

Title: Implement Part 1 Commons Act 2006 in full in Cumbria and North Yorkshire and corrective applications under Part 1 across England IA No: DEFRA1814 Lead department or agency: Defra Other departments or agencies:	Impact Assessment (IA)		
	Date: 15/08/2014		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Secondary legislation		
Contact for enquiries: Grant McPhee (grant.mcphee@defra.gsi.gov.uk or 0207 238 6326)			
Summary: Intervention and Options			RPC Opinion: RPC Opinion Status

Cost of Preferred Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out? Measure qualifies as
£-1.01M	£-0.01M	£0M	Yes IN

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

The registers of common land and town & village greens (TVGs) are the legal record of the land and are used to manage and protect them. They were created under the Commons Registration Act 1965, which required all commons, TVGs and rights over them to be registered by 1970. Mistakes were made when the registers were compiled but flaws in the legislation mean there are insufficient powers to correct them. Failure to keep registers up to date can lead to externalities e.g. devaluation of property through mistaken registration. Intervention to allow the registers to be corrected would address inefficiencies in the operation of markets and institutions (e.g. correcting registers in the system) and would provide certainty on whether the land has any rights over it or not.

What are the policy objectives and the intended effects?

The policy objective is for the registers to accurately reflect today's details of commons, TVGs and the rights over the land (e.g. the present owner of a right of common, not the owner in the late 1960s). The intended effect is that the accurate record will allow for the better protection of commons and TVGs. The registers are used by RPA for claims on commons, by Natural England for access maps and by solicitors for conveyances.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

One option is considered and it relates to England only: to (a) implement Part 1 Commons Act 2006 in Cumbria and North Yorkshire (which have, respectively, the highest and second highest hectareage of common land and TVGs in England) and (b) section 19(2)(a) and paragraphs 6-9 of Schedule 2 across England to allow for the removal of land that was wrongly registered and the correction of mistakes made by commons registration authorities. This is a significant step towards correcting the registers and is affordable.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: Month/2019					
Does implementation go beyond minimum EU requirements?				No	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded:	
				Non-traded:	

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 SELECT SIGNATORY: _____ de Mauley _____ Date: _____ 12th November 2014 _____

Summary: Analysis & Evidence

Policy Option 1

Description: Implement (a) Part 1 of the Commons Act 2006 in Cumbria and North Yorkshire and (b) corrective applications under Part 1 throughout England

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2014	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £- 1.01

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		£0.30	£1.43

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

Local Authorities (LAs) deal with applications to amend the information in the registers, and related tasks, at a cost of £492,419 (= £3,273 from LA resources + £357,947 paid by Defra + £131,198 from application fees); Planning Inspectorate (PINS) deals with applications referred to it at a cost of £990,331 (=£704,655 paid by Defra + £285,676 from application fees). Applicants (private individuals/businesses) who pay application fees, where relevant (public interest applications are free), when applying to amend the registers at an estimated cost of £416,874 (=131,198 to LAs + £285,676 to PINS). There are also costs associated with time spent by applicants filling in application forms £31,600 (total to applicants £448k). Applications are voluntary except those made under section 14 to register statutory dispositions, for which total cost is calculated as £654 to business.

Other key non-monetised costs by 'main affected groups'

The costs have been monetised above.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		£0.09	£0.42

Description and scale of key monetised benefits by 'main affected groups'

Benefits are partially quantified. It was not possible to fully quantify the benefits but they include cost savings to business (e.g. certain application forms reduce reliance on solicitors); increased certainty for the Rural Payment Agency (RPA) when considering claims for payments on commons under the Common Agricultural Policy; certainty over the legal status of land for conveyances and Natural England's access maps; removal of uncertainty of legal status of some properties and land.

Other key non-monetised benefits by 'main affected groups'

Cumbria and North Yorkshire: local authorities and solicitors could rely on accurate registers when doing conveyances; for RPA when considering claims; for Natural England when preparing maps of land designated as open access under the Countryside and Rights of Way Act 2000. The public benefit when new common land is registered relates to the right of access. Individuals can remove their property from the register (to achieve full market value) if it was wrongly registered in the past; this is the same benefit as corrective applications.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

That costs data obtained from a two year pioneer project is reflective of England as a whole, including the number of applications to be made. Also, that the number of applications will reduce during the first 5-10 years of implementation and the cost to authorities and PINS will reduce commensurately. The costs are assessed over a 5 year period, instead of 10 as a review is planned in 5 years. A risk is that we have not been able to calculate the proportion of applicants which will be businesses and have instead assumed that 100% of applicants will be businesses.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: £0.10	Benefits: £0.10 (part-quantified)	Net: £0	Yes	IN

Evidence Base (for summary sheets)

Problem under consideration

1. The Commons Registration Act 1965 achieved its aim of creating a legal record of the common land, town and village greens (referred to throughout as *TVGs*) and rights associated with them which existed at that time, but the practice of compiling the registers resulted in many mistakes and anomalies. Many applications to register commons and TVGs and rights got some of the details wrong, in particular where applicants included land that was not actually part of the common or TVGs. Some mistakes were made by commons registration authorities (*authorities*) themselves when recording entries in the registers. Many such mistakes were not noticed until after the registers became conclusive on 31 July 1970, however the Act had made insufficient provision for correction of mistakes after this point. See Annex A for more background.
2. The 1965 Act also failed to require that, after the register became conclusive, the registers be amended when the details of rights or the land changed, so all such amendments were voluntary, i.e. the person whose details have changed chose to apply to the authority to amend the register. Therefore many such events have not been recorded in the registers. Anecdotal evidence from authorities and correspondence with the affected parties suggests the number of corrections and updates would be significant. For the registers to be considered conclusive they must be brought up to date to reflect those events.
3. Consequently the registers are neither a reliable nor conclusive record of commons, TVGs and the rights over them. Part 1 of the Commons Act 2006 (*the 2006 Act*) aims to address this because it allows for applications to amend the information in the registers. It also provides that changes which affect information in the registers are only considered lawful when they have been recorded in the register – which ensures that the register will be kept up to date.
4. Part 1 was implemented by seven pioneer authorities in October 2008 to test the legislation, guidance and provide actual cost figures – see Annex B. It has not been implemented elsewhere to date due to a lack of resources.

Rationale for intervention

5. Accurate records are intrinsic to proper management of commons, i.e. to tell us who has the right to do what over which land and where the boundary is. The failure to keep the registers up to date has already contributed to commons being damaged through overgrazing (e.g. uncertainty over quantification of rights), the unwitting development of the land and encroachment onto it by adjacent landowners. For example, overgrazing increases the potential for considerable environmental degradation¹. These are externalities resulting from inaccurate registers. The registers are also used as the basis for clarifying other matters:
 - the Rural Payments Agency uses the registers to substantiate claims on commons under the Single Payment Scheme;

¹ Short, Christopher (2000). Common land and ELMS: a need for policy innovation in England and Wales. Land Use Policy 17, 121-133.

- Natural England use them as the source data for the common land element of the access maps prepared under the Countryside and Rights of Way Act 2000; and
 - Conveyancers use them to establish whether a property is registered as common or TVG.
6. In December 2013 the Efra Select Committee published a report entitled *Implementation of the Common Agricultural Policy in England 2014-2020*, which included “The Government must update the commons registers or implement Part I of the Commons Act 2006 to ensure accurate registers of common land are available for the purposes of mapping and payment.” The fact that the registers are not currently fit for purpose is a market failure.
 7. Government intervention is necessary to correct the market failure. We will intervene by making regulations which allow people to apply to amend the information in the registers. This will eventually provide dependably accurate registers which can be relied on for clarifying where the land is, who has rights over it and what those rights are.
 8. Implementation of Part 1 Commons Act 2006 throughout England is the best case scenario: 143 registration authorities would see their registers effectively open for business for the first time since 1970 and the benefits of accurate registers would accrue in the shortest time. However, there are insufficient resources to do this, so instead Ministers have agreed to: implement Part 1 in full in Cumbria County Council and North Yorkshire County Council (respectively referred to throughout as Cumbria and North Yorkshire), which have the highest and second highest hectareage of common land and TVGs in England; and partially implement Part 1 elsewhere in England by allowing five types of corrective applications. These areas are referred to throughout as ‘corrective authorities’.
 9. Corrective applications are: section 19(2)(a) to correct mistakes made by the authority when it made an entry in the register; and the following paragraphs in Schedule 2:
 - 6 - removal of buildings wrongly registered as common land;
 - 7 - removal of other land wrongly registered as common land;
 - 8 - removal of buildings wrongly registered as TVG; and
 - 9 - removal of other land wrongly registered as TVG.
 10. Essentially we want people whose details are contained in the register to apply to authorities to correct the data wherever it is out of date or incorrect. People will only apply to amend the registers where the benefit outweighs the costs, including statutory dispositions. The vast majority of applicants will be rights holders, owners of commons or TVGs, or owners of properties located on commons or TVGs. Most owners of rights of common will be small farmer businesses. The primary benefit for most applications would be financial. For example, if someone buys a right of common in gross they will want to apply to have their name in the register if they want to make a claim under the Single Payment Scheme.
 11. This policy would be implemented by making the Commons Registration (England) Regulations 2014 and a separate set of regulations for corrective applications. The separate regulations are temporary and would be revoked when Part 1 is implemented throughout England, i.e. corrective authorities would become fully subject to the Commons Registration (England) Regulations 2014.
 12. This proposal will mean that Part 1 will not be fully implemented throughout England at this time (i.e the corrective authorities will only be partially subject to Part 1). Lord de

Mauley confirmed in a Written Ministerial Statement on 9 January 2014 that the question of implementing the non-commenced bits of Part 1 in the areas of corrective authorities would be reconsidered “as soon as resources permit, which I expect to be within the life of the next Parliament at the earliest.” The intention is to review this policy within 5 years but if ministers agree to implement Part 1 earlier then this would cause the review to occur sooner, i.e. before 5 years have elapsed.

