

Housing and Planning Bill 2015/16

Impact Assessment

This impact assessment relates to clauses within the Housing and Planning Bill as introduced to the House of Commons on 13 October 2015. Further updates to this document will be published online as the Bill progresses through Parliament.

Assessments of the regulatory impacts on business and civil society groups will be submitted for validation by the independent Regulatory Policy Committee where appropriate, and published accordingly.

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	Contact for enquiries: HousingPlanningBill@communities.gsi.gov.uk

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

In the year to June 2015, 131,000 new homes were completed. Although housing starts are at their highest annual level since 2007, and there are now almost 800,000 more homes in England than there were in 2009, we are still not fully meeting the demands of over 200,000 households formed every year.

In addition, not enough people who want to own their own home have the opportunity to do so. The rate of homeownership in England has been falling since its peak in 2003, despite the aspiration for home ownership remaining strong. Although over 230,000 households have been helped by government-backed schemes to buy a home since spring 2010, younger households, in particular, are now less likely to own their own home than a decade ago.

The public need to have confidence that housing policy in our country is fair and fit for the future. Social housing needs to work as efficiently as it can. Private tenants need additional reassurance rogue landlords will be driven out of business. Further government intervention is required to ensure this happens.

What are the policy objectives and the intended effects?

Getting the nation building homes faster

The Government wants to see a million homes built over the next five years. It intends to give housebuilders and decision makers the tools and confidence to deliver more homes in appropriate places, and further streamline the planning system to assist them.

The intended effects are to make it easier for housebuilders to identify land which all agree is suitable for housing. We will make it easier and faster for planning permission for housing to be granted, and make interventions in the Local Plan process smarter, so homes can be completed quicker and decisions can be more informed.

Help more people buy their own home

The Government wants to increase the number of people who have the opportunity to buy their own home and give housing association tenants the same home ownership opportunities as council tenants. We currently have a situation where some housing association tenants have a Preserved Right to Buy, a Right to Acquire at much lower discount levels, while others have no rights at all and are unable to benefit from the discounts the previous Government introduced. We also want more young people to be able to meet their aspiration of home ownership. Currently, 70 per cent of home owners are above the age of forty. The Government wants to support younger first time buyers through the introduction of Starter Homes.

The intended effect is an increase in the number of housing association tenants and first-time buyers (particularly those under 40) who have the opportunity to own their own home. We also expect Starter Homes to become embedded in the planning system and provide further opportunities for housebuilders to develop a new product for the housing market.

Ensuring the way housing is managed is fair and fit for the future.

As well as providing new homes, the Government wants to ensure the housing we currently have is managed fairly. We want to make the best use of our social homes so they support those most in need. The sale of high value council assets will raise funds for more homes to be built. We want those renting privately, and those buying their homes, to know rogue landlords or estate agents will not be tolerated.

What provisions are contained within the Bill?

Clauses 1-7: Starter Homes

Clauses 8-11: Self build and custom housebuilding

Clauses 12-55: Rogue landlords and letting agents in England

Clauses 56-61: Implementing the Right to Buy on a voluntary basis

Clauses 62-72: Vacant high value local authority housing

Clause 73: Reducing regulation

Clauses 74-83: High income social tenants: mandatory rents

Clause 84: Assessment of accommodation needs

Clauses 85-86: Housing regulation in England

Clauses 87-88: Housing information in England

Clause 89: Enforcement of estate agent legislation

Clause 90-91: Enfranchisement and extension of long leaseholds, rentcharges

Clauses 92-95: Neighbourhood planning

Clauses 96-100: Local planning

Clause 101: Planning in Greater London

Clauses 102-103: Permission in principle and local registers of land

Clause 104: Approval condition where development order grants planning permission for building

Clause 105: Planning applications that can be made directly to the Secretary of State

Clause 106: Local planning authorities: information about financial benefits

Clause 107: Nationally significant infrastructure projects

Will policy be reviewed?

The Department will in the normal way undertake a post-legislative review of these provisions within three to five years after Royal Assent.

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:



Date: 19/10/2015

Brandon Lewis MP
Minister of State for Housing and Planning

Summary: Analysis & Evidence

Costs

Description and scale of key monetised and non-monetised costs by 'main affected groups'

The policy changes will be of benefit to businesses, local authorities and communities. The main transitional and ongoing costs are highlighted below and discussed in the relevant section. These estimates, including the relevant sections for clauses with a regulatory impact that will be validated by the Regulatory Policy Committee, will be updated during the passage through Parliament of the Housing and Planning Bill.

Local authorities

The Housing and Planning Bill will require local authorities to operate more efficiently and transparently in the way they manage their assets (releasing value from the most valuable housing, some of which will be returned to the Exchequer) and how they perform their duties as planning authorities (through the information they provide on available land, the impact of new development on the local area and the provision of plots for custom builders). These changes to the way they operate may incur some transitional and ongoing administrative costs.

Housing Associations

Housing associations will face additional administrative costs as they move those of their tenants with higher incomes onto fairer rents and help those of their tenants who want to exercise their newly extended Right to Buy, although these may be recouped in time.

Tenants with higher incomes in social housing

Households in social housing earning over £30,000 (£40,000 in London) will see a reduction in the subsidy they receive on their rent. For those on the highest incomes and in the most valuable housing, this subsidy could be worth as much as £3,500 per year.

Private landlords and Housing developers

The measures in the Housing and Planning Bill are aimed at disrupting the behaviour of criminal landlords, who don't comply with the law. The new regulations will as a consequence require compliant landlords to spend some time familiarising themselves with the changes and for certain landlords, to register themselves as fit and proper persons.

In a similar manner, there will be transitional costs to housing developers in familiarising themselves with any regulatory changes.

Benefits

Description and scale of key monetised and non-monetised benefits by ‘main affected groups’

Monetised benefits are set out for some individual measures as described in the relevant section below. It is anticipated the package of measures here will deliver wider benefits well beyond these direct benefits. For this reason a total estimate has not been made in these summary sheets. This impact assessment will be updated during the passage of the bill and following scrutiny of individual sections by the Regulatory Policy Committee where required. These proposals have a number of benefits to businesses and communities:

Housing Associations

Housing associations will be given the ability to charge higher rents to tenants in social housing with higher incomes. These increased revenues, of up to £3,500 per year for some of their most valuable properties, can be retained by housing associations.

Housing Association tenants

Housing association tenants will be given the same opportunities and discounts as local authority tenants under the extended Right to Buy. These discounts could be as high as £77,900 (£103,900 in London).

Private landlords

Private landlords will be given the right to reclaim their property in event that a tenant abandons that property, without being required to go through costly court processes or spend long periods of lost rental income. Our analysis suggests that, at present, about 1,750 abandoned tenancies are resolved through the courts each year. On that basis, the new mechanism for dealing with abandoned properties could generate savings for landlords and letting agents of about £3.4m per year.

Housing developers

There are a wide range of measures in the Housing and Planning Bill that will reduce the burden on property developers. The requirement for local authorities to produce small sites and brownfield registers will help developers and landowners reduce the cost of doing business, bringing more land to market at lower cost. Changes to the permitted development regime around prior approval and the ability for local authorities and neighbourhood groups to grant permission in principle on certain types of land will reduce the planning risk to developers of trying to bring forward unsuitable sites, whilst the approach to dealing with under-performing planning authorities can reduce the potentially costly financial impact of delays and appeals.

The changes to the Compulsory Purchase regime and way in which Urban Development Corporations and Areas are set up will improve certainty and speed for developers and communities alike.

Policy context

A person's home can shape their future. A good home is one where memories are made. One where families can grow up and grow older. It creates a sense of belonging and reflects our personalities and backgrounds. Our homes, and the communities they nurture, are our legacy to future generations.

But we have been building far too few, for far too long.

Home ownership creates lasting communities, economic security and a foundation from which to thrive. But not enough people who want to own their own home have the opportunity to do so.

And everyone needs confidence that the way housing works in our country is fair and fit for the future.

In the last five years, the previous Government worked to restore progress and opportunity in the housing market and reforms are already having a positive effect. Housing starts are at their highest annual level since 2007, and there are now almost 800,000 more new homes in England than there were in 2009. Housebuilders continue to inject new life into the market and boost our economic recovery. Over 600,000 new homes have been built since April 2010. But this still does not meet the demands of the 200,000 households being formed every year.

The Government wants to see a million homes built over the next five years so intends to reform the planning system to enable a programme of house building not seen since the days of Macmillan.

As we increase the number of homes being built, the Government will also increase opportunities for people to own them. Starter Homes will make this a reality for more first time buyers. Over 230,000 households have been helped by government-backed schemes to buy a home since spring 2010. The Government will extend opportunities for home ownership to every social tenant.

Underpinning all of this, the Government will make the housing system fit for the future. We will make the best use of our social homes so they support those most in need. Private tenants will know that rogue landlords will be tackled and forced to improve or leave the sector, stopping them profiting from dangerous or badly managed properties. Local authorities will be better equipped to know the housing need in their area, with the tools available to meet it.

The Housing and Planning Bill will

- **Get the nation building homes faster.** We will do this by:
 - giving housebuilders and decision makers the tools and confidence to deliver more homes in appropriate places, and
 - further streamlining the planning system to help deliver.
- **Help more people buy their own home, and**
- **Ensure the way housing is managed is fair and fit for the future.**

Getting the nation building homes faster

Giving housebuilders and decision makers the tools and confidence to deliver more homes in appropriate places

- Access to brownfield land plays a crucial role in delivering new homes, but data is out of date and of poor quality. The Government will therefore require local authorities to prepare, maintain and publish local registers of specified land.
- Identifying a suitable site is one of the first steps in the development process, but the question of whether a site is suitable is tested multiple times in the planning process. The Government will therefore enable local planning authorities and neighbourhood groups to grant permission in principle for housing sites at the point when a site is allocated in an adopted local or neighbourhood plan document or a local brownfield register.
- In line with our commitment to devolution, the Government is determined to devolve further planning powers to the Mayor of London. This will ensure the strategic importance of London's housing supply is fully considered, particularly in those areas where it would have the most impact.
- The public are often not aware of the potential financial benefits to their area that major developments can bring and a lack of information during the course of the decision making process can prevent them from understanding this. The Government will, therefore, require the details of prescribed financial benefits that might accrue to the local area as a result

of granting planning permission to be recorded in reports to planning committees and the Local Planning Authority itself.

- NHBC data shows that large house builders are registering more than 2,000 homes per annum. They account for less than 0.1% of the number of house building firms, but 54% of the number of homes registered in 2014 and increased their output by 10% when compared to the previous year. By contrast, builders who register less than 100 units per year have seen a fall in registrations from 29 per cent of registrations in 1994, to 13 per cent in 2014. As it is these smaller builders who tend to offer the bespoke custom built homes the Government will require local planning authorities to ensure that there are sufficient serviced permissioned plots consistent with the local demand for custom build. This will help support the economic revival of the smaller builders, and provide further new homes.
- Developers need to know their applications will be considered by the local planning authority on time so, if granted, development can start as soon as possible. In order to give them this confidence, the Government will allow planning applications for non-major development to be submitted to and decided by the Planning Inspectorate where the local planning authority has a track record of very poor performance in the speed or quality of its decision-making.
- Local Plans are the primary basis for identifying what development is needed in an area. Where there is no Local Plan, there is less certainty of where development will take place. Whilst the Secretary of State can intervene, he is required to takeover plan-making in its entirety with decisions made in Whitehall. The Government will therefore allow more targeted and proportionate intervention, allowing the majority of local decisions to remain at the lowest appropriate level whilst ensuring a local plan is in place.
- Planning applications may be delayed whilst an Urban Development Corporation is established, with little clarity on how long this will take. The Government will therefore change the Parliamentary process to allow Urban Development Corporations and Areas to be established more quickly and efficiently. The Government will also ensure that people with an interest locally are properly consulted at an early stage before any Urban Development Corporation is established.

Further streamlining the planning system to help deliver

- Effective regeneration of areas, and therefore the delivery of large amounts of new housing, often requires the compulsory purchase of land

or property. The existing process remains too convoluted and complex. The Government will therefore streamline the process, make powers of entry for survey fairer and more consistent, widen the remedies available to the Courts to allow faster reconsideration in some cases, ensure possession of acquired land is made easier, improve how compensation is paid, and harmonise procedures for settling disputes about material detriment.

- The Secretary of State cannot grant approval for housing if included within an application for a nationally significant infrastructure project, submitted under the Planning Act 2008. This means either temporary accommodation for workers must be demolished once construction is completed, or a separate planning application has to be made. The Government will therefore change the approval system to allow developers to include an element of housing as part of the application for consent for an infrastructure project.
- On average, the neighbourhood planning process takes two years to complete. The Government will reduce this by introducing powers to allow automatic decisions on the designation of whole parish areas (or other types of area after a set time period), introducing time periods for making key decisions by the local planning authority, and allowing the Secretary of State to intervene on the decision to send a plan to referendum. The Government will also allow neighbourhood forums to request notification of planning applications in their area, enabling them to participate more effectively in local planning and promote appropriate new development.
- Currently, local authorities can only consider approval of matters related to the siting and design of buildings where permission is granted under permitted development rights for change of use. The Government will widen the range of matters for which local authorities can consider where prior approval may be required for building operations. Any permitted development rights to allow for building operations would reduce planning application costs.

Helping more people buy their own home

- The Government wants to help hard working families achieve their dream of home ownership. But around 1.3m tenants of housing associations are not able to benefit from the higher discounts the last Government introduced. At present some housing association tenants have a Preserved Right to Buy at full discount levels, some have a Right to Acquire at much lower discount levels, while others have no rights at all.

Extending the Right to Buy to housing associations will give housing association tenants the same home ownership opportunities as council tenants.

- Over the last twenty years, the proportion of under 40 year olds who own their homes has decreased from 62% to 41% in 2013-14. As a result, 70 per cent of home owners are now above the age of 45. The number of older home owners continues to rise, as the average house price for a first time buyer is now £218,000 – eight times the average income of 22-39 year old employees. The Government is therefore requiring local planning authorities to actively promote the development of Starter Homes (at 80% market value), whilst embedding them in the planning system.

Ensuring the way housing is managed is fair and fit for the future

- 165 local authorities own a total of around 1.6 million council homes. The Government has publicly committed to selling assets it doesn't need to keep. In the same spirit, the value of many of these council homes could support people into home ownership and be used to fund the building of additional housing. The Government will therefore require councils to make a payment to the Secretary of State based on the value of their vacant high value assets. It will also place a duty on them to consider selling their high value assets when they fall vacant.
- Social housing is let at low rents on a secure basis to those who are most in need or struggling with their housing costs. But there are approximately 350,000 social rented tenants with household incomes over £30,000 per annum, including over 40,000 with incomes in excess of £50,000 per year. The Government will ensure that social housing rents are more closely linked to the income of social tenants.
- There are a small number of rogue or criminal landlords who knowingly rent out unsafe or substandard accommodation. The Government will therefore introduce a number of measures to give local authorities tools to drive rogue landlords out of business, preventing them from exploiting more tenants.
- Local authorities have a duty to review housing conditions so they can take action to improve them. However, they frequently have a limited picture of the size and scale of the private rented sector in their area. The Government will therefore allow them access to data relating to nearly 3

million tenancy deposits, which is estimated to cover over 70 per cent of private rented sector properties.

- Section 8 of the Housing Act 1985 requires every local housing authority to consider the housing conditions in their district and the needs of the district with respect to the provision of further housing accommodation. Currently, there is the perception that special consideration is given to 'gypsies and travellers', because the Housing Act 2004 identifies this group specifically as requiring assessment for their accommodation needs. The Government will simplify the legislation governing the assessment of housing and accommodation needs of the community so as to remove this perception.
- Rentcharges are an annual sum paid by the owner of freehold land to another person who has no other legal interest in the land. The means by which payments are calculated can no longer be used. The Government will therefore amend the related formula.
- The current Lead Enforcement Authority for the Estate Agents Act 1979 is named in primary legislation as Powys County Council. Should they fail to secure a further contract, the Lead Enforcement Authority would be unable to exercise its powers. The Government will therefore enable the Secretary of State to appoint an authority of his choice.

