



DEPARTMENT FOR CULTURE, MEDIA AND SPORT

# **THE DIGITAL SWITCHOVER HELP SCHEME**

A Scheme Agreement Between  
Her Majesty's Secretary of State for Culture,  
Media and Sport and  
the British Broadcasting Corporation

*Presented to Parliament by the  
Secretary of State for Culture, Media and Sport  
by Command of Her Majesty  
4 May 2007*



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# **THE DIGITAL SWITCHOVER HELP SCHEME**

## **PART1: INTRODUCTORY PROVISIONS AND DEFINITIONS**

### **CHAPTER 1: ESTABLISHING PRINCIPLES OF THIS SCHEME**

#### **1. Legal basis and extent**

- (1) This Scheme is called the Digital Switchover Help Scheme and has been agreed between the Secretary of State for Culture, Media and Sport (“the Secretary of State”) and the British Broadcasting Corporation (“the BBC”) pursuant to clause 39 of the Agreement.
- (2) This Scheme applies in relation only to persons who are ordinarily resident in the United Kingdom; and assistance under this Scheme will be provided only at places in the United Kingdom.

#### **2. Responsibilities**

- (1) The Secretary of State is responsible for Scheme policy, including determining the criteria by which-
  - (a) eligibility for assistance, and
  - (b) the nature of the assistance which is to be given,will be established.
- (2) The BBC is responsible for ensuring that assistance is provided in accordance with this Scheme, subject in particular to clause 3.
- (3) But, except where this Scheme provides that a particular function may not be entrusted to any other person, this Scheme is not to be taken to require assistance to be provided by the BBC itself.
- (4) Accordingly, the BBC may, if it thinks fit, make arrangements for its functions under this Scheme (including the exercise of any discretion) to be entrusted, whether pursuant to contract or otherwise, to any other person.
- (5) Functions may be so entrusted to another person in their entirety or to such extent as may be provided for by or under such arrangements.
- (6) This clause is without prejudice to the other powers (if any) of the BBC or the Secretary of State to make arrangements for their functions to be carried out, wholly or in part, by or with the assistance of any other person.

#### **3. Scheme expenditure**

The arrangements for the funding of the BBC’s expenditure on this Scheme set out in Schedule 1 shall have effect.

#### **4. Scheme Governance**

The arrangements for the governance of this Scheme set out in Schedule 2 (which, in particular, establishes a Project Board and Policy Review Group and makes provision for financial accountability) shall have effect.

#### **5. Meaning of “the Administrator”**

In this Scheme, in relation to any function, references to “the Administrator” are references to the BBC, or to any person to whom the performance of that function has been entrusted by the BBC, as the case may require.

## **CHAPTER 2: DEFINITIONS**

#### **6. Definitions**

(1) In this Scheme-

“the Administrator” is to be construed in accordance with clause 5;

“the Agreement” means the Agreement between the Secretary of State and the BBC dated 30 June 2006, including any amendment to that Agreement made after that date;

“applicant” is to be construed in accordance with clause 11(2);

“assistance” means assistance described in Part 2 and otherwise provided in accordance with this Scheme;

“the BBC” means the British Broadcasting Corporation and (except in clause 2(2)) any subsidiary of the BBC to whom the BBC has entrusted the discharge of any of its functions under this Scheme;

“the Consumer Expert Group” means the body of that name established to advise the Government on consumer needs and expectations in relation to Digital Switchover;

“Digital UK” means the company registered as Digital UK Limited, or any person to whom its functions are transferred;

“DSDNI” means the Department for Social Development in Northern Ireland or any other Northern Ireland department or Minister to which or to whom that Department’s functions in relation to social security are transferred;

“DWP” means the Department for Work and Pensions or any other government department or Minister of the Crown to which or to whom that Department’s functions in relation to social security are transferred;

“ITV region” has the meaning given in clause 8(3);

“MOD” means the Ministry of Defence or any other government department or Minister of the Crown to which or to whom that Ministry’s functions in relation to war pensions are transferred;

“the public service television channels” means the following services, namely, any UK Public Television Service, Channel 3, Channel 4, Channel 5, the Public Teletext Service and (in relation to Wales) any public television service of the Welsh Authority; and “a public service television channel” means any of those services;

“a public television service of the Welsh Authority” has the meaning given in paragraph 24 of Schedule 12 to the Communications Act 2003;

“registered blind or partially sighted” means, in relation to a person, that he is registered as a blind or partially sighted person—

- (a) in England and Wales, in a register compiled under section 29(4)(g) of the National Assistance Act 1948;
- (b) in a register maintained by or on behalf of a council constituted under the Local Government (Scotland) Act 1994; or
- (c) with a Health and Social Services Board or Trust in Northern Ireland;

“Secretary of State” means the Secretary of State for Culture, Media and Sport, or the Secretary of State for any other government department, or any other Minister of the Crown, to whom her functions are transferred;

“the specified charge” means the charge determined by the Secretary of State under Part 3 of this Scheme;

“transmission” means a transmission of electronic signals by wireless telegraphy, otherwise than by means of a satellite (and related expressions shall be construed accordingly);

“transmitter” means a main or relay transmitter used (whether wholly or partly) for transmitting one or more of the public service television channels;

“Veterans Agency” means the Agency of that name which is part of the MOD and which has responsibility for war pensions or any other agency, government department or Minister of the Crown to which or to whom the MOD’s functions in relation to war pensions are transferred or otherwise entrusted.

- (2) Clauses 104 to 109 of the Agreement (which make general provision about the interpretation of the Agreement) apply to this Scheme as they apply to the Agreement.

# **PART 2: RIGHTS AND OBLIGATIONS IN RELATION TO ASSISTANCE UNDER THE SCHEME**

## **CHAPTER 1: ELIGIBILITY FOR ASSISTANCE**

### **7. Definitions for Part 2**

“applicable period of availability” has the meaning given in clause 8(4);

“attendance allowance” means the benefit awarded pursuant to Part 3 of-

- (a) the Social Security Contributions and Benefits Act 1992, or
- (b) the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“civil partner” means a person with whom a civil partnership has been formed within the meaning of the Civil Partnerships Act 2004;

“child” means a person for whom child benefit is payable;

“child benefit” means the benefit awarded under section 141 of the Social Security Contributions and Benefits Act 1992;

“constant attendance allowance” means—

- (a) an allowance awarded under Article 14 of the Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686) or by application of Article 8 of the Naval, Military and Air Forces (Death and Disablement) Service Pensions Order 2006 (S.I. 2006/606);
- (b) the benefits awarded pursuant to section 104 and paragraph 8 of Schedule 6 to the Social Security Contributions and Benefits Act 1992 or S104 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (c) a payment referred to under section 7(3)(b) of the Industrial Injuries and Diseases (Old Cases) Act 1975 (increase of an allowance under that Act where the person in respect of whom that allowance is payable requires constant attendance as a result of his disablement); or a payment under regulations 19-21 of the Social Security (General Benefit) Regulations 1982;
- (d) a payment under regulation 44 of the Social Security (Industrial Injuries)(Benefit) Regulations 1975 in respect of the need of constant attendance;
- (e) a payment under Section 111 and Schedule 8, paragraph 6(4)(b) and 7(2)(b) of the Social Security Contributions and Benefits Act 1992 or under Schedule 7, paragraph 11(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and