Policy objective

13. The fundamental objective is accurate and reliable registers, through which we can achieve the other objectives: protecting and managing the land and provide certainty in relation to related matters which rely on the data in the registers, e.g. claims under the Single Payment Scheme. Part 1 of the 2006 Act will eventually provide accurate registers.
14. Secondly, Government committed under the Red Tape Challenge to revoke 15 statutory instruments made under the 1965 Act and 2 under the Commons Act 2006 to replace them with a single instrument under the 2006 Act. The objective will be achieved when Part 1 has been commenced throughout England. This proposal will see that objective achieved in Cumbria and North Yorkshire, but not elsewhere for now.

Option considered: Implement (a) Part 1 in full in Cumbria and North Yorkshire and (b) corrective applications under Part 1 across England

15. Part 1 of the 2006 Act enables people to apply to authorities to amend the information in the registers of common land and TVGs. Authorities can apply to themselves through ‘proposals’ to amend the register. Authorities refer certain public interest-type applications to PINS to ensure they are determined impartially. Both authorities and PINS can charge fees to applicants (i.e. landowners, rights holders) to recover the cost of their portion of the work of processing an application. Authorities have a power to set their own fee amounts based on full cost recovery (in accordance with Managing Public Money). PINS fees will be set by Government in line with actual costs. However there are certain types of applications which are free because they are made in the public interest – Defra reimburses authorities and PINS for these applications.
16. Authorities refer applications to PINS:
 - where the registration authority itself has an interest in the outcome (e.g. it owns the land);
 - to correct the register under section 19 to add or remove land, or to quantify rights;
 - to rectify anomalies under Schedule 2 either to add land that was not finally registered under the 65 Act or to remove land that was wrongly registered.
17. For the latter two above, referral should take place only where objections to the applications are received from persons with a legal interest in the land. If no such objections are received then the authority will determine the application.
18. All types of applications under Part 1 are voluntary, except one (statutory dispositions - section 14 of the Act).

19. Besides dealing with applications, authorities will have some ancillary work to do, e.g. conduct a review of their registers to determine whether there are anomalies and raise awareness that the registers are open for business. These tasks are listed in Annex C.

Benefits (monetised and non-monetised)

Implementation of Part 1 in full in Cumbria and North Yorkshire

20. Cumbria has the highest (32%) and North Yorkshire the second highest (21%) of the total hectareage of commons and TVGs in England. Part 1 would have a greater impact in those areas than elsewhere because the larger the quantity of information in the registers, the greater the amount of information which potentially needs to be corrected or brought up to date.
21. Accurate registers would provide the basis for commons and TVGs to fulfil their potential across a wide range of public goods and services (e.g. resolving legal disputes over boundaries to help get a common into an agri-environment agreement). Part 1 allows for applications to amend the registers of commons and TVGs.
22. Part 1 reduces the costs to applicants where a transfer of an asset is involved. Previously, a person intending to vary, extinguish, create or transfer a right in gross² needed to seek legal advice, so that a document (generally a deed) could be drawn up by a solicitor to achieve the intended effect. Part 1 removes the need for this by introducing an application form which incorporates a deed, thus providing the option to complete the transaction without need for legal fees.
23. The application forms contain instructions and comprehensive guidance is available on the internet. This reduces the burden on the applicant and reduces the likelihood of deficient applications being submitted to the registration authority.

Non-monetised benefits conferred by each type of application under Part 1

24. In table 1 below the first column lists the types of application and the second column lists the non-monetised benefits of successful applications by each affected user group. It is in the public interest for the registers to be fully accurate (e.g. for protecting the land, for RPA claims, for solicitors) so all applications would contribute. Generally applications in the public benefit deliver greater benefits than private interest applications, e.g. new common land is created and common land is subject to a right of access). For private interest applications, the benefit accrues to an individual, i.e. the applicant. For example if new common land is created then it will confer a public right of access to that land thus improving the health and wellbeing outcomes for local people. This is contrasted with a transfer of a right in gross (i.e. a paper deed right of common) – the benefit is conferred on the person who bought the right from its previous owner.
25. People will apply to amend the register where the benefit outweighs the cost, e.g. to remove a property that was wrongly registered as common land; by removing the land from the register it would remove the legal uncertainty over the land and allow the property to receive its full market value. A partial assessment of the benefit to private individuals/ businesses is £448,475, i.e. when an applicant chooses to apply it can be assumed the benefit will be at least as much as the cost of applying³. However, it is not

² A 'right of common in gross' means the right is not attached to a property (e.g. a farmhouse). Most rights of common are attached to properties. A right in gross is a deed (or similar legal construct) which entitles to the bearer to exercise the right of common.

³ Most of the goods or services from commons are non-market goods and in order to value non-market goods, an appropriate method is to estimate individuals' willingness to pay (WTP) for these goods using revealed or stated preference methods. Willingness to pay by an individual

possible to monetise the full benefits of this option, which will be higher than the total cost for the proposed option.

Table 1: Non-monetised benefits conferred by each type of application under Part 1

Commons Act provision	Benefits by groups affected
Section 6 - creation of a new right	Public: if new common land created, more land to which public have a right of access, which can improve health and wellbeing outcomes for local people.
Section 7 - variation of a right	Public: if new common land created, more land to which public have a right of access, which can improve health and wellbeing outcomes for local people.
Section 8 - apportionment of a right	Rights holders: the right, which was previously attached to a single property (e.g. a farm), is divided across a number of properties created on the land, thereby creating new rights holders and a greater chance that the land will continue to be managed.
Section 10 - attachment of a right to land	Public: commons subject to rights in gross (a deed entitling the holder to a right of common), are harder to manage due to e.g. holder changing address, selling of the right. Attaching a right in gross to land (i.e. a property) makes for easier management of the common and for Single Payment Scheme claims.
Section 11 - re-allocation of an attached right	Public: savings through Single Payment Scheme (SPS) claims. Commons rights holders can claim under SPS based on their number of rights (e.g. a right to graze 100 cattle). Re-allocating a right will reduce the extent of the right (e.g. from 100 cattle to 80), which will consequently reduce the amount of money which can be claimed under SPS.
Section 12 - transfer of a right in gross	Right holder (transferor) and person to whom the right is being transferred (transferee): cost saving in transferring ownership of the right because the application form itself removes the need for a solicitor to draw up a separate deed.
Section 13 - surrender and extinguishment of a right	Right holder: cost saving in extinguishing the right because the application form itself removes the need to employ a solicitor to draw up a separate deed.
Section 14 statutory disposition (causing the displacement or extinguishment of common land, green or rights thereof)	Public: improved accuracy of the data of the registers because section 14 requires the sponsor of a statutory disposition (e.g. Compulsory Purchase Order or road exchange scheme) to extinguish or transfer commons or greens and rights over to register the change in the register.
Section 19 - correction of the register	Public, landowners and rights holders: accuracy of register improved to correct a mistake made the registration authority or other parties.
Regulation 44 - declaration of an entitlement to a right of common	Rights holder: register will show the name of the person entitled to the right, rather than just the property to which it is attached.
Schedule 2 para 2 – non-registration of common land	Public – new common land will provide more land to which public has right of access, which can improve health and wellbeing outcomes for local people.
Schedule 2 para 3 - non-registration of TVG	Public – new TVG will provide more land over which public can recreate. Land will become heavily protected from interference and development.
Schedule 2 para 4 - non-registration of waste land of the manor	Public – new common land will provide more land to which public has right of access, which can improve health and wellbeing outcomes for local people.
Schedule 2 para 5 - TVG wrongly registered as common land	Public – common land will instead become TVG which is subject to high level protection from interference and development.
Schedule 2 para 6 - buildings wrongly registered as common land	Landowner – will free the building from its designation as common land and all the protection such land attracts.
Schedule 2 para 7 - other land wrongly registered as common land	Landowner – will free the land from its designation as common land and all the protection such land attracts.
Schedule 2 para 8 - buildings wrongly registered as TVG	Landowner – will free the building from its designation as a TVG and all the protection such land attracts.
Schedule 2 para 9 - other land wrongly registered as TVG	Landowner – will free the land from its designation as a TVG and all the protection such land attracts.
Schedule 3 – creation	Right holder – enabling registration of the previously created right, which wasn't recorded in the register, will legitimise it. Public – if new common land created, will provide more land to which public has right of access.
Schedule 3 - surrender or extinguishment	Right holder – will legitimise the previously extinguished right that was not recorded. Public – greater certainty as to the accuracy of the data held in the register.
Schedule 3 - variation of a right of common	Right holder, owner of the common – will legitimise the variation of a right that was not recorded in the register. Public – greater certainty as to the accuracy of the data held in the register.
Schedule 3 - apportionment of a right of common	Right holder, owner of the common – will legitimise the variation of a right that was not recorded in the register. Public – greater certainty as to the accuracy of the data held in the register.
Schedule 3 - severance of a right of common	Public – greater certainty as to the accuracy of the data held in the register.
Schedule 3 - transfer of a right of common	Previous and present owner of the right – will legitimise the transfer in ownership of the right. Public – greater certainty as to the accuracy of the data held in the register.
Schedule 3 - statutory disposition	Public – greater certainty as to the accuracy of the data held in the register.

