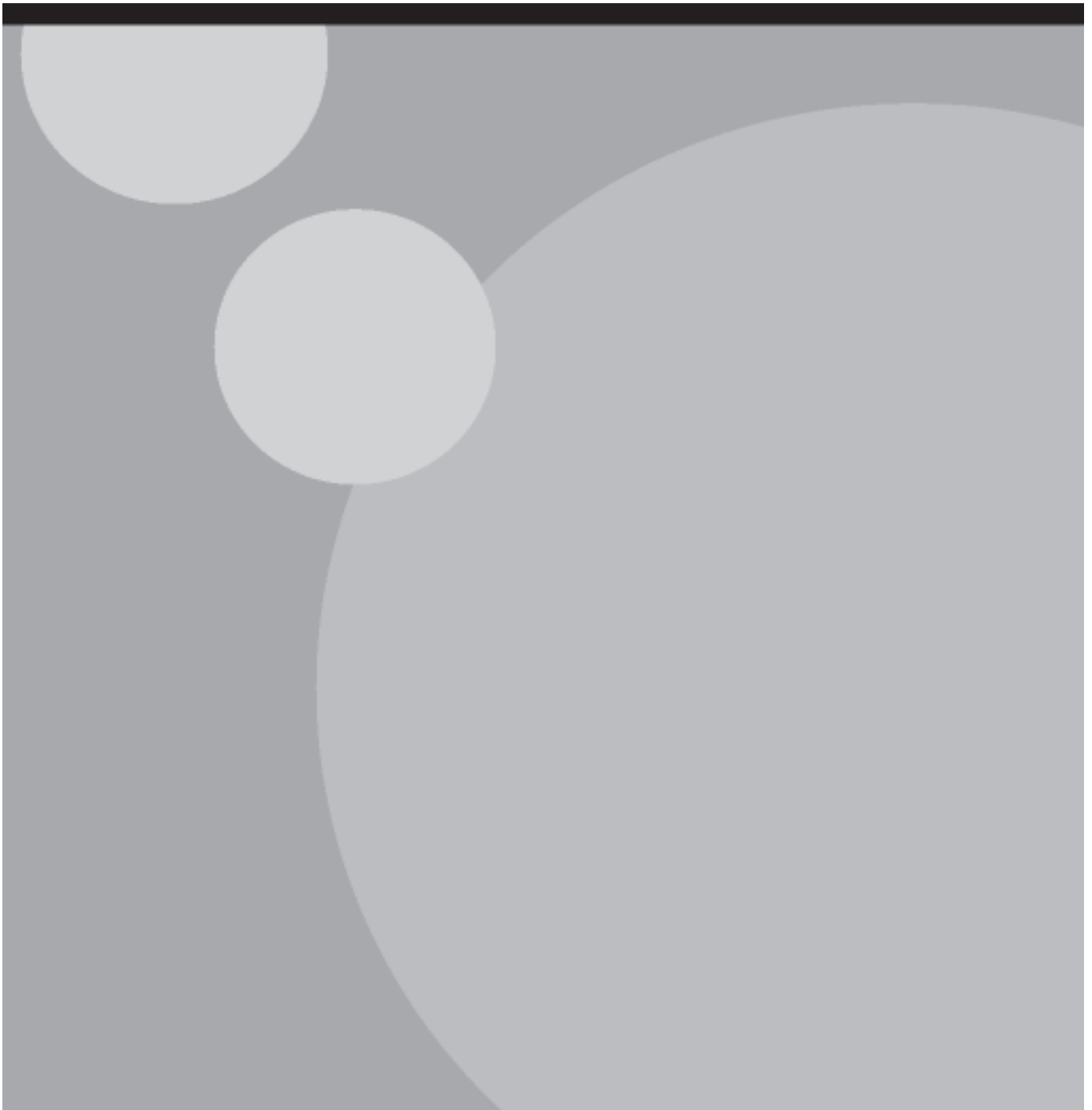




Consultation on the Homelessness (Suitability
of Accommodation) (England) Order 2012
Impact Assessment





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Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

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Title: Consultation on the Homelessness (Suitability of Accommodation) (England) Order 2012 IA No: DCLG/0085 Lead department or agency: Department for Communities and Local Government Other departments or agencies:	Impact Assessment (IA)		
	Date: 20/01/2012		
	Stage: Consultation		
	Source of intervention: Domestic		
	Type of measure: Secondary legislation		
Contact for enquiries: John Bentham			
Summary: Intervention and Options			RPC Opinion: AMBER

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
			Yes
			Zero Net Cost

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

The Localism Act contains provisions to give local authorities the flexibility to choose to end the main homelessness duty with an offer of private rented sector accommodation, without requiring the applicant's consent. This is part of wider reforms to social housing that will enable local authorities to manage demand within their area and make more efficient use of their stock. The changes, without some additional checks, could risk local authorities placing homeless households in poor quality accommodation with negative consequences for the households and the risk of repeat homelessness.

What are the policy objectives and the intended effects?

The Localism Act will allow authorities to end the main homelessness duty in the private rented sector leading to more efficient use of social housing, and generating savings for the taxpayer. The objective of the proposed Order is to set out circumstances where private sector accommodation would not be considered suitable for the purpose of ending the main homelessness duty. The intended effects are to provide additional protections for households owed the main homelessness duty so that they are placed in good quality accommodation. This needs to be balanced against the need to minimise the burdens on local authorities or landlords that could reduce the supply of suitable properties for homeless households.

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

Existing legislative protections were not considered to provide sufficient protection that low quality private rented accommodation would not be used by local authorities, particularly given the vulnerability of some of the households. The options considered were:

(0) do nothing; (1) setting out specific suitability requirements of private rented accommodation in secondary legislation - this is the preferred option; and (2) requiring local authorities to only be able to use properties owned by accredited landlords (with standards set centrally with the ability to set higher local standards locally) to end the main homelessness duty.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** Five years after commencement

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

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: Grant Shapps

Date

.....:

Summary: Analysis & Evidence

Policy Option 1

Description: Homelessness Suitability Order setting out circumstances in which accommodation is not to be regarded as suitable

FULL ECONOMIC ASSESSMENT

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

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

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

The main costs are to local authorities who may need to carry out additional activities, such as visiting properties to check physical conditions and reviewing the relevant documentation landlords send to them. These costs will only be incurred if authorities choose to make use of the flexibility to end the main homelessness duty with a private rented sector offer and will therefore be weighed against the savings to them from ending the duty more quickly. Landlords may incur some costs if they have to meet additional safeguards but this will be a market based decision on whether they choose to let to homeless households.

