

<p><b>Social Housing Regulation Bill</b></p> <p><b>Title:</b> Social Housing Regulatory Reform</p> <p><b>Lead department or agency:</b> Department for Levelling Up, Housing and Communities</p>	<p><b>Impact Assessment (IA)</b></p> <p><b>Date:</b> 31/05/2022</p> <hr/> <p><b>Stage:</b> Final</p> <hr/> <p><b>Source of intervention:</b> Domestic</p> <hr/> <p><b>Type of measure:</b> Primary Legislation and Operational</p> <hr/>
<p><b>Summary:</b> Intervention and Options</p>	<p><b>RPC Opinion:</b> Not Applicable</p>

<b>Cost of Preferred (or more likely) Option (in 2019 prices)</b>			
<p><b>Total Net Present Social Value</b></p> <p>£m -£173.90</p>	<p><b>Business Net Present Value</b></p> <p>£m -131.55</p>	<p><b>Net cost to business per year</b></p> <p>£m 13.15</p>	<p><b>Business Impact Target Status</b></p> <p>Non-Qualifying Regulatory Provision</p>

## **What is the problem under consideration? Why is government action or intervention necessary?**

Following the Grenfell Tower Tragedy in June 2017, serious concerns were raised about how some social tenants were being treated by their landlord. In response, alongside the public inquiry, the Government published the Social Housing Green Paper and launched a Call for Evidence about how social housing is regulated. This was accompanied by extensive engagement with social housing landlords and tenants.

Many residents raised concerns around the safety and quality of their homes, complaints handling, and lack of tenant engagement and respect. There was clear and strong support for a new, rebalanced approach to regulation, focussed on tenants and with consumer issues prioritised alongside economic issues. To deliver this, the Government proposed in the Social Housing White Paper: Charter for Social Housing Residents (SHWP), published in November 2020, to introduce proactive consumer regulation of landlords, to make safety and transparency explicit in the Regulator of Social Housing's (the Regulator) objectives, and to increase the enforcement powers of the Regulator to enable effective action where there is non-compliance.

Government has a clear role to play in regulating the social housing sector (the sector). This is because of the substantial role public subsidy plays in affordable housing, limited tenant choice in landlord and the lack of competitive pressures to drive good, efficient service provision. There is a clear public interest in protecting tenants who are unable to benefit from a competitive market and therefore are unable to hold their landlords to account through exercising consumer choice. Equally, regulation helps to ensure that public investment secures the maximum value for money.

The negative effects of poor social housing are not borne by the landlord but by the tenant and ultimately society too, with non-decent homes leading to detrimental impacts on tenants' health, with subsequent impacts on health services. As well as ultimately bearing the costs of poor housing via increased taxation to pay for negative health outcomes, taxpayers are also effectively subsidising poor quality social housing via benefit payments which make up the majority of rents in the sector. We have estimated that 65% of rents in the sector are made up of housing benefit and universal credit, while 69% of social rented sector households claim housing benefit or Universal Credit or both. Government must therefore ensure that social housing provides safe, high-quality homes for tenants, and that taxpayers are receiving value from the tax money that funds a substantial proportion of the sector.

In February 2022, the Government's Levelling Up White Paper set an ambition to reduce the number of non-decent homes in all rented sectors by 50% by 2030, with the biggest improvements in the lowest performing areas. This legislation is a key element in tackling poor quality housing and supporting levelling up.

Government sets the legal framework that registered providers of social housing operate within and the remit of the Regulator. The Regulator is currently bound by legislation to prioritise economic regulation of the sector, with its intervention in consumer issues limited to areas where tenants face real or potential 'serious detriment' due to landlord failings.

In the aftermath of the Grenfell Tower Tragedy, and with clear feedback from tenants and landlords in response to the Social Housing Green Paper and Call for Evidence on social housing regulation, it is clear that we must reform the regulatory regime and enable the Regulator to prioritise regulation of consumer issues alongside economic issues. The SHWP outlines the Government's proposals to reshape social housing regulation and forms the basis for the majority of reforms in this legislation.

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The SHWP also committed to consult on measures to ensure that social housing residents are protected from harm caused by poor electrical safety. In 2020/21, approximately 12% of all accidental dwelling fires were recorded with electrical distribution as the ignition source, approximately 9% were recorded with other domestic style appliance as the ignition source.<sup>1</sup> This Bill will also enable the Government to introduce new requirements for social housing landlords relating to electrical safety checks.

<sup>1</sup> Home Office, Fire statistics data tables, Table 0605 <https://www.gov.uk/government/statistical-data-sets/fire-statistics-data-tables>

## **What are the policy objectives of the action or intervention and the intended effects?**

The legislation will facilitate a new, proactive approach to the regulation of social housing landlords on consumer issues such as safety, transparency and tenant engagement, with new enforcement powers to tackle failing landlords. It will support a strong consumer regulatory regime which will drive a significant change in landlord behaviour, ensuring landlords focus on the needs of their tenants and are held to account for their performance.

Our reforms will:

- Facilitate a new, proactive approach to consumer regulation so providers of social housing can be effectively held to account for the services they provide to tenants;
- Strengthen the enforcement powers of the Regulator, enabling it to take robust action where landlords are in breach of the standards; and
- Refine the existing economic regulatory regime to make sure social housing providers are well governed and financially viable, to protect homes and investment in new supply.

The Bill's focus on safety will ensure a greater proportion of social homes are safe for tenants, through making safety an explicit part of the Regulator's objectives, requiring landlords to nominate a designated health and safety lead and introducing a power that will enable the imposition by regulations of new requirements around electrical safety checks that will ensure tenants are protected from electrical hazards in their homes. The new Tenant Satisfaction Measures enabled through this Bill will assist in determining the effectiveness of these safety measures.

Measures relating to transparency will also ensure that tenants can access key information regarding their homes and landlords, and have the ability to hold their landlords to account. This will support the outcome of ensuring residents are able to have a stronger voice in decisions relating to their homes, a key priority for Government as set out in the SHWP, and one of the issues identified as major concern following the Grenfell Tower tragedy.

Strengthening the Regulator's enforcement powers will ensure that where landlords fail to act responsibly to deal with issues relating to tenant homes, including failing to provide quality homes to tenants, the Regulator can take action and work with landlords to ensure issues are put right.

We will make certain that the Regulator will continue to ensure stability and viability in the sector through robust economic regulation. This will ultimately encourage continued investment in the sector, to support the development of new homes, while protecting tenants from the risks of provider insolvency. Measures are also included to ensure close, effective and on-going co-operation between the Regulator and the Housing Ombudsman, and to strengthen the Housing Ombudsman.

All of these benefits will ensure that taxpayers are receiving value for money from the substantial amount of public money that funds a significant proportion of the sector, in the form of Housing Benefit and Universal Credit.

As a result of this intervention, we expect landlords will ultimately provide a higher level of service to tenants. Through ensuring landlords can be held to account by both their tenants and the Regulator, we expect they will act responsibly to ensure issues relating to tenant homes are dealt with quickly and effectively, and provide quality homes to tenants. This will directly support the Government's ambition to improve the quality of homes in the rented sector across the country, and to reduce the number of non-decent homes in all rented sectors by 50% by 2030.

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

The measures being brought forward have been developed and tested through extensive consultation in the Social Housing Green Paper and the Call for Evidence.

Currently, the Regulator is only able to intervene on consumer issues where it determines there has been, or there is the risk of, serious detriment to tenants. The Government committed to removing the serious detriment test publicly in the SHWP. This cannot be changed without primary legislation, meaning the commitment to a strengthened consumer regulatory system could not be delivered without legislation. Legislation is also required to strengthen the Regulator’s enforcement powers, to ensure it can effectively tackle failing landlords.

While the Government is using a range of measures to drive culture change in the social housing sector, without regulatory reform these will not be enough to deliver the full set of reforms and drive the scale of change required. Regulation is the Government’s most powerful tool to influence behaviour change in the sector, and as shown by the effectiveness of the existing economic regulation regime, can be used to drive positive outcomes.

Regarding electrical safety, the Electrical Safety in Social Rented Homes Working Group considered additional measures, including introducing a minimum technical standard for electrical installations in social housing. However, to achieve parity with the electrical safety requirements in the private rented sector there is no alternative to legislating. The Electrical Safety in Social Rented Homes Working Group was a stakeholder working group formed by the Department for Levelling Up, Housing and Communities (DLUHC) to inform the content of this consultation.

Is this measure likely to impact on international trade and investment?		No		
Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		<b>Traded:</b> N/A	<b>Non-traded:</b> N/A	

**Will the policy be reviewed?**

- The Department will work with the Regulator to conduct a full review at the end of one regulatory cycle, after four years of the new regulatory regime being in place.
- This review will allow the Department, along with the Regulator, to determine the impact of measures introduced, whether the original objectives were met, the efficacy of the data collected on the impact of implementation, and the efficacy of the monitoring mechanisms in place.
- For electrical safety measures, we will confirm any plans to review the policy, including monitoring and evaluation, when we have concluded the consultation.

***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  
**SELECT SIGNATORY:**

Eddie Hughes

Date:

30/05/2022

## Summary: Analysis & Evidence

## Overall package of policies

Taken together this package of measures will reform the regulation of the social housing sector. It provides the framework for a new proactive consumer regulatory regime to ensure landlords prioritise their relationship with tenants, with the tenant at the heart of landlord activities. The reforms will protect tenants from poor performance by ensuring that landlords can be held to account when they underperform. Some measures require changes to primary legislation which will be implemented through a Social Housing Regulation Bill. Others are policy changes that have been set out in the SHWP and will be delivered operationally through the Regulator, within their existing powers. They apply to registered providers of social housing; these include both private registered providers of social housing (PRPs) and local authority landlords (LAs).

This impact assessment refers to a draft impact assessment of the new Tenant Satisfaction Measures published by the Regulator, who are developing the measures. As the TSMs are the subject of a separate impact assessment, these costs are not included in the total costs for this impact assessment.

Some of the measures covered by this Impact Assessment require further development to identify exactly how they will be operationalised; this further work will affect costs and benefits. This Impact Assessment includes a preliminary analysis of those measures and references where further work by the Regulator is required. A fuller assessment will be completed at a later stage by the Regulator in relation to the regulatory requirements it sets.

### FULL ECONOMIC ASSESSMENT

Price Base Year 2019	PV Base Year 20202025	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
<b>Best Estimate</b>	£2.49	£17.39 million	<b>£173.90 million</b>

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

The estimated cost to providers of social housing, over the 10-year appraisal periods are estimated at £173.90 million as a result of the combined effect of these policies. This is split between PRPs (£131.55 million) and LAs (£42.36 million). The largest source of cost is predicted to come from the requirements on providers to perform 5 yearly electrical safety checks (£56.04 million for PRPs and £31.37 million for LAs). Remaining costs are derived from changes required in the implementation of the proactive consumer regulation regime.

For large PRPs, the medium scenario cost of £17.39m per annum would equate to just 0.2% of the £10bn the PRP sector spends managing and maintaining its social stock each year. In 2019, the sector invested £12.1bn in new housing supply (predominantly social housing, but also properties for sale and for market rent). Expenditure on repairs and maintenance of existing social stock was £5.5bn of which £1.9bn was on capital improvements to existing stock. In aggregate, the underlying surplus of PRPs was £3.5bn. The table at Annex (A1) shows further detail on the costs and how these are split across the proposed measures.

For LAs, most stock-holding LAs own a significant number of social homes and are therefore required to account for income and expenditure in a Housing Revenue Account. This is a ring-fenced account separate from the General Fund. where LAs do not operate an HRA, for example because they do not hold enough stock to operate an HRA, Government is required to provide funding equivalent to the cost of the burden imposed on LAs by the measures in this assessment . A separate New Burdens Assessment will be completed prior to measures being implemented.

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

The regulatory reforms centre around creating a framework that enables the Regulator to effectively regulate the social housing sector. The majority of the measures do not have a monetisable cost and are aimed at ensuring there is behavioural change in the sector and that it becomes more tenant focused.

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

## **Description and scale of key monetised benefits by ‘main affected groups’**

We have considered how to monetise the benefits of these reforms but concluded that it is not possible to monetise the benefits robustly. Therefore, the impact assessment avoids monetising the benefits of the SHWP. Instead, it sets out the economic arguments regarding the benefits and aims to quantify where possible. Generally, these arguments identify market failures and how the measures will alleviate these.

The remedial work carried out in response to electrical safety checks will reduce the danger posed by electrical fires and potentially the number of fire-related injuries and fatalities. Breakeven analysis suggests that 50 fatalities or 390 injuries need to be prevented over the 10 years for the policy to break even.

This assessment does provide scenarios with monetised benefits relating to safety and the removal of hazards, however this analysis is not included in the total benefits of the impact assessment due to a lack of robust data and evidence. Currently, 5% of the social housing stock faces at least one category 1 hazard. It is estimated that removing category 1 hazards from a social rented sector home generates an annual saving of £269 to the NHS<sup>2</sup> (2019 prices). A scenario to consider might therefore be the reduction in hazards required to offset the cost of landlords being required to nominate a senior person responsible for health & safety. Dividing the cost to landlords over a 10-year period, by the saving to the NHS from the remedy of category 1 hazards over the same period, gives an estimate of the number of hazard reductions required for the measure to be cost effective. Taking into account discounting and the annual accruing of benefits, we can estimate that the total cost of requiring every social landlord to nominate a person to be responsible for health and safety will be offset if it reduces the number of social rented sector homes facing category 1 hazards by approximately 29,000 over 10-years.



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

The intended outcomes of the Social Housing Regulation Bill and associated operational measures are to:

- Create a strong and proactive consumer regulation regime that will drive up standards in social housing and help tenants and the Regulator hold landlords to account;
- Strengthen the Regulator by giving it new enforcement powers ensuring it can effectively intervene when required; and
- Maintain and refine the Regulator’s current economic regulatory role ensuring that providers are well governed and financially viable to protect homes and investment in new supply.

The non-monetised benefits will include:

- Landlords providing a higher level of service to tenants, and acting responsibly to ensure issues relating to tenant homes will be dealt with quickly and effectively;
- Increasing the quality, safety and decency of social housing, to improve outcomes for social housing tenants;
- Increasing transparency, and ensuring tenants can access key information regarding their homes and hold their landlords to account;
- The Regulator having the enforcement powers needed to take action to ensure issues are put right;
- Ensuring viability in the sector to encourage investment and support the supply of social housing;
- Guarding against the misuse of public funds and ensuring value for money on taxpayer money in the sector; and
- Protecting tenants from situations (such as insolvency) that would put their homes at risk.