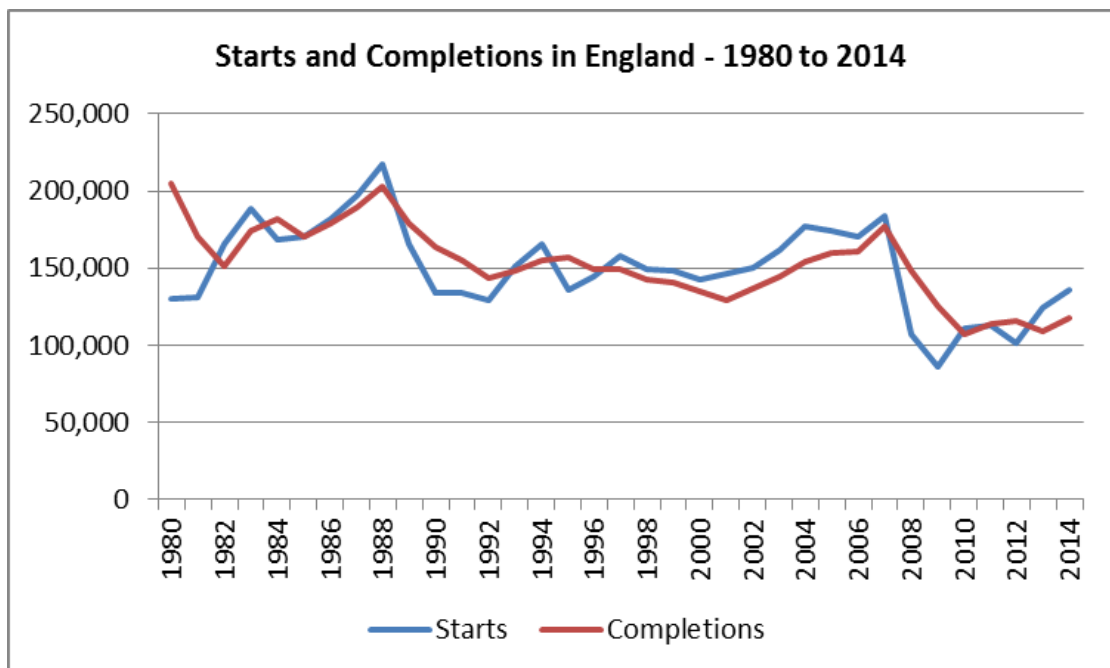
Background evidence

Construction and completion of new homes

Despite housing starts being at their highest annual level since 2007, there has been a downward trend in recent decades of the number of houses built in England¹. This is despite a largely upward trend in real house prices.

The recession in the early 1990s saw a lasting contraction in the supply of new housing that appeared to persist until the turn of the century. The financial crisis in 2008 halted the expansion in housebuilding, with completions falling to 107,000 in 2010, a level not seen since the 1940s.

Chart one: Starts and completions in England



The current rate of house building completions has begun to recover (to 118,000 in 2014). However, this still represents less than half a percent of the total dwelling stock each year. Only 10-15 per cent of total housing transactions are for new build homes. It is widely recognised that the affordability of housing is likely to worsen further without a lasting boost to housing supply.

¹ <https://www.gov.uk/government/statistical-data-sets/live-tables-on-house-building> (Live table 244)

The most recent assessments of housing need and the demand for new housing suggest the amount of new supply required to meet this challenge and improve housing affordability is rising.

Firstly, household projections published by the department provide the starting point for assessing overall housing need. The most recent projection of annual household growth in England is 221,000 households.²

The Town and Country Planning Association suggest that housing delivery will need to be higher to respond to newly arising need: they estimate 245,000 new homes per annum are required. Rising incomes, which increase demand for housing from existing households and other demographic changes may drive this number higher still.

The evidence presented below sets out a number of clear barriers restraining the supply of new housing:

- A. the supply of suitable land,
- B. the performance of the planning system and
- C. the structure & capacity of the house building sector.

A. The supply of suitable land

The delivery of new housing requires land supply. The amount of land in England is fixed with a land area of just over 13 million hectares³ Of this land, around 11 per cent⁴ is developed. Whilst this might imply there is no fundamental issue with land supply, two major considerations must be taken into account.

Firstly, the suitability of land. More than a third of England's land area is protected from development through being part of an Area of Outstanding Natural Beauty, a National Park or part of the Green Belt. These designations reduce the overall area in which housing can and should be built. In 2013/14 the majority (60 per cent) of newly created residential addresses were on brownfield land.

Secondly, making sure homes are provided where people want to live. Since 89 per cent of England remains undeveloped, with many parts unprotected by designations, there is clearly enough space across the country to accept the

² DCLG (2013) <https://www.gov.uk/government/publications/household-interim-projections-2011-to-2021-in-england>

³ Ordnance Survey

⁴ Office for National Statistics [Built up Areas 2011](#)

number of homes required. But, currently those areas of high demand often have the highest proportion of planning constraints.

B. The performance of the planning system

The holding costs to housebuilders whilst waiting for planning applications to be processed are large, and can in some cases make a development unviable.

Therefore, an increase in planning delays or an uncertainty concerning how long a planning authority will take to decide an application, increases the risk associated with building houses.

In addition to this risk, the Office of Fair Trading and the Calcutt Review⁵ have both noted that increased costs, as a result of delay, may encourage undesirable industry practice.

Improving the performance regime for applications can deliver real change. When the Government announced its intention in 2012 to designate poorly performing local authorities, only 57 per cent of major applications were determined on time. This has now risen to 78 per cent.

Extending the performance regime will make sure minor applications are also dealt with promptly.

Professor Ball of the University of Reading has suggested that the transaction costs of development control for major residential development may be up to £3bn a year. In recent evidence to the Communities and Local Government Select Committee, Professor Ball advised that the actual costs are likely to be higher than this, due to 'more than £750m [spent] annually in consultant and legal fees' and 'financing costs of holding onto land and other assets whilst their projects are being evaluated' (estimated at £1bn per year).

Professor Ball also notes that there are further substantial holding costs associated with land banks. These land banks are held due to the uncertainty of development control and from sites that were previously rejected planning permission. These could push financing costs from £1bn "to over £2bn" (and total transaction costs from £3bn to over £4bn).

Kate Barker's report on land use planning recognises the benefits that a plan-led system can bring, but makes it clear that unnecessary delays impose

⁵ The Callcut Review of housebuilding delivery (2007)
<http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/archived/publications/housing/thecallcutreview>

significant costs upon the economy; 'The importance of ensuring that there are no unnecessary delays to planning is,' she says, '...relatively clear'.

There are also wider costs of delays and uncertainty where the benefits of development to the economy and society are either delayed or do not happen. Taking into account the direct (transaction) and indirect impacts, then the total cost to the economy of delays within the development control system could be expected to run into several billion pounds.

In June 2015, 57% of respondents in the quarterly survey of homebuilders, conducted by the Home Builder's Federation, considered planning delays a major constraint.

In a 2011 report, Max Nathan and Henry Overman⁶ show planning restrictions increase housing market volatility. They suggested that if the southeast of England had the 'regulatory restrictiveness' (measured by refusal rate of major planning applications) of the northeast, then house prices in the southeast would be roughly 25% lower. Further Spatial Economic Research Council evidence shows planning restrictions can also lower levels of business investment.

C. The Structure and capacity of the housebuilding sector

The number of individual house building firms also appears to have been affected by the economic cycle over this period, with the number of builders registered with NHBC⁷ reducing annually since 1994.

By 2014 there were less than half the number (49 per cent) of builders in Great Britain registered with NHBC compared to 1994. The contraction occurred across all sizes of builder but particular focus has been on the contraction in the number of house builders producing over 2,000 units per year – 17 in 1994 compared to 11 in 2014 in the aftermath of the financial crisis when completions were low and financial difficulties leading to consolidation in the industry.

In 2007 the Office for Fair Trading (OFT) reported on the competitiveness of the house building industry in response to the low responsiveness of housing supply to increasing house prices. Their report concluded that there was "*little evidence of competition problems with the delivery of new homes in the UK*". Even though there was no compelling evidence that any specific builders held excessive market power, the structure of the industry appears to favour

⁶ Max Nathan, Henry G. Overman, (2011) What we Know (and Don't Know) About the Links between Planning and Economic performance http://www.spataleconomics.ac.uk/SERC/publications/policy_papers.asp

⁷ NHBC is a standard-setting body and provider of warranty and insurance for new homes.

volume builders over smaller firms. This is apparent when considering the level of custom and self-build housing in the UK compared to other developed economies.

Although there are no official data available, custom built housing is estimated to account for up to 20,000 homes a year across the UK, and between 5,000 - 9,000 homes in England. Compared to the most recent data on completions this would be equivalent to around 8% of English house building. By contrast it has been estimated⁸ that in the USA around 30% of house building could be classified as self-build or custom build, whilst across Scandinavia it could be 50-60%.

In Summary

- Housing supply lags considerably behind demand, despite the progress made in the last few years to deliver more homes.
- Planning delays, and an over-regulated approval process, may result in higher house prices, and undesirable industry practice.
- Furthermore, the total cost to the economy of delays within the development control system could be expected to run into several billion pounds.
- The scale of self and custom built housing does not favourably compare with other developed economies.

⁸ National Custom and Self Build Association (2011) - Lessons from International Self Build Housing Practices

Home ownership

The number of those who wish to own their own home

The majority of households in England who currently rent wish to own their own home.

Three fifths (61 per cent) of private renters think this is possible. However, this compares to only a quarter (25 per cent) of social renters.

Of those who did not expect to buy their own home two thirds of social renters (68 per cent) and three fifths (60 per cent) of private renters state affordability as their main or only reason they do not expect to buy.

Only 11 per cent of social renters and 6 per cent of private renters do not want to buy because they like where they are currently living.

As a result the proportion of English households that owned their own home, either outright or with a mortgage peaked in 2003 (71 per cent) and has been falling ever since⁹. The reversal of the trend towards increasing homeownership, meant that by 2013-14 only 63 per cent of households owned their own home.

Opportunities for young first time buyers

Analysis by the Council of Mortgage Lenders shows the extent to which home ownership has fallen for those under the age of 40.

For example, it shows that 71% of today's 45 year olds were home owners by the age of 40. It projects that 51% of today's 35 year olds and just 47% of today's 25 year olds will be homeowners by the age of 40.

The change in the propensity to be a homeowner has disproportionately affected younger households. Of those households that do own their home 84 per cent of these are over the age of 40 and nearly half (48 per cent) of households in the 25-34 age group live in the private rented sector, whilst as recently as 2003-04 only 21 per cent of this age group were renting privately.

As well as a far lower number of new home owners since the financial crash of 2007-08, the number of first time buyers (as measured by the number of mortgages issued to first time buyers), fell significantly.

⁹ <https://www.gov.uk/government/statistics/english-housing-survey-2013-to-2014-household-report>

Throughout the 1980s and 1990s the number of mortgages to first time buyers averaged over 400,000 per year, but this began to trend towards lower levels at the turn of the century¹⁰.

Although access to finance for first time buyers has recovered since the financial crisis, the average number of loans between 2008 and 2014 remains less than 300,000.

One constraint is house prices, which have continued to rise, with the average price now 9.5 times income¹¹. The loan to income ratio of first time buyers has also increased (to 3.4 in 2014), along with the length of mortgage term¹². Despite lending conditions having eased more recently, deposit requirements for first time buyers are still higher than historical averages.

Chart two, overleaf, shows the monthly cost of a mortgage as a percentage of first time buyer's actual income has fallen since 2008. This is due to a decrease in mortgage interest rates, closely linked to the Bank of England base rate. This has been held for over 6 years at the historically low rate of 0.5 per cent. Whilst homeowners have been helped by falls in interest rates, those saving up for a deposit have not seen their living costs reduced in the same way.

Chart three shows the deposit needed to purchase the average first home. Despite lending conditions having eased more recently, the average first time buyer deposit is now estimated to be over 20 per cent.

Research by Geoffrey Meen in 2013¹³ suggests that younger generations have a lower probability of home ownership than previous generations in the UK. This may be because existing home movers, or those with large deposits are able to borrow more and consequently pay more for new houses, driving up prices. This makes the deposit constraint for first time buyers increasingly difficult to overcome.

¹⁰ <https://www.cml.org.uk/news/723/>

¹¹ Ratio of ONS median house prices and median income in England from the Annual Survey of Hours and Earnings

¹² <https://www.cml.org.uk/news/688/>

¹³ "Homeownership for future generations in the UK". *Urban Studies* - 50(4) 637–656, March 2013

Chart two: Mortgage costs as percentage of income

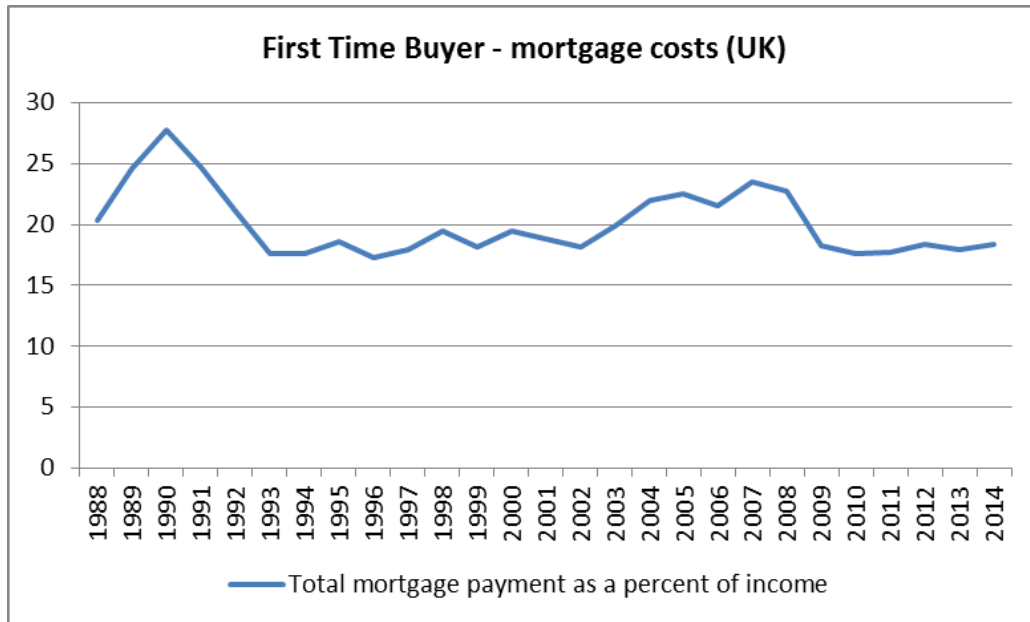
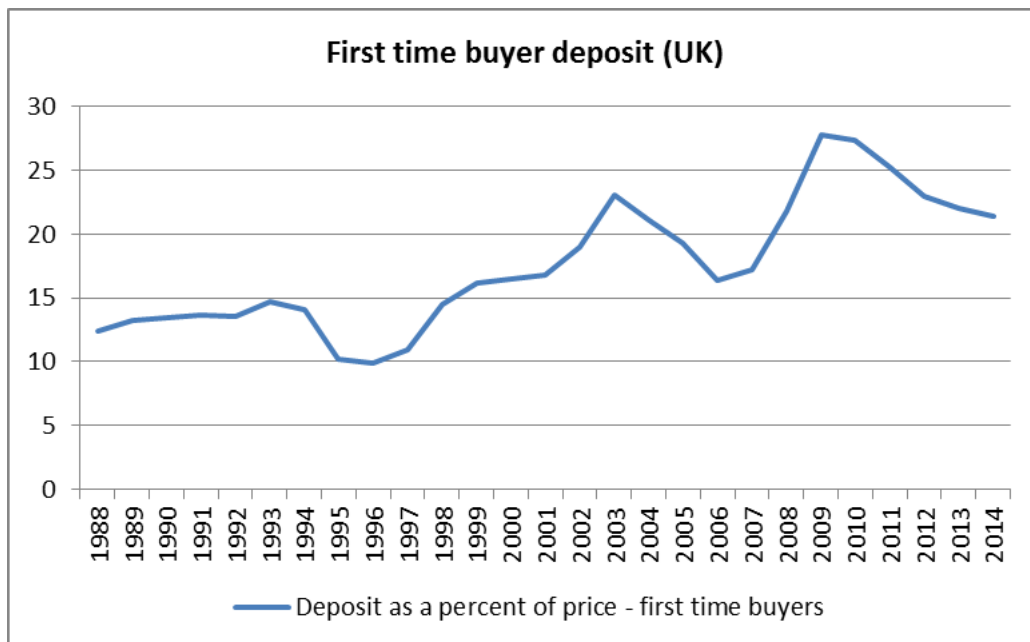


Chart three: Deposit requirement for First Time Buyers (1988 – 2014)



In Summary

- Three fifths of private renters believe they can own their own home, but only a quarter of social renters believe the same. Of those that do not expect to buy their own home, two thirds of social renters and three fifths of private renters state affordability as their main or only reason they do not expect to buy their own home.
- Over the last twenty years, the proportion of under 40 year olds who own their homes has decreased from 62% to 41% in 2013-14. As a result, 84 per cent of home owners are now above the age of 40.
- Younger generations have a lower probability of home ownership than previous generations in the UK. Home movers with large deposits are able to borrow more and consequently pay more for new houses.