- (f) a payment under Article 8 of the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1983 (S.I. 1983/136);

“disability living allowance” means the benefit awarded pursuant to Part 3 of—

- (a) the Social Security Contributions and Benefits Act 1992, or
- (b) the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“eligible person” means a person eligible for assistance (see clause 8(1));

“home”, in relation to any person, means that person’s ordinary place of residence;

“income-based jobseeker’s allowance” has the meaning given by section 1(1) and (4) of the Jobseekers Act 1995;

“income support” means the benefit mentioned at section 124 of the Social Security Contributions and Benefits Act 1992;

“mobility supplement” means a supplement awarded under Article 25A of the Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686) or by application of Article 20 of the Naval, Military and Air Forces (Death and Disablement) Service Pensions Order 2006 (S.I. 2006/606);

“notify” means notify in writing (and related expressions shall be construed accordingly); but any requirement to “notify” a person is not to be construed as preventing the Administrator from also contacting that person in some other way (such as by telephone), as well as notifying him;

“partner” means a member of a couple, namely—

- (a) a man and woman who are married to each other and normally live at the same address;
- (b) a man and woman who are not married to each other but normally live together at the same address as husband and wife;
- (c) two people of the same sex who are civil partners of each other and normally live at the same address; or
- (d) two people of the same sex who are not civil partners of each other but normally live together at the same address as if they were civil partners;

“pension credit” has the meaning given by section 1 of the State Pension Credit Act 2002; and

“Project Whitehaven” means the geographical area within which analogue terrestrial transmission of the Whitehaven, Gosforth, Eskdale Green, Eskdale Boot A and Eskdale Boot B for Channel 3 services (within the meaning of Part 1 of the Broadcasting Act 1990) are generally received.

## **8. Eligibility criteria**

- (1) For the purposes of this Scheme, but subject to the exclusions set out in clause 9, a person is eligible for assistance (an “eligible person”)—
  - (a) if at the relevant time he has attained the age of 75 years; or
  - (b) if—
    - (i) at the relevant time he is entitled to disability living allowance, attendance allowance, constant attendance allowance, or mobility supplement; and
    - (ii) DWP have confirmed such entitlement before the end of the applicable period of availability; or
  - (c) at the relevant time he is registered blind or partially sighted.
- (2) In this Part, references to “the relevant time” are references to any day falling—
  - (a) within the applicable period of availability in relation to the ITV region in which the eligible person’s home is located; but
  - (b) before the time when the applicant receives notification from the Administrator of his determination of the application under clause 14(4).
- (3) In this Scheme, “ITV region” means the geographical area within which analogue terrestrial transmissions of a particular regional Channel 3 service (within the meaning of Part 1 of the Broadcasting Act 1990) are generally received.
- (4) In relation to any ITV region, “the applicable period of availability” is the period which—
  - (a) begins eight months before the date provided by the BBC as the date of the final switching-off of BBC1 analogue terrestrial services from transmitters serving that region; and
  - (b) ends one month after the last such transmitter has switched off such services.
- (5) In respect of the Project Whitehaven, “the applicable period of availability” is the period which—
  - (a) was deemed to begin on 15 March 2007; and
  - (b) ends one month after the last of the Gosforth, Eskdale Green, Eskdale Boot A, Eskdale Boot B or Whitehaven transmitters’ analogue television services has been switched off.

## **9. Persons excluded from eligibility**

A person is not an eligible person if—

- (a) he is detained in custody throughout the applicable period of availability;
- (b) he dies before a notification is issued to him by the Administrator under clause 14(4)(b);

- (c) he is not ordinarily resident in the United Kingdom;
- (d) he is an asylum seeker within the meaning of section 94 of the Immigration and Asylum Act 1999;
- (e) he has applied for asylum, that application has been refused, and he has not been granted exceptional or discretionary leave to remain or humanitarian protection;
- (f) the place at which he is ordinarily resident is not covered by a television licence;
- (g) he has already received assistance; or
- (h) the Administrator has already issued a notification under clause 14(4)(b) to his partner or to a child (or to someone acting on that child's behalf) for whom he or his partner is receiving child benefit and where that child is living at the same address.

#### **10. Determination of ITV region**

- (1) It is for the Administrator to determine, for the purposes of this Scheme (for example, in deciding whether to notify a person under clause 28 or to accept an application under clause 14) the ITV region, or ITV regions, in which an eligible person's home is located.
- (2) In making such a determination, in relation to an eligible person, the Administrator must in particular take into account—
  - (a) the location of the eligible person's home;
  - (b) any guidance provided by Ofcom or Digital UK and any other person appearing to the Administrator to have relevant information; and
  - (c) if it appears to the Administrator that an eligible person's home is located in more than one ITV region, or is not in an ITV region, he must also take into account—
    - (i) the nature, specification and technical configuration (including aerial alignment) of the apparatus which is or could be used to receive digital transmissions at the home;
    - (ii) the preferences of the eligible person;
    - (iii) any steps that could reasonably be taken by the eligible person (with or without assistance) to enable transmissions to be received from any transmitter at their home and their cost; and
    - (iv) the need to ensure value for money in the operation of the Scheme.
- (3) For the purposes of paragraph (2) an aerial does not include equipment installed under the Community Television Relay scheme and licensed under the Wireless Telegraphy Act 1949 or the Wireless Telegraphy Act 2006.
- (4) For the avoidance of doubt, it is hereby declared that an eligible person's home may be located in more than one ITV region, but he may not receive assistance in relation to more than one such region.

## **CHAPTER 2: MAKING AND DETERMINING APPLICATIONS**

### **11. Persons who may apply**

- (1) An application for assistance may be made by—
  - (a) the person seeking assistance, or (where that person is a child) the adult who receives child benefit for him and who lives at the same address; or
  - (b) any person appearing to the Administrator to be authorised (whether generally, such as under a Power of Attorney, or specifically, such as by a letter of authority signed by a member of the household) to make such an application on behalf of the person seeking assistance.
- (2) References in this Scheme to “an applicant” are to the person making an application for assistance, whether they fall within sub-paragraph (a) or sub-paragraph (b) of paragraph (1).

### **12. When and how applications are to be made**

- (1) Assistance is available in each ITV region for a limited period only, and accordingly, applications for assistance will not be duly made unless made—
  - (a) during the period that is the applicable period of availability in relation to that ITV region, and
  - (b) in respect of an eligible person whose home is located within that ITV region, and must in other respects be made in accordance with the provisions of this Chapter.
- (2) Applications for assistance may be made—
  - (a) in writing to the Administrator;
  - (b) by telephone to a call centre designated for the purpose by the Administrator;
  - (c) to an e-mail address specified by the Administrator for the purpose;
  - (d) via a website maintained by the Administrator for the purpose; or
  - (e) by any other means which the Administrator may permit either generally or on a case-by-case basis.
- (3) Every such application must be accompanied by, or as the case may be, subsequently supported by, such evidence in relation to any criterion of eligibility that is relevant to the application as the Administrator may reasonably require (whether in general or in relation to a particular application).

### **13. e-Communications**

- (1) The Administrator may notify a person of any matter by e-mail or SMS text message if, but only if, that person has expressly notified the Administrator that he agrees to communications from the Administrator being sent to him in that manner.

- (2) The Administrator is not to be regarded as having received any application or other communication directed to him by telephone, e-mail or SMS text message unless that communication has been directed to him at a telephone number or e-mail address specified by him (whether generally or to a particular person) as one at which he is prepared to accept such communications.

