background and Key Issues

- 3.1 Attached at the appendices are the following:
- 3.2.1 Revised Part 3B – Council Functions

3.2.2 Revised Planning and Development Code of Practice (Schedule of Amendments, current version and revised version)

3.2.3 Probity in Licensing and Enforcement – Code of Practice

3.2 An addition to Council Functions is proposed to in order to provide clarity for how the council exercises its functions as Trustee in respect of all Trusts that it holds. This requirement has been highlighted by recent matters relating to Saintbridge Trust. More detailed arrangements and procedures for exercising the function of trusteeship will be set out in the governing instruments which are being developed and which will be a separate document.

3.3 It is good practice to periodically review all parts of the council's Constitution and while the Codes of Practice continue to be fit for the purpose of supporting the council's regulatory processes, this review has enabled references to legislation to be updated, and provided an opportunity to simplify both documents with the aim of increasing clarity for all parties to these regulatory processes.

3.4 The General Purposes Committee considered the report on 12 January and resolved to recommend that Council approve the amendment to Council Functions and adopt the revised Probity in Licensing and Enforcement – Code of Practice. Due to the volume of amendments and format of the revised Planning and Development Code of Practice, the Committee asked officers to provide alternative versions and for time to review these after the meeting. As no comments were received, the Committee is also recommending that Council adopts the revised Planning and Development Code of Practice.

#### **4.0 Social Value Considerations**

4.1 Not applicable

#### **5.0 Environmental Implications**

5.1 Not applicable

#### **6.0 Alternative Options Considered**

6.1 Not applicable

#### **7.0 Reasons for Recommendations**

7.1 To keep the Constitution under periodic review as required by Article 14.01 of the Council's Constitution.

#### **8.0 Future Work and Conclusions**

8.1 Further reviews and proposed revisions will be made in the future to reflect the fact that the Constitution is an evolving document.

#### **9.0 Financial Implications**

9.1 None arising from the content of this report

(Financial Services have been consulted in the preparation this report.)

**10.0 Legal Implications**

10.1 None arising from the content of this report

(One Legal have been consulted in the preparation this report.)

**11.0 Risk & Opportunity Management Implications**

11.1 Not applicable

**12.0 People Impact Assessment (PIA) and Safeguarding:**

12.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

**13.0 Community Safety Implications**

13.1 Not applicable

**14.0 Staffing & Trade Union Implications**

14.1 Not applicable

**Background Documents:** None

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## PART 3B: Council Functions

3B.1 The functions that may only be exercised by Council are set out in Table 1 below:

<b>Table 1-Functions of Council</b>	
1	Determine which plans, strategies and polices shall comprise the Council's Policy Framework (Part 2 Article 4) and from time to time approve, adopt and amend those plans, strategies and policies.
2	Determine and amend the Council's Budget.
3	Approve a departure from the approved Policy Framework and/or the approved Budget.
4	Appoint and remove the Leader.
5	Change the executive arrangements of the Council.
6	Establish, abolish and decide the terms of reference and the composition of Council Committees and make appointments including co-opted members to them and other non-Executive bodies.
7	Make and amend Procedural Rules, Financial Rules and Contract Rules.
8	Change the name of the City or a parish.
9	Elect a Mayor (Council Chairman) and Deputy Mayor (Council Vice-Chairman).
10	Confer the title of Honorary Alderman and grant the Freedom of the City.
11	Promote or oppose local or personal bills.
12	Where it is the function of the Council, divide Parliamentary Constituencies and local government electoral divisions into polling districts.
13	Appoint an Electoral Registration Officer and Returning Officer for local government elections.
14	Make, amend, revoke or re-enact Byelaws.
15	Fill Council or Parish Council vacancies in the event of insufficient nominations.
16	Change ordinary year of election of parish councillors.
17	Submit proposals to the Secretary of State for an Order for pilot schemes for local elections.
18	Confirm the appointment of the Head of Paid Service and designate officers as the Monitoring Officer and the S151 Officer.
19	Make a scheme for the payment of allowances to Members and determine the amount of all allowances payable to Members of the Council.
20	Approve the Pay Policy Statement.
21	Establish and abolish Joint Committees (in respect of non-Executive functions).
22	In addition to annual approval of appointments to outside bodies, to appoint or nominate individuals to outside bodies in respect of non-Executive Functions and revoke or withdraw such appointment or nomination where there is no Group Leader consensus on the decision to be taken.
23	In addition to annual approval of appointments to outside bodies, appoint or nominate individuals to outside bodies in respect of Executive Functions and revoke or withdraw such appointment or nomination where there is no Group Leader consensus on the decision to be taken.
24	Adopt or amend the Code of Members' Conduct.
25	Take decisions and/or give advice on matters brought to Council by the Leader, Cabinet, Officers and other bodies or persons.
26	Receive and consider statutory reports from the Head of Paid Service and the Monitoring Officer.
27	Authorise virements from the Council's approved Annual Revenue and Capital Budgets in excess of £100,000.

28	Determine whether Local Choice Functions (as defined in Local Authority (Functions & Responsibilities) (England) Regulations 2000 as amended) will be exercised by Council or the Cabinet and undertake such local choice functions as allocated to Council.
29	Discharge any other function which is by law reserved to Council.
30	Approval and allocation of the Council's annual borrowing limit
31	The appointment of review boards under regulations made pursuant to Section 34(4) of the Social Security Act 1998
32	The power to submit proposals to the Secretary of State for an Order under Section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.
33	Any resolution for whole Council elections
34	Any change in the name of electoral areas
35	Any decision as to whether a casino is located in Gloucester
36	To undertake the function of Trustee in respect of all Trusts held by the council



Amendments:

## **General**

“Members” changed to “councillors” through the document to provide consistency.

## **Introduction**

Split into 2: Status and Introduction.

Status sets out that the code relates to the member & employee codes of conduct. Introduction focuses on the planning system.

Introduction tweaked to make it simpler to read. Removed references to structure plan and Regional Spatial Strategy, no longer part of the development plan. Reference to specific development plans removed as these change frequently.

In relation to delegated applications, added that applications can be referred to committee by ward councillors, councillors in adjacent wards where the application might have an impact, the Chair or Vice Chair of the Planning Committee or the Party Spokespersons.

## **Part A Principles**

A.1 Gifts & Hospitality: Updated to refer to councillor & employee codes adopted on 30/1/2020.

A.2 Declarations of interest: Updated to refer to councillor code, decision tree & Chapter 7 of the Localism Act 2011 (criminal offence not to declare a disclosable pecuniary interest).

A.3, amended to advise councillors & officers should not act as agent, within Gloucester city, in line with Local Government Association advice. Text deleted as covered in the declaring interests flow chart.

A.6 Pre-applications, wording amended, to allow for ‘pre-disposition’ which is different to “pre-determination”.

A.10: Amended to requiring a note of telephone conversations regarding planning matters where practical rather than in all circumstances.

A.12 Amended to refer to current document retention policies

A16 Amended to reflect current arrangements, project manager usually attends meetings with developers, agents and landowners.

A17 Deleted, refers to a board member not being able to attend a meeting, unnecessary as all meetings are required to properly recorded and reported to the appropriate project board.

A24 Amended to allow planning officers to attend party political meetings with the prior permission of their Head of Service

A27 Amended to reflect current scheme of delegation for planning applications.

## **Part B Decision making**

B.1 Text revised & simplified to improve clarity

B.3 Deleted, duplicates A.6

B4 (previously B5) Amended to state that the Council will comply with the Local Government (Access to Information) Act 1985 (as amended) in supplying agendas and reports to the Planning Committee and dealing with matters of urgency.

B5 Previously B.6 and B.7 Combined as both relate to officer reports.

B6 Previously B8. Shorter heading to provide clarity. Amended content to reflect guidance in the Local Government Association document 'Probity in Planning'.

B7. Previously B9. Amended wording so that it is consistent with other parts of the code, decisions to be based on planning policies and material planning considerations

B8 Previously B10. Wording amended to provide greater clarity as what might constitute pre-determination.

B9. Previously B12. Amended to clarify that councillors with a parish/town/county councillor role are not necessarily debarred from participating in the planning decision, provided have not already decided how they will vote on the matter

B15-19. Previously B18-B21. Amended to separate 'deferral' and 'committee site visits'. Amended to allow for site visits in advance of the planning committee and to refer to a protocol on planning committee site visits attached at Appendix A (this has already been drafted and used, following the Local Government Association planning committee peer review in 2017). Added matters that might justify a planning committee site visit.

B21 Public Speaking (previously B22). Small modifications to wording, to make it clearer that registered speakers need to have made a written representation on the application.

B25 Text for previous B25 deleted, requirement for public sessions as this is covered elsewhere in the code

B24 Previously B26 and relates to mingling with the public at committee. Amended wording to clarify that the concern is a perception of bias.

#### Part C Administrative Matters

C1 Amended to clarify that the determination of a planning application is a formal administrative process based on balancing competing interests and making an informed judgement against a local and national policy framework in the wider public interest.

#### **Bibliography**

Deleted as it not usual practice to include a bibliography for a councillors' code.

#### **New Appendix**

Site visit protocol attached at Appendix A. As mentioned under B18-B21, this protocol has been used since 2017, following the Local Government Association planning committee peer review. This protocol is intended to guide members of the Planning Committee when considering planning applications in deciding on whether site visits are appropriate and the procedure for arranging and carrying out site visits.



# **PLANNING AND DEVELOPMENT - CODE OF PRACTICE**

Revised July 2012

**A guide to the protocol and procedures to be followed by  
Officers and Members in relation to Planning and Development  
matters including Planning Applications, Development Plan  
and discussions with developers**

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## Introduction

Gloucester City Council's Planning Committee makes statutory decisions on Planning and related applications. Officers decide most applications, in fact about 90%, under powers delegated to the Corporate Director of Regeneration. Applications determined under "delegated powers" tend to be minor and straightforward proposals. The Planning Committee deals with major and contentious applications so their decisions are often significant, weighty and have a considerable effect on the value of land as well as the lives and amenities of people living near development sites. Furthermore, if the Committee makes a wrong or reckless decision this may mean that the Council has to pay substantial costs if it fights and loses an appeal, or if its decision is the subject of a legal challenge from an aggrieved third party.

The principles upon which decisions must be made are set out in legislation in the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004. Both acts require decisions to be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. Under the 1990 Act, the "Development Plan" comprises the County Structure Plan and any adopted Local Plan. Under the 2004 Act, the "Development Plan" comprises the Regional Spatial Strategy and the Development Plan.

Although this statutory duty is clear, planning decisions depend to a greater or lesser degree upon judgement and interpretation of policies and guidance. It is therefore essential that decisions are made having regard only to proper planning considerations, impartially and in a way that does not give rise to public suspicion or mistrust.

The same principles apply to decisions and recommendations that are made by Members and Officers in relation to the development plan process, particularly decisions and recommendations which might involve the allocation and thus the value of land.

The purpose of this local Code of Practice is therefore to set out in detail how Members and Officers should act and the procedures which should be followed to ensure that they not only act in a fair and proper manner, but are also seen to do so.

This Code has been prepared with a particular emphasis on Members who serve on the Council's Planning Committee but its content is also relevant to all other Members and also to Officers both within Planning Services and in all other service units. In short, any Member or Officer who has any contact with, or input in to, the Planning process including the Development Plan and during discussions with landowners and developers has a probity responsibility. It should be noted that there are other rules and requirements in respect of Officers.

The City Council, along with all other local authorities, has adopted a Code of Conduct, which specifies the obligations imposed on Members and defines pecuniary and non-pecuniary interests and how these will affect the way a Member behaves. That Code of Conduct, which every Member has signed up to, is the statutory base to which this Code of Practice is added. In some areas this Code of Practice will extend, or go further than the Code of Conduct. In the case of a conflict between the two the Code of Conduct will take precedence.

It is possible that breaches of this Code of Practice could be considered to be a breach of the Code of Conduct.

This Code of Practice forms part of the Council's Constitution, which sets out how the Council will operate, how decisions are made and the procedures to be followed in order to ensure that these are efficient, transparent and accountable to local people.

A copy of the Council's Constitution can be viewed online at:

[www.gloucester.gov.uk](http://www.gloucester.gov.uk)

## PART A – GENERAL PRINCIPLES

### Gifts and Hospitality

- A1. *Councillors and Officers must abide by the Council's requirement in respect of Gifts and Hospitality as set out in the Code of Conduct for Members and the Officer Code of Conduct which are part of this Council's Constitution.***

Members and officers must be extremely careful in this respect to ensure that no question of bias can be raised. The general rule is that no gifts should be accepted and only modest hospitality connected with the work concerned should be accepted.

### Declarations of Interest

- A2. *Members must always declare their interests in accordance with the Council's Code of Conduct.***

The Council adopted its Code of Conduct on 19 July 2012. The Code of Conduct is contained in the Council's Constitution and must be read in conjunction with this Code of Practice.

All interests must be disclosed at the start of the meeting or when such interests become apparent, and an agenda item on this is included for every meeting.

Depending on the nature of the interest (disclosable pecuniary interest, non-disclosable pecuniary interest or personal interest), the Member may not be allowed to participate in the discussion or vote on the matter unless a dispensation has been granted. They must also not seek to improperly influence any decision on that matter.

The test Members should apply is not whether they themselves think they have an interest but whether others, knowing the relevant facts, would think they have. If a Member has any doubt advice can be taken, but if that doubt still remains it is best that an interest be declared. However, the responsibility for declaring an interest must lie on the Member.

There will however, be times when it only becomes apparent during the meeting that there is a declarable interest. Then the interest must be declared as soon as the Member becomes aware of it, even if it is during discussions on that particular item. The duty is on each Member to declare interests and these will be noted in the Committee minutes.

The Monitoring Officer should be informed of any declarable interests which should also be registered in the Register of Members' Interests.

### Involvement with Agents, Developers and Landowners

- A3. *Councillors and Officers who are involved in the planning process should not act as agents to other parties, or submit planning applications, objections and/or Development Plan representations on behalf of other parties or volunteer bodies.***

Any close involvement, or even perception of close involvement, with a planning application or proposal can compromise the integrity of the planning process. A Member acting as a planning agent could give rise to suspicion that the Member was not impartial, or may influence other Members in the decision making process.

Where Members need to submit Planning applications or Development Plan representations on their own behalf, or on behalf of their employer as part of their job, they must declare an interest and take no part in the processing of the application or in the decision making process. Decisions on any proposals submitted by or relating to land owned or controlled by a serving Member should only be determined by the Planning Committee (or Full Council).

The same rule applies if a Member's employer submits an application, irrespective of whether the Member is involved in the application, its preparation or submission.

There will be very rare occasions when planning decisions need to be made by Full Council, not Planning Committee. In such instances, any Councillor who has acted as an agent or

submitted the application being considered whether personally or on behalf of another party should declare an interest and take no part in voting on the matter.

- A4. Any Member who is a planning or similar agent will not be appointed to either the Planning Committee or Member Working Group and should not be nominated as a substitute. At Cabinet/Council meetings any Councillor who is acting as a planning agent should declare this role and withdraw from any discussion/decision where a clear conflict of interest can be seen to exist.**

Even if they do not practice in Gloucester, the Member will not be appointed to the Planning Committee. This is in view of the potential for members of the public to view their work as possibly affecting their consideration of planning applications and Development Plan matters.

- A5. Councillors or Officers should not enter into a commercial agreement with a developer or landowner in respect of a particular development opportunity as to do so would bring into question the integrity of the planning process.**

Clearly, significant sums of money can be made through the development process and it is vital that Councillors and Officers do not seek to enter into any sort of agreement with a landowner/developer in relation to the promotion of a development site, as to do so would bring into question the integrity of the planning process.

- A6. Members should not seek to advise applicants or agents about the likely acceptability of planning proposals including potential planning applications and land use proposals that are being promoted through the Development Plan process.**

Pre-application discussions should always be undertaken by the Council's Planning Officers to ensure that advice is given professionally, comprehensively and in a way that is clearly removed from the political forum. Planning Committee Members should advise prospective applicants to contact the appropriate Officer for advice on both merits and procedures. If Members do give an indication of their initial reaction to a proposal they must make clear that any proposals will need to be formally considered by Officers and/or the Planning Committee. They should also make clear that Officers and/or the Planning Committee could only make a final decision after a full and formal consideration of the proposal.

Similarly with regard to negotiations and discussions in respect of submitted applications Members should not normally be involved. There may be exceptional circumstances in respect of major or contentious applications where there may be merit in Member involvement to explain a particular local viewpoint or issue. However such discussions should take place only where at least one professional Planning Officer is present. Officers will make a written record of any such meetings held and will place a copy of this record on the office working file. Such a record will constitute a Background Paper for the purposes of the Access to Information Act and may be inspected by any member of the public.

The fact that Planning Committee Members have discussed any such proposal with the applicant or objectors must be made clear when the application or Development Plan matter is before the Committee for determination. Under no circumstances should Members put pressure on Officers to make, or change, any recommendations on an application or Development Plan matter.

- A7. Following the submission of a planning application or Development Plan representation, Members should not themselves, enter into negotiations with the applicant/objector but should leave any such negotiation to Planning Officers.**

The Council employs professional Planning Officers whose job is to deal with the applications and Development Plan representations received, ensure the necessary publicity requirements are dealt with, negotiate with the applicant and/or their agents, and then report to Committee with their recommendations.

The Officers do have pre-application discussions which will try to assist applicants to submit applications in accordance with Council policies and to assist with the smooth processing of the application or consideration of Development Plan representations.

The Officers will always put forward their professional planning view to Committee and be available to answer Members' questions.

- A8. Officers will not enter into negotiations concerning any land or proposal in which they have a direct or indirect interest.**

Clearly, such a situation would give rise to suspicion that the Officer in question was not necessarily acting in an entirely impartial manner and will therefore not be acceptable.

- A9. Subject to the requirements of the Freedom of Information Act or any other relevant legislation, Councillors and Officers should seek to respect the wishes of landowners and developers who intend their proposals to remain confidential until such time as there is a legal obligation to make any such proposal known such as the submission of a planning application or the formal publication period in respect of the Development Plan.**

There may be occasions when developers or landowners wish to seek the views of Councillors and/or Officers concerning particular development proposals, but wish to do so in an entirely confidential manner due to commercial or contractual requirements.

Councillors and Officers will respect such wishes and will only make the proposal known publicly either when the developer agrees or alternatively when there is a legal obligation to make such information available, for example where it has been requested by a third party under the Freedom of Information Act.

- A10. Officers and Members will exercise particular care in relation to telephone conversations concerning planning matters. Where practical, a note should be completed and filed immediately after the conversation.**

In some instances, those involved in the same telephone conversation can come away with entirely different recollection of the issues discussed. For the avoidance of doubt, it is considered appropriate for Officers and Members to complete a short file note following any telephone conversation had with a developer, landowner or other interested party.

#### **Meetings with Agents, Developers and Landowners**

- A11. Members should try not to meet a developer or landowner alone. Where this is unavoidable, particular care should be exercised and where practical, the content of the meeting recorded as accurately as possible.**

In order to ensure the integrity of the planning process it is considered inappropriate for Members to meet a developer on their own. At least two representatives of the Council should be in attendance (including at least one Officer) in order to ensure that an accurate record of the meeting may be made.

- A12. Where Councillors and / or Officers are invited to attend meetings by landowners and developers, accurate and comprehensive records of any such meeting must be kept for a reasonable period of time (i.e. at least 12 months after the completion of the Development Plan process or the determination of a planning application).**

In the event that a Councillor and Officer are invited to attend a meeting held by a landowner/developer, they should at all times act in an impartial manner and should keep a record of the meeting on an appropriate file. In the interests of transparency and accountability it is vital that detailed records of any meetings are kept until the completion of the Development Plan or planning application process. This will ensure that any subsequent queries can be answered with certainty.

- A13. Members and officers meeting a developer must make it clear that any discussions held during meetings cannot bind the Council to any course of action.**

It is essential that any view expressed during a meeting is not taken to represent the view of the City Council as a whole.



**A14. Similarly, in discussing specific developments/localities/topics with developers, Members and Officers must act without prejudice, taking into account and basing any opinions expressed, on relevant planning issues only. This principle must apply throughout the Council's decision-making process.**

It is vital that any opinions expressed about particular development proposals are made without prejudice, are based on the most appropriate use of a site in planning terms and Members in particular must avoid expressing a view on granting, or refusing, the application.

In cases where a 'Project Management Board' has been established under the Prince 2 project management system to deal with a development proposal, the following principles will apply to meetings with developers, agents and landowners:

**A15. All meetings will be properly and accurately recorded and reported to the respective Project Boards.**

**A16. Appropriate members of the respective Project Board must normally be invited to attend. This would likely be the Project Manager and/or Executive.**

**A17. In the event of a project board member being unable to attend, advice on the current status of the project should be sought by the Member/officer concerned.**

**A18. Senior Members/officers involved in the meeting must make themselves familiar with the Project Business Case, and at all times recognise the primacy of it in any discussions which should be complementary to the direction of the project.**

**A19. Records of all discussions and meetings should be provided for the specific Project Manager who will ensure it is placed on the file records.**

For reasons such as policy formulation and access to project documentation and officer support, it is recognised that opposition Members may not be able to fully adhere to all of the requirements set out in points A15 – A19 above. In these circumstances, the following general principles should be applied:

**A20. The general spirit of propriety within the Code of Practice should be respected.**

**A21. The integrity of the Council must not be compromised.**

**A22. No promises or indications of positions which would, or may be adopted should be given which may lead a potential developer to believe that, at some future date, the policy of the Council would favour any development scheme or developer.**

**A23. Members must not negotiate with developers or landowners on planning policy and must adhere to Council policies.**

#### **Independence and Impartiality of Planning Officers**

**A24. Officers must always act impartially and advise the Council of their professional opinion.**

The City Council's Planning Officers must always act impartially to give advice based upon a professional assessment of the Planning merits of each case taking in to account the relevant planning policies and other relevant material considerations. If they do not, or even if it appears that they are not, the integrity of the Planning process is severely compromised. Chartered Town Planners must abide by the Royal Town Planning Institute's Code of Professional Conduct.

