

# ANNEX A – Explanation of the Affordability Calculator in Online Civil Money Claims

## 1. When affordability calculated in OCMC

If as part of a full or partial admission, a claimant rejects the repayment plan proposed by a defendant, the service will use the defendant’s financial information to determine the rate of payments to be paid to the claimant.

1.1 The Determination of means calculator may be applied to cases issued in OCMC with the exception of (a)

### Ineligible cases

- a. Claims where the defendant is not an individual.

## 2. Determination of means calculation

2.1 Calculate disposable income = (Monthly turnover + Total Monthly Income + Total Bank and/or Building Society converted to income) – (Credit debt + total priority debts + total monthly mortgage/rent + total Court orders + living arrangement allowance + Dependants allowance + pensioner allowance + disability allowance)

For Example	
a.	Monthly Turnover £100 +
b.	Total Monthly Income £1500 +
c.	Monthly total bank or building society credit converted to income £8.33 -
d.	Credit debt, priority debt, court orders £80 –
e.	Rent/Mortgage £600 -
f.	Allowances £896.56
g.	Monthly Disposable Income £31.77

2.1.1 Calculate Monthly Turnover as annual turnover divided by 12 to obtain a monthly value.

2.1.2 Calculate Total monthly income as the sum of monthly converted values for:

- a. Monthly Turnover
- b. Income from your job
- c. Universal credit

- d. Jobseeker's allowance (income based)
- e. Jobseekers allowance (contribution based)
- f. Income Support
- g. Working tax credit
- h. Child tax credit
- i. Child benefit
- j. Carer's allowance
- k. Pension credit
- l. Council tax support
- m. Pension (paid to the defendant)
- n. Other (there may be more than one of these)

2.1.3 Add bank or building society balances in credit to give Total Bank and Building Society Credit

- If the **Total bank or Building Society Credit** amount is more than 1.5 times the defendant's monthly income (or more than 7 times their weekly income), the amount in excess of this should be converted into a monthly or weekly figure (by dividing by 12 or 52) and included in the calculation as **Total Bank or Building Society Credit converted to Income**.

For example, a defendant takes home £600 per month and has £1,000 in his bank account.  $1.5 \times £600 = £900$ . The amount in excess (£100) can be converted into monthly income. This converts to £8.33 per month.

If the defendant takes home £600 per month and has £300 in his bank account.  $1.5 \times £600 = £900$ . The amount in the defendant's bank account is excluded from the calculation.

2.1.4 If the defendant is a full or part time sole trader, annual turnover divided by 12 is included with any other income

2.1.5 Calculate **Total Monthly Expenditure** = (Credit debt + total priority debts + total monthly mortgage/rent + total Court orders + personal allowances + dependent children allowance + pensioner allowance + disability allowance)

2.1.5.1 Total monthly credit debt is the sum of monthly converted values for all loans and credit card debt

2.1.5.2 Total Priority Debts is the sum of monthly converted values for arrears of:

- a. Mortgage
- b. Rent
- c. Council Tax or Community Charge
- d. Gas
- e. Electricity
- f. Water
- g. Maintenance Payments

2.1.5.3 Total mortgage/rent is the sum of monthly converted values for mortgage and rent payments

- 2.1.5.4 Total court orders is the sum of monthly converted values for court order payments
- 2.1.5.5 Personal allowances are based on the defendant's age and whether they have a partner [allowance set out in the list of benefit and pension rates published by the DWP]
- 2.1.5.6 Dependent children allowance is based on how many dependants the defendant has [allowance set out in the list of benefit and pension rates published by the DWP]
- 2.1.5.7 Pensioner Allowance is based on whether the defendant, and their partner if they have one, receives an income from a pension [allowance set out in the list of benefit and pension rates published by the DWP]
- 2.1.5.8 Disability Allowance is based on whether the defendant/their partner is disabled or severely disabled. The defendant can also receive an allowance if they have a disabled dependant or are a carer [allowance set out in the list of benefit and pension rates published by the DWP]

Where the conditions for more than one allowance within the same category are satisfied, only the highest allowance will be awarded.