#### **14. Determination of applications**

- (1) As soon as practicable after receiving an application for assistance, the Administrator must either—
- (a) accept the application as having been duly made in accordance with this Scheme (and clauses 11 and 12 in particular); or
  - (b) decline to accept the application and notify the applicant of that fact, giving the reasons why the application cannot be accepted and explaining the steps (if any) that can be taken to make the application acceptable.
- (2) Subject to paragraph (3), where an application has been duly made in accordance with this Scheme the Administrator must determine those matters set out in clause 15(1) and (2) in relation to an application that has been duly made within the time scale specified in the Code of Service Standards made under clause 27.
- (3) Where, in the course of determining an application for assistance, it appears to the Administrator that the application cannot be determined without further steps being taken by the applicant (such as the provision of additional information or such evidence as may be duly required under Clause 12(3)) the Administrator shall notify the applicant of that fact and of the steps that need to be taken to enable the determination to proceed.
- (4) As soon as reasonably practicable after determining an application, the Administrator must notify the applicant—
- (a) that he (or, as the case may be, the person on whose behalf the application was made) is not an eligible person, giving his reasons for that decision, or
  - (b) that he (or, as the case may be, the person on whose behalf the application was made) is an eligible person;

and in either case the notification must provide information about the Scheme's Internal Review procedure and how to apply for an Internal Review of the Administrator's determination.

#### **15. Notification**

- (1) A notification under clause 14(4)(b) shall also specify—
- (a) the means of assistance which the eligible person is to be offered in accordance with clause 17;
  - (b) whether the eligible person is entitled to that assistance free of charge as provided in clause 16(1);
  - (c) if the eligible person is not entitled to the assistance free of charge, the specified charge and the arrangements for paying it as mentioned in clause 16(2).

- (2) Where an eligible person has received a notification under paragraph 14(4)(b) the Administrator must allow him a period of 14 days in which he may notify the Administrator that he does not want to proceed with his application for assistance; and the Administrator must not proceed with the application if he receives such notification.
- (3) In cases where an eligible person dies after the Administrator has issued a notification to him under clause 14 (4)(b):
  - (a) the claim will continue in the name of his surviving partner or child if that surviving partner or child is himself an eligible person living at the same address and (for this purpose) any change in entitlement to income support, income-based jobseeker's allowance or pension credit which occurs as a consequence of the death shall be disregarded;
  - (b) if the eligible person's surviving partner or child living at the same address is not an eligible person, at the choice of that surviving partner or child, the Administrator must either continue to provide assistance or refund any charge paid; or
  - (c) if the eligible person is not survived by a partner or child living at the same address the Administrator is not required to continue to provide assistance where the deceased eligible person was entitled to receive such assistance free of charge and shall refund to the estate of the deceased eligible person or to the person who made it any sum paid in respect of the specified charge for that eligible person's claim.

#### **16. Entitlement to free or paid-for assistance**

- (1) An eligible person is entitled to receive assistance free of charge if—
  - (a) he makes an application for assistance; and
  - (b) at the relevant time (within the meaning given in clause 8)—
    - (i) the eligible person,
    - (ii) his partner, or
    - (iii) if the eligible person is a child, the adult who receives child benefit for that child (or their partner) and who lives at the same address, or a person whom the Administrator is otherwise satisfied is responsible for the child and from information provided by a public provider of information lives at the same address, is in receipt of pension credit, income support or income-based jobseeker's allowance.
- (2) An eligible person not entitled to receive assistance free of charge is entitled to receive assistance in return for payment of the specified charge if—
  - (a) he makes an application for assistance; and
  - (b) the specified charge for that assistance has been paid.
- (3) In paragraph (2), references to the specified charge having been paid are references to that charge having been paid in such manner and to such person as may be specified by the Administrator; and the Administrator must ensure that there is a range of methods for paying the charge suitable for use by eligible persons (but such methods need not include payment by instalments).

## CHAPTER 3: ASSISTANCE UNDER THE SCHEME

### 17. Means of assistance available

- (1) The means of assistance to be provided to an eligible person shall be determined in accordance with this clause, but subject to clauses 18 and 19.
- (2) It is for the Administrator to—
  - (a) determine in accordance with Schedule 4 which type of assistance from those described in paragraph 2 of Schedule 3 will in his opinion constitute the most cost-effective assistance which can be provided to the eligible person; and
  - (b) notify the applicant (pursuant to clause 15(1)) of the assistance which can be offered to the eligible person.
- (3) The Administrator's notification must—
  - (a) offer assistance in accordance with paragraph 2(a);
  - (b) provide information as to the alternative assistance (if any) available to him;
  - (c) include an offer to refer the eligible person to the providers of the pay-TV services (if any) that are available to him; and
  - (d) provide information about—
    - (i) any payment which may be required from the eligible person to the Administrator for the supply by the Administrator of any equipment or services requested by the eligible person in addition to the assistance notified under paragraph 2(a), and
    - (ii) the appropriate payment which will be made to the provider of any alternative assistance selected by the eligible person.
- (4) In paragraph (3)—
  - (a) “pay-TV service” means any service (including satellite or cable television and any other means of distributing television programme services)—
    - (i) by which a person may receive television programme services; but
    - (ii) in relation to which a subscription or other recurring payment is required as a condition of receiving one or more channels in intelligible form; and
    - (iii) which either provides reception of the public service television channels as part of the service, or provides equipment which allows the reception of those channels in addition to any channel for which a payment is required.
  - (b) “the appropriate payment” means a payment by the Administrator to a provider of alternative assistance determined in accordance with paragraph 5(2) of Schedule 3 and the provisions of Schedule 4.

- (c) “alternative assistance”, in relation to an eligible person, means such forms of assistance described in paragraph 2 of Schedule 3 as are available to that person but which do not, in the opinion of the Administrator, comprise the most cost-effective assistance that the Administrator can offer under paragraph (3)(a) and which may include any available pay-TV service.
- (5) It is for the person to whom the offer is made (or a person acting on his behalf as mentioned in clause 11(1)) to tell the Administrator which means of assistance offered he wishes to receive.
- (6) In this clause, in relation to any equipment, “provision” includes the delivery of that equipment to the eligible person’s home.
- (7) The reference in paragraph (4)(a)(ii) to a payment does not include a reference to any sum payable by virtue of regulations made under section 364 of the Communications Act 2003 (TV licence fees).
- (8) References in this clause and in clause 18, in relation to an eligible person, to the reception of the public service television channels include a reference to the availability of any special services or facilities (such as audio description or subtitling) needed by that eligible person to ensure that he is able, so far as practicable, to watch or listen to those channels and to use any facilities normally provided on the platform in question in association with those services (such as any interactive functions).
- (9) In making any determination under paragraph 2(a) the Administrator shall comply with the requirements set out in Schedule 4.

#### **18. Provision supplemental to clause 17**

When making a determination under clause 17(2), the Administrator must take into account, in relation to the location of the person’s home—

- (a) the predicted or actual digital terrestrial signals available for reception of those channels after digital switchover at that location;
- (b) any guidance from Digital UK or Ofcom on the availability of digital terrestrial services at that location or generally;
- (c) the predicted or actual availability of digital television services other than digital terrestrial television at that location; and
- (d) the cost-effectiveness of assistance to be provided.