Management of housing

The private rented sector is now the second largest tenure with 19 per cent (4.4 million) of households in England. The number of households within the sector has also grown at an average rate of five per cent a year for the last ten years.

89 per cent of landlords are individual landlords. They are responsible for 71 per cent of all privately rented dwellings. A further five per cent of landlords are company landlords, responsible for 15 per cent of dwellings. Only eight per cent of landlords are full-time.

The majority of landlords are reputable and provide decent well maintained homes. However, we know from discussions with landlord associations that because most landlords rent out only one property, many are not well informed about their obligations.

For example, the Landlord Survey 2010 indicated that 63 per cent of all private landlords had no relevant experience or qualification. For most landlords their property letting and managing business is generally a side-line and not their main source of income (79 per cent of landlords earned less than a quarter of their income from rent).

In addition, many are 'accidental' landlords who became landlords by chance rather than design, because, for example, they inherited a property or were unable to sell their property.

The quality of private rented housing has improved rapidly over the past decade. The English Housing Survey states that 84 per cent of tenants are satisfied with the service they receive from their landlord.

Rogue landlords

However, the fact that 16 per cent of tenants are dissatisfied with the service from their landlord indicates a minority of landlords do not respect or meet their obligations towards their tenants. Within this group there are a small number of rogue or criminal landlords who knowingly rent out unsafe or substandard accommodation, as evidenced by DCLG's Rogue Landlord Funding Programme.

The Government wants to do more to tackle the worst offenders and help drive rogue and criminal landlords out of the sector. Through the Rogue

Landlord and Beds in Sheds programmes that operated until April 2015 we learned from local authorities that it is a small number of determined rogue landlords causing the most problems. The London Borough of Lewisham, for example, have regularly cited that the majority of their related issues stem from just 50 landlords within the borough.

The profits made by rogue and criminal landlords outweigh the current deterrents. To maximise space, for example, they often place tenants in dangerous, overcrowded and unsafe conditions. The profits accumulated by rogue and criminal landlords in collecting rent and failing to carry out repairs are significant and the fines issued at present are not punitive enough, and not a sufficient enough deterrent to disrupt their business model.

The level of fines currently issued can be seen simply as a business cost. The London Borough of Newham, for example, prosecuted a landlord of a property that was found to have burn marks on the electrical consumer unit. It also had no smoke alarms fitted, no hot water portable electrical heaters to warm the property and a cockroach infestation. The rental income he received from this property was £9,000 per year. The landlord was only fined £350 along with £324 costs and a victim surcharge of £35 by the Magistrate courts.

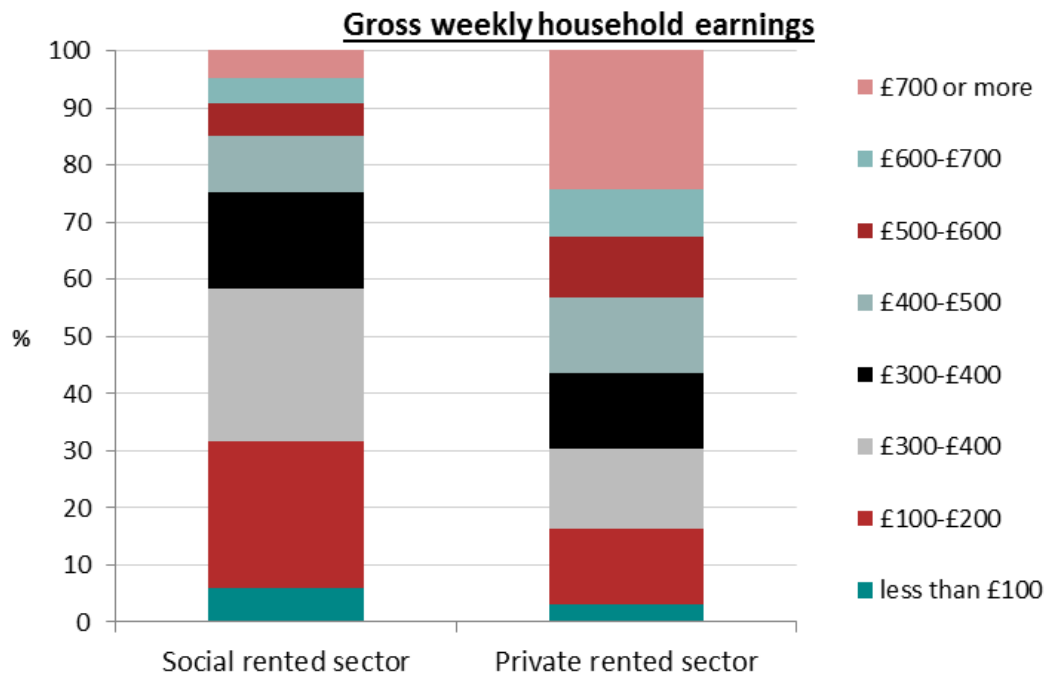
Rents in the social rented sector

Social housing tenants in benefit from a subsidised rent that could be as much as £3,500 per year on average when compared to equivalent rents in the private sector.

Whilst on average the incomes of private sector tenants are higher than those in social housing this is not always the case.

For example, it is estimated that for every household in the social sector with an income in excess of £30,000, there are two households in the private rented sector with an annual income of less than £10,000.

Chart four:



Estimates from the English Housing Survey show that there are around 484,000 households in the social rented sector with incomes of £600 or more per week (~£30,000 annually; 13 per cent of the social sector), whilst there are around 525,000 households in the PRS with incomes less than £200 per week (~£10,000 annually; around 13 per cent of that sector).

In Summary:

- The private rented sector is now the second largest housing tenure in England. Many landlords do not manage property full time, and may not be well informed of their obligations. 16 per cent of tenants are not satisfied with the service their landlord provides.
- Rogue landlords can take a disproportionate amount of time to deal with. The penalties for landlords who knowingly rent out unsafe or substandard accommodation do not outweigh the financial benefits of those practices.
- Social tenants benefit from a subsidised rent which could be as much as £3,500 per year on average when compared to equivalent rents in the private sector. However, weekly household earnings for around half a million social rented households may be significantly more than in an equivalent number of households in the private rented sector.

Assessment of clauses

Clause numbers relate to the Bill as introduced to the House of Commons on 13 October 2015

Part One

New Homes in England

Chapter one: clauses 1-7

Starter Homes

Policy

- 1.1.1 The Government is determined that everyone should have the opportunity to buy their own home. In particular, it is concerned that young first time buyers are missing out on the opportunities of earlier generations to get their first step onto the property ladder. To address this problem, the Government will promote the development of new low cost, high quality housing known as Starter Homes.

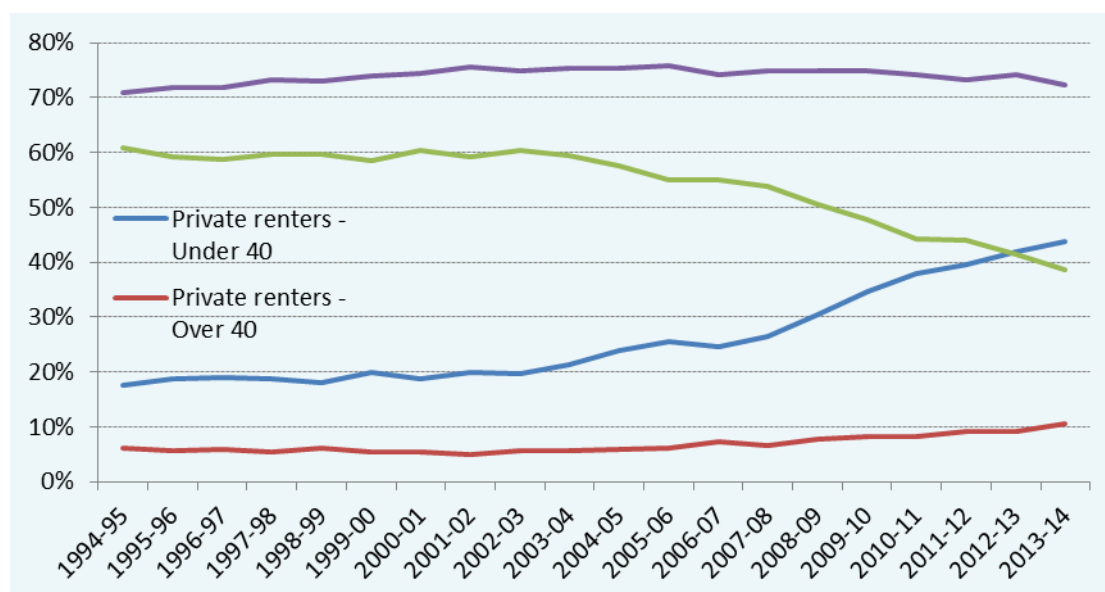
Problem under consideration

ACCESS TO HOME OWNERSHIP FOR YOUNG PEOPLE

- 1.1.2 Young people in their twenties and thirties are increasingly struggling to secure their first property. Over the last twenty years the proportion of under 40 year olds who own their home has been on a continuous downward trend, falling by a third from 62% to 41%. Over the same period, there has been a 25 percentage point increase in the proportion of that age group who rent houses in the private sector (from 17% to 42%). By contrast, the proportion of over 40 year olds who are homeowners has remained above 70% throughout the last 20 years.
- 1.1.3 This is backed up by a recent Council of Mortgage Lenders (CML) article¹⁴ into the challenge facing first time buyers which looked at rates of home ownership for various age cohorts. This analysis shows that 71% of those born in 1970 were home owners by the age of 40. It projects that 51% of those born in 1980 and just 47% of those born in 1990 will be homeowners by the age of 40.

¹⁴ <https://www.cml.org.uk/news/723/>

Chart five: proportion of under and over 40 year olds who are homeowners or private renters¹⁵



AFFORDABILITY OF HOME OWNERSHIP FOR FIRST TIME BUYERS

- 1.1.4 In addition, over the same period, house prices have accelerated significantly more than wages, making the purchase of a first home considerably more challenging for aspiring first time buyers. The average house price to earnings (affordability) ratio for successful first time buyers was 4.3 in 2014, compared to 2.5 in 1995 (a previous peak was 4.3 in 2005).
- 1.1.5 The average house price to earnings ratio for first time buyers and the average house price to earnings ratio for buyers who previously owned a home have both increased. But the gap between the two has narrowed over time, suggesting affordability has worsened for first time buyers at a faster rate than for buyers who have previously owned a home. The challenges faced by first time buyers relative to previous owners are heightened by the fact that in a market where prices are increasing, previous owners can offset some of the cost of the home they buy from equity that is released as a result of an increase in the value of their previous home. This is not reflected in affordability ratios.
- 1.1.6 It is also worth noting that the house price to earnings ratio only relates to those that have purchased homes and is likely to be higher

¹⁵ Source: DCLG, using data from English Housing Survey and its predecessor, the Survey of English housing. Notes: The proportions are based on the total number of households for which the Household Reference Person (HRP) is of that age.

for those that cannot afford to buy a home. Data from the Regulated Mortgage Survey shows that the average house price for a first time buyer in 2014 was £211,000. This is eight times the 2014 average salary of 22-39 year old employees.

Rationale for Intervention

1.1.7 Whilst the previous Government's planning reforms went some way to deliver Starter Homes for first time buyers, further legislative intervention is required to speed up delivery of Starter Homes in all areas of the country.

STARTER HOMES

1.1.8 Starter Homes are homes sold at a 20% discount on full market value, subject to an overall price cap (£450,000 in London and £250,000 elsewhere) and offered exclusively to first time buyers under the age of 40.

1.1.9 In July 2015, the Government published a report 'Fixing the Foundations: Creating a more prosperous nation' which set out a number of further planning reforms in order to deliver 200,000 Starter Homes by 2020. These build on the exception site policy established in March 2015 which enabled these homes to be built on under-used or unviable commercial or industrial sites which has not been identified for housing.

1.1.10 To deliver the ambition for 200,000 homes, the Government has extended the Starter Homes concept to include other housing sites and set out further reforms to be delivered through legislation and new policy. These are:

- Requiring local authorities to plan proactively for Starter Homes
- Extending the exception site policy to include additional categories of land – underused or unviable brownfield land for retail, leisure and institutional uses
- Enabling communities to allocate land for Starter Homes through neighbourhood plans
- Bringing forward proposals to ensure every reasonably sized site includes a proportion of Starter Homes

1.1.11 In August 2015, the Rural Productivity Plan set out further reform to allow Starter Homes to be built on rural exception sites. These reforms will aim to bring additional land into the planning system not

previously identified in local plans, increasing the overall housing supply and providing more affordable high quality housing for young first time buyers.

POLICY OBJECTIVE

- 1.1.12 The Government wants Starter Homes to be widely available across all areas to young first time buyers under the age of 40. To achieve this, the Government will be increasing the supply of land available for Starter Homes through planning reforms building on the current exception site policy. In addition, the Government will introduce a legal duty which will require all local authorities to plan proactively for the development of Starter Homes in their area and for Starter Homes to be delivered on all reasonably sized sites.

AFFECTED GROUPS

- 1.1.13 The Government will place a statutory duty on local councils to support the supply of Starter Homes in their areas and to report on the action they have taken to support Starter Homes. The duty will directly impact on local councils and the Government intends to acknowledge this through new burdens funding.
- 1.1.14 The duty will also require local councils to ensure that there is a proportion of Starter Homes on all reasonably sized sites. This will directly impact on:
- House builders
 - Land owners
 - House purchasers
- 1.1.15 The impact on these groups will depend on the secondary legislation that follows, which will set out the percentage of Starter Homes local authorities are required to deliver on different sized sites and in different areas. The duty will enable local councils to exercise some discretion where it is clear that the duty may make individual sites unviable.
- 1.1.16 On some sites, developers may choose to adjust the level of affordable housing in relation to the number of Starter Homes they will be developing. This may reduce or alter the mix of affordable housing provided which could impact on those individuals seeking affordable housing.

Costs

1.1.17 Starter Homes built on exceptions sites and Starter homes delivered on conventional housing sites are examined separately below.