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

Homeless households may incur additional waits in temporary accommodation whilst property checks are carried out causing difficulties, for example, in accessing employment. In certain circumstances, where checks have discovered the private sector property to be low quality and unsuitable, this will reduce the choice of properties that are available.

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

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

Local Authorities will benefit from the new flexibility in the Localism Act to end the main homelessness duty with an offer of private rented sector accommodation. Additional safeguards may lead to a reduction in the incidences of repeat homelessness as households are more satisfied with the accommodation, reducing the costs from further homelessness applications and the likelihood of legal challenges to the authority's decision on the grounds of suitability. Landlords will benefit from tenants who would otherwise be placed in social housing, with a likely modest reduction in void rates if the additional safeguards lead to a reduction in the incidences of repeat homelessness.

Other key non-monetised benefits by ‘main affected groups’

The main benefits are to homeless households who will have greater safeguards regarding the quality of the accommodation. Poor housing can have a detrimental effect on the health and well being of households. The risk that homeless households might be placed in unsuitable accommodation will be reduced.

Key assumptions/sensitivities/risks

Discount rate

The number of households being accommodated in the private rented sector under the new Localism Act powers is estimated to be an average 18k per year (ranging from 6k to 36k). There is a moderate risk that if the requirements are too onerous, an insufficient number of properties would be supplied.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of	Measure
Costs:	Benefits:	Net:	Yes	Zero net cost

Summary: Analysis & Evidence

Policy Option 2

Description: Requiring local authorities to only be able to use properties owned by accredited landlords (with standards set centrally with the ability to set higher local standards locally) to end the main homelessness duty.

FULL ECONOMIC ASSESSMENT

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

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

Description and scale of key monetised costs by ‘main affected groups’

The main costs are to local authorities who may need to carry out additional activities (that go further than those set out in Option 1) and develop an accreditation scheme. These costs will only be incurred if authorities choose to make use of the flexibility to end the main homelessness duty with a private rented sector offer and will therefore be weighed against the savings to them from ending the duty more quickly. Landlords may incur some costs through additional safeguards that go further than Policy Option 1 but they will make a market based decision on whether they choose to let to homeless households.

Other key non-monetised costs by ‘main affected groups’

Homeless households may incur some additional waits in temporary accommodation whilst property checks are carried out although this is expected to be less than Option 1 given the landlord is already accredited. However there is a risk that accreditation schemes which may have a greater impact on landlord costs will discourage participation and reduce the number of properties available.

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

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

Local Authorities will benefit from the new flexibility in the Localism Act to end the main homelessness duty with an offer of private rented sector accommodation. Additional safeguards may lead to a reduction in the incidences of repeat homelessness as households are more satisfied with the accommodation, reducing the costs from further homelessness applications and the likelihood of legal challenges to the authority's decision on the grounds of suitability. Homeless households who will have greater assurances regarding the quality of accommodation although with no greater demonstratable protection than Option 1. Landlords may secure competitive benefits from having an accredited status.

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

The main benefits are to homeless households who will have greater assurances regarding the quality of accommodation although with no greater demonstratable protection than Option 1. The risk that homeless households might be placed in unsuitable accommodation will be reduced thus avoiding associated negative impact on health and educational outcomes. Safety standards of the private rented sector stock may increase, and local authorities may also benefit from having a greater pool of accredited landlords to secure housing for low-income households not owed the main homelessness duty.

Key assumptions/sensitivities/risks**Discount rate**

The number of households being accommodated in the private rented sector under the new Localism Act powers is estimated to be an average 18k per year (ranging from 6k to 36k). There is a moderate risk that if the requirements are too onerous, an insufficient number of properties would be supplied.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of	Measure
Costs:	Benefits:	Net:	Yes	Zero net cost

Evidence Base

The Homelessness Legislation

1. Local authorities have various duties under the homelessness legislation (Part 7 of the Housing Act 1996)¹. The main homelessness duty requires authorities to secure accommodation for households who are homeless through no fault of their own; are eligible for assistance; and in 'priority need' e.g. families with dependent children and those who are vulnerable for some reason. Currently, households can turn down offers of suitable private rented sector accommodation and await an offer of social housing, whilst being housed in expensive temporary accommodation. The Localism Act contains measures to allow local authorities to end the main homelessness duty with an offer of private rented sector accommodation, without requiring the applicant's consent. This increases local flexibility, allowing local authorities to make better decisions that affect their local populace and demonstrates this Government's commitment to placing power in the hands of local communities. A full Impact Assessment - "Localism Bill: a fairer future for social housing Impact Assessment" - for this proposal was published in January 2011². We estimate that an average of 18k (ranging from 6k to 36k) households per year will be accommodated in the private rented sector under the new Localism Act powers.
2. These measures are voluntary: local authorities do not have to use the new power to end the main homelessness duty in the private rented sector without consent and can continue to place households in social housing (which the proposed circumstances do not apply to) if they choose. Similarly private rented sector landlords will not be required to let to homeless households. They do not need to put themselves forward as willing to accept tenants known to the local authority (including those owed the homelessness duty) and will be able to make a market-based decision on whether the benefits of doing so will outweigh the costs.