#### **19. Equipment requirements**

- (1) The BBC and the Secretary of State must together draw up and approve an equipment specification, to be known as the “Core Receiver Requirements” which will apply to assistance offered under paragraph 2(1) of Schedule 3.
- (2) The BBC and the Secretary of State must consult such bodies, including the Consumer Expert Group and other consumer groups, as it considers appropriate in drawing up the Core Receiver Requirements.
- (3) The Policy Review Group must keep the Core Receiver Requirements under review and from time to time propose amendments for approval by both the BBC and the Secretary of State.

- (4) Equipment offered under clause 17(3)(a) must—
  - (a) in general be suitable for an older or disabled person to use and meet as many of the Core Receiver Requirements as possible,
  - (b) on and after 1 April 2008, must, in the case of equipment offered under paragraph 2(1) of Schedule 3 meet the Core Receiver Requirements as amended from time to time; and
  - (c) be covered by a warranty which offers cover, and lasts for a period, which is in accordance with industry best practice and—
    - (i) in cases mentioned under paragraph 2(1)-(7) and (10) of Schedule 3 that warranty must be offered by the Administrator, and
    - (ii) in cases mentioned in paragraph 2(8)-(9) of Schedule 3 that warranty must be offered by the equipment supplier.

## **CHAPTER 4: INTERNAL REVIEWS AND APPEALS**

### **20. Internal Review Procedure**

- (1) The Administrator must establish an Internal Review procedure to deal with complaints relating to—
  - (a) any decision of the Administrator to decline an application for assistance;
  - (b) any decision of the Administrator not to proceed to determine such an application unless the applicant takes further steps;
  - (c) any determination of the Administrator that the applicant (or, as the case may be, the person on whose behalf the application was made) is not an eligible person;
  - (d) any determination of the Administrator that an eligible person is not entitled to free assistance;
  - (e) any determination of the Administrator as to the means of assistance which an eligible person will be offered;
  - (f) any decision of the Administrator in relation to the provision of assistance, including in respect of the reliability of the equipment supplied; and
  - (g) any decision of the Administrator about the standard of service provided by the Administrator under this Scheme.
- (2) The internal review procedure must include provisions to the effect of those set out in paragraphs (3) to (5).
- (3) A person making such a complaint (“the complainant”) must request an Internal Review within—
  - (a) 28 days of the date on which the Administrator sends the notification under clause 14(4);

- (b) 28 days of the cause of complaint arising in paragraph (1)(f) or (1)(g); or
  - (c) within the warranty period for the equipment, where the complaint relates to the reliability of the equipment supplied.
- (4) The Administrator may extend the time limit mentioned in paragraph (3) for a complainant to request an Internal Review.
- (5) As part of the Internal Review procedure the Administrator must—
- (a) take into account any relevant new evidence supplied by the complainant or any other person;
  - (b) notify the complainant of the outcome of the Internal Review within a reasonable time;
  - (c) notify the complainant of the matters specified in clause 15(1)(a) to (c) if relevant to the outcome of the Internal Review; and
  - (d) notify the complainant of any further action the Administrator will take, or assistance which will be provided, as a consequence of the Internal Review.

## **21. Appointment of the Appeals Adjudicator**

- (1) The BBC Trust must appoint a person to be known as the Digital Switchover Help Scheme Appeals Adjudicator (“the Appeals Adjudicator”), after having first obtained the approval of the Secretary of State to that appointment.
- (2) The BBC Trust may appoint as Appeals Adjudicator-
- (a) one or more members of the Trust;
  - (b) one or more members of the Trust Unit; or
  - (c) a person independent of the Trust.
- (3) The BBC Trust may not entrust the appointment of the Appeals Adjudicator to any other person.
- (4) The BBC Trust must ensure that the Appeals Adjudicator is able to hear and determine appeals of the kind referred to in clause 22, in accordance with clauses 23 and 24.
- (5) The Administrator must comply with decisions of the Appeals Adjudicator.

## **22. Matters against which an appeal lies**

Following the notification to him of the outcome of an Internal Review under clause 20(5)(b), a complainant (or a person acting on his behalf as mentioned in clause 11(1)) may appeal to the Appeals Adjudicator against-

- (a) any decision of the Administrator to decline an application for assistance;
- (b) any decision of the Administrator not to proceed to determine such an application unless the complainant takes further steps;

- (c) any determination of the Administrator that the complainant is not an eligible person;
- (d) any determination of the Administrator that the complainant (being an eligible person) is not entitled to free assistance;
- (e) any determination of the Administrator as to the means of assistance which the complainant (being an eligible person) is to be offered;
- (f) any decision of the Administrator in relation to the provision of assistance, including in respect of the reliability of the equipment supplied;
- (g) any decision of the Administrator following a complaint about the standard of service provided by the Administrator under this Scheme;
- (h) any refusal of the Administrator to extend the time limit for a complainant to request an Internal Review; and
- (i) any failure of the Administrator to conduct an Internal Review within a reasonable time or at all.

### **23. How an appeal is made and determined**

- (1) Any appeal must be submitted to the Appeals Adjudicator within 28 days of notification of the outcome of the Internal Review mentioned in clause 20(5)(b) being sent, or in the case of an appeal under clause 22(i), within a reasonable time.
- (2) Subject to paragraphs (3) to (5) the Appeals Adjudicator will determine his own procedure in consultation with the Council on Tribunals and must issue a final decision within a reasonable time.
- (3) The Appeals Adjudicator must notify the person making the appeal (“the appellant”) and the Administrator of—
  - (a) the procedure to be followed for the appeal; and
  - (b) the fact that the appellant (or someone acting on his behalf as mentioned in clause 11(1)) and the Administrator, may each make representations in writing.
- (4) The Appeals Adjudicator must—
  - (a) enquire into any dispute of fact between the appellant and the Administrator;
  - (b) consider any written evidence submitted to him and any responses to that evidence; and
  - (c) if he considers it necessary, arrange a hearing to investigate disputed facts, at which oral representations may be made.
- (5) The Appeals Adjudicator must issue his decision and his reasons for it in writing to the appellant and the Administrator and provide a copy to any other person who requests it.

**24. Powers of the Appeals Adjudicator on determining an appeal**

- (1) On determining an appeal, the Appeals Adjudicator may reach any decision which it would have been open to the Administrator to reach in respect of the matter appealed against.
- (2) The Appeals Adjudicator may substitute his own decision for that of the Administrator.

## **CHAPTER 5: PROVISION AS TO THE DELIVERY OF ASSISTANCE**

**25. Duty of the Administrator**

It shall be the duty of the Administrator, as soon as practicable after determining that an eligible person is entitled to assistance, or following a decision to that effect reached in an Internal Review or by the Appeals Adjudicator, to make arrangements for that assistance to be delivered to the eligible person, in accordance with that determination or decision.

## **PART 3: SERVICE STANDARDS, CHARGES AND RELATIONS WITH OTHER BODIES**

### **CHAPTER 1: ROLE OF THE PROJECT BOARD**

**26. General duty of the Project Board**

It is the duty of the Project Board (see Schedule 2) to ensure that, within, and subject to, the terms of this Scheme, all aspects of this Scheme are operated in a manner that fully supports the needs of the classes of persons (that is to say, older people, disabled people and blind or partially-sighted people – see Part 2) whom this Scheme is intended to help, and their carers (to the extent necessary to enable any carer to assist a person in making and pursuing an application).