STARTER HOMES BUILT ON EXCEPTION SITES

- 1.1.18 These Starter Homes are constructed on sites which have not previously been identified for housing and are additional to the housing supply. They will be built on under-used or unviable brownfield sites or on sites which have been identified for Starter Homes through Neighbourhood Plans or as rural exception sites.
- 1.1.19 **Land owners:** As these are sites which have never previously been allocated as suitable for housing the land value will be lower than planned for housing sites. As such there is no cost to land owners if this land is used for Starter Homes. They will benefit from being able to sell this land for Starter Homes, albeit at a lower price than if the land was allocated for conventional housing. As there is no compulsion for landowners to sell these sites for Starter Homes they will only sell if they get an acceptable price for the land and so there must be a net benefit to the land owner whenever a transaction takes place.
- 1.1.20 **House builders:** House builders will be able to benefit from building houses on sites which were not previously considered as suitable for housing. As there is no compulsion to develop these sites, house builders will only do so if they get a rate of return which they consider to be appropriate and so the impact is positive.
- 1.1.21 **House purchasers:** House purchasers under 40 who wish to buy their first house will directly benefit from Starter Homes being built on exception sites. They will be given the opportunity to purchase a house at 80% of market value which may allow them to get onto the housing ladder earlier than would otherwise be the case. There will be little impact on new home buyers over 40 as they will continue to be able to purchase market homes.
- 1.1.22 **Individuals who require affordable housing:** As these sites would not have come forward for housing in the foreseeable future, there will be no impact on those individuals who require affordable housing arising from Starter Homes built on exception sites.

STARTER HOMES BUILT ON CONVENTIONAL HOUSING SITES

- 1.1.23 There is an expectation that a proportion of Starter Homes are built on all reasonably sized sites. Although the proportion required will be set out in regulations, the exact mix on sites will be negotiated subject to local viability. These Starter Homes will not be additional to housing supply but will be delivered on conventional housing sites.
- 1.1.24 **Landowners:** The requirement for a proportion of Starter Homes on every suitable site will reduce the amount of other types of housing that can be built on any site and changes in the composition of housing on sites may affect the eventual price for the land.
- 1.1.25 **House builders:** Starter Homes are required to be sold at a 20% discount. The Government has supported this by removing the Section 106 affordable housing contribution and through not having to make a payment through the Community Infrastructure Levy and other tariff style payments.
- 1.1.26 **Home purchasers:** First time buyers under 40 will benefit from Starter Homes being built on conventional housing sites as they will be able to purchase a house at 80% of market value. This will particularly benefit first time buyers who would not otherwise been able to buy a home.
- 1.1.27 **Individuals who require affordable housing:** Discounted Starter Homes will provide an affordable route into home ownership and affordable housing provision will continue to be supported.

Non-monetised costs

- 1.1.28 **Delay in bringing schemes forward:** The level of Starter Homes to be delivered on each site will need to be negotiated but this is not expected to be more onerous than current practice.

Chapter two: clauses 8-11

Self-build and custom housebuilding

Policy

- 1.2.1 As part of plans to enable smaller housebuilders to build more homes, the Government wishes to strengthen the role of local planning authorities in making plots of land available for custom and self-build.
- 1.2.2 We will do this by ensuring there are sufficient permissioned and serviced plots to at least match demand on the register and to publish a register of small sites.¹⁶

Problem under consideration

- 1.2.3 Recent figures from Ipsos Mori show 0.8 million people taking action to build their own home in the next 12 months.
- 1.2.4 The number of registered small and medium sized house builders (defined here as those who build between 1 and 100 homes per year) fell from 5,700 in 2006 to 2,400 in 2013, a 49% decline¹⁷.
- 1.2.5 NHBC data also shows that large house builders account for less than 0.1% of the number of house building firms, but these builders delivered 54% of the number of homes registered in 2014. As there is the real risk that the largest firms are constrained by their own business models from increasing their build rates significantly, this suggests that enabling the smaller builders to increase their output could have the most impact on getting more homes built.
- 1.2.6 Access to viable, permissioned land with suitable infrastructure in place is regularly cited by the sector as the key constraint in the marketplace. If small developers are unaware of opportunities for land and have no access to who is looking for new homes it is much harder for them to market themselves and be proactive about finding work.

¹⁶ We intend to implement the register of small sites through clause 103: *Local Registers of Land* (clause number correct at Commons Introduction).

¹⁷ NHBC – Housing Market Report No. 276 July 2015

Rationale for intervention

- 1.2.7 Low risk 'shovel-ready' building plots are in very short supply and command high premiums. This is because custom builders tend to be under-capitalised and can't compete effectively with speculative builders who can access finance more easily to acquire land.
- 1.2.8 This leads to potential custom builders being displaced or crowded out of the housing land market, despite the growing demand for this form of house building.
- 1.2.9 Although some local authorities and developers are beginning to respond to this challenge by releasing developable sites and selling these direct to custom builders, the practice (whilst widespread in other countries) is still limited in England. A key constraint holding back further support of custom build is the lack of priority which local authorities attach to supporting custom build.
- 1.2.10 We therefore want to require them to ensure there are sufficient developable plots, consistent with the local demand for custom build.

Impact of intervention

- 1.2.11 The policy increases the routes available to home ownership and will help increase the number of new homes built each year.
- 1.2.12 It will help get quality homes to be built faster and diversify the house building industry away from domination by larger firms, supporting new entrants and a shrinking small and medium sized housebuilding sector.
- 1.2.13 The policy will realise the potential of the self-build market by delivering much greater awareness and hence increase access to land suitable for self and custom build as landowners are encouraged to bring forward new plots for development on to the small sites register.
- 1.2.14 It will increase choice and diversity in the housing market and offer greater opportunity for home-buyers to design and develop their home according to their need.
- 1.2.15 Small and medium-sized developers and builders will benefit, as it could lead to greater opportunities for them to expand their business. In particular the small sites register will help them to identify potential

land for development while the register of custom builders will demonstrate levels of demand and enable them to market their services direct to those on the register.

Summary of Benefits and Costs

MAJOR HOUSE BUILDERS

- 1.2.16 There is a limited, probably neutral, impact on major house builders. As a result of the policy more local authorities may choose to place planning obligations (via section 106 agreements) on them to make plots on their large sites available to custom builders.
- 1.2.17 Given that this is a negotiation process, there should be no impact on viability of the site. Indeed, it may even be beneficial as it could allow a site to be built quicker as land sales to custom builders will not conflict with sales of traditional new homes.

SMALL AND MEDIUM HOUSE BUILDERS

- 1.2.18 There is a real benefit to the small and medium developers and builders who through the small sites register will have much better access to potential land for housing. This has been a real barrier to their growth. Greater knowledge of the demand for custom build will also significantly help small and medium builders attract work by enabling them to market their services for custom build to those on the register.

LOCAL AUTHORITIES

- 1.2.19 Local authorities can expect to make a profit from the sale of land at market value. However, Government anticipates there will be some increased costs for local authorities as a result of the need to ensure they comply with the duty to provide suitable plots of land. We are finalising a suitable estimate for the new burden to cover the first three years of the policy, as after that the sale of land should make the policy self-financing – in addition to support provided separately through loans to developers and a new burden covering the cost of developing a self-build register.

Part two

Rogue landlords and letting agents in England

Chapters one-two: clauses 12-21

Banning orders

Chapter three: clauses 22-31

Database of rogue landlords and letting agents

Chapter four: clauses 32-46

Rent Repayment Orders

Policy

2.1.1 The private rented sector (PRS) has grown considerably over the last decade and now houses 4.4 million households, making it the second largest tenure in England. Growing demand has led to a rise in rogue or criminal landlords, who knowingly rent out unsafe and substandard accommodation, often to vulnerable tenants. We are determined to crack down on these landlords so that they either improve the service they provide or leave the sector.

2.1.2 The measures introduced in the Bill are designed to help improve standards in the PRS and tackle the small minority of rogue or criminal landlords. Through the changes proposed local authorities will be able to blacklist, and in extreme cases ban, rogue operators and ensure only suitable landlords are allowed to rent out properties which require a licence. Local authorities will see their enforcement capabilities strengthened by being able to retain fines (for rent repayment orders

and civil penalty notices) and access landlord data (from Tenancy Deposit Protection schemes) so that they can develop a better picture of the size and scale of the PRS in their area and focus their enforcement activity accordingly. Landlords will also be given speedier measures to recover their property where a tenant has abandoned their accommodation.

Problem under consideration

2.1.3 In the PRS there are a small number of landlords whose behaviour has a detrimental impact on tenants and society more generally by:

- a. poorly maintaining their property which poses a risk of harm;
- b. dangerously overcrowding their properties, exploiting vulnerable people, housing illegal migrants; and
- c. intimidating or harassing tenants who raise a complaint.

2.1.4 The Government wants to do more to drive these operators out and recognises that additional resources may be needed. These measures help address this.

2.1.5 Separately, the resolution of abandonment can require landlords to seek a possession order from the courts. This is a time consuming and expensive process during which the landlord is losing both rent and is obliged in some circumstances to pay for legal expenses.

Rationale for intervention

2.1.6 Ministers want to do more to tackle the worst offenders and help drive rogue and criminal landlords out of the sector. Through the Rogue Landlord and 'Beds in Sheds' programmes that operated until April 2015 we learned from local authorities that it is a small number of determined rogue landlords causing the most problems. For example, Lewisham have reported that the majority of issues in their private rented sector stem from just 50 landlords within the borough.

2.1.7 The profits made by rogue and criminal landlords outweigh the current deterrents. For example to maximise occupancy they often place tenants in dangerous, overcrowded and unsafe conditions. The profits accumulated by rogue and criminal landlords in collecting rent and failing to carry out repairs are significant and the fines issued at present are not punitive enough and not a sufficient enough deterrent

to disrupt their business model. In practice the level of fines currently issued are often factored into business costs.

Impact of intervention

2.1.8 We aim to bring forward the following measures to tackle the issue of rogue landlords and strengthen the private rented sector:

2.1.9 **Blacklist rogue landlords and letting agents.** This will allow local authorities to keep track of criminal landlords and letting agents convicted of housing offences, who in many cases re-start their operations in another local authority where they are unknown to the enforcement team/authorities.

2.1.10 **Ban rogue/criminal landlords and letting agents** from operating or receiving a rental income for serious or repeat housing offences. This will prevent serious or repeat offenders who are known to be causing misery and harm to renters and placing them at serious risk from letting property. In such cases there should be no room for these operators within the sector.

2.1.11 **Fit and proper person test** will be strengthened, ensuring that those operating the licence and management of a property have sufficient integrity, good character and do not present a risk to the welfare and safety of the persons residing in their property.

2.1.12 **Extend Rent Repayment Orders** to cover the illegal eviction of a tenant or where a landlord has failed to comply with a statutory notice, such as an Improvement or a Prohibition notice.

2.1.13 **Civil Penalty Notices** are a further measure which will enable local authorities to retain the income raised and use it to focus on other housing enforcement activity. This will help with local authority legal costs and speed up enforcement action.

2.1.14 **Tenancy Deposit Protection Scheme Data Sharing** will allow local authorities, if they wish, to access the local data held by the companies operating the Tenancy Deposit Protection schemes. This will help local authorities to more easily identify PRS housing that they should be monitoring, so cutting the costs of enforcement and reducing the need to operate borough-wide licensing schemes that impact on good landlords.

2.1.15 **Abandonment** legislation will provide clarity and speed up the process enabling a landlord to regain possession of their property (after a tenant has absconded) without the time and expense of a court process.

Summary of Benefits and Costs

2.1.16 The most significant costs imposed on legitimate businesses are familiarisation costs for landlords to understand the new sanctions that will come in to force for breach of existing legislation. There will also be a small additional cost (£25), once every five years, for a select number of landlords who let out properties that require a licence.

2.1.17 However, there will be material benefits to the sector as measures on abandonment will offer overall savings to landlords, by reducing expenses on legal fees, and minimising vacancy periods.

2.1.18 The business impact of these changes taken collectively are deemed to be £3.4m savings per annum:

<i>Total costs over 10 years (nominal)</i>	
Blacklist & Banning orders	
<i>Familiarisation cost</i>	£4.7m
Fit and Proper Person Test	
<i>Familiarisation cost</i>	£1.1m
<i>Ongoing processing costs</i>	£2m
<i>Disclosure and Barring Service Check</i>	£11m
Rent Repayment Orders and Civil Penalty Notices	
<i>Familiarisation Cost</i>	£4.7m
Abandonment	
<i>Savings</i>	-£57.7m
TOTAL BENEFIT	£34.2m

BLACKLIST AND BANNING ORDERS

2.1.19 The identification and tracking of rogue landlords and letting agents can be a difficult problem for enforcement agencies. By their nature rogue landlords and letting agents do not wish to expose their activities. On being identified and alerted to authorities many rogue operators choose to relocate into a different authority to evade detection. The introduction of a blacklist will make it easier for local authorities and enforcement agencies to identify and track rogue operators who move in and out of their locality.

2.1.20 In serious cases, it might be necessary to obtain a banning order for rogue landlords and letting agents. During the ban period it would be an offence for a landlord or letting agent to be involved in the letting and managing of a property. A local authority may choose to apply to the First Tier Tribunal for a banning order to be made for a specified period of time. A right of appeal will be made available to ensure fairness.

2.1.21 **Familiarisations costs** are based on the assumption that it takes 15 minutes for businesses to familiarise themselves with introduction of blacklisting and banning orders as a new consequence for breaching existing housing legislation. We do not have data on landlord earnings therefore we have used letting agents' hourly rates as a proxy. According to the latest Annual Survey of Hours and Earnings, a letting agent earns £10.22 an hour. We have uprated hourly wages by 1.3% to account for non-wage costs, such as overheads, so we estimate earnings are approximately £13.29 an hour.

$$1.4m (landlords) \times £13.29 \times (15 / 60)mins = £4.7m$$

FIT AND PROPER PERSON TEST

2.1.22 There are approximately 1.4 million landlords and we have made an assumption that about 165,000¹⁸ landlords will require a licence and are subject to the new requirements for the 'fit and proper' person test.

2.1.23 **Familiarisations costs** are based on the assumption that it will take landlords approximately 30 minutes to familiarise themselves with a more extensive licensing process, also included is the same hourly wages used to calculate the impacts of the black listing measures

$$Costs; 165,000 \times £13.29 \times (30/60)mins = £1.1m$$

This is a one-off nominal transition cost in the year of implementation

2.1.24 Ongoing costs: ongoing costs extending the fit and proper person test is expected to incur an additional 20 minutes on each landlord applying for a new license. Licenses are renewed every five years, so given the difficulty identifying when licences are renewed, it is assumed that licences are renewed equally over a five year period and 20% of landlords requiring a license apply in any one year. Assuming a PRS market that grows by 5% year on year, and therefore that the number

¹⁸ This is based on there being: about 200,000 licensable properties in the country, of which 60,000 are HMOs; five borough wide selective licensing schemes of about 25,000 properties each; and additional licensing schemes of about 15,000 properties. A further assumption is made which accounts for a number of landlords who own more than one property - 165,333 landlords.

of landlords requiring a license grows by the same amount, and that wages rise by 2% in nominal terms year on year, the average cost of the additional application requirements is approximately £200k annually or approximately £2m over the ten year appraisal period.

Costs: average number of landlords requiring a license over ten years x average hourly wage over ten years x additional time to apply for license x proportion of landlords applying in any one year x number of years in appraisal period

$$= 200,000^{19} \times £14.55^{20} \times (20/60) \times 20\% \times 10 = £2m$$

2.1.25 DBS Costs: In addition to additional documentation, landlords applying for licenses will also need to provide a copy of a Disclosure and Barring Service certificate. The time to apply for this certificate is included in the calculation above, however there is also a £25 fee per certificate. The costs are therefore equivalent to the number of licenses applied for in any one year (assumed to be 20% of the landlords requiring a license – this sector grows at 5% a year in line with growth trends in the PRS sector) multiplied by the cost of the DBS certificate (£25 but growing by 2 per cent year on year in nominal terms)

2.1.26 Costs: average number of landlords requiring a license over ten years x average DBS certificate cost x proportion of landlords applying for a license x number of years in appraisal period

$$= 200,000 \times £27.30 \times 20\% \times 10 = £11m$$

RENT REPAYMENT AND CIVIL PENALTIES

2.1.27 Rent repayment orders and civil penalty notices serve to streamline the existing enforcement regime. As with the rogue landlords measure, the definition of criminal behaviour remains unaffected, instead landlords will need to familiarise themselves with new sanctions.