Key assumptions/sensitivities/risks	Discount rate 3.5 (%)	
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**BUSINESS ASSESSMENT (Option 1)**

Direct impact on business (Equivalent Annual)			Score for Business Impact Target (qualifying provisions only) £m:
Costs:	Benefits:	Net:	

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# 1 SOCIAL HOUSING SECTOR REFORM – BACKGROUND AND CONTEXT

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## 1.1 Social Housing Sector

- 1.1.1 The social housing sector provides homes to 4 million households. The sector aims to provide homes that are safe and of a high quality with services that meet tenant expectations. The sector is made up of PRPs, who own c.60% of the housing stock, and LAs, who own c.40%.
- 1.1.2 There is a wide range in scale of social landlords with the largest owning over 125,000 units to the smallest with only a few units.
- 1.1.3 There are also registered providers who do not currently have any social housing stock. This includes non-asset owning parents of group structures, providers who have registered while in the process of planning to own social housing stock, and providers in the process of de-registration who no longer own stock.
- 1.1.4 There is significant variance in not only size but operations and business model; with some developing and expanding while others' operations are focused on providing homes along with care and support services. The table below provides details on the size of PRPs.

Table 1, Breakdown of PRPs by size:

Size of RP (units)	Number of PRPs (weighted)	Percentage of total PRPs	Stock (weighted)	Percentage of total stock
0	110	7.8	-	-
1-250	889	63.0	45,687	1.6
251-1,000	164	11.6	83,714	3.0
1,001-2,500	62	4.4	99,226	3.5
2,501-10,000	107	7.6	614,252	21.8
10,001-50,000	72	5.1	1,558,291	55.3
Over 50,000	6	0.4	418,922	14.9
<b>Total</b>	<b>1,411</b>	<b>100.0</b>	<b>2,820,092</b>	<b>100.0</b>

1.1.5 There are also c.1.6m homes owned by Local Authorities (LAs). The table below shows the breakdown of LAs by number of units owned.

Table 2, Breakdown of LAs by size:

Size of LARP (units)	Number of LARPs	Percentage of total LARPs	Stock	Percentage of total stock
0	18	8.5	0	0.0
1-250	28	13.1	808	0.1
251-1,000	3	1.4	977	0.1
1,001-2,500	9	4.2	16,083	1.0
2,501-10,000	102	47.9	543,450	34.5
10,001-50,000	51	23.9	900,500	57.1
Over 50,000	2	0.9	114,552	7.3
<b>Total</b>	<b>213</b>	<b>100.0</b>	<b>1,576,370</b>	<b>100.0</b>

1.1.6 Social housing is located across England. The below table shows the regional distribution of social housing stock in England:

Table 3, Regional distribution of social housing in England<sup>2</sup>:

Region	PRP social stock 2021 units/bedspaces	% of PRP total	LARP social stock 2021 units	% of LARP total	All social stock	% of social stock total
East Midlands	163,946	5.8	173,111	11.0	337,057	7.7
East of England	288,949	10.3	155,404	9.9	444,353	10.1
London	471,711	16.8	388,645	24.7	860,356	19.6
North East	186,336	6.6	88,884	5.6	275,220	6.3
North West	524,902	18.7	81,905	5.2	606,807	13.8
South East	408,403	14.5	170,565	10.8	578,968	13.2

<sup>2</sup> The marginal differences between the total stock numbers in Table 3, when compared to Tables 1 and 2, are attributed to small low cost home ownership schemes not being recorded by geography, and differences in the methodology for counting non-self-contained units.

South West	268,586	9.6	93,819	6.0	362,405	8.3
West Midlands	290,444	10.3	195,835	12.4	486,279	11.1
Yorkshire and the Humber	207,868	7.4	225,350	14.3	433,218	9.9
<b>England</b>	<b>2,811,145</b>	<b>100.0</b>	<b>1,573,518</b>	<b>100.0</b>	<b>4,384,663</b>	<b>100.0</b>

## 1.2 Provider Group Structures

1.2.1 Registered providers are defined as being members of a group structure if they are subsidiaries and associates of one another. A group may include several registered providers or other legal entities, which may be involved in other commercial, non-social housing activity. All of these separate entities within the group fall under the control of a group parent (which is usually a registered provider itself and is not a subsidiary of any other entity within the group).

1.2.2 The Regulator largely regulates the economic standards at the level of the group, not the individual entities within a group. Where a registered provider owns 1,000 or more social housing units but is part of a group which has a registered provider parent, the Regulator assesses compliance at the group level. This means that the Regulator does not publish separate judgements for each of the registered providers within the group. However, each individual registered provider must comply with the standards and the Regulator does not restrict its regulation to looking at the parent entity. This group-level regulatory approach is likely to be adopted for the consumer regulation regime also. This would mean, for example, that TSMs data would be collected on a group level, and inspections conducted on a group-level rather than entity-level.

1.2.3 In total, there are 1,377 registered provider groups (both PRP and LA registered providers). Where applicable, the assessment of costs to providers is based on the Regulator regulating the consumer regime at group level.

## 1.3 Tenant Demographics

1.3.1 The English Housing Survey for 2020-21 shows that 18% of households had a household reference person (HRP) aged 16-34, 14% aged 35-44 and 22% aged 45-54. The most prevalent group in the sector were households with a

HRP aged 65 or over (26%).

1.3.2 The data from 2019-20 also shows that among social renters, 58% of households had a female HRP, with the remaining 42% male.

1.3.3 Additionally, the 2020-21 data shows that 55% of households contain at least one person who is disabled or has a long-term illness. This is higher than owner occupied (28%) and private rented households (29%).

1.3.4 Among social renters in England, 19% of the HRP are from a minority ethnic group. This is similar to the proportion in private rented (18%), and greater than those living in owner occupied households (10%).

1.3.5 The overall implication of the available demographic data on social renters is that any policy affecting the social rented sector is likely to have a greater than average impact (whether positive or negative) on women, older people, people with disabilities and people from BAME backgrounds, because these groups are all more likely to live in the social rented sector.

## **1.4 The Regulation of Social Housing**

1.4.1 The legislative framework for the regulation of social housing was established by the Housing and Regeneration Act 2008 and amended by the Localism Act 2011 and Housing and Planning Act 2016. The Localism Act changes were a response to the Review of Social Housing 2010 which had concluded that:

- i. The Tenant Services Authority (TSA) should be abolished and its regulatory functions transferred to the Homes and Communities Agency (HCA) and vested in a statutory committee within the HCA;
- ii. Consumer regulation should be refocused on setting clear service standards for social landlords and addressing serious failures against those standards;
- iii. Local mechanisms should be used to address routine problems, with an enhanced role for elected councillors, MPs and tenant panels in the complaints process;
- iv. Inspection of social landlords should only be used where there are grounds to suspect a serious failure against the standards; and
- v. Proactive economic regulation of PRPs should continue but with more focus on value for money for the taxpayer.

1.4.2 The legislative framework set by the Housing and Regeneration Act 2008 was further amended by the Housing and Planning Act 2016 to, among other things, reduce regulation of social housing (removing various requirements for the Regulator's consent, reducing the Regulator's powers

to appoint managers or officers of PRPs of social housing etc) and local authority influence over PRPs.

1.4.3 In 2018, and in line with a recommendation from a Tailored Review of the HCA, the Regulator of Social Housing was made a standalone body totally separate from the HCA.

1.4.4 The Regulator's current primary focus is on economic regulation. It proactively monitors compliance with the economic standards for large PRPs (those owning over 1,000 units - who account for around 95% of PRP stock in the sector), meaning they actively monitor and seek assurance that they comply with the economic standards. The Regulator's economic objectives are:

- i. to ensure that providers of social housing, who are registered with us, are financially viable and properly managed and perform their functions efficiently, effectively and economically
- ii. to support provision of social housing sufficient to meet reasonable demands (including by encouraging and promoting private investment in social housing)
- iii. to ensure that value for money is obtained from public investment in housing
- iv. to avoid the imposition of an unreasonable burden (directly or indirectly) on public funds.
- v. to guard against the misuse of public funds.

1.4.5 The Regulator also has a set of consumer objectives. These are:

- i. to support the provision of social housing that is well-managed and of appropriate quality
- ii. to ensure that actual or potential tenants of social housing have an appropriate degree of choice and protection
- iii. to ensure that tenants of social housing have the opportunity to be involved in its management and hold their landlords to account
- iv. to encourage registered providers to contribute to the environmental, social and economic well-being of the areas in which the housing is situated.

1.4.6 All social landlords, including local authorities, are required to meet a range of consumer standards. These currently are:

- i. The Home Standard - sets expectations for registered providers of social housing to provide tenants with quality accommodation and a cost-effective repairs and maintenance service.



- ii. The Tenancy Standard - sets expectations for registered providers of social housing to let their homes to tenants in a fair, transparent and efficient way.
- iii. The Neighbourhood and Community Standard - sets expectations for registered providers of social housing to keep the neighbourhood and communal areas associated with the homes they own clean and safe, co-operate with relevant partners to promote the wellbeing of the local area and help prevent and tackle anti-social behaviour.
- iv. The Tenant Involvement and Empowerment Standard - sets expectations for registered providers of social housing to provide choices, information and communication that is appropriate to the diverse needs of their tenants, a clear approach to complaints and a wide range of opportunities for them to have influence and be involved.

1.4.7 However, these consumer standards are not proactively regulated i.e. the Regulator does not actively monitor or seek assurance that providers comply with them; they are reactive and in order for the Regulator to intervene any suspected breach of the consumer standards must meet the 'serious detriment test'. The test requires that the Regulator may only use their regulatory or enforcement powers if they think that a standard has been failed and there are reasonable grounds to suspect that:

- i. The failure has resulted in a serious detriment to the provider's tenants (or potential tenants); or
- ii. There is a significant risk that, if no action is taken by the Regulator, the failure will result in a serious detriment to the provider's tenants (or potential tenants).

1.4.8 Serious detriment is interpreted by the Regulator as being where there is a risk of, or actual serious harm to tenants.

1.4.9 The Regulator also has a duty to exercise its functions in a way that minimises interference and (as far as is possible) is proportionate, consistent, transparent and accountable. It is also required to focus on systemic failures by providers.

1.4.10 The Housing Ombudsman adjudicates on disputes between landlords and tenants and (since the publication of the White Paper) increasingly names and shames individual landlords, and publicly criticises major problems of quality.

## **1.5 Grenfell and the Social Housing White Paper**

1.5.1 The tragedy at Grenfell Tower in June 2017 raised critical questions for everyone involved in social housing, including tenants, landlords, developers, and local and national government. Government is committed to

learning the lessons of the Grenfell tragedy and have already taken significant action. We have supported the bereaved and survivors, established an independent public inquiry and started implementing the recommendations of its Phase 1 findings. And through the Building Safety Bill we are undertaking the biggest change in building safety for a generation.

- 1.5.2 We have also engaged with social housing tenants across the country about the change that they want to see. The Social Housing Green Paper in 2018 sought views on a wide range of potential changes, and alongside it we launched a Call for Evidence about how social housing is regulated. We received over 1,000 responses to the Social Housing Green Paper and over 100 responses to the Call for Evidence. Many tenants reported positive experiences, but others did not. We heard concerns about safety and quality; of complaints being handled slowly or poorly; and about tenants feeling they were not listened to, or not treated with respect.
- 1.5.3 The Call for Evidence also received a number of responses from organisations, including landlords. Overall, the responses showed widespread support for the current economic regulatory system. There was also a recognition that there needs to be greater consumer regulation.  
**Stakeholder engagement with landlords following the publication of the SHWP has consistently shown widespread support for the proposals.**
- 1.5.4 The COVID-19 pandemic has reinforced the importance of people's homes, communities and neighbourhoods. Good landlords have ensured that their vulnerable tenants have not been left alone and have gone the extra mile to support them. Alongside the challenges posed by COVID-19, social landlords are seeking to increase energy efficiency, and are working to improve the safety of their buildings. We recognise that these pose very significant challenges and are assisting through targeted grants and support.
- 1.5.5 However, more is needed to ensure that the needs of tenants are met. The Government published its SHWP on 17 November 2020. A crucial element of this is appropriate regulation and expectations on landlords, ensuring landlords are transparent and accountable to tenants and that tenants are the focus of their operations, with safety a top priority.
- 1.5.6 The SHWP set out a number of changes to how social housing will be regulated in the future. Some measures require changes to primary legislation which will be implemented through a Social Housing Regulation Bill. Others are policy changes that have been set out in the SHWP and will be delivered operationally through the Regulator, within their existing powers. Where significant development work will be required from the Regulator following the passage of legislation, this has been highlighted in

this Impact Assessment.

1.5.7 In line with feedback from our Call for Evidence, we are retaining the Regulator's current approach of a co-regulatory regime that is assurance based. We are committed to ensuring that the success of economic regulation is not undermined by other changes to the regulatory regime.

1.5.8 Government has reflected on past proactive regulation of social housing consumer standards and has put forward proposals to reform the sector. We will:

- i. **Introduce a new, proactive consumer regulation regime so providers of social housing can be effectively held to account for the services they provide to tenants.**
- ii. **Strengthen the enforcement powers of the Regulator, enabling it to take robust action where landlords are in breach of the standards.**
- iii. **Refine the existing economic regulatory regime to make sure social housing providers are well governed and financially viable, to protect homes and investment in new supply.**

## 1.6 Electrical Safety

1.6.1 In the private rented sector landlords must carry out inspections of electrical installations at least every five years. Over 90% of respondents to the Social Housing Green Paper told us that safety standards between the private and social sectors should be aligned, and the SHWP committed to consult on how best to keep residents safe from electrical harm. The Social Housing Electrical Safety Working Group was subsequently established in February 2021 and considered a range of proposals including mandating checks. This enabling legislation will allow for the subsequent introduction of electrical safety regulations in the social sector at a later date, subject to consultation.

## 2 WIDER ACTION

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2.1 Anecdotal evidence from stakeholder engagements suggests many landlords have made positive changes since the publication of the Social Housing Green Paper. There have also been welcome initiatives to support sector-wide culture change, such as the National Housing Federation's Together with Tenants programme and the tenant-led guide on how to engage with tenants by See the Person and the Chartered Institute of Housing.

2.2 Beyond the legislative measures being taken forward in the Social Housing Regulation Bill and other changes to how the Regulator operates (published in the SHWP), the Government is also taking forward the wider measures

committed to in the SHWP. We are reviewing the Decent Homes Standard and changing regulations relating to smoke and carbon monoxide alarms. In February 2022, the Government's Levelling Up White Paper set an ambition for non-decent homes in all rented sectors to be reduced by 50% by 2030, with the biggest improvements in the lowest-performing areas. Tackling non-decency is a key element in tackling poor quality housing and supporting levelling up, and improving the quality of social housing will be an integral part of this ambition. Providers are already expected to meet the Decent Homes Standard, and so any additional costs incurred by providers in meeting this requirement as a result of the introduction of proactive consumer regulation are not required to be assessed in this impact assessment. A separate impact assessment will be published for any changes to the Decent Homes Standard.