NB: The applications in green above confer the greatest benefits

Corrective applications throughout England

amounts to a £ representation of how much utility or value an individual gets from a good or service. No formal assessment was done to derive the value or quantify benefits from services or good from common in this IA. The assumption here is – the proposed policy option (except those made under section 14 to register statutory dispositions) is voluntary and an individual will only pay if benefit is higher than cost.

26. This will allow 5 types of applications to be made across England to correct longstanding mistakes in the registers. The types of applications are (a) mistakes made by the authority, (b) buildings wrongly registered as common land, (c) other land wrongly registered as common land, (d) buildings wrongly registered as TVG and (e) other land wrongly registered as TVG.
27. The non-monetised benefits are set out in table 1 above – see entries for section 19 and each of paragraphs 6 to 9 of Schedule 2. The benefits cannot be monetised but they will generally resolve the legal uncertainty as to the land's status by removing it from either register and it will be able to attract full market value.

Costs (monetised and non-monetised)

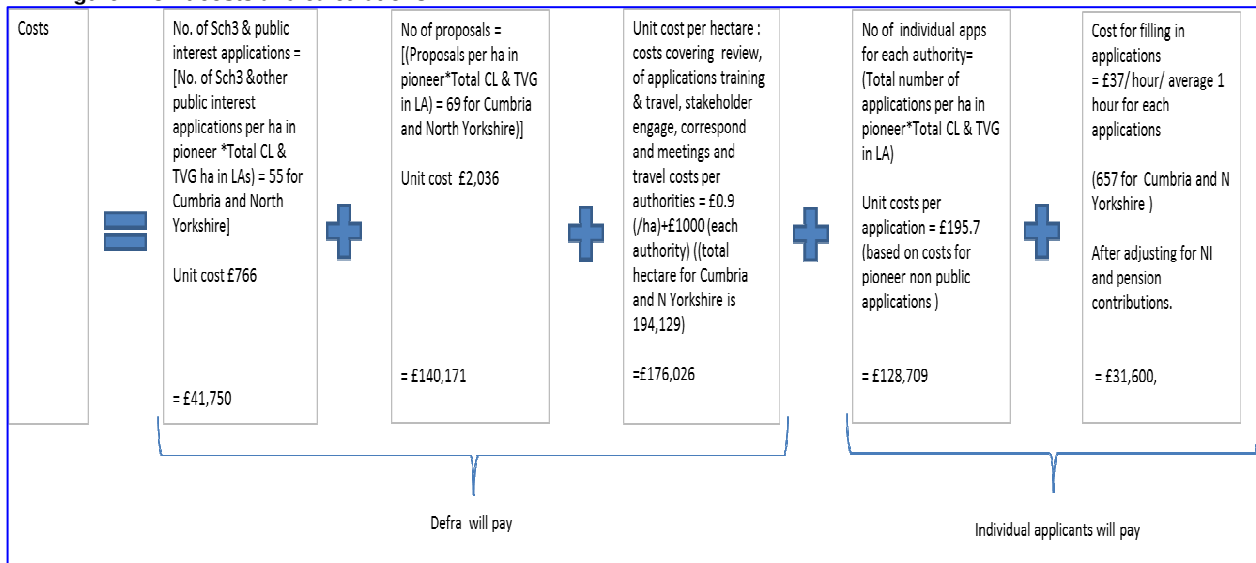
28. This Impact Assessment excludes the costs to authorities of applications to register TVGs (section 15 of Part 1) because it is already in force. However, it does take account of the costs of such applications referred by Cumbria and N Yorks to PINS because this is a new cost brought about by this policy.
29. Much of the evidence on estimated costs presented below is based on the experience of implementation in seven pioneer authority areas in October 2008 which ran for 2 years and provided data on actual costs and number of applications (see Annex B for more information).
30. All costs presented below are calculated over a 5 year period.

Full implementation of Part 1 in Cumbria and North Yorkshire

Costs to Authorities

31. Authorities will do the majority of the work on Part 1 because they maintain the registers. They would do some background work (e.g. review their registers and raise awareness that the register can be corrected). Based on evidence from the pioneer study, it is estimated that authorities will receive and determine 657 applications over 5 years (396 in Cumbria and 261 in N Yorkshire). Authorities would have the power to set their fee amounts based on full cost recovery, except for applications in the public interest which Defra pays for (i.e. these are free to applicants).
32. The cost to Cumbria would be £293,054 and the cost to North Yorkshire would be £193,601. Of this, Defra would pay £215,494 and £142,453 respectively through grant funding spread over the 3 years of implementation because this is a new burden imposed on authorities. The grants will be spread over 3 years to make it more affordable to the Defra annual budget. The remainder of their costs (£128,708) would be recovered through application fees paid by people who apply to amend the registers (£77,560 to Cumbria and £51,148 to North Yorkshire). There are also costs associated with time spent by applicants filling in application forms £31,600, not paid by Defra. See Annex C for the breakdown of costs.

Figure 1: Unit costs and calculations



Note: 1. Numbers are rounded. 2. Costs presented are same as italic figures presented in table 2

Costs to PINS

33. This is piecemeal and variable according to the number of cases referred each year. Based on the data obtained through the pioneer, the estimated total number of referrals by Cumbria and North Yorkshire during the first 5 years of implementation would be 232⁴. However, the pioneer regulations have been amended to provide that referrals (by the authority to PINS) should only take place where objections are received from persons with a legal interest in the land. An estimated 80%⁵ of applications referred to PINS receive objections, which would reduce the projected total number of referrals by 20% to 186.
34. PINS will be able to charge application fees for applications referred to it by authorities (NB the amounts will be set by regulations), except in respect of public interest applications for which Defra will pay. The estimated total cost to PINS for this option is calculated thus: average cost of an application (£4,428⁶) x total referrals (185.6)⁷ = £823,098. Using the baseline rate of referral x the number of hectares in each authority x the average cost of a referral = 112 referrals in Cumbria at a cost of £496,000 and 74 in North Yorkshire at a cost of £327,098.
35. In the pioneer, three-quarters of referrals were in the public interest and a quarter was in the private interest. Those proportions have been applied to this option. Therefore, in terms of the estimated total cost of referrals (£823,098), £214,005 will be paid by applicants through application fees for applications in the private interest and £609,093

⁴ The pioneers collectively had 67,674 hectares of CL and TVG – this was divided by the number of referrals to provide a baseline rate of referral to PINS (0.001196915). This is the number by which the number of hectares in each authority would be multiplied to determine the number of applications it would refer to PINS.

⁵ PINS estimate of the number of referred applications which have received objections from people with legal interest in the land.

⁶

This is based on average cost per determined case for 81 referrals over 5.5 years supplied by PINS. See the calculation of this figure in table 5 in Annex B.

⁷ To keep methodology consistent, and calculations accurate fractions has been used.

by Defra for applications in the public interest. These costs will be incurred over 5 years. See Annex C for a breakdown of costs.

36. Regulations will prescribe the fee amount for each type of application referred to PINS. The fee amounts will be based on their actual costs.

Costs to Applicants

37. Except for statutory dispositions (section 14), applications are voluntary, so for each one made we can assume that the benefits which accrue to the applicant would outweigh the cost.
38. Typically applicants will be people who have rights of common (a mixture of individuals and farmers/small businesses), and landowners to either add new information to the register (e.g. to record a newly created right of common) or to amend existing information within it (e.g. to record a change in ownership of a right of common in gross).
39. Applicants would pay fees set by the authority, except for public interest applications which are free (where Defra pays the authority or PINS). The requirement on applicants to pay a fee is justified where (as will generally be the case), such applications generate a benefit to the applicant or a person closely connected to him. For example, a property adjacent to a common was wrongly registered as part of the common because the application to register the said common included that property, which the authority faithfully recorded in the register. The owner could apply to remove his property from the register and remove the legal uncertainty which would allow it to attract full market value.
40. The estimated total cost to applicants is equal to the cost to authorities and PINS not paid by Defra, which is £342,713. This is calculated from both authorities (£128,708) and PINS (£214,005) costs above. See Annex C for a breakdown of costs.
41. There are also costs associated with time spent by applicants filling in application forms, which comes to a total of £31,600⁸.