2.1.28 Familiarisation costs: It is assumed that familiarisation costs will be higher for landlords who engage in criminal activity than law abiding counterparts. In the central case it is estimated that 0.75% of landlords are expected to engage in criminal activity, and it will take them approximately 45 minutes to understand new legislation. For the remaining 99.25%, which accounts for compliant landlords, it will only

¹⁹ This number represents the average number of landlords requiring a license over the 10 year appraisal period (taking into account 5% growth year on year).

²⁰ Represents the average hourly wage over a ten year appraisal period and a 2% rise in nominal terms

take 15 minutes to familiarise themselves with the new measures. Hourly wages assumptions remain consistent with previous analysis.

Costs: (time taken for complaint landlords to familiarise themselves x average wage x proportion of compliant landlords x landlord population) + (time take for criminal landlords to familiarise themselves x average wage x proportion of criminal landlords x landlord population)

= ((15/60)mins x £13.29 x 99.25% x 1,400,000) + ((45/60)mins x £13.29 x 0.75% x 1,400,000) = £4.7m

TDP DATA SHARING

2.1.29 There are three Government approved Tenancy Deposit Protection (TDP) Schemes. Together they hold data relating to nearly 3 million tenancy deposits. To help schemes to recoup their costs in making the data available, we intend to take a power in the bill to allow schemes to charge a reasonable cost to local authorities for access to the data. We estimate that the costs to TDP schemes in making data available to local authorities would be well below £1m. In general, all three schemes thought that making the data available would be low cost, as the schemes already provide landlord data on request from local authorities in Scotland and Northern Ireland, and to HMRC for tax collection purposes.

ABANDONMENT

2.1.30 The new changes to abandonment are likely to generate some savings for landlords and letting agents, subject to the scale of the problem.

2.1.31 The Ministry of Justice hold information on the number of landlord repossessions a year (on average 40k), of which only 28% relate to private landlords. This equates to approximately 11,000 private landlord repossessions. The vast majority of these repossession cases will not involve abandoned properties. Data on the number of abandoned properties is not available. However, a number of landlord associations have stated that about 1% of calls to their helpline are about abandonment. On that basis, we have assumed that approximately 1,750 abandoned properties will benefit from this measure for the following reasons:

- Around 1% of calls to landlord associations are about abandonment. There are about 1.4m landlords so extrapolating the 1% of calls to the total number of landlords suggests that about 14,000 nationally may experience problems with abandonment.

- Landlord associations estimate that about 50% of queries received about abandonment are repeat calls (50% of 14,000 = 7,000);
- Of the 7,000 remaining calls, landlord associations estimate a further 75% of queries resolve themselves (75% of 7,000 = 5,250, therefore 1,750 remaining).
- On that basis that the majority of private landlords own one property, we can assume that the 1,750 landlords equate to 1,750 abandoned tenancies, which are currently resolved through the courts per year.

2.1.32 Given the size of the PRS sector (4.4m households) and the level of queries about abandonment cited by a number of landlord associations, we believe these are reasonable assumptions.

Benefits: (proportion of repossessed properties caused by abandonment x average number of repossessed properties) x (Average monthly rent over a ten year appraisal period x number of months saved) + (average hourly legal fee over a ten year appraisal period x number of hours consulting) + (number of hours attending court x average landlord wage) + average court cost) x number of years in appraisal period

$$= 2,100^{21} \times ((£657 \times 3) + (£183 \times 2) + (£14.55 \times 2) + £300) \times 10 = \underline{£57.7m}$$

²¹ Equals average number of abandonment issues over a ten year appraisal period. Assumes 1,750 in year of implementation, and that the volume of abandonments grows in line with the growth of the PRS (5% annually).

Part three

Recovering abandoned premises in England

3.1.1 The impact assessment for clauses within part three of the Bill is included for those within part two.

Part four

Social Housing in England

Chapter one: clauses 56-61

Implementing the Right to Buy on a voluntary basis

Policy

4.1.1 The Conservative Party Manifesto 2015 promised to give housing association tenants the same home ownership opportunities that those in council housing currently enjoy. At present tenants of council housing in England can purchase their home with discounts of up to £77,900 across England and £103,900 within London.

4.1.2 Some housing association tenants currently have a Preserved Right to Buy at the same discount levels as above, some have a Right to Acquire at much lower discount levels generally between £9,000 and £16,000, while others have no rights at all.

Problem under consideration

4.1.3 The National Housing Federation (NHF) has proposed an agreement which offers tenants of housing associations the same home ownership opportunities as council tenants. The Government believes legislation should only be used where necessary. It wants to support

the agreement and provide a legislative framework to promote home ownership opportunities whilst preserving the independence of social housing providers.

Rationale for intervention

4.1.4 The Government recognises and welcomes the agreement between housing associations and the National Housing Federation. It wishes to work in partnership with the National Housing Federation to deliver opportunities for home ownership and boost the supply of new homes.

4.1.5 In order to ensure this agreement can be implemented as effectively as possible, the Government wishes to set out in primary legislation means to give grants to private registered providers in order to compensate them for discounts given and enable the Greater London Authority to do the same. Primary legislation is also required to monitor how these opportunities are being adopted so potential homeowners can hold their housing association to account, if necessary.

Impact of intervention

4.1.6 The Government expects the clauses within the Bill to facilitate housing associations offering home ownership opportunities to their tenants. Without the legislation, the Secretary of State, or the Greater London Authority would not be able to compensate a housing association for the cost of the discount when a tenant applies to buy their home under the terms of the voluntary agreement.

4.1.7 In addition, the clauses will enable the Regulator of Social Housing to monitor and report on how tenants are being supported into home ownership.

Summary of Benefits and Costs

4.1.8 Because the legislation facilitates grants to housing associations, the Government expects the financial benefits to outweigh any minimal administration cost which may be incurred when reporting to the Regulator. In addition, this grant-making power will enable housing association tenants to purchase a home, allowing them to acquire assets they would not have otherwise had.

Chapter two: clauses 62-72

Vacant high value local authority housing

Policy

4.2.1 The Government wants to ensure that local authorities manage their stock more efficiently, with the most valuable properties sold off as they fall vacant to release the value locked up in them. This was part of the Conservative Party manifesto for the General Election 2015.

Problem under consideration

4.2.2 Provisions require councils to make a payment to the Secretary of State based on their high value vacant housing. Secondary legislation will determine high value and a formula will be used to calculate the payment each stock owning local authority is required to pay²². Local authorities will have to consider selling their high value housing when it becomes vacant but will have some flexibility to decide which properties are sold. A portion of receipts will be used to build more homes which reflect housing need.

Rationale for intervention

4.2.3 Councils should effectively and efficiently use their resources. When there is an increased need for housing across the country it makes sense to sell high value vacant houses to release the value locked up in them. 165 local authorities own a total of around 1.6 million council homes.

Impact of intervention

LOCAL AUTHORITIES

4.2.4 The main impact will be on stock holding local authorities as they will be required to make a payment to the Secretary of State based on the value of the high value vacant homes they own. By managing their stock more efficiently, and selling vacant housing, local authorities will release value tied up in such properties and this can be used to fund more homes which reflect the housing need.

²² We are engaging with local authorities and are currently in the process of updating data that will be used to help inform the high value threshold, which will determine how much individual councils will need to pay.

LOCAL AUTHORITY TENANTS

- 4.2.5 This policy will not directly affect existing tenants as it will only apply to property that is vacant.
- 4.2.6 The policy could impact on prospective new council tenants, or tenants wishing to transfer to a new council home – however, encouraging the building of more homes which reflect housing need and increasing overall housing supply is at the heart of this proposal. Additionally, using a formula provides some flexibility for local authorities to choose which housing they sell as it falls vacant. The Bill will also provide for Government to exclude certain types of property from this policy.

Summary of Benefits and Costs

LOCAL AUTHORITIES

- 4.2.7 Local authorities are not benefitting from their high value vacant assets as money is tied up in existing housing. This policy will release the value of such assets to use in providing more housing.
- 4.2.8 The determination process will provide some certainty for local authorities about the level and flow of receipts to be generated. The process also provides some flexibility for local authorities to decide which vacant properties they sell in order to meet the payment. Data will be used to inform the setting of the high value threshold and the assumptions underlying the calculations in the determination.
- 4.2.9 The policy requires the sale of high value assets which may have some impact on the total stock that a local authority holds.
- 4.2.10 Local authorities are likely to incur some costs associated with the sale of vacant property. Consideration will be given to the deductions that should be made from the payment to the Secretary of State to reflect transaction costs associated with the sale of vacant properties.
- 4.2.11 A portion of the receipts will be used to provide more housing, reflecting housing need. This will support increases in the overall supply of housing. Under the legislation, the Secretary of State and a local authority may enter into an agreement to reduce the amount the authority has to pay so that new housing can be provided.

LOCAL AUTHORITY TENANTS

- 4.2.12 The policy relates to high value housing as it becomes vacant, therefore it does not impact on existing tenants. There may be an impact on the total stock available while more housing is delivered that better meets local needs.

Chapter three: clause 73

Reducing Regulation

- 4.3.1 The Government will review the impact of this clause, taking into account the views of Members of Parliament. This impact assessment will be updated accordingly.

Chapter four: clauses 74 – 83

High income social tenants: mandatory rents

Policy

- 4.4.1 The Government believes that those on higher incomes should not be subsidised through social rents. Therefore, social housing tenants with higher household income will be required to pay a market or near market rent for their accommodation. Local authorities will be required to return the extra income to the exchequer, and housing associations will be able to retain the extra income for investment in new social housing.

Problem under consideration

- 4.4.2 There are approximately 350,000 social rented tenants with household incomes over £30,000 per annum, including over 40,000 with incomes in excess of £50,000 per year.
- 4.4.3 To help reduce the deficit, the Government has said it will ensure that social housing rents are more closely linked to the income of social tenants. Social tenants benefit from a subsidised rent that could be as much as £3,500 less, on average, compared to equivalent rents in the private sector.
- 4.4.4 The decision has been taken that households that earn higher incomes will be required to pay higher rents. The Budget said that social rented tenant households with an income of £30k, or £40k in London, will be required to pay market or near market rents.

Rationale for intervention

- 4.4.5 This intervention is designed to remove an unfair subsidy. Households with a sufficiently high income do not require this, as they are able to access market housing.
- 4.4.6 The intended effects are to deliver additional income to the Exchequer to contribute towards deficit reduction, to raise extra income for investment in new social housing and, in those cases where higher-income tenants choose to leave the sector, to free up social housing units for those with greater need.

Impact of intervention

- 4.4.7 This impact assessment is to accompany primary legislation setting out the key powers that will be needed to implement the policy. We are consulting on the detail of the policy implementation, including the best way for social housing providers to administer the policy, and how different approaches to setting thresholds and a tapered approach can minimise distortion.
- 4.4.8 This assessment considers the broad impacts that the primary powers in the Housing Bill are expected to deliver. Illustrative impacts are presented which show the illustrative policy design as presented at the July Budget. The detailed implementation of the policy will be set out in secondary legislation following further evidence gathering.

POTENTIAL CASELOAD

- 4.4.9 Higher income social tenants will pay a level closer to market rents, or the full market rent depending upon their household income. The detail of how tapering and intermediate thresholds may be set is being consulted on, and the caseloads affected will ultimately depend upon the final policy design.
- 4.4.10 Initial modelling carried out for the 2015 Summer Budget is presented here for illustrative purposes; this shows the size of the caseloads involved under a simple policy design where 100% of market rent is paid by those with household income²³ of £40,000 or more (£50,000 in London), and 80% of market rent is paid by those with household

²³ Defined as gross annual household income as described in the glossary of the English Housing survey https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335751/EHS_Households_Report_2012-13.pdf; different definitions of household income will be considered for the detailed policy design following consultation.

income between £30,000 and £40,000 (between £40,000 and £50,000 in London).

4.4.11 Under these conditions, the approximate size of the caseload to which such a policy would apply is shown below:

Estimated initial caseload

Local authority households	130,000
Housing association households	160,000

4.4.12 As earnings increase over time, households who are currently beneath the thresholds at which higher rents are charged will break through the thresholds and be added to the higher-income cohort. Assuming earnings increase in line with average earnings (uprating from base year of 12/13), the estimated number of households additional to the initial caseload by 2017/18 is:

Estimated additional households by 2017/18

Local authority households	70,000
Housing association households	80,000

Summary of Benefits and Costs

ADMINISTRATION COSTS FOR HOUSING ASSOCIATIONS AND LOCAL AUTHORITIES

4.4.13 We will seek the views of stakeholders on the most cost effective way for social housing providers to administer the policy. Initial estimates of the administration costs (based on anecdotal evidence from a small number of providers, provided by the Homes and Communities Agency) indicate that the transitional costs could be broadly in the region of £7.5m to the housing association sector, with on-going annual admin costs of approximately £10m.

4.4.14 A working assumption is that the costs to local authorities would be broadly similar (although it is believed that LAs are more likely to already have relevant systems in place so this assumption is conservative).

4.4.15 These estimates account for the potential costs of:

- a. market rent valuations
- b. collecting and storing data
- c. staff costs
- d. system changes
- e. tenant enquiries
- f. complaints

4.4.16 Allowing for an upper estimate for optimism bias, we add on a further 200 per cent of the transitional costs and 41 per cent of the ongoing annual admin costs²⁴, giving an initial estimate of around £22.5m transitional costs and £14.1m annual admin costs for each of the housing association and local authority sectors (total costs of around £45m transitional costs and around £28m annual admin costs).

4.4.17 There will be additional costs associated with the sharing of income data between providers and HMRC. Work is ongoing to determine the most efficient way of undertaking this, and therefore the costs are not yet known.

RENTAL INCOME

4.4.18 As above, the actual additional rental income that will be received will depend on the final policy design, which is currently being consulted on and will be implemented by secondary legislation in due course. As an illustration of the potential levels of rental income, the results for the above simple policy design from the Summer Budget are presented here.

4.4.19 The additional rent that would be charged to the above caseload of higher income social tenants is calculated as the difference between the existing average weekly rent for social rented properties, and the market rent that would otherwise be charged on these properties.

4.4.20 These results are likely to change once a more detailed policy design is finalised following the consultation. It is however envisaged that a broadly similar level of rental income could be achieved under different tapering systems.

²⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/191507/Optimism_bias.pdf - taking the estimate for “equipment & development projects” for the transitional costs (pertaining to the “development of software and systems”) and the estimate for “outsourcing projects” for the annual admin costs (pertaining to the “provision of hard and soft management facilities management services e.g. ICT services”)

Rental impacts

	2017/18	2018/19	2019/20	2020/21
-				
LA additional rental income initial caseload	£0.40bn	£0.45bn	£0.49bn	£0.55bn
Plus additional fiscal drag impacts	£0.24bn	£0.33bn	£0.48bn	£0.65bn
Less behavioural impacts	(£0.27bn)	(£0.39bn)	(£0.53bn)	(£0.68bn)
Total additional LA rental income	£0.37bn	£0.39bn	£0.45bn	£0.51bn
HA additional rental income initial caseload	£0.38bn	£0.43bn	£0.49bn	£0.56bn
Plus additional fiscal drag impacts	£0.23bn	£0.32bn	£0.47bn	£0.64bn
Less behavioural impacts	(£0.24bn)	(£0.36bn)	(£0.50bn)	(£0.66bn)
Total additional HA rental income	£0.37bn	£0.39bn	£0.46bn	£0.54bn

BEHAVIOURAL RESPONSES

4.4.21 It is important that the final design of the policy takes into account the potential negative impacts on work incentives. With simple cliff-edge thresholds, there would be a risk of a behavioural response such that people reduce hours worked or otherwise reduce their income so as to remain below the thresholds. Not only would this reduce the amount of additional rental income achieved by the policy, the distortion to people's behaviour would lead to a sub-optimal allocation of resources.