Problem Under Consideration

3. During the passage of the Localism Bill members of both Houses of Parliament expressed concerns that the changes to the homelessness legislation could, without some additional checks, risks local authorities placing homeless households in low quality accommodation, with poor management arrangements (for example use of rogue landlords), of which the local authority is unaware.
4. It was felt that external factors such as a potential increase in pressure on the private rented sector, for example, as a result of reduced access to owner occupation for first time buyers could exacerbate the risk that households could be placed in poor accommodation. The English Housing Survey shows that households who live in the private rented sector are less likely to live in

¹ The Housing Act 1996 <http://www.legislation.gov.uk/ukpga/1996/52/part/VII>

² Localism Bill: a fairer future for social housing Impact Assessment
<http://www.communities.gov.uk/documents/localgovernment/pdf/1829768.pdf>

decent homes (59%), compared to 71% owner occupiers³. Also the way in which local housing allowance is calculated means that in some areas some households in receipt of housing benefit may receive a lower amount. Therefore as the number of properties available reduces, it is considered that it is more likely that those properties available will be of a poorer quality.

5. Legislation already exists to protect tenants in private rented accommodation, for example on health and safety matters. Local authorities have extensive powers to enforce minimum standards in the private rented sector and to take action against rogue landlords and properties with significant hazards. There is also guidance and best practice on standards of private rented accommodation, such as Local Government Regulation guidance for local authorities (www.lacors.gov.uk).
6. Existing homelessness legislation and statutory guidance puts in place a range of protections to ensure the “suitability” of accommodation used to end the main homelessness duty for homeless households. In considering ‘suitability’ authorities must, by law, consider whether a specific property is suitable for the applicant and their household’s particular individual needs. This includes considering whether the accommodation is affordable for the applicant, its size, its condition, its accessibility and also its location.
7. The majority of private rented sector accommodation is likely to be suitable, however, there are a small number of landlords who fail in their responsibilities. Since homeless households may be vulnerable and offered accommodation which they have less choice over, Government agreed to strengthen the safeguards for homeless households. By using its existing powers within the homelessness legislation, the proposed Order will specify circumstances in which private rented sector accommodation is not to be regarded as suitable to end the main homelessness duty (including both key aspects of existing private rented sector legislation and new circumstances to be met).

Rationale for Intervention

8. Placing households in poor quality accommodation can result in a number of costs both financial and social. Not only is being placed in such accommodation stressful but it brings with it the potential to damage health. Cold, damp housing harms children’s health and can contribute to post-natal depression. The development of babies and young children in poor housing conditions can be significantly affected⁴. This will have a cost for the National Health Service and the families themselves. Additionally tenants in private rented accommodation are 50% more at risk of carbon monoxide poisoning than both home owners and social housing tenants⁵. It is likely that this risk will be more starkly reflected in poor quality private rented sector accommodation. By placing households in poor quality accommodation there is also an associated increased risk of repeat homelessness. Providing

³ English Housing Survey Housing Stock Summary Statistics Tables, 2009
<http://www.communities.gov.uk/documents/statistics/xls/1937429.xls>

⁴ The Children’s Plan: Building Brighter Futures DCSF 2007

⁵ Gas Safety Trust Carbon Monoxide Trends Report – 1996 to 2010

additional protection for households regarding the quality of their accommodation will reduce the likelihood of these things happening.

9. The additional regulation that the proposed Suitability Order represents is necessary in the context of the wider deregulation the social housing reforms outlined in the Localism Act will enable. The net effect is one of increased freedoms for local authorities carrying out their homelessness duties.

Policy Objective

10. The policy objective is to increase safeguards for homeless households (some of whom may be vulnerable) regarding the quality of the accommodation used for the purposes of a private rented sector offer to discharge the main homelessness duty. This needs to be balanced against the need to minimise the burdens on local authorities so that they are able to use the proposed new flexibility in the Localism Act to end the main homelessness duty in the private rented sector without an applicant's consent; and on landlords to ensure an adequate supply of suitable properties for homeless households. This is a new flexibility and as such local authorities do not need to exercise it if they do not wish to, similarly landlords will not be compelled to let to homeless households. Clearly local authorities will only use this power and landlords will only let to homeless households if the benefits outweigh the costs to them.
11. The aim is to specify the key aspects of existing health and safety legislation that must be met to ensure the property is suitable, and set out additional circumstances where there is established common practice or where particular safeguards for homeless households are needed.

Assessing the Costs and Benefits

12. As the policy is dependent on the utilisation of a voluntary power we cannot say with any certainty how many local authorities will use the power and how many landlords will choose to accept homeless households as private rented sector tenants. Local authorities have the freedom to implement the enhanced safeguards, for example, the 'fit and proper' person test, in different ways making a prediction of cost difficult. They may already have many of the processes in place as part of existing teams who help tenants to access the private rented sector (through homelessness prevention) or through local landlord accreditation schemes. Equally given the requirements of the Order represent aspects of existing private rented sector legislation or best practice, landlords may already meet the proposed standards and there will be no additional costs to them. We do not have any firm evidence on the extent to which local authorities and landlords are already compliant with the requirements of the proposed Order.
13. We hope to improve our understanding of the possible consequences of the Suitability Order through the consultation process.

Description of Options

Option 0 - Do nothing

- 14. This option, which forms the baseline for appraisal, was rejected** because it would not provide sufficient safeguards for homeless households. Although there is existing legislation to protect tenants in private rented accommodation (see paragraph 5 above) and enforce minimum standards, this largely relies on tenants checking the property first and complaining to the local authority if problems arise. If local authorities do not carry out sufficient checks in advance then homeless households could feasibly be placed in poor quality accommodation and, given the vulnerability of some households accepted as homeless, they may not feel able to make a complaint against their landlord. Under the homelessness legislation local authorities already have to ensure that any accommodation is 'suitable' for a homeless applicant and his or her household (including size, condition, accessibility and affordability). However, a consideration of 'suitability' does not include specific requirements on the physical and management aspects of private rented accommodation.
15. We considered setting out specific safeguards through non-statutory guidance, however, we recognise that this would have a similar effect to that of the do nothing option. This is because without specific regulation, there would be circumstances where local authorities may still place homeless households in poor quality accommodation, as non-statutory safeguards may be outweighed by other factors that may be taken into account, such as there being a lack of affordable accommodation in an area, or the dominance of a single landlord in the private rental market. Furthermore, this would result in inconsistency between authorities with some following the non-statutory guidance to its full extent and others being less rigorous in their approach.