Chartered Town Planners may only advocate their own professional view and cannot be required to attend or advise party political meetings. Whilst Chartered Town Planners may appear as the Council's expert witnesses to present the Council's case at Planning Inquiries they must, if asked, give their own professional view in accordance with the Royal Town Planning Institute's Code of Professional Conduct. This is particularly pertinent where an

appeal has been made against a decision made against Officer recommendation although Officers will always present the Council's case to the best of their ability.

#### **Submission of Planning Applications and Development Plan Representations by Officers and Councillors**

***A25. If an Officer or Councillor submits a planning application, an objection to a planning application or a representation in response to the Development Plan, he or she cannot deal directly with that application or representation.***

Any close involvement, or even perception of close involvement could compromise the integrity of the planning process and may give rise to suspicion that the Officer or Member in question was not necessarily acting in an impartial manner.

***A26. In considering planning applications, objections and Development Plan representations submitted by Councillors and or other Officers, Planning Officers will make no distinction between these and any other cases.***

Clearly, no distinction should be made between a representation or planning application received from a Councillor or Officer of the Council and one which has been received from a member of the public or landowner.

Any decision will therefore be based solely on relevant planning issues with no regard had to any indirect or direct connection between the applicant/objector and the City Council.

***A27. Applications by Councillors, Officers or their Relatives or Friends***

These applications must be dealt with, and be seen to be dealt with, openly, fairly and without any bias. Accordingly despite the scheme of delegation to officers to decide certain application, all such applications will be reported to Committee.

## PART B – THE DECISION MAKING PROCESS

### Lobbying of Councillors

**B1. Any lobbying of Members must be dealt with carefully to minimise any perception of influence**

*This is a complex area and one that requires special care. Lobbying is an attempt to influence a Member's view by way of letter, telephone call, meetings or documents in order to achieve a particular decision. It can be by applicants, or their agents, objectors or other Councillors. It is a normal part of the political process but where Members are making statutory decisions, such as planning decisions it can result in decisions being made improperly.*

Members should treat lobbying with care and should ensure that 'unofficial' views, promises or documents do not unduly influence them. Members should advise lobbyists to present their views in writing to the relevant Planning Officer. Alternatively, Members may choose to pass on the views and or submissions of lobbyists to the relevant Planning Officer but in doing so should make it clear that they are not giving their own views as this is a matter for formal consideration by Members.

Members should take particular care when attending public meetings and should remain impartial without expressing a view one-way or the other. Where the view of a Member on a particular development proposal has been expressed in public, this must be declared by that Member when the matter is next considered by Planning Committee, Cabinet or Council.

Planning decisions must be made strictly on the basis of the facts and policies relating to each case. Members must not only act in a way that is fair to all parties but must be seen to do so. In particular, Members must not prejudge proposals before they have read the officer's reports and considered all the evidence.

It can cause particular problems if Members are given information or assurances by applicants that are not part of the formal application or proposal and which are not therefore enforceable. Problems can also arise if Members are given information by objectors which may be misleading untrue or irrelevant. It is also problematical if officers are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the Committee about their relevance or enforceability.

This would cause particular problems if the Committee based a refusal on those matters which officers had not had an opportunity to consider and comment upon.

Circulation of unofficial papers at a Committee meeting also constitutes lobbying. Planning applications must be determined on the basis of the documents and information formally submitted. Only submissions from applicants, agents or objectors, which are formally received by Planning Officers, can properly be taken into account in making a decision. The Committee could be materially misled if Members or other parties circulated 'unofficial' documents or introduced new information on behalf of an applicant or objector, or expressed what they believed to be an applicant's intention, if this did not form part of the application documents and correspondence which had been submitted to Development Control. In all circumstances copies of any letters, documents or correspondence should be given to the Planning Officer to consider and comment on.

**B2. *Planning Committee Members should not organise support for or against a planning application and should not lobby other Councillors.***

Planning Committee Members should not place themselves in a position where they may give the impression that they had made up their mind before hearing the evidence. Each Councillor should make up his or her own mind on the evidence and facts presented to the Committee. With regard to other Councillors, they must not seek to influence Planning Committee Members or give that impression.

**B3. *Councillors or Officers within the Council must not instruct or put pressure on Planning Officers to make or not to make a particular recommendation on a planning application or matter relating to the Development Plan including in particular the allocation of land.***

The City Council's Planning Officers must always act impartially to give advice based upon a professional assessment of the planning merits of each proposal taking into account relevant planning policies and other material considerations. If they do not, or even if it appears that they are not, the integrity of the planning process is severely compromised.

Chartered Town Planners may only advocate their own professional view and cannot be required to attend or advise party political meetings.

**B4. *Where a Member has been actively lobbied through the submission of written correspondence, any such correspondence should be reported to other Members and Officers when the matter is discussed at Planning Committee, Cabinet, Council and any other relevant meeting.***

Where lobbying has occurred, the Councillor who has been lobbied should make other Councillors involved in the decision making process, aware of such an approach as well as Officers who may be responsible for making recommendations in respect of the proposal in question.

**Reports to Planning Committee/Cabinet/Council**

**B5. *Officers will, with the exception of matters of urgency, provide written reports for all matters to be considered by the Planning Committee, Cabinet and Council and where appropriate for any Member Working Group.***

There will be occasions when matters arise after the committee papers have been prepared and sent out, but a decision of Committee will be required. If possible a written report will be tabled, or if this is not possible the Development Control Services Manager will provide a detailed verbal report on the issue, explaining why it is urgent and providing recommendations. This shall be minuted.

Members are also permitted to raise matters of urgency under the Local Government Act 1972. However if they do intend to do this, the Planning Officers should be informed prior to the meeting of the nature and content of the matter. Officers will attempt to answer any questions, but depending on the length of notice of the matter of urgency this may not be possible at that meeting.

Any matters of urgency can only be raised with the agreement of the Chair of Planning Committee who must give reasons as to why it is considered to be an urgent item.

**B6. *Officer reports will always be accurate and cover all relevant considerations and issues including where relevant, the views of consultees and objectors.***

**B7. *Reports to Planning Committee will each give a clear recommendation that will normally be that of the Development Control Services Manager.***

In exceptional circumstances where, at the time of publication of the report, negotiations are still ongoing or an essential consultation or other response is awaited, Officers will give an oral recommendation and this will be minuted.

If the report is not by the Development Control Services Manager the reason for this will be included in the report.

- B8. *Members must read and carefully consider the content of Officer reports before the relevant meeting and must have regard to the content of the report in reaching a decision. Where a Member or Members require further clarification on any particular matter, this should be raised with the Development Control Services Manager in advance of the Planning Committee meeting so that an informed response may be prepared and in order to avoid any unnecessary delay in the consideration of the application.***

Written reports are a cornerstone of probity in the modern Planning system. The Audit Commission and a number of reports in respect of Planning malpractice have made quite clear that written reports are essential.

Officers will therefore prepare written reports on all planning matters being considered by Planning Committee, Cabinet and Council.

Matters to be discussed by Members at a Working Group will generally be supported by a written report, however, on occasions, for the sake of expediency, it may be necessary to provide Members of the Working Group with an oral report.

#### **Voting and Impartiality**

- B9. *Planning Committee Members must vote in the planning interests of the City as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced planning assessment in the light of wider planning policies and planning guidance. The same principle applies to Members who are required to make decisions on matters relating to the Development Plan including Cabinet, Council and any Member Working Group.***

If the planning system is to work properly it is essential that in voting on all planning matters, Members do so based on the advice set out in the Officer report and not in the pursuit of their own personal or ward interests or even someone known to them. This is likely to be a breach of the National Code of Conduct and can lead to disqualification or other sanction.

- B10. *Members of the Planning Committee must not declare which way they intend to vote in advance of the consideration of an application by the Planning Committee.***

This can be a difficult issue for Members as they may be exposed to pressure from residents or the media to express a particular viewpoint. However it is essential that Members are measured and circumspect in the comments they make. If a Member declares which way they intend to vote it would in effect be pre-judging the application without having considered all of the relevant information. This could expose the Council to the possibility of legal challenge or charges of maladministration. Members must not make their minds up until they have read the relevant committee reports and heard the evidence and arguments on both sides, at committee.

**B11. If a Member of the Planning Committee (including a substitute Member) does declare his or her OUTRIGHT support or opposition for a proposal before the matter has been put before the Planning Committee, he or she must make an open declaration of their view to the Planning Committee and take no part in the voting on that particular item.**

This rule follows on from Rule B10 above. It does not mean that Members of the Planning Committee cannot reflect local concerns about a proposal before the Planning Committee considers it. However, the view or comment must not pre-determine or be seen to pre-determine the way that Member will vote.

**B12. Councillors who may also be Members of either a Parish Council or Gloucestershire County Council must exercise particular care in reconciling their two roles in making decisions on planning applications and Development Plan matters.**

Any Member serving a 'dual-function' must exercise great caution. They may, for example, be required to express a view or vote on a particular proposal at a Parish or County Council meeting and should in any such case, abstain from the debate/vote. This is not inconsistency, but the consequence of having to fulfil two totally separate roles.

If a Member does declare his or her outright support or opposition to a proposal through another forum such as a Parish or County Council meeting, they must make an open declaration when the matter is discussed at the City Council Planning Committee, Cabinet or Council meeting and take no part in voting on that matter.

The Code of Conduct must be carefully considered here. The interest is likely to be a disclosable pecuniary interest and could affect the Member's ability to participate in the decision.

**B13. All Councillors must not favour or show, or appear to favour or show, bias towards any particular person, company or group, or any particular site or locality in the exercise of any planning function.**

#### **Decisions Involving Council-Owned Land**

**B14. In making decisions in relation to Council-owned land, Officers and Members will base their assessment on relevant planning issues only and will have no regard to financial or any other benefits that might accrue as a result. (This principle applies to both the determination of planning applications and the allocation of land through the Development Plan process).**

The Council's own proposals, or those of others on Council owned land, must be dealt with on exactly the same basis as applications and representations submitted by any other applicant/landowner, particularly as there are special Regulations under which to consider them.

Members must not have any regard to any other benefit, financial or otherwise, which may accrue to the Council as a result of any particular decision on a planning proposal. All planning applications and representations, irrespective of the applicant, must be considered and dealt with on the planning merits, not any extraneous gain or loss that might accrue to the Council.

***B15. In particular, Officers and Members will ensure that decisions to allocate Council-owned land are based on the most appropriate use or mix of uses and not on the basis of which use or uses would yield the highest land value.***

Clearly certain land uses such as residential and retail in particular have a higher land value than others and as such it is important that in seeking to allocate land that is owned by the City Council, Officers and Members make any such recommendation and decision on the use that is most appropriate for the site given its location and surrounding uses and not with regard to which use will yield the highest land value.

***B16. Other proposals that may have an impact on a Council land holding or proposal must also be dealt with strictly on their planning merits. (This principle applies to both the determination of planning applications and the allocation of land through the Development Plan process).***

These circumstances present special challenges to ensure that the planning system operates, and is seen to operate, fairly.

#### **Political Decisions**

***B17. Decisions on planning applications and Development Plan matters or the establishment of 'party lines' cannot be made in political group meetings prior to a Planning Committee or Cabinet/Council meeting.***

The view of the Ombudsman is that 'the use of political whips at group meetings is contrary to the National Code and amounts to maladministration'. It could also give rise to a legal challenge to any decision by judicial review.

#### **Deferrals and Committee Site Visits**

***B18. Where Members propose to defer the consideration of a planning application they must set out clear planning reasons for doing so and these will be minuted.***

***B19. All site inspections will be conducted in a strictly 'fact-finding' manner and there shall be no on-site debate about the merits of the proposal or any negotiations or discussions with the applicant, agent or residents.***

***B20. In the event that a site visit is considered necessary to assist Members in deciding on a matter relating to the Development Plan, the same principles will apply.***

A proposal to defer an application must be made on clear planning grounds. Justification for deferring a decision might be to ensure that all the proper consultation procedures have been followed or to secure amendments without which the application would have to be refused. The reason for deferring for a site visit must be clearly set out by the proposer and recorded in the minutes. Political expediency such as deferring a contentious application until after elections is never an acceptable course of action.

#### **Committee Process**

***B21. The Council's Standing Orders will apply to the conduct of business.***

There are also some good practice rules to assist the smooth operation of the Committee and promote probity. These are:

- Members should not report new information that they may have been given by applicants or third parties, which has not been submitted to Officers for formal consideration and comment.
- Members should seek any necessary clarification from Officers on key issues **before** the meeting as this enables fuller and better-researched answers to be given.
- Members should not introduce non-planning related matters to the debate.
- Members should not speak at length on items where they are in full agreement with the Officer report.
- The Chair will always afford Officers the opportunity to respond to questions and points made by Members.
- At the discretion of the Chair of the Planning Committee, Ward Councillors may be allowed to speak at Planning Committee to express their own views or those of their constituents.

## **B22. *Speaking at Planning Committee***

The Council permits applicants and objectors the right to address the Committee for 5 minutes prior to the consideration of an application by the Committee. Generally speaking, only one person for, and one person against, the application may speak and only on planning considerations and matters raised with officers beforehand. Occasionally, at the discretion of the Chair, more than two speakers may be permitted although an equal amount of time for speakers for and against will be allowed.

If there are a large number of supporters, or objectors, then generally only one representative of each may address the Committee unless otherwise agreed by the Chair to speak. Their names must be provided to the Chair prior to the Committee starting. Ward Councillors will be allowed to speak on an application at Planning Committee provided that they do not have a prejudicial interest. The Council has prepared a separate guidance note on the procedures to be followed in speaking at Planning Committee. This is available from the Planning Department and is also online.

### **Planning Committee Decisions**

## **B23. *Where Members propose to make a decision contrary to the Officer recommendation, clear planning reasons must be established and these must be seconded and minuted.***

The Member, or Members, proposing the decision contrary to the report recommendations, must give clear planning reasons for their proposal before any vote is taken. Their reasons must be relevant and material planning considerations.

## **B24. *In cases where Members propose to make a decision contrary to an Officer recommendation, the Chair will allow the Development Control Services Manager to comment before a vote is taken.***

It is a requirement of the Town and Country Planning Act 1990 and the 2004 Planning and Compulsory Purchase Act that decisions must be in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. However, decision-making often requires assessment and judgement of the weight to be attached to certain policies and issues and no Development Plan no matter how current will ever provide an answer for all, or even most, applications. Any decision contrary to the provisions of the Development Plan must be clearly justified and recorded. The personal circumstances of an applicant will hardly ever provide such grounds.



These principles do not apply directly to decisions pertaining to the drafting of the Development Plan. However, there will be occasions when Members make decisions that are not in accordance with the recommendations of Officers. In such cases, the general principles set out above will apply, in particular, the reason for the decision must be justified and minuted.

### **Public Attendance**

***B25. All planning matters on Planning Committee, Cabinet and Council agenda will be considered in public session.***

Open debate is a fundamental pre-requisite of probity in the planning system.

Applicants, agents, supporters or objectors to an application do have a right to address the Planning Committee, but this is limited to one in support and one in opposition. Other than this no other person shall be allowed to speak or make recommendations at the Committee. Any member of the public who disrupts the meeting in any way will not be allowed to remain in the room.

***B26. Great care should be taken by Members mingling or speaking to applicants or objectors.***

Members should be extremely careful in meeting with and talking to applicants or objectors either before or after the meeting. This could give the impression that Members had either prejudged a particular application, or had supported a particular view without looking at, and taking into account all the facts presented by the Planning Officers.

## **PART C – ADMINISTRATIVE MATTERS**

### **Member and Officer Training**

**C1. *Any Member who is on the Planning Committee must take part in regular training.***

Members who are exercising powers to grant or refuse planning applications are exercising a quasi-judicial function in an area where there is considerable Government advice and law. Members must ensure they are adequately trained to carry out the task. Accordingly any Member who is on the Planning Committee must take part in training organised by the Development Control Service either before the first meeting of the Committee or within 3 months after being nominated to serve on the Committee, whichever is the later. If they do not, or cannot, they must step down. All Members (including substitute Members) who sit on the Planning Committee must attend refresher training at least once every 3 years. Any Member of the Planning Committee who has not undergone refresher training in accordance with this Code of Practice will not be permitted to vote on any planning applications. Accurate records of Member training will be kept by Planning Officers.

**C2. *Planning Officers will undertake training and provide advice to ensure that Members are sufficiently well informed on the implications of the Development Plan system prior to their consideration of Development Plan matters.***

**C3. *Councillors will in return undertake to educate themselves on the implications of the Development Plan system including carrying out appropriate research from independent sources such as the Government's 'Planning Portal' website.***

**C4. *Councillors are encouraged to attend any training sessions that are organised each year. Members are also encouraged to research pertinent issues by reference to the Development Control Services Manager who can arrange access to publications, legislation, policy documents and practice notes.***

**C5. *Members will be given regular updates to keep them informed of important changes in legislation, procedures or practices, either verbally, at meetings, or as briefing notes.***

### **Record Keeping**

**C6. *Officers will ensure that planning application files contain sufficient information itemising events so that the reason for the ultimate decision can be understood by anyone who reads the file without a detailed knowledge of the application.***

### **Complaints**

**C7. *Any complaints received in writing about the way in which a planning matter has been dealt with in terms of procedure and fairness will be investigated under the Council's Complaints Procedure.***

**C8. *Where a complaint is not considered to warrant a full investigation under the Council's Complaints Procedure, Officers will in any case endeavour to explain the reasons for the Council's decision.***

The fact that someone may disagree with the decision the Council has reached is not a complaint which will necessitate investigation as such, although officers will endeavor to explain the reasons for the Council's decision in any particular case.

Where any complaint about a Council decision made contrary to the officer's recommendation is received, a copy will be forwarded to the Chair of the Committee. Complaints can also be made to the Local Government Ombudsman regarding administrative maladministration, or the Audit and Governance Committee regarding breaches of the Code of Conduct.

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# **PLANNING AND DEVELOPMENT - CODE OF PRACTICE**

**Draft Revised December 2020**

**A guide to the protocol and procedures to be followed by  
Officers and Councillors in relation to Planning and  
Development matters including Planning Applications,  
Development Plan and discussions with developers**

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## **Status**

This Code of Practice supplements the Council's [Councillor Code of Conduct](#) and [Employee Code of Conduct](#) as set out in the Council's Constitution. Where appropriate, councillors and officers should refer to the relevant Code of Conduct. In some areas this Code of Practice will extend, or go further than the Codes of Conduct. In the case of a conflict between the two the Codes of Conduct will take precedence.

It is possible that breaches of this Code of Practice could be considered to be a breach of the Code of Conduct.

This Code of Practice forms part of the Council's Constitution, which sets out how the Council will operate, how decisions are made and the procedures to be followed in order to ensure that these are efficient, transparent and accountable to local people.

## **Introduction**

Gloucester City Council's Planning Committee makes statutory decisions on planning and related applications. Officers decide about 95% of applications under delegated powers. The applications to be determined under delegated powers are generally minor and less contentious. However, applications can be referred to committee by ward councillors, councillors in adjacent wards where the application might have an impact, the Chair or Vice Chair of the Planning Committee or the Party Spokespersons.

The Planning Committee deals with major and contentious applications where decisions are often significant, weighty and have a considerable effect on the value of land as well as the lives and amenities of people living near development sites. Furthermore, if the Committee acts inappropriately it may risk substantial costs arising from appeals, or if the decision is the subject of a legal challenge from an aggrieved party.

The principles upon which decisions must be made are set out in legislation in the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004. Both acts require decisions to be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.

Although this statutory duty is clear, planning decisions depend to a greater or lesser degree upon judgement and interpretation of policies and guidance. It is therefore essential that decisions are made having regard only to proper planning considerations, impartially and in a way that does not give rise to public suspicion or mistrust.

The same principles apply to decisions and recommendations that are made by councillors and officers in relation to the development plan process, particularly decisions and recommendations which might involve the allocation and thus the value of land.

The purpose of this local Code of Practice is therefore to set out in detail how councillors and officers should act and the procedures which should be followed to ensure that they not only act in a fair and proper manner, but are also seen to do so, whether serving on the Planning Committee or not.

## PART A – GENERAL PRINCIPLES

### Gifts and Hospitality

- A1. Councillors and officers must abide by the Council's requirement in respect of Gifts and Hospitality as set out in the [Councillor Code of Conduct](#) and [Employee Code of Conduct](#) which are part of this Council's Constitution.**

Councillors and officers must be extremely careful in this respect to ensure that no question of bias can be raised. The general rule is that no gifts should be accepted, and only modest hospitality connected with the work concerned should be accepted.

### Declarations of Interest

- A2. Councillors must always declare their interests in accordance with the Council's Councillor Code of Conduct.**

The Localism Act 2011 and the Council's Councillor Code of Conduct place requirements on Councillors to register and declare their interests and how they should behave if an interest exists. Guidance on the registration and declaration of interests may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.

Paragraph 15 of the [Councillor Code of Conduct](#) identifies disclosable pecuniary interests. Where the interest is a "Disclosable Pecuniary Interest" the councillor should take no part in the debate or vote on that item. It is a criminal offence to fail to comply with the requirements that relate to Disclosable Pecuniary Interests.

Paragraph 19 of the Code clarifies the need to declare interests that affect a councillor's well-being or financial position, or the well-being or financial position of a family member or a close associate. If it is considered that the interest could be perceived as being so significant that it would be likely to **prejudice the councillor's judgement** of the public interest, the councillor should take no part in the debate or vote on that item.

The [Declaring Interests Flowchart](#) provides further guidance on how to assess whether an interest impacts a councillor's ability to participate in the discussion or vote on a matter.

All interests must be disclosed at the start of the meeting and these will be noted in the Committee minutes. If an interest comes to light after the start of the meeting, for example, part way during debate, this must be disclosed. Councillors should be clear and specific in identifying the item on the Agenda in which they have an interest and the nature of the interest (unless the Monitoring Officer considers that it is a sensitive interest because its disclosure could lead to you, or the person connected with you, being subject to violence or intimidation)

No councillor or officer should seek to influence any decision in which they have an interest.

