

**EXPLANATORY MEMORANDUM TO
THE TRANSFER OF HOUSING CORPORATION FUNCTIONS (MODIFICATIONS AND
TRANSITIONAL PROVISIONS) ORDER 2008**

2008 No. 2839

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments

2. **Purpose of the instrument**

2.1 The purpose of the Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008 is to transfer functions of the Housing Corporation to the Homes and Communities Agency (“HCA”) or the Regulator of Social Housing (“the regulator”; to be known as the Tenant Services Authority (“TSA”)), and to make modifications which are consequential on that transfer. The Order makes transitional and saving provision related to the transfer of functions.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 This Order is the first use of the powers in section 67 of the Housing and Regeneration Act 2008 (“the Act”).

4. **Legislative Context**

4.1 Part 1 of the Act establishes the HCA as a new body to deliver improvements to the supply and quality of housing and to secure the regeneration or development of land or infrastructure in England. Part 2 of the Act establishes a new Office for Tenants and Social Landlords, which may be referred to in enactments and other instruments as the Regulator of Social Housing (to be known for practical purposes as the TSA) and provides for a new regime for the regulation of social housing. The Act received Royal Assent on 22 July.

4.2 The Housing Corporation is currently responsible for the regulation of registered social landlords and for making grants in relation to social housing under various pieces of existing legislation, most notably the Housing Act 1996. Part 2 of the Act creates a new system for the regulation of social landlords, who will be known as “registered providers”, in England. The provisions of the Housing Act 1996 will continue to apply in Wales with the modifications made in the Act.

4.3 The Housing and Regeneration Act 2008 (Commencement No.1 and Transitional Provision) Order 2008 (S.I.2008/2358) was made on 2 September 2008 and commenced the provisions which establish the HCA and the regulator on 8 September 2008. That Order also commenced provisions in Part 2 of the Act which enable the regulator to make preparations for the new regulatory regime. This will involve consultation on many aspects of the new registered provider regime in accordance with the Act. It is anticipated it will take some time before the new regime can be fully commenced.

4.4 This Order is one of a number of orders being made to bring into force the provisions of the Act related to the establishment of the Homes and Communities Agency and the regulator. The other Orders are-

- the second commencement order for the Act,
- an order to make consequential amendments to primary legislation (a draft of which is currently before Parliament for approval), and
- an order to make consequential amendments to secondary legislation.

4.5 The provisions of this Order will take effect at the same time as the commencement of the relevant provisions of the second commencement order. We intend these provisions to come into force on 1st December 2008.

4.6 Section 67 of the Act provides for transitional arrangements whereby the functions of the Housing Corporation may be transferred to the HCA, to the regulator, or to the HCA and the regulator jointly or concurrently. This is to enable the HCA to exercise the investment functions of the Corporation until its financial assistance powers under section 19 of the Act are fully commenced, and to enable the TSA to take over day to day regulatory activity in advance of the new regulatory regime being fully commenced.

4.7 Section 67(5) of the Act provides that an Order under the section may modify an enactment. This enables modifications to be made as a consequence of the transfer of functions.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Part 2 of the Act establishes the regulator (which is to be known as the TSA). The regulator is required under the Act to consult on essential aspects of the new regulatory system, including performance standards for landlords, before it can operate many of the new powers given to it by Part 2 of the Act. After the necessary consultation the regulator will carry out its regulatory responsibilities using its new powers. Until that time the regulator will use the existing regulatory powers which were previously exercised by the Housing Corporation.

7.2 It is important that effective regulation of registered social landlords¹ continues while the regulator is consulting on the new system. This Order therefore modifies current references to the Housing Corporation in the Housing Act 1996 and other relevant existing legislation so that they have effect as references to the regulator (or the HCA in the case of an investment function). This will enable the regulator to continue to operate the existing regulatory system in place of the Housing Corporation for an interim period. Once the regulator has carried out the required consultation exercises and other necessary steps it will be able to put in place and operate a new regulatory system. When the new regulatory system is in place the existing powers will be repealed.

7.3 Some of the Housing Corporation functions being transferred (those related to investment, rather than regulation) will become the responsibility of the HCA. The HCA has been created so as to combine the delivery of both housing and regeneration. The policy objective is that the HCA

¹ RSL is the technical name for social landlords that are registered with the Housing Corporation (most are housing associations, but there are also trusts and co-operatives) to provide social housing. RSLs run as businesses but do not trade for profit.

will bring together, in one place, the functions of English Partnerships, investment functions from the Housing Corporation, and delivery functions currently carried out by the Department for Communities and Local Government, so as to help contribute to Government's housing agenda. The decision to transfer the investment functions of the Housing Corporation to the HCA was made to combine delivery and investment, making projects simpler to administer, with clearer lines of project leadership and less fragmented funding.

8. Consultation outcome

8.1 In June 2007 a consultation paper was issued² which sought views on the roles and responsibilities of the new agency and on proposals for a new social housing regulatory system. In January 2008 a response to this consultation exercise was published³. There were 187 responses to the consultation exercise and, whilst not every respondent answered every question, the creation of a new agency and a new social housing regulatory system was generally supported.

9. Guidance

9.1 The modifications made by this Order do not need to be explained. The functions to be transferred to the two new bodies, the Homes and Communities Agency and the Regulator of Social Housing are well known. In transferring these functions of the Housing Corporation to the two new bodies, the Order ensures that business continues as normal.

9.2 The creation of the two new bodies has been high profile within the housing and regeneration sector, so stakeholders and interested individuals will already be aware of the reasons for creating these bodies. There has been a series of regional stakeholder events and visits to ensure maximum awareness of the changes. Further publicity will be undertaken in readiness for the vesting of powers in these new bodies.

10. Impact

10.1 There will be no impact on business, charities or voluntary bodies, or on the public sector arising from this Order. The Order merely enables the two new bodies to exercise existing functions of the Housing Corporation and to assist in the continued delivery of services during the transitional period. In the longer term the creation of the two new bodies will have a positive impact on the public sector. Further details are set out in the Impact Assessment

10.2 As part of the Parliamentary passage of the Act an Impact Assessment was published for the creation of the new agency. The IA is attached to this memorandum.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The HCA and the regulator are both committed to completing the investment and regulatory work of the Housing Corporation. The activities of these public bodies are subject to scrutiny by Parliament.

12.2 The Department will review the policy for the establishment of the Homes and Communities Agency in 2010.

² <http://www.communities.gov.uk/documents/housing/pdf/322429.pdf>

³ <http://www.communities.gov.uk/publications/housing/communitiesenglandresponses>

13. Contact

Andrew Lynch at the Department for Communities and Local Government Tel: 0207 944 8076 or e-mail: Andrew.lynch@communities.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: Communities & Local Government	Title: Impact Assessment of Homes & Communities Agency (previously known as new homes agency & Communities England)	
Stage: Final	Version: 2	Date: August 2008
Related Publications: <i>Delivering Housing and Regeneration: Communities England and the future of social housing regulation</i>		

Available to view or download at:

<http://www.communities.gov.uk>

Contact for enquiries: Dionne Campbell-Mark

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

The Government has set demanding targets for housing and regeneration delivery. Ministers have decided that establishing the Homes and Communities Agency (HCA) by bringing together English Partnerships, investment functions of the Housing Corporation and key delivery functions from CLG would be the most effective solution to meet these challenging objectives.

Establishing HCA is not about reviewing the Government's housing and regeneration strategies and policies, rather it is to ensure there is a robust delivery chain for delivering Government's objectives and future policies.

What are the policy objectives and the intended effects?

To create a modern, streamlined delivery chain that makes the best use of private investment, public subsidy, land, assets and skills, whilst achieving increased outputs for the same amount of investment. It will also provide local authorities with an expert partner to help them in their place-shaping role.

What policy options have been considered? Please justify any preferred option.

Modernisation of existing structures; and creation of a new homes agency - justification for adopting this approach is given in the evidence base below.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? We are currently working with the HCA Set-up to determine how it can best demonstrate its success to the Department and what that success in the delivery of benefits will look like at key stages. We expect to see the delivery of those benefits by 2010.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

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) the benefits justify the costs.

Signed by the responsible Minister:

Iain Wright.....Date: 6th October 2008

Summary: Analysis & Evidence

Policy Option:
Modernise structures

Description: This option covers the 'do nothing' rationale i.e. continue modernising structures

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Costs will continue as if business continued as normal.
	One-off (Transition)	Yrs	
	£ 0		
	Average Annual Cost (excluding one-off)		
	£ 0		Total Cost (PV) £ 0
Other key non-monetised costs by 'main affected groups' the bodies not being able to meet house building targets if.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' The benefits will continue but there is a danger that they may not continue at the rate required, the current rate of delivery could slip.
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 0		Total Benefit (PV) £ 0
Other key non-monetised benefits by 'main affected groups'			

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ 0	NET BENEFIT (NPV Best estimate) £ 0
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What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	continue as normal			
Which organisation(s) will enforce the policy?	CLG sponsorship			
What is the total annual cost of enforcement for these organisations?	£ 0			
Does enforcement comply with Hampton principles?	No			
Will implementation go beyond minimum EU requirements?	Yes			
What is the value of the proposed offsetting measure per year?	£ 0			
What is the value of changes in greenhouse gas emissions?	£ 0			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of £	Decrease of £	Net Impact	£

Kev: Annual costs and benefits: Constant Prices

Summary: Analysis & Evidence

Policy Option: Est
Homes &
Communities Agency

Description: Establishing the Homes and C

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' The one off cost of £20m does not include establishing the new Regulator. It does include consultancy, IT & temporary staff costs, communications work, redundancy and re-hire payments, and a contingency fund. Average annual costs will run from 2009 and are appx at this time (staffing levels & accomodation costs etc TBC).
	One-off (Transition)	Yrs	
	£ 20m	3	
	Average Annual Cost (excluding one-off)		
	£ 17m p.a apx		Total Cost (PV) £ 22.1m
Other key non-monetised costs by 'main affected groups' Business as usual - day to day operations need to be maintained whilst in this period of transition.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' The average annual benefit anticipated for the period 2007/8 to 2013/14 (7years) for programme efficiency savings is [07/8=£0m, 08/9=8m,09/10=124m,10/11=167m, 11/12=236m,12/13=344,13/14=477]. From 2010/11 to 13/14, there is also £3million per annum administations savings.
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 193.7m. pa		Total Benefit (PV) £ 1,168m
Other key non-monetised benefits by 'main affected groups' include more streamlined working, simpler delivery chains, a more srategic approach to operations, a single identity of a national housing and regeneration agency, harnessing scarce skills 'under one roof', and increased negotiating leverage.			

Key Assumptions/Sensitivities/Risks Assumptions - the creation of the new agency will not be delayed. Risks include - loss of key staff, transitional change to structures, governance drift and the failure to establish a Regulator for social housing.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ 854-1,700m	NET BENEFIT (NPV Best estimate) £ 1,146million
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What is the geographic coverage of the policy/option?	England		
On what date will the policy be implemented?	1 Dec 08 - April 2009		
Which organisation(s) will enforce the policy?	CLG sponsorship		
What is the total annual cost of enforcement for these organisations?	£ 0		
Does enforcement comply with Hampton principles?	Yes/No		
Will implementation go beyond minimum EU requirements?	Yes		
What is the value of the proposed offsetting measure per year?	£ 0		
What is the value of changes in greenhouse gas emissions?	£ 0		
Will the proposal have a significant impact on competition?	No		
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	No	No	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ 0	Decrease of	£ 12m/4yrs
		Net Impact	£

Key:	Annual costs and benefits: Constant Prices	(Net) Present Value
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Purpose and Intended Effect of Measure

This cost benefit model sets out the reference case under modernisation and summarises programme spending for EP and HC. It also identifies the main Departmental programmes that will transfer to the Homes and Communities Agency.