2.2 Determination of means rules are applied to identify the payment rate to be ordered by the court.

2.2.1 If the defendant has offered to pay by instalments, an instalment payment plan is calculated as follows:

- a. Use the rate offered by the defendant - if the defendant offers an instalment amount greater than the calculated instalment amount.
- b. Use the claimant's offered instalment amount - if it is less than or equal to the calculated determination of means amount, and, greater than the defendant's offered amount.
- c. Use the calculated determination of means amount - if it is greater than the defendant's offered amount.

For Example

Rule Priority	Rule	Defendant's instalment amount	Claimant's instalment amount	Defendant's Disposable income	Value used in the order
1	Defendant's instalment amount is greater than or equal to disposable income Use defendant's offered amount.	£200	£300	£150	£200
2	Claimant's instalment amount is lower than or equal to disposable income use claimant's instalment amount	£100	£125	£150	£125
3	Disposable income greater than defendant's offered	£100	£200	£150	£150

Rule Priority	Rule	Defendant's instalment amount	Claimant's instalment amount	Defendant's Disposable income	Value used in the order
	instalment amount and less than or equal to claimant's instalment amount  Use disposable income.				

2.2.2 If the defendant has offered to pay by a set date and the claimant has offered an earlier date, calculate a court defined payment date, then:

For Example

Rule Priority	Rule	Defendant's date	Claimant's	Court calculated set date	Date used in the order
1	Defendant's date is earlier than or equal to court calculated date.  Use defendant's date.	1/7/2018	1/5/2018	1/8/2018	1/7/2018
2	Claimant's date is later than or equal to court calculated date.  Use claimant's date.	1/8/2018	15/9/2018	1/9/2018	15/9/2018
3	Court calculated date is earlier than defendant's date and later than or equal to claimant's date  Use court calculated date.	1/10/2018	01/5/2018	1/9/2018	1/9/2018

For example, payment date determined by the court

<p>For example, today's date is 1<sup>st</sup> May 2018 (1/5/2018)</p> <p>Defendant offers to pay outstanding claim amount of £900 by 1<sup>st</sup> October 2018 (1/10/2018)</p> <p>Claimant requires immediate payment (1/5/2018 (note court allows a grace payment of 5 days for immediate payment)</p> <p>4.1 Calculated disposable income for defendant is £408.33</p>
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4.2  $\text{£}900 / \text{£}408.33 = 3$  payment periods

4.3 Court date is calculated as (1/5/2018 + 1 month (by default) + 3 months (per 4.2 above)) = 1<sup>st</sup> September 2018 (1/9/2018)

4.4 Court date is included in the order i.e. 1/9/2018

## 1. Calculate time required to pay off an outstanding amount

The time required to pay off an outstanding amount, using the proposed instalments is calculated as follows:

Amount outstanding divided by instalment amount = number of weekly or monthly instalments,

- If a part instalment value is calculated, the instalments are rounded to pounds with any balancing payment in pennies.

For example, a defendant's outstanding amount is  $\text{£}997.36$  with a  $\text{£}10$  monthly instalment.

$(\text{£}997.36 / \text{£}10) = 99$  payments of  $\text{£}10$  and one payment of  $\text{£}7.36$

100 payments of  $\text{£}10$  per month will take 8 years 4 months to pay a total amount of  $\text{£}997.36$

## 2. Rules for converting Payment Frequencies

The following rules are used to convert monthly amounts to weekly or two weekly amounts and vice versa.

Convert from ...to....	Conversion rule
<i>Weekly to monthly</i>	<i>Multiply by 4.3.</i>
<i>Monthly to weekly</i>	<i>Divide by 4.3</i>
<i>Weekly to two weekly</i>	<i>Multiply by 2</i>
<i>Two weekly to weekly</i>	<i>Divide by 2</i>
<i>Two weekly to monthly</i>	<i>Multiply by 2.15</i>
<i>Monthly to two weekly</i>	<i>Divide by 2.15</i>

4.1 Should the defendant offer to pay by instalments, they must also provide the frequency by which they will make these payments (weekly, fortnightly or monthly). If the claimant rejects the defendant's offer they can suggest their own plan. When calculating the appropriate amount, that the defendant should pay the affordability calculator will retain the defendant's frequency."