The test councillors should apply is not whether they themselves think they have an interest but whether others, knowing the relevant facts, would think they have. If a councillor has any doubt advice can be taken, but if that doubt still remains, it is best that an interest be declared. However, the responsibility for declaring an interest must lie on the councillor.

Councillors should notify the Monitoring Officer of any Disclosable Pecuniary Interest or other declarable interest not already entered into the Councillors Register of Interests within 28 days of that interest being created or becoming apparent.

### Involvement with Agents, Developers and Landowners

- A3. Councillors and Officers who are involved in the planning process should not act as agents to other parties, or submit planning applications, objections and/or Development Plan representations on behalf of other parties or volunteer bodies.**



Officers and councillors must not act as agents for people pursuing planning matters within Gloucester City, even if they are not involved in the decision making on them.

- A4. Any Councillor who is a planning or similar agent will not be appointed to either the Planning Committee or Councillor Working Group and should not be nominated as a substitute.**

Even if they do not practice in Gloucester, the Councillor will not be appointed to the Planning Committee. This is in view of the potential for members of the public to view their work as possibly affecting their consideration of planning applications and Development Plan matters. At Cabinet/Council meetings any Councillor who is acting as a planning agent should declare this role and withdraw from any discussion/decision where a clear conflict of interest can be seen to exist.

- A5. Councillors or Officers should not enter into a commercial agreement with a developer or landowner in respect of a particular development opportunity as to do so would bring into question the integrity of the planning process.**

Clearly, significant sums of money can be made through the development process and it is vital that councillors and officers do not seek to enter into any sort of agreement with a landowner/developer in relation to the promotion of a development site, as to do so would bring into question the integrity of the planning process.

- A6. Councillors should not advise applicants or agents about the likely acceptability of planning proposals including potential planning applications and land use proposals that are being promoted through the Development Plan process.**

Pre-application discussions should always be undertaken by the council's planning officers to ensure that advice is given professionally, comprehensively, transparently and in a way that is clearly removed from the political forum. Councillors should always advise prospective applicants to contact the appropriate officer for advice on both merits and procedures.

If councillors do give an indication of their initial reaction to a proposal (e.g. this appears to accord with planning policy) they should make it clear that they will only be in a position to take a final view after considering the officer's report and representations and hearing any debate at the Committee meeting. Similarly with regard to negotiations and discussions in respect of submitted applications, councillors should not normally be involved. There may be exceptional circumstances in respect of major or contentious applications where there may be merit in councillor involvement to explain a particular local viewpoint or issue. However, such discussions should take place only where at least one planning officer is present. Officers will make a written record of any such meetings held and will place a copy of this record on the office working file. Such a record will constitute a Background Paper for the purposes of the Access to Information Act and may be inspected by any member of the public.

The fact that Planning Committee have discussed any such proposal with the applicant or objectors must be made clear when the matter is before the Committee/Cabinet for determination. Under no circumstances should councillors put pressure on officers to make, or change, any professional recommendations.

- A7. Following the submission of a planning application or Development Plan representation, Councillors should not themselves, enter into negotiations with the applicant/objector but should leave any such negotiation to Planning Officers.**

The Council employs professional planning officers whose job is to deal with the applications and Development Plan representations received, ensure the necessary publicity requirements are dealt with, negotiate with the applicant and/or their agents, and then report to Committee with their recommendations.

Officers have pre-application discussions which will try to assist applicants to submit applications in accordance with Council policies and to assist with the smooth processing of the application or consideration of Development Plan representations.

Officers should put forward their professional planning view to Committee and be available to answer councillors' questions.

**A8. Officers will not enter into negotiations concerning any land or proposal in which they have an interest.**

Clearly, such a situation would give rise to suspicion that the officer in question was not necessarily acting in an entirely impartial manner and will therefore not be acceptable.

**A9. Subject to the requirements of the Freedom of Information Act or any other relevant legislation, Councillors and Officers should seek to respect the wishes of landowners and developers who intend their proposals to remain confidential until such time as there is a legal obligation to make any such proposal known such as the submission of a planning application or the formal publication period in respect of the Development Plan.**

There may be occasions when developers or landowners wish to seek the views of councillors and/or officers concerning particular development proposals, but wish to do so in an entirely confidential manner due to commercial or contractual requirements.

Councillors and officers will respect such wishes and will only make the proposal known publicly either when the developer agrees or alternatively when there is a legal obligation to make such information available, for example where it has been requested by a third party under the Freedom of Information Act.

**A10. Officers and Councillors will exercise particular care in relation to telephone conversations concerning planning matters.**

In some instances, those involved in the same telephone conversation can come away with entirely different recollection of the issues discussed. Where practical, a note should be completed and filed immediately after the conversation.

**Meetings with Agents, Developers and Landowners**

**A11. Councillors should try not to meet a developer or landowner alone. Where this is unavoidable, particular care should be exercised and where practical, the content of the meeting recorded as accurately as possible.**

In order to ensure the integrity of the planning process it is considered inappropriate for councillors to meet a developer on their own. At least two representatives of the Council should be in attendance (including at least one officer) in order to ensure that an accurate record of the meeting may be made. This is to protect the councillor and the Council in the event of a disputed account of the meeting.

**A12. Where Councillors and/or Officers are invited to attend meetings by landowners and developers, accurate and comprehensive records of any such meeting must be made and retained in accordance with the Council's document retention policies.**

In the event that a councillor and officer are invited to attend a meeting held by a landowner/developer, they should at all times act in an impartial manner and should keep a record of the meeting on an appropriate file. In the interests of transparency and accountability it is vital that detailed records of any meetings are kept until the completion of the Development Plan or planning application process and in accordance with the Council's document retention policies. This will ensure that any subsequent queries can be answered with certainty.

**A13. Councillors and officers meeting a developer must make it clear that any discussions held during meetings cannot bind the Council to any course of action.**

It is essential that any view expressed during a meeting is not taken to bind the Council or represent the final view of the City Council as a whole.

**A14. Similarly, in discussing specific developments/localities/topics with developers, councillors and officers must act without prejudice, taking into account and basing any opinions expressed, on relevant planning issues only.**

It is vital that any opinions expressed about particular development proposals are made without prejudice, are based on the most appropriate use of a site in planning terms and Councillors in particular must avoid expressing a view on granting, or refusing, the application.

**In cases where a 'Project Management Board' has been established under the Prince 2 project management system to deal with a development proposal, the following principles will apply to meetings with developers, agents and landowners:**

- A15. All meetings will be properly and accurately recorded and reported to the respective Project Boards.**
- A16. Appropriate members of the respective Project Board must normally be invited to attend. This would usually be the Project Manager.**
- A18. Senior Councillors/officers involved in the meeting must make themselves familiar with the Project Business Case, and at all times recognise the primacy of it in any discussions which should be complementary to the direction of the project.**
- A19. Records of all discussions and meetings should be provided for the specific Project Manager who will ensure it is placed on the file records.**

For reasons such as policy formulation and access to project documentation and officer support, it is recognised that opposition councillors may not be able to fully adhere to all of the requirements set out in points A15 – A19 above. In these circumstances, the following general principles should be applied:

- A20. The general spirit of propriety within the Code of Practice should be respected.**
- A21. The integrity of the Council must not be compromised.**
- A22. No promises or indications of positions which would, or may be adopted should be given which may lead a potential developer to believe that, at some future date, the policy of the Council would favour any development scheme or developer.**
- A23. Councillors must not negotiate with developers or landowners on planning policy and must adhere to Council policies.**

#### **Independence and Impartiality of Planning Officers**

- A24. Officers must always act impartially and advise the Council of their professional opinion.**

The City Council's planning officers must always act impartially to give advice based upon a professional assessment of the planning merits of each case taking in to account the relevant planning policies and other relevant material considerations. If they do not, or even if it appears that they are not, the integrity of the Planning process is severely compromised. Chartered Town Planners must abide by the Royal Town Planning Institute's Code of Professional Conduct.

Chartered Town Planners may only advocate their own professional view and cannot be required to attend or advise party political meetings except with the prior permission of their Head of Service. Whilst Chartered Town Planners may appear as the Council's expert witnesses to present the Council's case at Planning Inquiries they must, if asked, give their own professional view in accordance with the Royal Town Planning Institute's Code of Professional Conduct. This is particularly pertinent where an appeal has been made against a decision made against officer recommendation although officers will always present the Council's case to the best of their ability.

#### **Submission of Planning Applications and Development Plan Representations by Officers and Councillors**

**A25. If an officer or councillor submits a planning application, an objection to a planning application or a representation in response to the Development Plan, he or she shall not deal directly or indirectly with that application or representation.**

Any involvement, or even perception of involvement could compromise the integrity of the planning process and may give rise to suspicion that the officer or councillor in question was not necessarily acting in an impartial manner.

**A26. Representations submitted by councillors and or officers on planning applications, objections and Development Plan proposals shall be given no greater weight than those of the general public, landowners or developers.**

Clearly, no distinction should be made between a representation or planning application received from a councillor or officer of the Council and one which has been received from a Councillor of the public or landowner.

Any decision will therefore be based solely on relevant planning issues with no regard had to any indirect or direct connection between the applicant/objector and the City Council.

**A27. Applications by Councillors, Officers or their Immediate Relative shall only be determined by the Planning Committee**

These applications must be dealt with, and be seen to be dealt with, openly, fairly and without any bias. Accordingly, despite the scheme of delegation to officers to decide certain applications, all such applications will be reported to and determined by the Planning Committee.

## PART B – THE DECISION MAKING PROCESS

### Lobbying of Councillors

#### ***B1. Any lobbying of Councillors must be dealt with carefully to minimise any perception of influence***

Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward Councillor or to a Councillor of the planning committee. Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, and so care and common sense must be exercised by all parties involved.

Planning decisions must be made strictly on the basis of the facts, policies and material circumstances relating to each case. Councillors must not only act in a way that is fair to all parties but must be seen to do so. In particular, councillors must not prejudge or pre-determine proposals before they have read the officer's reports and considered all the evidence at the Committee meeting.

Lobbying can take many forms, including the most common:

- (a) Lobbying of Councillors by applicants, agents, objectors or supporters.
- (b) Lobbying by other Councillors.

Lobbying may be verbal or by the circulation of messages, letters or documents to all or some councillors physically or digitally. On occasions applications/agents/owners may wish to meet councillors at the site.

Where a councillor is asked for support by an applicant or agent, supporter or objector in respect of a planning application or related matter, then the councillor must state that he/she will not indicate support or otherwise until they are in possession of all the facts and have heard the Committee debate. Such contact (lobbying) must be declared at the Committee meeting.

Councillors on the Planning Committee who receive representations from people seeking to persuade them to vote in a particular way shall, where those representations are not referred to in either the officers' report to Committee, or on the late Representations Sheet circulated at Committee, supply full details and copies (where applicable) to the Planning Manager and the Case Officer for the application.

Councillors who receive representations from people seeking to persuade them to vote in a particular way in respect of a Development Plan matter shall, where those representations are not referred to in the officers' report to Council, supply full details and copies (where applicable) to the Planning Policy Team Leader.

Developers often arrange presentations in respect of their development proposals. Councillors of the Planning Committee may attend and listen to such presentations and ask questions for the purposes of clarifying their understanding of the proposals but only where the presentation is provided within a public forum. However, it is important to be aware that a presentation is a form of lobbying and bear in mind the need to avoid pre-determination. Any attendance at developer presentations must be declared at the Planning Committee meeting.

**B2. *Planning Committee councillors should not organise support for or against a planning application and should not lobby other councillors.***

Planning Committee members should not place themselves in a position where they may give the impression that they had made up their mind before hearing the evidence. Each councillor should make up his or her own mind on the evidence and facts presented to the Committee. With regard to other councillors, they must not seek to influence Planning Committee members or act in a way which could reasonably give that impression.

**B3. *Where a Councillor has been actively lobbied through the submission of written correspondence, any such correspondence should be reported to other Councillors and Officers when the matter is discussed at Planning Committee, Cabinet, Council and any other relevant meeting.***

Where lobbying has occurred, the Councillor who has been lobbied should make other Councillors involved in the decision making process, aware of such an approach as well as Officers who may be responsible for making recommendations in respect of the proposal in question.

**Reports to Planning Committee/Cabinet/Council**

**B4. *Officers will, with the exception of matters of urgency, provide written reports for all matters to be considered by the Planning Committee, Cabinet and Council and where appropriate for any Councillor Working Group.***

*The Council will comply with the Local Government (Access to Information) Act 1985 (as amended) in supplying agendas and reports to the Planning Committee and dealing with matters of urgency.*

**B5. *Reports to Planning Committee will include a clear recommendation.***

Planning reports should be accurate and should include the substance of any objections and other responses received to the consultation. Relevant information should include a clear assessment against the relevant development plan policies, relevant planning law and guidance, any local finance considerations, and any other material planning considerations. Reports should contain, where relevant, technical appraisals which clearly justify the recommendation. If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated.

Reports should include a recommendation on the decision to be made.

Any oral updates or changes to the report should be fully minuted.

**B6. *Councillors must read and carefully consider the content of officer reports before the relevant meeting and must have regard to the content of the report in reaching a decision.***

Officers will therefore prepare written reports on all planning matters being considered by Planning Committee, Cabinet and Council. Where a councillor or councillors require further clarification on any particular matter, where possible, this should be raised with the Planning Manager in advance of the Planning Committee meeting so that an informed response may be prepared and in order to avoid any unnecessary delay in the consideration of the application.

Matters to be discussed by Councillors at a Working Group will generally be supported by a written report, however, on occasions, for the sake of expediency, it may be necessary to provide members of the Working Group with an oral report.

### **Voting and Impartiality**

- B7. *Planning Committee Councillors must make decisions based on the planning policies and material planning considerations relevant to a case and must not vote on the basis of local ward interests. The same principle applies to Councillors who are required to make decisions on matters relating to the Development Plan including Cabinet, Council and any Councillor Working Group.***

Whilst Councillors have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Councillors involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest

If the planning system is to work properly it is essential that in voting on all planning matters, Councillors do so based on the advice set out in the Officer report and not in the pursuit of their own personal or ward interests or even someone known to them. This is likely to be a breach of the National Code of Conduct and can lead to disqualification or other sanction.

- B8. *Councillors of the Planning Committee must not declare which way they intend to vote in advance of the consideration of an application by the Planning Committee.***

This can be a difficult issue for Councillors as they may be exposed to pressure from residents or the media to express a particular viewpoint. Councillors should avoid expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have considered all the application materials and arguments for and against the development proposal. If a councillor declares which way they intend to vote it would in effect be pre-judging (or pre-determining) the application without having considered all of the relevant information. This could expose the Council to the possibility of legal challenge or charges of maladministration. Councillors must not make up their minds until they have read the relevant committee reports and heard the evidence and arguments on both sides, at committee.

- B9. *If a member of the Planning Committee (including a substitute Councillor) does declare his or her OUTRIGHT support or opposition for a proposal before the matter has been put before the Planning Committee, he or she must make an open declaration of their view to the Planning Committee and take no part in the voting on that particular item.***

This rule follows on from Rule B8 above. It does not mean that members of the Planning Committee cannot reflect local concerns about a proposal before the Planning Committee considers it. However, the view or comment must not pre-determine or be seen to pre-determine the way that the Councillor will vote.

Some Councillors will be members of the County or Parish/Town Councils as well as City Councillors. Such interests may mean that a Councillor is involved with a planning application before the matter comes before the Planning Committee. Any involvement shall be declared at the meeting with reference to the relevant agenda item. Such involvement need not on its own debar a Councillor from participating in making the

planning decision when the matter is considered by Planning Committee providing that the Councillor has not already decided how they will vote on the matter before the Committee.

Councillors should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the councillor considers that this is not possible, the councillor should withdraw from consideration of that item.

***B10. All Councillors must not favour or show, or appear to favour or show, bias towards any particular person, company or group, or any particular site or locality in the exercise of any planning function.***

#### **Decisions Involving Council-Owned Land**

***B11. In making decisions in relation to Council-owned land, Officers and Councillors will base their assessment on relevant planning issues only and will have no regard to financial or any other benefits that might accrue as a result. (This principle applies to both the determination of planning applications and the allocation of land through the Development Plan process).***

The Council's own proposals, or those of others on Council owned land, must be dealt with on exactly the same basis as applications and representations submitted by any other applicant/landowner, particularly as there are special Regulations under which to consider them.

Councillors must not have any regard to any other benefit, financial or otherwise, which may accrue to the Council as a result of any particular decision on a planning proposal. All planning applications and representations, irrespective of the applicant, must be considered and dealt with on the planning merits, not any extraneous gain or loss that might accrue to the Council.

***B12. In particular, Officers and Councillors will ensure that decisions to allocate Council-owned land are based on the most appropriate use or mix of uses and not on the basis of which use or uses would yield the highest land value.***

Clearly certain land uses such as residential and retail in particular have a higher land value than others and as such it is important that in seeking to allocate land that is owned by the City Council, Officers and Councillors make any such recommendation and decision on the use that is most appropriate for the site given its location and surrounding uses and not with regard to which use will yield the highest land value.

***B13. Other proposals that may have an impact on a Council land holding or proposal must also be dealt with strictly on their planning merits. (This principle applies to both the determination of planning applications and the allocation of land through the Development Plan process).***

These circumstances present special challenges to ensure that the planning system operates, and is seen to operate, fairly.

#### **Political Decisions**



***B14. Decisions on planning applications and Development Plan matters or the establishment of 'party lines' cannot be made in political group meetings prior to a Planning Committee or Cabinet/Council meeting.***

The view of the Ombudsman is that 'the use of political whips at group meetings is contrary to the National Code and amounts to maladministration'. It could also give rise to a legal challenge to any decision by judicial review.

**Committee Site Visits**

***B15. To ensure that Committee applications are dealt with as effectively and quickly as possible, site visits may be held prior to Committee for significant major applications***

The Chair of Planning Committee, in consultation with the Planning Manager, will identify any significant major applications on the agenda where there are significant design, highway, heritage or residential amenity issues to be assessed that would benefit from a site visit or where the planning issues are finely balanced.

***B16. Where councillors propose to defer the consideration of a planning application for a site visit they must set out the reasons for doing so and these will be minuted***

The reason for deferring for a site visit must be clearly set out by the proposer and recorded in the minutes. Planning reasons for councillors requesting a site may include helping councillors of Planning Committee to understand more fully:

- the details of a development proposal in the context of the application site,
- the surrounding land and buildings,
- issues raised by interested parties.

***B17. All site visits will be conducted in a strictly 'fact-finding' manner***

There shall be no on-site debate about the merits of the proposal or any negotiations or discussions with the applicant, agent or residents. All site visits shall be conducted in accordance with Protocol for Site Visits attached at Appendix A.

***B18. In the event that a site visit is considered necessary to assist Councillors in deciding on a matter relating to the Development Plan, the same principles will apply.***

**Deferrals**

***B19. A proposal to defer an application must be made on clear planning grounds.***

Justification for deferring a decision might be to ensure that all the proper consultation procedures have been followed or to secure amendments without which the application would have to be refused. Political expediency such as deferring a contentious application until after elections is never an acceptable course of action.

**Committee Process**

***B20. The Council's Constitution and Procedure Rules will apply to the conduct of business.***

There are also some good practice rules to assist the smooth operation of the Committee and promote probity. These are:

- Councillors should not report new information at the Planning Committee that they may have been given by applicants or third parties, which has not been submitted to Officers for formal consideration and comment. If new information comes to light it should be reported to officers in advance of the meeting and in good time to properly consider the information.
- Councillors should seek any necessary clarification from Officers on key issues **before** the meeting as this enables fuller and better-researched answers to be given.
- Councillors should not introduce non-planning related matters to the debate.
- Councillors should not speak at length on items where they are in full agreement with the Officer report or to repeat points already made by other contributors to the debate.
- The Chair will always afford Officers the opportunity to respond to questions and points made by Councillors.
- At the discretion of the Chair of the Planning Committee, Ward Councillors may be allowed to speak at Planning Committee to express their own views or those of their constituents.

#### **B21. *Speaking at Planning Committee***

The Council permits applicants and objectors the right to address the Committee for up to 5 minutes prior to the consideration of an application by the Committee.

Speakers must have made written representations on the matter under discussion and must provide their name to the Chair in advance of the meeting.

Only, one person for, and one person against, the application may speak. In exceptional cases, and only at the discretion of the Chair, more speakers may be permitted but the Chair will ensure that there is equity between the number of speakers or the amount of time allowed, for and against the matter.

Ward Councillors will be allowed to speak on an application at Planning Committee provided that they do not have a declarable interest. The Council has prepared a separate guidance note on the procedures to be followed in speaking at Planning Committee. This is available online.

#### **Planning Committee Decisions which differ from the officer recommendation**

#### ***B22. Where Councillors propose to make a decision contrary to the officer recommendation, clear planning reasons must be established and these must be seconded and minuted.***

The councillor, or councillors, proposing the decision contrary to the report recommendations, must give clear and relevant planning reasons for their proposal to either refuse or permit an application, before any vote is taken.

#### ***B23. In cases where Councillors propose to make a decision contrary to an officer recommendation, the Chair will allow the Planning Manager to comment before a vote is taken.***

The Town and Country Planning Act 1990 and the 2004 Planning and Compulsory Purchase Act require that decisions must be in accordance with the provisions of the

Development Plan unless material considerations indicate otherwise. However, decision-making often requires assessment and judgement of the weight to be attached to certain policies and issues and no Development Plan no matter how current will ever provide an answer for all, or even most, applications. Any decision contrary to the provisions of the Development Plan must be clearly justified and recorded. The personal circumstances of an applicant will hardly ever provide such grounds.

These principles do not apply directly to decisions pertaining to the drafting of the Development Plan. However, there will be occasions when councillors make decisions that are not in accordance with the recommendations of officers. In such cases, the general principles set out above will apply, in particular, the reason for the decision must be justified and minuted.