Option 1 - Set out specific safeguarding requirements in secondary legislation

- 16. This is the preferred option.** It would set out the specific circumstances in which a private rented sector offer used to end the main homelessness duty is not to be regarded as suitable. The proposed Order would require local authorities, in determining suitability, to take a view that:
- the accommodation is in reasonable physical condition;
 - the accommodation, appliances and furnishings comply with relevant fire and electrical safety legislation;
 - if subject to House in Multiple Occupancy licensing the property is licensed;
 - there is a valid Energy Performance Certificate;
 - there is a current Gas Safety record;

17. These are based on current legislative requirements and we would expect landlords to strictly adhere to these as a matter of course. However, some landlords do not comply with their legislative responsibilities and there is a risk that local authorities may use such accommodation. This concern was clearly expressed in debate during the passage of the Act, therefore, the proposed Order will set out the key aspects of existing legislation that should be met in order for private rented accommodation to be considered suitable for homeless households and provide additional safeguards. The proposed Order also sets out further additional circumstances that are not current legislative requirements for private rented sector landlords in every case:

- that carbon monoxide safety has been considered;
- there is a written tenancy agreement between the landlord and tenant which the local authority considers to be adequate; and
- that landlords are a “fit and proper” person to act in the capacity of landlord (already a requirement in a House of Multiple Occupancy).

18. These particular new circumstances are proposed to offer enhanced safeguards where there is established good practice or there were particular concerns given the potential vulnerability of homeless households, for example, with rogue landlords.

19. While a tenant is required to demonstrate a tenancy agreement exists to receive housing benefit there is no formal check to see whether this tenancy agreement is adequate and it could simply list the costs, period of tenancy and provide details of landlord and tenant. Requiring an adequate written tenancy agreement that sets out clearly, for example, the responsibilities and rights of both tenant and landlord will prevent any potential misunderstandings that may arise, reducing the risk of repeat homelessness, for example, because of a lack of understanding around paying the rent. Similarly there is no current requirement to consider carbon monoxide safety other than the annual Gas Safety record. Tenants in the private rented sector are at a higher risk of carbon monoxide poisoning than home owners. Homeless households may be at risk because of their potential vulnerability and reduced ability to challenge the landlord if they suspect a faulty appliance.

Option 2 – Require local authorities to only use accredited landlords

20. **This option was rejected** on the grounds that it would increase burdens for local authorities and landlords. To ensure the required safeguards for homeless households Government would need to introduce a requirement through primary legislation and set out the standards for accredited landlords. These would apply to all landlords participating in landlord accreditation schemes. It would also require all local authorities to introduce a landlord accreditation scheme in order to be able to end the main homelessness duty in the private rented sector without consent.

21. In setting standards for landlord accreditation schemes it is likely that Government would take account of existing best practice from established schemes. As existing accreditation schemes often go much wider than the elements set out in the proposed Suitability Order it would be likely that any legislation would mirror these thus going further than the Suitability Order. Common elements of accreditation schemes include⁶ freedom from hazards under the Housing Health and Safety Rating System, standards for repairs and furnishings, the visual appearance of the property and gardens, an electrical wiring check, a fire safety risk assessment, security measures, handrails and an inventory. Local authorities would then also be free to set their own standards in addition to those set out in legislation. This would bring a higher potential cost in terms of impact on landlords and costs to local authorities with little or no extra demonstrable benefit for homeless households in terms of preventing the use of sub-standard accommodation.

⁶ Accreditation Network UK model landlord accreditation scheme

Costs and Benefits of Option 1

Costs

Costs to Homeless Households

22. Local authorities would be required to conduct checks on properties and their landlords. Doing so would ensure that the circumstances set out in secondary legislation have been met; that the accommodation is suitable. The additional checks could mean that homeless households will need to remain in temporary accommodation for a slightly longer period while this work is conducted but given the checks would be relatively simple to conduct they are not likely to delay the placement of homeless household for a significant period.
23. There may be costs as a result of additional time in temporary accommodation, such as a delay in accessing employment, but these are unlikely to be significant over such a short period of time. As households in temporary accommodation typically receive full housing benefit it would be unlikely that there would be a financial cost to the household from higher rental expenditure if they remain in temporary accommodation. There are, however, strong incentives for both local authorities (cost of temporary accommodation) and landlords (cost of an empty property) to minimise the time taken to make lettings so we do not foresee delays being commonplace. These potential costs to households have not been monetised because it is not possible to assess the likely delays caused by this policy and the specific impact on households' welfare of longer periods in temporary accommodation and as noted long delays are unlikely and so the costs are likely to be low.
24. There is also a risk that additional safeguards reduce the availability of accommodation in an area. As indicated in the policy objective, we are seeking to avoid any such impacts. Households may need to accept an offer of accommodation that is not in their preferred area, potentially incurring additional travel expenditure, for example. It is not possible to quantify these potential impacts as the effect will depend on decisions made by the local authority regarding the available properties.

Costs to Local Authorities

25. Provided they choose to utilise the new power in the Localism Act and therefore will be subject to the requirements of the proposed Order, local authorities might carry out the following additional activities to satisfy themselves: checking relevant documentation (gas safety record, House in Multiple Occupation licences, energy performance certificate, and tenancy agreement); making sure the landlord is 'fit and proper' person to act in the capacity of landlord; and visits to properties to check physical conditions.
26. Checking relevant documentation and visiting the property in order to comply with existing legislative requirements or good practice is likely to consume some staff time. However, this is already common practice in many local authorities who have successful private rented sector teams working with local landlords to secure accommodation as part of their homelessness

prevention activity. To ensure compliance with the 'fit and proper' person test, local authorities may require additional self-certification from landlords and check their own records of convictions brought against landlords. However as there is established practice for landlords of Houses in Multiple Occupation, it is likely that the costs will be kept to a minimum.