Corrective applications throughout England

42. These are all authorities, except the pioneers and Cumbria and N Yorkshire (who will be fully subject to Part 1), within which it will be possible to apply to make five types of corrective applications to amend the registers. These authorities will not do any background/ancillary tasks, nor can they make proposals. They will simply process corrective applications.
43. Of the types of corrective applications, only 19(2)(a) applications are free because the authority made the mistake; with the other types, somebody else made the mistake (e.g. applicant who applied for registration in the late 1960's) so the authority can charge for these. Authorities will be able to set their fees based on full cost recovery. PINS will be able to charge fees but they will be set by Government based on full cost recovery.

Costs to Authorities

44. It is estimated that corrective authorities collectively would determine an estimated 9.4 applications over 5 years at a total cost of £5,763. This comprises 5.4 applications under section 19(2)(a), which are free to applicants as the authority made the mistake to be

⁸ Cost of filling in application form is £31,600, which has been adjusted for pension and NI contributions (adding 30% more) for median 'Administrative and secretarial occupations' median hourly wage (£37) from ONS table 'Occupation SOC10 Table 14.10a Paid hours worked - Basic 2012'. Average application form filling in has been assumed as an hour per application. The cost details is not presented in table 2 but in figures marked * and all calculations e.g. NPV.

corrected and will absorb the cost (£3,273); and 4 applications under Schedule 2, paras 6-9, which would be paid by applicants (£2,490). See Annex C for a breakdown of costs.

Costs to PINS

45. It is estimated that corrective authorities would refer 37.8 corrective applications to PINS, which would cost PINS a total of £167,233. Of this, applicants will pay £71,671 for 16.2 applications under Schedule 2, paras 6-9, because such applications are in the private interest. PINS fee amounts will be set by Government. Defra will pay PINS £95,562 in relation to 21.6 applications under section 19(2)(a) because no fee can be charged for such applications. See Annex C for a breakdown of costs.

Costs to Applicants

46. All corrective applications are voluntary so for each one made we can assume that the benefits outweigh the cost.

47. It is estimated that the total cost to applicants would be £74,161. This comprises £2,490 for 4 applications to authorities (i.e. £622.50 per application) and £71,671 for 16.2 applications to PINS (i.e. £4424 per application). See Annex C for a breakdown of costs.

Summary of total costs

48. The total costs of this option over the 5 year period are provided in the table below.

Table 2: Total costs of the proposal (5 year period)

		Component A		Total for A	Component B	Total for the preferred Option
		Cumbria (A)	N Yorks (B)	(A)+(B) = (C)	Corrective applications (D)	(C + D)
Costs for the Local Authorities (LA)	(1)=(2)+(3)+(6)	£293,054	£193,601	£486,655	£5,764	£492,419
Costs covered from LA resources	(2)				£3,273	£3,273
Applicants payments at LAs	(3)	£77,560	£51,149	£128,709	£2,490	£131,199
Costs for PINS	(4)=(5)+(7)	£496,000	£327,098	£823,098	£167,233	£990,331
Applicants payments at PINS	(5)	£128,960	£85,045	£214,005	£71,671	£285,676
Defra payments to LAs to cover costs	(6)	£215,494	£142,453	£357,947	£0	£357,947
Defra payments to PINS to cover costs	(7)	£367,040	£242,053	£609,093	£95,562	£704,655
Costs to Government (central + LA)	(2+6+7)	£582,534	£384,506	£967,040	£98,835	£1,065,875
Costs to private	(3+5)	£206,520	£136,194	£342,714	£74,161	£448,475*
Total costs		£789,054	£520,700	£1,309,754	£172,996	£1,514,350*

Note: (1) Total costs at LAs are covered by DEFRA and fees received from applicants, except for a small part of LA costs for component B, which comes from LA resources. Total costs at PINS are covered by DEFRA and application fees. (2) * The figures include £31,600 estimated costs for application fees not presented in the table (Cost of filling in application form is £31,600, which has been adjusted for pension and NI contributions for median 'Administrative and secretarial occupations' median hourly wage from ONS table Occupation SOC10 Table 14.10a - Paid hours worked - Basic 2012. Average application form filling in has been assumed as an hour per application. Filling in application form is not presented in the table above but added in figures marked * and included in all calculations e.g. NPV. Costs presented in the table are actual costs and PVs are presented in the summary sheet at the start.

49. Total costs to public and applicants are presented in table 2. There are costs to LAs and for this impact assessment, these costs which are covered by Defra are not added to total costs to avoid double counting to public costs.

50. Total costs for the preferred option is £1.51 million, of which £0.45million will be covered by applicants, as defined above, and £1.07 million by the public sector. The majority of costs will be in the first three years of the policy, other than costs of referrals which will continue for five years as PINS takes longer to determine applications.

51. Over the 5 year period, average cost for first three years is £368,526 per year and for the remaining two years this is £204,386 per year, totalling £1,514,350 reported in table 2

above, where on an average the private cost is 30% of the total cost. People will only apply to amend the registers where the benefit outweighs the costs and the total £448,475 that applicants pay is used in NPV calculations as a partially quantified benefit. NPV has been calculated using BIS impact assessment calculator⁹ where total cost is inputted as the annual average cost profile mentioned above and the partial benefit is averaged at £89,695 for each year over the 5 year period, assuming other benefits are '0' in the calculations.

52. PV for total cost is £1.43 million. NPVs are calculated and presented in the summary sheet at the start and are for a five-year period as the policy will be reviewed after five years. NPV is £-1.01 million, where partial benefits to applicants is quantified¹⁰ but the full benefits remain non-quantified.
53. The policy will be reviewed when the Government reconsiders the question of when Part 1 will be fully implemented in the areas of corrective authorities. It would be within the life of the next Parliament at the earliest.

Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)

54. The analysis in this Impact Assessment is based on actual cost figures obtained from the pioneer authorities and PINS. Regarding the former, those figures were used to provide a baseline frequency per hectare or cost per hectare which was then multiplied by the hectares within each authority to estimate both the number and costs of applications, including the number of referrals to PINS, and the cost of the ancillary tasks. For example to calculate the number of public interest applications in Cumbria: the baseline number of public interest applications (0.000280758) x hectares of commons and TVGs in Cumbria (116,982.5) = 33 public interest applications. This level of analysis is highly accurate, assuming that the costs and work by the pioneers are reflective of the picture across England.

Risks and assumptions

55. In terms of risks, an indefinite delay to the full implementation of Part 1 throughout England is not tenable long-term. The lack of dependable and accurate registers is a market failure that needs to be addressed. It is assumed that funds will be made available at some point in the future, possibly during the next Parliament, to commence it throughout England.
56. It was not possible to fully monetise the benefits of implementation. There are fifteen application forms under Part 1 which can deliver 35 different types of amendments to the registers. Some of these amendments affect only the individual applicant but others can affect a chain of people or bodies for different reasons. This is why it is difficult to quantify the benefits in a meaningful way. For example, an application to register a newly created right of common causes new common land to be created (NB the land was not previously common land). This confers a direct benefit to the individual on whom the right was conferred (i.e. the right holder), who could claim money through the Single Payment Scheme. But it possibly confers benefits on a number of other people:

⁹ April 2014 version, source: <https://www.gov.uk/government/publications/impact-assessment-calculator-3>

¹⁰ i.e. the £448,475 (=£416,875 + £31,600) paid by applicants.

- the owner of the common if money changed hands prior to the creation of the right of common (but we have no means of determining whether this happened or not);
- the public because the land is now being actively managed (assuming it wasn't previously managed, again we have no means of determining whether this was the case); and
- the public because the land is now common land and therefore subject to a statutory right of access (to properly cost the benefits which accrue from access to green space we would need to know how much land was registered, but we do not have that data).

57. There are no data on the proportion of applicants who are individuals and those which are small farming businesses. As we are unable to quantify the number of businesses affected and assign an accurate percentage, we have used a worst case scenario that 100% of applications in the private interest are from businesses. The only credible means by which we could obtain this information would be through the number of SPS claimants on commons which are individuals or businesses, but it is not possible to obtain this figure from the Rural Payments Agency without a disproportionate amount of work.

58. The following assumptions have been made:

- the number of applications determined by authorities will spike during the first five years of implementation, due to the opening up of the registers and free applications during that time to register historic events, then gradually reduce to a much lower level;
- the number of applications and proposals referred by authorities to PINS will spike during the first five years then gradually reduce to a lower level;
- the data provided by the pioneer authorities are accurate;
- the data collected in the pioneer is representative of England as a whole;
- the data provided by PINS relates to some applications yet to be determined, so data from determined applications has been used to estimate the costs;
- for private interest-type applications, applicants will pay the required application fee because the benefit conferred by amending the register would outweigh the cost of the application; and
- for public interest applications, such applicants apply for the benefit of the wider public.