- 2.3 We are improving access to the Housing Ombudsman through the Building Safety Act and have strengthened the service they provide, supported by a complaints awareness campaign informing residents how to complain and access redress services if required.
- 2.4 We are improving the quality of services provided to residents, reviewing the qualifications and professionalisation of housing staff, improving awareness about how to tackle anti-social behaviour and launching a resident opportunities empowerment programme.
- 2.5 We have also announced the formation of a Resident Panel. The panel will consist of social housing tenants, who will discuss the measures the Government is taking to ensure landlords provide their residents with a high-quality service, and invite residents to help us improve them.
- 2.6 The Government will also take a stronger stance on naming and shaming social housing landlords who fail to meet the standards expected of them, by:
  - i. Publicising on social media where landlords have breached the Regulator's consumer standards or where the Housing Ombudsman has made its most serious findings of severe maladministration against them;
  - ii. Engaging directly with these landlords where they have not self-referred to the Regulator or have been given a severe maladministration finding.

### **3 PROBLEM UNDER CONSIDERATION AND RATIONALE FOR INTERVENTION**

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#### **3.1 Regulation of Social Housing**

- 3.1.1 The social housing sector provides 4 million homes at sub-market rent in England. The sector provides a wide range of accommodation and services

which includes homes and support to some of the most vulnerable people in society.

- 3.1.2 While many landlords deliver a good service to their tenants and provide decent and safe homes, following the Grenfell Tower Tragedy in June 2017, serious concerns were raised about how some tenants were being treated. In response, alongside the public inquiry, the Government published the Social Housing Green Paper and launched a Call for Evidence about how social housing is regulated.
- 3.1.3 There was clear and strong support for a new, rebalanced regulatory and sector approach, focussing on tenants. Respondents and Government strongly felt that, in order for this change to be effectively implemented, it must be backed through regulatory reform, building trust and accountability as well as driving the standards of social landlords. To deliver this, the Government proposes to introduce proactive consumer regulation of landlords and to increase the enforcement powers of the Regulator to enable effective action where there is non-compliance.
- 3.1.4 Government sets the legal framework that registered providers of social housing operate within, and the regulatory remit of the Regulator, while the Regulator sets the economic and consumer standards for providers to meet. Change is required to the regulatory framework and how the Regulator operates to ensure the interests of tenants are put at the heart of the system in the future.
- 3.1.5 There is a clear rationale for regulation of social housing, based on the presence of substantial public subsidy, limited tenant choice in landlord, and the lack of competitive pressures towards good, efficient service provision. Regulating social landlords is a means of preventing poor service and outcomes for tenants in a scenario in which they cannot hold landlords to account through exercising consumer choice, while there is a public interest in securing maximum value for money from public subsidy.
- 3.1.6 As well as ultimately bearing the costs of poor housing via increased taxation to pay for negative health outcomes, taxpayers are also effectively subsidising poor quality Social Renter Sector (SRS) housing via benefit payments which make up the majority of rents in the sector. Government must therefore ensure that its investment is safeguarded and obtains value for money, while providing safe, high-quality homes for tenants. The regulation of social housing is one of the key mechanisms the Government uses to assure it that its investment is safeguarded and obtains value for money.
- 3.1.7 Tenants in the SRS face challenges in moving homes. The effects of this can be seen in household move data: in 2019-20, 145,000 households moved house within the SRS, while 703,000 moved within the Private Renter

Sector (PRS), almost 5 times as many moves in the year despite the PRS being only 10% larger than the SRS in terms of the number of households living in it. Part of this difference can be attributed to the security of tenure that tenants in social housing have, but challenges in being allocated a different home in the same area are also a factor. The relative immobility of tenants compared to other tenures, combined with sub-market rents set by a formula, reduces the incentive for landlords to keep their properties to a satisfactory standard, as tenants cannot move easily even if they are dissatisfied, unlike tenants in the PRS.

- 3.1.8 In terms of satisfaction, while standards in the SRS are generally higher than in the PRS, English Housing Survey (EHS) data shows that social tenants are more likely than PRS tenants to say they are dissatisfied with their accommodation (15% in the SRS vs 9% in the PRS), with their landlord's services such as repairs (19% vs 12%), or with their landlord's response to a complaint (59% vs 55%). These findings are similar to the outcomes of the tenant engagement conducted in producing the Social Housing Green Paper.
- 3.1.9 As the points above demonstrate, market forces alone are insufficient to maintain satisfactory standards in the SRS. An additional problem impeding standards in rented housing is externalities: the negative effects of poor housing are not borne by the landlord but by the tenant and ultimately society too. For example, the consequences of large amounts of mould would be felt by the tenant due to detrimental impacts on their health, and by society through the strain on health services needed to provide care. Conversely, the landlord faces little additional cost. Therefore, as the market does not have adequate tools to internalise this externality for landlords, they have no incentive to address the issue.
- 3.1.10 Although they are responsible for setting their own corporate objectives and are ultimately responsible for their performance, providers in the sector have historically been receptive to government objectives; this has meant that the Regulator's current co-regulatory approach is effective in driving the outcomes that government wishes to support. Social housing providers have become a major developer of affordable housing, leveraging their assets and raising over £100bn in private finance and many have responded proactively to the SHWP.
- 3.1.11 The legislation therefore aims to retain the Regulator's co-regulatory, assurance and risk-based based approach that it currently uses effectively on the economic side. This co-regulatory approach provides the best balance of minimising burden on landlords and enabling them to continue to operate effectively at an organisational level, which is essential in enabling funding for new housing supply, while ensuring sufficient protections for

tenants from poor performance.

## 3.2 Housing Ombudsman

- 3.3.1 The number of enquires and complaints made to the Housing Ombudsman has increased in recent years. The number of complaints received by the Housing Ombudsman within their remit grew by 13% from 2019-20 to 2020-21, and was 61% higher in the first quarter of 2021-22 than the first quarter of 2020-21.
- 3.3.2 The increasing number of complaints requiring escalation to the Housing Ombudsman is an indicator that, although there are many social housing providers committed to maintaining a fair and effective complaint handling procedure, the quality of complaint handling by some social housing landlords needs to improve. Intervention is required to ensure the Housing Ombudsman has the tools and powers to drive this change.

## 3.3 Electrical Safety

- 3.3.3 In 2020/21 12% of accidental dwelling fires originated with electrical distribution as the ignition source, 9% were recorded with other domestic electrical appliances (for example white goods, kettles, televisions) as the ignition power.<sup>3</sup>
- 3.3.4 There is a lack of parity between the rental tenures and existing legislation and regulations in place for carrying out checks in the social rented sector is complex and unclear. This means that practice across the sector is inconsistent, and some residents are better protected than others. The consultation will therefore consider whether the best way to protect social residents from electrical harm is by mandating checks and bringing parity between the rented sectors. If the consultation does demonstrate support for mandatory electrical safety checks in the social rented sector, having this enabling power in place will allow the Government to take fast action to introduce regulations that will protect social residents from electrical harm.

# 4 SCOPE

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- 4.1 The SHWP set out a number of changes to how social housing will be regulated in the future. Some measures require changes to primary legislation which will be implemented through a Social Housing Regulation Bill. Others are policy changes that have been set out in the SHWP and will be delivered operationally through the Regulator, within their existing powers.

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<sup>3</sup> Home Office, Fire statistics data tables, Table 0605 <https://www.gov.uk/government/statistical-data-sets/fire-statistics-data-tables>

- 4.2 This impact assessment covers the measures included in primary legislation, and includes commentary and some analysis of the wider regulatory package in the SHWP (including operational measures). It will consider the impacts on LAs as well as PRPs
- 4.3 How to operationalise some of the measures covered by this Impact Assessment requires further development that will affect costs and benefits. This Impact Assessment includes a preliminary analysis of those measures and references where further work by the Regulator is required. A fuller assessment will be completed at a later stage by the Regulator in relation to the regulatory requirements it sets.
- 4.4 The measures broadly fall into the following categories and consequent approaches:
- i. Measures delivered directly by the Bill and therefore fully assessed in this Impact Assessment.
  - ii. Measures in the Bill that will be delivered through the Regulator and assessed in this Impact Assessment. The level of assessment is dependent on the extent to which operational design has been completed.
  - iii. Operational policy changes delivered directly and fully assessed in this Impact Assessment, though not included in the summary costs of the Bill.
  - iv. Operational policy changes delivered through the Regulator. We have provided initial analysis/commentary in this Impact Assessment, but further assessment will be done by the Regulator when consulting/implementing the change.
- 4.5 The proposed measures on electrical safety, for which this bill provides an enabling power, may be delivered through secondary legislation, subject to consultation. The impact of these measures have been assessed in this impact assessment.

## **5 APPROACH TO EVIDENCE AND ANALYSIS**

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- 5.1 The measures in this Impact Assessment are a mix of primary legislation and policy changes, the majority of which were set out in the SHWP. There are also a number of further, technical amendments to the current regulatory regime to ensure it remains fit-for-purpose. The estimates of costs and benefits have been considered relative to a do-nothing option.
- 5.2 A number of the assumptions, costs and benefits have been tested with a representative group of landlords.
- 5.3 The benefits of these measures are impossible to monetise robustly. Therefore, the impact assessment avoids monetising the benefits of the



SHWP. Instead, it sets out the economic arguments regarding the benefits and aims to quantify where possible. Generally, these arguments identify market failures and how the measures will alleviate these.

- 5.4 It is easier to monetise costs because some measures create additional requirements which will take time for providers to address, allowing us to generate a cost based on the estimated time required. We therefore provide a quantitative assessment of costs and include these in the net cost to business figure.

## **6 POLICY OBJECTIVES AND INTENDED EFFECTS**

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### **6.1 Objectives**

- 6.1.1 The measures are designed to reform the regulation of the social housing sector. There are three key objectives to our reforms:
- i. The first is introducing a new, proactive consumer regulation regime so providers of social housing can be effectively held to account for the services they provide to tenants.
  - ii. The second is strengthening the enforcement powers of the Regulator, enabling it to take robust action where landlords are in breach of the standards.
  - iii. The third is refining the existing economic regulatory regime to make sure social housing providers are well governed and financially viable, to protect homes and investment in new supply.
- 6.1.2 We will work with the Regulator to create a strong, proactive consumer regulatory regime for the social housing sector while maintaining their highly effective and robust economic regime. The Regulator will require landlords to:
- i. be transparent about their performance and decision-making – so that tenants and the Regulator can hold them to account;
  - ii. put things right when they go wrong; and
  - iii. listen to tenants through effective engagement.
- 6.1.3 We will also be implementing changes that ensure that the current regulatory framework is fit for purpose and that our expectations on the Regulator and landlords are appropriate and up to date.
- 6.1.4 The Regulator will proactively monitor and investigate social landlords' compliance with its consumer standards and there will be official, clear routes

for tenants to gain information about their landlords, enabling them to hold their landlord to account.

6.1.5 Additionally, the Regulator will have the tools and powers to identify under-performance and effect change in landlords where they fail to meet the standards, with regular inspections, listening to tenants through the Tenant Satisfaction Measures and new powers to deal with non-compliance.

6.1.6 We will also be making adjustments to the current economic regime in order to ensure that it continues to be fit for purpose, and to ensure that the Regulator is able to respond appropriately to new and emerging risks in an increasingly diverse sector.

## **6.2 Intended Effects**

6.2.1 The aims of our reforms are to refocus social landlord's priorities, placing tenants at the heart of what they do. As a result of this intervention, all landlords will be expected to deliver a quality service to their tenants, hold health and safety as a top priority and operate in a transparent and accountable way. We expect landlords will ultimately provide a higher level of service to tenants and, through ensuring landlords can be held to account, we expect they will act responsibly to ensure issues relating to tenant homes are dealt with quickly and effectively, and that they will provide quality homes to tenants.

6.2.2 The specific focus on safety, through making this an explicit part of the Regulator's objectives and requiring landlords to nominate a designated person for health and safety issues, will ensure a greater proportion of social homes are safe for tenants.

6.2.3 Measures relating to transparency will also ensure that tenants have the ability to hold their landlords to account, and can access key information regarding their homes and landlords. This will support the outcome of ensuring residents are able to have a stronger voice in decisions relating to their homes, a key aspect of the Charter for Social Housing Residents, and one of the issues identified as major concern for the sector following the Grenfell Tower tragedy.

6.2.4 We also expect that, as a result of this intervention, the Regulator will continue to ensure stability and viability in the sector. This will ultimately encourage continued investment in the sector, to support the development of new homes, while protecting tenants from the risks of provider insolvency.

6.2.5 This will be backed by an effective consumer regulatory regime that sets clear expectations on all social landlords, ensuring that they reflect their tenants' priorities, and where necessary the Regulator will take enforcement

action to ensure poor-performing landlords improve their service delivery. The 'do nothing' option would not allow the Regulator to strengthen its regulatory role on consumer standards, as legislation is required to remove the serious detriment test and allow proactive regulation.

6.2.6 Legislation is also required to strengthen the regulator's enforcement powers, to ensure it can effectively tackle failing landlords. Additionally, without primary legislation, the Secretary of State does not have the power to direct the Regulator on transparency issues, which is required for the commitment made in the SHWP for the introduction of the access to information Scheme.

### **6.3 Why legislation is needed**

6.3.1 Ultimately, without legislation the Regulator cannot proactively regulate on consumer issues and drive landlords to improve service delivery, nor implement a culture of transparency and engagement with tenants. While the Regulator is currently able to regulate effectively on economic measures, without legislation it cannot adapt to the challenges of sector risks and the emergence of new business models.

6.3.2 The enabling power on electrical safety will allow for the introduction of electrical safety requirements on social housing landlords at a later date. This power may have the following outcomes in the medium to long-term:

- i. Ending the disparity between the Private Rented Sector and the Social Rented Sector with regards to resident safety;
- ii. Ensuring registered providers of social housing are clear on what is required of them with regards to electrical safety;
- iii. Ensuring social housing residents are protected from harm caused by poor electrical safety.

6.3.3 The majority of the measures covered by this impact assessment were included in the Charter for Social Housing Residents. This was the product of extensive engagement with tenants and landlords through the Social Housing Green Paper in 2018, and accompanying Call for Evidence on regulation. There is widespread support for the measures across the sector.

## **7 DESCRIPTION OF POLICY INTENT: SUMMARY, PREFERRED OPTIONS AND IMPLEMENTATION**

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### **7.1 Implementation**

7.1.1 The new provisions being implemented through the Social Housing Regulation Bill will be commended by Order following Royal Assent. The

Regulator will then be directed on its standards where necessary, including on the introduction of the access to information scheme. After Royal Assent, the Department will issue Directions to the Regulator, following which the Regulator will consult on the regulatory framework and standards.