27. While local authorities may incur some additional costs it is not possible to predict these with any accuracy. Local authorities have the freedom to implement the enhanced safeguards, for example, the 'fit and proper' person test, in different ways making a prediction of cost difficult. Others may already have many of the processes in place as a result of existing private rented sector teams or accreditation schemes. Any costs must be considered against the benefits to local authorities of ending the homelessness duty more quickly in the private rented sector and the reduced use of temporary accommodation. The Localism Bill impact assessment estimated that the savings to local authorities could be £900m over 30 years (central estimate). Clearly, local authorities will not choose to utilise the new power in the Localism Act and the proposed Order if there will be a net cost to them of doing so.
28. We have informally consulted with local authorities across the country to sense check the content of the Suitability Order and to see if any particular aspects are unworkable and/or will have little effect in improving the outcomes for households. This dialog has reassured us that the measures are appropriate, proportionate and in many cases, are already part of established best practice. In conjunction with existing legislation, guidance and the additional safeguards set out in the Localism Act, they will work to the benefit of households for the purposes of a private rented sector offer.

Q1: Do you agree that the above is reasonable and reflects the costs to Local Authorities from the proposed additional requirements?

Q2 to local authorities: Do you intend to use the new power that will allow local authorities to end the main homelessness duty with an offer of private rented sector accommodation, without requiring the applicant's consent? How many homeless households a year do you estimate you would place in the private rented sector once the power is commenced?

Costs to Landlords

29. There are already a wide range of legislative requirements with which landlords are required to comply in order to protect tenants in private rented accommodation. Since landlords are already required to comply with a number of those elements set out in Policy Option 1 above, such as the provision of an Energy Performance Certificate or gas safety record, it is assumed that landlords will have already carried these out before approaching the local authority to let the property.

30. The enhanced safeguards will require local authorities to ensure they are satisfied in relation to carbon monoxide safety, that there is an adequate written tenancy agreement and for landlords to be a “fit and proper” person to act in the capacity of landlord. In practice, this assurance is likely to be relatively easily provided. It is, therefore, assumed that the main additional costs to landlords will arise from providing relevant paperwork to the local authority to demonstrate compliance with the requirements. If landlords are not already meeting the enhanced requirements from providing an adequate written tenancy agreement; meeting the requirement for carbon monoxide safety, for example, through the provision of a carbon monoxide alarm; and completing documentation to comply with the “fit and proper” person test then the costs are unlikely to be significant. For example, the cost of a carbon monoxide alarm and time spent fitting is around £25⁷. Only if local authorities decide to implement higher standards than existing law provides would there be additional compliance costs from these sources.
31. It is not possible to accurately assess the costs of the enhanced safeguards to landlords as local authorities are likely to implement the enhanced safeguards in different ways. Additionally we do not have any evidence on the number of properties with adequate written tenancy agreements or carbon monoxide alarms already fitted in order to assess the costs of meeting these enhanced safeguards. In any case it is for landlords to choose whether they take up a local authority’s business offer and let to homeless households. They do not need to put themselves forward as willing to accept tenants known to the local authority (including those owed the homelessness duty) and will be able to make a market-based decision on whether the benefits of doing so will outweigh the costs, including the additional availability of tenants who would otherwise be placed in social housing.
32. If landlords choose not to let to households owed the main homelessness duty they will still be able to access a sizable pool of potential tenants, for example, low-income working households or students. There are approximately 3.4m⁸ households in the private rented sector in England and about a third of private rented sector tenants in the UK are in receipt of housing benefit⁹. In addition local authorities in England will continue to help homeless households access private rented sector properties through their homelessness prevention activity approximately 50,000 per year¹⁰. As these properties are secured outside of the homelessness legislation they will not be subject to the proposed Suitability Order. It is likely that the landlords who will choose to let to homeless households will already be in the market of renting to this cohort (and as such will not be forced to let to households owed the main homelessness duty).

Q3: Do you agree that the above is a reasonable assessment of the costs to private rented Landlords from the proposed additional requirements?

⁷ <http://www.hse.gov.uk/gas/domestic/faglandlord.htm>

⁸ English Housing Survey Household Report 2008-09

⁹ DWP Family Resource Survey 2009-10

¹⁰ DCLG Homelessness Prevention and Relief: England 2010/11

Q4: to landlords and landlord groups: How far is it reasonable to assume that private landlords already (a) hold the required paperwork (as outlined above) (b) use written tenancy agreements with their tenants, homeless or otherwise (c) have a carbon monoxide alarm installed in their rented property?

Costs to Central Government

33. If homeless households do spend longer waiting in temporary accommodation while property checks are being carried out Government may incur increased expenditure on housing benefit. This is because households in temporary accommodation typically receive full housing benefit and rents in temporary accommodation tend to be higher than in stable, long term private rented accommodation (the housing benefit provided will in some cases be higher with temporary accommodation but may not cover the full cost of the temporary accommodation – the difference being covered by local authorities). This cost was not monetised because it is hard to predict the likely extent of delays due to this specific policy and as explained above, based on existing practice where homeless households are placed in private rented sector accommodation it suggests that the proposed new standards would not cause delays to materialise on any significant scale.

Benefits

Benefits to Homeless Households

34. Homeless households will benefit from safeguards to ensure good quality accommodation. Placing a household in a poor quality accommodation is not only stressful but brings with it the potential to damage health. Cold, damp housing harms children's health and can contribute to post-natal depression. It can increase rates of asthma, respiratory and skin allergies, and other lung diseases. It is linked to physical accidents and injuries, to social and mental effects including depression, isolation, anxiety or aggressions. Noise-related stress, exposure to toxins, lead, asbestos or carbon monoxide can have very severe health impact¹¹. The development of babies and young children in poor housing conditions can be significantly affected. Children growing up in such conditions are 25%¹² more likely to suffer severe ill-health and disability during childhood or early adulthood. Additionally tenants in private rented accommodation are 50% more at risk of carbon monoxide poisoning than both home owners and social housing tenants.
35. Good quality accommodation can bring other benefits that can give rise to positive externalities including improved attendance at school and consequent improvements in educational performance and labour market participation.

¹¹ World Health Organisation: Review of Evidence on Housing and Health (2004)

¹² Chance of a lifetime The impact of bad housing on children's lives Shelter 2006

For instance Shelter estimate that 8% of children in sub-standard accommodation miss out on one quarter of all their schooling.