4.4.22 It is envisaged that in the final design of the policy, which will be implemented through secondary legislation, a tapered increase in rents for different income levels can be implemented to protect work incentives and avoid these impacts. We are currently consulting on the best way to do this.

4.4.23 The illustrative results that we are presenting from the Summer Budget analysis do not include a taper, although assumptions were made about potential behavioural responses around rent arrears, movement out of the sector or area through both choice and affordability, tenants reducing their income to avoid thresholds, and tenants exercising their right to buy.

HOUSING BENEFIT

4.4.24 Where tenants are in receipt of housing benefit, their increase in rent would be met by increased benefit payments. Following consultation on the detail of the policy, it is anticipated that intermediate thresholds and tapers may be able to avoid including many of those tenants receiving housing benefit (or who would float on to it if their rents increased).

ADDITIONAL HOUSING SUPPLY AND DISTRIBUTIONAL IMPACTS

4.4.25 One of the main objectives of this policy is for those social tenants who are on higher incomes to pay a fair level of rent. Currently, social tenants enjoy an 'economic subsidy' equal to the difference between the market rent and social rent of their property.

4.4.26 For most social tenants, there is a beneficial distributional impact of this (i.e. as they are more likely to be on below-average incomes, the value of the economic subsidy is worth more to them than to the average household). However, for higher-income social households this is not the case. The retention of additional rental income by housing associations should allow them to supply new housing. There are benefits associated with both the value of the new housing as well as the distributional benefits this entails for the lower-income households able to access this new housing.

4.4.27 The transfer of the economic subsidy from higher-income tenants to housing providers is a transfer and does not affect the Net Present Value of the policy. However, the benefits from distributional effects and new housing supply are estimated to exceed the administration costs to providers, such that the policy has an overall net benefit to society.

4.4.28 Considering the impact on business in isolation, the additional rental income to housing associations is expected to comfortably exceed the costs of administering the policy.

Part five

Housing, estate agents and rentcharges: other changes

Clause 84

Assessment of accommodation needs

Policy

- 5.1.1 This policy will ensure that all members of the community are treated equally, taking into account the special needs of some in accordance with legal obligations.

Problem under consideration

- 5.1.2 The Government recognises a perception of differential treatment in favour of Gypsies and Travellers. It therefore wishes to simplify the legislation governing the assessment of housing and accommodation needs of the community so as to remove this perception.
- 5.1.3 This would mean moving away from separate provisions for Gypsies and Travellers in housing legislation in favour of a unified provision that enables the housing and accommodation needs of the entire community to be assessed and remove the perception of favourable treatment.

Rationale for intervention

- 5.1.4 It is the Government's intention that housing needs assessments are fair and seen to be fair.
- 5.1.5 It would be for local housing authorities to consider the specific needs of the wider community and consider the range of accommodation provision required to meet that need.

Impact of intervention

- 5.1.6 The Government recognises the possible impact on Gypsies and Travellers that in the future assessments of their needs may fail to be carried out adequately.
- 5.1.7 This is balanced by the fact that local housing authorities have had eight years to embed the analysis of 'gypsy and traveller' needs as prescribed in existing legislation into their overall assessments. This legislative change does not seek to interfere with that process.

Summary of Benefits and Costs

- 5.1.8 There is unlikely to be any additional costs to local authorities. Local authorities already have a duty to fully assess the needs of all members of their community, including 'gypsies and travellers' as currently defined. The aim in respect of the new legislative approach is to remove perceptions of unfairness and reduce tensions between settled and traveller communities in plan-making and planning decisions, bringing greater harmony to the community.

Clauses 85 – 88

Housing regulation in England, Housing information in England

- 5.1.9 The impacts of these clauses are discussed at paragraphs 2.1.1 – 2.1.32

Clause 89

Enforcement of estate agent legislation

Policy

5.1.10 The Government wishes to amend the Estate Agents Act 1979 to give the Secretary of State for Business, Innovation and Skills the power to appoint a new lead enforcement authority.

Problem under consideration

5.1.11 The Estate Agents Act 1979 provides for the regulation of the estate agency sector (those buying and selling). The Act is enforced by trading standards services and is superintended by a lead enforcement authority. The lead authority alone can exercise certain functions, such as banning unfit estate agents. On the dissolution of the Office of Fair Trading in 2014, Powys County Council were named on the face of the Act as the lead enforcement authority.

5.1.12 Powys was selected by tender for an intended period of 3 years. When transferring functions from the Office of Fair Trading to Powys using powers in the Public Bodies Act 2011, the Government was unable to provide for any mechanism to change the lead enforcement authority if required.

5.1.13 We will resolve this by giving the Secretary of State for Business, Innovation and Skills the power to appoint a new lead enforcement authority to superintend the Estate Agents Act 1979 as and when required, without recourse to further legislation.

Rationale for intervention

5.1.14 Without primary legislation, Powys will continue to be named as the lead enforcement authority after their tender period expires in April 2017. Powys is the only enforcer in the Estate Agents Act who can discharge certain functions such as prohibition orders. Failure to legislate could therefore result in unfit and fraudulent estate agents being allowed to continue to operate. This will cause increased harm to consumers and prevent compliant estate agents from operating on a level playing field.

Impact of intervention

5.1.15 The intervention is technical and provides a legal mechanism for a future change of lead UK enforcement authority in the Estate Agents Act from Powys local authority to another local authority, or to the Department of Enterprise, Trade and Investment in Northern Ireland (as Trading Standards is centralised in Northern Ireland). There is therefore no significant impact as a result of this provision.

Summary of Benefits and Costs

5.1.16 As this intervention gives the Secretary of State the power to appoint a new lead enforcement authority, there is no change on any existing costs or benefits.

Clauses 90 – 91

Enfranchisement and extension of long leaseholds, Rentcharges

Policy

5.1.17 These clauses will fix the formula for calculating the amount needed to redeem a rentcharge.

Problem under consideration

5.1.19 Rentcharges are an annual sum paid by the owner of freehold land to another person who has no other legal interest in the land. Rentcharges have existed since the 13th century and traditionally provided a continuing income for landowners who allowed their land be used for development.

5.1.20 In 1977 Parliament passed the Rentcharges Act which, subject to limited exceptions, prevents the creation of new Rentcharges and provides for the removal of any remaining Rentcharges on 22 July 2037.

5.1.21 The Act also provides a statutory right for rentcharge payers wishing to redeem rentcharges to apply to the Secretary of State for a redemption as an alternative to redeeming by private agreement with the

rentowner. The Act provides a formula which references a Government gilt (2½% Consolidated Stock undated) that was redeemed by the Government in July 2015.

Rationale for intervention

5.1.22 Until a replacement is found for the consolidated stock it is not possible for the Secretary of State to calculate the redemption price using the statutory redemption process.

Impact of intervention

5.1.23 Rent payers seeking to redeem a rentcharge through the statutory route will be able to redeem (buy out) the charge that would otherwise be payable.

Summary of Benefits and Costs

5.1.24 No financial impacts are anticipated.

Part six

Planning in England

Clauses 92 – 95

Neighbourhood planning

Policy

- 6.1 The Conservative Party Manifesto and Queen’s Speech 2015 confirmed Government’s support for neighbourhood planning and committed to speed up and simplify the process.

Problem under consideration

- 6.2 On average, the neighbourhood planning process takes two years to complete^[1]. This can be reduced by introducing time periods for local planning authority decisions at key stages in the process. We also propose new powers for neighbourhood forums to allow them to participate more effectively in local planning.

Rationale for intervention

SPEED UP AND SIMPLIFY NEIGHBOURHOOD PLANNING

- 6.3 The Bill measures help to do this by introducing powers to allow automatic decisions on designation of areas in certain circumstances which are to be detailed in regulations. For example this could be the designation of whole parish areas (or other types of area after a set time period). The Bill measures also allow the introduction of time periods for making key decisions by the local planning authority during the process and allow the Secretary of State to intervene on the decision to send a plan to referendum in a limited range of circumstances.

^[1] From when a group applies to start the process by submitting an application for area designation, to the local planning authority adopting a plan successful at referendum.

- 6.4 Around 90% of applications for area designation come from parish and town councils^[2], with 90% of those applying for an area which follows the precise administrative boundary. Data collected by the Department indicates it has taken as long as 19 weeks for parishes and 26 weeks for other areas to be designated.
- 6.5 Our proposal for automatic decisions on designation in certain circumstances (to be detailed in regulations), reduces the administrative burden on local planning authorities and allows groups to start planning more quickly. On average, it takes seven weeks for a local planning authority to decide whether a plan should proceed to referendum and nine weeks for a plan to be 'made' following success at referendum. Introducing a time period would encourage more timely decisions in the slowest areas, help reduce unnecessary delays and allow groups to maintain momentum through the process. These proposals were supported by stakeholder engagement in July 2015.

MORE POWERS FOR NEIGHBOURHOOD FORUMS

- 6.6 The Manifesto committed to giving local people more say over local planning. Allowing neighbourhood forums to request notification of planning applications in their area is current best practice, and is a power already enjoyed by parish councils. It empowers communities who have shown strong commitment to meeting future development needs and enables them to participate more effectively in local planning.

Impact of intervention

SPEED UP AND SIMPLIFY NEIGHBOURHOOD PLANNING

- 6.7 More timely decision-making by Local Planning Authorities as a result of these powers could speed up neighbourhood planning by an average 17 weeks²⁵.
- 6.8 We anticipate that interventions will also reduce overall burdens on local planning authorities; in particular, automatic decisions on designation if applied for example to whole parish areas represents a substantial cost and administrative saving for local planning authorities as they would no longer need to consult on these designations. Costs for publicising and consulting on area applications vary between each local planning authority but we are

^[2] Town councils are included when referring to parish councils in this document.

²⁵ Figure based on presumption that LPAs comply with timescales and all other averages calculated by the Department remained the same.

aware of examples of authorities spending up to £2,000 to advertise in a local paper.

- 6.9 A local planning authority satisfied with an application from other types of area may also choose to inform groups that subject to any representations, they will be automatically designated once the prescribed period expires, saving administrative costs. Stakeholders have also indicated that introducing time periods for decisions would improve certainty and assist project planning through the process.

MORE POWERS FOR NEIGHBOURHOOD FORUMS

- 6.10 Feedback from stakeholders suggests there will be negligible impacts on authorities from notifying forums of planning applications, as there are already processes in place to do this. Neighbourhood planning forums saw this as a positive impact on their ability to engage in local planning.

Summary of benefits and costs

SPEED UP AND SIMPLIFY NEIGHBOURHOOD PLANNING

- 6.11 Allowing for automatic decisions on the designation of areas reduces costs on local planning authorities, while providing a simpler and faster mechanism for many groups to start neighbourhood planning. New time periods encourage the slowest authorities to make timelier decisions in line with the performance of the majority of authorities.

MORE POWERS FOR NEIGHBOURHOOD FORUMS

- 6.12 Allowing neighbourhood forums to receive information on planning applications in their area will allow them to better engage in local planning.

Clauses 96 – 100

Local Planning

Policy

- 6.13 These measures will reform the Secretary of State's powers to intervene in Local Plan-making, to enable the Government to work pragmatically with councils to produce a Local Plan, with the aim for every local planning authority to have a Local Plan in place.

Problem under consideration

- 6.14 In Section One, we set out the importance of boosting housing supply to keep up with growing housing demand.
- 6.15 Local Plans are the primary basis for identifying what development is needed in an area, deciding where it should go and providing the starting point for dealing with planning applications. Plans give communities and businesses alike certainty about what development is appropriate and where, and set out how local housing and other development needs will be met.
- 6.16 A local planning authority is responsible for producing and keeping their Local Plan up-to-date. As of September 2015, 82 per cent of local planning authorities have published a Local Plan and 65 per cent have adopted a Local Plan.
- 6.17 The focus on housing delivery and the likelihood of local areas meeting their housing need is therefore at risk in those 18 per cent of local authorities without a Local Plan.

Rationale

- 6.18 To mitigate the effects of the absence of a Local Plan on meeting housing requirements, the Government has made a commitment to get Local Plans in place in all areas. Where an authority has not produced a Local Plan by early 2017 the Government has committed to intervene to arrange for a plan to be written, in consultation with local people, to accelerate production of a Local Plan.
- 6.19 Powers which allow the Secretary of State to intervene in Local Plan-making have existed since 2004. However, experience of using these powers has highlighted their limitations.
- 6.20 The nature of the current intervention powers is such that the Secretary of State has had to take over plan-making in its entirety with decisions made in Whitehall. There is currently limited flexibility in the extent and the length of time for which the Secretary of State can intervene, which means intervention may not always be proportionate, and the most effective method of getting Local Plans in place cannot always be used.

- 6.21 The measures in the Housing Bill would provide smarter tools for the Secretary of State and would allow for more focused and proportionate approaches to intervention.

Impact

- 6.22 The proposed measures would supplement the intervention powers already available to the Secretary of State; retaining the ability for the Government to arrange for Plans to be written, but to allow for more targeted intervention that enables appropriate decisions to be taken locally. Therefore it is difficult to estimate the scale of the effect of the specific reforms as opposed to intervention more broadly (using existing powers) and therefore these benefits have not been monetised.
- 6.23 The policy should have a positive impact on the actions and behaviour of local authorities by encouraging them to make progress with Plans to avoid decisions being made elsewhere. Intervention is expected to speed up the process of bringing forward Local Plans in those areas where local planning authorities have not made progress, which in turn will provide certainty for businesses and communities.
- 6.24 For applicants, a Local Plan with robust, evidence-based policies that are then applied through the decision-making process provides clarity about what is and is not an acceptable development. This in turn should enable applicants to bring forward acceptable schemes that can move more quickly through the planning system with fewer decisions to be made on appeal; ultimately enabling development, and its associated benefits, to be brought forward more quickly.

Summary of Benefits and Costs

- 6.25 The key benefit of the measures is to allow for a more targeted approach to intervention in plan-making by the Secretary of State; to both encourage progress with plan-making and enable more effective intervention where necessary. This helps provide certainty for businesses and communities, while at the same time allowing for Local Plans, as far as possible, to be developed locally.
- 6.26 The measures do not seek to regulate business or civil society organisations and therefore bring no additional costs to these organisations.

Clause 101

Planning in Greater London

Policy

- 6.27 In line with our wider aim to devolve power wherever possible, the Government wishes to increase the planning powers of the Mayor of London, by devolving powers to define those locations where he should be consulted to ensure strategically important areas are protected, such as safeguarded wharves and protected vistas, and by allowing the Mayor to define through the London Plan when applications are of strategic importance, such as in Strategically Important Development Zones (SIDZs).

Problem under consideration

- 6.28 The Government is determined to return powers, annexed by central government over decades, to local decision makers.
- 6.29 There are instances where the Mayor of London, as a locally elected person, is better suited to making strategic decisions on how to ensure housing is delivered in the most appropriate way.

Rationale for intervention

- 6.30 The Manifesto stated that: “We will devolve further powers over skills spending and planning to the Mayor of London.” The Government’s Productivity Plan also set out an intention to increase housing density around transport nodes, which these proposals help to achieve in London.
- 6.31 To give effect to the commitment to devolve powers, the Government wishes that the Mayor should be able to:
- a. determine locations where his powers can protect areas, such as strategic wharves, where the Mayor may direct a Local Planning Authority to refuse an application for planning permission for development;

- b. determine the location and other criteria for ‘protected vista’ applications, which are subject to the Mayor’s power to direct refusal of planning permission;
 - c. through the London Plan, determine the boundaries of ‘Central London’ and the ‘Thames Policy Area’ for the purposes of the Mayor’s call in and refusal powers.
- 6.32 We intend to enable the Mayor to better decide whether an application for development is of ‘potential strategic importance’ for the purposes of his ‘call in’ and refusal powers. He will do this by being able to determine areas within which different call-in criteria apply, such as Strategically Important Development Zones. This will help facilitate higher density development around transport nodes.
- 6.33 This is intended to allow the Mayor to ensure the strategic importance of London’s housing supply is fully considered, particularly in those areas where it would have the most impact.