Objective

To build a modern and streamlined delivery chain for housing and regeneration that makes the best use of private investment, public subsidy, land, assets and skills.

Background

The Housing Corporation (HC) is the Non-Departmental Public Body that funds new affordable housing and regulates housing associations in England. English Partnerships (EP) is an operating name for the partnership that is the Commission for New Towns (CNT) and the Urban Regeneration Agency (URA). EP is the national regeneration agency, helping the Government to support high quality sustainable growth in England. Communities and Local Government is also directly responsible for a range of housing and regeneration roles. Please note, as the regulation and investment functions of HC are to be separated with the investment functions transferring to HCA, there will be a separate Impact Assessment for the regulation functions previously administered by HC.

Since 1997 the Government and its delivery agencies have made real progress – 77 per cent of new homes being built on brownfield land compared to just 56 per cent in 1997, English Partnerships has reclaimed over 6,000 hectares of land and has levered in £5.5 billion of private sector investment into regeneration projects and between 2006-08 the Housing Corporation is building 33 per cent more homes for only 15 per cent more resources⁴. But, it is important to build on these successes in order to meet the high expectations that communities rightly have.

A modern and streamlined delivery chain is required, that makes the best use of private investment, public subsidy, land, assets and skills, so we can deliver even more houses and mixed communities.

In April 2006 a Housing and Regeneration Review was undertaken for Ministers to appraise the institutional structures for delivering the Government's housing and regeneration objectives, and make recommendations for improvement. The review found strong evidence of potential overlaps, where combined funding should reduce fragmentation and co-ordination failures. Across the Housing Corporation, English Partnerships and those Departmental programmes that we plan to transfer to the Homes and Communities Agency (HCA), around two thirds of current spending is on common objectives – estate regeneration, mixed use regeneration, strategic growth and low cost home ownership.

Rationale for Government Intervention

The rationale for reviewing the Government's housing and regeneration delivery chain is to deliver a step change in housing provision, mixed sustainable communities, and social mobility. Specifically:

- across England, raise the housing target for 2016 from 200,000 to 240,000 per year, and by 2020 have built 3million new homes;
- helping over 100,000 people into home ownership by 2010;

⁴ Figures from the following: 1996-2006 Land Use table at:

<http://www.communities.gov.uk/publications/planningandbuilding/landusestats>, English Partnerships Annual Report at: www.englishpartnerships.co.uk and the partial Regulatory Impact Assessment at Annex C of the consultation document: 'Delivering Housing and Regeneration: *Communities England and the future of social housing reform*' available at: <http://www.communities.gov.uk/publications/housing/deliveringhousingregeneration>

- expecting all social landlords to be working towards delivering Decent Homes for tenants by 2010, except in those cases where achieving the standard by a slightly later date would bring benefits;
- looking at how social housing can help to create mixed communities of different incomes and tenures – where decisions on investment in improving social housing are taken alongside decisions on the other investment necessary to deliver sustainable mixed communities;
- a radical, devolutionary Local Government White Paper, and at all levels of governance, a switch to “presumed autonomy” – i.e. empowering others, not taking power at the centre; and
- a long-term ambition to move towards low carbon and then carbon-neutral developments.

Consultation

Within Government

The Department’s economic modelling was subject to rigorous scrutiny by HM Treasury and we have consulted with colleagues across Government on our plans.

Public Consultation

Stakeholders were invited to submit views to the Department’s review of housing and regeneration. The responses, from a range of organisations and individuals, informed the review and helped to focus attention on specific issues (for example, how the new agency would work with local and regional partners).

An external Sounding Board with representatives from the Registered Social Landlord sector, developers, lenders, house builders and local authority staff was established during the review to feed into and examine the work of the review.

A public consultation was launched on 19 June with the document “Delivering Housing and Regeneration: Communities England and the future of social housing regulation” (available to view at: <http://www.communities.gov.uk/publications/housing/deliveringhousingregeneration>). The document was launched at the Chartered Institute of Housing annual conference by the Secretary of State. In line with Cabinet Office guidance, the consultation period was for a full twelve week period; ending on 10 September 2007.

The general response to the consultation’s partial impact assessment was positive. Concerns were raised about the initial costs of establishing HCA (£23m over 4yrs), however, when compared to the savings (£193m per year) this appears to be an acceptable cost to incur. A comment was also made regarding £3m per annum administration savings versus the £23m set up costs. Whilst there will be savings on administrations work the main savings will be as a result of a more strategic programme spend; this will result in the £193m per annum savings.

The partial impact assessment in the consultation only considered the impact of racial equality when establishing the new agency. However, the Department is firmly committed to meeting its statutory equalities duties in respect of race, disability and gender for all of its policies and functions and to ensure that there is no adverse impact on any group of individuals.

As a result of the consultation exercise and due to the level of agreement therein we have agreed that the delivery functions referred to in the consultation document will transfer to HCA. We note that stakeholders are concerned about how the new agency will work with different levels of existing governance. We will explore this further with our partners and are currently planning a series of stakeholder events. We will also examine the views of stakeholders with regards to the proposed investment strategy so that we can ensure that there is a robust framework for further testing at these stakeholder events. Finally, due to considerable support in the consultation we have decided that the Academy for Sustainable Communities should be part of the new agency rather than a stand alone body.

Options

HC and EP both recognise the scale of the challenge contained in the Government's response to the Barker Review of Housing Supply, and that together with the need to provide more effective targeted support to local authorities, there is a need to reform the way housing and regeneration objectives are delivered.

On this basis it is not feasible that EP and HC would do nothing to meet these new challenges. The Department's review of housing and regeneration concluded that a modernisation of the existing structures should be the base case. This option and the "Do Nothing" option has been combined so that there are two proposals 'do nothing & modernise', and establish a 'new agency'.

Option 1 - Modernisation of Existing Structures

EP and HC are already successful organisations that meet their Public Service Agreement (PSA) targets. Both recognise the need for further modernisation:

Over the last five years, EP has undergone a significant transformation, with increased innovation and the development of more strategic and market-based approaches to investment. EP has pioneered more efficient ways of utilising public sector land assets and "tipping" projects into private sector viability, e.g. where previous attempts to unlock the project had taken some years.

Over the last two years, HC has started to move away from the old culture of purely grant based funding and has delivered significant improvements in efficiency. The programme for 2006/08 will deliver 33 per cent more homes with only 15 per cent more resource than 2004/06. The introduction of grants to non-RSLs has increased competition and has started to push down grant rates for social housing. On the basis of the plans set out in the HC's September 2006 publication *Future Investment Approaches - discussion paper*, we have already offered to maintain unit costs for social housing at flat cash. It is essential we get the best value for money from subsidy to social housing to help deliver a step change in housing provision.

While modernisation of EP and HC is welcome, and some important gains could be made by amending the tasking frameworks of the two agencies, the Review found that many important improvements could not practically be delivered through two separate bodies. While previous attempts to work more collaboratively (cross-membership of Boards, previous joint ventures) have delivered benefits, there is scope for further gains. Most notably, the separation of roles leads to:

- Difficulty exploiting strategic synergies between land, housing and planning;
- Difficulty in effectively marshalling scarce skills and expertise, which are spread too thinly across EP, HC and Communities and Local Government;
- Less value for money: EP and the HC are remitted to view projects from a partial perspective, and contribute funding at different points in the project cycle. EP, HC and Communities and Local Government are each remitted to focus on a discrete set of outputs, rather than the overall outcome / transforming a place. This reduces both the effectiveness of interventions and the scope to develop market-led solutions.
- EP and the HC have some conflicting objectives, most notably, EP is tasked with promoting land value uplift, while HC needs access to the lowest cost land for housing.

Costs associated with Option 1

In the event that the existing organisations (Housing Corporation, English Partnerships and some CLG delivery functions) continued ‘business as usual’, any modernisation of existing structures would be expected as a result of their progression. As a result, intervention would not be required and there would be no additional costs associated with this option.

Option 2 – Homes & Communities Agency

Over time, the evolution of Communities and Local Government’s programmes and the addition of new initiatives have resulted in fragmentation, reducing the scope for effective co-ordination of investment and achieving best value for money. Typically, investment in a locality or project involves several housing and regeneration funding sources (from Communities and Local Government sources directly as well as through EP and HC). Key players come to projects at different points in time, they face different assessment criteria for decisions over funding, and no-one is responsible for offering local government rounded advice on the opportunities to improve a “place”, or to assess what is the minimum public intervention needed to “tip” a project into private sector viability.

In considering the case for a new agency, the review has drawn on the common themes that emerged from the first four Departmental Capability Reviews, notably: the need for shorter, clearer delivery chains, with central headquarters focusing on high-level strategy and policy setting. The review has also benefited from studying the approaches taken by other departments, for example, the Financial Services Authority model used by the Treasury to separate public policy making from day-to-day administration, and the Home Office’s decision to separate-off the Immigration and Nationality Directorate as a new executive agency.

The review found that creating a new agency offered the potential to deliver the most significant benefits, by:

Providing a strong one-stop delivery partner for local government:

1. Building local authority capacity and skills, for example, offering expert support in planning negotiations, including planning obligations;
2. Helping local authorities to assess and unlock their strategic land portfolios;
3. Providing a staircase of support, depending on the needs of a local authority (ranging from advice or master planning, to being a partner in a project, through to undertaking direct delivery on behalf of a local authority, if requested); and
4. Supporting and enabling sub-regional working aligned to housing / employment markets (especially in Growth and Pathfinder Areas).

Improve value for money:

5. Reducing complexity and fragmentation that leads to confusion, increased transaction costs and project delays. The greater the agency’s discretion to move money (subject of course to meeting its outcome targets and financial controls), the greater will be its ability to exploit potential synergies and deliver increased gains.
6. Better aligning existing objectives and funding (currently spread through HC, EP and the Department) to allow rounded approaches to a “place”, to better address market failures and to maximise the impact of investment.
7. Capturing part of the value of uplift from public investment to recycle for future investment.
8. Moving from a position where we fund social housing directly to a more market sensitive approach that asks what investment is needed to open up a site, increasing private sector leverage and driving down costs.
9. Increased procurement efficiencies associated with better economies of scale and the agency’s negotiating power as an important regional operator.

Improving the sustainability of interventions.

By taking a holistic approach and emphasising the importance of understanding the underlying problem in an area, the agency will deliver solutions that last. Otherwise, we risk projects requiring reinvestment sooner, leading to lower value for money and fewer lasting benefits for the community.

Devolving delivery and administrative roles.

This would help to build a new strategic and policy focused Department. Devolving core Departmental delivery roles to the agency would allow Ministers to focus on setting the strategic framework, and ensure that where they do need to become involved in detailed decisions, advice is delivery focused and grounded in a fuller understanding of regional and local priorities.

The new agency would have a more coherent regional presence than under the current arrangements, because it would combine the existing EP and HC regional presence, giving coverage in all the Government Office regions and with an enhanced critical mass. It would be tasked with supporting the Regional Assemblies and Regional Development Agencies, by helping to develop and deliver more integrated and aligned strategies for economic development, land and housing. The new agency would help to marshal resources to deliver regional priorities, for example, by helping to unlock strategic sites, be they infrastructure or housing growth areas.