36. Improved safeguards provided by the policy may also result in significant benefits to tenants in the form of greater tenant satisfaction, improved personal safety and quality of life.
37. It has not been possible to monetise these benefits because it has not been possible to isolate the specific improvements in physical and mental health and in education as a result of this particular policy.

Q5: Do you think that these are reflective of the benefits to homeless households of Option 1?

Benefits to Local Authorities

38. Local authorities will be able to benefit from the increased flexibility to end the homelessness duty more quickly in the private rented sector and the reduced use of temporary accommodation that comes from the Localism Act. Greater safeguards for homeless households through the accompanying proposed Order may reduce the risk of 'repeat' homelessness in a small number of instances. This could result in savings for local authorities as well as households. If an applicant were placed in unsuitable accommodation where it would not be reasonable for them to continue to occupy the accommodation and if they then left, it is likely that they would continue to be owed a homelessness duty. By avoiding 'repeat' homelessness amongst even a small number of the households placed into private rented accommodation the proposed standards could lead to savings for local authorities from reduced administrative costs of processing applications and considering appeals, and the lack of subsequent use of temporary accommodation. As we do not collect data for appeals on suitability grounds we cannot accurately estimate the likely reduction in repeat homelessness.
39. Local authorities may also benefit from a pool of landlords willing to meet the circumstances set out in the proposed Order which would make it easier to provide accommodation for homeless households. They may also need to take less enforcement action against sub-standard properties or rogue landlords which can incur costs through Environmental Health Officer time and court proceedings.

Benefits to Landlords

40. Landlords are likely to benefit from the opportunity to let to those tenants who are now offered private rented sector accommodation rather than being placed in social housing. This establishes a greater market for landlords, comprised of working closely with local authorities to benefit from a supply of tenants who require accommodation immediately. Through accepting households owed the main homelessness duty as tenants, landlords will be able to benefit from reduced void rates and more stable tenants.

41. A recent DWP study¹³ of low-income working households (LIWH) in the private rented sector found that housing benefit recipients appeared to move home less frequently than LIWH: 55% of HB households had lived in their accommodation for over 2 years compared with 27 % of LIWH in the survey. The study concluded that HB recipients "emerge as relatively stable residentially". Homeless households are likely to be on housing benefit and those owed the main duty will be guaranteed a minimum 12 month tenancy as part of the new local authority powers. Given that homeless households are more likely than other low income households to remain in situ for two years, landlords would be able to avoid the costs of having to re-let properties so frequently.
42. The safeguards in the proposed Order will reduce the risk of health and safety liability that landlords could face. As indicated above, it has not been possible to monetise these benefits because we cannot isolate the specific improvements in physical health that may result. By reducing the risk of 'repeat' homelessness amongst households placed into private rented accommodation, the proposed Order could bring forward modest benefits for landlords in terms of reduced void costs and a reduction in the costs associated with re-letting properties. Landlords may also benefit from working closely with the local authority to meet the requirements of the Order, for example, through advice and information on their legal responsibilities as a landlord and through any incentives offered to meet the requirements or upgrade their property.

Q6: Do you agree that these are reflective of the benefits to private rented Landlords?

Benefits to Central Government

43. The proposed Order will reduce the risk that homeless households are placed in poor quality private rented accommodation. This avoids a number of negative externalities associated with poor quality housing: poor property conditions have been shown to increase government expenditure on treatment and care provided by the National Health Service and on benefits paid to households that are unable to work due to ill health (see paragraph 8).
44. It has not been possible to monetise these benefits to government because it has not been possible to isolate the specific reduction in the above negative externalities as a result of this particular policy.

¹³ <http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep698.pdf>

Costs and Benefits of Option 2

45. A number of proposed amendments to the Localism Act, which were rejected by Government, required that local authorities should only be able to end the main homelessness duty in private rented accommodation if the landlord is a member of a local Landlord Accreditation Scheme. These are voluntary schemes run by local authorities who recognise and reward private landlords who manage their properties to a good standard. Accreditation schemes vary but most require landlords to meet various obligations in relation to the Housing Health and Safety Rating System, health and safety, repairs, equipment, managing a tenancy and professional conduct with some going further including other elements, for example, upkeep of gardens.
46. There are undoubtedly advantages to landlords' membership of accreditation schemes – both to local authorities and to landlords. Landlords are free, currently, to become accredited should they wish to do so (where schemes exist), or perceive an obvious commercial advantage, and would remain free to do so under the preferred option 1.
47. However, requiring accreditation as a prerequisite of placing homeless households in the private sector places an additional burden on landlords who would have to meet the additional requirements and local authorities in developing and administering the schemes. This would be unnecessary as it goes further than is required to meet policy aims.
48. In setting standards for landlord accreditation schemes it is likely that Government would take account of existing best practice from established schemes. As the remit of accreditation schemes can be much wider than those elements set out in the Suitability Order it would be likely that any legislation would mirror those. Local authorities would then also be free to set their own standards in addition to those set out in legislation. This could bring a higher cost in terms of impact on landlords and costs to local authorities with little or no extra demonstrable benefit for homeless households in terms of preventing the use of sub-standard accommodation.

Costs

Costs to Homeless Households

49. The costs to homeless households would be similar to those set out in Option 1. There is a potential that the risk of additional safeguards reducing the availability of accommodation in an area may be increased as it is likely that the requirements of an accreditation scheme would be higher than those in the Order. Therefore households may need to accept an offer of accommodation that is not in their preferred area, potentially incurring additional travel expenditure, for example. It is not possible to quantify these potential impacts as the effect will depend on decisions made by the local authority regarding the available properties.