**27. Code of service standards**

- (1) In performing its duty under clause 26, the Project Board must prepare and publish a code containing the standards of service, including aftercare, to be attained in the operation of this Scheme, and do all that it can to secure that this Scheme is operated in accordance with those standards.
- (2) Before publishing such a code, the Project Board must consult—
  - (a) the Administrator, and
  - (b) the Consumer Expert Group.
- (3) The standards contained in the code must be those that seem to the Project Board most likely to secure the following objectives—

- (a) that the needs of the classes of persons whom this Scheme is intended to help and the persons who may care for them, and any differences in such needs that may exist as between such persons in different communities, are fully understood and reflected in the operation of the Scheme;
- (b) that the Scheme and any communications made for or in connection with the Scheme by the Administrator—
  - (i) are likely to come to the attention of the classes of persons whom the Scheme is intended to help, and
  - (ii) are made easily accessible to such persons; and
- (c) that staff engaged in delivering help under the Scheme are well-motivated, are good communicators, and are focused on customer needs.

## **CHAPTER 2: OTHER OBLIGATIONS OF THE ADMINISTRATOR**

### **28. Duty to notify potential claimants**

- (1) The Administrator must do all that he can to secure that, as respects Project Whitehaven and each ITV region, no later than the beginning of the applicable period of availability for that region, every person notified to him by a public provider of information as being—
  - (a) a person whose home is located in that ITV region and potentially eligible for help under the Scheme, or
  - (b) a person who from the information so provided appears to be authorised to act on behalf of such a person,

is contacted by means of a letter setting out information about the Scheme and inviting applications for help.
- (2) The Administrator must also do all that he can to secure that no person such as is mentioned in sub-paragraph (1) is contacted—
  - (a) more than twice, or
  - (b) (as the case may be) more than twice in respect of each ITV region in which that person's home is located,

unless (whether in response to such a letter or otherwise) the person in question has made a claim for assistance under the Scheme or has otherwise solicited further communications
- (3) This paragraph does not apply in relation to any person who is not identified by the Administrator (whether by using information provided by a public provider of information or otherwise) as being contactable at a particular postal address.
- (4) In this paragraph, “public provider of information” means—

- (a) in relation to social security information, DWP and (in Northern Ireland) DSDNI;
- (b) in relation to war pensions information, the Veterans Agency; and
- (c) in relation to visual impairment information, a local authority and (in Northern Ireland) a Health and Social Services Board or Trust.

**29. Other obligations of the Administrator**

- (1) The Administrator must do all that he can to secure that—
  - (a) persons receiving help under the Scheme do not suffer any break in the continuity of their reception of television programme services as a result of a failure by the Administrator to carry out his obligations;
  - (b) all persons engaged (whether by him or by any other organisation) to carry out work under the Scheme involving contact with members of the public are appropriately trained to work with the classes of persons whom the Scheme is intended to help and the persons who may care for them;
  - (c) no person is so engaged at a time when he is barred from activities involving children or vulnerable adults; and
  - (d) he deals sensitively with cases where the person entitled to help dies after his or her claim has been determined.
- (2) For the purposes of this paragraph, a person is barred from activities involving children or vulnerable adults at any time if, at that time, that person is—
  - (a) included in a list maintained under the Protection of Children Act 1999 or Part 7 of the Care Standards Act 2000,
  - (b) disqualified from working with children under Part 2 of the Criminal Justice and Court Services Act 2000,
  - (c) subject to a direction under section 142 of the Education Act 2002, or
  - (d) barred from regulated activity relating to children or adults, within the meaning of section 3 of the Safeguarding Vulnerable Groups Act 2006.

**30. Setting the specified charge**

- (1) The charge payable by an eligible person who is not entitled to free help will be set from time to time by the Secretary of State.
- (2) Before setting the charge, the Secretary of State must consult—
  - (a) the BBC as to the financial and operational implications of any proposed charge; and
  - (b) the Consumer Expert Group.

## CHAPTER 3: RELATIONS WITH OTHER BODIES

### 31. Services other than those provided by the Administrator itself

- (1) It is the duty of the Administrator to enter into appropriate arrangements with the providers of digital television services for the provision of such services to eligible persons (other than where the Administrator secures the provision of a service itself by supplying equipment and other assistance to eligible persons).
- (2) Any such arrangements must be on terms that are—
  - (a) fair, reasonable and non-discriminatory; and
  - (b) (without prejudice to sub-paragraph (a)) broadly the same, as between the different services other than services directly supplied by the Administrator.
- (3) The Secretary of State shall appoint, or arrange for the appointment of, an adjudicator to hear and determine any dispute between the Administrator and the provider of any such service as to whether the terms of any arrangements proposed to be made to which both would be parties are fair, reasonable and non-discriminatory. The Administrator must comply with determinations of the adjudicator.
- (4) References in this paragraph to the provision to persons of the service in question are references to the provision of any goods or services needed by that person to enable him to receive (in an intelligible form) at least the public service television channels transmitted in digital form by means of that service, including any special services or facilities (such as audio description or subtitling) normally provided by that service that are needed by that person to ensure that he is able, so far as practicable, to—
  - (a) watch or listen to those television programme services; and
  - (b) use any facilities normally provided by the service provider in association with those services (such as any interactive functions).

### 32. Digital UK

- (1) The Administrator must make arrangements for the co-ordination and (where appropriate) integration of Digital UK's generic communications with other communications connected with the Scheme.
- (2) The BBC must use all reasonable endeavours to ensure that these arrangements include appropriate provisions for—
  - (a) requiring Digital UK to consult the Administrator, the Consumer Expert Group and any other persons specified by or in accordance with the arrangements as to generic communications and their management;
  - (b) requiring Digital UK to consult suppliers of other TV services in drawing up generic communications; and
  - (c) agreeing with Digital UK a budget for their role under these arrangements, and the manner in which payments are to be made to Digital UK for that purpose.

- (3) In this paragraph, “generic communications” means any communications that are not specifically directed to a particular individual in connection with that individual’s entitlement (or otherwise) to help under the Scheme and the provision of such help, and includes any activities aimed at raising awareness of the Scheme, such as—
- (a) design of generic communications and developing tools for targeting eligible groups;
  - (b) advertising and public relations campaigns (conducted through any medium); and
  - (c) related research on awareness of the Scheme and the effectiveness of Scheme communications.
- (4) But generic communications do not (in particular) include—
- (a) the assembly and mailing of communications to particular individuals;
  - (b) contact centre operations;
  - (c) handling requests for help;
  - (d) dealing with individual complaints, reviews or appeals.

### **33. Public providers of information**

- (1) The Administrator must—
- (a) make arrangements for requesting and receiving social security, war pensions and visual impairment information from public providers of information and for safeguarding the security of any information received,
  - (b) subject to paragraph (2), do all that he can to ensure that those arrangements are complied with in the handling of such information for the purposes of the Scheme.
- (2) Where, for reasons beyond its reasonable control, such information is unobtainable or unavailable, the BBC will be relieved of its obligation in clause 2(2) to provide assistance under this Scheme to the extent to which it is no longer possible for it to do so.
- (3) In this clause, “public providers of information” has the same meaning as in clause 28.
- (4) The use of data supplied by DWP for purposes other than a function of the Scheme is not permitted.