Direct costs and benefits to business calculations

59. The policy introduces new legislation which allows, but does not force, individuals or business to apply to amend the information in the registers. There is a reasonable expectation that business will only apply to amend the register where it leads to a net benefit for them. The analysis in the IA can assume that the benefits are at least equal to the costs, even if it is not proportionate or possible to monetise these benefits.

60. Under the One In Two Out rule this policy counts as an IN due to the duty to register statutory dispositions, which is a regulatory cost. The pioneers currently charge on average £218 for such applications. Based on the pioneer data, we estimate there will be 3 such applications made as a result of this policy. This would put the total cost to business at £654 over a 5 year period.

61. The Equivalent Annual Net Cost to Business (EANCB) is £0 million because applications are voluntary except for statutory dispositions. Statutory dispositions are legal

instruments, such as Compulsory Purchase Orders, that cause the displacement of commons or TVGs in order to make way for development. Most statutory dispositions will be sponsored by public bodies such as local authorities or the Highways Agency, but some may be made by businesses such as utility companies. The new regulations require the sponsor of a statutory instrument to apply to amend the register to record the displacement and new circumstances (e.g. the new site of the common given in exchange for the old site to be developed). The estimated cost of registering a statutory disposition is £218¹¹. During the pioneer, out of 246 applications only one was a statutory disposition. We estimate 3 statutory disposition applications, which will only be possible in Cumbria and North Yorkshire, will be made under this policy, totalling £654.

62. In the EANCB calculations it is assumed that all private applicants are businesses. The total cost of private applications is £448k and as applications are voluntary (except statutory dispositions), we can assume that this is matched by benefits of at least £448k. Given the exceptionally low cost of statutory dispositions (£654), the net cost to business is £0 so the EANCB = £0 million.

63. Most types of applications under Part 1 are concerned with rights of common, most of which are grazing rights. It follows that the majority of businesses affected by this measure will be small-to-medium-sized livestock farming businesses. In the case of statutory instruments, the impact would be on developers as Compulsory Purchase Orders would be the most frequent type of statutory dispositions by businesses. Of the applicants who apply under paragraphs 6-9 of Schedule 2 to remove wrongly registered land, it is likely that some of these will be small to large developers given the high value of the land for development.

Summary and preferred option with description of implementation plan

64. In conclusion, this option represents a step in the right direction as the registers can be properly corrected in Cumbria and North Yorkshire, and partially corrected elsewhere in England by virtue of corrective applications.

65. The implementation plan is to allow Cumbria and North Yorkshire to conclude much of the background work before they start accepting applications to amend the registers when the regulations come into force. The staggered approach was suggested by the pioneer authorities who said there was too much work for them to do simultaneously. The background work would begin in advance of October and comprises training and learning about the new rules; raising awareness amongst the relevant audience of the impending 'opening' of the registers; reviewing the registers to identify anomalies (e.g. unregistered road exchange schemes and Compulsory Purchase Orders affecting common land).

66. From October 2014 onwards it would be possible to submit corrective applications across the country. Authorities would receive training on dealing with applications in September to keep the lessons fresh for dealing with applications from October onwards. Comprehensive guidance will be available to authorities and PINS to explain all aspects of processing applications and amending the registers. Guidance to applicants will explain the process and how to apply to amend the registers.

¹¹ This cost covers: acknowledgement of the application, checking the information it, publicising it (including writing to persons affected by the application), allowing a period for representations, considering any objections, possibly holding a hearing or public inquiry, possibly site inspections, amendment of the register (if application is successful) and publicising the decision.

Annex A – background to commons and TVGs

Common land is land over which specified individuals have a right to take the natural *profit* of the land. This includes pasture for animals (grazing), grazing pigs in forests (pannage), collecting firewood (estovers), digging of turf or peat (turbary), fishing in a lake, pond or stream (piscary), but there are more types of rights of common.

Contrary to popular misconception, many commons are privately owned by individuals or companies and others are in public ownership through local authorities. Historically commons were created when a landowner drew up a deed which conferred to another person a right of common over his land: the creation of that right caused the land to become common land.

Whilst now covering just 400,000 ha (or 3%) of England, commons may provide a more diverse range of public interests than any other comparable area. Due to the unifying features of its history and management, common land needs to be considered as a single entity rather than disparate parcels of land.

The majority of rights of common are attached to a property (e.g. farm), so the owner or occupier is entitled to exercise the right of common. The property to which the right is attached is known as the dominant tenement and the common land over which the right is exercisable is known as the servient tenement. When the dominant tenement is sold the right of common stays with the property and can be exercised by the new owner/occupier. A minority of rights of common are 'rights in gross' which are rights of common which were severed from the property to which they were attached and instead became deeds which entitle the possessor to exercise the right.

Town and village greens (TVGs) are closely related to, but distinct from, common land. TVGs confer rights to *recreate over the land* rather than take profit from it, however TVGs can become subject to rights of common (few exist today). The right to recreate is conferred on a locality or neighbourhood rather than a property or person. Generally TVGs are subject to different protective laws than that for commons, but there are overlaps.

Until the 1960's the extent of common land and TVGs was a matter of local knowledge and conjecture, which led to a reduction of the land through things like encroachment (where the adjacent landowner extends the reach of his property onto the common) or development of the land. To prevent that happening further the Commons Registration Act 1965 required commons registration authorities (top-tier local authorities, excluding Isles of Scilly and City of London Corporation, referred to throughout as *authorities*) to create for their area a conclusive separate record of commons and TVGs and the rights exercisable over them. The Act required people to register their rights and the commons and TVGs over which they were exercisable by 1970 or they lost their special status.

The statutory registers are comprised of four textual sections, a map of the commons or TVGs and supplemental maps of dominant tenements. The four textual sections comprise:

- the **general section** which records details of any straddling agreements (where adjoining authorities agree that one will act as registration authority for land within the area of its neighbour), any areas exempt from registration and any agency agreements (where one authority agrees to act as registration authority on behalf of another);
- the **rights section** which records what can be done by virtue of the right (e.g. a right to graze 10 cattle on the common);
- the **land section** which records a narrative description of the location common or TVG;
- the **ownership section** which records the details of the persons which own the common or green (NB the ownership section will be phased out due to the Land Register).

Part 1 of the Commons Act 2006 allows applications to be made to amend or update the information in the registers. People will need to apply to amend the registers either to add information to the register or to amend information already in them.

Applications fall into three over-arching themes: new events, anomalies and unregistered events. Firstly, applications can be made to amend the register to reflect **new events**, meaning things happening now for which the register should be amended to reflect, e.g. yesterday a landowner grants someone a right of common over his land). Second, the correction of **anomalies** in the registers to either add land that should have been registered but was not or to remove wrongly registered land. Thirdly, applications to reflect **unregistered events** which happened between 1970 and the commencement of Part 1 but were not recorded in the register (e.g. a new right of common was granted by a landowner but the person to whom he gave the right did not apply to register the right).

Table 3: Themes and types of applications under Part 1

Application theme	Part 1 provision
New events – These are events which occur after Part 1 has been commenced	Section 6 - creation of a new right
	Section 7 - variation of a right
	Section 8 - apportionment of a right
	Section 10 - attachment of a right to land
	Section 11 - re-allocation of an attached right
	Section 12 - transfer of a right in gross
	Section 13 - surrender and extinguishment of a right
	Section 14 statutory disposition (causing the transfer or extinguishment of common land, TVG or rights thereof)
	Section 19 - correction of the register
	Regulation 44 - declaration of an entitlement to a right of common
Anomalies – Adding land that should have been registered by wasn't and removal of land that was wrongly registered	Schedule 2 para 2 – non-registration of common land
	Schedule 2 para 3 - non-registration of town and village green
	Schedule 2 para 4 - non-registration of waste land of the manor
	Schedule 2 para 5 - town or village green wrongly registered as common land
	Schedule 2 para 6 - buildings wrongly registered as common land
	Schedule 2 para 7 - other land wrongly registered as common land
	Schedule 2 para 8 - buildings wrongly registered as town or village green
	Schedule 2 para 9 - other land wrongly registered as town or village green
Unregistered events – These are events which occurred between 1970 and the commencement of Part 1 which were not recorded in the register.	Schedule 3 - creation
	Schedule 3 - surrender or extinguishment
	Schedule 3 - variation of a right of common
	Schedule 3 - apportionment of a right of common
	Schedule 3 - severance of a right of common
	Schedule 3 - transfer of a right of common
	Schedule 3 - statutory disposition

Annex B: The pioneer implementation

Part 1 was implemented through Commons Registration (England) Regulations 2008 in seven pioneer authority areas in October 2008: Blackburn with Darwen, Cornwall, Devon, Herefordshire, Hertfordshire, Kent and Lancashire. The pioneer, which ran for two years, provided a test bed for the regulations and support mechanisms and to obtain data on actual costs and number of applications.