- 7.1.2 To deliver these changes, significant policy development will take place, which will involve working closely with tenants, landlords and other stakeholder groups. This engagement will ensure the effectiveness and efficiency of the new regime.
- 7.1.3 The Government and the Regulator are clear that landlords should not wait for the passage of legislation to take action to improve service delivery to tenants. Indeed, landlords have taken positive steps to improve their services for tenants, such as the National Housing Federation's 'Together with Tenants' campaign.
- 7.1.4 As noted above, there was extensive engagement with landlords in the development of measures, with a significant response to the Call for Evidence on regulation and Social Housing Green Paper in 2018. We expect the sector response to the measures to be largely positive based on these responses, along with the stakeholder engagement undertaken following the publication of the SHWP in 2020.

## **7.2 Introduce a new, proactive consumer regulation regime so providers of social housing can be effectively held to account for the services they provide to tenants.**

- 7.2.1 The Government is committed to transforming consumer regulation of social housing landlords, ensuring they deliver a quality service to their tenants and put their tenants at the heart of what they do. The reforms we are making to the social housing sector will be driven by a strong and proactive consumer regulation regime.
- 7.2.2 To achieve this objective, we will remove barriers to proactive consumer regulation, and provide the Regulator with strong and robust powers to intervene where there is a failure. We are also making sure that the current economic regime remains fit-for-purpose.
- 7.2.3 To deliver on the proactive consumer regulatory regime **we are working with the Regulator to introduce a proactive, proportionate, outcome focused and risk-based approach to consumer regulation.** The exact design of this proactive consumer regulation regime will be designed and implemented by the Regulator following legislation being passed.

## 7.3 Require the Regulator to develop and implement an effective and proactive consumer regulatory regime

### Removal of the Serious Detriment Test

7.3.1 The Regulator currently regulates reactively on consumer issues when it receives a referral. It does not proactively monitor landlords on consumer compliance or performance. Currently, the Regulator can only use its powers to tackle a breach of a consumer standard when it has reasonable grounds to suspect that:

- i. the failure has resulted in a serious detriment to the landlord's tenants (or potential tenants);
- ii. there is a significant risk that, if no action is taken by the Regulator, the failure will result in a serious detriment to the landlord's tenants (or potential tenants);
- iii. if a failure occurs, the failure will result in a serious detriment to the landlord's tenants (or potential tenants); or
- iv. if a failure occurs, there will be a significant risk that, if no action is taken by the Regulator, the failure will result in a serious detriment to the landlord's tenants (or potential tenants).

7.3.2 The above is referred to as the 'serious detriment test', which is interpreted by the Regulator as being where there is a risk of, or actual serious harm to tenants.

7.3.3 **We are removing the serious detriment test.** This measure was published in the SHWP and is implemented by the Bill. Removing the serious detriment test will facilitate a proactive consumer regulatory regime by eliminating a key barrier to the Regulator proactively monitoring and providing oversight of landlord compliance on consumer issues.

### Consumer Inspections

7.3.4 **The Regulator will introduce a system of routine inspections of the largest landlords** and we will also expect it to undertake specific reactive inspections and/or investigations where appropriate, i.e. potential or actual compliance breaches.

7.3.5 The system of inspections will be based on a risk profile to ensure that those landlords at greatest risk of failing, or where failure might have the greatest impact on tenants, are subject to greater oversight. As part of this we expect the Regulator, subject to meeting any wider priorities, to aim to inspect those landlords with over 1,000 homes every 4 years. The Regulator continues to develop its operating model for the consumer regime, including details on

how they will manage consumer inspections.

- 7.3.6 The system of inspections will help the Regulator to identify potential issues related to the consumer standards, hold landlords to account and take action where necessary, ultimately driving up the standard of service delivery to tenants.
- 7.3.7 The new system of inspections will come into force following the Regulator's publication of its updated consumer standards, which will take place after legislation has gained Royal Assent.
- 7.3.8 The Regulator is required to take a proportionate, risk-based approach to regulation. Consequently, the inspections regime will focus on larger landlords, meaning those with over 1,000 homes.

#### Code of Practice

- 7.3.9 To ensure that the expectations on landlords are clear and include what matters to tenants **we will legislate to enable the Regulator to introduce a consumer Code of Practice and will expect the Regulator to review its consumer standards.** The Code of Practice will amplify their consumer standards (as they now can in relation to their economic standards). The Regulator may also have regard to the codes of practice in considering whether the standards have been met.
- 7.3.10 This measure will drive up service delivery through ensuring landlords understand how they can remain compliant with consumer standards and will facilitate the Regulator holding landlords to account when standards are not met.
- 7.3.11 Significant further work is required by the Regulator to review and amend its standards and in publishing a Code of Practice. There will also be a requirement for the Regulator to consult ahead of publishing codes of practice and the new standards. The new consumer standards and Code of Practice will be published by the Regulator, following consultation, after the legislation has gained Royal Assent. There will be a process of tenant and landlord engagement to support implementation, and the Regulator will consider the potential cost implications of the measure ahead of implementation.

#### Advisory Panel

- 7.3.12 **We will require the Regulator to set up an advisory panel,** to provide independent and unbiased advice to the Regulator on discharging its functions. This panel will not be a decision-making body, but the Regulator will be expected to seek its views on specific regulatory matters – such as on any changes to its consumer or economic standards. This measure was published in the SHWP and is included in the Bill.

7.3.13 The panel will be a group of individuals who have a strong interest on how the Regulator operates – including tenants, landlords etc. This measure will support the objective of creating an effective, proactive regulatory regime. It will complement existing statutory consultation requirements that apply - in particular ensuring that the voices of others are heard early in the process of developing how it will discharge its functions.

#### Registration Criteria

7.3.14 Currently, RSH has limited scope to set criteria for registration that relate to its consumer standards. This means that applicants might be able to successfully register even if they are not and cannot be compliant with the Regulator's consumer standards. Given the new focus on proactive consumer regulation, this is perceived as a gap in provision that it is intended to address in this Bill.

7.3.15 **We will give the Regulator the power to set registration criteria relating to its consumer standards.** It will ensure providers registering need to be compliant with consumer standards, ultimately driving up the service delivery.

#### Including safety in objectives

7.3.16 **The Regulator's objectives will be updated to explicitly include safety,** reinforcing one of its current roles. This measure was published in the SHWP and is implemented in the Bill through a change to Regulator objectives.

7.3.17 This measure's primary purpose is to ensure and reinforce that the Regulator is focused on safety and is therefore able to hold landlords to account. It is intended that the Regulator will set and enforce standards relating to safety and proactively seek assurance from registered providers that they are complying with those standards and the relevant health and safety legislation applicable to their organisation (in so far as it relates to the safety of their social housing and its communal areas and the occupants of that housing).

7.3.18 Responsibility for meeting relevant health and safety requirements sits with the landlord but, by making it explicit that the Regulator's objectives include supporting the provision of social housing that is safe, the Regulator's role in holding landlords to account for compliance with existing relevant health and safety legislation will be strengthened.

7.3.19 The vast majority of landlords comply with the relevant health and safety requirements and are required to show that they have adequate processes in place to ensure this. For most it will be a case of ensuring providers have sufficient capacity to engage with possibly greater scrutiny by the Regulator

on compliance with health and safety issues.

7.3.20 The change to the objectives also links to other measures referred to elsewhere in this impact assessment, including the new duty on landlords to nominate an employee with responsibility for health and safety compliance which the Regulator will be responsible for enforcing.

#### Policy on tackling domestic abuse

7.3.21 We will **legislate to make clear that the Regulator has the power to amend its standards so that registered providers are required to have a policy setting out how they should tackle issues surrounding domestic abuse**, working with other agencies as appropriate. We will expect the Regulator to then review its standards on this once the power is in place.

#### Working with other government bodies

7.3.22 It is important that the Regulator has an effective working relationship with related government bodies, specifically the Housing Ombudsman and the soon to be created Building Safety Regulator.

7.3.23 The Housing Ombudsman provides an independent service considering complaints about registered providers of social housing. Effective co-operation between the Housing Ombudsman and the Regulator is vital to holding landlords to account for their performance on resolving complaints. In September 2020 the Memorandum of Understanding between the two organisations was broadened, setting out how this joint working takes place.

7.3.24 **We will strengthen the relationship between the Regulator and the Housing Ombudsman by formalising their Memorandum of Understanding, putting it on a statutory footing and by making each a statutory consultee for any changes to the regulatory standards and Housing Ombudsman Scheme respectively.** This will ensure the Housing Ombudsman has the opportunity to understand and shape future regulatory changes to support joint working.

7.3.25 We are further formalising and strengthening the relationship between the Regulator and the Housing Ombudsman by introducing a legislative requirement for both bodies to co-operate with each other in undertaking their responsibilities. This will complement proposals in the Building Safety Bill to ensure effective co-operation between the Regulator and the Building Safety Regulator on matters of building safety.

7.3.26 The Building Safety Regulator will oversee the safety and performance of buildings, help and encourage the built environment industry and building control to improve their competence, and lead implementation of the new regulatory framework for high-rise buildings.



**7.3.27 We will expect the Regulator to prepare a memorandum of understanding with the Building Safety Regulator once it is created.** This measure was published in the SHWP and will be implemented by the Regulator and the new Building Safety Regulator. Co-operation will ensure a shared understanding of key objectives, information sharing and discussion of matters of mutual interest regarding the health and safety of tenants, to drive up standards.

## **7.4 Expect landlords to be transparent and accountable to their tenants**

7.4.1 To address the issues identified in the Social Housing Green Paper and Call for Evidence, the Government wants to rebalance the tenant-landlord relationship, with landlords being transparent and accountable to their tenants. The Government has therefore committed to ensuring that tenants are empowered through having the information and means to know how their landlord is performing, enabling tenants to hold their landlord to account.

7.4.2 These measures aim to establish government-backed and landlord-led routes for tenants to access information, know how their landlord is performing and hold their landlords to account. We will also put transparency and accountability as a top priority, which will be backed by the Regulator and the Housing Ombudsman.

### Objectives

7.4.3 **The Regulator's objectives will be updated to include ensuring social housing landlords are transparent with their tenants**, reinforcing one of the Regulator's current roles, and allowing the Regulator to strengthen its focus on transparency. This measure was published in the SHWP and is implemented in the Bill.

7.4.4 This supports the objective of landlords being open and transparent, providing their tenants with information in how they deliver their services and make decisions that impact their tenants. The need for transparency was a key finding from stakeholder engagement carried out in support of the Social Housing Green Paper after the Grenfell Tower tragedy.

### Access to Information Scheme

7.4.5 Landlords are already required to provide information to tenants (including performance information and an annual report). Many landlords are proactively seeking to become more transparent, which will be formalised through the access to information scheme and further requirements.

- 7.4.6 **We will design and create an access to information scheme for tenants of private registered providers of social housing.** This measure was published in the SHWP and the Bill will give the Secretary of State the power to direct the Regulator on the scheme's implementation. The new access to information scheme (ATIS) will allow tenants or their representatives to access information related to the management of social housing held by their PRP landlord, and also relevant information that may be held by sub-contractors.
- 7.4.7 This measure's primary purpose is to ensure that tenants of PRPs are able to access the information they need to hold their landlord to account and encourage a culture of transparency where landlords pre-emptively publish more. The policy will bring the ability of tenants of PRPs to access information in line with those of local authority tenants, who can access information from their landlord under the Freedom of Information Act. This policy will therefore not apply to LAs. We expect the number of requests over time will decrease as landlords are more proactive in publishing information, lessening the number of ATIS requests needed.
- 7.4.8 As with the FOI scheme it will be possible to withhold information on the grounds of certain exemptions, the process for which is in development but is likely to be similar to what is in place for FOI requests. The Housing Ombudsman will act as an appeals body when issues arise, and would also be able to refer suspected systemic breaches of the scheme to the Regulator.

#### Tenant Satisfaction Measures

- 7.4.9 **We will require the Regulator to establish a set of Tenant Satisfaction Measures (TSMs).** This measure was published in the SHWP and we will use legislation to clarify the Regulator's power to collect performance information to facilitate the implementation of the measures.
- 7.4.10 The aim is that the measures will provide tenants with greater transparency about their landlord's performance. A draft set of TSMs was included in the White Paper and follow the themes set out in the Social Housing Green Paper, widely supported by tenants, around properties being in good repair, building safety, engagement and neighbourhood management, including measures on anti-social behaviour. The TSMs include both objective quantitative measures and tenant perception measures.
- 7.4.11 They will also help inform the Regulator's assessment of how the landlord is complying with the consumer standards under a proactive consumer regulation regime. The Regulator will consider the methodology that should be used to collect the information required and will advise landlords on the best way of publishing measures so that they are clear and accessible for all

tenants. We would expect landlords to report on TSMs to every tenant once a year as a minimum.

7.4.12 Regarding implementation, the Regulator will develop the measures with landlords and tenants and have conducted consultation on draft measures. They must also meet the clear aims set out above, and the Regulator will publish guidance on how to submit the information to the Regulator. The Regulator will also develop its plans for how the information will be published.

7.4.13 The Regulator has prepared a separate draft impact assessment on the draft Tenant Satisfaction Measures, published here:

<https://www.gov.uk/government/consultations/consultation-on-the-introduction-of-tenant-satisfaction-measures/annex-6-draft-regulatory-impact-assessment-accessible-version>.

### Financial Metrics

7.4.14 Alongside the TSMs, **we will require landlords to publish information on Chief Executive pay and management costs.** This measure was published in the SHWP. The measure will require landlords to publish financial information alongside tenant satisfaction measures, providing clear and accessible information on how much landlords are spending on management costs and executive remuneration.

7.4.15 The financial measures outlined in the SHWP are:

- i. Chief Executive or equivalent salary, relative to the size of the landlord;
- ii. Executive remuneration, relative to the size of the landlord; and
- iii. Management costs, relative to the size of the landlord.

### Breakdown of how income is spent

7.4.16 **We will work with the Regulator to ensure all landlords provide a clear breakdown of how their income is being spent.** This needs to be in an accessible format to tenants can see how funds are being spent and can challenge whether money is being spent on the things that matter to them.

### Roles and Responsibilities of Staff

7.4.17 **We will require landlords to be clear on the roles and responsibilities of their senior staff.** This measure was published in the SHWP and is implemented through changes to the Regulator's standards.

7.4.18 This measure's objective is for landlords to be clear to tenants who is ultimately responsible for the services that they receive. This is part of a wider goal of increasing the transparency of providers and being clear which

individuals are ultimately responsible. This will enable tenants to better hold their providers to account. Many landlords already publish senior staff names and responsibilities on their website.