Impact of intervention

- 6.34 Our plans devolve additional powers from the Secretary of State to the Mayor. The Mayor can use these powers to reduce or increase his scope for intervention and indeed does not have to use them at all.
- 6.35 For those applications which would fall within scope of the Mayor’s powers following this determination, the Local Planning Authority would consult the Mayor on applications. This would allow the Mayor to advise the Authority on the strategic issues associated with the application.
- 6.36 Depending on the circumstances under which the Mayor is consulted, these powers would also allow the Mayor to direct refusal of an application, or to determine that he should become the Local Planning Authority and take over the application.
- 6.37 In practice, the Mayor’s use of this power is minimal, having thus far used this power 14 times since 2008. There should be no impacts on business as a result of these powers, as they represent a power to enable the Mayor to introduce a mechanical change to how applications are considered.

Summary of Benefits and Costs

- 6.38 There would not be any direct costs to businesses from the transfer of the powers. The Local Planning Authority is already required to take account of the Mayor's strategic policies in his London Plan. The proposals allow a mechanical change to how applications are considered. There may be benefits to business where the Mayor approves an application that would otherwise be refused. Given that this is entirely dependent on the specifics of the case it is not possible to estimate the scale of this potential benefit.
- 6.39 Local authorities may have to consult the Mayor on a small number of additional planning applications, though the costs of doing this would be minimal.

Clause 102

Permission in principle

Problem under consideration

- 6.40 Developers often need a level of certainty about whether a site is suitable before they are willing to take development proposals forward. The planning system gives some certainty on suitability when land is allocated in development plans prepared by local planning authorities and some neighbourhood groups. However, the basic questions of site suitability are often then tested again multiple times in the process. The resulting lack of certainty can discourage developers from taking some proposals forward.

Rationale for intervention

- 6.41 The Government is committed to providing developers with more certainty earlier in the development process to encourage them to take proposals forward and increase the supply of land with planning permission for new homes.
- 6.42 The Government proposes to legislate to enable the Secretary of State to grant 'permission in principle' via a development order to land that is allocated for development in locally produced plans and registers. Permission in principle is a new form of planning consent that will give upfront certainty on key issues of site suitability like

location, use, and quantum of development. The legislation will also allow local authorities to grant permission in principle on application (initially targeted at minor development). Permission in principle will be followed by an application to agree the technical details of the scheme before the applicant can start work on site.

- 6.43 Firmly establishing the principle of development once before asking applicants to provide costly technical information would: improve efficiency by reducing duplication of effort; reduce uncertainty for all users of the planning system; and encourage applicants to bring forward proposals and/or save them the cost of failed applications turned down due to site unsuitability.
- 6.44 We propose to use the powers to enable permission in principle to be granted for housing identified in new brownfield registers, local plans and neighbourhood plans, and to provide an application route for smaller builders.

Summary of benefits and costs

BENEFITS

- 6.45 Where permission in principle has been given through a plan or register the level of information required by applicants is likely to be less than what is produced in the existing process, as the applicant will only be required to satisfy the technical details.
- 6.46 There will also be time and cost savings for all users of the planning system as permission in principle will avoid the (repeated) effort and expense involved in the existing process in establishing that the development is acceptable in principle.
- 6.47 As permission in principle will remove the risk for applicants that a proposal is refused on grounds of the site being unsuitable, we expect that applicants will benefit from savings as a result of paying planning application costs on fewer unsuccessful applications. We estimate the cost per application to be around £67,000 for major developments and £22,000 for minor developments, based on research conducted by ARUP in 2009.²⁶
- 6.48 In light of the costs of producing planning information and working in the existing uncertain planning process, we expect that the savings to

²⁶ <http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/documents/planningandbuilding/pdf/benchmarkingcostsapplication.pdf>

applicants will be significant. These savings will be quantified in the course of further engagement.

- 6.49 We expect it will take time for full implementation to occur, as brownfield registers do not currently exist and the measure will apply to site allocations in future plans and not retrospectively. However the total number of developments annually that could benefit from permission in principle will grow as plans and registers come on stream and make site allocations. Based on the number of applications granted for major development in 2014-15, we estimate that the maximum number of sites that could benefit from the proposals could amount to around 7,000 each year.
- 6.50 We expect these benefits to be ongoing, since local planning authorities are under an obligation to maintain a sufficient supply of housing sites in their plans, thus we expect new sites will be allocated to replace those that have been built on.

COSTS

- 6.51 We anticipate that there may be some one-off familiarisation costs linked to these proposals. These costs will fall only on those who choose to follow the new consent route. Existing routes will remain open to applicants, who will not incur any familiarisation costs if they choose these routes.
- 6.52 We estimate that it will take one person in each developer company half an hour to familiarise themselves with the new arrangements and calculate that the total familiarisation costs to business on a one-off basis would be £0.4 million.
- 6.53 These costs are small when spread over the number of applications that will benefit from permission in principle and will be more than outweighed by the savings resulting from reduced information production and increased certainty.

IMPACT ON LOCAL PLANNING AUTHORITIES AND NEIGHBOURHOOD GROUPS

- 6.54 Local planning authorities and neighbourhood groups will use well established plan making processes to grant permission in principle through their local and neighbourhood plans and therefore we do not anticipate that the proposals will impose a new burden on them in these cases. It will also be optional for the local planning authority to grant permission in principle through brownfield registers. Whether this will introduce new burdens will depend on how the process is

designed and how much of it works within existing processes. This will be established in the course of further engagement.

Clause 103

Local registers of land

Policy

6.55 The clause in the Housing Bill provides the Secretary of State with a power to require local authorities to prepare, maintain and publish local registers of land of a specified description. We will use Regulations to require authorities to prepare registers of brownfield land that is suitable for housing.

Problem under consideration

6.56 Data on brownfield land is out of date and of poor quality. The most recent data published by the Department was in 2011 based on local authority returns to the National Land Use Database in 2010. Since 2010 the number of authorities completing returns has reduced and it is currently estimated to be about 50%. Local authority data on suitable brownfield land in their area is variable. While some have well established systems for data collection others do not see it as a priority.

6.57 The absence of robust data has led to assertions by the Campaign for the Protection of Rural England and others that brownfield land has the capacity to accommodate over 1 million homes. We consider this to be wildly over optimistic as only a fraction will be suitable for housing. (This land, for example, may not be suitable or available for development, may be located in the wrong place, or subject to physical and/or environmental constraints).

Rationale for intervention

6.58 The Government is fully committed to increasing housing delivery to meet the need for new homes. Brownfield land plays an important role. The Manifesto includes commitments to:

- ensure that brownfield land is used as much as possible for new development; and

- require local authorities to have a register of what is available, and ensure that 90 per cent of suitable brownfield sites have planning permission for housing by 2020.

6.59 Statutory registers will ensure that a consistent set of data on suitable brownfield housing sites will be made available by local authorities. The improved availability and transparency of information will provide certainty for developers and communities and encourage investment. The registers will also help the Department and others to measure progress in delivering planning permissions.

Impact of intervention

6.60 Registers of brownfield sites that are suitable for housing will be updated regularly (at least annually) and publicly available. This 'one-stop' source of information will be helpful to prospective developers, communities and others who are interested in the delivery of housing in local areas. They will enable local authorities, the Department and other interested parties to see the degree to which brownfield land is contributing towards housing delivery and allow the Government to monitor progress towards the 90% commitment.

Summary of Benefits and Costs

6.61 Initial analysis has not identified significant costs to business. The measure does not require business to undertake new tasks or activities. There may be new burdens for local authorities associated with entering data on suitable sites onto local registers, which will be addressed separately.

6.62 The improved transparency and availability of up to date information about potential housing sites should benefit business and may result in some marginal cost savings, by, for example, simplifying research currently required to find development opportunities. However, this would be likely to improve information available to developers and improve their business decisions, rather than necessarily reducing costs directly.

Clause 104

Approval condition where development order grants permission for building

Problem under consideration

- 6.63 The Secretary of State has powers to grant planning permission, by development order, on a nationwide basis for certain types of development. These national planning permissions are known as *permitted development rights* and remove the requirement for a planning application to be made to the local planning authority. Since 2010, the Government has put in place a range of expanded permitted development rights to support growth including for new state funded schools, telecommunications, extension of dwelling houses and conversion of various types of buildings (including offices, farm buildings, shops, storage buildings) to housing.
- 6.64 The Government recognises the need to take proper account of any adverse impacts that may arise from development permitted under the rights. Where any extension to permitted development rights allows for building operations, it may be necessary for local authorities to consider a broader range of specific conditions relating to those operations than is currently possible.

Rationale for intervention

- 6.65 Adverse impacts are prevented and mitigated through the imposition of conditions and limitations on the rights. Section 60 of the Town and Country Planning Act 1990 expressly allows for the national planning permissions granted under the General Permitted Development Order to be subject to conditions and limitations.
- 6.66 Where impacts cannot be sensibly assessed on a national basis (for example, because they require knowledge of the local area) the approach has been to give the local planning authority power to approve the mitigation measures proposed by the developer before the development takes place. This is known as 'prior approval'.
- 6.67 To date, the powers in section 60 of the 1990 Act have meant these 'prior approval' provisions were limited to permitted development rights related to change of use and not building operations such as

rebuilding. This means that local planning authorities' considerations on prior approval matters for any operational developments were restricted to the design or external appearance of the buildings.

- 6.68 We propose to legislate to enable local planning authorities to consider a broader range of specific conditions relating to building operations to allow proper account to be taken of the impacts of any development permitted, including on neighbours amenity. We consider this will ensure consistency with those established rights for change of use.

Impact of intervention

- 6.69 The primary power has no direct impact but will enable the Government to set out in secondary legislation a broader range of specific conditions where permitted development rights allow for building operations. Any permitted development rights to allow for building operations would reduce planning application costs and potentially support additional levels of development. The wider approval provisions sought for building operations will ensure local authorities are able to take proper account of any adverse impact on amenity that may arise from development permitted.

Summary of Benefits and Costs

BENEFITS

- 6.70 Developers will benefit from savings from not having to complete a planning application including a reduced fee and preparatory/administrative work avoided where permitted development rights to allow for building operations are brought forward through secondary legislation, even where prior approval from the local planning authority is required. The extent of savings achieved would depend on the original cost of preparing and submitting the application, and the cost of any new prior approval requirements. Previous assessment of permitted development rights for the change of use of offices to residential estimated average cost saving per application of £750 for change of use applications. Similar savings per application would be likely for any permitted development rights for building operations brought forward through secondary legislation.
- 6.71 It is also possible that - in addition to reducing the cost of a planning application – any permitted development rights allowing for building

operations could also lead to some development and land value uplift that would not otherwise have taken place and some increase in profits for developers.

- 6.72 Local planning authorities will benefit due to the reduction in administrative costs required for the planning process as a result of having fewer planning applications. However, this benefit will be offset by a decrease in fee income from prior approval applications, which may not always cover its costs.

COSTS

- 6.73 There will be no direct costs to business as a result of this measure. We do not expect that costs to business would be generated by allowing local authorities to consider a broader range of matters where permitted development rights provide for building operations. The wider approval provisions for building operations will ensure local authorities are able to take proper account of any adverse amenity impact that may relate to those operations.
- 6.74 We do not expect there to be familiarisation costs for searching for new regulations as regards any permitted development rights brought in for building operations, since in general given the bespoke nature of planning proposals we expect applicants to consult regulations in every case. As a consequence applicants would incur the costs of searching for any regulations subsequently brought in under the primary power in the counterfactual. This is consistent with the arguments made in previous validation assessments e.g. Reducing planning regulations to support housing, high streets and growth (March 2015), which the RPC rated as green.

Clause 105

Planning applications that may be made directly to the Secretary of State

- 6.75 This policy allows planning applications for non-major development to be submitted to and decided by the Planning Inspectorate (on behalf of the Secretary of State), where the local planning authority has a track record of very poor performance in the speed or quality of its decision-making. This will support growth by encouraging and allowing decisions to be taken more quickly, and with more decisions

that are 'right first time' (avoiding the time and expense of a planning appeal).

- 6.76 This policy is a natural extension of the existing designation regime that measures performance on applications for major development, and the right of all applicants to appeal to the Planning Inspectorate on grounds of non-determination if no decision has been made after eight weeks.

Problem under consideration

- 6.77 To meet the Government's objective of increasing housing supply, local planning authorities need to make their planning decisions on time allowing faster starts on site, and make sure that more decisions are 'right first time' so applicants avoid the time and expense of a planning appeal.
- 6.78 Many planning authorities are doing this, but not all. Slow planning decisions and schemes that are refused for no good reason delay investment in much-needed new homes which is why we are taking specific action to address instances of sustained poor performance.
- 6.79 The Growth and Infrastructure Act 2013 introduced the existing designation regime, which assesses performance on the speed and quality of decisions involving applications for major development. Performance data indicates that it has been effective in speeding up applications for major development: 78 per cent of major applications were decided on time in April to June 2015, compared with 57 per cent in July to September 2012, the quarter in which the designation regime was first announced. The processing of minor applications, however, has not seen similar levels of improvement, and in a small number of authorities fewer than 50% of applications are decided on time.

Rationale for intervention

- 6.80 Unnecessarily slow decisions – and planning refusals that are later found not to be justified – hinder development and growth, and mean that applicants incur unnecessary costs.
- 6.81 The policy will give applicants a more certain and timely route for having their application decided, in those few places where the local

planning authority has a track record of very poor performance in either the speed or quality of its decision-making.

- 6.82 This will be achieved by giving applicants in such places the option of applying direct to the Planning Inspectorate²⁷, who will be able to deliver quicker decisions and greater certainty on planning applications where an applicant is allowed to apply directly to it because the local planning authority has a track record of persistent delays.

Impact of intervention

- 6.83 Applicants will benefit directly by having the opportunity to submit their application directly to the Planning Inspectorate in areas where the planning authority has a track record of under-performance. There will be knock-on benefits for home buyers and commercial occupiers, due to an improved and more timely supply of development as a result. Communities will also benefit indirectly from the greater certainty that arises from faster decisions.
- 6.84 The policy will have a direct impact on those planning authorities that are designated as under-performing, as some of the planning applications that would otherwise have been submitted to them will instead go to the Planning Inspectorate, (along with the application fee). Ultimately though, the policy is intended to prompt such authorities to improve, and indeed to encourage all authorities to maintain an effective planning service.

Summary of Benefits and Costs

- 6.85 In areas that have been designated as under-performing, applicants will have a choice of whether to submit a non-major application²⁸ direct to the Planning Inspectorate. Given the authority has been designated for having a track record of persistent delays; we expect applications submitted directly to the Planning Inspectorate to be determined more quickly. This benefits applicants as timely decisions should reduce unnecessary costs in holding land, financing and submitting applications.

²⁷ Although it is not proposed to extend this ability to applications for householder development, which by their nature are very small in scale and best dealt with at the local level.

²⁸ Applicants for householder development will not be able to submit their application direct to the Secretary of State, for the reasons set out above.

- 6.86 It will also result in more applications being approved on first submission should authorities have a high incidence of refusals being overturned at appeal (also enabling developments to proceed more quickly). As a consequence, there should be fewer instances where applicants need to incur the additional costs of pursuing an appeal.
- 6.87 Where decisions are of better quality and more timely, development can be delivered more quickly. Society is able to enjoy the economic benefits of residential and commercial development earlier.

Clause 106

Local planning authorities: information about financial benefits

Policy

- 6.88 The Government wishes to ensure that the decision making process for major applications is as transparent as possible, so that local communities are more aware of the financial benefits that development can bring to their area.