The main focus of the work was to process applications to amend the registers, but there were a number of ancillary tasks too. The latter mainly comprises training, reviewing the registers and raising awareness. Pioneer authorities were instructed to be as thorough as possible for each task and were fully resourced to do so. The tasks of implementation included:

- staff training;
- proactively raise awareness through notices, meetings and correspondence with the relevant parties (as many as were required);
- conduct a comprehensive review of the registers to compile a list of all anomalies;
- (if any anomalies in the registers identified by the review) encourage the parties affected by anomalies to apply to correct the register and/or make proposals for anomalies where there was a public interest;
- attend monthly meetings with Defra to discuss progress;
- engage in the ongoing development of support mechanisms, e.g. attending meetings for promulgating best practice, development of check lists;
- publish on their website all application forms, list of fees and other relevant information.

Authorities charged fees for the majority of types of applications to recover their costs. Fee amounts were prescribed but authorities had a power to substitute their own amounts within a cap of £1000. However, fees could not be charged for certain types of application which are in the public interest. Crudely, this means new land is added (i.e. more common land or TVG), rights are attached to a property (making them easier to keep track of, e.g. for RPA to verify claims under the Single Payment Scheme) or the corrections of errors where the benefit accrues to the public rather than an individual. Note that there is an exception: in the case of applications to correct errors made by authorities, in some cases the benefits will accrue to an individual but it would not be fair to require the applicant to pay a fee since the authority itself is responsible for the mistake. Defra pays the costs of public interest applications to authorities or PINS (depending on which of them determines the application). Public interest applications comprise:

- section 6 (if the newly created right is exercisable over **new** land);
- section 7 (if the varied right is exercisable over **new** land);
- section 10 (attachment to land of a right in gross);
- section 19(2)(a) (correction of an error made the registration authority);
- section 19(2)(c) (removal of a duplicate entry);
- Schedule 2, paragraphs 2, 3, 4 or 5 (registration of new common or TVG, or transfer of land from commons register to greens register);
- Schedule 3 (to record unregistered events which took place between 1970 and the day on which Part 1 is commenced in an area)

The pioneer lasted two years after which all the data below was collected (see tables 4 – 6). Whilst pioneer authorities remain subject to Part 1 and continue to receive applications, the continuing work has massively reduced as the majority of the work was completed during the first two years of implementation. For example all the ancillary work has been completed and unregistered event applications (see table 3 above) were time-limited.

Table 4 shows the amount of hectares of commons and TVGs within each pioneer authority and number of applications received and proposals made during the pioneer (NB figures supplied by pioneer authorities).

Table 4: number of applications

Authority	Total extent of CL & TVG (ha)	No. of public interest applications received	No of proposals made by authority	Total no applications (excludes s.15 applications)	No of s19 (2)(a) applications (paid by Defra)	No of Sch2 paras 6-9 applications (paid by applicants)
Blackburn	375.8	0	0	0	0	0
Cornwall	9736.3	5	2	39	0	2
Devon	42725.5	3	5	78	6	0
Hereford	3773.8	2	3	11	1	2
Herts	2058.6	1	14	8	2	1
Lancs	7959.5	8	0	12	2	0
Kent	1044.5	0	0	10	0	0
Total	67674	19	24	158	11	5

Table 5 lists each element of the work involved in implementation and the baseline cost per hectare or number of applications or proposals per hectare. These are based on the applications figures and costs provided by pioneers. By doing this we can calculate the cost of each element or total cost of the work based on the number of hectares of commons and TVGs in each authority, which is a very precise means of calculating costs.

Table 5: baseline (per hectare) number of applications and costs

Part 1 work	Baseline number or cost
No. of public interest applications	0.000280758
Cost of public interest applications	£766 (average per application)
No of proposals	0.000354641
Cost of proposals (average)	£2036 (average per proposal)
Cost of reviewing the registers	£0.225708544
Cost of stakeholder engagement	£0.046882111
Cost of correspondence	£0.453911399
Cost of meetings	£0.169947099
No of s.19 applications	0.000232603
No of Schedule 2, paras 6-9 applications	0.000174451
Total number of applications	£0.003387685

PINS provided us with data on the number of applications/proposals it received and the costs. There were 81 referrals over 5.5 years and the average cost of an application is £4,428.

Table 6: referrals to PINS and the costs

Year	No referrals	No determined	Total cost of cases	Average cost per determined case
Oct08-Mar 09	0	0	0.00	0.00
Apr 09 - Mar 10	7	0	0.00	0.00
Apr 10 - Mar 11	12	9	29,048.63	3,227.63
Apr 11 - Mar 12	21	14	34,261.42	2,447.24
Apr 12 - Mar 13	26	22	98,250.56	4,465.93
Apr 13 - Mar 14	12	15	104,005.39	6,933.69
Apr 14 - Mar 15	3	1	4554.65	4554.65
Total	81	61	£270,120.65	£4,428.21

Annex C: Costs to implement Part 1 in Cumbria and North Yorkshire and corrective applications across England

The figures below are based on the baseline per hectare figures in table 5 in Annex B (based on data provided by the pioneers) and multiplied by the number of hectares within each authority. For example to calculate the number of public interest applications in Cumbria: the baseline number of public interest applications (0.000280758) x hectares of commons and TVGs in Cumbria (116,982.5) = 33 public interest applications.

Estimated costs of implementation in Cumbria and North Yorkshire

The table provides the total amount of the grant to be paid by Defra to each authority for the work involved in implementing Part 1 and dealing with public interest applications. It lists each element of the work and the amount of funding for each element.

Table 6: Breakdown of Defra grants to Cumbria and N Yorkshire by each element of the work

Authority	Total hectares of common land & TVGs	No. of public interest applications received by authority	Cost of public interest applications	No of proposals made by authority	Cost of proposals	Review of registers	Training (incl travel)	Stakeholder engagement	Correspond	Meetings	Total paid by Defra	Total no of applications	Total cost of applications	Total cost
Cumbria	116,982.5	33	£25,158	41	£84,467	£26,404	£1,000	£5,484	£53,100	£19,881	£215,494	396	£77,560	£293,054
North Yorkshire	77,146.7	22	£16,591	27	£55,704	£17,413	£1,000	£3,617	£35,018	£13,111	£142,453	261	£51,149	£193,602
Total		55	£41,750	69	£140,171	£43,817	£2,000	£9,101	£88,117	£32,992	£357,947	658	£128,709	£486,656

Authorities will either have their costs paid by Defra in relation to the public interest work or by applicants in relation to the applications they submit, including the appropriate fee. The table provides a simple breakdown of who will pay what of the authority's total costs.

Table 7: Who pays the authority's costs?

Cumbria	
Costs paid by Government (for ancillary tasks and public interest applications and proposals)	£215,494.31
Costs paid by applicants (for private interest applications)	£77,560.05
N Yorkshire	
Costs paid by Government (for ancillary tasks and public interest applications and proposals)	£142,453.13
Costs paid by applicants (for private interest applications)	£51,148.73
Total cost to Government	£357,947.44
Total cost to applicants	£128,708.79

The next three tables show how PINS costs were calculated. The first one (table 8) shows the number of each type of application referred to PINS by pioneer authorities, and the total (81). The second one (table 9) shows the proportion of that 81 that is public (paid by Government) or private (paid by applicants). The third one (table 10) calculates the number and cost of referrals to PINS using the number of hectares in each authority which is multiplied by the baseline per hectare referral rate (0.001196915) and breaks down the cost according to the findings in table 9.

Table 8: applications referred by pioneers to PINS (source: PINS)

Application type (s=section, Sch=Schedule)	No of applications	Who pays?
s6 creation of a new right	0	Defra pays if new common land created, but applicant pays if not
s7 variation of a right	0	Defra pays if new common land created, but applicant pays if not
s8 apportionment of a right	0	Applicant pays
s10 attachment of a right to land	0	Defra pays
s11 re-allocation of an attached right	0	Applicant pays
s12 transfer of a right in gross	0	Applicant pays
s13 surrender and extinguishment of a right	0	Applicant pays
s14 statutory disposition (causing the transfer or extinguishment of common land, TVG or rights thereof)	0	Applicant pays
s15(1) registration of new TVG	10	Defra pays
s19(2)(a) correction of mistake made by authority	20	Defra pays
s19(2)(b) correction of any other mistake	0	Applicant pays
s19(2)(c) removal of duplicate entry	0	Defra pays
s19(2)(d) updating details	0	Applicant pays
s19(2)(e) accretion & diluvion (i.e. where course of a river changes)	0	Applicant pays
Regulation 44 - declaration of an entitlement to a right of common	0	Applicant pays
Sch2 para 2 non-registration of common land	2	Defra pays
Sch2 para 3 non-registration of TVG	0	Defra pays
Sch2 para 4 non-registration of waste land of the manor (as common land)	28	Defra pays
Sch2 para 5 TVG wrongly registered as common land	0	Defra pays
Sch2 para 6 buildings wrongly registered as common land	12	Applicant pays
Sch2 para 7 other land wrongly registered as common land	6	Applicant pays
Sch2 para 8 buildings wrongly registered as TVG	2	Applicant pays
Sch2 para 9 other land wrongly registered as TVG	1	Applicant pays
Sch3 transitional period to record unregistered events	0	Defra pays for 1st 3 years, then applicant pays

	81
--	-----------

Table 9: who pays PINS costs in relation to referrals from Cumbria and N Yorkshire? (NB source PINS)

Proportion of applications in the pioneer	No of applications	Proportion
Public interest (Defra pays)	60	74%
Private interest (applicant pays)	21	26%
Total	81	

Table 10: number of referrals and costs to PINS of referrals from Cumbria and N Yorkshire

PINS costs in relation to	No of hectares	No of referrals (pre 20% reduction)	No of referrals (post 20% reduction)	Total cost of referrals	Total cost of referral to Government (74% of the total)	Total cost of referrals to applicants (26% of the total)
Cumbria	116,982.50	140.0	112	£496,000	£367,040	£128,960
North Yorkshire	77,146.70	92.3	73.9	£327,098	£242,053	£85,046
Total	194,129.20	232.4	185.9	£823,098	£609,093	£216,006

Therefore 186 applications would be referred by Cumbria and N Yorkshire to PINS at a total cost of £823,098 over 5 years. Of the total cost, £609,093 would be paid by Defra and £216,006 would be paid by applicants.