### Nominated persons

- 7.4.19 **We will require landlords to have a nominated person responsible for consumer compliance.** This measure was published in the SHWP and is implemented through changes to the Regulator's standards. The measure will require every provider to name a nominated person to be responsible for the provider's compliance with its consumer standards and drive forward change where needed.
- 7.4.20 Our aim is for the responsible person to be sufficiently senior within the organisation to implement change, such as a chief executive or director.
- 7.4.21 Many landlords already provide information on the responsibility of senior posts to tenants, including delivery of customer services, usually through their website or information leaflets. Providers should already have senior staff who are responsible for their consumer services and where this is not the case this will ensure that they do. For most, however, this will be a case of formalising and publicising a 'responsible person' for consumer standards compliance. This will be delivered alongside a wider requirement for landlords to be clear on the roles and responsibility of senior staff, see para 7.4.17. This measure will support the objective of ensuring landlords are transparent and can be held accountable.
- 7.4.22 **We will require landlords to have a nominated lead for health and safety.** This measure was published in the SHWP and is implemented in the Bill. It will require every registered provider to nominate a senior person within their organisation who acts as a champion for health and safety.
- 7.4.23 In the SHGP and Call for Evidence, a key concern for tenants was a culture in their landlords of not listening and taking serious health and safety concerns into account. This person will be accessible and visible to tenants.
- 7.4.24 The health and safety lead should be sufficiently senior to drive a culture of safety throughout the landlord organisation, and should have specific responsibility for issues such as:
- i. driving a strong culture across the organisation for prioritising and delivering health and safety requirements;
  - ii. ensuring robust health and safety systems are in place; and
  - iii. providing assurance that health and safety risks are being managed effectively.

- 7.4.25 Many landlords already have a person or persons who are responsible for ensuring health and safety compliance, but it is often not clear to tenants who is responsible. Introducing this as a legislative requirement will ensure increased clarity for tenants and emphasise the importance of the role. This policy will assure tenants that their health and safety is a top priority.
- 7.4.26 The nominated person will not, by being nominated, be liable for the health and safety of tenants. That responsibility will remain with the landlord as a whole.

#### Ensuring local authorities are held to account

- 7.4.27 Local authorities have had only very limited interaction with the Regulator due to only being subject to the consumer standards on a reactive basis. The changes we are making will subject local authorities to much greater oversight. We are also implementing a limited set of policies to ensure that the Regulator is able to appropriately carry out its functions with respect to local authorities.
- 7.4.28 Part of the Regulator's co-regulatory approach is for providers to self-refer when they identify a potential or actual failure against the standards. Therefore, **we will enable the Regulator to require local authorities to self-refer breaches of the consumer standards**. This measure was published in the SHWP and is included in the Bill (it will be implemented through the Regulator changing its standards). Many LAs already choose to self-refer voluntarily, as part of the co-regulatory approach, however there is currently no regulatory requirement for them to do so with regards to the consumer standards.

#### Increase Tenant Focus

- 7.4.29 **We will require landlords to demonstrate how they have considered ways to improve tenant engagement**. This measure was published in the SHWP and will be implemented through changes to the Regulator's standards.
- 7.4.30 The aim of this measure is to embed a culture of continuous improvement in tenant engagement. The revised consumer standards will outline the outcome that must be achieved in order to meet this requirement, but it will be for individual providers to determine how they should achieve this.

### **7.5 Strengthen the enforcement powers of the Regulator, enabling it to take robust action where landlords are in breach of the standards**

- 7.5.1 Along with a proactive regime the Regulator needs to be able to enforce its standards, and in extreme cases step in to ensure problems are resolved and safeguard tenants. **We will therefore provide the Regulator with**

**additional enforcement powers.** A number of these measures were included in the SHWP, and we have also added additional measures deemed necessary for effective enforcement of the new regulatory regime. They will ensure that the Regulator continues to have the right tools available to ensure landlord compliance with the consumer standards and help the Regulator to drive performance and safeguard tenants.

7.5.2 Currently the Regulator has a range of enforcement powers and publishes guidance on how and when it uses these powers. Legislation sets out specific provisions which the Regulator must take into account when considering use of its powers.

7.5.3 The Regulator is required to carry out its responsibilities in a way that minimises interference and (so far as is possible) is proportionate, consistent, transparent and accountable and, specifically in relation to enforcement, to take into account:

- i. the desirability of registered providers being free to choose how to provide services and conduct business;
- ii. whether the failure or other problem concerned is serious or trivial;
- iii. whether the failure or other problem is a recurrent or isolated incident; and
- iv. the speed with which the failure or other problem needs to be addressed.

7.5.4 It is also obliged to consider any proposal made by the landlord (known as a “voluntary undertaking”) to improve before using enforcement action. Consistent with this approach, the Regulator will try to work with the landlord to rectify a problem before having to use its formal powers. The Regulator uses its powers infrequently and often the threat of taking regulatory action is sufficient to rectify the issue.

7.5.5 The new powers we are giving to the Regulator are aimed at ensuring they can effectively intervene when required and give the Regulator the ability, in extreme circumstances, to directly intervene to protect tenants. The measures will also encourage landlords to maintain standards, to avoid the threat of enforcement action.

7.5.6 The powers will be introduced through the Bill. Following the passage of legislation, and after the Government issues a Direction relating to aspects of the standards, the Regulator will consult on its framework, publish new consumer standards which will be enforced against, and will consult on and publish guidance on its use of powers.

7.5.7 **Allow the Regulator to require Performance Improvement Plans.** This power, given through legislation, will allow the Regulator to require a Performance Improvement Plan for landlords who fail to comply with a consumer standard. This approach will enable tenants to be aware of what

action their landlords will carry out and when, and enable them and the Regulator to challenge the landlord if it fails to meet these requirements.

- 7.5.8 **We will reduce the notice period to survey homes.** We are reducing the notice period that the Regulator must give a landlord to survey the condition of properties from 28 days to 2 days. Reducing the period of notice aligns with the emphasis on protecting tenants and will enable the Regulator to assess properties more quickly and take decisive action if required. This measure is aimed at protecting tenants from a potentially harmful situation. This will be implemented through the Bill.
- 7.5.9 **We will allow the Regulator to arrange emergency remedial work following completion of a survey.** We are allowing the Regulator, following the completion of a survey, to arrange remedial work (including repairs) in dwellings in an emergency to rectify an immediate risk of harm to tenant health and safety. We will also legislate so the Regulator can recoup the costs from the landlord. This will allow swift action, where other regulatory interventions have not addressed the problem, in the unacceptable situation where tenants are forced to live with the consequences of significant and unwarranted delays to emergency repairs.
- 7.5.10 The Regulator can already carry out a survey where it believes the premises fails to meet the required standard but the onus is on the landlord to rectify the situation and then apply further sanctions if they do not comply. The key change is that the Regulator can sanction emergency repair work themselves. The clear policy intention is that this power would be used sparingly – the Regulator expects landlords to carry out and pay for emergency repairs; and would also consider its other existing enforcement powers before intervening to arrange to make properties safe.
- 7.5.11 **We are removing a requirement on the Regulator to seek approval to use its own staff to carry out an inspection.** We are removing the requirement for the Regulator to seek approval from the Secretary of State before employing its own staff to carry out inspections for breaches of the consumer standards. This is unnecessarily bureaucratic and should be removed in light of wider reforms to consumer regulation.
- 7.5.12 **We are removing the cap on the level of fines the Regulator is able to issue.** Currently the Regulator can issue fines up to a limit of £5,000. Removing the cap will give greater flexibility to determine the appropriate sanction depending on the circumstances and bring the Regulator's power more into line with other regulatory bodies. This will deter landlords from breaking consumer standards and drive improved performance.
- 7.5.13 **We are removing a limitation on the Regulator's ability to appoint a consultant to conduct an Inquiry.** Currently, the Regulator may not

appoint a consultant to the Regulator to conduct an Inquiry – a consultant being defined as an individual providing services to the Regulator (other than employee or person appointed under s. 206.). This will widen the potential pool of people who could be used to conduct an independent inquiry and increase the chance that the Regulator is able access the right skills on a timely basis, ultimately improving its ability to effectively regulate against the standards and drive service delivery.

- 7.5.14 **We are making changes relating to the Regulator’s ability to appoint a manager.** This will enable the Regulator to intervene more promptly and to increase the pool of potential managers with the requisite expertise, skills and capacity to assist a provider in difficulty. This could be particularly important in situations where, for example, an appointment is made or required to safeguard tenants’ and/or lenders’ interests where a PRP is facing financial viability problems and/or service delivery failures.
- 7.5.15 **We are adding new grounds to the powers of the Regulator to by order remove or suspend officers etc.** Currently, the Regulator can remove an officer of a PRP on grounds including impeding proper management of the provider by reason of absence or failure to act. We will add the additional grounds that the Regulator can suspend or remove an officer for obstructing the Regulator from performing its functions, or failing to co-operate with the Regulator as it performs its functions. This will enable the Regulator to take action where it encounters resistance from providers, that could frustrate the resolution of compliance issues.
- 7.5.16 **We will remove restrictions on the Regulator’s ability to take enforcement action against registered charities that have not received public assistance.** Many of the Regulator’s monitoring and enforcement powers cannot be used in relation to registered charities who have not received public assistance. These restrictions are problematic in practice because the position may not be clear and they remove useful tools from the Regulator’s enforcement options in relation to registered charities that have not received public assistance.
- 7.5.17 **We will remove a series of restrictions on the Regulator’s ability to use enforcement powers in relation to for-profit providers.** For-profit providers manage a growing proportion of the social housing stock. When for-profit providers first entered the sector, the Regulator’s enforcement powers were limited in some respects as there were concerns that allowing the Regulator to use their enforcement powers against these bodies might impact non-housing businesses. However, in practice those for-profits that have registered as providers have done so as separate entities with a clear social housing focus and there is no longer a clear rationale for having reduced powers and requirements for for-profits. The changes proposed above will enable the Regulator to use a greater range of powers when regulating for-profits. This will better enable the Regulator to meet its



fundamental objectives, for example, protecting tenants and ensuring viability and good governance. This will be implemented through the Bill.

- 7.5.18 **We will amend the Regulator’s powers to appoint an officer to providers.** The changes will ensure the Regulator can renew the appointment of an officer on multiple occasions, and amend the requirements to consult with the Charity Commission to a requirement to notify instead. These changes will make it easier for the Regulator to make effective interventions to appoint officers.
- 7.5.19 **We will clarify the rights of RPs making statutory appeals against regulatory judgments.** The amendments will clarify a 28-day time limit for making statutory appeals against the Regulator, and that certain enforcement actions (including penalty notices and compensation orders) will be suspended while an appeal is pending. We will clarify the timing of deregistering a provider when the Regulator makes a decision to deregister and an appeal is launched, ensuring the appeal is given 28 days to proceed and that the judgment is suspended while the appeal is pending. The changes will also restrict a provider’s ability to challenge the imposition of mandatory annual fees so that they may only challenge the amount of fees payable.
- 7.5.20 **We will remove enforcement grounds laid out in Section 23 the Welfare Reform and Work Act 2016 (WRWA).** These provisions relate to requirements that have now fallen away because they applied for four years and expired on the 30 March 2021, meaning the grounds are now redundant.

## **7.6 Refining the existing economic regulatory regime to make sure social housing providers are well governed and financially viable, to protect homes and investment in new supply.**

### Ensure the current regime remains fit for purpose and reflects developments in the sector

- 7.6.1 The economic regulation of social landlords is highly effective and our proposed changes to the regulatory regime will ensure this remains the case. The Call for Evidence on regulation did however highlight that there continued to be concerns about increasing sector risks, for example through the emergence of new business models and diversification. We have worked with the Regulator to develop a set of measures that aim to address these concerns. Some of these measures were set out in the SHWP and are implemented in the Bill. They will all address operational issues, identified by the Regulator, which impact on its ability to effectively monitor and regulate

all providers, with an emphasis on ensuring the current regime remains fit for purpose.

- 7.6.2 The measures will improve the Regulator's ability to collect accurate and appropriate information and use it to aid them in appropriately designating and regulating providers. The measures also address an issue where some providers designated as not-for-profit (a beneficial status which may, for example, provide access to enhanced "exempt accommodation" housing benefit rates for specialised supported housing) have been used as a vehicle to make a profit.
- 7.6.3 **We will introduce a 'look through power'**. The aim of this measure is to allow the Regulator to access information from third parties to enable it to regulate effectively. The power would, for example, enable the Regulator to investigate potential fraud by examining the financial accounts of organisations thought to be financially benefiting from a registered provider.
- 7.6.4 PRPs can take a number of corporate forms. **We will change the requirements for providers to notify the Regulator of a change in corporate form.** This will ensure, allied to the change set out above, that the Regulator has the most up to date information about providers so it is able to deliver against its fundamental objectives.
- 7.6.5 We will **change the requirements for who can provide notification to the Regulator relating to the commencement of insolvency procedures, and how this notification can be provided**, to clarify the legal situation and ensure the Regulator can intervene promptly and effectively, and that it is clear when the moratorium on the disposal of land has been triggered. This will help the Regulator to ensure stability and protect tenants.
- 7.6.6 Currently, limited liability partnerships (LLPs) and unincorporated charities are not covered by the specific insolvency-related provisions that apply to other types of PRP. These existing insolvency-related provisions provide a regime that provides the Regulator with the powers and time to help resolve financial difficulties in registered providers should they arise. While there are currently only four registered providers that are LLPs, **we are taking this opportunity to extend existing provisions to ensure that insolvency provisions remain available to support the sector as it diversifies.**
- 7.6.7 **We will tighten the definition of non-profit.** This measure will ensure that the definition of a non-profit provider does not hinder the Regulator in correctly designating a provider that is operating for-profit. Currently legislation restricts the Regulator's ability to designate appropriately whether a provider is actually operating for profit or not. The changes will ensure the Regulator is able to designate on the substance of a provider's operations

rather than rely solely on its constitution or corporate form.

- 7.6.8 **We will restrict registration with the Regulator to bodies registered in England.** This measure will clarify which bodies can register with the Regulator, and ensure that only providers registered in England can register, to ensure that the Regulator can continue to regulate the sector effectively.
- 7.6.9 On **stock leasing**, we will close a potential loophole which potentially might allow a registered provider of social housing to declassify social housing stock without notifying or seeking consent from the Regulator. We will also make a minor change to reflect that leases can end in a number of ways (in addition to expiry).