### **34. Provision of Information**

The Administrator must, if so requested by DWP, make arrangements for supplying information about the operation of the Scheme to DWP, its agencies, DSDNI, and the Veterans Agency.

### **35. Charitable and other not-for-profit organisations**

- (1) The Administrator must make such arrangements, if any, as it considers appropriate for the provision of further help to those who have received help under the Scheme, and for providing funding for the implementation of such arrangements.

- (2) Those arrangements should, so far as possible, be made with charitable and not-for-profit organisations.

### **36. Suspension of Scheme**

- (1) The provisions of this Scheme are conditional on no decision or judgement being made by a competent body in relation to any provision of the EC Treaty or legislation based upon the EC Treaty (“EC law”) in respect of the Scheme which has the direct or indirect effect of preventing or obstructing the operation or funding of the Scheme. If any such decision or judgement is made or threatened by a competent body, the Secretary of State may suspend the continued operation of the Scheme until such time as suitable arrangements have been made or suitable steps have been taken so as to allow the implementation of the Scheme to continue without being prevented or obstructed by the decision or judgement made or threatened under EC Law.
- (2) Any suspension of this Scheme in accordance with this clause is not to be taken as a breach by the BBC or the Secretary of State of their obligations under the Agreement or this Scheme. The costs of any suspension will be met from the provision set aside for the Scheme described in paragraph 5 of Schedule 1.

**JON ZEFF**

**An official duly authorised to act on behalf of the Secretary of State for Culture, Media and Sport**

**NICHOLAS KROLL**

**Director, BBC Trust**

**An officer duly authorised to act on behalf of the BBC Trust**

**Date: 30 April 2007**

# SCHEDULE 1: EXPENDITURE, FINANCING AND BORROWING

1. The costs of the Scheme (including its overheads, financing, administrative and marketing/communication costs) estimated at £603 million in nominal terms over the lifetime of the licence fee settlement (from 2007/8 to 2012/13), will be ring-fenced. These funds must only be used to pay for the Scheme; the BBC will not be required to contribute any more than that amount from its public service and other resources if the licence fee is not increased beyond the “base case” settlement (under which the licence fee would be up-rated by 3/3/2/2/2/0% between 2007/8 and 2012/13).
2. In the event that there is a cost overrun above £603m, this will not be at the expense of the BBC’s programmes, services or other resources. The precise mechanism for achieving this, should the need arise or be anticipated, will be determined at the appropriate time.
3. Similarly, if Scheme expenditure is less than the estimated budget of £603m, decisions on how this underspend is dealt with will be taken nearer the time that any underspend becomes apparent, possibly in the context of the next licence fee period.
4. The BBC Trust undertakes that the BBC will not plan to have more than £150m borrowing outstanding against its £200m limit for non Scheme-related borrowing, and will only do so in exceptional circumstances determined at the sole discretion of the BBC Trust. The Trust will plan for all borrowing undertaken under the said borrowing limit to be reduced to broadly zero by the end of 2012/13.
5. The Secretary of State has agreed with the BBC Trust that the £603m estimated cost of the Scheme will be divided into annual amounts to be set aside from the licence fee for the purpose of funding the Scheme. In nominal terms, these sums are as follows:

2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
£12.6 m	£67.6 m	£129.6 m	£159.0 m	£160.7 m	£73.5 m

6. In accordance with the terms set out in paragraphs 7 and 8, the Government will consider any request for an increase in the additional borrowing limit of £25m (permitted for the Scheme), in any year in which the Trust expects total spending (including overheads and financing costs) on the Scheme to exceed the agreed provision made (including any provision which may be available from any previous underspends against the agreed provision) by more than the borrowing capacity which is otherwise available.
7. Where the Trust’s expectation, supported by evidence, is that the total spend over the settlement period will remain within the ring-fence of £603m, the Government will expect to accede to any request, subject to paragraph 9.
8. Where the Trust’s expectation, supported by evidence, is that the total spend over the settlement period will be in excess of the ring-fence of £603m, the Government will expect to accede to any request, subject to paragraph 9 and to considering:
  - (a) alternative ways of meeting expenditure above the agreed profile, without reducing the funding available for the BBC’s programmes and services or reducing its other resources

and/or

- (b) measures to reduce the expected cost of the Scheme in order to maintain expenditure within the ring-fence limit. The Government will agree with the Trust the impact of any such measures on the costs of the Scheme.
- 9. The Government will otherwise only refuse a request in exceptional circumstances related to the fiscal or macroeconomic position, unrelated to the BBC's position, in which case it will give the Trust its reasons for doing so.
- 10. The Government will complete its consideration of all requests from the BBC within 28 days of receipt.
- 11. The BBC Trust will report annually on how it has complied with its obligations in relation to the Scheme. The Trust will ensure that the Scheme is operated in a way which provides value for money on behalf of licence fee payers and will invite the NAO to review the value for money of the operation of the Scheme at least biennially.
- 12. If it appears to the Trust that funding for the Scheme can no longer be provided within the conditions set out in clauses 1-11 above, and continued funding would thus put at risk the BBC's programmes, services or other resources, the Trust may suspend financial and operational support for the Scheme until those conditions can be met thereby avoiding that risk. The costs of any suspension will be met from the provision set aside for the Scheme described in paragraph 5 of this Schedule. The Trust will give the Government its reasons for suspension.

## **SCHEDULE 2: GOVERNANCE AND ACCOUNTABILITY**

### **SECTION A: STRUCTURES**

#### **1. The Project Board**

- (1) A project board will be established in accordance with this Schedule, to be known as the DSHS Project Board ("the Project Board").
- (2) The Project Board will be constituted as follows—
  - (a) four members appointed by the Executive Board of the BBC, one of whom shall be appointed by the Executive Board to be the chairman of the Project Board;
  - (b) one observer appointed by each of the BBC Trust, DCMS, DWP and Digital UK, respectively; and
  - (c) one Office of Government Commerce adviser appointed by DCMS, to attend as appropriate.
- (3) All decisions taken by the Project Board are to be taken by the members appointed by the BBC Executive Board under sub-paragraph (2)(a) only.
- (4) The members of the Project Board are to carry out only the functions that are delegated to them in their capacity as members of the Project Board, according to this Schedule (see below).
- (5) The BBC Trust will set out in a written instrument—
  - (a) the Project Board's remit (subject to sub-paragraph (6));

- (b) details as to the manner in which the Project Board is to fulfil its remit; and
  - (c) particulars of the occasions on which the Project Board is to make reports to the Trust, of the occasions on which or circumstances in which the Trust may require such reports, and of the matters to be contained in any such report.
- (6) The remit of the Project Board includes the functions contained in Part 3 of this Scheme, and must also include—
- (a) advising the BBC on the selection of one or more contractors to operate the Scheme; and
  - (b) monitoring the Administrator’s performance and securing (in particular) that value for money is achieved.
- (7) The Project Board may invite the Administrator to report to or be represented (or both) at its meetings.
- (8) The Project Board must from time to time consult the Consumer Expert Group about matters relating to the Project Board’s remit, and (in addition) hold a joint meeting with that Group at least twice a year.
- (9) The role of any person appointed to serve in any capacity as part of the Project Board may be undertaken by that person’s duly-appointed alternate; and any defect in the appointment of any such person (or alternate) shall not affect the validity of the Project Board’s proceedings.