### **Public Attendance**

#### ***B24. Great care should be taken by Councillors mingling or speaking to applicants or objectors.***

Councillors should be extremely careful in meeting with and talking to applicants or objectors either before or after the meeting. This could be seen as seeking to influence that councillor improperly and will create a perception of bias that will be difficult to overcome.

In addition, over familiarity, joking, and other forms of informal behaviour before, during or after the meeting can be open to misunderstanding and misinterpretation by members of the public or the press attending meetings, for whom the business of the Planning Committee is viewed with genuine seriousness.

## **PART C – ADMINISTRATIVE MATTERS**

### **Councillor and Officer Training**

- C1. Any Councillor who is on the Planning Committee must take part in regular training.**

The determination of a planning application is a formal administrative process based on balancing competing interests and making an informed judgement against a local and national policy framework in the wider public interest. Relevant planning legislation, case law and rules of procedure must also be considered.

Councillors must be adequately trained. Accordingly, any councillor who is on the Planning Committee must take part in training organised by the planning service either before the first meeting of the Committee or within 3 months after being nominated to serve on the Committee, whichever is the later. If they do not, or cannot, participate in the training they must step down.

All councillors (including substitute Councillors) who sit on the Planning Committee must attend refresher training at least once every 3 years. Any councillor of the Planning Committee who has not undergone refresher training in accordance with this Code of Practice will not be permitted to vote on any planning applications. Accurate records of councillor training will be kept by Planning Officers.

- C2. Planning Officers will undertake training and provide advice to ensure that councillors are sufficiently well informed on the implications of the Development Plan system prior to their consideration of Development Plan matters.**
- C3. Councillors will in return undertake to keep themselves informed and up to date on the implications of the Development Plan system including carrying out appropriate research from independent sources such as the Government's 'Planning Portal' website.**
- C4. Councillors are encouraged to attend any training sessions that are organised each year. Councillors are also encouraged to research pertinent issues by reference to the planning manager who can arrange access to publications, legislation, policy documents and practice notes.**
- C5. Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices, either verbally, at meetings, or as briefing notes.**

### **Record Keeping**

- C6. Officers will ensure that planning application files contain sufficient information itemising events so that the reason for the ultimate decision can be understood by anyone who reads the file without a detailed knowledge of the application.**

### **Complaints**

- C7. Any complaints received in writing about the way in which a planning matter has been dealt with in terms of procedure and fairness will be investigated under the Council's Complaints Procedure.**

**C8. *Where a complaint is not considered to warrant a full investigation under the Council's Complaints Procedure, officers will in any case endeavour to explain the reasons for the Council's decision.***

The fact that someone may disagree with the decision the Council has reached is not a complaint which will necessitate investigation as such, although officers will endeavour to explain the reasons for the Council's decision in any particular case.

Where any complaint about a Council decision made contrary to the officer's recommendation is received, a copy will be forwarded to the Chair of the Committee.

## **APPENDIX A: Planning Committee Site Visit Protocol**

### **1.0 Background**

1.1 This protocol is intended to guide Councillors of the Planning Committee when considering planning applications in deciding on whether site visits are appropriate and the procedure for arranging and carrying out site visits.

1.2 Site visits by the Committee are part of the formal committee process and therefore should be dealt with in a consistent and organised manner.

### **2.0 The Purpose of a Site Visit**

2.1 Site visits help in enabling Councillors of Planning Committee to understand more fully:

- the details of a development proposal in the context of the application site,
- the surrounding land and buildings,
- issues raised by interested parties.

2.2 The merits of the proposal are not discussed nor is a decision reached. The discussion on the merits of the application will take place at the next Planning Committee meeting.

2.3 The Chair of Planning Committee, in consultation with the Planning Manager, will identify any significant major applications on the agenda that would benefit from an advance site visit. The criteria to be considered will include whether there are significant design, highway, heritage or residential amenity issues to be assessed that would benefit from a site visit. An advance visit will be particularly relevant for applications where the planning issues are finely balanced.

2.4 Where Planning Committee is requested to defer a determination to enable a site visit to take place sound planning reasons should be given for the site visit and they should be recorded in the minutes.

2.5 Site visits are part of the meeting of Planning Committee. Councillors intending to declare a personal interest should make this known to the Chair and the planning officer on site. If the interest is not prejudicial the Councillor may attend the site visit. Councillors intending to declare a prejudicial interest and withdraw from the meeting on the matter, should not attend the site visit.

### **3.0 Arranging Site Visits**

3.1 Where a site visit is necessary Democratic Services will make the necessary arrangements.

3.2 The following will be invited to the site visit:

- All Councillors of the Planning Committee
- Ward Councillors and adjacent wards Councillors if affected by the proposal

The agent (or, in the absence of an agent, the applicant) will be informed about the site visit in order to secure permission to access the site and make arrangements to access the site.

3.3 A link to the copy of the committee report and the Planning Committee Site Visit Protocol will be sent to all those notified of the visit.

3.4 While officers will attempt to arrange the visit in advance with relevant parties, there is no right to enter on private land without permission of the owner. Where appropriate officers will obtain prior permission from land owner or his agent for those invited to attend the site visit to enter the land. If permission is not given for Councillors and officers to enter, the site will be viewed from the public highway.

### **4.0 Procedure at Site Visits**

4.1 The Chair of Planning Committee will oversee the conduct of site visits. The visit will start promptly at the time notified to Councillors and interested persons. The planning officer will note the names of all Councillors, officers and invitees present and record any interests declared. The planning officer will ensure that all those entering the site as part of the inspection have the applicant's permission to do so.

4.2 If present at the site before the visit begins, Councillors should take particular care to ensure that they maintain their objectivity and Councillors must not engage in discussion individually or in small groups with any other parties who maybe present. Similarly, hospitality or lifts should not be accepted from an applicant or objectors/supporters as this could be seen to show favour.

4.3 Councillors and officers should ensure that mobile phones are turned off or are on silent during the site visit.

4.4 At the request of the Chair, the planning officer will describe the proposal to councillors and will display plans for the proposal. If available, it is expected that Councillors will already be familiar with the planning officer's report. The planning officer will indicate matters of fact in relation to the proposal and surrounding land which Councillors should take into account.

4.5 Councillors of the Planning Committee may ask the planning officer for factual clarification of any planning matter relating to the proposal or surrounding land, for example, distances to adjoining or objectors' properties or the location of parking spaces. Councillor questions should be addressed to the planning officer through the Chair. At no time during the site visit should Councillors debate or comment on the planning merits or otherwise of a proposal. The proper time for the consideration of the merits of the proposal is at the subsequent committee meeting.

4.6 The public right to address Planning Committee does not arise until the application is considered at the Planning Committee. At no time during the site visit will the applicant, their agent, any objector/supporter or any other Councillor of the public be allowed to address Councillors. The site visit is not for further representations to be made, however occasionally it may be appropriate for interested parties at the site visit to be asked, through the Chair, to point out important or relevant site features.

4.7 In order to assist in ensuring that Councillors receive the same information, they should keep together in one group with the chair and the planning officer and not break away into small groups.

4.8 At the end of the site visit the Councillors should leave the site promptly. If necessary they will drive or be transported to the next site visit where the same procedures as above will apply.

4.10 The planning officer's record of Councillors' attendance at the site visit will be given to the democratic services officer for minute purposes.

4.11 When the application is reported to Committee for consideration and debate the planning officer will briefly describe during the presentation of the item, the purpose of the site visit and the main aspects viewed.

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# **PROBITY IN LICENSING AND ENFORCEMENT**

## **CODE OF PRACTICE**

**REVISED OCTOBER 2020**

**A guide to the protocol and procedures to be followed by Officers and MemberCouncillors involved in making decisions on Licensing applications and other Licensing matters**

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## Introduction

Gloucester City Council's Licensing and Enforcement Committee operates in a quasi-judicial way in determining ~~contentious~~ licensing applications, policy issues and related matters that are not determined under delegated powers by the. ~~Most applications are free of objection and are determined under powers delegated to the~~ Head of Place. This Code is written having regard to the Council's commitment to the principles of good enforcement, particularly openness and consistency, that are included within the national Enforcement Concordat.

~~The Committee deals with major and contentious applications and most policy and policy guideline issues.~~ Applications are referred for MemberCouncillors' consideration where they are contentious and/or objections have been lodged by statutory consultees, residents, other third parties or where officers have reservations about the appropriateness of an application or the suitability of an applicant. Hackney Carriage and Private Hire disciplinary matters are also dealt with by the Committee in accordance with the provisions of the Council's adopted General Conditions for Hackney Carriage and Private Hire Licensing.

The decisions that the Committee makes are significant and weighty. ~~The Committee operates, for the most part, under its extensive delegated powers and it, rather than any other part of the Council, actually makes the decisions.~~ The decisions can have a considerable effect on the value of premises or other capital assets, on the amenities of people living near licensed premises and on the lives of applicants. ~~Furthermore, if the Committee makes a wrong or irrational decision this may mean that the Council risks will face~~ substantial costs if there is a successful appeal against ~~the a~~ decision or if ~~the a~~ decision is the subject of a legal challenge from an aggrieved third party.

Some licensing legislation specifies procedures to be followed but, in all cases, human rights and natural justice considerations dictate that the Committee adheres to the following principles in that decisions **must**:

- be made on the individual merits of a case;
- have regard to all relevant national and local guidance;
- be made impartially and in good faith;
- be made by the body that receives all the relevant information and evidence;
- relate to the issue or question placed before the Committee;
- be based only on consideration of relevant and material matters;
- be rational and reasoned;
- be made in a way that does not give rise to public suspicion or mistrust.

The purpose of this local Code of Practice is to set out in detail how MemberCouncillors should act and the procedures which should be followed to ensure that MemberCouncillors not only act in a fair and proper manner but are also seen to do so.

This Code has been prepared with a particular emphasis on MemberCouncillors who serve on the Council's Licensing and Enforcement Committee, but its content is also relevant to all other MemberCouncillors and also to Officers.

The City Council, along with all other local authorities, has adopted a local Code of Conduct, which specifies the obligations imposed on MemberCouncillors and defines how disclosable and other interests should be managed. pecuniary and non-pecuniary interests and how these will affect the way a MemberCouncillor behaves. ~~That Code of Conduct, which every Member has signed up to, is the statutory base to which this Code of Practice is added. This in some areas this Code of Practice supports and in some cases extends the will extend, or go further than the local~~ Code of Conduct. In the case of a conflict between the two the Code of Conduct will take precedence.

It is possible that breaches of this Code of Practice could be considered to be a breach of the Code of Conduct.

This Code of Practice is part of the Council's Constitution and can be viewed on-line at [www.gloucester.gov.uk](http://www.gloucester.gov.uk)

## Notes

1. All references to the Licensing and Enforcement Committee include any sub-committee of the Licensing and Enforcement Committee as appropriate.
2. All references to the applicant refer to the applicant (which includes a person calling for a review of a licence), the licensee or the applicant's or licensee's representative as appropriate.

## PART ONE: CONDUCT OF COUNCILLORS AND OFFICERS

### A. Voting and Impartiality

1. ***Licensing and Enforcement Committee ~~Member~~Councillors must vote in the best interests of the City as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced licensing assessment in the light of wider policies and guidance.***

The over-riding duty of a Committee ~~Member is~~Member is to the whole community, rather than just the people living in their Ward. This is a fundamental principle of the local democratic system.

2. ***~~Member~~Members of the Licensing and Enforcement Committee must not declare which way they intend to vote in advance of the consideration of an application by the Committee.***

This can be a difficult issue for ~~Member~~Councillors as they may be exposed to pressure from residents, or the media, to express a particular viewpoint. However, it is essential that ~~Member~~Councillors are measured and circumspect in the comments they make. If a ~~Member~~Councillor declares which way they intend to vote they may be considered to have predetermined the matter it would, in effect, be pre-judging the application without having considered all of the relevant information. This could expose the Council to the possibility of legal challenge or a charge of maladministration. ~~Member~~Councillors can have a view but they must not make their minds up until they have read the relevant Committee reports and heard the evidence, and arguments, on both sides.

3. ***If a ~~Member~~Councillor of the Licensing and Enforcement Committee declares OUTRIGHT support for or opposition to a proposal before the matter has been put before the Committee, the ~~Member~~Councillor must make an open declaration of their views to the Committee and take no part in the voting or debate on that particular item.***

This rule follows on from item 2 above. It does not mean that ~~Member~~Councillors cannot make a comment or reflect local concerns about a proposal before the Licensing and Enforcement Committee considers it. However, the view or comment must not pre-determine or be seen to pre-determine the way that ~~Member~~Councillor will vote.

4. ***Licensing and Enforcement Committee ~~Member~~Members who are also ~~member~~members of the County Council or the Parish Council must exercise particular care in reconciling their two roles.***

This rule would apply in the case of a ~~Member~~Councillor(s) holding office in both the City Council and the County Council or Quedgeley ~~Town~~Parish Council. Such ~~Member~~Councillor(s) may find that they are expected to express a view at the County Council or ~~Town~~Parish Council meeting or vote on whether or not the ~~Council~~Parish should object or comment on a proposal from a County or ~~Town~~Parish point of view. In such circumstances ~~Member~~Councillors are advised to abstain from both the debate and voting at the County or Parish Council. This is not inconsistency, but the consequence of having to fulfil two totally separate roles. If a ~~Member~~Councillor does declare his or her outright support or opposition to a licensing proposal at a County or ~~Town~~CouncilParish Meeting, or elsewhere, they must

make an open declaration to the City Council's the Licensing and Enforcement Committee to that effect and take no part in the voting and debate and on that item, ~~and leave the meeting.~~

**5. *Licensing and Enforcement Committee MemberCouncillors should not organise support for or against a Licensing application and should not lobby other Councillors.***

~~Committee Members should not place themselves in a position where they may give the impression that they had made up their mind before hearing the evidence. Each Member should make up his or her own mind on the evidence and facts presented to the Committee (See Section G on lobbying). With regard to other Members it could give the impression that they were seeking to influence Committee Members (see section G on lobbying).~~

**6. *Licensing and Enforcement Committee MemberCouncillors must not favour or show bias for or against any particular person, company or group, or any particular site or locality in respect of licensing matters.***

~~They should also not put themselves in a position where they may appear to do so.~~

**7. *Confidentiality***

It will be unusual for licensing applications or other matters to be treated as confidential items with the exclusion of the press and public, but it may occur.

The grounds why this may occur are set down in the Local Government Act 1972 and the Council's Constitution and are most likely to be in relation to the conduct of legal proceedings, or disclosure of personal details.

Information which is of a confidential nature may also be provided to MemberCouncillors outside Committee.

MemberCouncillors are expected to treat the information as confidential and are referred to the Code of Conduct which indicates that a breach of this confidentiality may be a breach of the Code of Conduct and result in a complaint to the Monitoring Officer and/or the Audit and Governance Committee.

**B. *Gifts and Hospitality***

**1. *Councillors and Officers must abide by the Council's requirement in respect of Gifts and Hospitality as set out in the Code of Conduct for MemberCouncillors and the Officer Code of Conduct which are part of this Council's Constitution.***

The policy on gifts and hospitality is contained in the Council's Constitution and MemberCouncillors and officers must be extremely careful in this respect to ensure no question of bias can be raised. The general rule is that no gifts should be accepted, and only modest hospitality connected with the work concerned should be accepted.

**C. *Independence and Impartiality of Licensing Officers***

**1. *MemberCouncillors or other Officers within the Council must not instruct Licensing Officers to make or not to make a particular recommendation on a licensing application.***

Licensing Officers are trained to deal with licensing issues and will be aware of Government advice, case law etc., and will put forward a professional recommendation. Other officers will help inform that recommendation.

**2. *Officers must always act impartially and advise the Council of their professional opinion.***

The City Council's Licensing Officers must always act impartially and give advice based upon a professional assessment of the individual merits of each case, taking into account all relevant policies, guidance and other relevant material considerations. If they do not, or even if it appears that they do not, the integrity of the licensing process is severely compromised. Where an appeal has been made against a decision made against officer recommendation officers will always present the Council's case to the best of their ability.

## D. Declarations of Interest

### 1. ***MemberCouncillors must always declare their interests in accordance with the Council's Code of Conduct.***

The Code of MemberCouncillors Conduct is contained in the Council's Constitution and must be read in conjunction with this Licensing Code of ~~Practice~~ Conduct (Probity in Licensing).

~~Registerable interests must be registered and all other~~All interests must be ~~declared~~disclosed at the start of the meeting or when such interests become apparent, and an agenda item ~~to prompt this on this~~is included for every meeting. ~~Declared interests will be noted in the Minutes of the Meeting.~~

Depending on the nature of the interest (disclosable pecuniary interest ~~or other interests~~), ~~non-disclosable pecuniary interest or personal interest~~, the MemberCouncillor may not be allowed to participate in the discussion or vote on the matter unless a dispensation has been granted. ~~They must also not seek to improperly influence any decision on that matter.~~

NB: Failure to register/disclose a Disclosable Pecuniary Interest is a criminal offence.

The test MemberCouncillors should apply is not whether they themselves think they have an interest but whether others, knowing the relevant facts, would think they have. If a MemberCouncillor has any doubt advice can be taken, but if that doubt still remains it is best that an interest be declared. However, the responsibility for declaring an interest must lie on the MemberCouncillor.

~~There will, however, be times when it only becomes apparent during the meeting that there is a declarable interest. Then the interest must be declared as soon as the Member becomes aware of it, even if it is during discussions on that particular item. The duty is on each Member to declare interests and these will be noted in the Committee minutes.~~

The Monitoring Officer should be informed of any declarable interests which should also be registered in the Register of MemberCouncillors' Interests.

## E. Involvement of Councillors with Applicants

### 1. ***MemberMembers of the Licensing and Enforcement Committee should not act as agents or submit licensing applications for other parties or voluntary bodies.***

Any close involvement, or even perception of close involvement, can compromise the integrity of the licensing process. A MemberCouncillor acting as a licensing agent could give rise to suspicion that the MemberCouncillor was not impartial or may influence other MemberCouncillors in the decision-making process.

### 2. ***Any MemberCouncillor who is a Licensing advisor or similar agent will not be appointed to the Licensing and Enforcement Committee.***

Where MemberCouncillors need to submit licensing applications on their own behalf, or on behalf of their employer as part of their job, they must declare an interest and take no part in the processing of the application or in the decision-making process. Decisions on any proposals submitted by or relating to premises / land / vehicle(s) etc owned or controlled by serving MemberCouncillors ~~sahh should only~~ be determined by the Licensing and Enforcement Committee and not by Officers. The Committee alone should determine an application

submitted by a MemberCouncillor's employer, irrespective of whether the MemberCouncillor is involved in the application, its preparation or submission.

## F. Council Licensing Applications

1. ***Proposals to licence the Council's own land or premises must be dealt with ~~the same as all other applications~~ only on their own merits.***

The Council's own proposals, or those of others on Council owned premises/ land, must be dealt with on exactly the same basis as applications submitted by any other applicant. MemberCouncillors must not have any regard to any other benefit, financial or otherwise, which may accrue to the Council as a result of any particular decision on a licensing proposal.

All licensing applications, irrespective of the applicant, must be considered and dealt with on the merits of the application, not any extraneous gain or loss that might accrue to the council.

2. **Other proposals that may have an impact on a council landholding or application/proposal must be dealt with strictly on their licensing merits.**

Local authorities are often landowners. They may operate licensed premises and may submit their own applications, or third parties may submit applications for new licensed premises on land or premises due to be sold to them by the council. Furthermore, situations may arise where a licensing proposal may have an impact on the prospects and value of a council landholding or premises. These circumstances present special challenges to ensure that the licensing system operates, and is seen to operate, fairly.

## G. Lobbying of Councillors and Formal Submission of Information

1. ***Any lobbying of MemberCouncillors must not raise a ~~be dealt with carefully to minimise the perception of influence~~***

This is a complex area and one that requires special care. Lobbying is an attempt to influence a MemberCouncillor's view in writing or verbally in order to achieve a particular decision by applicants, agents, objectors or other Councillors. It is a normal part of the political process but where MemberCouncillors are making statutory decisions, such as licensing decisions, it can result in decisions being made improperly.

MemberCouncillors should treat lobbying with care and should ensure that "unofficial" views, promises or documents do not unduly influence them. MemberCouncillors should advise lobbyists to present their views in writing to the licensing case officer in order that they can be formally considered in a balanced way at the Committee meeting. Alternatively, MemberCouncillors may choose to pass on the views and or submissions of lobbyists to the officer but should make clear that they are not giving their own views, as this is a matter for formal consideration by the Licensing and Enforcement Committee.

Licensing decisions must be rational and be made strictly on the basis of the relevant facts, guidance and policies relating to each case. MemberCouncillors must not only act in a way that is fair to all parties but must be seen to do so. ~~In particular Members must not prejudge proposals before they have read the officer's reports and considered all the evidence.~~

Lobbying can be particularly problematical if MemberCouncillors are given information or assurances by applicants that do not form part of their formal application and are, therefore, unenforceable. Problems can also arise if MemberCouncillors are given information by objectors which may be misleading, untrue or irrelevant. Officers face particular difficulties if they are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the Committee about them.

This would cause particular problems if the Committee based a refusal on those matters which officers had not had an opportunity to consider and comment upon.

Circulation of unofficial papers at a Committee meeting also constitutes lobbying.

**2. *Licensing applications must be determined on the basis of the documents and information that have been formally submitted and where all parties have had a proper opportunity to consider them.***

Only submissions from applicants, agents or objectors, which are formally received by licensing officers, can properly be taken into account in making a decision. The Committee could be materially misled if MemberCouncillors or other parties circulate 'unofficial' documents or introduce new information on behalf of an applicant or objector, or express what they believed to be an applicant's intention, if this did not form part of the application documents and correspondence. In all circumstances, copies of any letters, documents or correspondence should be given to the licensing officer to consider and comment on. Where fresh information comes to light after a Committee report has been finalised and circulated it may only be tabled with the Chair's consent.

