GUIDANCE NOTES Re SMI Qualifying Benefits

(1) A person is considered severely mentally impaired if he/she has a severe impairment of intelligence and social functioning; however, caused, which appears to be permanent. He/she must hold a certificate provided by a registered medical practitioner which confirms their condition and be in receipt of one of the prescribed benefits listed below or meets the requirements in paragraph 3 or 4.

(2) The qualifying benefits for the purposes of paragraph (1) are:-

(a) An incapacity benefit under section 30a of the Social Security (Contributions & Benefits) Act 1992 (this includes Employment Support Allowance –ESA)

(b) An attendance allowance under section 64 of that Act

(c) A severe disablement allowance under section 68 of that Act

(d) The care component of a disability living allowance under section 71 of that Act, payable at the **highest rate** under section 72(4)(a) or the **middle rate** under section 72(4)(b) of that Act.

(e) An increase in the rate of his/her disablement pension under section 104 of that act (increase where constant attendance needed)

(f) A disability working allowance under section 129 of that Act for which the qualifying benefit is:

(i) One falling within subsection 129(2)(a)(i) or (iii), or

(ii) Income support, and the applicable amount formerly payable included a disability premium within the description in sub paragraph (j) below (b), or is a corresponding Northern Ireland benefit.

(g) An unemployability supplement under Part 1 or the Schedule 7 to that Act

(h) A constant attendance allowance under:-

(1) Article 14 of the Personal Injuries (Civilians) Scheme 1983 or

(2) Article 14 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (including that provision as applied, whether with or without modifications, by any other instrument)

(i) An unemployability allowance under:-

(1) Article 18(1) of the Personal Injuries (Civilians) Scheme 1983, or

(2) Article 18(1) of the Naval, Military and Air Force etc. (Disablement and Death) Service Pensions Order 1983 (including that provision as applied, whether with or without modifications, by any other instrument).

(j) Income support where the applicable amount includes a disability premium in respect of which the additional condition in paragraph 12(1)(b) of Schedule 2 to the Income Support (General) Regulations 1987 is satisfied.

(k) Incapacity benefit under sections 40 and 41 of the Social Security Contributions and Benefits Act 1992 or

(l) The standard or enhanced rate of the daily living component of personal independence payment under section 78(3) of the Welfare reform act 2012.

(m) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011

(n) universal credit under Part 1 of the Welfare Reform Act 2012 the calculation of which includes an amount under regulation 27(1) of the Universal Credit Regulations 2013 in respect of the fact that the person in question has limited capability for work or limited capability for work and work-related activity or would include such an amount but for regulation 27(4) or 29(4) of those regulations

(3) The requirements in this paragraph are –

(a) that the person in question has reached pensionable age as defined for the purposes of Part I and VI of the Social Security Contributions and Benefits Act 1992, and

(b) that had he not reached pensionable age he would have been entitled to one of the benefits listed in paragraph (2) above.

(4) The requirements of this paragraph are that-

(a) the person in question is a person whose partner is in receipt of J.S.A and

(b) by virtue of that person's incapacity to work the applicable amount of the purposes of regulation 83 or 84 of the Job Seekers Allowance Regulations 1996(c) includes a premium which falls to be determined under paragraph (d) or (g) of paragraph 14(1) of Schedule 1 to those Regulations.