Problem under consideration

- 6.89 The Government is concerned that the potential financial benefits of planning applications are not fully set out publicly during the course of the decision making process, particularly major ones which are more likely to be considered by a planning committee or the Local Planning Authority itself.
- 6.90 This has a negative impact on transparency, preventing local communities from understanding the full benefits that development can bring.

Rationale for intervention

- 6.91 The previous Government implemented a number of measures to increase the financial benefits that accrue to local areas as a result of development

- We introduced the New Homes Bonus. This provides a financial benefit to local authorities for each property added to the council tax register.
- We introduced a Community Infrastructure Levy where developers pay a levy, calculated according to a local authority's "charging schedule", on certain types of development. That income may be spent on a range of infrastructure.
- We enabled local authorities to retain a share of business rates from new development.

6.92 An evaluation of the New Homes Bonus found that the New Homes Bonus has had a positive impact on local authority attitudes towards new housing, but was not necessarily a material consideration in most planning decisions. It was not often referenced in reports.

6.93 The Government, therefore, amended National Planning Policy Guidance to make clear that local finance considerations may be cited for information in planning committee reports, even where they are not material to the decision.

6.94 Despite these changes, the Government is concerned that communities may not be sufficiently aware of the potential financial benefits of planning applications during the course of the decision making process.

6.95 Therefore, the Government intends to introduce a duty on Local Planning Authorities to record details of prescribed financial benefits, including those that are not strictly material to a planning decision, in reports to a planning committee or the authority itself, for the purposes of considering a planning application.

Impact of intervention

6.96 This measure does not change what decision makers will look at when they take decisions on planning applications. It is simply to make the local community more aware of the financial benefits which are otherwise non-material to planning decisions. It should not, therefore, affect the decisions that Local Planning Authorities take.

6.97 The measure is, however, expected to lead to the local community more fully understanding all the benefits that development can bring,

and in some cases reduce the levels of objection to a proposed planning application.

Summary of Benefits and Costs

- 6.98 Local Planning Authorities will be required to record details of the potential financial benefits they might receive *so far as is reasonably possible* at the time that the report is put to a planning committee or the authority itself.
- 6.99 The precise amount of a financial benefit that will accrue to a Local Planning Authority from an approved planning application may not be known until it is built out, for example, when council tax banding or business rate valuation has been determined.
- 6.100 Therefore, the information that authorities will be expected to provide will be tailored to the extent to which it can easily be established at the time of determining the application.
- 6.101 Primarily, the Department is interested in ensuring that planning reports record the simple fact that a financial benefit is likely to flow from development and as far as is possible an idea of the scale of benefit. Therefore, the cost to a Local Planning Authority of placing the prescribed information in planning reports is expected to be negligible.
- 6.102 Increased transparency may, in some cases, reduce the levels of objection to a proposed planning application. This has the potential to reduce the costs a Local Planning Authority incurs in processing a planning application.
- 6.103 In addition, increased transparency about the financial benefits of development may also reduce Freedom of Information requests received by Local Planning Authorities, and hence the cost of investigating and replying to such requests.

Clause 107

Nationally significant infrastructure projects

Policy

6.104 The Government wishes to allow developers seeking development consent from the Secretary of State for a nationally significant infrastructure project to include an element of housing in their application.

Problem under consideration

6.105 The Nationally Significant Infrastructure Planning regime, based on the Planning Act 2008, provides a bespoke consenting system for large infrastructure projects in a range of sectors. The process entails the granting of a Development Consent Order, after a rigorous process of preparation, examination and determination. However, the provision of housing is currently precluded from the nationally significant infrastructure planning regime.

6.106 This means where housing is required for workers involved in the construction and operation of the facility, the application for such housing must be made separately through the Town and Country Planning Act system. The only exception within the nationally significant infrastructure regime is the provision of strictly temporary bed spaces for workers and this must be demolished once the construction is complete.

6.107 Secondly, it means that major infrastructure developers cannot include within their applications any general housing even where this could usefully sit alongside the infrastructure project itself. Developing a nationally significant infrastructure project may have the effect of making sites that were previously considered unsuitable for housing growth to become suitable

Rationale for intervention

6.108 The intended effect is a) to offer choice to developers who may find it more cost or time effective to obtain permission to provide housing necessary for the construction and operation of their project through a Development Consent Order rather than through the Town and

Country Planning Act route; and b) to allow an element of general housing to be consented as part of a Development Consent Order.

- 6.109 It is important to note two features of the scheme when outlining intended effects.
- 6.110 First, it will be for developers to determine if they wish to include an element of housing within a Development Consent Order; there is no expectation on the part of Government that they should do so.
- 6.111 Secondly, developers might prefer to use the Town and Country Planning Act regime, as is currently possible, and so this measure simply gives them a choice as which planning process to use for a housing element.

Impact of intervention

- 6.112 An outcome of this change is that developers will have a choice as to whether or not to include an element of housing within an application for consent for a nationally significant infrastructure project.
- 6.113 The measure is straightforward - we are designing it to be transparent with plain-English guidance so developers can make well informed choices about whether and how best to bring housing forward. We anticipate that developers will only choose the nationally significant infrastructure planning route to deliver housing when cost or time savings or additional benefits would be realised by doing so. If not, they are still able to use the existing planning route.

Summary of benefits and costs

- 6.114 There is no simple or meaningful comparison between the direct and indirect costs of submitting an average application under the nationally significant infrastructure planning regime versus an average Town and Country Planning Act application for the housing element of an infrastructure project. Costs vary according to project size, nature and circumstances, and both systems place requirements for rigour in terms of the evidence supplied and process undertaken. The Planning Inspectorate provides a free pre-application service to developers who are preparing a nationally significant infrastructure planning application and as part of that provide advice on the likely costs of pursuing an application (which is influenced by its scale and complexity and how many Examining Inspectors will be required).

- 6.115 We consider that it is highly unlikely that the inclusion of a housing element would increase the fees payable to the Planning Inspectorate for considering an application for a nationally significant infrastructure planning project. The fee tariff for nationally significant projects comprises steep steps based largely on the estimated amount of inspector time that will be required, and in particular whether one, three, four or five inspectors are needed to examine the application within the available time. It is unlikely that the inclusion of a housing element would add so much to workload as to shift an application from needing, say, four rather than three inspectors. However to mitigate this small possibility the Planning Inspectorate will advise potential applicants so they can be aware of potential costs when deciding whether or not to include an element of housing within an application. Therefore an increase in fees is not only a very remote possibility, but it would only apply to developers who will have chosen, with prior knowledge of the likely fees, to pursue the option of using the nationally significant infrastructure regime rather than the Town and Country Planning Act option.
- 6.116 In terms of take-up of the measure, there are currently in the range of 12 – 15 nationally significant infrastructure planning projects a year. We cannot predict the impact of this measure on take-up with any confidence yet at this stage, but we believe it may increase take-up somewhat in the ‘business and commercial’ category of nationally significant infrastructure projects if developers believe that the addition of an element of housing will be beneficial for such projects. We will observe how developers and local areas react to this opportunity but we do not expect the overall impact on national house building levels to be high.
- 6.117 In conclusion, we estimate that there are no net additional costs to developers from this reform. For any nationally significant infrastructure project that chooses to seek consent for housing as part of their Development Consent Order, it is assumed they will do so because it is in their interest to choose this route because there will be cost or time savings to be had from seeking permission in this way. Therefore we can be confident that this change will either deliver a small saving to business, or in the worst case be neutral.

FAMILIARISATION COSTS

- 6.118 We do not expect businesses to incur any familiarisation costs. In the main, nationally significant infrastructure project applicants are relatively large companies, notably in regulated or semi-regulated

sectors of energy and transport. Such large companies typically employ in-house planning and sometimes legal expertise who are familiar with both the nationally significant infrastructure and the Town and Country Planning regimes.

- 6.119 For a nationally significant infrastructure project, developers already typically employ the services of specialist planning consultancies and legal practices, who draft documentation needed for an application and advise on and support the applicant in the process. Such specialist planning and legal practices can be expected to possess relevant expertise on both the nationally significant infrastructure planning and Town and Country Planning Act regimes, and a good appreciation of the differences between the two systems and which would be more suitable for the project they are taking forward. Since this is already the scenario under which the majority of nationally significant infrastructure planning applications take place, it is highly unlikely that this change would impose any additional familiarisation burden on developers.
- 6.120 Local authorities have defined roles within the nationally significant infrastructure planning regime and guidance is available, together with support from the Planning Inspectorate, to help them fulfil those roles. Because nationally significant infrastructure projects are still relatively rare (only 42 have been consented since inception in 2010) the aggregate impacts will be minor. The additional element of housing will not, of itself, make a significant addition to the familiarisation costs of such local authorities in dealing with a nationally significant infrastructure project for the first time.
- 6.121 For all these reasons, we believe that familiarisation costs will be trivial.

OTHER CONSIDERATIONS

- 6.122 Local authorities have different roles in nationally significant infrastructure planning regime and Town and Country Planning Act system, with a common feature being that both regimes require local authorities to participate and this involves the expenditure of officer time. Under the Town and Country Planning Act regime they can recover costs through fees. This is not the case with a Development Consent Order application, where fees are paid to the Planning Inspectorate and not to the local authority. A local authority hosting a nationally significant infrastructure project may, however, seek to negotiate a Planning Performance Agreement with developers as a contribution towards its costs.

- 6.123 We believe that some housing applications brought forward through this route may be for housing development that would not otherwise be applied for. In some cases, it is possible that no application would be made under the Town and Country Planning Act regime in the absence of there being an option to pursue under the nationally significant infrastructure planning regime, for example because the infrastructure project itself has created a new opportunity for housing where it would not otherwise be considered or be suitable.
- 6.124 In such cases there will be no loss of income to the local authority as a result of the housing being consented through the nationally significant infrastructure planning regime instead of through the Town and Country Planning Act system.

Clauses 108 – 110

Urban Development Corporations

Policy

- 6.125 Provisions to amend the class of statutory instrument required in order to establish an Urban Development Area (UDA) and an Urban Development Corporation (UDC), by changing it from the affirmative procedure to the negative procedure.
- 6.126 This will create a faster and more efficient process for creating Urban Development Areas and Corporations whilst ensuring that those with an interest locally are properly consulted at an early stage.

Problem under consideration

- 6.127 Establishing a UDC through the affirmative procedure can add an unknown amount of time to the Parliamentary process which can make it difficult to know precisely when the Statutory Instrument will come into force. This makes it more difficult to plan for the set-up and mobilisation of the UDC (particularly since there are tight restrictions on spending in advance of Parliamentary approval). This means that resources are required to be mobilised rapidly once approval is in place and works against the efficient use of resources.

- 6.128 Planning applications may be delayed as developers and others wait for the UDC to be established. Or, developers may continue with existing applications and development which may not fit with the UDC's plans for the UDA. This can potentially both increase legal costs and local tensions.

Rationale for intervention

- 6.129 These measures will allow Urban Development Areas and Corporations to be established more quickly and more cheaply. The current (temporary process) is the same as proposed in the Bill, and was established in the Deregulation Act 2015. It was established with a sunset clause that expires on March 31 2016.
- 6.130 Establishing a UDC through the affirmative process is certain to be deemed hybrid. The delay and uncertainty inherent in the affirmative (and hybrid) resolution process delays the delivery of the important outcomes intended to be served by the creation of the UDC. This creates a period of hiatus and uncertainty which counter the purposes of establishing the UDC.

Impact of intervention

- 6.131 The local community will know that where it is proposed that an UDA and UDC will be established in their area, they will be properly consulted. This is a well-known process and is easily accessible by local people who may have no idea that they could petition against a draft regulation in Parliament.
- 6.132 If after a consultation, a UDC is established, communities, developers, local businesses and others can have more certainty as to when they can start engaging with a UDC rather than with the local authorities on planning and other matters.
- 6.133 If a UDC is established after consultation, local authorities will lose powers over the assigned Urban Development Area but as mentioned above, will have more certainty over when the powers are transferred and can plan accordingly

Summary of benefits and costs

- 6.134 We have not monetised any costs or benefits because we are solely seeking to change the parliamentary process in which Urban

Development Areas and Urban Development Corporations are established (in England only). This change in process is not expected to impose any new costs on businesses, local authorities or nearby communities.

- 6.135 This policy will have a positive non-monetised effect through savings in time and reduced uncertainty for local communities, businesses and developers through the establishment of an urban development corporation when planning their allocation of resources and future investments. It would be disproportionate to quantify these benefits.

Part seven

Compulsory Purchase etc

Policy

7.1.1 The Government wishes to improve compulsory purchase procedure in the following ways:

- Streamlining of Government Processes - Various process improvements to the compulsory purchase order confirmation stage, with the aim of making the system faster and more transparent.
- Making the powers of entry for survey purposes prior to a CPO fairer and more consistent.
- Reforming High Court Challenges. Widening the remedies available to the Courts to allow them to quash the Secretary of State's decision to confirm a compulsory purchase order as an alternative to quashing the order (either in whole or part) following a successful challenge, so allowing faster reconsideration of a compulsory purchase order which has been successfully challenged.
- Entry to take possession of acquired land. Increasing and standardising at three months the minimum notice periods for entry to take possession, and introducing an expedited notice process in specified circumstances.
- Advance payments of compensation. Improving the system of advance payments to allow clearer and better structured claims and earlier payments.
- Extending the right to override easements and restrictive covenants currently restricted to planning authorities and regeneration agencies.
- Harmonising procedures for settling disputes about material detriment. Providing a system which allows the acquiring authority to enter and take possession of the land they are authorised to

take, before any dispute about material detriment has been determined by the Upper Tribunal.

Problem under consideration

7.1.2 Compulsory purchase powers are an important tool for assembling land needed to help deliver social, environmental and economic change. Used properly, compulsory purchase can contribute towards effective regeneration. Because the process interferes with the human rights of those with an interest in the land affected, there must be adequate safeguards in place to protect those rights. A number of changes have been made to improve the system in recent years. However, there continues to be concern that the existing process is too convoluted and complex.

7.1.3 In March 2015 the Government published a consultation paper: *Technical consultation on improvements to compulsory purchase processes*, setting out a range of proposals aimed at making the compulsory purchase process clearer, faster and fairer for all. The consultation closed on 9 June. A link to the consultation paper is here: [Consultation Paper](#).²⁹

Rationale for intervention

7.1.4 These changes are designed to make the compulsory purchase process clearer, faster and fairer. All parties will be better informed by clearer, more accessible guidance and benefit from a faster system. The system will also be fairer for both those whose interests are compulsorily acquired and for the acquiring authorities.

Impact of intervention

7.1.5 There are two main groups who will be affected by these proposals:

- Acquiring authorities – these can be either public sector bodies (mainly local authorities) or private sector authorities (mainly utilities companies). Average figures for compulsory purchase orders in the last 3 years (2012, 2013 and 2014) show that of an average of 167 submitted per year, only 16 were from private sector acquiring authorities.

²⁹ This is available online at www.gov.uk/dclg

- Claimants i.e. those whose interests are being compulsorily purchased. Within this group there are two main types – businesses and residents.

7.1.6 There are, therefore, interests on both sides of these proposed changes. So a change which might result in cost savings or benefits to acquiring authorities might impose a cost on a claimant whose interest in land is being acquired and *vice versa*.

Summary of benefits and costs

7.1.7 We have undertaken a review of available evidence about the number of orders submitted each year across all Whitehall departments. In addition, we have worked closely with the National Planning Casework Unit (who deal with the majority of orders) to obtain information about timescales for handling casework. In addition, in consulting on the draft proposals we sought views on the assumptions about the nature and scale of impacts of the proposals. We also held an Impacts Seminar during the consultation exercise with leading practitioners specifically focussed on testing our understanding of the likely impact of the measures and the assumptions underpinning that understanding.

7.1.8 We have not been able to monetise the costs to acquiring authorities but they are offset by the benefits to claimants. We estimate the net cost to private business of the change in advance payments to be approximately £800,000 per year. Responses to our consultation confirmed that our estimate is reasonable.