Estimated cost to corrective authorities

The table below shows the total number of hectares of commons and TVGs within each corrective authority and the estimated number of each type of corrective applications and cost of dealing with them (based on the figures provided by pioneers). This is calculated using the baseline number of applications per hectare for section 19(2)(a) which is 0.000232603 and for Schedule 2, paras 6 to 9, which is 0.000174451. The estimated numbers of applications are then multiplied by the cost of the application. For section 19(2)(a) this cost is £606.72 and for Schedule 2, paras 6 to 9, it is £615.40.

Table 11: number of corrective applications and cost to each authority

Authority	Total ha of CL and TVG	No of s19(2)(a) apps	Cost of s19(2)(a) apps	No of Sch2p6-9 apps	Cost of Sch2p6-9 apps	Total no of apps	Total cost of apps s19(2)(a) & Sch2p6-9
Durham	28911.950	6.7	£4,080.20	5.0	£3,103.90	11.8	£7,184.10
Surrey County	9944.440	2.3	£1,403.41	1.7	£1,067.60	4.0	£2,471.01
Northumberland	9827.840	2.3	£1,386.95	1.7	£1,055.09	4.0	£2,442.04
Calderdale District	5524.220	1.3	£779.61	1.0	£593.06	2.2	£1,372.67

Somerset County	5138.270	1.2	£725.14	0.9	£551.63	2.1	£1,276.77
Shropshire	4739.200	1.1	£668.82	0.8	£508.79	1.9	£1,177.61
Norfolk County	4605.440	1.1	£649.94	0.8	£494.43	1.9	£1,144.37
West Sussex County	4269.170	1.0	£602.49	0.7	£458.32	1.7	£1,060.81
Hampshire County	3847.230	0.9	£542.94	0.7	£413.03	1.6	£955.97
East Sussex County	3402.642	0.8	£480.20	0.6	£365.30	1.4	£845.49
Kirklees District	2620.610	0.6	£369.83	0.5	£281.34	1.1	£651.17
Rochdale District	2618.650	0.6	£369.56	0.5	£281.13	1.1	£650.69
Bradford District	2455.980	0.6	£346.60	0.4	£263.67	1.0	£610.27
Suffolk County	2239.070	0.5	£315.99	0.4	£240.38	0.9	£556.37
Dorset County	2188.110	0.5	£308.80	0.4	£234.91	0.9	£543.71
Gloucestershire County	2124.900	0.5	£299.88	0.4	£228.12	0.9	£528.00
Staffordshire County	2082.660	0.5	£293.92	0.4	£223.59	0.8	£517.50
Worcestershire County	1840.260	0.4	£259.71	0.3	£197.56	0.7	£457.27
Wiltshire	1332.260	0.3	£188.02	0.2	£143.03	0.5	£331.04
Essex County	1328.650	0.3	£187.51	0.2	£142.64	0.5	£330.15
Doncaster District	1275.010	0.3	£179.94	0.2	£136.88	0.5	£316.82
Buckinghamshire County	1196.960	0.3	£168.92	0.2	£128.50	0.5	£297.42
Oxfordshire County	1079.454	0.3	£152.34	0.2	£115.89	0.4	£268.22
West Berkshire	1001.709	0.2	£141.37	0.2	£107.54	0.4	£248.91
Cambridgeshire County	815.866	0.2	£115.14	0.1	£87.59	0.3	£202.73
East Riding of Yorkshire	621.864	0.1	£87.76	0.1	£66.76	0.3	£154.52
South Gloucestershire	613.059	0.1	£86.52	0.1	£65.82	0.2	£152.33
Windsor and Maidenhead	584.047	0.1	£82.42	0.1	£62.70	0.2	£145.13
Oldham District	476.698	0.1	£67.27	0.1	£51.18	0.2	£118.45
Redcar and Cleveland	451.337	0.1	£63.69	0.1	£48.45	0.2	£112.15
Nottinghamshire County	420.530	0.1	£59.35	0.1	£45.15	0.2	£104.49
Newcastle upon Tyne District	403.986	0.1	£57.01	0.1	£43.37	0.2	£100.38
Central Bedfordshire	391.720	0.1	£55.28	0.1	£42.05	0.2	£97.34
Lincolnshire County	391.405	0.1	£55.24	0.1	£42.02	0.2	£97.26
North Somerset	341.772	0.1	£48.23	0.1	£36.69	0.1	£84.92
Cheshire East	334.065	0.1	£47.14	0.1	£35.86	0.1	£83.01
Derbyshire County	298.318	0.1	£42.10	0.1	£32.03	0.1	£74.13
Bristol	256.434	0.1	£36.19	0.0	£27.53	0.1	£63.72
North Lincolnshire	216.115	0.1	£30.50	0.0	£23.20	0.1	£53.70
Bury District	204.035	0.0	£28.79	0.0	£21.90	0.1	£50.70
Leicestershire County	197.104	0.0	£27.82	0.0	£21.16	0.1	£48.98
Warwickshire County	190.041	0.0	£26.82	0.0	£20.40	0.1	£47.22
York	182.919	0.0	£25.81	0.0	£19.64	0.1	£45.45
Hackney London Borough	176.287	0.0	£24.88	0.0	£18.93	0.1	£43.80
Southampton	165.591	0.0	£23.37	0.0	£17.78	0.1	£41.15
Wakefield District	154.464	0.0	£21.80	0.0	£16.58	0.1	£38.38

Walsall District	151.939	0.0	£21.44	0.0	0.0	£16.31	0.1	£37.75
Richmond upon Thames London Borough	149.365	0.0	£21.08	0.0	0.0	£16.04	0.1	£37.11
Thurrock	134.983	0.0	£19.05	0.0	0.0	£14.49	0.1	£33.54
Bromley London Borough	128.687	0.0	£18.16	0.0	0.0	£13.82	0.1	£31.98
Camden London Borough	122.358	0.0	£17.27	0.0	0.0	£13.14	0.0	£30.40
Wigan District	113.196	0.0	£15.97	0.0	0.0	£12.15	0.0	£28.13
Wirral District	107.774	0.0	£15.21	0.0	0.0	£11.57	0.0	£26.78
Barnet London Borough	101.729	0.0	£14.36	0.0	0.0	£10.92	0.0	£25.28
Greenwich London Borough	96.235	0.0	£13.58	0.0	0.0	£10.33	0.0	£23.91
Bath and North East Somerset	94.212	0.0	£13.30	0.0	0.0	£10.11	0.0	£23.41
Milton Keynes	84.791	0.0	£11.97	0.0	0.0	£9.10	0.0	£21.07
Harrow London Borough	77.450	0.0	£10.93	0.0	0.0	£8.31	0.0	£19.24
Cheshire West and Chester	72.849	0.0	£10.28	0.0	0.0	£7.82	0.0	£18.10
Leeds District	69.105	0.0	£9.75	0.0	0.0	£7.42	0.0	£17.17
Peterborough	65.775	0.0	£9.28	0.0	0.0	£7.06	0.0	£16.34
Lewisham London Borough	62.050	0.0	£8.76	0.0	0.0	£6.66	0.0	£15.42
Stockton-on-Tees	60.342	0.0	£8.52	0.0	0.0	£6.48	0.0	£14.99
Northamptonshire County	58.468	0.0	£8.25	0.0	0.0	£6.28	0.0	£14.53
Lambeth London Borough	56.212	0.0	£7.93	0.0	0.0	£6.03	0.0	£13.97
Hillingdon London Borough	53.499	0.0	£7.55	0.0	0.0	£5.74	0.0	£13.29
Rotherham District	44.377	0.0	£6.26	0.0	0.0	£4.76	0.0	£11.03
Gateshead District	41.926	0.0	£5.92	0.0	0.0	£4.50	0.0	£10.42
Halton	38.791	0.0	£5.47	0.0	0.0	£4.16	0.0	£9.64
Havering London Borough	38.674	0.0	£5.46	0.0	0.0	£4.15	0.0	£9.61
Barnsley District	38.253	0.0	£5.40	0.0	0.0	£4.11	0.0	£9.51
Darlington	37.100	0.0	£5.24	0.0	0.0	£3.98	0.0	£9.22
North Tyneside District	32.754	0.0	£4.62	0.0	0.0	£3.52	0.0	£8.14
Ealing London Borough	30.646	0.0	£4.32	0.0	0.0	£3.29	0.0	£7.62
Isle of Wight	28.608	0.0	£4.04	0.0	0.0	£3.07	0.0	£7.11
Merton London Borough	28.360	0.0	£4.00	0.0	0.0	£3.04	0.0	£7.05
Southwark London Borough	23.045	0.0	£3.25	0.0	0.0	£2.47	0.0	£5.73
Medway	22.942	0.0	£3.24	0.0	0.0	£2.46	0.0	£5.70
Torbay	17.359	0.0	£2.45	0.0	0.0	£1.86	0.0	£4.31
Warrington	14.656	0.0	£2.07	0.0	0.0	£1.57	0.0	£3.64
Hartlepool	14.160	0.0	£2.00	0.0	0.0	£1.52	0.0	£3.52
Rutland	13.858	0.0	£1.96	0.0	0.0	£1.49	0.0	£3.44
Luton	13.365	0.0	£1.89	0.0	0.0	£1.43	0.0	£3.32
Poole	12.356	0.0	£1.74	0.0	0.0	£1.33	0.0	£3.07
Plymouth	12.091	0.0	£1.71	0.0	0.0	£1.30	0.0	£3.00
Kingston upon Thames London Borough	11.628	0.0	£1.64	0.0	0.0	£1.25	0.0	£2.89
Hounslow London Borough	10.377	0.0	£1.46	0.0	0.0	£1.11	0.0	£2.58
Redbridge London Borough	9.898	0.0	£1.40	0.0	0.0	£1.06	0.0	£2.46