## **H. Political Decisions on Licensing Applications**

**1. *Decisions on licensing applications or the establishment of "party lines" cannot be made in political group meetings prior to a committee meeting.***

Decisions on licensing applications must be made on the individual merits of each case with adherence to the other principles that are set out in this guide. The establishment of a party whip or "party lines" made in political group meetings prior to a committee meeting would be wholly inappropriate.

The view of the Ombudsman is that 'the use of political whips at group meetings is contrary to the National Code and amounts to maladministration'. It could also give rise to a legal challenge of any decision by Judicial Review.

## **I. Application by Councillors, Officers or their relatives or friends**

1. These applications must be dealt with, and be seen to be dealt with, openly, fairly and without any bias. Accordingly, despite the scheme of delegation to officers to decide certain applications, all such applications will be reported to Committee.

## **J. The Role of Ward MemberCouncillors**

1. Being a ward MemberCouncillor does not in itself constitute an interest in an application or create a risk of apparent bias. Providing the ward MemberCouncillor does not have a Disclosable Pecuniary Interest or any Other Interest in applications before the Committee or providing there is nothing to indicate any risk of bias or predetermination, a ward MemberCouncillor's local knowledge may ~~in fact give an~~ additional insight to an application and its implications on the licensing objectives. Ward MemberCouncillors may use their local knowledge to ask relevant questions and clarify facts.
2. The right of ward MemberCouncillors to speak at Committee meetings may be constrained by statute. For example, under the Licensing Act 2003 ward MemberCouncillors may only speak if they have lodged a written relevant representation within the prescribed period of time and/or to represent their constituents. In the absence of any specific rules, ward MemberCouncillors may be invited to address the Committee at the Chair's discretion.
3. The role of ward MemberCouncillors is, therefore, different from that of those MemberCouncillors making the decision, in that ward MemberCouncillors can engage with



their constituents and make representations to the Committee on their behalf. It is for this reason, and to safeguard MemberCouncillors, that the restriction identified in Paragraph 2 above has been made.

4. The views of ward MemberCouncillors do carry weight with their colleagues who make the decisions. Ward MemberCouncillors should not become too closely identified with special interest groups and be careful to avoid pressure by applicants, objectors or supporters. There may be occasions where ward MemberCouncillors are invited to attend meetings (for example, a formal meeting called by an applicant or objector) where it would be prudent for a MemberCouncillor to also invite an officer to be present.

## PART TWO: THE DECISION MAKING PROCESS

### A. Pre-Application Discussions and Negotiations on submitted applications

#### 1. *Councillors should not, themselves, seek to advise applicants or agents about the likely acceptability of licensing proposals.*

Pre application discussions should always be undertaken by the Council's officers to ensure that advice is given professionally, comprehensively and in a way that is clearly removed from the political forum. Licensing and Enforcement Committee MemberCouncillors should advise prospective applicants to contact the appropriate officer for advice on both merits and procedures. If MemberCouncillors, whether or not they sit on the Licensing and Enforcement Committee, do give an indication of their initial reaction to a proposal they must make clear that any proposals will need to be formally considered by officers and/or the Licensing and Enforcement Committee. They should also make clear that officers and/or the Licensing and Enforcement Committee could only make a final decision after a full and formal consideration of the proposal.

Similarly, MemberCouncillors should not normally be involved in negotiations and discussions about submitted applications. There may be exceptional circumstances in respect of major or contentious applications where there may be merit in MemberCouncillor involvement to explain a particular local viewpoint or issue. However, such discussions should take place only where at least one officer is present. The officer(s) will make a written record of any such meetings held and will place a copy on the application/premises file. Such a record will constitute a Background Paper for the purposes of the Freedom of Information Act 2000 and may be inspected by any interested person.

The fact that Committee MemberMember(s) have discussed any such proposal with the applicant or objectors must be made clear when the application is before the Committee for determination. Under no circumstances should MemberCouncillors put pressure on Officers to make, or change, any recommendations on an application.

#### 2. *Officers role in processing licensing applications*

The Council employs professional Officers whose job is to deal with the applications received, ensure the necessary publicity requirements are dealt with, negotiate with the applicant and/or their agents, and then report to Committee with their recommendations.

The officers do have pre-application discussions which will try to assist applicants to submit applications in accordance with Council policies and to assist with the smooth processing of the application.

The officers will always put forward their professional view to Committee and be available to answer MemberCouncillors' questions.

### B. Reports to Committee

#### 1. *Officers will provide written reports for all matters to be considered by the Licensing and Enforcement Committee (with the exception of matters of urgency) or when Committee has requested verbal updates on ongoing matters).*

There will be occasions when a decision of Committee will be required which arises~~matters arise~~ after the Committee papers have been prepared and sent out, ~~but a decision of Committee will be required~~. If possible, a written report will be tabled, or if this is not possible the relevant officer~~Public Protection Manager~~ will provide a detailed verbal report on the issue, explaining why it is urgent and providing recommendations. This shall be minuted.

MemberCouncillors are also permitted to raise matters of urgency under the Local Government Act 1972. However, if they do intend to do this the Licensing Officers should be informed prior to the meeting of the nature and content of the matter. Officers will attempt to answer any

questions but depending on the length of notice of the matter of urgency this may not be possible at that meeting.

Any matters of urgency can only be raised with the agreement of the Chair of the Licensing and Enforcement Committee who must give minuted reasons as to why it is considered to be an urgent item.

2. ***Officer reports to the Licensing and Enforcement Committee will be accurate and will, subject to statutory requirements, comprehensively cover all relevant: i) policies, guidance, considerations and issues; ii) information about the application/case; and, iii) the views of consultees and objectors.***
3. ***In all cases applicants/licensees will be given the opportunity of providing written material for inclusion in the report. Where they rely upon case law they will be required to give advance notice of the case(s) in question.***
4. ***Each committee report will include a clear recommendation.***

~~————~~ Except in exceptional circumstances where, at the time of circulation of the report, negotiations are still ongoing or an essential consultation or other response/information is awaited, Officers will give a clear ~~of a~~ recommendation, and this will be minuted.

If the report is not by the Head of Place the reason for this will be included in the report.

5. ***MemberCouncillors must read and carefully consider the content of the circulated report before the meeting and they must have regard to its contents in reaching their decisions.***

Written reports have always been a cornerstone of probity in the Council's system for committee determination of licensing matters. In the context of planning malpractice, the Audit Commission and others have made it clear that written reports are essential, and the same principles should apply to the Council's licensing functions.

## **C. The Committee Hearing**

1. ***The Council's Standing Orders will apply to the conduct of business.***
2. ***Applicant/Licensees will be invited to attend the committee and be represented if they so choose, they will be sent a copy of the report about their application/case.***

If they do not attend the Committee can proceed to determine the matter ~~deal with their item~~ in their absence on the basis of the written report and the procedure as set out below.

### **3. Committee Procedure**

- Chair introduces the item on the Agenda, briefly stating what it is about and inviting applicant/licensee/representative(s) to come forward to be seated. Where exempt information under the Local Government Act 1972 (as amended) is included in the report it will be written and circulated as a confidential item. In such cases the Chair will offer the licensee/representative(s) the opportunity of a public hearing and the press and public will only be excluded once a preference for a confidential hearing has been expressed. The press and public will generally be excluded from all meetings considering sensitive matters, such as hackney carriage and private hire enforcement cases, but the decisions from such meetings will be announced in public and published on the Council's website.
- The report author or other appropriate Officer presents the report to the Committee, outlining the key issues and background to the recommendation(s). This must be done in a maximum of 10 minutes unless the Chair expressly approves otherwise. MemberCouncillors and the applicant/licensee will have the opportunity of asking the Officer questions.

- In appropriate cases, objectors will be given the opportunity to make representations through their appointed spokesperson, this must be done in a maximum of 10 minutes unless the Chair expressly approves otherwise. The applicant/licensee, **MemberCouncillors** and, if appropriate Officers, will have the opportunity of asking the spokesperson questions.
- The applicant/licensee (or their representative) will present their application / case and, if they choose, put forward witnesses. This must be done in a maximum of 10 minutes unless the Chair expressly approves otherwise. The applicant/licensee may be asked questions by **MemberCouncillors** and in some cases by officers and representatives of statutory bodies who are licensing consultees, e.g. the Police.
- The Chair will then invite responses from Officers and if appropriate the representatives of statutory bodies. The applicant/licensee (or their representative) and **MemberCouncillors** are to be given the opportunity to ask questions.
- The applicant/licensee (or their representative) will be given the final right of reply.
- The Committee **MemberCouncillors** debate the application and reach their decision. In cases involving disciplinary matters the applicant/licensee/representative, witnesses, Officers (except the Committee Clerk and Committee's Solicitor/Legal Advisor) and representatives of statutory bodies will be asked by the Chair to leave the room whilst the Committee deliberates. The Committee Clerk and the Committee's Solicitor/Legal Advisor will remain with the Committee **MemberCouncillors** to record the proceedings and to advise on the law and legality of decisions.
- When the Committee has reached a decision, all parties will be invited to re-enter the room before **the decision #** is announced.
- The decision will be confirmed in writing, giving reason(s) for the decision, and details of any appeal rights. The decision notice/letter will be sent as soon as practicable after the meeting and any statutory timescales will be followed.
- The following good practice rules assist the smooth operation of the Committee and promote probity:
  1. The meeting will be conducted without any undue formality.
  2. **MemberCouncillors** should not report new information that they may have been given by applicants or third parties which has not been submitted to Officers for formal consideration and comment (see rule on lobbying in Part 1 section G).
  3. **MemberCouncillors** should seek any necessary clarification from Officers on any key issues before the meeting as this enables full replies to be given.
  4. **MemberCouncillors** should not introduce any non-licensing matters to the debate.
  5. **MemberCouncillors** should not speak at length on items where they are in full agreement with the Officer report.
  6. At the discretion of the Chair of the Committee a Ward Councillor(s) may be allowed to speak at Committee to express their own views or those of their constituents

## D. The Committee's Decisions

1. **Where **MemberCouncillors** propose to make a decision contrary to the Officer recommendation clear licensing reasons must be **put forward established** and these must be seconded and minuted.**

The **MemberCouncillor**(s) proposing the decision contrary to the report recommendations must give clear reasons for their proposal before any vote is taken. Their reasons must be relevant and material considerations.

2. ***The Chair will allow all the concerned parties an opportunity to address the Committee before a vote is taken (in accordance with the procedure outlined above).***

Decisions must be reasoned, rational and in accordance with the facts of the case and have regard to the provisions of all relevant policies and guidance. However, decision-making requires assessment and judgement of the weight to be attached to policies and guidance issues which, no matter how current, will never provide an answer for all, or even most, applications. Any decision made by the Licensing and Enforcement Committee which is contrary to the provisions of existing policy or guidance must be clearly justified and recorded.

## **E. Deferrals and Committee Site Visits**

1. ***Where MemberCouncillors propose to defer consideration of an application, they must set out clear reasons for doing so and these will be minuted.***
2. ***All site inspections whether involving MemberCouncillors individually, or collectively, will be conducted in a strictly fact-finding way and there shall be no on site debate about the merits of the proposal, or any negotiations, or discussions with applicant, agents or residents.***

A proposal to defer any application must be valid and defensible. Justification for deferring a decision might be to ensure that all the proper consultation procedures have been followed, or to secure amendments, without which the application would have to be refused. The reason for deferring for a site visit must be clearly set out by the proposer and recorded in the Minutes. Political expediency such as deferring a contentious application until after Elections is never an acceptable course of action.

## **F. Public Attendance at Committee Meetings**

1. ***Most Licensing applications on the Committee agenda will be considered in public session.***

Open public debate is a fundamental prerequisite of probity in the Licensing system. However where exempt information under the Local Government Act 1972 (as amended) is included in a report it will be circulated as a confidential item and, subject to the applicant/licensee's right to a public hearing such items will be considered with press and public excluded.

Any person in attendance at the Licensing and Enforcement Committee meetings is entitled to make use of the Public Question Time and Petitions and Deputations agenda items to speak. Applicants, licensees or their agents will only be allowed to speak or make representations during consideration of their particular agenda item in accordance with (Part Two) Section C above.

Any memberCouncillor of the public who disrupts the meeting in any way will not be allowed to remain in the room.

2. ***Great care should be taken by MemberCouncillors mingling or speaking to applicants or objectors.***

MemberMembers of the Committee should be extremely careful in meeting with and talking to applicants or objectors either before or after the meeting. This could give the impression that MemberCouncillors had either prejudged a particular application, or had supported a particular view without looking at, and taking into account all the facts presented by the Officers.

## PART THREE: ADMINISTRATIVE MATTERS

### A. MemberCouncillor Training

MemberCouncillors who are exercising powers to grant or refuse applications are exercising a quasi-judicial function, in an area where there is a large amount of Government advice and Law. MemberCouncillors must ensure they are adequately trained to carry out the task. Accordingly, any MemberCouncillor who is on the Licensing and Enforcement Committee must take part in training organised before the first meeting of the Committee or within 3 months after being nominated to serve on the Committee, whichever is the later. If they do not, or cannot, they must step down. All MemberCouncillors (including substitute MemberCouncillors) who sit on the Licensing and Enforcement Committee must attend refresher training at least once every 3 years. Any MemberCouncillor of the Licensing and Enforcement Committee who has not undergone refresher training in accordance with this Code of Practice will not be permitted to vote on any licensing applications. Accurate records of MemberCouncillor training will be kept by Licensing Officers.

MemberCouncillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices either verbally, at meetings, or as briefing notes.

### B. Record Keeping

Officers will ensure that Licensing application records contain sufficient information so that the reason for the ultimate decision can be understood by anyone who reads a file / record without a detailed knowledge of the application.

### C. Complaints

Any complaints received in writing about the way in which a Licensing application or other licensing matter have been dealt with in terms of procedures or fairness, will be investigated under the Council's Complaints Procedure. The fact that someone may disagree with the decision the Council has reached is not a complaint which will necessitate investigation as such, although officers will endeavour to explain the reasons for the Council's decision in any particular case.

Where any complaint about a Council decision made contrary to the Officer's recommendation is received, a copy will be forwarded to the Chair of the Committee.

Complaints can also be made to the Local Government Ombudsman regarding administrative maladministration, or the Monitoring Officer regarding breaches of the Code of Conduct.

### D. Further Advice

This Code deals with the main issues of probity and conduct but cannot be expected to cover all eventualities that may arise. If MemberCouncillors are in any doubt about any probity related issues they are advised to contact the Licensing Officer or One Legal.



<b>Meeting:</b>	<b>General Purposes Committee</b>	<b>Date:</b>	<b>12 January 2021</b>
	<b>Audit and Governance Committee</b>		<b>18 January 2021</b>
	<b>Council</b>		<b>30 January 2021</b>
<b>Subject:</b>	<b>Review of Appointments to and Representation on Outside Bodies</b>		
<b>Report Of:</b>	<b>Corporate Director and Monitoring Officer</b>		
<b>Wards Affected:</b>	<b>All</b>		
<b>Key Decision:</b>	<b>No</b>	<b>Budget/Policy Framework:</b>	<b>No</b>
<b>Contact Officer:</b>	<b>Jonathan Lund, Corporate Director</b>		
	<b>Email: jonathan.lund@gloucester.gov.uk</b>	<b>Tel:</b>	<b>396276</b>
<b>Appendices:</b>	<b>1. List of Appointments to Outside Bodies 2020/21</b> <b>2. Draft Guidance for councillors appointed to outside bodies</b> <b>3. Annual Reports Template</b>		

**FOR GENERAL RELEASE**

**1.0 Purpose of Report**

1.1 In January 2020 the Audit and Governance Committee received a report as part of a review into the operation and effectiveness of the Council’s appointments to Outside Bodies. This report updates that review and responds by providing a draft Guidance Document for Council Appointees to Outside Bodies, new mechanisms for reporting back on the work undertaken with and by outside bodies and taking forward the rationalisation of the number of organisations to which the Council makes external appointments.

**2.0 Recommendations**

2.1 **Audit Committee and General Purposes Committee are recommended** to consider the report, adopt the draft Guidance and reporting mechanisms and endorse the rationalisation of the range of existing appointments and to recommend to Council that the changes are approved and incorporated into the Constitution.

2.2 **Council is recommended** to accept the recommendations of the General Purposes (see paragraph 3.14 below) and the Audit and Governance and Committee (see paragraph 3.15 below) and incorporate the changes and the Guidance into the Constitution.

**3.0 Background and Key Issues**

- 3.1 In July 2019 the Audit and Governance Committee began a review on the Council's appointments to outside bodies and the contribution of Councillors appointed to outside bodies.
- 3.2 It was noted that Gloucester City Council makes annual appointments to the managing boards, committees or trusts of 27 external organisations. 19 Councillors and 12 external appointees are appointed. A full list of appointments is considered and approved at the Council's Annual Meeting each May and the list for 2020/21 is attached to this report at appendix 1.
- 3.3 In broad terms the outside bodies fall into one of five types:

**Partner Organisations** – Bodies which the Council works with in a contractual or transactional relationship to deliver City Council objectives.

**Collaborative Organisations** – Bodies which have objectives or purposes compatible with or contributing to the objectives of the City Council.

**Charities** – Charitable organisations with governing documents which allow or require appointees from the local authority – often because of longstanding practice or statute.

**Other Public Bodies or Joint Committees (Non-Executive)** – boards, committees or groups set up by other public bodies with representation from Gloucester City Council

**Other Public Bodies or Joint Committees (Executive)** – boards, committees or groups set up by other public bodies with executive representation from Gloucester City Council.

The table below categorises each of Gloucester City's 27 Outside Bodies

<b>Partner Organisations</b>	
1	Aspire Sports and Cultural Trust
2	Gloucester Docks Estate Company Ltd
3	Citizens Advice Bureau
4	Gloucester City Homes Board
5	Gloucester Culture Trust
6	Gloucester Historic Buildings Ltd
7	Gloucester Law Centre Management Committee
8	Gloucestershire Airport Ltd
9	Gloucestershire Airport Consultative Committee
<b>Collaborative Organisations</b>	
10	Barton and Tredworth Development Ltd
11	Gloucester Playing Fields Association
12	Gloslink
13	Llanthony Secunda Trust
<b>Charities</b>	
14	Charity of John Ward
15	Free Hospital Fund for Children



16	Gloucester Charities Trust
17	Gloucester Relief of Sickness Fund
18	Gloucester United Schools Charity
19	St Ann Society of Gloucester
<b>Non-Executive Public Bodies</b>	
20	Environment and Ecology Forum
21	Gloucestershire Economic Growth O&S Committee
22	Gloucestershire Health and Care O&S Committee
23	Lower Severn Drainage Board
<b>Executive Public Bodies</b>	
24	LGA General Assembly
25	National Parking Adjudication Service
26	South West Councils
27	South West Provincial Council

3.4 The Committee agreed to consider whether engagement with and participation in each of these organisations was:-

- 3.4.1 Worthwhile to the host organisation in terms of the time, input and outcomes achieved by having a City Council appointee(s)
- 3.4.2 Worthwhile to the City Council in terms of the time, input and outcomes achieved through providing a City Council appointee(s)
- 3.4.3 Achieving appropriate two-way dialogue so that the corporate objectives of the City Council are communicated clearly to the host organisation and the issues facing the host organisation are fed into the forward planning of the City Council.
- 3.4.4 Providing appropriate mechanisms for communicating, highlighting and showcasing the City Council's engagement with the host organisations.
- 3.4.5 Holding City Council appointees to account for their contribution to delivering 3.4.1 to 3.4.4 above.

3.5 The Committee also noted that the study might make some or all of the following recommendations:-

- 3.5.1 Withdrawing representation in appropriate cases
- 3.5.2 Adding to the Outside Bodies if gaps become apparent
- 3.5.2 Amending the support given to appointees where necessary or appropriate
- 3.5.3 Introducing mechanisms to facilitate greater reporting back to Council
- 3.5.4 Providing an Annual Report on the City Council's engagement with its Outside Bodies.

3.6 A Councillor Working Group consisting of Cllrs N Hampson, D Norman and D Wilson was appointed to agree the mechanics of the study and to interview a number of outside bodies and appointees. A questionnaire was developed and sent to all appointees and all of the outside bodies. A number of outside bodies (Aspire Trust and Citizens Advice Bureau) were invited to the Audit and Governance Committee on 18 November 2019 as part of the review process and to facilitate direct discussion with the Committee.

3.7 In broad terms the findings were as follows:-

**3.7.1 Worthwhile to the host organisation in terms of the time, input and outcomes achieved by having a City Council appointee(s)**

The response was mixed. Some pointed to the historical or constitutional nature of the appointments rather than the tangible benefits, one reported that the post was vacant and had been for some time. One questioned whether as many as seven appointees were necessary. Others said that the representation was valuable because of the contribution made by the particular appointee or by virtue of their role in the Council or as a representative of the community.

**3.7.2 Worthwhile to the City Council in terms of the time, input and outcomes achieved through providing a City Council appointee(s)**

Benefits were cited in terms of providing access to training, helping keep councillors informed and enabling the Council to show commitment to the organisation or the services they provide. Others thought that the benefit to GCC were debatable or were a hangover from the past that had never been questioned or reviewed. Stronger benefits were cited in terms of the Council's oversight of its assets or the delivery of contracted services.

**3.7.3 Achieving appropriate two-way dialogue so that the corporate objectives of the City Council are communicated clearly to the host organisation and the issues facing the host organisation are fed into the forward planning of the City Council.**

Responses to this question were less emphatic. The commitment of the appointee or their role within the Council appeared to affect the effectiveness of two-way dialogue. Other responders either didn't answer or pointed to other mechanisms like Overview and Scrutiny Committee and SLA or service contract meetings as the more effective way of having a dialogue with the City Council.

**3.7.4 Providing appropriate mechanisms for communicating, highlighting and showcasing the City Council's engagement with the host organisations.**

None of the responders pointed to effective mechanisms except via other means, e.g. SLAs where they exist.

**3.7.5 Holding City Council appointees to account for their contribution to delivering 3.4.1 to 3.4.4 above.**

None of the responders indicated that they were aware of mechanisms to hold appointees to account for their work as an appointee.