Creating a more strategic and coherent organisation provides a more effective basis for implementing the Lyons agenda.

There are other non-quantifiable benefits such as:

1. net job creation through the development of housing and social facilities – e.g. businesses will be attracted to areas where there is an employment pool, and consequently residents will be attracted to areas where there is work. In areas such as these we would anticipate employment growth.
2. Other non-quantifiable benefits include the improvement in health e.g. community design could provide walkways, cycle paths, parks etc that encourage walking, running and cycling. With better designed environments that aim to ‘design in health measures’ residents general levels of health should not be adversely affected.

Benefits and costs associated with Option 2

Detailed modelling of the potential operating costs for the new agency has been undertaken, based on: an examination of the existing cost base of HC and EP; an identification of spare accommodation within the two organisations; an assessment of the potential range of staff numbers currently engaged in Departmental delivery; and a consideration of the scope for ‘back office’ savings. The work found that the upfront costs for establishing the new agency are around £23m (NPV is 22.1 based on a 0.035 discount), and this is expected to be spread £3/13/6m over the CSR period.

Cost reductions of £2.5-£3m should be achievable over time through rationalisation (in back-office efficiencies) and that this coupled with revenue generation should mean that the average annual costs of the Homes and Communities Agency should be around £17m.

The average annual benefits anticipated for the Agency between the period 07/08 – 2013/14 (7 years) is a present value total of £1,368m. This consists of programme financial benefits of £1,356m (detailed on page 3) plus, admin savings of a total of £12m (see below). The present value total benefit of £1,356m has been calculated as £1,168m

The admin savings identified, consists of £3m per year (across the combined budgets) in running costs, primarily through back-office efficiencies which would come on stream between 2010/11 to 2014 (£12m). Although not in the review, these administration savings consist of:

1.£1.1m in office accommodation costs (which will be realisable in full from 2010/11 on); and

2.£1.9m from back-office support staff costs (which will be realisable from 2010/11).

The total net benefit (best estimate of) is calculated from programme financial benefits of £1,356m minus net operating cost/savings of £11m, the total of which is £1,146m.

However the state of the housing market has changed markedly since the options appraisal was conducted in 2006. As a result, there are likely to be significant downside risks to the estimates in the benefits model.

A summary of the benefits rationale can be found at annex A.

Policy option taken forward

It was not feasible for the Housing Corporation and English Partnerships to continue in their current form if the Government's challenging targets were to be achieved. A new approach was required to avoid a significant risk that both organisations would be unable to maintain the levels of current delivery let alone increase outputs in line with Government commitments. Given these findings and justifications and the support within the responses to the consultation document the decision has been taken to proceed with option three, forming the Homes & Communities Agency.

HCA Governance Arrangements

Schedule 1 of the Housing and Regeneration Act 2008⁵ sets out the constitution of the HCA, and includes provisions about its status, membership, procedure, delegation, appointment of its chief executive and other employees, pay and pensions, accounts and annual reports. The consent of the Secretary of State is required for certain key decisions of the HCA in relation to appointments and finances.

In addition, all Government Agencies are subject to Cabinet Office⁶ guidance and HM Treasury provides a code of practice⁷ which provides an overview of the processes and responsibilities within Government Departments and their agencies.

The code is guidance on good practice, building on existing constitutional and statutory practice. Departments should apply its principles flexibly in the context of their own circumstances. As set out in the code the board of each department should give a clear account of how far it has complied with key aspects of the code, including an explanation of why any alternative approaches have been chosen, such as, overriding legal constraints. A report on the each department's corporate governance should form part of the material accompanying its annual resource accounts.

Specific Impact Tests

Economic

Competition Assessment

Will the proposal have a significant impact on competition?

The proposal to create HCA should have little or no impact on competition. The agency is being established as a means to delivering, or facilitating the provision of, Government's commitments to deliver greater numbers of housing (mainly social and affordable) and also to carry out

⁵ The Housing & Regeneration Act 2008 is available to download at:

http://www.opsi.gov.uk/acts/acts2008/pdf/ukpga_20080017_en.pdf

⁶ Cabinet Office guidance on the creation of non departmental bodies can be found at:

<http://www.civilservice.gov.uk/about/public/bodies.asp>

⁷ Corporate Governance in Central Government Departments: Code of Practice at: http://www.hm-treasury.gov.uk/documents/public_spending_reporting/governance_risk/psr_governance_corporate.cfm

regeneration across England. Whilst the agency will have the powers to be a direct provider of housing (affordable and private) it is expected that it would only do so where the market is failing to deliver the housing levels needed for that area. If the delivery of housing in an area is sufficient for that area, HCA would have no reason to involve itself in the delivery of housing. However, if housing delivery is not sufficient (market failure) HCA could intervene but the impact on competition should be negligible as there is no or insufficient market involvement, indeed, in such areas the development of private housing is much more attractive to developers than affordable housing and it is affordable housing that HCA would be expected to provide or facilitate the provision of. We therefore expect that HCA's effect on competition would be minimal.

Whilst we expect HCA to work in areas where there is market failure it cannot be presumed that there will be no provision of private or affordable housing. However, should the scenario arise whereby HCA is providing market (rather than affordable) housing it is expected that there will be competitive neutrality, that is, a level playing field between public and private developers. However, the rules governing the register of surplus sector land will remain whereby surplus public sector land will be entered on the register and remain there for 40 days to allow public bodies/ agencies to suggest alternative uses for that land. If, after 40 days, the land has not been sold at market value to a public body/ agency it will be put to the open market. This is a continuation of current working practices and so the formation of HCA will not create any new or different impact in this regard.

The establishment of HCA is not expected to either directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers ability to compete vigorously. Indeed, it should assist suppliers by providing more land for development of housing thereby encouraging work in this area and the ability to compete will be more streamlined as HCA will be a 'one stop shop', where as previously developers may have needed to liaise with both EP & HC.

No responses were received from the consultation exercise that indicated that the formation of HCA will impact on competition.

Small Firms Impact Test

Will the proposal impact upon small businesses?

We do not believe the proposals will significantly impact on small firms working in housing as they do not change the way the housing market works nor do they regulate to change building standards. The Office of Fair Trading launched a study on 22 June 2007 into the UK's house building market which will focus on the potential competition and consumer concerns within the market, and will look at barriers to entry into the market. Our proposal should help to ease these barriers through the provision of more affordable housing.

The creation of HCA should not have an impact on small businesses either. The new agency is to be created by merging two already established government agencies and certain Departmental delivery functions. It will carry out a broadly similar role to that of the current individual parts but will do so more economically and efficiently. Indeed, the work carried out by the new agency will be more geared towards unlocking large sites, providing funding for the delivery of housing and facilitating in the regeneration of areas where the market will not intervene due to disproportionate costs, thereby operating at a level above that which small firms would be operating.

No responses were received through the partial impact assessment consultation exercise that indicated that small business would be affected by the creation of HCA.

Legal Aid Impact test

There is no impact upon legal aid issues under HCA proposals.

Other Economic issues:

Will the proposal bring receipts or savings to Government?

The Department's economic modelling suggests that creating HCA gives a potential net present value of over £1 billion to 2013/14 based on recovery and recycling of efficiency savings throughout the period. It is expected that any savings made in this manner will be reinvested in the new agency.

Will it impact on costs, quality or availability of goods and services?

One of the core functions of HCA is the provision of housing, mainly affordable and supported housing. The new agency will therefore have a positive impact on the cost, quality and availability of housing. This will be due to a greater choice and the cost of housing will at least not rise as fast as in recent times – in the Government's response to the Barker review it is anticipated that by 2026 only three out of ten of today's (as at 2005) will be able to afford to buy a home when they have families of their own if we maintain current (again, as at 2005) building rates – the quality should be of at least decent homes standards with a view to all new housing post 2016 being carbon neutral thereby achieving or going beyond a Government set minimum standard. HCA should also assist in delivering local government services through the proposals contained in the Local Government White Paper. Overall, HCA should have a positive impact on the costs, quality and availability of goods and services.

Will it impact on the public sector, the third sector, consumer?

There will be positive impacts on the public sector, the third sector and the consumer through the greater provision of housing and the regeneration of communities. HCA will also assist in capacity building in local government in support of the Local Government White Paper.

Will the proposal result in new technologies?

The establishment of HCA will be a key player in discovering, establishing, creating new methods in housing construction to comply with the carbon neutral exercise of new developments which comes into effect in 2016.

Will the proposal result in a change in the investment behaviour both in the UK and UK firms overseas and into particular industries?

We do not consider this to be an issue for the establishment of HCA.

Environmental

Carbon assessment

Will the policy option lead to a change in the emission of greenhouse gases?

In itself, the creation of a new agency, replacing two already existing agencies, should not lead to an increase in the emission of greenhouse gases.

The *policies* that HCA will deliver may increase the level of greenhouse gas emissions:

- HCA exists to increase, or produce a "step change" in the provision of housing and regeneration. More homes built to house increasing numbers of single-person households may contribute to an increase in emissions. However, CLG has made commitments that all new homes built after 2016 will be zero-carbon, and as intermediate targets by 2010 new homes will emit 20% less than they currently do, and by 2013, 44% less. The document *Building a Greener Future* provides more detail on the target and the strategy for achieving this. Also, the document *The Future of the Code for Sustainable Homes* gives details on how we are committed to making homes more energy efficient. Both documents can be found on the Department's website <http://www.communities.gov.uk/publications/planningandbuilding/futuretowardszerocarbon> and <http://www.communities.gov.uk/publications/planningandbuilding/futurecodeconsultation> respectively.

- The location of new communities and homes could increase car use unless or until they are serviced by adequate public transport or until work opportunities are located close enough to people's homes to encourage people not to drive to work.

- The construction techniques used to build the extra new homes and physically regenerate communities will temporarily produce increased levels of emissions.
- A new agency HQ, or a reduction in the number of offices used by the agency, may help reduce its contribution to greenhouse gas emissions (compared to the bodies it will replace). However, no final decision has yet been taken on the placement of offices for the new agency.
- The *policies* due to be delivered by HCA may help to reduce carbon emissions by:
 - Replacing old and inefficient homes and other community buildings.
 - People moving from inefficient properties into new, more environmentally sustainable housing.
 - Ensuring that reduction of carbon emissions is built into plans for homes, and communities.

Other environmental

Will the policy option be vulnerable to the predicted effects of climate change?

The policies due to be delivered by HCA may be affected by climate change:

- The potential for flooding, for example, may affect decisions on sites for new communities and housing. Although, the planning system has an important role to play in this regard by ensuring that only appropriate developments are constructed in the appropriate places. In December 2006 CLG published *Planning Policy Statement 25: Development and Flood Risk (PPS25)* which will inform future house building siting and development.
- The construction of housing and creation of communities may require more expensive materials to mitigate the impact of more extreme weather conditions.

These scenarios would have been relevant regardless of the existence of HCA. The agency as an entity would not be any more vulnerable to the effects of climate change than the bodies it is replacing.

The agency's delivery could be more exposed to the effects of climate change than the bodies it replaces because it will be operating in more locations, building more homes and communities.

Will the policy option lead to a change in financial costs or the environmental health impacts of waste management?

The new agency as a body should not lead to a change in financial costs or the environmental impacts of waste management.