### **Housing Ombudsman**

- 7.6.10 As set out in the Charter for Social Housing Residents, the Government is committed to driving up standards in complaint handling in the social housing sector and has already approved new powers for the Housing Ombudsman to achieve this. The Charter also states that Government will keep further ways to strengthen the Housing Ombudsman under review, including considering legislation to put the Housing Ombudsman's Complaint Handling Code, which sets out good practice to support landlords to respond to complaints effectively and fairly, on a statutory footing.
- 7.6.11 **We will establish a power for the Housing Ombudsman to issue a code of practice on complaint handling.** the Housing Ombudsman has issued a code of practice on complaint handling (called the Complaint Handling Code) since 2020 but their ability to do so is not established in statute. As set out in the Housing Ombudsman Scheme, the Housing Ombudsman requires member landlords to self-assess annually against the Complaint Handling Code as a condition of membership and has ways to penalise those that do not self-assess or comply with the Complaint Handling Code (complaint handling failure orders and referral to the Regulator). The Housing Ombudsman does not conduct any monitoring on the self-assessments, but we are aware through Housing Ombudsman casework that not all landlords are compliant. This proposal would demonstrate to the sector the importance of good complaint handling, thereby driving up standards in the social housing sector.
- 7.6.12 **We will expand the scope of orders that can be issued by the Housing Ombudsman.** The Housing Ombudsman issues orders to landlords when an investigation into a complaint finds evidence of maladministration (including service failure). Currently the orders at the disposal of the Housing Ombudsman only seek to remedy the individual complainant (e.g. compensatory payments). This proposal will expand the range of orders which statute explicitly empowers the Housing Ombudsman to issue to

member landlords. Under this proposal, the Housing Ombudsman will also be able to order member landlords to review their policy and/or practice relevant to a service failure identified during an investigation. This will encourage members to learn from complaints and Housing Ombudsman investigation findings, and prompt them to take action to prevent incidents recurring in the future.

## Electrical Safety

7.6.13 Subject to consultation, we may consider introducing one or both of the following legal obligations on registered providers of social housing:

- **Mandatory checks on electrical installations at least every five years.**  
The purpose of this policy would be to ensure all registered providers of social housing have the electrical installations inside their properties checked, by a competent person, at least every five years and ensures any remedial work highlighted by that person is undertaken.
- **Mandatory Portable Appliance Testing (PAT) on all electrical appliances that are provided by social landlords as part of a tenancy.**  
This will ensure that portable appliances are tested regularly to ensure they are safe for use.

## 8 MONETISED AND NON-MONETISED BENEFITS

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### 8.1 Benefits of Measures

8.1.1 The measures in this Impact Assessment directly deliver and support the SHWP's objectives, namely for the social housing sector to have a strong, proactive consumer regulatory regime, for tenants to know how their landlord is performing and being able to hold them to account, and for tenants to have a safe and decent home.

8.1.2 The policies can broadly be grouped into three categories for the purposes of their benefits, measures which:

- i. Introduce a new, proactive consumer regulation regime so providers of social housing can be effectively held to account for the services they provide to tenants.
- ii. Strengthen the enforcement powers of the Regulator, enabling it to take robust action where landlords are in breach of the standards.
- iii. Refine the existing economic regulatory regime to make sure social housing providers are well governed and financially viable, to protect homes and investment in new supply.

8.1.3 We are reforming the consumer regulatory regime for social housing, fundamentally changing the Regulator's consumer regulatory approach from reactive to proactive and expanding its remit. It will have greater powers to drive performance and safeguard tenants. This is expected to improve landlord performance across the sector and for underperforming landlords to

be identified and the issues put right.

- 8.1.4 There is a clear rationale for regulation of social housing, based on the lack of competitive pressures towards good, efficient service provision and the presence of substantial public subsidy. The Rationale for Intervention in this assessment (chapter 3) details this rationale.
- 8.1.5 The proactive consumer regulatory regime will improve the consumer performance of social landlords and therefore improve outcomes for tenants. Improved outcomes will include better quality services, providers who are more responsive to the needs of tenants, increased tenant empowerment and engagement in shaping services, and greater quality of housing stock. Where landlords do not meet the required standards, the Regulator will have stronger enforcement powers to take action and work with landlords to ensure issues are put right.
- 8.1.6 Standards were introduced to safeguard tenants and make sure landlords operate in a way that is beneficial to society. Better performance against the Regulator's standards and ensuring they are in line with tenant expectations will increase satisfaction with the service landlords provide, increase the wellbeing of tenants and should increase the safety and decency of tenants' homes. These benefits would subsequently increase consumer surplus (the difference in the price paid compared to price someone is willing to pay, i.e. tenant expectation), which constitutes a gain in economic welfare for tenants.
- 8.1.7 Measures relating to transparency will also ensure that tenants have the ability to hold their landlords to account, and can access key information regarding their homes and landlords. This will support the outcome of ensuring residents are able to have a stronger voice in decisions relating to their homes, a key aspect of the Charter for Social Housing Residents, and one of the issues identified as major concern following the Grenfell Tower tragedy.
- 8.1.8 We will also ensure that the Regulator will continue to ensure stability and viability in the sector through robust economic regulation. This will ultimately encourage continued investment in the sector, to support the development of new homes, while protecting tenants from the risks of provider insolvency.
- 8.1.9 These benefits will also ensure that taxpayers are receiving value for money from the substantial amount of public money that funds a significant proportion of the sector, in the form of Housing Benefit and Universal Credit.
- 8.1.10 This Impact Assessment also makes economic arguments regarding the benefits and does not monetise these benefits. This is either because the benefits are not quantifiable or there is significant uncertainty surrounding the direct impact of the measures.

## Health, safety and decency

- 8.1.11 The proposals we are putting forward aim to increase the Regulator's ability to gather assurance that landlords are providing the safe and decent homes that they are required to provide. Measures such as making safety an explicit part of the Regulator's objectives, introducing requirements for a nominated person for health and safety, and giving tenants the ability to request information on the safety of their buildings through the access to information scheme will all contribute to increasing the safety and decency of homes. This will directly support the Government's ambition, set out in the Levelling Up White Paper, to reduce the number of non-decent homes in all rented sectors by 50% by 2030.
- 8.1.12 The economic argument for intervention, is to increase the provision of a merit good (homes that are safe and decent) and prevent suboptimal outcomes caused by a lack of competition. As noted in 'Rationale for Intervention', there is a clear rationale for regulation of social housing, based on the lack of competitive pressures towards good, efficient service provision, the presence of substantial public subsidy and limited tenant choice in landlord. The relative immobility of tenants compared to other tenures combined with sub market rents set by a formula reduces the incentive for less active landlords to keep their properties to a satisfactory standard, as tenants cannot move easily even if they are dissatisfied, unlike tenants in the PRS.
- 8.1.13 While decency standards in the SRS are generally higher than in the PRS, 12% of the social rented sector dwellings failed to meet the Decent Homes Standard in 2019<sup>4</sup>. On safety specifically, the English Housing Survey estimates 5% of the social rented sector had a HHSRS Category 1 hazard. This is approximately 101,000 LA and 116,000 PRP homes. Additionally, English Housing Survey (EHS) data shows that social tenants are more likely than PRS tenants to say they are dissatisfied with their accommodation (15% in the SRS vs 9% in the PRS), with their landlord's services such as repairs (19% vs 12%), or with their landlord's response to a complaint (59% vs 55%). These findings are similar to the outcomes of the tenant engagement conducted in producing the Social Housing Green Paper.
- 8.1.14 Unlike transparency and accountability, it is possible to monetise increases in safety. This section therefore provides scenarios with monetised benefits. This analysis is not included in the total benefits of the impact assessment due to a lack of robust data and evidence.

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<sup>4</sup> MHCLG (2020), English Housing Survey: headline report, p.3.

- 8.1.15 Currently, 5% of the social housing stock faces at least one category 1 hazard. It is estimated that removing category 1 hazards from a social rented sector home generates an annual saving of £269 to the NHS<sup>5</sup> (2019 prices).
- 8.1.16 A scenario to consider might therefore be the reduction in hazards required to offset the cost of landlords being required to nominate a senior person responsible for health & safety. Dividing the cost to landlords over a 10-year period, by the saving to the NHS from the remedy of category 1 hazards over the same period, gives an estimate of the number of hazard reductions required for the measure to be cost effective. Taking into account discounting and the annual accruing of benefits, we can estimate that the total cost of requiring every social landlord to nominate a person to be responsible for health and safety will be offset if it reduces the number of social rented sector homes facing category 1 hazards by approximately 29,000 over 10-years. As noted above, for context the EHS data estimates that c.217,000 LA and PRP homes had a Category 1 hazard in 2020.
- 8.1.17 By focussing on consumer standards and therefore repairs and maintenance, this may stop homes from falling further into disrepair. This may reduce expenses in the long-term as the Regulator can take preventative action to ensure providers address issues early on, when they are picked up through proactive monitoring.
- 8.1.18 Additionally, the measures proposed could provide reassurance to residents regarding safety and decency issues in their homes, mitigating mental health and wellbeing issues related to these concerns. This could be achieved through the reassurance provided by the nominated health and safety person, providing oversight and transparency on health and safety issues. It could also be provided by landlords seeking to be more proactive in addressing potential safety issues in response to the proactive consumer regulation regime. The material benefit of this has not been monetised in this assessment, because there is insufficient evidence to do so.

### Transparency and accountability

- 8.1.19 The package of measures in this assessment improves the social housing sector's transparency and accountability. This is achieved through helping to rebalance the tenant-landlord relationship, increasing the information and tools available to tenants and the Regulator, which will help inform the new consumer regulatory regime.
- 8.1.20 Nobel Laureate Joseph Stiglitz has shown that transparency is a tool to address the principal-agent problem caused by information asymmetries<sup>6</sup>. The principal-agent problem is a situation "where people (principals), as a

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<sup>5</sup> MHCLG analysis based on EHS category 1 hazard data by tenure and BRE estimates of the cost of category 1 hazards to the NHS.

<sup>6</sup> Stiglitz, J (2002), Information and the Change Paradigm in Economics as explained in Brito, J and Perrault, D (2009), Transparency and performance in government.

result of lack of knowledge, cannot ensure that their best interests are served by the agents”<sup>7</sup>. Transparency is therefore not an end in itself, but a means to an end, and that end is accountability. Accountability happens when one party holds another party responsible for its actions.

- 8.1.21 The package of measures has been designed to improve transparency and accountability, which is crucial in order to achieve the overarching objectives. By making information which landlords hold more available, tenants will be empowered to hold landlords to account and raise issues more directly with the appropriate person. This should enable better decision making and better delivery of services and use of assets. As an example, through the access to information scheme, tenants will be able to request key information on the provision of their housing services, allowing them to hold their landlord to account for the information provided, rebalancing the relationship between them and ultimately helping to raise standards.
- 8.1.22 The benefits of transparency and accountability are difficult to monetise and impossible to do so robustly. The *Impact and Effectiveness of Accountability and Transparency Initiatives: Freedom of Information*<sup>8</sup> published on Gov.uk concludes that it is not currently possible to robustly measure their impact. It is expected that greater transparency and clearer routes to hold landlords to account will increase accountability of landlords and could therefore lead to greater scrutiny, increased awareness and greater confidence in social landlords.
- 8.1.23 This may create an economic welfare benefit if, as a result of greater transparency and accountability, landlords improve how they operate, better aligning their behaviour with the preferences and priorities of tenants and wider society. This creates an economic welfare benefit because, in the counterfactual, social landlords are able to provide a worse service without affecting demand. This is because demand for social housing is inelastic – housing is a necessity, with the majority of social housing over-subscribed. By providing services that tenants and prospective tenants see as more valuable, while demand may increase, supply is constrained. However, existent demand, i.e. tenants, derive greater utility from the service, which generates economic welfare for tenants.
- 8.1.24 These policies may also generate efficiency benefits if the increased scrutiny leads to landlords operating more efficiently. Furthermore, poor housing has detrimental impacts on physical and mental health<sup>9</sup>, on educational attainment<sup>10</sup>, and, by extension, on lifetime productivity. If increasing transparency and accountability leads to better use of assets and/or housing

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<sup>7</sup> Sloman, J, Wride, A and Garratt, D (2012), *Economics* (eighth edition).

<sup>8</sup> Calland, R. and Bentley, K (2013), *Impact and Effectiveness of Accountability and Transparency Initiatives: Freedom of Information*.

<sup>9</sup> Fujiwara, D and HACT (2013), *The social impact of housing providers*.

<sup>10</sup> Center for housing policy (2011), *The Impacts of Affordable Housing on Education: A Research Summary*.



improvements, this may prevent some of these negative effects of poor housing.

### Economic Regulation

- 8.1.25 The proposed economic measures are intended to ensure the Regulator can continue to regulate effectively on economic issues, adapting to reflect developments in the sector. This will allow the Regulator to meet its existing economic objectives, to ensure providers are financially viable and properly managed.
- 8.1.26 Ensuring viability has a direct benefit in encouraging investment in the sector, to increase the supply of social housing. Currently, there is a strong record of investment in the sector. This is partly due to the security of investment, which is directly linked to the strength of economic regulation. The new measures will re-enforce this, encouraging further investment. Further investment in the sector will support the Government's targets for increasing housing supply, ultimately improving outcomes for tenants.
- 8.1.27 Ensuring providers are well managed also guards against the misuse of public funds, ensuring value for money is received on taxpayer money going into the sector.
- 8.1.28 As well as this, it protects tenants from situations (such as provider insolvency) that would put their homes at risk. In a situation where a provider becomes insolvent, there is the possibility of homes leaving the social sector, ultimately requiring the tenants to move from their homes. This could have significant implications on tenants, both in terms of mental health, and in terms of potential impact on their wider outcomes if a new home cannot be found quickly in the area of their former home. While the impacts of an insolvency cannot be costed, as we do not have sufficient evidence, it is likely that there would be significant cost implications in resolving the issues likely to arise and finding tenants new homes, including for Government.
- 8.1.29 The Regulator seeks to resolve serious financial issues before an insolvency occurs. The measures proposed ensure that the Regulator can continue to ensure viability and stability in the sector in response to new developments and challenges arising.

### Housing Ombudsman

- 8.1.30 The proposals to strengthen the Housing Ombudsman will help to drive up complaint handling standards in the social housing sector by putting increased emphasis on the importance of the Complaint Handling. The proposals will reduce the chances of further issues and subsequent complaints arising in similar circumstances following a complaint being

investigated.

- 8.1.31 Social housing residents engaging with the complaints process will be the primary beneficiaries of these changes, giving them better housing and all the associated quality of life benefits that come with that. When members are ordered to learn from Housing Ombudsman investigation findings this will prevent similar issues being experienced by other residents in the future. Improving the complaint handling standards of landlords not currently complying with the Complaint Handling Code will ensure they can handle complaints effectively and enhance the experience of residents making complaints. This will reduce the number of complaints requiring escalation to, or involvement from, the Housing Ombudsman. Local resolution is cheaper (for landlords) and quicker (for tenants and landlords) than formal Housing Ombudsman investigations for both residents and landlords.
- 8.1.32 Reducing the number of complaints needing to be made through the provision of new Housing Ombudsman orders and reducing the number of complaints requiring escalation to the Housing Ombudsman through increased Complaint Handling Code compliance in the sector will also contribute towards easing the growing demand that the Housing Ombudsman has seen in recent years. As Housing Ombudsman costs are recharged to member landlords, this has led to an increase in subscription fees charged. Reducing this demand may prevent further fee increases.