**3.8 Further Actions**

3.9 Arising from the consultations it was clear that there was some need for additional clarity on the role, expectations, obligations and liability of Councillors and other Council appointees to outside bodies.

- 3.10 To address this, appendix 2 sets out draft guidance to Council Appointees. The guidance clarifies the general roles and responsibilities and how to deal with potential conflicts of interest. It also deals more specifically with appointments as Directors of Companies, Charitable Trusteeships, membership of partnerships and involvement in unincorporated organisations. Finally, the guidance sets out the scope and limitations of the indemnity that the Council can provide to appointees. It is recommended that the Guidance is considered and endorsed and is incorporated into Part 5 of the Council's Constitution (Codes and Protocols).
- 3.11 In addition to the Guidance at appendix 2 a briefing session for Councillors on the roles and responsibilities of being a Council appointee to an outside body will be included in the Councillor Induction programme.
- 3.12 A second issue arising from the consultation was the lack of mechanisms for reporting back to Council on the work and engagement of appointees to outside bodies. Three new mechanisms are proposed and are reflected in the draft guidance at appendix 2.
- 3.12.1 **An annual report** is produced which brings together brief reports from each appointee on their work with the outside body over the previous year. It is suggested that the report is standardised to ensure consistency, brevity and relevance. The report will also prompt a degree of periodic reflection on the value of the engagement between the Council and the Outside Body. An example template for an Annual Report is attached at appendix 3
- 3.12.2 **Reports to Council** are incorporated into the agenda at full Council allowing up to three 5-minute verbal reports to Council from appointees at each ordinary Council meeting. The opportunity to report could be triggered by appointees, when they have something of interest or relevance to report, or could be mandated on a rota basis to ensure that every appointee presents a report at least twice during a 4-year term.
- 3.12.3 **Members' Bulletin** an open invitation to appointees to include brief updates on their work or the work of the outside body they are appointed to which will be included in Member's Bulletins.
- 3.13 The final issue to be addressed is the total number of Council external appointments. In January the Audit and Governance Committee considered:
- a) Retaining a formal appointing relationship where there is a clear and continuing partner or contracting relationship which is best served by making appointments to the organisation.

The following are recommended for retention:-

1	Aspire Sports and Cultural Trust
2	Gloucester Docks Estate Company Ltd
3	Citizens Advice Bureau (potential to revise the number of appointees)
4	Gloucester City Homes Board
5	Gloucester Culture Trust
6	Gloucester Historic Buildings Ltd
7	Gloucester Law Centre Management Committee

8	Gloucestershire Airport Ltd
9	Gloucestershire Airport Consultative Committee
21	Gloucestershire Economic Growth O&S Committee
22	Gloucestershire Health and Care O&S Committee
23	Lower Severn Drainage Board
24	LGA General Assembly
26	South West Councils
27	South West Provincial Council

- b) Exploring alternatives to annual appointees where there is a governance or constitutional obligation which could be revised in a way which does not undermine the organisation concerned.

The following have been contacted and discussions opened on revising how appointments are made:-

11	Gloucester Playing Fields Association
16	Gloucester Charities Trust
17	Gloucester Relief of Sickness Fund
19	St Ann Society of Gloucester
20	Environment and Ecology Forum
25	National Parking Adjudication Service

- c) Ending the practice of making annual appointments where practical and inviting the organisations instead to consider the direct appointment of City Councillors where they feel that such an appointment would be beneficial and would not create a conflict of interest.

The following organisations have been contacted with a suggestion that appointments by the Council cease with effect from the end of April 2021 and that direct appointments are made if continued engagement by specific individuals is worthwhile:-

10	Barton and Tredworth Development Ltd
12	Gloslink
13	Llanthony Secunda Trust
14	Charity of John Ward
15	Free Hospital Fund for Children
18	Gloucester United Schools Charity

- 3.14 The **General Purposes Committee** considered this report at its meeting on 12 January 2021 and recommended that Council approve the proposals subject to the Llanthony Secunda Trust and the Gloucester United Schools Charity being moved from category (c) above (where direct appointments cease) to category (b) (where options are explored further).

- 3.15 The **Audit and Governance Committee** considered this report at its meeting on 18 January 2021 and recommended that Council approve the proposals, including the recommendations of the General Purposes Committee subject to the Overview and

Scrutiny Committee receiving the reports referred to in paragraph 3.12.2 instead of full Council.

#### **4.0 Social Value Considerations**

4.1 The Council's engagement with 27 outside organisations demonstrates a high degree of commitment to working with partner organisations as harness the potential of the assets based in Gloucester and Gloucestershire. This report seeks to propose mechanisms to audit that engagement and make recommendations to strengthen and improve our approach to ABCD

#### **5.0 Environmental Implications**

5.1 Not applicable

#### **6.0 Alternative Options Considered**

6.1 Not applicable

#### **7.0 Reasons for Recommendations**

7.1 To enable to Committee to conclude its study into Outside Bodies.

#### **8.0 Future Work and Conclusions**

8.1 Further work will be required to follow up the approaches to outside bodies prior to the 2021 Annual Council Meeting and to make any approved changes/additions to the Council's Constitution.

#### **9.0 Financial Implications**

9.1 None arising from the content of this report

(Financial Services have been consulted in the preparation this report.)

#### **10.0 Legal Implications**

10.1 None arising from the content of this report

(One Legal have been consulted in the preparation this report.)

#### **11.0 Risk & Opportunity Management Implications**

11.1 There is a risk that the actions following the review will be perceived as a reduction of interest or commitment in the range of organisations to which the Council makes appointments.

#### **12.0 People Impact Assessment (PIA) and Safeguarding:**

12.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

**13.0 Community Safety Implications**

13.1 Not applicable

**14.0 Staffing & Trade Union Implications**

14.1 Not applicable

**Background Documents:** None

**COUNCIL APPOINTMENTS TO OUTSIDE BODIES,  
COMMUNITY BODIES AND FORA, ETC. FOR 2020-21  
CONFIRMED AT ANNUAL COUNCIL ON 1 JUNE 2020**

Organisation		Representatives 2019/20	Representatives 2020/21	Term of Office	Meeting frequency
1.	Aspire Sports and Cultural Trust	1. Cllr. Hampson 2. Cllr. Toleman	1. Cllr. Hampson 2. Cllr. Toleman	1 year	Quarterly
2.	Barton and Tredworth Development Ltd	1. Vacant	1. Vacant	1 year	Monthly, usually Mondays 5.00pm
3.	Charity of John Ward	1. Cllr. Lugg 2. Mr B. Large 3. Mr T. Haines 4. Mr S. Ayland	1. Cllr. Lugg 2. Mr B. Large 3. Mr T. Haines 4. Mr S. Ayland	4 years	Quarterly
4.	Citizens' Advice Bureau	1. Cllr. Finnegan 2. Cllr. Hansdot	1. Cllr. Finnegan 2. Cllr. Hansdot	1 year	Bi-monthly, evenings AGM lunchtime in June
5.	Environment and Ecology Forum	1. Cllr. Bhaimia 2. Cllr. Brazil 3. Cllr. D. Brown 4. Cllr. Cook 5. Cllr. Taylor	1. Cllr. Bhaimia 2. Cllr. Brazil 3. Cllr. D. Brown 4. Cllr. Cook 5. Cllr. Taylor	1 year	3 times a year
6.	Free Hospital Fund for Children	1. Dr G. Cole 2. Mrs D Fenton 3. Mr R. Stanley 4. Ms H. Sutcliffe 5. Ms R. Woodliffe	1. Dr G. Cole 2. Mrs D Fenton 3. Mr R. Stanley 4. Ms H. Sutcliffe 5. Ms R. Woodliffe	4 years	Quarterly
7.	Gloucester Docks Estate Company Ltd	1. Cllr. Cook	1. Cllr. Cook	1 year	Quarterly
8.	Gloucestershire Playing Fields Association	1. Cllr. Morgan	1. Cllr. Morgan	1 year renewed each December	Quarterly

	<b>Organisation</b>	<b>Representatives 2019/20</b>	<b>Representatives 2020/21</b>	<b>Term of Office</b>	<b>Meeting frequency</b>
9.	Gloucester Charities Trust	1. Cllr. Lugg 2. Cllr. Melvin 3. Cllr. Tracey 4. Mr S Ayland 5. Mr G Howell 6. Mr T Haines 7. Mr M White	1. Cllr. Lugg 2. Cllr. Melvin 3. Cllr. Tracey 4. Mr S Ayland 5. Mr G Howell 6. Mr T Haines 7. Mr M White	May 2022 May 2024 May 2024 May 2024 May 2021 May 2021 May 2024 (4 years)	Monthly, daytime
10.	Gloucester City Homes Board (3 year period)	1. Mr J Beeley 2. Mr D. Johnson	1. Mr J Beeley 2. Mr D. Johnson	May 2023 May 2023 (3 years)	Monthly, Weds
11.	Gloucester Culture Board	1. Cllr. Morgan	1. Cllr. Morgan	The Cabinet Member for Culture and Leisure or their appointed nominee	
12.	Gloucester Historic Buildings Limited	1. Cllr. Dee 2. Cllr. Hampson 3. Cllr. Toleman	1. Cllr. Dee 2. Cllr. Hampson 3. Cllr. Toleman	1 year	Bi-monthly
13.	Gloucester Law Centre Management Committee	1. Cllr. Lugg 2. Cllr. Williams	1. Cllr. Lugg 2. Cllr. Williams	1 year	Monthly
14.	Gloucester Relief in Sickness Fund	1. Cllr. Bhaimia	1. Cllr. Bhaimia	4 years	Monthly usually second Monday of month
15.	Gloucester United Schools Charity	1. Cllr. Brooker	1. Cllr. Brooker	1 year	4 times a year
16.	Gloucestershire Airport Ltd - 1 Director	1. Cllr. Melvin	1. Cllr. Melvin	May 2022 (3 years)	Monthly
17.	Gloucestershire Airport Consultative Committee	1. Vacant	1. Vacant	Ongoing	Quarterly



	<b>Organisation</b>	<b>Representatives 2019/20</b>	<b>Representatives 2020/21</b>	<b>Term of Office</b>	<b>Meeting frequency</b>
18.	Gloucestershire Economic Growth Overview and Scrutiny Committee	1. Cllr. Patel  Substitute 1. Cllr. Stephens	1. Cllr. Patel  Substitute Cllr. Stephens	Ongoing	Bi-monthly
19.	Gloucestershire Health and Care Overview and Scrutiny Committee	1. Cllr. Finnegan  Substitute 1. Cllr. Hampson	1. Cllr. Finnegan  Substitute Cllr. Hampson	1 year	Bi-monthly
20.	Llanthony Secunda Priory Trust	1. Cllr. Tracey	1. Cllr. Tracey	1 year	Bi-monthly
21.	Local Government Association General Assembly	1. Cllr. Cook	1. Cllr. Cook	1 year	Annually
22.	Lower Severn Drainage Board	1. Cllr. Toleman	1. Cllr. Toleman	1 year	Quarterly plus ad-hoc
23.	National Parking Adjudication Service	1. Cllr. Cook	1. Cllr. Cook	Executive Member with responsibility for parking	AGM
24.	South West Councils	1. Cllr. Cook	1. Cllr. Cook	The Leader of the Council or their appointed nominee	3 per year plus AGM
25.	South West Provincial Council	1. Cllr. Cook	1. Cllr. Cook	The Leader of the Council or their appointed nominee	Twice a year
26.	St Ann Society of Gloucester	1. Cllr. Tracey	1. Cllr. Tracey	1 year	Not known

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## Guidance for council appointees to outside bodies

### 1 Introduction

- 1.2 This guidance is designed to help Councillors who are appointed to outside bodies to understand the roles, responsibilities, liabilities and obligations that may arise because of your connection with external organisations.
- 1.3 Your membership of an outside body is not the same as membership of the Council. The role may bring different duties, obligations and liabilities depending upon the type of organisation involved. There may also be occasions that raise conflicts of interest. This document is intended to give clear guidance to help you navigate these issues. Paragraphs 7, 8 and 9 provide information on registering interest and on how to deal with conflicts of interest.
- 1.4 Depending on the legal nature of the body and the role fulfilled you may take on personal responsibility for decisions and actions of the outside body. You should make yourself aware of the liabilities and any insurance arrangements that are in place before you participate in outside bodies. Paragraphs 2 and 3 this guidance sets out the general roles and responsibilities for Councillors on outside bodies.
- 1.5 The council will indemnify Councillors and officers representing the council on outside bodies in most circumstances. There are however specific statutory limits to the indemnification that the council is able to provide. These are set out in paragraph 14.2 of this Guidance.
- 1.6 Councillors can also serve on outside bodies in their personal capacity provided that there is no conflict of interest with their duties as a member of Gloucester City Council. In 2021 the Council encouraged outside bodies to move towards greater direct appointments of Councillors acting in a personal capacity rather than as appointees of the Council. Advice is available to help Councillors to assess their position.

#### ***You need to consider the following:-***

- Is there is likely to be any significant conflict of interest between your role in the outside organisation and your council role before accepting the office;
- clarify the insurance arrangements (does it cover the key risks of the organisation as well as the Councillor and is the liability limited or unlimited) and assess the possibility of any implications on you as an individual (specifically consider the nature and function of

- the body and the amount of money it deals with – always be aware of the added risk where the organisation employs staff);
- if no insurance exists this must be weighed up in the decision to accept the appointment;
  - ask about any specific legal responsibilities attached to the membership of the organisation;
  - read the constitution of the organisation and be aware of its powers, duties and objectives;
  - attend meetings regularly and present apologies in good time when you are unable to attend;
  - satisfy yourself that you will receive regular reports on the activities of the organisation and its financial position;
  - satisfy yourself that the organisation has adequate Health and Safety and Equalities Policies;
  - obtain a copy of the annual report and accounts to ensure that funds are spent on agreed objectives where the organisation is funded by or through the council; and
  - seek advice from the appropriate council officers in the event of any doubt or concerns about the running of the organisation.

## **2. Your responsibilities as a councillor**

2.1 In carrying out the role of a representative on the outside body, councillors act both as individuals and as representatives of the council.

### **2.2 Councillors should**

- act according to the rules, constitution and framework set by the outside body;
- take an active and informed role in the outside body's affairs;
- make independent and personal judgements in line with your duty of care to the outside body;
- report back to Gloucester City Council from time to time
- promote equality as an integral part of the role and treat everyone with fairness and dignity;
- from time to time it is possible that a conflict of interest may arise between your role as a councillor and the role you are undertaking on an outside body. Please see paragraph 9 for help to manage this type of situation. You are also urged to seek officer advice in you have any concerns.

- behave ethically and follow as far as applicable the code of conduct for Councillors; and
- wherever possible approach the lead officer for the outside body for a briefing on agenda items before attending meetings of the outside body.

2.3 Councillors should not:

- represent the political party to which you are aligned;
- consider matters purely from the council's perspective;
- commit the council to any expenditure; (in accordance with the council's financial procedure rules any additional expenditure requests must be authorised by the appropriate person or body).

### **3. The role of the councillor**

3.1 Your role as a council representative on an outside body will vary but essentially the role will be

- to help the organisation to achieve its aims and objectives legally, properly and effectively; and
- to meet any specific legal responsibilities attached to membership of the organisation.

### **4. Expenses, remuneration and benefits**

4.1 Councillors should not benefit personally from their appointment to outside organisations.

4.2 If you are appointed by the Council to serve on an outside body, attendance at meetings of that outside body are an approved duty and travel and subsistence expenses may be claimed. [Also see the councillors' allowance scheme].

4.3 If you are offered any gift or hospitality, in your capacity as a council appointee to an outside body you must treat the offer in accordance with the Councillor Code of Conduct rules on gifts and hospitality [Also see the Councillor Code of Conduct].

4.4 If you are appointed as a Company Director, free access to that company's facilities should only be accepted where it is necessary to discharge your duties and responsibilities as a director and should be declared to the Council.

4.5 The Councillor Code of Conduct should be followed at all times.

## 5. Reporting back

- 5.1 There are legislative provisions requiring some outside bodies to provide information to councils such as the 1995 Local Authorities (Companies) Order which requires a company to provide such information about the affairs of the company as the council, or a member, reasonably requires for the proper discharge of their functions. The council has agreed that the provision of information by a company (or indeed any organisation) should be extended to a council appointee on the outside body to report back to the Council. .
- 5.2 As mentioned above the Council has agreed that there should be regular mechanisms to require/allow council appointees to report back on their involvement in all outside bodies.
- 5.3 Accordingly all Councillors appointed to an outside body are required to submit a brief **annual report** to the Monitoring Officer [a template report is available and should be used to ensure consistency - See annex A to this Guidance]. The reports will be circulated to all Councillors for information. The Overview and Scrutiny Committee may wish to consider some or all of these reports as part of their annual work programme.
- 5.4 In addition, there will be an opportunity at **Council** for representatives on outside bodies to report on the work of the body where that work will be of interest and relevance to the Council. The time available for these reports will be prescribed and anyone wishing to make a report should advise the Democratic Services Manager in advance of the dispatch of the Council agenda.
- 5.5 Finally, and recognising that there are a number of organisations to which the council appoints members where more regular feedback from members would be appropriate, you may choose to provide a brief, written update on the work of an outside body for inclusion in the **Members' Bulletin**.

## 6. Further advice

- 6.1 Relationships between the council, outside bodies and the council's representative can be complex. In any case of dispute or difficulty, Councillors should seek advice from the secretary or clerk to the outside body, who can then take advice from professional advisors where necessary.
- 6.2 If Councillors are concerned about the position they find themselves in as an appointee on an outside body, they should contact the Monitoring Officer for further advice.

## **7. Council's code of conduct – general provisions**

- 7.1 The Councillor Council Code of Conduct requires that Councillors must observe the code of conduct whenever they are acting as a representative of the authority. If your membership of an outside body creates a declarable or registerable interest you must act in accordance with the Code and the Council's Constitution.

## **8. Your Councillor Register of Interests**

- 8.1 Your membership of an outside body is not a disclosable pecuniary interest.
- 8.2 However, your membership of an outside body is likely to give rise to an "other interest" as defined at paragraph 18 of the City's Councillor Code of Conduct if an item of business affects the outside body on which you serve. You should declare such an interest at any meeting where the interest arises and consider what effect, if any, it has on your participation at the meeting.

## **9. Conflicts of interest, bias and predetermination.**

- 9.1 Any Councillor who attends a Council meeting where there is an item of business which relates to or affects an outside body on which they sit, will need to disclose the interest at the meeting, regardless of whether or not they were appointed onto the outside body by the council, or by the outside body itself.
- 9.6 Councillors should take advice from the Monitoring Officer should they consider that they have any conflict arising from their involvement with the outside body.
- 9.7 Councillors should also avoid any situation which could lead to a perception of predetermination or bias when they are considering business at a meeting of the Council, Cabinet, Committee or any other decision-making forum of the Council. Any decision of the council that might have been affected by bias or predetermination on the part of one or more councillor, which would be at risk of legal challenge.. Councillors therefore need to be careful about the possibility of bias and predetermination when they are dealing with matters involving an outside body on which they serve. Do not be influenced by any allegiance to an outside body on which you serve and do not give the impression that you might be influenced by it. Do

not predetermine your view on a matter of Council business until you have properly considered all of the relevant information relating to the matter, including the information which might arise from debate at any meeting.

- 9.9 Whilst it is accepted that councillors will discuss matters with colleagues and constituents and bring the benefit of those discussions to the committee room, you must still listen to the arguments and be prepared to change your mind if the evidence presented requires it.
- 9.10 In some instances a Councillor may conclude that they are unable to properly carry out their functions as a member of the council and a member of the outside body. In the event that a councillor considers there to be irreconcilable conflicts between their role as a member of the council and a member of the outside body, the advice of the the Monitoring Officer should be sought.

## **10. Limited Companies and Directorships**

- 10.1 A company has a separate legal personality to its shareholders (also described as company members or subscribers). One of the main advantages of acting through a limited company is that shareholders can claim the benefit of limited liability. In the case of a company limited by shares this means that they will not be liable for the debts of the company if the company makes losses over and above the amount which they have pledged to pay the company for their shares. In a company limited by guarantee this means that the shareholders 'guarantee' to contribute a specified sum if called upon to do so (usually a nominal amount of £1) in the event that the company goes into insolvent liquidation.
- 10.2 Separate legal arrangements exist to register an appointment as a director of a company, this includes completion of a form (known as 'Form 288') which needs to be signed and submitted to Companies House. The company secretary of the outside body should assist you with this.
- 10.3 The directorship should also be recorded in the Council's Register of Members' Interests (within 28 days of the appointment). Directors take responsibility for all the main decisions in relation to the operation of the company, including entering into contracts.
- 10.4 If you are appointed by the Council to act as a company director you have a duty to act in the best interest of the company.



10.5 You are advised to consider the specific rules pertaining to the company you have been appointed to but the general legal responsibilities of company directors are:

- to ensure that the company acts within its legal powers;
- to act honestly and in good faith in the best interests of the company;
- not to make a personal profit and to take proper care of the assets;
- to avoid conflicts of interest and not to allow personal interest to influence action as a director;
- to record personal interests in the company's Register of Director's Interests;
- to act with reasonable competence and care;
- to exercise reasonable skill and care (this is a subjective test based upon the individual's own knowledge and experience); and
- not knowingly allow the Company to trade fraudulently, recklessly or in an insolvent position.

10.6 If you are a Council appointed director you are advised:

- to clarify the insurance arrangements and consider any implications;
- to be familiar with the Articles and Memorandum of Association of the company;
- to ensure that your interests are registered with the company;
- to attend board meetings regularly, read the agenda in advance and seek a briefing from officers of the company where necessary;
- to ensure that the company has proper procedures for reporting performance and financial information to board members at each meeting;
- to take an interest in the appointment of the management of the company to ensure that suitable qualified and experienced managers are in place;
- to ensure that the company has adequate Health and Safety and Equalities Policies; and
- to seek advice from the appropriate council officers if in any doubt about the financial viability of the company or any aspect of its operation.