The policies delivered by the agency, i.e. increased house-building activity, could shift increased waste management costs onto particular communities or regions. However, waste management should be part of the regional plan-making processes that are carried out for each region.

Will the policy option impact significantly on air quality?

The agency as an entity will not have a significant impact on air quality.

Replacement of old housing will not impact significantly on air quality.

The location of communities delivered by the new homes agency may impact on air quality if their location and layout encourage increased car usage, although transport policies and location of work places close to homes should help to make this a temporary impact.

Will the policy option involve any material change to the appearance of the landscape or townscape?

Delivery by the agency of new communities and housing (at an increased level) will materially change the appearance of the landscape or townscape. However, improved design standards should help to alleviate any appearance to the landscape and, in most cases, help to make the appearance more attractive, useable and appealing to its community.

Will the proposal change 1) the degree of water pollution, 2) levels of abstraction of water or 3) exposure to flood risk?

The increased number of new homes the agency will deliver will increase the levels of abstraction of water. However, the levels of water usage is a consideration when formulating regional planning documents.

The policy delivered by HCA should not increase the level of water pollution. Clean-up of brownfield sites earmarked for new communities may reduce water pollution in those places.

Increased building of homes on flood plains may increase exposure to flood risk, but improvements in flood defences as part of a community or regional plan should guard against this.

Will the policy option disturb or enhance habitat or wildlife?

Increased numbers of new homes and new communities, even if built on brownfield sites, will inevitably disturb some wildlife or habitat although protected species are subject to special protection rights.

Will the policy option affect the number of people exposed to noise or the levels to which they are exposed?

Delivery of policy by the agency may temporarily expose people to increased levels of noise during construction and redevelopment of homes and communities but given that a majority of development is expected to take place on brownfield land which, by its nature, is not generally located in residential areas this issue should not greatly impact on residential areas.

Social

Health Impact Assessment

We have answered the three screening questions for the health impact assessment and our responses are as follows:

Will your policy have a significant impact on human health by virtue of its effects on the following wider determinants of health?

e.g. Income, Crime, Environment, Transport, Housing, Education, Employment, Agriculture, Social cohesion

Research carried out by Shelter has clearly shown that poor housing has a detrimental affect on health. For example, in their study, Chance of A Lifetime – The Impact of Bad Housing on Children’s Lives , Shelter found that a child living in overcrowded housing is up to 10 times more likely to contract meningitis, and that bad housing increases the risk of a child suffering severe ill health and disability by up to 25%. The report also found that children living in damp homes are between one and a half and three times more prone to coughing and wheezing – symptoms of asthma and other respiratory conditions – than children living in dry homes.

We recognise the important role that housing and regeneration policy can play in improving public health and expect that the development of HCA will contribute to improving public health by providing a greater supply of decent homes.

Will there be a significant impact on any of the following lifestyle related variables?

e.g. Physical activity, Diet, Smoking, drugs, or alcohol use, Sexual behaviour, Accidents and stress at home or work

There is no significant impact on these lifestyle related variables.

Is there likely to be a significant demand on any of the following health and social care services?

There is no significant impact on health and social care services from these policies, other than the need for the provision of infrastructure to support new housing growth. This will be addressed as part of wider work with the Department of Health on infrastructure provision.

Also, the powers of HCA provide that should it see fit it could provide, or facilitate the provision of, infrastructure, this could include health, social, recreational and educational facilities and they also have the powers to prevent or reduce anti-social behaviour and crime or the fear of them both. These powers could help to have a positive impact on health matters.

A full Health Impact Assessment is therefore not required.

Race Equality

HCA aims to meet its responsibilities under the race equality duty: by promoting good relations between groups; by developing mixed communities and estate regeneration, and furthering strong and safe existing communities.

Poor quality housing and overcrowding are real issues for Black and Minority Ethnic (BME) communities in some parts of the country. BME communities are concentrated in certain areas, London has the highest proportion. Other regions with high concentrations of BME communities are the West Midlands, Yorkshire and Humberside, and the North-West (Housing and BME Communities: Review of the evidence base [2001]). In London 12.8% BME communities live in overcrowded housing of all tenures compared to 4.1% for White. The percentages for all of England are 10.4% and 1.8% respectively (figures are averaged over three years 2003/4 to 2005/6 DCLG Survey of Housing) HCA will lead in providing large family homes of a decent standard in these areas.

The 2001 Census (ONS) showed that Black African and Bangladeshi communities were more likely to live in social rented housing. HCA will have a positive impact on groups, living in social housing, by improving the supply and quality of social housing. HCA recognises the need for sensitive and well-tuned policies to support minority ethnic households wishing to move to non-traditional areas within the social rented sector but also to widen housing options within groups for those who wish to stay.

HCA recognises the need to provide shared ownership and low cost ownership to groups that wish to own their own home. It intends to expand the provision of affordable homes, which will further the Government's goal; to ensure fair housing for all.

Through the promotion of social cohesion and the Respect Agenda, HCA will have a positive impact on the elimination of discrimination.

HCA realise that race equality must be addressed through considering regeneration strategies. Through housing and environmental upgrading, living conditions will improve, but will also combat the stigma associated with the negative labelling of areas, and the effects of this on the low-esteem on young people in particular. It will widen housing options within established ethnic groups, for example, through the introduction of mixed tenures and housing types to satisfy the housing demands of different generations, social classes and family types within a preferred neighbourhood. It will consult with, and involve, local communities.

Housing is said to be 'one of the best service sectors in terms of minority ethnic employment' (Cabinet Office, 2000). However, it is recognised that more needs to be done to see BME staff finding employment in senior management positions in mainstream organisations (Somerville, Sodhi and Steele 2000). Employment practices and patterns will be monitored further, across the range of housing sectors and types of organisations where feasible.

The formation of HCA will not have an adverse impact on race equality. Where relevant housing and regeneration projects are developed, for example in the improvement of community facilities, they will be monitored to ensure that there will be no negative impact, in accordance with, the Race Relations Act as amended (2001).

Gender equality

The work that HCA will be tasked with will expect to enhance gender equality through the provision of a greater supply of single person homes and through the development of supported housing, some of which will be used to house women (e.g. fleeing domestic violence or female ex-offenders).

Disability

The impact of the new homes agency on people with disabilities is expected to be positive.

HCA is committed to striving for equal opportunities and social justice for disabled people. It is committed to setting standards for, and providing better homes and neighbourhoods in which disabled people can live a full and active life.

HCA recognises the high level of people with a disability living in social rented accommodation compared to the private sector. A recent survey revealed that 624,000 individuals, reported to have a medical condition or disability that required specially adapted accommodation, lived in social rented housing compared to 84,000 who lived in private housing. This is taken from a total of 1,368,000 individuals (Survey of English Housing, Office of Deputy Prime Minister 2003/4). 76% of individuals lived in social housing that they considered to be 'suitable', compared to 67% in private rented housing.

A third of all households living in non-decent homes include someone with a long-term illness or disability. HCA wants to change that.

On 4th December 2006, CLG published its Disability Equality Scheme – Improving Outcomes. The scheme includes an Action Plan of what the Department will do over the next three years to carry out improved results for disabled people. A series of events were held to involve disabled people who were experts in Departmental policy, programmes and functional areas. The Disability Rights Commission provided contacts for disabled people with a strong interest in housing issues and the department invited those individuals as well as additional contacts to a housing policy event. Those unable to attend were interviewed by phone. One of the overall priorities was improving housing opportunities. The most common barriers identified were unsuitable accommodation, difficulty in finding alternative properties within the housing market and an adaptation process that can be complex. HCA will ensure that an increasing numbers of disabled people will live in more accessible homes. This will be achieved by HCA's objective, to increase the percentage of social housing built to the Lifetime Homes Standard (LTH), and ensure that most new build schemes, will adopt the LTH standard from 2010. The Equalities Programme Executive in CLG will monitor progress towards disability equality, including the Lifetime Homes Standard, and will report on progress made against actions in the 2006 Scheme.

HCA is committed to the recruitment, retention and development of disabled employees.

HCA intends to work to the spirit as well as the letter of the Disability Discrimination Act 2005, and will work to ensure that it fulfils its commitment to taking disability equality, beyond rights and policies, and making it a reality in people's everyday lives.

Human Rights

HCA will have powers at least as wide as the Urban Regeneration Agency and the Commission for the New Towns. It will also take on investment functions from the Housing Corporation, as well as some existing functions of the Secretary of State. Those powers will include powers in relation to compulsory purchase and planning. We consider that these proposed powers may engage Articles 6 and 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, in framing the legislation, the Department will ensure that the powers given to the HCA will be in compliance with the ECHR requirements.

Rural proofing

The delivery of increased housing supply has a clear spatial dimension and ensuring that we clearly recognise the specific housing challenges in rural areas is crucial in delivering that new supply. A high local income / house price ratio is a feature of many rural housing markets, exacerbated by a more limited supply of suitable land. 19% of England's population live in rural settlements and many rural areas face a significant shortage of affordable housing. While there are regional differences, more than 50% of local authorities with the highest house price to

income ratio are in rural areas. Only 11% of homes in rural areas are social housing for rent, compared to 21% in urban settlements. Whilst on average, rural incomes are higher than urban incomes, nevertheless 21% of households in rural settlements have incomes of less than 60% of the national median (compared to 26% of urban households).

In 2005 we set up the Affordable Rural Housing Commission to inquire into the scale, nature and implications of the shortage of affordable housing for rural communities in England. The Commission recognised that, in population terms rural districts were receiving a proportionate share of affordable housing investment, but nonetheless identified continuing barriers to delivery, especially in smaller settlements. Its work was invaluable in helping our objective to improve access to decent accommodation at an affordable price for those living and working in rural areas.

Following the Commission's report, we established a Rural Housing Advisory Group within the Housing Corporation to consider further innovative and efficient ways of delivering more rural affordable housing. The Group is looking at how we can better meet the particular challenges faced by rural communities and is identifying new schemes to increase rural housing supply and finance affordable housing. As part of this, seven pilot Community Land Trusts are being established in rural areas.

Other

Could the proposals have a different impact on children and young people? Older people? Income groups? Devolved countries & particular regions of the UK?

Aside from the provision of greater housing numbers HCA will also be involved in regeneration issues. Both of these aspects will impact upon the different groups of people noted above in a positive way as the new homes and surrounding communal areas such as parks, walkways and social amenities such as healthcare and educational facilities will help to bring greater choice and accessibility to residents of those and surrounding areas. HCA will have powers to provide or facilitate the provision of facilities and amenities for the groups noted above should it see fit or if a particular development requires the provision of such facilities. HCA will therefore have a positive social impact upon children, young people, old people and different income groups.

The powers of HCA will only be exercisable in England, therefore it will have no social impact upon the devolved administrations. Historically, the agencies that make up HCA had little involvement with the devolved administrations (English Partnerships retained covenant and clawback rights of a specific area of land in Wales which it is hoped will be relinquished) and therefore this involvement will not impact those administrations.

The work that HCA is tasked to carry out will have a positive

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

ANNEX A - Baseline Benefits Model (Options Appraisal 2006)

A 2006 options appraisal made a strong case for improved delivery whilst generating additional financial resources which could be reinvested in the HCA to deliver a greater number of outputs.

As part of the options appraisal, a detailed benefits review was performed to identify the potential financial benefits of the HCA and the anticipated impact on outputs. This included the identification of potential efficiencies across current programmes and potential additional recoveries, which could be used for reinvestment to increase output delivery.