Sheffield District	9.810	0.0	£1.38	0.0	£1.05	0.0	0.0	£2.44
Wokingham	9.388	0.0	£1.32	0.0	£1.01	0.0	0.0	£2.33
Salford District	7.946	0.0	£1.12	0.0	£0.85	0.0	0.0	£1.97
Sunderland District	7.600	0.0	£1.07	0.0	£0.82	0.0	0.0	£1.89
Haringey London Borough	6.530	0.0	£0.92	0.0	£0.70	0.0	0.0	£1.62
South Tyneside District	6.520	0.0	£0.92	0.0	£0.70	0.0	0.0	£1.62
Tameside District	5.563	0.0	£0.79	0.0	£0.60	0.0	0.0	£1.38
Sutton London Borough	5.523	0.0	£0.78	0.0	£0.59	0.0	0.0	£1.37
Solihull District	5.111	0.0	£0.72	0.0	£0.55	0.0	0.0	£1.27
Croydon London Borough	4.602	0.0	£0.65	0.0	£0.49	0.0	0.0	£1.14
Enfield London Borough	4.186	0.0	£0.59	0.0	£0.45	0.0	0.0	£1.04
Hammersmith and Fulham London Borough	3.779	0.0	£0.53	0.0	£0.41	0.0	0.0	£0.94
Waltham Forest London Borough	3.534	0.0	£0.50	0.0	£0.38	0.0	0.0	£0.88
Stoke-on-Trent	3.360	0.0	£0.47	0.0	£0.36	0.0	0.0	£0.83
Barking and Dagenham London Borough	2.570	0.0	£0.36	0.0	£0.28	0.0	0.0	£0.64
Bexley London Borough	2.463	0.0	£0.35	0.0	£0.26	0.0	0.0	£0.61
Stockport District	1.850	0.0	£0.26	0.0	£0.20	0.0	0.0	£0.46
Nottingham	1.700	0.0	£0.24	0.0	£0.18	0.0	0.0	£0.42
Bedford Borough	1.696	0.0	£0.24	0.0	£0.18	0.0	0.0	£0.42
Bolton District	0.900	0.0	£0.13	0.0	£0.10	0.0	0.0	£0.22
Birmingham District	0.843	0.0	£0.12	0.0	£0.09	0.0	0.0	£0.21
St. Helens District	0.458	0.0	£0.06	0.0	£0.05	0.0	0.0	£0.11
Middlesbrough	0.456	0.0	£0.06	0.0	£0.05	0.0	0.0	£0.11
Swindon	0.336	0.0	£0.05	0.0	£0.04	0.0	0.0	£0.08
Brighton and Hove	0.330	0.0	£0.05	0.0	£0.04	0.0	0.0	£0.08
Kensington and Chelsea London Borough	0.325	0.0	£0.05	0.0	£0.03	0.0	0.0	£0.08
Bournemouth	0.300	0.0	£0.04	0.0	£0.03	0.0	0.0	£0.07
Sefton District	0.140	0.0	£0.02	0.0	£0.02	0.0	0.0	£0.03
Newham London Borough	0.119	0.0	£0.02	0.0	£0.01	0.0	0.0	£0.03
Portsmouth	0.103	0.0	£0.01	0.0	£0.01	0.0	0.0	£0.03
Dudley District	0.100	0.0	£0.01	0.0	£0.01	0.0	0.0	£0.02
Liverpool District	0.100	0.0	£0.01	0.0	£0.01	0.0	0.0	£0.02
Trafford District	0.100	0.0	£0.01	0.0	£0.01	0.0	0.0	£0.02
Knowsley District	0.090	0.0	£0.01	0.0	£0.01	0.0	0.0	£0.02
Derby	0.080	0.0	£0.01	0.0	£0.01	0.0	0.0	£0.02
Wandsworth London Borough	0.028	0.0	£0.00	0.0	£0.00	0.0	0.0	£0.01
Telford and Wrekin	0.020	0.0	£0.00	0.0	£0.00	0.0	0.0	£0.01
Slough	0.005	0.0	£0.00	0.0	£0.00	0.0	0.0	£0.00
Blackpool	0.000	0.0	£0.00	0.0	£0.00	0.0	0.0	£0.00
Bracknell Forest	0.000	0.0	£0.00	0.0	£0.00	0.0	0.0	£0.00

Brent London Borough	0.000	0.0	£0.00	0.0	£0.00	0.0	£0.00	0.0	£0.00
Coventry District	0.000	0.0	£0.00	0.0	£0.00	0.0	£0.00	0.0	£0.00
Islington London Borough	0.000	0.0	£0.00	0.0	£0.00	0.0	£0.00	0.0	£0.00
Kingston upon Hull	0.000	0.0	£0.00	0.0	£0.00	0.0	£0.00	0.0	£0.00
Leicester	0.000	0.0	£0.00	0.0	£0.00	0.0	£0.00	0.0	£0.00
Manchester District	0.000	0.0	£0.00	0.0	£0.00	0.0	£0.00	0.0	£0.00
North East Lincolnshire	0.000	0.0	£0.00	0.0	£0.00	0.0	£0.00	0.0	£0.00
Reading	0.000	0.0	£0.00	0.0	£0.00	0.0	£0.00	0.0	£0.00
Sandwell District	0.000	0.0	£0.00	0.0	£0.00	0.0	£0.00	0.0	£0.00
Southend-on-Sea	0.000	0.0	£0.00	0.0	£0.00	0.0	£0.00	0.0	£0.00
Tower Hamlets London Borough	0.000	0.0	£0.00	0.0	£0.00	0.0	£0.00	0.0	£0.00
Westminster London Borough	0.000	0.0	£0.00	0.0	£0.00	0.0	£0.00	0.0	£0.00
Wolverhampton District	0.000	0.0	£0.00	0.0	£0.00	0.0	£0.00	0.0	£0.00
Total	115977.1	27.0	£16,367.28	20.2	£12,450.94	47.2	£28,818.22		

The table above does not take account of the fact that the authority will refer a number of corrective applications to PINS for determination. In the pioneer all corrective applications would have been referred to PINS. However, regulations will provide that referral takes place only where objections are received from persons with a legal interest in the land. PINS estimate that 80% of referrals receive objections which would reduce referrals by 20%. The final cost calculations are provided in the table below.

Table 12: breakdown of who determines corrective applications and the cost of doing so

	Authority (NB takes account of referrals to PINS)		PINS (after 20% reduction)		Total (authority + PINS)	
	No of apps	Cost	No of apps	Cost of apps	No of apps	Cost of apps
s19(2)(a)	5.4	£3,273.46	21.6	£95,562.10	27.0	£98,835.56
Sch2, para 6-9	4.0	£2,490.19	16.2	£71,670.81	20.2	£74,161.00
Total	9.4	£5,763.64	37.8	£167,232.91	47.2	£172,996.55

Applicants will pay the cost of applications under Schedule 2 whether they are determined by authorities or PINS. However, for section 19 applications, the authority cannot charge a fee so will absorb the cost (NB it made the mistake to be corrected), but Defra will pay PINS costs of dealing with such applications on a full recharge basis.