10.7 Councillors need to be particularly careful when acting as a company director if there is any prospect of the company becoming insolvent i.e. not having sufficient assets to pay its debts. When a company becomes insolvent, or it is foreseeable that it will be insolvent, directors of the company have a higher duty of

competence and attention to company business than when the company is still solvent. If Directors fail to take every possible step to minimise the company's debts, they may be personally liable for any additional losses suffered by creditors of the company ("wrongful trading"). A director may be found guilty of fraudulent trading (a criminal offence) if they allow the company to trade with an intent to defraud creditors.

10.8 Councillors should be aware that if they become a Company Director there are some useful guidance documents to assist you on the websites of the Institute of Directors and Companies House.

10.9 There may be occasions where conflicts of interest arise between the council and the company. This may mean that the primary responsibility to the company could conflict with the council's interest. In these circumstances, Councillors are advised to declare the conflict at any council meetings or discussions and take no part in the decision-making process. Some examples of potential conflict include:

- contracts between the Council and the Company;
- negotiations on agreements, such as terms of leases;
- applications for council permission, e.g. planning consent;
- applications for council grants and other funding

## **11. Charitable trustees**

11.1 To be a charity an organisation must operate for one or more of these charitable purposes:

- the prevention or relief of poverty or need
- the advancement of education;
- the advancement of religion;
- the advancement of health or saving of life
- the advancement of citizenship or community development
- the advancement of the arts, culture heritage or science
- the advancement of amateur sport
- the advancement of human rights, conflict resolution or the promotion of harmony
- environmental protection or improvement
- the advancement of animal welfare
- the promotion of the efficiency of the armed forces, police, fire and rescue services and
- any another charitable purpose.

11.2 Trustees duties include:

- the need to act in accordance with the constitution of the charity;
- not making a private profit from their position;
- acting honestly and in good faith in the best interests of the charity;
- ensuring that information relating to the charity and trustees is registered with the charity commissioners and annual accounts, reports and returns are completed and sent;
- ensuring that the body acts in accordance with the overriding duty to the beneficiaries of the trust;
- ensuring compliance with all relevant legislation (e.g. in relation to tax and land matters); and
- council representatives are advised to clarify the insurance arrangements and assess the possibilities of any implications on themselves as individuals.

11.4 Under the Trustee Act 2000 there is a duty of care which applies when a Trustee is:

- exercising a general power of investment or any specific power of investment arising from the trust;
- making investments in line with the Standard Investment Criteria under section 4 of the Act or taking independent advice on investments under section 5;
- exercising the power to acquire land or deal in land;
- appointing agents, custodians or nominees or in reviewing their obligations;
- compounding liabilities under section 15 of the Trustee Act 1925;
- insuring trust property; and
- dealing with reversionary interests, valuations or audits.

11.5 The standard of care expected of trustees is that which is reasonable in the circumstances, taking into account any particular skills or competencies possessed by the individual. Additional information relating to the responsibilities for charitable directors and trustees is available on the Charity commission's website <http://www.charity-commission.gov.uk>.

11.6 A Councillor who is appointed by the Council to act as a charity trustee should act in the best interest of the charity.

## **12. Partnerships**

12.1 The Council may appoint councillors to serve as representatives on partnerships. Councillors in this position have three main roles:

- to promote the council's objectives in participating in the partnership;

- to ensure that the partnership delivers its own objectives;
- to safeguard the council's interests within the partnership, particularly where the council is a funding partner or the accountable body for external funding

12.2 Council representatives on partnerships are advised to:

- be clear on the council's own objectives in participating in the partnership;
- read the constitution of the partnership and be aware of its objectives and powers;
- attend partnership meetings regularly, read the agendas in advance and seek briefing from officers where necessary;
- ensure that the partnership has proper procedures for reporting progress and financial information; and
- take an interest in the appointment of key staff.

### **13. Unincorporated organisations**

13.1 Groups which are not charitable trusts or limited companies are 'unincorporated associations' and have no separate legal identity from their members. The rules governing the membership of unincorporated organisations, including members' duties and liability may be set out in a constitution, which is simply an agreement between the members as to how the organisation will operate. Any constitution is likely to provide for management committees to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and therefore register as a charity.

13.2 Management committee members must act within the constitution of that outside body and must take reasonable care when exercising their powers.

13.3 If Councillors become involved in the administration of an unincorporated body, they need to be aware that, as the body has no separate corporate status, any liabilities will fall upon the members personally. This means that if something goes wrong and the organisation is sued, the members/owners personal assets are at risk – they cannot stand behind a company or other body which gives them some legal protection.

13.4 If Councillors take on personal responsibilities for the organisation, such as buying equipment or renting premises, they are personally liable for the entire cost, and can only recover those costs from the organisation to the extent that it actually has the money to reimburse them, or from the other members of the organisation to

the extent that the membership agreement gives them the right to be reimbursed by each of them.

- 13.5 Councillors need to be very careful about the risk of personal liability and the extent to which this has been covered by insurance arrangements (either arranged by the organisation itself or by the council or by indemnities).

#### **14. Indemnity for members**

- 14.1 The council may only indemnify Councillors in certain circumstances as prescribed by the Local Authorities (Indemnity for Members and Officers) Order 2004.

- 14.2 The council will provide an indemnity in relation to any action (or failure to act) by any Councillor which:

- is authorised by the council;
- forms part of, or arises from, any powers conferred, or duties placed, upon that Councillor at the request, or with the approval of the authority including acting as the council's representative on an outside body;
- arises in respect of the cost of defending any claim for an allegation of defamation by a Councillor acting in an official capacity (but not in respect of any punitive or exemplary damages or arising from malicious or injurious falsehood);
- is in respect of any investigation, hearing or other proceedings for an alleged failure to comply with the code of conduct for councillors but, if the member is found to have breached the code of conduct, and where an appeal is unsuccessful, then that councillor shall reimburse the authority or the insurer for their costs incurred in relation to those proceedings;

- 14.3 The indemnity includes an act or omission subsequently found to be beyond the powers of the Councillor in question, but only to the extent that the Councillor reasonably and genuinely believed that the act or omission was within their powers at the time they acted.

- 14.4 The indemnity does not apply to the defence of any criminal proceedings brought against a Councillor unless specifically approved by the council and then only on a similar basis to that relating to proceedings for breaches of the code of conduct.

- 14.5 It is possible in some circumstances for the council to indemnify (i.e. stand behind the councillor and pick up any personal legal liabilities/costs/damages which the councillor incurs as a result of his/her appointment to an outside body).

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Proposed Template Appendix 3

Appointees to Outside Bodies – Annual Report for the year 2020/21

Name of Outside Body

Name of Appointee

Date of First Appointment

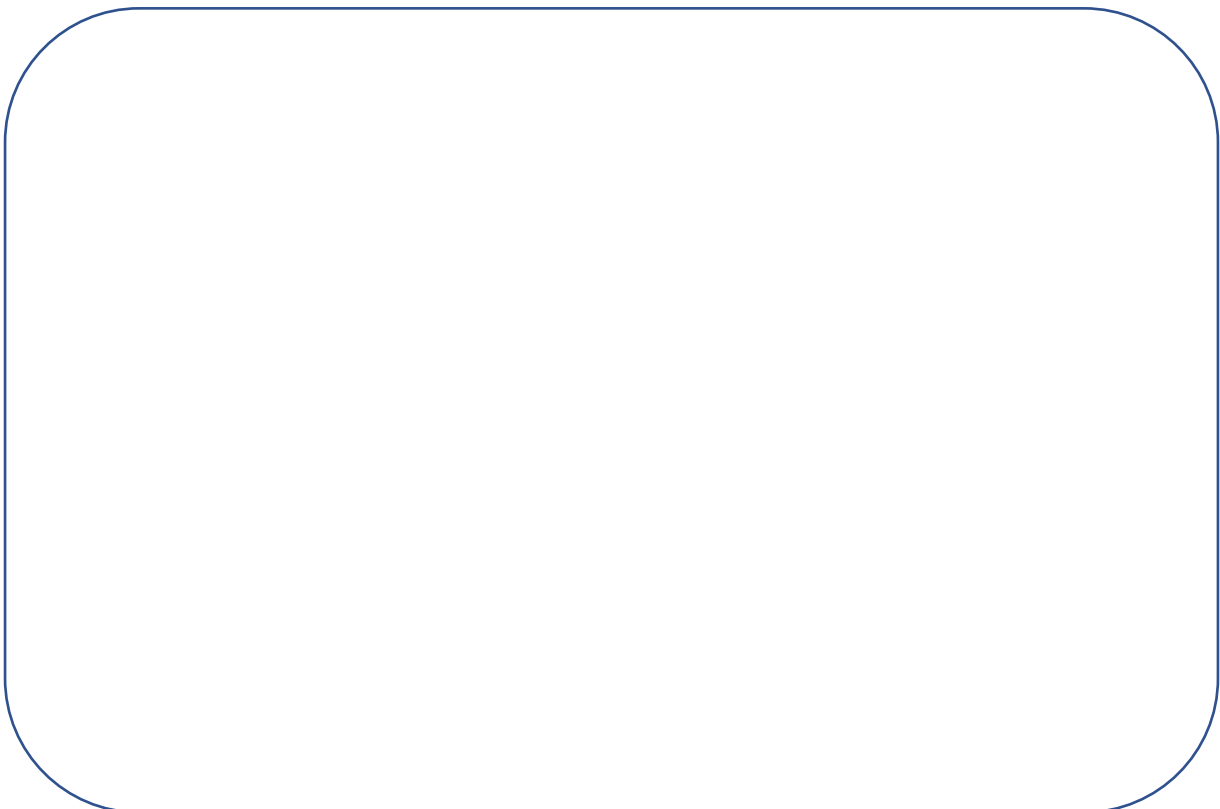
Date of Latest Appointment

Number of Meetings attended \_\_\_\_\_ Out of a total possible number of \_\_\_\_\_

Purpose of the Organisation (briefly describe the purpose of the outside body)



Activity during the reporting year (briefly describe the activity delivered by the outside body during the reporting year)



Proposed Template Appendix 3

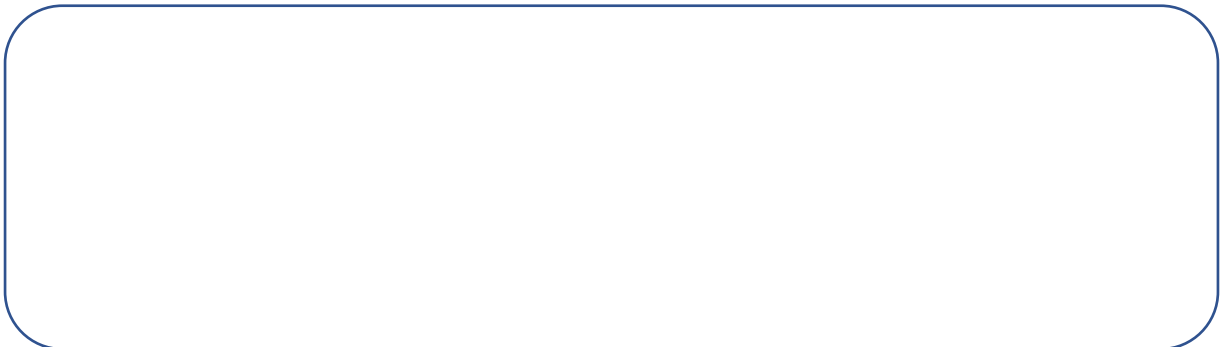
How has Gloucester City Council helped the outside body deliver its objectives during the year?



How has the Outside Body helped the City Council deliver its corporate priorities during the year?



Has your appointment to the Outside Body been worthwhile and would you recommend that the Council continues to make an appointment to this outside body?







<b>Meeting:</b>	<b>Council</b>	<b>Date:</b>	<b>28 January 2021</b>
<b>Subject:</b>	<b>Programme of Meetings, May 2021-November 2023</b>		
<b>Report Of:</b>	<b>Policy and Governance Manager</b>		
<b>Wards Affected:</b>	<b>All</b>		
<b>Key Decision:</b>	<b>No</b>	<b>Budget/Policy Framework:</b>	<b>No</b>
<b>Contact Officer:</b>	<b>Tanya Davies, Policy and Governance Manager</b>		
	<b>Email: tanya.davies@gloucester.gov.uk</b>	<b>Tel:</b>	<b>39-6125</b>
<b>Appendices:</b>	<b>1. Draft Programme of Meetings, May 2021-April 2023</b> <b>2. Proposed amendments to the Programme of Meetings, March-April 2021</b>		

**FOR GENERAL RELEASE**

**1.0 Purpose of Report**

1.1 To approve a two-year programme of ordinary meetings of Council and other meetings for the period of May 2021 to April 2023 and consider amendments to the current year’s programme to reflect the postponement of the 2020 elections to 2021.

**2.0 Recommendations**

2.1 Council is asked to **RESOLVE** that

- (1) Subject to any further changes, the two-year programme of ordinary meetings of Council and other meetings for the period of May 2021 to April 2023 be approved.
- (2) Subject to the May 2021 elections going ahead as scheduled, the proposed changes to the current year’s programme of meetings be approved.
- (3) In the event that the May 2021 elections are postponed, authority be delegated to the Managing Director, in consultation with Group Leaders, to revise the programme of meetings to reflect the new date and associated Member induction requirements.

**3.0 Background and Key Issues**

3.1 The Council is required to agree a programme of meetings on an annual basis and the draft programme is attached an Appendix 1.

3.2 The Council approves a two-year programme each year in order to provide the Council and Councillors with adequate notice of meetings. As such, this programme

contains 12 months of dates that have previously been approved and 12 months of new dates.

- 3.4 It is important to retain the flexibility to amend the first year of a two year-programme, because dates for events and meetings of other organisations that impact on the Council's own programme are often not available until 12 months in advance. As such, a small number of changes are proposed to the period of May 2021-April 2023. The changes are highlighted in Appendix 1 using deletions and underlined insertions.
- 3.5 It should be noted that the school term dates for 2021-22 have not yet been published; therefore, meeting dates for 2021-22 may be subject to change once the term dates are known.
- 3.6 Changes are also proposed to the current year's programme of meetings to reflect the postponement of the 2020 elections due to the Covid19 pandemic. These elections are currently due to take place in May 2021, with four election types taking place in Gloucester (Police and Crime Commissioner, County Council, City Council and Quedgeley Town Council). The government has recently restated its intention for the elections to go ahead despite the pandemic, therefore preparations continue on that basis; however, the council must be prepared in the event that the elections are postponed again and it's possible that any postponement could be at relatively short notice.
- 3.7 Should the elections go ahead in May 2021, in line with standard practice in election years, it is proposed that a small number of meetings be cancelled as they fall in what will now be the pre-election period, known as purdah, and it is also proposed that the final Council meeting of the municipal year be brought forward from 25 March to 18 March to allow the Returning Officer and his staff sufficient time to manage the nomination process following publication of the City Council Notice of Election. Group Leaders have been consulted on these proposals in advance.
- 3.8 In the event that the elections are postponed again, the changes to the programme highlighted in 3.7 will not be implemented and instead it will be necessary to revise the programme for 2021-22 to reflect the new election date. As this would be a technical revision to the programme to make space for the election, purdah, Councillor appointments and any essential induction requirements, probably at short notice, it is proposed that authority be delegated to the Managing Director to make the necessary changes following consultation with Group Leaders rather than come back to full Council for approval.
- 3.9 Included in the consultation with Group Leaders highlighted in 3.8 would be a discussion about the Annual Council meeting and appointments made at that meeting. Specifically, subject to legislation, a decision would need to be made on whether to postpone the Annual Council meeting scheduled on 24 May 2021 until after any new election date, meaning that all appointments would be extended until any revised date. The views of the current Mayor and Sheriff would need to be taken into account because if they were not willing to continue in the roles, the scheduled Annual Council meeting would need to go ahead in order to elect a new Mayor and Sheriff.

#### **4.0 Social Value Considerations**

4.1 There are no social value considerations.

## **5.0 Environmental Implications**

5.1 There are no environmental implications.

## **6.0 Alternative Options Considered**

6.1 All available options for the scheduling of meetings were considered when compiling the programme.

6.2 The current year's programme of meetings could remain unchanged; however, this would result in meetings taking place during purdah and insufficient time for the Returning Officer and his staff to manage the nomination process for the forthcoming elections.

6.3 Observations and comments were invited from Group Leaders and senior officers.

## **7.0 Reasons for Recommendations**

7.1 To agree the programme of ordinary meetings of Council and other meetings for the period of May 2020 to April 2022.

7.2 To enable changes to be made to the programme of meetings to reflect the first and any subsequent postponements of the scheduled elections.

## **8.0 Future Work and Conclusions**

8.1 By approving a two-year programme of ordinary meetings several months in advance of the start of the timetable, Members and other interested parties can plan ahead and the business of the Council can be transacted more efficiently and effectively.

8.2 Following approval, the programme of meetings will be communicated to partner organisations and the dates added to the Council's website. Invitations to all meetings will be sent to Members after Annual Council to take account of any changes to committee membership.

8.3 The dates of meetings that fall in the purdah period will remain in the calendar and diaries for the time being in case of further postponement of the elections. Members will continue to be updated as and when more information about the May 2021 elections becomes available and any necessary changes to the 2021-22 programme will be communicated following appropriate consultation.

## **9.0 Financial Implications**

9.1 There are no financial implications arising from this report.

(Financial Services have been consulted in the preparation this report.)

## **10.0 Legal Implications**

10.1 By approving the programme of ordinary meetings the Council is fulfilling a constitutional requirement.

(One Legal have been consulted in the preparation this report.)

## **11.0 Risk & Opportunity Management Implications**

11.1 There are no risks arising from this report.

## **12.0 People Impact Assessment (PIA) and Safeguarding:**

12.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

12.2 There are no safeguarding implications.

## **13.0 Community Safety**

13.1 There are no community safety implications.

## **14.0 Staffing & Trade Union**

14.1 There are no staffing or trade union implications.

**Background Documents:** None

# Gloucester **City Council**

## **PROGRAMME OF MEETINGS**

**1 MAY 2021-30 APRIL 2023**

<b>MAY 2021</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
3 BH	4	5	6 CITY, COUNTY, PCC, QTC ELECTIONS	7
10	11 6.00pm Planning Committee	12 <i>Ramadan ends</i>	13	14
17 Page 606	18	19	20	21
24 3.00pm Annual Council	25	26 4.30pm Cabinet Briefing*	27	28
31 BH				

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>JUNE 2021</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
	1 SH	2 SH	3 SH	4 SH
7 6.30 pm Overview and Scrutiny Committee	8 6.00pm Planning Committee	9	10	11
14 Page 607	15 6.30pm Licensing and Enforcement Committee	16 6.00pm Cabinet	17	18
21	22 SH	23 4.30pm Cabinet Briefing*	24	25
28	29 LGA Conference (TBC)	30 LGA Conference (TBC)		

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>JULY 2021</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
			<b>1</b> <i>LGA Conference (TBC)</i> <i>6.00 pm Environment and Ecology Forum**</i>	<b>2</b>
<b>5</b> <b>6.30 pm Overview and Scrutiny Committee</b>	<b>6</b> <b>6.00pm Planning Committee</b>	<b>7</b>	<b>8</b> <b>6.30pm Council</b>	<b>9</b>
<b>12</b> Page 608	<b>13</b>	<b>14</b> <b>6.00pm Cabinet</b>	<b>15</b>	<b>16</b>
<b>19</b> <b>6.30 pm Audit and Governance Committee</b>	<b>20</b>	<b>21</b>	<b>22</b> SH	<b>23</b> SH
<b>26</b> SH	<b>27</b> SH	<b>28</b> SH	<b>29</b> SH	<b>30</b> SH

\*not open to the public

\*\*Outside Body meeting, by invitation only



<b>AUGUST 2021</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
2 SH	3 SH 6.00pm Planning Committee	4 SH	5 SH	6 SH
9 SH	10 SH	11 SH	12 SH	13 SH
16 SH	17 SH	18 SH	19 SH	20 SH
23 SH	24 SH	25 SH 4.30pm Cabinet Briefing*	26 SH	27 SH
30 BH	31 SH			

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\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>SEPTEMBER 2021</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
		1 SH	2	3
6 <b>6.30 pm Overview and Scrutiny Committee</b>	7 <b>6.00pm Planning Committee</b>	8	9	10
13 <b>6.30 pm Audit and Governance Committee</b>	14 <b>6.30pm Licensing and Enforcement Committee</b>	15 <b>6.00pm Cabinet</b>	16	17
20	21	22 <i>4.30pm Cabinet Briefing*</i>	23 <b>6.30pm Council</b>	24
27	28	29	30	

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>OCTOBER 2021</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
				1
4 <b>6.30 pm Overview and Scrutiny Committee</b>	5 <b>6.00pm Planning Committee</b>	6	7	8
11 Page 61	12	13 <b>6.00pm Cabinet</b>	14	15
18	19	20 <i>4.30pm Cabinet Briefing*</i>	21	22
25 SH	26 SH	27 SH	28 SH	29 SH

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>NOVEMBER 2021</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
1 <b>6.30 pm Overview and Scrutiny Committee</b>	2 <b>6.00pm Planning Committee</b>	3	4 <i>6.00 pm Environment and Ecology Forum**</i>	5
8	9	10 <b>6.00pm Cabinet</b>	11	12
15 Page 612 <b>6.30 pm Audit and Governance Committee</b>	16	17 <i>4.30pm Cabinet Briefing*</i>	18 <b>6.30pm Council</b>	19
22	23	24	25	26
29 <b>6.30 pm Overview and Scrutiny Committee</b>	30			

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>DECEMBER 2021</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
		1	2	3
6 <b>6.30 pm Overview and Scrutiny Committee (Budget)</b>	7 <b>6.00pm Planning Committee</b>	8 <b>6.00pm Cabinet</b>	9	10
13 Page 613	14 <b>6.30pm Licensing and Enforcement Committee</b>	15 <i>4.30pm Cabinet Briefing*</i>	16	17
20 SH	21 SH	22 SH	23 SH	24 SH
27 BH	28 BH	29 SH	30 SH	31 SH