Key assumptions underpinning the original review include:

- Programmes to be transferred to the HCA were assumed to be Housing Corporation's National Affordable Housing Programme (NAHP), all English Partnership programmes and several CLG programmes – Decent Homes Programme (ALMO, Housing PFI, LSVT), Growth, HMRP and Mixed Communities;
- Budgets were based upon estimates as at November 2006;
- 'Commitment' levels were based on estimates as at November 2006 and were not generated from the financial systems of the HC, EP and CLG;
- Anticipated efficiencies / benefits were considered on a workstream by workstream basis – the workstreams related to key activities undertaken by the HC, EP and CLG and included estate based regeneration, mixed use regeneration, strategic growth, affordable housing infill, affordable housing S106, Homebuy/First Time Buyers Initiative (FTBI), Supported housing and rural. Individual efficiency assumptions were identified on a workstream by workstream basis;
- Efficiencies / benefits assumptions were applied to 'uncommitted' expenditure only to reflect existing legal obligations and a reduced ability to change delivery/procurement models for 'committed' programmes; and
- Programmes would be delivered on a national basis with long term non-ring fencing of resources beyond current CSR to provide maximum flexibility re investment decisions.

As part of the 2006 review, a range of benefits / efficiencies expected to be generated by the HCA were identified including:

- Reduction in frictional costs - by removing duplication of activities and bringing together professional teams;
- More effective forms of investment – applying a holistic approach to project appraisal resulting in amore efficient use of public sector resources and powers to achieve desired outcomes, including sustainable regeneration;
- Application of better professional skills to existing programmes – by applying different skill sets of all organisations to a combined set of activities, especially s106 schemes and leveraging public sector land; and
- Increased negotiating power with developers and suppliers.

In terms of housing outputs, the revised financial benefits of approximately £1 billion is equivalent to approximately **15,000 new homes** within the first five years of the HCA. Of the approximately £1 billion benefits, this is forecast to be primarily delivered by:

S106 workstream – in the region of £409 million

This programme refers to the application of minimum grant aid to enable affordable housing (social rented and new build low cost home ownership (LCHO) requirements to be met. This is currently delivered by HC through payment of Social Housing Grant (SHG) to Registered Social Landlords (RSLs) and non-RSL developers with funding on Section 106 sites (sites where the local authority requires developers to provide affordable housing as part of a planning consent). The benefits model showed the nature of investment changing over time - Section 106 outputs switching, in part, away from grant aided social rent/LCHO products towards shared equity/first time buyer schemes, provided solely by the private sector (and which they could afford without grant). At the same time, grant-aided outputs would switch to increased strategic site/public land opportunities generated by the Agency. Achieving greater private sector contribution to s106 affordable housing requires clear signals to the market which can be more easily given by a new agency because of its scale of involvement in the market.

To achieve this increased efficiency will require robust s106 negotiations, so the new agency would also work closely with local authorities to enhance their skills and resources when dealing with developers and help create more consistent national practices. This would be achieved by the regional and area teams of the new agency and through specialist support teams and extending the use of development appraisal toolkits.

Strategic growth workstream – in the region of £248 million

Increased flexibilities in how programmes can be used to meet local needs, including targeting the earliest stages of project development (site assembly, decant, etc), or infrastructure where public sector is best placed to take risk. Greater opportunities for risk sharing and more potential for sharing returns. Increased capacity to level in additional private finance based on major infrastructure and surplus public sector land portfolio opportunities.

Mixed use regeneration – in the region of £273 million

Increased flexibilities in how programmes can be used to meet local needs, including targeting the earliest stages of project development (site assembly, decant, etc) where public sector is best placed to take risk. Greater opportunities for risk sharing and more potential for sharing returns.

Estate regeneration – in the region of £146 million

Moving from a subsidy to investment approach to estate regeneration requires an estate by estate appraisal of potential to increase densities, introduce open market sale housing and benefit from latent land value uplifts and increases housing outputs.

The balance of the financial benefits is in the following work streams:

- Affordable Housing (brownfield) – in the range of £42 million approx
- Homebuy/FTBI – in the range of £16 million approx

Summary: Intervention & Options

Department /Agency: CLG	Title: Impact Assessment of Implementation of Cave Review of Social Housing Regulation	
Stage: Final	Version: 2	Date: July 2008
Related Publications:		

Available to view or download at:

<http://www.communities.gov.uk>

Contact for enquiries: Elizabeth Knapp

Telephone: 020-7944-3635

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

Regulation of social rented housing is necessary to protect tenants. Their choice and ability to exit is limited, as rents are submarket, so a regulator is needed to set and enforce standards for tenants. In addition, the provision of social housing usually requires public money, and this investment must be safeguarded.

The current system of social housing regulation in England was introduced in 1974 and has since seen relatively little change. But the social housing sector and broader policy environment has changed, and we need regulation to be fit for purpose now and in the future.

What are the policy objectives and the intended effects?

The objective is to improve the regulation of social housing (social rented and low cost home ownership) in England, to empower and protect tenants, giving them greater role, and a stronger emphasis on what matters to them - core housing services. The intention is also to reduce the level of unnecessary regulation and bureaucracy for good providers.

Professor Cave's independent review of social housing regulation, published in June, made recommendations on how best to achieve these objectives. Following consultation we wish to implement changes.

What policy options have been considered? Please justify any preferred option.

- 1) Do nothing
- 2) Make the regulator of Registered Social Landlords (RSLs) a standalone body - the Tenant Services Authority. We consulted on this as part of the Housing and Regeneration consultation. A majority of responses favoured a new standalone body, as the most likely to give continuity and certainty to regulation, and confidence to lenders to the RSL sector. We also set up an independently chaired advisory group to consider how to bring LAs into the regulator's remit, ensuring compatibility with the new local government performance framework.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Within 3 years of implementation.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

IAIN WRIGHT

.....Date: 6 October 2008

Summary: Analysis & Evidence

Policy Option: do nothing	Description: status quo
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition) Yrs	
	£ 0	
	Average Annual Cost (excluding one-off)	
	£ 0	Total Cost (PV) £ 0
Other key non-monetised costs by 'main affected groups' Contributors to the Cave review and consultation would be affected, including tenants, RSLs and local authorities – for example, tenants would not be given more say in the service they receive, and this would not ensure that RSLs engaged with local authorities in their place-shaping function.		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups'
	One-off Yrs	
	£ 0	
	Average Annual Benefit (excluding one-off)	
	£ 0	Total Benefit (PV) £ 0
Other key non-monetised benefits by 'main affected groups' Initially less cost and risk than from transition to a new system.		

Key Assumptions/Sensitivities/Risks

Price Base Year 0	Time Period Years n/a	Net Benefit Range (NPV) £ 0	NET BENEFIT (NPV Best estimate) £ 0
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What is the geographic coverage of the policy/option?	England				
On what date will the policy be implemented?	n/a				
Which organisation(s) will enforce the policy?	CLG, Housing Corp				
What is the total annual cost of enforcement for these organisations?	£ 20m				
Does enforcement comply with Hampton principles?	No				
Will implementation go beyond minimum EU requirements?	No				
What is the value of the proposed offsetting measure per year?	£ 0				
What is the value of changes in greenhouse gas emissions?	£ 0				
Will the proposal have a significant impact on competition?	Yes/No				
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">Micro</td> <td style="width: 25%; text-align: center;">Small</td> <td style="width: 25%; text-align: center;">Medium</td> <td style="width: 25%; text-align: center;">Large</td> </tr> </table>	Micro	Small	Medium	Large
Micro	Small	Medium	Large		
Are any of these organisations exempt?	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">N/A</td> <td style="width: 25%; text-align: center;">N/A</td> </tr> </table>	No	No	N/A	N/A
No	No	N/A	N/A		

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £ 0	Decrease of £ 0	Net Impact £ 0

Kev: **Annual costs and benefits: Constant Prices**

Summary: Analysis & Evidence

Policy Option:
Standalone Regulator

Description:

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Average annual cost and total cost reflects the additional cost of the standalone regulator, compared to the do nothing option, over the period 07/08 to 11/12.
	One-off (Transition)	Yrs	
	£		
	Average Annual Cost (excluding one-off)		
	£ 3.2m		Total Cost (PV) £ 9.3m
Other key non-monetised costs by 'main affected groups' Business as usual - day to day operations need to be maintained whilst in this period of flux.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
	£		Total Benefit (PV) £ 0
Other key non-monetised benefits by 'main affected groups' Major social benefits for many of the most vulnerable in society: better quality services more responsive to the needs of social tenants, tenant empowerment and involvement in shaping service, greater diversity of providers leading to greater innovation; more choice of high quality homes, and better community facilities.			

Key Assumptions/Sensitivities/Risks . Assumptions - creation of new regulator will not be delayed.
Risks - loss of key staff, transitional change to structures.

Price Base Year 2007	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?	England		
On what date will the policy be implemented?	2009		
Which organisation(s) will enforce the policy?	CLG / regulator		
What is the total annual cost of enforcement for these organisations?	£ 20m		
Does enforcement comply with Hampton principles?	Yes		
Will implementation go beyond minimum EU requirements?	No		
What is the value of the proposed offsetting measure per year?	£ 0		
What is the value of changes in greenhouse gas emissions?	£ 0		
Will the proposal have a significant impact on competition?	No		
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	No	No	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of £	Decrease of £	Net Impact	£

Key: Annual costs and benefits: Constant Prices (Net) Present Value

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Purpose and intended effect of measure

The objective is to improve the regulation of social housing (social rented and low cost home ownership) in England, to empower and protect tenants, ensure continued provision of high quality social housing, and expand the availability of choice between suppliers. The intention is to reduce the level of unnecessary regulation and bureaucracy.

Objective

To make the regulation of social housing in England more risk-based, focusing on empowering and protecting tenants, ensuring continued provision of high quality social housing, and expanding the availability of choice between suppliers. The intention is to reduce the level of unnecessary regulation and bureaucracy.

It is proposed that the investment functions of the Housing Corporation move to the Homes and Communities Agency, so its regulation functions need to move to a separate regulatory body. This regulatory body will be known as the Tenant Services Authority. The regulator will have new objectives, powers, and independence from Government to operate the new regulatory system.

The new system will cover Registered Social Landlords (RSLs) and any currently non-registered bodies who apply voluntarily for registration. Following amendment in the House of Lords, Part 2 of the Housing and Regeneration Act will contain an enabling power. This would enable the registration of local authorities by the regulator and the amendment and modification of the Act and other legislation as necessary or desirable to enable their regulation. We are committed to a full public consultation on any regulations made under the power. Consultation would include an impact assessment on the impacts of extending the Tenant Services Authority across the domain.

Background

The Housing Corporation, a Non-Departmental Public Body responsible to the Secretary of State for Communities and Local Government, is currently the statutory regulator of housing associations, which, on registration as registered social landlords (RSLs), become subject to its guidance and statutory powers. These currently are, inter alia, to ensure RSLs remain viable organisations with suitable governance, are capable of fulfilling their objective of providing social rented housing at sub-market rents to those in need, and that standards and conditions are met on the social rented housing they own and manage.

There have been several recent changes in the Housing Corporation's functions. Inspection of RSLs was transferred to the Audit Commission in 2003. The Housing Act 2004 introduced the ability of the Housing Corporation to grant fund non registered bodies, such as for-profit developers, for the provision of affordable housing. And the Housing Corporation has recently implemented reforms to deliver a risk-based regulation system to minimise burdens on good performers, following the Elton Review⁸.