## **2. The Policy Review Group**

- (1) A group to be known as the Policy Review Group will meet regularly; and its remit will be as set out below.
- (2) The Policy Review Group will be chaired by DCMS and its membership will consist of one member appointed by each of the following, that is to say—
- (a) DCMS;
  - (b) the BBC Trust;
  - (c) the Executive Board of the BBC;
  - (d) DWP; and
  - (e) Digital UK.
- (3) The Policy Review Group may also invite—
- (a) any other person to attend any of its meetings;
  - (b) any other organisation to appoint a person to be a member of the Group.
- (4) The principal function of the Policy Review Group is to discuss policy matters relating to this Scheme, and in particular those that may call for changes to this Scheme (whether those matters are raised by the Group itself or are referred to the Group by the Project Board).

- (5) If any question arises as to whether consideration of a matter is for the Project Board rather than the Policy Review Group, or vice versa, that question shall be determined by the BBC Trust.
- (6) Any matter referred to the Policy Review Group by the Project Board will be discussed by the Group as soon as reasonably practicable, having regard to the nature and urgency of the matter in question.
- (7) The Project Board will send a representative to every meeting of the Policy Review Group; and that Group will at every meeting receive a report from the Project Board as to the operation of the Scheme in the period since the last report.
- (8) The Policy Review Group must from time to time consult the Consumer Expert Group about matters relating to the Scheme that fall within the Policy Review Group's remit.
- (9) The role of any person appointed to serve in any capacity as part of the Policy Review Group may be undertaken by that person's duly-appointed alternate; and any defect in the appointment of any such person (or alternate) shall not affect the validity of the Policy Review Group's proceedings.

### **3. Decision-making and change management**

- (1) If, in the case of any matter discussed by the Policy Review Group, the Group considers that it would be desirable to make a change to the Scheme, that matter must be referred to the BBC and DCMS for decision (because no such change can be made without their agreement); and in the absence of such a decision within a reasonable time, the Group may take it that the proposed change has been rejected.
- (2) If the proposed change to the Scheme appears to involve—
  - (a) an increase in the costs of the Scheme (whether or not above the total estimated cost, or agreed annual profile, set out in Schedule 1), or
  - (b) a significant practical or legal impact on the operation of the Scheme, or both,the Group must not refer the matter to the BBC and DCMS for decision unless it has first received a report under sub-paragraph (3).
- (3) A report under this sub-paragraph is a report approved by the BBC Trust which—
  - (a) sets out the costs of the change or (as the case may be) its practical or legal impact, or both, and
  - (b) indicates whether or not the change can be implemented and operated within the total estimated cost, or agreed expenditure profile, set out in Schedule 1;(and in the case of a change that cannot be implemented and operated within that total estimated cost or agreed expenditure profile, the matter will fall to be dealt with according to the provisions of Schedule 1).

- (4) Any other matter discussed by the Policy Review Group will be dealt with in a manner appropriate to its subject-matter and having regard, in particular, to the extent of any authority delegated to members of the Group by the organisation that appointed them.

#### **4. Changes to the Scheme by the Secretary of State**

- (1) If the condition referred to in sub-paragraph (2) is satisfied, the Secretary of State may amend the Scheme in such a way as she considers necessary to ensure that the Scheme complies with competition law and the law governing State Aids, but only after complying with the provisions of this paragraph.
- (2) The condition is that the Secretary of State considers there is a risk that the Scheme does not comply with competition law or the law governing State Aids (owing to developments in the law, new legal advice or otherwise).
- (3) Before making any amendments to the Scheme under this paragraph, the Secretary of State must—
  - (a) request a report on the changes she proposes from the BBC (which report must be approved by the BBC Trust), and a report on those changes from the Policy Review Group; and
  - (b) provided any such reports are received by her within a reasonable time, take them into account in determining what amendments to the Scheme are necessary and appropriate.
- (4) A report referred to in sub-paragraph (3) may:
  - (a) include information or opinion as to the likely costs of the proposed changes or (as the case may be) their practical or legal impact, or both;
  - (b) indicate whether or not, in the opinion of the author of the report, the changes could be implemented and operated within the total estimated cost, or agreed expenditure profile, set out in Schedule 1.
- (5) If a report approved by the BBC Trust and received by the Secretary of State under this paragraph includes any opinion, supported by evidence, to the effect that the proposed changes to the Scheme would require action in accordance with paragraphs 2 or 6 of Schedule 1, the Secretary of State must, as soon as practicable after receiving the report, make proposals in writing to the BBC Trust as to what action she thinks would be appropriate.

## **SECTION B: ACCOUNTABILITY**

### **5. Value for money**

- (1) The BBC Trust is responsible for holding the BBC Executive Board to account for ensuring that value for money is achieved in the operation of the Scheme.
- (2) The BBC Trust will (in particular)—
  - (a) determine performance indicators;

- (b) determine how it will measure the performance of the Administrator against those indicators; and
- (c) ensure that the Scheme is operated in a way that will provide value for money for licence fee payers and will invite the NAO to review the operation of the Scheme at least biennially.

## **6. The BBC Trust's annual progress report**

The BBC Trust's annual report on digital switchover (which it must produce pursuant to clause 41 of the Agreement) must contain information about the operation of the Scheme, including (in particular) information about performance indicators mentioned in paragraph 5 and the performance of the Administrator.

## **7. Accounts of the Scheme**

- (1) The BBC will prepare annually a statement of accounts for the Scheme which sets out the expenditure incurred by the BBC under this agreement.
- (2) The Trust will require the statement of expenditure to be examined and certified by an external auditor.

## **8. Reports by the Project Board to the Trust**

- (1) Each month, the Project Board must produce and send to the Trust a report on the operation of the Scheme and the costs that the operation of the Scheme has incurred in the period since the last report was produced.
- (2) The Trust may also ask the Project Board to produce and send to the Trust a report on any aspect of the operation of the Scheme and the costs of that aspect of the Scheme that may be specified in the request. The Trust may make such a request whenever the Trust considers it reasonable to do so, and the Project Board must comply with that request.
- (3) A report under this paragraph must contain such information or comment as the Trust may reasonably require, including (if so required) the Project Board's observations on whether value for money has been achieved during the period covered by the report or (as the case may require) in relation to any particular aspect of the operation of the Scheme.

# **SCHEDULE 3: ASSISTANCE UNDER THIS SCHEME**

## **1. Introductory**

- (1) The duty of the Administrator under clause 17(3)(a) to offer assistance in accordance with this Schedule is a duty to offer an eligible person such assistance falling within one or more of the sub-paragraphs of paragraph 2 as the Administrator considers to be the most cost-effective assistance which can be provided, in accordance with clause 17(2), but subject to paragraph 4, and the eligible person is not entitled to assistance in respect of more than one television set.
- (2) Expressions used in this Schedule and in clause 17 have the same meaning in this Schedule as they have in that clause.