Costs to Local Authorities

50. Not every local authority has a landlord accreditation scheme. A 2008 survey by the then Local Authority Co-ordinators of Regulatory Services (LACORS) (now Local Government Regulation), Accreditation Network UK and the Local Government Association found that half of local housing authority areas did not operate or subscribe to a landlord accreditation scheme and would, therefore, be required to establish one under this proposal. We do not have any evidence on the likely costs incurred in setting up an accreditation scheme and these are likely to vary substantially between authorities.
51. Staff at the remaining half of local authorities who already operate an accreditation scheme may need to undertake additional checks and inspections in order to admit additional landlords and properties to the scheme to facilitate lettings to homeless households, for example, a full Household Health and Safety Rating System inspection carried out by an Environmental Health Officer. In reality we expect that the costs of inspecting properties under landlord accreditation schemes are likely to be more costly than checks required by the preferred Option. There is a risk that some or all of these costs would be passed on to landlords by local authorities charging for these services. The requirements of existing accreditation schemes vary significantly, making it difficult to accurately assess the costs of amending such schemes in order to meet additional requirements.
52. As with Option 1, the costs must be considered against the benefits to local authorities of ending the homelessness duty more quickly in the private rented sector and the reduced use of temporary accommodation. Local authorities will not choose to utilise the new power in the Localism Act and the requirement for a landlord accreditation scheme, if there will be a net cost to them of doing so. We consider that the higher costs to local authorities associated with Option 2 increase the likelihood that they would not make use of the new power in the Localism Act, undermining Government's policy objectives.

Q7: Do you agree that the above is reflective of the costs to Local Authorities from the proposed additional requirements of Option 2?

Costs to Landlords

53. Landlords would incur those costs set out in Policy Option 1 but also face additional costs associated with meeting the greater requirements of landlord accreditation schemes. Common elements of accreditation schemes include¹⁴ freedom from hazards under the Housing Health and Safety Rating System, standards for repairs and furnishings, the visual appearance of the property and gardens, an electrical wiring check, a fire safety risk assessment, security measures, handrails and an inventory which would carry a significant additional cost while not providing a significant demonstrable benefit in terms of preventing the use of sub-standard accommodation.

¹⁴ Accreditation Network UK model landlord accreditation scheme

54. It is not possible to predict with any degree of precision what combination of additional measures might be adopted by local authorities, or the consequent costs of compliance for landlords. We do not know, for example, the extent to which landlords currently meet those requirements set by existing accreditation schemes. For these reasons we have not worked out the full costs of such a scheme (which would require work to establish the requirements). However, costs could be significantly higher than those set out in option 1 if a wider range of safety assessments were mandated of all participating properties.
55. As with Option 1, landlords will choose whether they take up a local authority's business offer and let to homeless households. The increased costs associated with the requirements of accreditation schemes may reduce the number of landlords who conclude that the benefits of doing so outweigh the costs.

Q8: Do you agree that the above is reflective of the costs to private rented Landlords from the proposed additional requirements of Option 2?

Costs to Central Government

56. In order to require local authorities to only be able end the main homelessness duty in private rented sector accommodation if the landlord is a member of a local landlord accreditation scheme, Government would need to set out in law the requirements of an accreditation scheme. This would be a more complicated piece of work, resulting in greater administrative burdens than the proposed standards for households owed the main homelessness duty. It has not been possible to monetise these administrative costs given that we have not established the full requirements of such a scheme.

Benefits

57. The benefits of option 2 are the same as option 1. Although requiring accreditation would introduce additional requirements, given that option 1 already sets out the key aspects of existing legislation and extra protections, there is likely to be little or no demonstrable extra benefit in terms of preventing the use of sub-standard accommodation.

Benefits to Homeless Households

58. Being housed in properties owned by accredited landlords means that the homeless households are as likely to be housed in accommodation of adequate quality, with a good level of management services, as under Policy Option 1. Most accreditation schemes rely on "de-accreditation" if problems arise, along with support and education for landlords. Not all properties are checked if a landlord is accredited, contrary to option 1 which will specify the

circumstances that must be met for each private rented property to be regarded as suitable. As such, the benefits are likely to be no greater than those set out in Option 1 including avoiding the potential health hazards poor quality accommodation can bring.

59. A range of established accredited landlords could mean that time spent in temporary accommodation is reduced. However this benefit may be offset (at least initially) whilst schemes are developed and landlords are recruited.

Benefits to Local Authorities

60. Local authorities would benefit from being able to place homeless households with accredited private sector landlords with a degree of confidence that there were not likely to be any issues of low quality accommodation or poor levels of management. As with option 1, this could reduce the risk of 'repeat' homelessness and the need to take action against sub-standard properties or rogue landlords. The greater security in dealing with private sector landlords could, over the long term, lead to increased numbers of households being placed in the private rented sector, thus reducing the pressure on social housing, and temporary accommodation. It may also attract additional landlords to participate in the local accreditation scheme (because of the increased number of tenants available), further delivering benefits to the local authority by improving standards of private rented accommodation and increasing the number of properties available to low-income tenants.

Benefits to landlords

61. In many cases, accredited landlords are recognised by local authorities as having good management levels and having properties that are well-maintained. Accredited private landlords would thus build up a relationship with the local authority which could lead to a more profitable business arrangement over the long-term. Accredited landlords are accorded a degree of trustworthiness that means that they are often preferred by tenants to non-accredited ones, thereby securing a competitive advantage. Landlords will also be able to benefit from the support, advice and access to grants, for example to upgrade their properties, often available through accreditation schemes.

Benefits to Central Government

62. Having an established number of accredited landlords could potentially lead to homeless households being found placements with the private sector more quickly, which would mean a smaller amount of time spent on expensive temporary accommodation and, therefore, a reduction in costs. However this would need to be seen against the risk that if some authorities set more stringent requirements this may limit the pool of properties available. Government is also likely to benefit from a reduction in poor quality accommodation and the negative externalities that result, such as to the National Health Service and welfare system. As indicated in option 1, it has

not been possible to monetise these benefits because we cannot isolate the specific improvements in physical health that may result.