⁸ *The Elton Review of Regulatory and Compliance Requirements for Registered Social Landlords*, Department for Communities & Local Government, April 2006.

Performance of local authority social housing provision - either direct or through Arms Length Management Organisations (ALMOs) - has a different regulatory regime. ALMOs who receive additional funding are subject to regular inspection from the Audit Commission. Local authorities who directly manage their housing are subject to the local authority performance management system under Best Value legislation. This includes a duty to deliver best value, including undertaking reviews, reporting on Best Value Performance Indicators, and being subject to inspection and assessment by the Audit Commission - both through individual housing inspection events and through the Comprehensive Performance Assessment (CPA). The *Local Government White Paper - Strong & Prosperous Communities*⁹, published in October 2006, committed to a new performance framework for outcomes secured by local authorities working alone or in partnership. This framework is being developed and implemented within the next 2 years, as part of the White Paper commitments to rebalancing accountabilities between Government, local authorities and citizens and to reducing unnecessary burdens on deliverers.

In December 2006, the Government invited Professor Martin Cave to head an independent Review of Social Housing Regulation. His remit was to consider options for reform of the regulatory system including fundamental changes, and make recommendations to Government. He was asked to consider regulation in the light of recent policy and institutional change, in particular the Hills Review of Social Housing (*Ends and Means: The Future Roles of Social Housing in England*, published on 20 February 2007), and the announcement of the intention to set up the Homes and Communities Agency. In developing recommendations, he took account of the views of stakeholders through a Call for Evidence and through ongoing engagement. Stakeholders included RSLs, local authorities (in both strategic and landlord capacities), tenants and Government (including the Housing Corporation and the Audit Commission).

Professor Cave's report, *Every Tenant Matters*, was published on 19 June 2007. The consultation on his recommendations (part of the Housing and Regeneration consultation) ran from 19 June to 10 September 2007.

Rationale for Government intervention

The rationale for Government intervention in social housing, by enabling bodies to build and manage homes, has long been established. Many people cannot afford to buy a decent home or would find it difficult to rent one in the private sector. The recent Hills Review confirmed that social housing provides security and stability for nearly four million of the most vulnerable households in England. The management of these homes needs to be regulated to ensure high quality service standards.

Martin Cave, in his review of social housing regulation, set out three reasons supporting the continued need for a social housing regulator. These are:

- Delivering social housing at below market prices means that tenants have limited market power, and providers have limited pressures to provide good service and choice. This is unlike a normal market where consumers can choose where to spend their money, and regulation is therefore less likely to be needed.
- There are externalities for neighbourhoods of having good quality social housing. Achieving the positive externalities is a rationale for intervention.
- Given the significant public sector spending on social housing, regulation is required to ensure that the public interest is met.

⁹ *The Local Government White Paper - Strong and Prosperous Communities*, Department for Communities & Local Government, October 2006.

Consultation

Within Government

During Professor Cave's independent review, he discussed his recommendations with Communities and Local Government Ministers and officials, and officials at Cabinet Office, HM Treasury and the Department of Work and Pensions. He also engaged with the Housing Corporation and the Audit Commission, as Government Non-Departmental Public Bodies with a key role and knowledge of the subject.

Public Consultation

In December 2006, the Cave Review invited stakeholders to submit evidence by 15 February 2007. This was not a Government consultation and so was not in full accordance with Cabinet Office guidelines. The Review asked for evidence and suggestions, not comments on his specific proposals.

The Review involved confidential discussions with key stakeholders, including tenants and groups representing them, and representatives of the RSL, local government, ALMO, for-profit (developer) and lender sectors. Their views were reflected in the Review.

Professor Cave's report, Every Tenant Matters was published on 19 June 2007:

<http://www.communities.gov.uk/publications/housing/everytenantmatters>

The Government consulted on Professor Cave's recommendations as part of the Housing and Regeneration consultation:

<http://www.communities.gov.uk/publications/housing/deliveringhousingregeneration>

Options

Option 1 – Do nothing

This option would keep the old system virtually intact, and would reject the majority of Professor Cave's recommendations. The Government and Housing Corporation are already implementing minor reforms in the RSL sector, including those agreed following the Elton Review, which may lead to reduction of over 10 per cent in the regulatory burden on RSLs. These do not envisage major change to the statutory powers or objectives of the Housing Corporation.

The impact of no change would be that momentum on reform would be lost. Contributors to the Review would be disappointed, including tenants, RSLs and local authorities – for example, tenants would not be given more say in the service they receive, and this would not ensure that RSLs engaged with local authorities in their place-shaping function. It is less likely that housing management would improve significantly. However, the Government would incur less cost and risk from transition to a new system.

Costs and benefits

Economic: economic benefits from minor reform are minimal. The current system arguably imposes too high a regulatory burden on providers, does not attract enough competition from other sectors to encourage efficiency or innovation, and leaves some tenants dissatisfied with the service received. At best, these could be marginally addressed, leading to some cost savings.

Environmental: there are no specific environmental costs or benefits from Option 1.

Social: The Government does not consider there to be any social benefits or costs from Option 1.

Option 2 - Make the regulator of RSLs an independent, standalone body

Professor Cave's full recommendations are at **Annex A**. His key recommendations, which the Government immediately accepted, are as follows:

- Social housing regulation should be separated from investment to give it more focus, but the two should co-operate closely
- Regulator is statutorily independent of Secretary of State, though Secretary of State has the power for strategic directions on service standards and rent levels
- Regulator will consult on the 'core housing standard' (what is regulated) – this can be amended over time
- Providers have a duty to engage constructively with Local Authorities in their place-shaping function
- Regulator will require limited performance information, but can demand more if needed; tenants and Local Authorities get information allowing local comparison of service levels
- New right for tenants, Local Authorities and others to trigger intervention by regulator, by providing evidence of problems in service standards, viability, or engagement with Local Authority
- Wider range of powers allows more flexible and effective intervention to meet tenants' needs
- For good (RSL) performers, level of regulation and information should decrease
- Regulator has the objective to support tenant empowerment, and help enable voluntary Tenant Management Organisation route for RSLs
- National tenant voice to be set up as an advocate for tenants, to Government and regulator (perhaps within National Consumer Council)
- Bodies other than housing associations are allowed to register for 1st time (but this would be less intrusive than for RSLs - no need to ensure they stay viable as organisations)
- Regulator can vary rent levels minimally (subject to Secretary of State direction) to encourage better standards
- Encourage but not require separation of management and ownership to bring in better managers

We consulted on Cave's proposals to:

Regulate Local Authorities as well as RSLs

The Cave review recommended that the regulator's responsibilities should be cross domain (i.e. cover all social housing providers – Registered Social Landlords, Local Authorities, Arms Length Management Organisations (ALMOs) and private sector). Government was clear in its response to Cave that tenants should be able to expect the same minimum standards of service and have similar opportunities for empowerment, to influence delivery and to seek redress regardless of their social housing provider. However we also recognised that the funding, governance and accountability arrangements vary significantly between providers, and we were mindful of our commitments in the Local Government White Paper to implement a new, single, performance framework for outcomes secured by Local Authorities working alone or in partnership. We therefore invited views on this issue through consultation.

Respondents to the consultation were overwhelmingly in favour of bringing Local Authority landlords into the scope of the regulator in principle. But a large number of them also highlighted the importance of recognising the significantly different governance and finance arrangements between the different sectors, and making arrangements which were consistent with the single performance framework for local authorities.

Our priority is to establish regulation that works effectively, both for landlords and tenants. It is better that we take the time necessary to get it right for Local Authority tenants. Therefore the regulator will initially regulate only Housing Associations. However Ministers announced the intention to bring local authority social housing into its scope as soon as is practicable.

There is clearly a strong case for having regulation that applies across the whole social housing domain as this offers the best deal for tenants and landlords. The Government therefore appointed Professor Ian Cole to Chair an independent advisory panel of key stakeholders and tasked it to make recommendations to Government. The group met between January and June 2008 and Professor Cole's report has now been submitted to Government and will be published in due course.

Following amendment in the Lords Part 2 of the Housing and Regeneration Act contains an enabling power which would enable the registration of local authorities by the regulator and the amendment and modification of the Act and other legislation as necessary or desirable to enable their regulation. We are committed to a full public consultation on any regulations made under the power. Consultation would include an impact assessment on the impacts of extending the Tenant Services Authority across the domain.

Give regulation to a new standalone body rather than the Audit Commission

The Cave review recommended that there should be a separation of investment and regulation functions – both currently carried out by the Housing Corporation. He said that the new regulator could be established as part of the Audit Commission, but that he would prefer a new standalone regulator.

Locating the regulatory functions in the Audit Commission would build on its existing strengths and consumer focus, and it could be implemented quickly. However our consultation document also recognised the benefits of a standalone regulator. In particular it would avoid housing regulation being led by an organisation primarily focused on the public sector, and as such, may be better at commanding the confidence of those who provide private finance for social housing. Building on the Housing Corporation's regulatory functions would enable a smooth transition. Given this balance of arguments, we consulted openly on this issue.

Although there was some support amongst consultation responses for making the Audit Commission the regulator, a majority of responses favoured a new standalone body, as the most likely to give continuity and certainty to regulation, and confidence to lenders to the RSL

sector. Also those tenant bodies which took a view (some remained neutral) favoured a standalone regulator, because of the opportunity for a fresh start, and a clear focus on consumers. Our decision is **therefore to establish the new regulator as a standalone body**.

Combine the RSL and Local Authority ombudsmen functions under a single body.

Given that we are not for the time being going to incorporate Local Authorities into the same regulatory system as RSLs, it would be sensible to revisit this at a later date.

Costs and Benefits

Economic: the economic benefit of major reform is that the cost of regulation overall should fall, or at least be better value for money. A system which is more transparent in the burdens placed on providers should allow better forward planning. Professor Cave argued that his proposals should result in less regulation and associated costs for RSLs, including reduced information requirements. **Annex B** of this impact assessment – comprising Annexes 4 and 5a from Professor Cave’s report - illustrates this, showing the impact of the Cave recommendations on intensity of regulation (annex 4), and the regulatory framework and associated administrative burdens – currently and following regulatory reform (Annex 5a). The annexes illustrate the effects in respect of the full range of recommendations that Cave report makes. Some of these are contingent on specific decisions on policy and practice that need to be taken in developing the regime to ensure that it is effective, whilst maintaining a Hampton-compliant focus and culture

In addition the Housing Corporation commissioned the study *Exploring the costs and benefits of regulatory compliance*, by Frontier economics, published in September 2005. The study concluded that the administrative and running costs of its regulatory regime were significantly counterbalanced by beneficial impacts on the costs of borrowing for Registered Social Landlords. We have taken account of this in our consultation on the options for the new regulatory arrangement so as to ensure that, as far as possible, these beneficial impacts on funding costs are maintained, whilst also looking to minimise the administrative costs of the new/proposed regulatory system.

The objectives of the social housing regulator will incorporate duties that will require the regulator to meet the requirements of ss.21 and 22 of the Legislative and Regulatory Reform Act 2006, and the associated Regulators' Compliance Code.

Having a new regulator, whether based in the Audit Commission or as a stand alone body (based on the regulatory function of the Housing Corporation), will result in transition costs to Government.