## **8.2 Strengthen Electrical Safety Requirements**

- 8.2.1 Mandating electrical safety checks for installations will be beneficial for fire and building safety. The number of fire related injuries and fatalities is likely to reduce as a result of remediation work identified and recommended through checks. This will help to ensure that buildings and the individuals living in them will remain safe from fires caused by faulty electrical installations. A lack of data examining the causal link between checks and improvements to safety make the improvements difficult to assess. As such the improvements are not monetised in the Impact Assessment. Proposed measures, if implemented through secondary legislation, are expected to minimise the risk of another incident like the Grenfell Tower tragedy. Proposed measures are also expected to raise general awareness of building and fire safety across the SRS.
- 8.2.2 The total cost of electrical safety checks, in 2019 prices, is approximately £91.05 million over ten years. In this case it has not been possible to quantify the benefits of the proposals. Instead, we have used breakeven analysis to illustrate the potential scale of the benefits. Breakeven analysis illustrates the extent of the benefits required for the proposed policy to have a positive Net Present Social Value (NPSV). We have used the value of a road traffic casualty or fatality (as established by the Department for

Transport (DFT)) as a proxy for the cost of life and of non-fatal injuries in a fire. The published DFT values for a fatality (over a lifetime) is £1,935,648.75 and for a serious non-fatal injury of £216,074.18 (at 2019 prices).

8.2.3 For PRPs dividing the estimate annual costs of mandatory electrical safety checks at least every five years (**£5.59 million**), by the value of life, illustrates that around 3 fire-related fatalities in (PRP) properties need to be avoided per year for the policy to breakeven. Using our total high (£108 million) and central (£56.04 million) -cost estimates in this calculation produces a range of 30 and 56 fire relate fatalities need to be avoided over the 10-year appraisal period for the policy to breakeven. Similarly, 260 fire related casualties requiring hospital treatment need to be avoided over 10 years. Using the low and Central cost estimates in this calculation produces a range of 260 and 501 fire related casualties requiring hospital treatment need to be avoided over 10 years. The cost of preventing one fatality would be equal to carrying out 11,341 checks, and the cost of preventing one non-fatal injury would be 1,266 checks.

8.2.4 In LA dwellings dividing the annual cost of the policy (**£3.14 million**) by the value of life, illustrates that 2 fire-related fatalities need to be avoided per year for the policy to break even. Using our total high (£65.29 million) and Central (£35.01 million) cost estimates in this calculation produces a range of 16 and 34 fire related fatalities need to be avoided over the 10-year appraisal period for the policy to break even. Similarly, 145 fire related casualties requiring hospital treatment need to be avoided over 10 years. Using the low and Central cost estimates in this calculation produces a range of 162 and 302 fire related casualties requiring hospital treatment need to be avoided over 10 years.

8.2.5 To put this into perspective, in the year ending September 2021, fire and rescue services attend 27,021 dwelling fires. Over the last 10 years from the year ending September 2011 there have been 2,250 accidental dwelling fire-related fatalities in England.

## 9 MONETISED AND NON-MONETISED COSTS

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### 9.1 Cost Assessment

9.1.1 This section sets out the costs of the measures published in the SHWP. The costs are assessed through each policy individually, giving an explanation of their assessment and how these are monetised. The structure of the policy cost assessment reflects the description of the policies in section 7 for clarity.

- 9.1.2 Many of the reforms we are making do not have a direct cost to providers. They are however necessary in order to create the right framework and environment for social landlords to improve their consumer performance, reflecting tenant needs and for the Regulator to establish a reformed and effective consumer regulatory regime.
- 9.1.3 This Impact Assessment does not provide costs for measures which will only impact providers following a breach of the standards. This applies to new enforcement powers and changes to existing enforcement powers. It does, however, assess the impact of removing the serious detriment test. This is because this changes the threshold for intervention and may have implications for providers who go through the referral and investigate stages, even if they are not ultimately found to be non-compliant.
- 9.1.4 Some of the measures require further development by the Regulator and as such this Impact Assessment only gives a narrative or indicative assessment of cost for these measures, for further information on our approach to assessing measures please see section 5.
- 9.1.5 As stated in Section 2 (Background and Context), the Regulator largely regulates the economic standards at the level of the group, not the individual entities within a group. Where a registered provider owns 1,000 or more social housing units but is part of a group which has a registered provider parent, the Regulator assesses compliance at the group level. This means that the Regulator does not publish separate judgements for each of the registered providers within the group. However, each individual registered provider must comply with the standards and the Regulator does not restrict its regulation to looking at the parent entity. This group-level regulatory approach is likely to be adopted for the consumer regulation regime also. This would mean, for example, that TSMs data would be collected on a group level, and inspections conducted on a group-level rather than entity-level. Costings are calculated on a group-basis in this assessment where applicable.
- 9.1.6 The estimated cost to providers of social housing, over the 10-year appraisal periods are estimated at £173.90 million as a result of the combined effect of these policies. This is split between PRPs (£131.55 million) and LAs (£42.36million).
- 9.1.7 Any changes to the existing fees regime to reflect the new role of the Regulator in relation to consumer regulation will be subject to further consideration in the development of the new regime, including further consultation with stakeholders, and is not in the scope of this impact assessment.

## 9.2 Introduce a new, proactive consumer regulation regime so providers of social housing can be effectively held to account for the services they provide to tenants.

9.2.1 **Removal of the serious detriment test** will allow the Regulator to investigate breaches of the consumer standards without having to meet the current high bar of risk of serious detriment to tenants. The table below sets out the number of referrals in recent years:

Table 4: referrals by stage from 2016-16 to 2020-21

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	Average
Stage 1 – All referrals	461	532	543	502	597	591	538
Stage 2 – Considered by the Consumer Regulation Panel (CRP)	201	217	204	226	274	236	226
Stage 3 – Investigation undertaken	98	112	77	124	143	111	111
Breach of serious detriment	4	7	5	6	15	1	6

9.2.2 We might expect the current high bar to disincentivise referrals because the potential referrer may not expect it would meet the Serious Detriment Test. Therefore, this change is likely to increase the number of referrals to the RSH on consumer breaches. Based on engagement with providers and discussion with RSH, and to reflect uncertainty around the number of referrals in 2025, we have modelled a range of a 25% and 50% increase in referrals due to the removal of the Serious Determent Test. This would therefore mean 807 stage 1 referrals per year at the upper bound and 672 at the lower bound, and a midpoint of 739. In both cases, we have assumed that 42% of referrals are passed on to stage 2, as per the average since 2015-16. This results in 340 stage 2 cases in the upper scenario and 283 in the lower bound, and a midpoint of 311.

9.2.3 As well as an increase in referrals, this measure will increase the number of investigations undertaken. At the upper end we assume that all stage 2 referrals pass to stage 3 investigation. This is an upper bar and assumes that in 2019-20 referrals were only removed at Stage 2 because they did not pass the Serious Detriment test, rather than not being suspected as

breaches of consumer standards. We also include a lower bound where it is assumed that 50% of the referrals not investigated (that did not pass Stage 2) were not breaches of the consumer standards and would therefore not make it to Stage 3, even without the Serious Detriment test. In our upper scenario, this therefore means we assume that all 340 stage 2 cases pass on to stage 3 and are investigated, whereas in the lower bound 211 are investigated. The central estimate for the number of stage 3 investigations is therefore 275, the midpoint between the two.

9.2.4 Assuming the 2015-16 average as a baseline for the number of stage 1, 2 and 3 referrals, the number of additional stage 1, 2 and 3 referrals is therefore assumed to be as follows:

*Table 5: additional referrals*

<b>Stage of referral</b>	<b>Upper</b>	<b>Lower</b>	<b>Central</b>
Stage 1 – all referrals	269	134	202
Stage 2 – Considered by CRP	113	57	85
Stage 3 – Investigation	229	100	164

9.2.5 For these additional referrals and investigations, providers will be required to submit information to the Regulator. For Stage 1 referrals, only self-referrals are likely to require any provider time or resource. We estimate that (16%) of referrals will be self-referrals. Based on consultations with stakeholders, stage 1 self-referrals are expected to require 1 hour of senior manager time, 2 hours of housing manager time and 7.5 hours of housing officer time. A similar amount of time for these grades is also required for stage 3. Stage 2 is expected to require 7 hours of senior manager time and 3 hours of housing manger time. Based on the wage costs for these grades, every additional stage 1 and 3 referral is expected to cost landlords £229 in 2025 while an extra stage 2 referral is expected to cost £289 (2019 prices). A referral that progresses through all three stages would therefore be expected to cost a landlord £747.

9.2.6 Additionally, given the publicity around the removal of the serious detriment test, it is likely that in year 1 we will see even more complaints and therefore referrals, and therefore more cost to social landlords. This is a similar approach to the Access to Information Scheme. Based on analysis of previous periods of high publicity and discussions with RSH, we have therefore taken the step of assuming that all stage referrals will be 12% higher in year 1 than the steady state.

9.2.7 In the central scenario, we therefore expect the cost of additional stage 1 referrals to be £52k in year 1, the additional cost of stage 2 to be £28k and

stage 3 to be £42k. Total year 1 costs of the removal of the SDT are therefore expected to be around £71k. The vast majority of these cost is expected to fall to PRPs, around £63k, as historically they have received around 90% of referrals. Total costs to PRPs in present value terms from complying with extra referrals, considerations and investigations from the removal of the serious detriment test is £607k in the central scenario and £82k for LAs.

- 9.2.8 As PRPs and LAs already have systems in place to deal with referrals, the only transition cost is likely to be familiarisation with the new regime. Similar to the new inspection regime, we expect this to require approximately half a day of senior manager and housing manager time apiece, plus a day of housing officer time. Based on the salaries of these roles, familiarisation is likely to cost around £350 per provider and therefore a total cost of £415,150 for PRPs and £68,500 for LA providers. These costs are calculated on a registered group basis.
- 9.2.9 **The Regulator introducing a system of consumer inspections.** The Regulator currently only acts on consumer matters where there is an issue brought to its attention, it does not proactively monitor landlords on consumer compliance or performance. Any issue must breach the serious detriment test before the Regulator can intervene on a consumer matter.
- 9.2.10 The objective of this measure is to change the Regulator's approach so that it proactively monitors and drives landlord's compliance with the consumer standards as it does on the economic side. The Regulator will extensively engage with landlords and tenants on the design of the new consumer regulation regime.
- 9.2.11 As part of this we expect the Regulator, subject to meeting any wider priorities, to aim to inspect those landlords with over 1,000 homes every 4 years.
- 9.2.12 From engagement with the Regulator and stakeholders, we assume for our upper estimate that consumer inspections take up to 309.5 hours: 29.7 hours of senior manager time, 253.6 hours of housing manager time, and 26.2 hours of secretarial time for landlords. This is based on estimates of the time it takes to undertake the different elements of an inspection and is partly derived from current estimates for the time to prepare for an In Depth Assessment, noting that the Regulator has not yet designed the new inspections regime.
- 9.2.13 The vast majority of this time involves landlords preparing a suite of supporting documents and most prepare a statement explaining how the evidence provided relates to the scope of the inspection. The Regulator estimated this will take a middle manager six weeks to collate the

information, but also reported that this time will vary depending on the quality of an organisation's record keeping and that for some organisations it would be considerably less (a situation that we consider in our lower estimate).

9.2.14 In addition, a senior manager will review and sign-off and a secretary may provide support in the process. It is estimated the former will take half a day and the latter three days. For the onsite meetings, it is estimated this takes 15 hours of senior manager time, reflecting the various directors, board members and other senior staff that will take part. Preparation for these meetings will take two days of middle manager time and two hours of secretary time. Providers are given the opportunity to fill any evidence gaps after this, which the RSH estimates will take two days of middle manager time, with two hours of executive director oversight and one hour of chief executive review. For the feedback meeting, it is estimated this takes six hours of senior manager time. Finally, providers are given the opportunity to check for any factual accuracies if a judgement is being published. This is estimated to take two hours of senior manager, of middle manager, and of admin time.

9.2.15 In our lower bound estimate, we reflect the fact that for some providers, the time needed to prepare documentation will be significantly less than RSH's estimates. We derive this lower bound estimate from engagement with providers, which estimated similar amounts of senior manager and admin time to prepare for an inspection, but considerably less housing manager time: around 35 hours. Providers also indicated that some housing officer time, around 20 hours, would be necessary to prepare for inspections. Our lower estimate is therefore that an inspection will take 35 hours of senior manager time, 35 hours of housing manager time, 20 hours of housing officer time and 20 hours of admin time.

9.2.16 Taking a midpoint between these two estimates for our central scenario, we estimate inspections will take on average, 32 hours of senior manager time, 144 hours of housing manager time, 10 hours of housing officer time and 23 hours of admin time. Based on the wages of the relevant staff, we therefore expect an inspection in the central scenario to cost around £4,891.

*Table 6: Central estimates of time needed to deal with consumer inspections*

Employee type	Time required (hours)
Senior manager	32
Housing manager	144
Housing officer	10
Admin	23



- 9.2.17 Consumer inspections will be conducted on a registered group level. There are currently 214 large PRPs and 164 large LAs that would need to be inspected every 4 years. As such, we expect an annualised cost of four yearly inspections to cost £234,000 to PRPs in 2025 and £179k to LAs in 2025 (2019 present value). Total costs of inspections over the ten year appraisal period (present values) are £2.5 million for PRPs and £1.9 million for LAs.
- 9.2.18 Regarding familiarisation costs, we expect this to require approximately half a day of senior manager and housing manager time apiece, plus a day of housing officer time. Based on the salaries of these roles, familiarisation is likely to cost around £350 per provider and therefore a total cost of £415,150 for PRPs and £68,500 for LA providers.
- 9.2.19 **The Regulator will be expected to review its standards, and they will be able to introduce a consumer Code of Practice.** It is not possible to appraise the impact of this because the changes have not yet been formally published by the Regulator. This is an operational measure and an impact assessment is not mandated. The impact of these changes will be assessed by the Regulator in due course.
- 9.2.20 **Requiring the Regulator to set up an advisory panel.** This change is delivered through the Bill and seeks to put on a statutory footing a requirement for the Regulator to set up an advisory panel in relation to how it discharges its functions. The Regulator already has some statutory consultation requirements and also already engages with stakeholders from the sector in other ways, for example, through a Housing Sounding Board. However, there may be some small additional administrative cost to the Regulator of setting up, engaging with and supporting the advisory panel. There will be no new additional cost burden directly placed on providers, and so this measure is not monetised in this assessment.
- 9.2.21 **Amending Regulator registration criteria to refer to consumer standards.** This measure will allow adherence to consumer standards to be considered in registering new providers. The change may lead to the Regulator choosing to amend the registration criteria. We consider that, if the Regulator does so, the additional information that may be required from providers would already be produced in response to other regulatory measures in the Bill. Consequently, this measure does not create a new cost for providers.
- 9.2.22 **Changing the Regulator's consumer objectives to explicitly include safety.** Including safety explicitly in the Regulator's consumer objectives enables it to increase its regulatory focus on safety, and therefore give greater license to the Regulator to enact remedial actions. Landlords should already have safety as a top priority and this policy enables the Regulator to

strengthen its position rather than adding any new requirements on landlords. Because of this, the additional cost to business of this policy is seen to be nil.