## **2. Types of assistance**

- (1) Assistance under this sub-paragraph consists of the provision of equipment selected by the eligible person (or a person acting on his behalf as mentioned in clause 11(1)) from a range offered by the Administrator, being equipment that will enable the eligible person to receive the public service television channels at his home by means of free-to-view digital terrestrial television.
- (2) Assistance under this sub-paragraph consists of the provision of equipment selected by the eligible person (or a person acting on his behalf as mentioned in clause 11(1)) from a range offered by the Administrator, which will enable the eligible person to receive the public service television channels at his home by means of a free-to-view service (other than free-to-view digital terrestrial television).
- (3) Assistance under this sub-paragraph consists of assistance to install and use the equipment provided under sub-paragraph (1) or (as the case may be) (2).
- (4) Assistance under this sub-paragraph consists of the installation, repair, replacement, repositioning or re-wiring of a television aerial (other than a set-top aerial) at the eligible person's home so as to enable that person to receive the public service television channels in the relevant ITV region.
- (5) Assistance under this sub-paragraph consists of the installation, repair, replacement, repositioning or re-wiring of a satellite dish or other equipment at the eligible person's home so as to enable that person to receive the public service television channels in the relevant ITV region.
- (6) Assistance under this sub-paragraph consists of the provision of a set-top aerial suitable for the reception of the public service television channels at the eligible person's home by means of digital terrestrial television.
- (7) Assistance under this sub-paragraph consists of the installation of a set-top aerial suitable for the reception of the public service television channels at the eligible person's home by means of digital terrestrial television.
- (8) Assistance under this sub-paragraph consists of an offer to refer the eligible person to the providers of the free-to-view services (if any) that are available to him and to pay the actual cost of providing the relevant assistance.
- (9) Assistance under this sub-paragraph consists of an offer to refer the eligible person to the providers of the pay-TV services, as defined in Clause 17(4)(a), (if any) that are available to him and to pay the actual cost of providing the relevant assistance.
- (10) Assistance under this sub-paragraph consists of such other assistance, not mentioned above, as the Administrator may specify in a notification given under clause 17(2)(b).

## **3. Provisions supplemental to paragraph 2**

- (1) The requirement imposed on the Administrator by sub-paragraphs (1) and (2) of paragraph 2 to offer a range of equipment is not to be taken to require the Administrator to offer more than one model of each type of equipment, where any equipment's "type" is defined by reference to its general functionality, but not its specific capabilities.
- (2) In paragraph 2, "free-to-view", in relation to any means of transmitting television programme services in digital form, means a means of transmitting such services that is not a pay-TV service.

- (3) In paragraph 2, in relation to an eligible person, “the relevant ITV region” means the ITV region in which that person’s home is located, as determined by the Administrator under clause 10 or under Project Whitehaven.
- (4) Where an eligible person (or a person acting on his behalf as mentioned in clause 15(1)) is offered assistance under paragraph 2(8)-(9), the Administrator is not responsible for meeting any charges due to the provider of that assistance beyond making the payment mentioned.
- (5) In paragraph 2 (8)-(9) “actual cost” means the charge(s) required by the supplier of the relevant assistance for the supply to an eligible person of that assistance as such charge(s) have been ascertained or determined by the Administrator under the provisions of Schedule 4, or, if less, the actual charge(s) offered by the relevant supplier to the public generally for the supply of equipment and/or services which are substantially the same as the assistance required by the eligible person.

#### **4. Long term residential accommodation**

- (1) This paragraph applies in a case where—
  - (a) the eligible person’s home is in long-term residential accommodation within a building with common areas maintained through the payment of service charges, or
  - (b) it appears to the Administrator that the eligible person is not responsible for, or does not or cannot consent to, the installation or maintenance of an external aerial or satellite dish.
- (2) In a case to which this paragraph applies—
  - (a) the Administrator must not offer assistance under sub-paragraph (4) or (5) of paragraph 2, but
  - (b) may offer assistance under sub-paragraph (6) or (7) (or both), or sub-paragraph (10), of that paragraph.

#### **5. Payments to be made to providers of Alternative Assistance (including pay-TV services)**

- (1) Where an eligible person (or a person acting on his behalf as mentioned in clause 15(1)) chooses to receive digital television by means of a service supplied by a provider of alternative assistance, the Administrator is not responsible for meeting any charges due to the provider of that service beyond the payment he is obliged to make mentioned in sub-paragraph (2) .
- (2) The Secretary of State shall appoint a suitable expert who shall set, and from time to time review, in accordance with any principles notified to him from time to time by the Secretary of State, the payments to be made by the Administrator in respect of the provision of alternative assistance to persons entitled to help under the Scheme.
- (3) The principles notified to the expert appointed under sub-paragraph (2) must (in particular) secure that the amount set by the expert is an amount considered by him to be equal to the estimated average cost of providing the most cost-effective assistance to eligible persons.

## **SCHEDULE 4: THE ADMINISTRATOR'S CALCULATION OF THE MOST COST-EFFECTIVE ASSISTANCE WHICH CAN BE PROVIDED TO AN ELIGIBLE PERSON**

The Administrator shall follow the following principles when determining what is the most cost-effective assistance to be provided to an eligible person under the Scheme.

1. The Administrator must first calculate the cost to the Administrator of providing those types of assistance which are to be offered directly by the Administrator to the relevant eligible person, based upon that person's address, taking into account information provided by the BBC, Digital UK, Ofcom and any other person appearing to the Administrator to have relevant information.
2. There shall be excluded from this calculation any common Scheme costs (start-up, initial mailings, marketing) but there shall be included other relevant costs, including but not limited to equipment, site visits, aerial supply, installation costs and the Administrator's estimate of the net present value of the cost to the Administrator and the eligible person of using each of the forms of assistance over a period of 5 years from the date of installation.
3. The Administrator should use reasonable endeavours to obtain quotations from relevant suppliers for the cost, over a period of 5 years from the date of installation, of supplying such forms of assistance as are mentioned in paragraph 2(8)-(9) of Schedule 3 as are likely to be available to the relevant eligible person.
4. The Administrator should also use reasonable endeavours to obtain quotations from relevant suppliers for the cost of supplying such forms of alternative assistance as are likely to be available to the relevant eligible person over a period of 5 years from the date of installation.
5. For the purposes of paragraphs 3 and 4 the Administrator shall contact the supplier of each relevant form of assistance to request the provision of applicable charges which that supplier will offer during the relevant period. If any such supplier does not provide information to the Administrator, the Administrator shall be entitled to rely upon such publicly available information as is otherwise available from the relevant supplier.
6. An initial decision as to which form of assistance constitutes the most cost-effective assistance shall be made by the Administrator from the information gathered in accordance with paragraphs 1 to 5 above.
7. The decision as to the choice of the most cost-effective assistance shall be reviewed by the Administrator, if it is necessary to do so, if information supplied suggests the initial decision mentioned in paragraph 6 is incorrect.
8. The Administrator shall make its assessment as to the most cost-effective form of assistance at least 8 months prior to the start of each regional switchover period (or as soon as reasonably practicable in the case of Project Whitehaven).

9. If any relevant supplier of assistance substantially changes the information previously supplied to the Administrator (or changes the published information previously taken into account by the Administrator) after the Administrator has taken its decision as to which form of assistance to offer to any relevant eligible person, the Administrator shall review its decision as to the most cost-effective form of assistance which can be supplied taking account of any costs which it, or its suppliers, will incur in considering whether, in all the circumstances (including in particular the requirement to achieve value for money) it is appropriate to change its determination as to which form of assistance should be supplied in any case, or generally.



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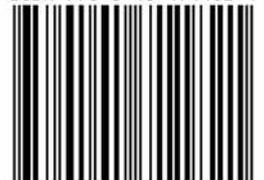
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