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>JANUARY 2022</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
3 BH	4  <b>6.00pm Planning Committee</b>	5	6	7
10  <b>6.30 pm Overview and Scrutiny Committee</b>	11  <b>6.00pm General Purposes Committee</b>	12  <b>6.00pm Cabinet</b>	13	14
17 Page 6 of 14 <b>6.30 pm Audit and Governance Committee</b>	18	19  <i>4.30pm Cabinet Briefing*</i>	20	21
24	25	26	27  <b>6.30pm Council</b>	28
31  <b>6.30 pm Overview and Scrutiny Committee</b>				

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>FEBRUARY 2022</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
	1 <b>6.00pm Planning Committee</b>	2	3	4
7	8	9 <b>6.00pm Cabinet</b>	10	11
14	15	16 <i>4.30pm Cabinet Briefing*</i>	17	18
21 SH	22 SH	23 SH	24 SH <b>6.00pm Budget Council</b>	25 SH
28 <b>6.30 pm Overview and Scrutiny Committee</b>				

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\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>MARCH 2022</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
	1 <b>6.00pm Planning Committee</b>	2	3 <i>6.00 pm Environment and Ecology Forum**</i>	4
7 <b>6.30 pm Audit and Governance Committee</b>	8	9 <b>6.00pm Cabinet</b>	10	11
14 Page 616	15 <b>6.30pm Licensing and Enforcement Committee</b>	16 <i>4.30pm Cabinet Briefing*</i>	17	18
21	22	23	24 <b>6.30pm Council</b>	25
28 <b>6.30 pm Overview and Scrutiny Committee</b>	29	30	31	

\*not open to the public

\*\*Outside Body meeting, by invitation only



<b>APRIL 2022</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
				1
4 <i>Ramadan starts (3 April)</i>	5 <b>6.00pm Planning Committee</b>	6 <b>6.00pm Cabinet</b>	7	8
11 SH	12 SH	13 SH <i>4.30pm Cabinet Briefing*</i>	14 SH	15 BH
18 BH	19 SH	20 SH	21 SH	22 SH
25 <b>6.30 pm Overview and Scrutiny Committee</b>	26	27	28	29

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>MAY 2022</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
2 <i>Ramadan ends</i> BH	3  <b>6.00pm Planning Committee</b>	4  <b>6.00pm Cabinet</b>	5	6
9	10	11	12	13
16 Page 618	17	18	19	20
23 <b>3.00pm Annual Council</b>	24	25 <i>4.30pm Cabinet Briefing*</i>	26	27
30 BH	31 SH			

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>JUNE 2022</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
		1 SH	2 SH	3 SH
6 6.30 pm Overview and Scrutiny Committee	7 6.00pm Planning Committee	8	9	10
13 Page 619	14 6.30pm Licensing and Enforcement Committee	15 6.00pm Cabinet	16	17
20	21	22 4.30pm Cabinet Briefing*	23	24
27	28 LGA Conference (TBC)	29 LGA Conference (TBC)	30 LGA Conference (TBC) 6.00 pm Environment and Ecology Forum**	

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>JULY 2022</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
				1
4 <b>6.30 pm Overview and Scrutiny Committee</b>	5 <b>6.00pm Planning Committee</b>	6	7 <b>6.30pm Council</b>	8
11 Page 620	12	13 <b>6.00pm Cabinet</b>	14	15
18 <b>6.30 pm Audit and Governance Committee</b>	19	20	21	22
25 SH	26 SH	27 SH	28 SH	29 SH

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>AUGUST 2022</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
1	2 SH  6.00pm Planning Committee	3 SH	4 SH	5 SH
8 SH	9 SH	10 SH	11 SH	12 SH
15 SH Page 621	16 SH	17 SH	18 SH	19 SH
22 SH	23 SH	24 SH  4.30pm Cabinet Briefing*	25 SH	26 SH
29 BH	30 SH	31 SH		

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>SEPTEMBER 2022</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
			1	2
5 <b>6.30 pm Overview and Scrutiny Committee</b>	6 <b>6.00pm Planning Committee</b>	7	8	9
12 <b>6.30 pm Audit and Governance Committee</b>	13 <b>6.30pm Licensing and Enforcement Committee</b>	14 <b>6.00pm Cabinet</b>	15	16
19	20	21 <i>4.30pm Cabinet Briefing*</i>	22 <b>6.30pm Council</b>	23
26	27	28	29	30

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>OCTOBER 2022</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
3  <b>6.30 pm Overview and Scrutiny Committee</b>	4  <b>6.00pm Planning Committee</b>	5	6	7
10	11	12  <b>6.00pm Cabinet</b>	13	14
17 Page 623	18	19  <i>4.30pm Cabinet Briefing*</i>	20	21
24	25	26	27	28
31  <b>6.30 pm Overview and Scrutiny Committee</b>				

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>NOVEMBER 2022</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
	1 <b>6.00pm Planning Committee</b>	2	3 <i>6.00 pm Environment and Ecology Forum**</i>	4
7	8	9 <b>6.00pm Cabinet</b>	10	11
14 Page 6 of 24 <b>6.30 pm Audit and Governance Committee</b>	15	16 <i>4.30pm Cabinet Briefing*</i>	17 <b>6.30pm Council</b>	18
21	22	23	24	25
28 <b>6.30 pm Overview and Scrutiny Committee</b>	29	30		

\*not open to the public

\*\*Outside Body meeting, by invitation only



<b>DECEMBER 2022</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
			1	2
5 <b>6.30 pm Overview and Scrutiny Committee (Budget)</b>	6 <b>6.00pm Planning Committee</b>	7 <b>6.00pm Cabinet</b>	8	9
12 Page 625	13 <b>6.30pm Licensing and Enforcement Committee</b>	14 <i>4.30pm Cabinet Briefing*</i>	15	16
19	20	21	22	23
26 BH	27 BH	28	29	30

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>JANUARY 2023</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
2 BH	3  <b>6.00pm Planning Committee</b>	4	5	6
9  <b>6.30 pm Overview and Scrutiny Committee</b>	10  <b>6.00pm General Purposes Committee</b>	11  <b>6.00pm Cabinet</b>	12	13
16 <b>6.30 pm Audit and Governance Committee</b>	17	18  <i>4.30pm Cabinet Briefing*</i>	19	20
23	24	25	26  <b>6.30pm Council</b>	27
30  <b>6.30 pm Overview and Scrutiny Committee</b>	31			

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>FEBRUARY 2023</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
		1	2	3
6	7 <b>6.00pm Planning Committee</b>	8 <b>6.00pm Cabinet</b>	9	10
13 Page 627	14	15 <i>4.30pm Cabinet Briefing*</i>	16	17
20	21	22	23 <b>6.00pm Budget Council</b>	24
27 <b>6.30 pm Overview and Scrutiny Committee</b>	28			

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>MARCH 2023</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
		1	2 <i>6.00 pm Environment and Ecology Forum**</i>	3
6 <b>6.30 pm Audit and Governance Committee</b>	7 <b>6.00pm Planning Committee</b>	8 <b>6.00pm Cabinet</b>	9	10
Page 628 13	14 <b>6.30pm Licensing and Enforcement Committee</b>	15 <i>4.30pm Cabinet Briefing*</i>	16	17
20	21	22	23 <b>6.30pm Council</b>	24
27 <b>6.30 pm Overview and Scrutiny Committee</b>	28	29	30	31

\*not open to the public

\*\*Outside Body meeting, by invitation only

<b>APRIL 2023</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
3	4 <b>6.00pm Planning Committee</b>	5 <b>6.00pm Cabinet</b>	6	7 BH
10 BH	11	12 <i>4.30pm Cabinet Briefing*</i>	13	14
17 Page 629	18	19	20	21
24 <b>6.30 pm Overview and Scrutiny Committee</b>	25	26	27	28

\*not open to the public

\*\*Outside Body meeting, by invitation only

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# **PROGRAMME OF MEETINGS**

**AMENDMENTS TO MARCH-APRIL 2021**

<b>MARCH 2021</b>				
<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
1 <b>6.30pm Overview and Scrutiny Committee</b>	2 <b>6.00pm Planning Committee</b>	3	4 <i>6.00 pm Environment and Ecology Forum**</i>	5
8 <b>6.30pm Audit and Governance Committee</b>	9	10 <b>6.00pm Cabinet</b>	11	12
15 Page 632	16 <b>6.30pm Licensing and Enforcement Committee</b>	17 <i>4.30pm Cabinet Briefing*</i>	18 <b><u>6.30pm Council</u></b>	19
22	23	24	25 <b><del>6.30pm Council</del></b>	26
29 <b><del>6.30 pm Overview and Scrutiny Committee</del></b>	30	31		

\*not open to the public

\*\*Outside Body meeting, by invitation only



APRIL 2021				
Monday	Tuesday	Wednesday	Thursday	Friday
			1	2 BH
5 BH	6 SH 6.00pm Planning Committee	7 SH <del>6.00pm Cabinet</del>	8 SH	9 SH
12 SH	13 SH <i>Ramadan starts (ends 12/05/19)</i>	14 SH	15 SH	16 SH
19	20	21	22	23
26	27	28	29	30

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\*not open to the public

\*\*Outside Body meeting, by invitation only

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Paragraph 12.02 of Part 4 of the Rules of Procedure contained within the City Council's Constitution provides that a Member of the Council may submit a written question to any Cabinet Member.

This document informs Members of Council of written questions put to Cabinet Members and written replies thereto.

**Council is recommended to RESOLVE to note the written questions submitted and corresponding responses.**

No.	Question from/to	Question
1.	From Councillor Stephens to the Cabinet Member for Planning and Housing Strategy	<ol style="list-style-type: none"> <li>Forecast for numbers of social housing units broken down by type and tenure that will be built/ completed within the current financial year 2020/21</li> <li>Forecast for the number of social housing units broken down by type and tenure that are forecast to be built in 2021/22.</li> </ol>
<b>Response:</b>		
<p>Following the start of the current lockdown, it is difficult to provide accurate estimates for new-build completions, given the potential impact that the lockdown and Covid cases may have on the construction industry. However, based on current information, we estimate the following:</p> <ol style="list-style-type: none"> <li>2020/21 – a total of 216 affordable homes are estimated to be completed (comprising 104 affordable rent and 112 shared ownership homes)</li> <li>2021/22 – a total of 185 affordable homes are estimated to be completed (comprising 73 affordable rent and 112 shared ownership homes)</li> </ol>		
2.	From Councillor Coole to the Cabinet Member for Communities and Neighbourhoods	As the Government has announced it won't re-start the 'Everyone In' scheme, what support will the City Council provide to rough sleepers during the third lockdown?
<b>Response:</b>		
<p>Since the start of the Covid pandemic and the previous 'Everyone In' initiative, Gloucester City Council, as part of the Countywide Housing Partnership have continued to take a discretionary approach to housing those rough sleeping, at risk of rough sleeping or vulnerable in a way which meant rough sleeping was a possibility. This approach has supported many rough sleepers seeing numbers at the peak of the crisis as high as 48 countywide reducing to 14 (as of 05.01.21), 3 of whom are in Gloucester City. Rough Sleeper number are very fluid and someone housed on one night may quickly return to the street and vice versa.</p> <p>The Government released an announcement on 08 January setting out their expectation that councils continue to provide support to all people sleeping rough during the current January 2021 lockdown. As such, the council will continue supporting rough sleepers with providing the offer of accommodation during the winter months as part of our Severe Weather Emergency Protocol (SWEP) and on-going outreach support is provided through the countywide outreach service.</p>		

	<p>Currently, all people sleeping rough have been offered alternative accommodation.</p> <p>Councillors are encouraged to report rough sleepers through Streetlink as usual to ensure rough sleepers are engaged with quickly and offered accommodation swiftly, before they become entrenched.</p>	
3.	From Councillor Field to the Cabinet Member for Environment	How much did the leaflet detailing Christmas and New Year refuse and recycling arrangements cost to produce and deliver? Was it recyclable?
	<b>Response:</b>	
	The cost of the bin hangers was £2082 and covered all 57,000 properties in the city. We always use recycled and recyclable paper for our promotional campaigns.	
4.	From Councillor Field to the Cabinet Member for the Leader of the Council and the Cabinet Member for Environment	How can we balance the need for people to exercise outdoors during lockdown with the need for people to keep safe? Related to this, what is the council doing and what more can be done, such as a 'Keep Gloucester Tidy' campaign, to remind people not to drop litter when they are out?
	<b>Response:</b>	
	<p>We all recognise the importance of controlling the spread of the Virus so we should minimise time spent outside of our homes. Exercising is important for our wellbeing and the Government guidance allows for us to leave home to exercise, but this should be limited to once per day and of course we should not travel outside our local area, some key pointers are;</p> <p>Yes, we can exercise in a public outdoor place;</p> <ul style="list-style-type: none"> <li>• On our own</li> <li>• with the people we live with</li> <li>• with our support bubble (if legally permitted to form one) <a href="https://www.gov.uk/guidance/making-a-support-bubble-with-another-household">https://www.gov.uk/guidance/making-a-support-bubble-with-another-household</a></li> <li>• in a childcare bubble where providing childcare <a href="https://www.gov.uk/guidance/making-a-childcare-bubble-with-another-household">https://www.gov.uk/guidance/making-a-childcare-bubble-with-another-household</a></li> <li>• or, when on your own, with 1 person from another household socially distanced.</li> </ul> <p>More details can be found at <a href="https://www.gov.uk/guidance/national-lockdown-stay-at-home#exercising">https://www.gov.uk/guidance/national-lockdown-stay-at-home#exercising</a></p> <p>Amey's litter pickers have been keeping on top of things in hot spot areas and are responding quickly to reactive requests for clearance work. To assist us in monitoring litter levels across the City, we are currently carrying out intelligence gathering around fill levels of our litter bins. Amey staff are using their handheld device to record whether a bin is 25% full, 50% full or 100% full when they empty it. This intelligence will allow us to improve the service by retro fitting smart technology into the bins which are not used as often, this way we need only send a crew to empty when the bin goes over ¾ full.</p> <p>To fund the new smart technology, we are of applying for grant funding from WRAP. If successful as well as the sensors we will install "on the go" recycling bins in the gate streets and in our open spaces which have sports pitches. We</p>	

	will also commit to replace our aged post mounted bins and concrete bins which have no top and cause windblown litter as budgets allow.  For obvious reasons, organising volunteer litter picks has been difficult but when the situation allows, we will continue to support local groups.  We will continue to use social media to encourage our businesses and residents to act responsibility and I think we all have a role in challenging this form of anti-social behaviour wherever it is encountered.	
5.	From Councillor Field to the Cabinet Member for Culture and Leisure	The creative industries are still in shutdown due to Covid. What plans does the council have to kickstart the cultural life of the city once Covid is defeated/in decline?
	<b>Response:</b>	
	The city council is applying to the governments Cultural Recovery Funding streams and encouraging other cultural providers in the city that are eligible to do the same. The city is still planning for a Tall Ships Festival in May 2021 – with contingency plans in place depending on the latest restrictions. The Bright Nights winter lights programme planned to brighten up the city with artists and light installations will be brought back bigger and brighter in late 2021. The summer festivals programme is being developed currently and will include Gloucester Carnival, Gloucester Goes Retro and more. The Culture and Visitor Economy Board continues to support the sector, pool resources and has identified a number of successful campaigns to date – including the Gloucester Good to Go campaign. This group will continue to meet to identify collective actions to support the city’s wider recovery. The latest Festivals and Events report has committed to supporting new commissions to ensure that Gloucester benefits from ground-breaking new work as stated in the Cultural Strategy, which is being refreshed for the next 5 years placing culture as a key economic and social driver for recovery.	
6.	From Councillor Hilton to the Cabinet Member for Performance and Resources	What is the net income from the council’s commercial estate activities?
	<b>Response:</b>	
	The budgeted net income from the Council’s commercial estate activities is £2.729m.	
7.	From Councillor Hilton to the Leader of the Council	Does the Leader have an update on 67/69 London Road?
	<b>Response:</b>	
	Officers have introduced further developers and housing associations to the owners. Discussions have also been held recently with Homes England on potential development options.  The owners have also confirmed that a local architecture practice are currently conducting a high level feasibility review of the site.	
8.	From Councillor Hilton to the Cabinet Member for Performance and Resources	How many full time equivalent members of staff are on the council’s payroll right now?
	<b>Response:</b>	
	As of 1 January 2021 there are 227 staff employed by the City Council (FTE 199.41). Please note that as per standard reporting practice reports are run at the beginning of each month and exclude casual and zero hours staff.	
9.	From Councillor Hilton to the Cabinet Member for	How many staff vacancies does the council have right now?

	Performance and Resources	
	<b>Response:</b>	
	There are 25.8 posts vacant with plans in place to recruit to a number of these in the near future.	
10.	From Councillor Hilton to the Cabinet Member for Performance and Resources	How have staff sickness rates changed due to the Coronavirus pandemic?
	<b>Response:</b>	
	Sickness absence levels due to confirmed or suspected Coronavirus have remained very low and since the introduction of mass testing confirmed cases have collectively remained in single digits. We have seen a slight increase in cases from November onwards but this continues to remain very low and the impact thus far has thankfully been minimal.	
11.	From Councillor Hilton to the Cabinet Member for Economic Recovery and Growth	What discussions have been held with Aviva about the future of the Debenhams department store?
	<b>Response:</b>	
	Officers have been in regular contact with the agent for Aviva over a number of months and have requested an early discussion with any preferred bidder for the Debenhams store as a matter of urgency. It is understood that Aviva have yet to make any decision on disposal.	
	Officers have also made the agents aware of the Council's redevelopment plans for the City and the context within which any future plans for the Debenhams store need to be considered. I would welcome proposals that were in keeping with our desire to provide our residents with more reasons to be in the City Centre for more of the time as well as being complementary to our recently announced plans for the Forum.	
12.	From Councillor Hilton to the Cabinet Member for Economic Recovery and Growth	How many retail outlets in the city centre have closed or announced their closure during the Coronavirus pandemic? Please name them.
	<b>Response:</b>	
	The closure of retail outlets nationally has been a constant refrain throughout the Covid pandemic and Gloucester is not immune to such effects. Based on the information currently available, the retailers who have "closed or announced their closure during the Coronavirus pandemic" of their store in the city centre include; Brighthouse, Sainsbury's & SJP Bridal. However Quiz & Oasis closed their concessions in Debenhams.	
	Although the question was specific to the City Centre we can also confirm the following closures took place at the Docks Carluccio's, Bella Italia, So Pie, Cath Kidston & Jaeger. At St Oswald's two food and beverage outlets have also closed namely Frankie and Bennies & Harvester.	
	I would acknowledge that the list will not be comprehensive as some stores will have closed on a temporary basis and, having furloughed their staff, are waiting for trading conditions to improve before considering a reopening. Furthermore, acquisition deals and potential MBOs are still very much in the mix and although it is essential to be mindful of potential risks, we are very proactive in keeping	

	well informed with regard to all retail, hospitality & service supply locations in the city.	
	It is important to note that several retail units have opened in the City since March 2020 and these include: Idun Spirit, House of Tweed, Eco Farm Foods, Jackies Hair, the Fabric shop, Nevitt retro antique market, Sahara Lounge Antiques & The Shabby Tiger Vintage Shop. Tommy Hilfiger and Molton Brown have also opened at the Docks.	
13.	From Councillor Hilton to the Cabinet Member for the Leader of the Council	What is happening with the Fleece Hotel site? It seem that no or very little progress has taken place over the last twelve months.
	<b>Response:</b>	
	Members will be aware from recent news coverage that the redevelopment of the Fleece Hotel is still very much a priority for this administration. It's the flagship development of the High Street Heritage Action Zone for which the local council secured funding of £1.9m to regenerate Westgate Street by bringing vacant or underused historic properties back in to beneficial economic use and to raise the design standards in the City.	
	The proposal for a high quality hotel and associated commercial and leisure offer is entirely consistent with our ambition to repurpose our City Centre.	
	As recently announced by the Managing Director of Dowdeswell, one of the vacant retail units in Westgate Street will be refurbished to provide a focus of the project and, when Covid restrictions allow, members of the public can drop in and see the plans as they emerge in the months to come.	
	Officers are currently working with Dowdeswell on the detailed Business Case for the project.	
14.	From Councillor Hilton to the Cabinet Member for Planning and Housing Strategy	How many members of staff are employed in the development control team under the City Growth and Delivery Manager? Both full time and under temporary contracts.
	<b>Response:</b>	
	Currently there are 11 members of staff employed within the Development Management Team representing 10.25 FTE.	
15.	From Councillor Hilton to the Cabinet Member for Performance and Resources	Have contracts been exchanged between the purchaser of HKP warehouses and the city council?
	<b>Response:</b>	
	Not yet, although the main terms of the disposal are agreed, the fine detail of the contract is in negotiation, the matter is in hands of the respective parties' solicitors and is following the normal course. This is a complex disposal of a historic buildings which will result in the redevelopment and a new use in the building and there is a substantial amount of detail and due diligence to be undertaken.	
16.	From Councillor Hilton to the Cabinet Member for Planning and Housing Strategy	Who is the planning inspector that is dealing with the review of our city plan and when do we expect the public inquiry will be held?
	<b>Response:</b>	
	The Planning Inspectorate has appointed Louise Nurser as the Inspector for the Examination in Public of Gloucester's Local Plan.	
	No date has yet been fixed for the Examination in Public.	

17.	From Councillor David Brown to the Cabinet Member for Environment	<p>What are the Council doing to inform that small minority of dog owners who fail to clean up after their pets of their responsibilities?</p> <p><b>Response:</b></p> <p>I think it is the role of all Councillors and members of the public to challenge dog owners when they fail to clean up after their pets. As Cllr Brown acknowledges, it is the small minority of dog owners but the health and environmental impact of not doing so can be severe.</p> <p>The Council has used social media to re-enforce the message and notices are located across the City to advise dog owners.</p>
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