Costs to regulated bodies will comprise two elements: staff and other costs within the body, and a payment to meet the ongoing costs of the regulator. If the level of regulation is lower, staff costs on complying with the regulator may also be lower, though better management may carry costs. Costs sited on page 3 are the transition costs regarding staff, IT systems and communications, and have been formulated and agreed with the Housing Corporation.

The Housing Corporation currently spends around £20m pa on regulating RSLs. In moving to the new regulatory regime a stand alone Regulator will need to adapt its approach and skill mix. On the basis of the existing cost of regulation this is estimated at an additional £2.8m, and would deliver cost savings in the long term.

Assuming the cost of regulation remained at around £20m total, and there were 2 million RSL-owned homes (as at present), the annual cost to RSLs could be about £10 per home owned.

Social and environmental costs and benefits - see **sustainable development** section below.

Devolution

These provisions apply only to England.

Sectors and Groups Affected

Reforms to the regulation of social housing will have direct impact on two groups:

- Owners and managers of social housing (including those currently registered or those who could be registered in future) will be encouraged to manage stock better, if needed, and engage more with tenants
- Tenants of those landlords will benefit from improving the management of social housing and increasing their say in the regulatory system

There will be an important secondary impact on several other groups:

- Local authorities (in their strategic function) will have more input into regulation, and providers will be under a duty to engage constructively with them
- For-profit developers can currently apply to develop, own or manage social housing under contract, but a clearer regulatory system may encourage more to be involved
- Lenders will wish to ensure that the new system provides certainty as regards RSL borrowing
- Potential social housing tenants may benefit from an increased supply of new social rented and low cost housing, which good regulation should encourage.

Monitoring & Review

The impact and costs and benefits of this policy will be reviewed within 3 years of implementation of the new regulatory system, which we would anticipate to be in late 2012-early 2013.

Review should gauge progress towards meeting those of Cave's recommendations which we accepted, and the cost of this. It could be in the format of an independent assessment of the impact of the regulator over that period on tenants, providers, lenders and other stakeholders such as the Homes and Communities Agency. It may be appropriate to combine this with 3 year reviews of other Housing and Regeneration Bill impact assessments.

Monitoring of the new system would be through Tenant Services Authority annual reports, links with Communities and Local Government and compliance with the TSA framework document. These would be consistent with the TSA's statutory independence from Government.

Implementation & Delivery Plan

These proposals form part of the Housing and Regeneration Act. The Bill was introduced into Parliament in November 2007. It received Royal Assent in July 2008.

Summary & Recommendation

We are implementing Professor Cave's recommendations, in particular to establish a standalone regulator, as part of the Housing and Regeneration Act.

Following amendment in the Lords Part 2 of the Housing and Regeneration Act contains an enabling power which would enable the registration of local authorities by the regulator and the amendment and modification of the Act and other legislation as necessary or desirable to enable their regulation. We are committed to a full public consultation on any regulations made under the power. Consultation would include an impact assessment on the impacts of extending the Tenant Services Authority across the domain.

Specific Impact Tests

Competition Assessment

These proposals should have a positive impact on competition, by allowing for-profits bodies to register with the Regulator, and by improving the provision of information about performance.

Small Firms' Impact Analysis

The proposals are unlikely to affect small for-profit firms. The emphasis on less, but more effective, regulation, to ensure standards for tenants and viability, means that the burden on most well performing RSLs should decrease. Some small RSLs may be permitted to be deregulated, so long as tenants' rights are maintained by membership of the ombudsman service.

Legal Aid

No extra cost or benefit envisaged.

Sustainable Development

Social: If regulatory reform encourages landlords to manage better, engage with tenants more, and at least continuing their current level of voluntary involvement in neighbourhood activities such as work training programmes, then Option 2 could involve major social benefits for many of the most vulnerable in society (2 million households at present, and probably more in future, as the level of RSL social housing ownership is increasing).

RSLs themselves also have an important part to play in working with local authorities to secure local wellbeing.

There are no anticipated social costs.

Environmental and economic: there are no specific environmental costs, or economic costs other than those detailed above.

Carbon Assessment

No new costs or benefits envisaged.

Other Environment

No new costs or benefits envisaged.

Health Impact Assessment

There is evidence that suggests the quality of housing can have an impact on the health of residents. Good quality social housing is important in bringing health benefits to tenants in deprived areas, and reducing health inequalities. Improved regulation helps ensure good management and maintenance of homes, and promote social integration to ensure positive health and mental health benefits.

Race Equality Assessment

It is likely that regulatory reform will have a positive impact on ETHNIC MINORITIES groups.

The Government recognises that people from many ethnic minority groups are more likely than average to live in social rented homes (in 2001, especially Black African and Bangladeshi households). They are also more likely to be potential tenants. It is therefore likely that improving the management of social housing and increasing tenants' say in the regulatory system will benefit ethnic minority groups disproportionately. However, the aim is to empower people of all races in their capacity as social housing tenants, not specifically as ethnic minority people.

The regulator (under all options) will continue to seek to promote community cohesion and tenant empowerment, helping to encourage more choice of high quality homes, better community facilities and more economic opportunities.

Disability Equality

The CORE (COntinuous REcording) database states that in 2005/06, 17% of incoming tenants considered that a household member had a disability. The actual figure for disabled tenants is likely to be higher as some may have developed disabilities after their lettings were made. 2001 Census data show that 18 per cent of people said that they have a long-term illness, health problem or disability which limits their daily activities or the work they could do.

This suggests that disabled people will not be disproportionately affected by changes to the regulatory system. However the aim is to empower all social tenants.

Gender Equality

CORE data from 2005/6 shows that 52% of lettings were made to female 'heads of household'. However this figure does not account for likely variations in who tenants consider to be head of their household.

In any case this suggests that women will not be disproportionately affected by our proposed changes. As stated above, the aim is to promote community cohesion and tenant empowerment, helping to encourage more choice of high quality homes, better community facilities and more economic opportunities for all RSL tenants.

Human Rights

We believe the provisions to be compatible with ECHR. Powers to transfer registered providers' land, and management of it, involve interference with Protocol 1 Article 1 of the European Convention on Human Rights. However this is justified.

Rural Proofing

The Government does not believe these proposals will have any negative effects on rural businesses or the communities associated with them.

Chief Economist statement

This Impact Assessment has been read by the Chief Economist who has said that given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the policy.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Cave Review recommendations

To the Secretary of State

1. A regulatory body should be established in statute, independent from Government, as the primary regulator of the ownership and management of social housing across the whole domain of social housing.
2. The regulator should have three principal duties:
 - To ensure the continuing provision and development of high quality social housing;
 - To empower and protect consumers; and
 - To expand the availability of choice among suppliers at all levels of the provision of social housing.
 These should form the basis of the statutory definition of the regulator's powers, which would extend across the whole domain of social housing.
3. The regulator should:
 - apply common principles, where practicable, across the whole social housing domain and
 - reduce and manage the burden of regulation
4. Government should be entitled to issue directions to the regulator in relation to rents and the standards of housing provision. It should be for the regulator to transpose these into the regulatory framework. Therefore it is recommended that the regulator be given the statutory power to set rent levels across the domain.
5. The regulator should maintain and update a clear statement of provider obligations.
6. All parts of the domain should have a statutory duty to cooperate with the convening and place-shaping role of local authorities. This obligation will be strongest where a provider has a significant number of homes in an area. This cooperation will require providers to engage constructively with local authorities and will often include a variety of local agreements and partnerships. Their terms are subject to agreement between the parties.
7. The regulator will implement a framework for the ownership and management of social housing, where the provider is regulated. Where long term ownership and management arrangements are integrated into supply contracts, the regulator must satisfy itself that the contract terms are in the long-term interests of tenants.
8. Restrictions on disposals and changes of use should remain, as should arrangements to prevent the leakage of subsidy for purposes that have not been approved. In future, there should be a note of the regulator's interest in grant on the land registry to ensure that disposals are correctly handled. Otherwise the new arrangements need to be more flexible and easier to administer.
9. Registration with the regulator should be open to 'for profit' organisations and subsidiaries of other organisations as owners or managers or both. The registration process must be proportionate to the scale of activity proposed by the new provider and would be analogous to the pre-qualification criteria for development bidding. Registration would entail a range of explicit obligations that would bring the registered organisation within the new style of regulation.
10. The regulator should have a duty to promote ways in which tenants can be empowered and have more choices.
11. The voluntary TMO scheme being developed within CLG should be taken forward and available to all providers. Provided no conflict of interest is apparent, the regulator should take over, and be funded by the Government for this work.
12. A national tenant voice should be established to give tenants both a voice and expertise at national level.

13. Work on a standard form of tenancy should be brought to a conclusion so that tenancy terms can be explicit, understandable and easier to enforce for both parties. In principle, choice of tenure is supported although this must not reduce the protection that current tenants enjoy. It is therefore envisaged that substantial areas of tenancy agreements will be in common but that there will be defined areas that can be different.
14. There should be a single Housing Ombudsman for the whole domain. Further consultation of interested parties should be held to examine how the domain-wide Housing Ombudsman role should be organised.
15. The application of the Government's rent direction to providers across the domain should be a matter for the regulator. Within the direction, the regulator should have the power to cap annual increase in individual rents to protect tenants.
16. Where the difference between market rents and target rents in an area is less than 10%, it should be within the regulator's authority to de-regulate rents (which would continue to be constrained by Housing Benefit rent limits).
17. The regulator should retain merger approval powers but these should be exercised solely on grounds of consumer protection and competition.
18. The regulator should have a general power over the domain to gather information but this should be subject to the twin tests of being 'used and useful'.
19. The regulator should have the statutory powers to apply a wide range of remedial and enforcement measures including:
 - Right to obtain information
 - Inspection
 - Improvement notice
 - Enforcement notice
 - Fines
 - Compensation
 - Rent increase cap
 - Appointment of additional board members
 - Tendering the housing management function
 - Appointment of independent manager
 - 28 day moratorium
 - Transfer of ownership and/or management
20. Almshouses with less than 100 homes should be de-regulated and revert to the Charity Commission as the primary regulator. Consultation should take place with Abbeyfields Societies through their national body with a view to the de-regulation of the smallest ones that have had no recent input of grant. In both cases, continued membership of the Housing Ombudsman service should be required as a continuing measure of protection for their tenants.
21. A Social Housing Regulatory Authority should be created by Act of Parliament with statutory duties relating to the regulation of the ownership and management of social housing. The Authority should take over the Audit Commission's housing inspection role.
22. The national voice for tenants should be established with minimum delay and should start within the National Consumer Council but with a remit and funding for the building of a strong tenant representational base.
23. The regulator should have the resources to undertake research, gather statistics and to promote good practice on the scale necessary to discharge its duties.