Risks

63. There are three key risks associated with this policy. These are that:
- that the Suitability Order leads to a reduction of available properties,
 - that the Order does not afford households the intended protections; and
 - that local authorities find the requirements of the Order unworkable.
64. We have worked closely with local authorities when supporting them to develop their homelessness prevention strategies which make extensive use of the private rented sector. For example in 2010/11 the private rented sector was used to prevent and relieve homelessness for over 50,000 households outside of a local authority's statutory homelessness duties¹⁵. Local authorities are well versed in working with the private rented sector and a number offer various incentives to encourage landlord engagement. We know that local authorities are preparing themselves for the proposed changes and are actively working with landlords in their local areas. By way of background the social housing reform consultation asked local authorities if the homelessness changes proposed in the Localism Act would impact on the availability of private rented sector accommodation. Of those local authorities who answered only 11% felt that there would not be enough accommodation available.
65. We will continue to maintain a dialog with local authorities and landlord representative organisations and if there are areas who are struggling to find accommodation or build a trusting relationship with local landlords then we will work with them and outline those approaches we know have worked in other local authorities with similar market conditions.
66. We have informally consulted with local authorities across the country to sense check the content of the Suitability Order and to see if any particular aspects are unworkable and/or will have little effect in improving the outcomes for households. We have had similar conversations with Shelter and Crisis. This dialog has reassured us that the measures are appropriate, proportionate and in many cases, are already part of established best practice. In conjunction with existing legislation, guidance and the additional safeguards set out in the Localism Act, they will work to the benefit of households for the purposes of a private rented sector offer.
67. Similarly, the informal consultation with local authorities has reassured us that in practice a Suitability Order is workable. Local authorities generally felt that any additional burdens an Order places on local authorities are proportionate and that when you balance these against the savings the measures proposed in the Localism Act could bring about that they are a fair way of safeguarding those placed in the private rented sector in this way.

¹⁵ DCLG Publications on homelessness prevention and relief
<http://www.communities.gov.uk/housing/housingresearch/housingstatistics/housingstatisticsby/homelessnessstatistics/homelessnesspreventionrelief>

Preferred Option and Implementation Plan

Option 1 is the preferred option.

68. This option meets the policy objective, but goes no further than is necessary, thus minimising burdens on local authorities and the impact on landlords.
69. Homeless households can be more certain that the private rented sector accommodation in which they will be placed has been subject to a range of appropriate checks and verifications to ensure its suitability.
70. Landlords who wish to be considered by local authorities for consideration in housing homeless households would be subject to certain additional safeguards, but we do not believe these are particularly onerous or expensive to bring about, particularly given the requirements that legislation already demands. However, landlords would not be required to offer their accommodation to local authorities will make a market-based decision on whether the benefits of letting to homeless households outweigh the costs, including the additional availability of tenants who would otherwise be placed in social housing.
71. If they choose to exercise their new power to end the main homelessness duty in the private rented sector without consent, local authorities might conduct checks on properties and their landlords to satisfy themselves that they have complied with the requirements of the proposed Order. Doing so would ensure that the circumstances set out in secondary legislation have been met; that the accommodation is suitable and the landlord is a fit and proper person (to act in the capacity of a landlord). However, such safeguard checks would be relatively simple to conduct and are not likely to delay the placement of housing the homeless household for a significant period. This balance is aimed to ensure that the appropriate accommodation can be found without significant burdens being placed on the local authority resources whilst recognising the benefits of the wider policy set out in the Localism Act. Any costs must be considered against the benefits to local authorities of ending the homelessness duty more quickly in the private rented sector and the reduced use of temporary accommodation. Clearly, local authorities will not choose to utilise the new power in the Localism Act and the proposed Order if there will be a net cost to them of doing so.
72. This impact assessment is published alongside a consultation on the proposed requirements to be included in the Homelessness (Suitability of Accommodation)(England) Order 2012. The Order will come into effect alongside commencement of the new powers in the Localism Bill. We will monitor the Order's impact through the quarterly P1E statutory homeless statistical release and continued dialog with local authorities and homelessness charities.

One In One Out (OIOO)

73. 74% of landlords are individuals¹⁶ and would be considered micro businesses. However, landlords operating at the lower end of the market (for low-income

¹⁶ EHCS Private Landlords Survey 2006

households) are more likely to be larger businesses. Nonetheless, this policy is considered not to be an IN in the One In One Out process because there is no direct requirement for landlords to house homeless households, and therefore has a zero net cost. Landlords can choose not to let to homeless households if they feel it is not in their interests to do so and will be able to offer their property to others (most likely to be low-income households or students). Of course if they do choose to accept them then they are required to comply with the new regulation with the potential for additional costs but will take this market based decision on whether any costs are outweighed by the benefits. In recognition of these potential costs to micro business we have secured a waiver on the moratorium on regulating micro businesses.

Specific Impact Tests

Competition Assessment – it is not considered that this policy will impact on competitiveness. There are clear benefits for those landlords who wish to let to households owed the main homelessness duty which will incur some additional costs, however, landlords are under no obligation to work in this way if they choose not to.

Small Firms Impact Test – landlords will continue to have a choice over whether or not to accept homeless households as tenants and we, therefore, expect that where they opt to incur the associated costs, these will be more than offset by the benefits of letting to this new group of tenants.

Legal Aid Impact – in ensuring that private rented sector accommodation is suitable and meets the requirements set out in the proposed Order local authorities may be challenged on ‘suitability’ less frequently thus reducing the Legal Aid bill although it is not possible to quantify this.

Sustainable Development / Carbon / Other Environmental impact – there is unlikely to be a negative impact on the environment. Ensuring that a valid Energy Performance Certificate is available will help local authorities and prospective tenants make more informed decisions about whether the property will be affordable and appropriate for their needs in terms of energy costs.

Health Impact – there is evidence that non-decent homes can impact on a household’s health. Ensuring that the private rented sector accommodation used to end the main homelessness duty is good quality means that any risk of a household being placed in cold, damp and/or mouldy property is lessened. This can only have a positive impact on a person’s health although it is not possible to accurately quantify this impact.

Race Impact - the Equalities Impact Assessment for the homelessness provisions in the Localism Bill considered that equalities groups will not be unfairly or negatively impacted as a result of this proposal because of existing protection within the homelessness legislation

Gender / Disability Impact - the Equalities Impact Assessment for the homelessness provisions in the Localism Bill considered that equalities

groups will not be unfairly or negatively impacted as a result of this proposal because of existing protection within the homelessness legislation

Human Rights Impact - this policy does not have a negative impact on an applicant's human rights.

Rural Proofing - the change will apply in the same way to accommodation in rural and urban areas.