To the regulator

1. The system for regulating social housing providers should be 'co-regulatory' in approach. Therefore many of the activities necessary to achieve the regulatory objectives will be undertaken by regulated social housing providers rather than directly by the regulator. The regulatory framework will, according to the nature of the objectives, require, permit or facilitate their delivery.
2. The social housing regulator should avoid duplicating the work of other regulators. In order to give effect to this, the regulator should enter into protocols with each abutting or overlapping regulator. These arrangements will need to be subject to periodic review.
3. Subject to any Government Direction on housing standards, the regulator should publish a clear definition of what constitutes the core housing service for the domain, in terms of both the quality of homes and of the management service provided. It is therefore proposed that there should be consultation on the core standards for social housing and that this should be an early focus for the new national tenant voice. The performance of service providers will be judged against the standards that are developed.
4. The regulator will have the authority to require all providers to deliver these core standards of service. As far as possible, this should be achieved by common ownership of the standards, self improvement mechanisms, regular tenant-led and other independent reality checks on progress and a continuous sharing of good practice. Responsibility to meet the standards falls on providers.
5. The regulator should encourage a plurality of mechanisms to be used by providers to drive them to achieve better outcomes for tenants. It is expected that empowered tenants would play a key role in assessing performance and holding landlords to account for weaknesses in performance. To these ends, it is recommended that all providers should establish formal arrangements to:
 - enable tenants to make periodic assessments of the quality of services provided
 - share benchmarking information about their performance and costs with other providers and publish this information to tenants and more widely
 - include an independent element in their performance assessment so that there is effective external challenge.
6. The regulator should remain in direct contact with the impact of services on tenants and with the range of practice on the ground, by commissioning or undertaking inspections, or otherwise.
7. The regulator should support the supply of new social housing by:
 - Establishing a regulatory framework that recognises the separate roles of owner and manager and reducing barriers to entry for development and ownership and management
 - Opening registered status as an option for private owners/managers
 - Encouraging the continued supply of private lending and capital for development and ownership by effective systems for monitoring viability and performance and, if necessary, by intervention
 - Encouraging a wider choice of public and private sector ownership options
 - Unlocking development capacity
 - Co-operating closely with Communities England on all matters of common interest
8. The regulator should monitor organisational viability (which will encompass both financial viability and governance) and intervene appropriately to protect the interests of tenants and taxpayers.
9. The regulator should introduce measures that stimulate competition for the management of social housing services across the domain. This should be designed to give tenants choice and improve service delivery.
10. Opening access to new providers and models of provision should be encouraged. The regulator should ensure that regulatory mechanisms are proportionate and equivalent as between those applied by virtue of registered status and those enforced by contract.
11. The regulator should develop and implement a strategy for managing information requirements on providers across the social housing domain. It is envisaged that this will cover data on financial viability and service performance in particular. Furthermore, the regulator should publish the top level of performance information that it receives from all providers on its website, in a fashion which makes

possible local comparisons. The publication of such information will be in the interests of consumers, a reward for good performers and a wake up call to poor providers.

12. The regulator should develop a range of ways of triggering interventions in consultation with providers, local authorities and the national tenant voice.
13. The programme of de-registration should be accelerated so that the smallest are freed of all regulation. A very light system of regulation should be applied to those with up to 1,000 homes – but on the basis of a risk assessment rather than on size alone.

On the following pages are extracts from *Every Tenant Matters*, showing:

- Impacts of the Cave recommendations on intensity of regulation (annex 4)
- the regulatory framework and associated administrative burdens – currently and following regulatory reform (annex 5a)

ANNEX 4

Impact of recommendations on intensity of regulation

Ref	Recommendation	Impact on policy costs	Impact on admin costs
51-3, 521, 523	Independent regulator with duties in statute, inc. principle that the regulator should reduce and manage the burden of regulation	n/a	Clearly defined responsibility for oversight and monitoring/reporting on administrative burdens would have an overall deregulatory impact for all providers
54	Directions to the regulator by Government	Transparency over the imposition of policy requirements and mechanisms for controlling changes	Consequent limits on changes to monitoring and reporting requirements would have an overall deregulatory impact across the domain
55	Statement of provider obligations	Clarity of statement of scope and standards of regulatory requirements limits regulatory creep	Consequent limits on monitoring and reporting requirements
56	Statutory duty to co-operate with local authorities	Formalises and incorporates requirement for providers to act cooperatively and proportionately with local authorities where they work	Intention that information provision requirements noted below form the core information provision to assist local authorities. This may increase the overall regulatory burden particularly for larger housing associations
57	Regulator to have primacy in determining long term arrangements for ownership and management of new supply	Transparency in obligations attaching to new supply	n/a
58	Greater flexibility in restriction on disposals of assets	Increased scope to manage social housing stock to reflect operating environment and deliver wider 'tenant offer', but within specified constraints to protect embedded taxpayer investment	Less burdensome administrative requirements, with a deregulatory impact principally in respect of housing associations

Ref	Recommendation	Impact on policy costs	Impact on admin costs
S9	Revision and refinement to registration requirements	Reduced barriers to entry with requirements tailored to proposed provider activities. The deregulatory impact will principally benefit new housing associations and 'for profit' providers	Less onerous information requirements for registration, tailored to nature of activities carried out
S10, S11	Promotion of tenant empowerment and choice, including facilitation of voluntary establishment of tenant management organisations	Objective over time is to enable tenants to engage with providers on a more equal footing, reducing need for formal state regulation, but there may be short term impacts on providers to adapt to this change	n/a
S12, S22	Establishment of national tenant voice	Objective is to enable tenants' views to be articulated effectively to influence development of social housing policy. This should have no impact directly on burdens on providers	n/a
S13	Single Housing Ombudsman	Purpose is to provide clearer access for tenants to independent complaint and dispute resolution service	In the short term, providers will need to revise the information provided to tenants about their access to the Ombudsman
S14, S15	Regulator to manage national rent policy	Greater clarity over regulatory remit established in statute with deregulatory powers under specified conditions. Incorporates mandate for rents to allow for greater range of individual and collective tenant choice. Deregulatory overall	Relevant information requirements are required in this area for regulator to enforce effectively, and impact on costs determined by regulator's approach
S16	Merger approval powers	Specifies basis for exercise of approval on the basis of competition and consumer protection concerns	Consequent reduction in information requirements compared with present, but subject to effective resident consultation and involvement. Deregulatory mainly in respect of housing associations

Ref	Recommendation	Impact on policy costs	Impact on admin costs
S17, R11	Regulator's information gathering and publication role	Develops the use of relevant performance information and its wide accessibility to residents and other stakeholders as a core component of the regulatory framework. Defined role will have overall deregulatory effect	Regulator to consolidate, manage and be accountable for information requirements for regulatory purposes. Fundamental review of current requirements, but continued requirement for high quality information in specified areas capable of disaggregation to LA level
S18, S19, R12	Regulator's remedial and enforcement powers	Better range of powers enables more effective and economic intervention capability with externalised benefits to good providers and to affected residents. Enables measures to reduce barriers to entry to new providers by reducing risks of costly or extended intervention processes where there is provider failure	Greater burdens overall on failing providers but the costs of specified intervention measures can be lower than present enforcement measures
S20	Deregulation of specified classes of organisation	Maintain broad current level of deregistration requirements	Reporting and monitoring requirements substantially eliminated as at present
R1	Co-regulatory approach	Less paternalistic regulatory culture and approach which shifts emphasis of responsibility for compliance to Governing Bodies. Requires precept of forbearance from engagement for compliant providers. Overall deregulatory effect	n/a
R2	Co-operation with other regulators	Reinforces existing move to clearer definition of responsibilities so as to reduce and eliminate duplicative or conflicting regulatory requirements	Consequent reduction in reporting requirements
R3	Definition of regulatory requirements for core housing services	Clear statement of scope of regulated activities enhances focus on consumers and mitigates against regulatory creep	Consequent limits on scope of monitoring and reporting requirements R4, R5

Ref	Recommendation	Impact on policy costs	Impact on admin costs
R4, R5	Testing of standards in delivery of regulated activities through range of mechanisms	Greater scope for reliance on organisations' own performance management frameworks with greater emphasis on interests, views and involvement of residents	Scope for reduced or simplified reporting requirements where mechanisms are robust. Reduced use and costs of inspection. Overall deregulatory effect
R6	Incorporate inspection function into the regulator	Limit regulatory creep through reduction of scope for duplicative, divergent or conflicting requirements. More targeted and proportionate use of inspection within tailored regulatory approach	n/a
R7	Unbundling of provider roles of development, ownership and management	Purpose is to tailor regulatory requirements more precisely to range of activities carried out, and to encourage greater competition	Potential to limit information requirements so that these relate directly to the range of activities carried out. More proportionate and tailored approach will have overall deregulatory effect, particularly for housing associations
R8	Monitoring organisational viability (financial viability and governance)	More effective scope for intervention and remediation (above) allows for better management of risk and costs associated with failing organisations	Tailored approach to reflect overall risk, and activities for which providers are registered. Current levels of financial information for HAs will broadly continue. Potential to reduce requirements for governance through statutory code of practice in place of schedule 1 requirements for HAs. Overall deregulatory effect, principally in relation to housing associations
R9, R10	Stimulate competition, opening access and reducing barriers to entry for new providers	Over time, reduction of reliance on regulatory intervention to secure required outcomes for tenants and taxpayer	n/a
R13	Increase scope of deregulation and regulatory framework for small organisations	n/a	Maintain present direction of travel to reduce regulatory and reporting requirements for low risk organisations

ANNEX 5A

The regulatory framework for housing associations (HAs) and associated administrative burdens – currently and following regulatory reform

Regulatory requirement	HAs (now)	HAs (following reform)
Registration	Set out in Registration Criteria, including organisational attributes and information provision obligations	Similar framework, but with more limited requirements. Retention of information provision obligation
Information provision		
- Financial	Financial projections proportionate to regulatory risk assessment, and submission of financial statements by all	As now, but subject to regulator maintaining ongoing scrutiny of requirements to minimise burdens
- Stock data	Regulatory and Statistical Return – (RSR) long form submitted by HAs with more than 1000 homes, otherwise short form	Potential for National Register of Social Housing (NROSH) to substantially replace RSR requirements, subject to review of extent of NROSH data requirements and minimisation of administrative burdens
- Performance indicators (PIs)	For 2007/08, a set of 11 PIs are collected annually, of which 2 are voluntary, and 2 relate specifically to shared ownership	Only key performance data to be collected and published by regulator; with data to be provided to show performance at local authority level, and with regulator's ongoing scrutiny to minimise administrative burdens
- Lettings	Continuous Recording of Lettings (CORE)	CORE – subject to regulator's ongoing scrutiny of requirements to minimise administrative burdens
- Compliance and efficiency reports	Provision of Self Assessment Compliance Statement (SACS) (annual) and Annual Efficiency Statement (AES) for associations with more than 1000 homes	Discontinue SACS and AES – HAs required to report regulatory non-compliance by exception
Control over disposals	Housing Corporation consent required, either by General Consent or consents for individual transactions	Some controls still needed but potential for greater flexibility
Constitutional matters	Approval to changes to governing instruments	As now, but with more limited information provision requirements in respect of merger and group structure changes

Regulatory requirement	HAs (now)	HAs (following reform)
Governance – payments and benefits	Relevant provisions of Schedule 1 of Housing Act 1996 impose constraints on payments and benefits except with consent of Housing Corporation	Potential for repeal of relevant provisions of Schedule 1 and replacement with a Statutory Code of Practice
Performance assessment	Housing Corporation Assessment (HCA) for all larger associations, not regulated under RASA (Regulatory Arrangements for Small Associations) regime	Discontinue HCA. Publication of Performance Indicator information as determined by regulator
Audit	External audit to provide financial statements	As now
Inspection	Service wide inspections for all associations with more than 1000 homes prioritised on a risk basis	More limited statutory inspection function, with greater role for external accreditation of service quality
Intervention	Housing Corporation supervision regime, with limited range of statutory powers including appointment of board members and establishing a statutory inquiry	Wider, more graduated range of statutory powers to take remedial intervention and enforcement action