- 9.2.23 **We will make it clear that the Regulator has the power to amend its regulatory standards so that registered providers are required to have a policy setting out how they should tackle issues surrounding domestic abuse, working with other agencies as appropriate.** We will expect the Regulator to then review its standards on this once the power is in place. The impact of the changes to the standards will be assessed by the Regulator in due course – it is not possible to analyse the impact currently as the changes have not been published by the Regulator.

#### The Regulator working with other government bodies

- 9.2.24 **Strengthening the relationship between the Regulator and the Housing Ombudsman through strengthening and formalising their Memorandum of Understanding, putting them on a statutory footing and by making each a statutory consultee for each other for any changes to the regulatory standards and Housing Ombudsman Scheme.**

9.2.25 This set of changes are a formalisation of what is already standard practice, as such the costs of these measures are negligible. The measures are concerned with the operation of regulatory bodies and is therefore not monetised.

- 9.2.26 **Expecting the Regulator to prepare a memorandum of understand with the Building Safety Regulator.** This measure is about ensuring government bodies work effectively together, therefore the additional cost to business of this policy is seen to be nil.

#### Transparency and accountability

- 9.2.27 Ensuring social landlord are transparent and accountable is a key objective of the measures in this Impact Assessment. Specific measures, such as the access to information scheme and TSMs, which will also help inform the Regulator's inspections, are designed to improve this directly through requiring providers to be proactive in being open and transparent with their tenants. Beyond the specific requirements of the measures in this Impact Assessment, social landlords will have to review their operations and systems to assure themselves that they can be transparent and accountable to tenants, as well as to the Regulator, and it is likely that improvement will be needed in landlords to ensure that this is the case. This could require changes to physical systems and increase in staff costs, which we have

assessed for individual measures. However, at an organisation level a culture change in landlords is required, which will necessarily be different for each individual landlord, and we are not able to quantify this impact in our assessment.

**9.2.28 Changing the Regulator’s consumer objective to include transparency.**

It is not possible to monetise the costs of this policy because the objective has not been written at this point in time. The direct impact would be on the Regulator who may alter how it operates and set up new processes to support this new objective. This may affect landlords if this leads to new or different requirements, and if it causes them to change how they operate in response to the new objective. This could include improving their assurance that their operations are transparent.

**9.2.29 Introducing the new access to information schemes for tenants of private registered providers.**

Responding to information requests will create a cost to PRPs as they will be enforced through the regulatory standards; this measure does not apply to local authorities as their tenants can already use the FOI Act to request information.

**9.2.30** Multiplying the per-information request cost by the number of information requests we estimate will be received, provides an estimate of the cost of responding to information requests.

**9.2.31** Statistics on FOI requests in England do not provide the precision required to estimate the number of information requests from this policy but we can use a policy introduced in Scotland. On 11 November 2019, Scottish Registered Social Landlords (RSLs) became subject to the Freedom of Information (Scotland) Act 2002 for the first time. This meant that tenants living in more than 280,000 homes across Scotland were given similar rights of access to information from their landlords as tenants in local authority social housing, which have been subject to FOI since 2005.

**9.2.32** Data from the Scottish Information Commissioner<sup>11</sup> finds that between January and December 2020, registered social landlords reported receiving 1,191 requests. According to the latest Scottish Government Housing Statistics<sup>12</sup>, there are 282,482 social dwellings held by PRPs in Scotland. Dividing the former by the latter finds that 0.0042 were received per social dwelling. There are 2,478,680 social dwelling, owned and managed by PRPs in England<sup>13</sup>. If we assume the same propensity to request information in England as in Scotland, then we would expect 10,451 requests per year.

**9.2.33** However, this figure needs to be adjusted to account for several factors:

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<sup>11</sup> Scottish Information Commissioner (2021), Registered Social Landlords and FOI: One Year On Survey Report

<sup>12</sup> Scottish Government (2021) Housing statistics: Stock by tenure

<sup>13</sup> Ministry of Housing, Communities and Local Government (2021), Live tables on dwelling stock (including vacants), Table 104: by tenure.

- i. It is worth noting that regardless of whether or not an organisation is designated under FOI, organisations will receive requests from service users and stakeholders for information. A lack of designation under FOI will not mean that information requests are not received, only that there is no legal framework for handling such requests. In the case of Scotland, 34% of organisations reported that the volume of information requests stayed the same since the introduction of FOI and 1% that it decreased a little<sup>14</sup>. This means the figures above will over-estimate the impact of the introduction of the access to information scheme. If we assume a similar pattern for England, this would mean around 35% of requests are not additional.
- ii. The Scottish FOI is open to non-tenants whereas the access to information scheme will not be. In response to consultation in Scotland<sup>15</sup>, the CIH Scotland and the Scottish Federation of Housing Associations estimated that approximately 30%<sup>16</sup> of housing requests came from journalists, researchers and commercial companies. In the subsequent One Year On Survey Report, respondents noted the requests from journalists, one organisation commenting: “The FOI enquiries we've had confirmed what we expected; that FOI would be used primarily by journalists and disgruntled tenants”. We therefore have assumed that 30% of Scottish requests were made by non-tenants and have reduced the total number by this amount.
- iii. We would expect a temporary increase in requests when the access to information scheme is first introduced, as was the case when the FOIA was first introduced to the central departments in 2005. IA MoJ044/201411 estimated an increase of 17% for the first nine months after implementation based on experience of Ministry of Justice officials and FOIA statistics. This impact assessment aligns itself with IA MoJ044/2014 that has been verified by the Regulatory Policy Committee and uses the same assumption.

9.2.34 Taking all of this together, it is therefore estimated that the introduction of the access to information scheme will generate 5,097 additional requests for information in a normal year and 5,964 requests in year 1.

9.2.35 In addition, the Housing Ombudsman may be called upon to review decisions. According to the 2019 Annual FOI Statistics Bulletin<sup>13</sup>, 13% of FOI cases where information was withheld were internally reviewed. Scottish data shows that 259 requests were withheld, 22% of total requests received or 0.0009 per dwelling. We do not need to account for whether the reviews

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<sup>14</sup> Scottish Information Commissioner (2021), Registered Social Landlords and FOI: One Year On Survey Report

<sup>15</sup> Scottish Government (2017), Consultation on Extending Coverage of the Freedom of Information (Scotland) Act 2002 to Registered Social Landlords Interim Report.

<sup>16</sup> Scottish government consultation on extending coverage of the freedom of information (Scotland) act 2002 to registered social landlords (March 2017). Page 6, paragraph 4.3. [https://consult.gov.scot/freedom-of-information/foi-social-landlords/consultation/download\\_public\\_attachment?sqld=pasted-question-1467894590.05-55511-1467894590.71-30316&uuld=197712257](https://consult.gov.scot/freedom-of-information/foi-social-landlords/consultation/download_public_attachment?sqld=pasted-question-1467894590.05-55511-1467894590.71-30316&uuld=197712257)

are for additional requests or not because the ability to review decisions will be a new right provided by the access to information scheme. We do, however, need to account for the fact that a proportion of requests in Scotland originated from non-tenants. As such, we expect 4.35% of additional requests to be reviewed, which is 259 in year 1 and 222 per year subsequently.

9.2.36 Our estimates of how long it will take to respond to requests and reviews are derived from engagement with social housing providers:

- i. **Requests:** The upper estimate for the time taken to process a request is 4 hours of senior manager time, 4 hours of housing manager time, 10 hours of housing officer time and 4 hours of admin time. Our lower estimate is 1 hour of senior manager time, 0.2 hours of housing manager time, 4 hours of officer and 2 hours of admin time. Taking the midpoint between the upper and lower estimates gives us our central estimate of 2.5 hours of senior manager time, 2.1 hours of housing manager time, 7 hours of officer time and 3 hours of admin time. Based on the salaries of housing workers, officers and managers from ASHE, an average request would cost a provider around £311 in 2025.
- ii. **Reviews:** The upper estimate of the time taken to respond to a review is 7 hours of senior manager time, 6 hours of housing manager time, 20 hours of officer time and 4 hours of admin time. The lower estimate is 3 hours of senior manager time, 1.6 hours of housing manager time, 12 hours of officer time and 2 hours of admin time. This results in a central scenario of 5 hours of senior manager time, 3.8 hours of housing manager time, 16 hours of officer time and 3 hours of admin time. Based on the salaries of housing workers, officers and managers from ASHE, an average review would cost a provider around £611 in 2025.

Table 7: Central estimates of time needed to respond to requests and reviews

Employee type	Time to respond to a request (hours)	Time taken for a review (hours)
Senior manager	2.5	5.0
Housing manager	2.1	3.8
Housing officer	7	16.0
Admin	3	3

9.2.37 Based on the time estimates and projected number of additional requests and reviews outlined above, in our central scenario we expect access to information to cost around £1.8 million across all providers in year 1, with around £1.65 million of this cost being responding to reviews and the

remaining cost being responding to reviews. Over the 10 year appraisal period, the scheme is expected to cost providers £16.7 million (present value), or around £1.67 million per year. The majority of these costs (around 92%) come from responding to reviews.

9.2.38 Our engagement with social housing providers showed that providers of social housing already have the infrastructure in place to answer requests for information. As such, the only transition cost is likely to be familiarisation with the new regime. Previous Impact Assessments of information request systems such as the Network Rail IA assumed it takes around 5 days of training to familiarise staff with the new regimes. We have assumed this is split 1 day apiece for senior and housing managers, two days for housing officers and one day for admin workers. Assuming all familiarisation takes place in 2025, this is a cost of around £808 per landlord. This is around £850K to the sector. These familiarisation costs have been calculated on a registered group level.

9.2.39 **Requiring the Regulator to establish a set of Tenant Satisfaction Measures.** The Regulator will develop a process for collecting and publishing a core set of TSMs for all social landlords. There is uncertainty on what this will look like in practice because the TSMs are under development by the Regulator. The Regulator has consulted on a proposed set of requirements for how the measures will be defined and collected, and the estimated costs are on the basis of these proposals. The Regulator has produced a separate impact assessment for these measures, A1, and will be revising this following the further development of the measures now that the consultation has closed.

9.2.40 The Regulator has consulted on the basis that TSMs data will be collected on a registered group level, and costs are calculated on that basis.

9.2.41 The Regulator estimates PRPs and LAs will incur £40 million in costs over ten years (Present Value, 2021 prices). There will be £9.9 million in transition costs and the EANDCB is estimated to be £2.4 million.

9.2.42 These costs are split between LAs and PRPs as follows:

*Table 8: Tenant Satisfaction Measure Costs*

	<b>Private registered providers</b>	<b>Local authority registered providers</b>	<b>Total</b>
<b>Transitional costs</b>	£6.4m	£3.5m	£9.9m
<b>Cost per annum</b>	£2.0m	£1.5m	£3.5m

<b>Net present value</b>	£-23.6m	£-16.4m	£-40.0m
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9.2.43 In terms of transition costs, RSH estimate that on average per provider (group level) and based on wage costs for relevant staff, the following costs will arise:

- i. Reading, understanding and disseminating: £780 per provider.
- ii. Updating company processes: £4,680 per provider.
- iii. Training: £1,800 per provider.

9.2.44 This amounts to an average cost of £7,260 per provider. In perspective, RSH estimate that this is around 0.04% of annual provider turnover. However, this varies by the size of the provider with transitional costs representing up to 0.46% the turnover of small providers with under 250 units of housing. While absolute costs are estimated to be significantly higher for large providers, due to the greater complexity of their organisation and larger numbers of staff, costs relative to turnover are likely to be greater for small providers. As noted in Section x of this impact assessment, the Regulator has proposed a series of mitigations and exemptions to lessen the burden on smaller providers.

9.2.45 For the provider groups in scope of this measure, this results in total familiarisation and transition costs to the sector of £9.9 million. RSH estimate that these costs will vary by the size of the provider, with costs being on average £1,210 for providers with under 250 properties and on average £22,490 for providers with more than 1,000 dwellings.

9.2.46 The split between LAs and PRPs assumes that £6.4 million of transitional costs will be borne by PRPs and the remaining £3.5 million by LAs. All transitional costs are assumed to take place in Year 1 of the reforms.

9.2.47 RSH estimate that the cost of providing annual tenant surveys generating 335,000 responses per year would be around £10.1 million per year. However, as many providers already carry out tenant perception surveys, they estimate that the additional burden will be only £3.47 million per year. This suggests that around 2/3 of the survey activity that will be required by the proposals is already being undertaken by providers.

9.2.48 Splitting these figures between PRPs and LAs, RSH estimate that £6.3 million total and £2.0 million additional will fall in PRPs and £3.9 million (£1.5 million additional) will fall to LAs. As the TSMs are the subject of a separate impact assessment published by the Regulator, these costs are not included in the total costs for this impact assessment.

9.2.49 **Requiring landlords to publish information on Chief Executive Pay and Management Costs.** The Regulator will conduct further work to determine how this measure will be implemented. We do not anticipate any significant

costs for landlords, who will already hold the information required.

- 9.2.50 **Requiring landlords to publish a breakdown of how their income is spent.** The Regulator will conduct further work to determine how this measure will be implemented. This measure will involve landlords publishing information they already hold, so we do not anticipate any additional costs for them.
- 9.2.51 **Require landlord to be clear on the roles and responsibilities of senior staff.** This measure will require landlords to describe and publish the roles of their senior members of staff. The vast majority of landlords already provide such information as standard practice and therefore this measure is seen to be nil.
- 9.2.52 **Requiring landlords to identify a responsible person for consumer standards compliance.** This measure will require every provider to name a senior person within their organisation who acts as a champion for compliance with the Regulator's consumer standards. They will be accessible and visible to tenants, and able to drive a positive culture within their organisation. We can estimate the cost of this policy by multiplying the number of affected landlords by the time it takes to fulfil the new duty and the associated time cost.
- 9.2.53 For the nominated person, the work and reporting requirements will be similar across the sector regardless of the extent to which consumer standards are currently met. We therefore assume a constant quantity of time is required for the nominated person. It is expected this quantity of time will be 50 hours per year for the nominated person and the wage that of a senior manager. Because there is uncertainty on the time it will take the nominated individual to undertake their duty, we also calculate a lower bound estimate at 20 hours and an upper bound at 80 hours. This lower bound was derived from our roundtables, where a significant number of providers stated that they expected this role to be an extension of existing duties. The upper bound is based on the assumption that a number of providers will need to increase their focus on consumer compliance following the introduction of new consumer standards. As the person will be identified to tenants, we would also anticipate they would need to manage regular tenant enquiries and engagement. We estimate an additional 10 hours in the first year as a transitional cost.
- 9.2.54 When the policy comes into effect in 2025, the central scenario estimates that it will generate a cost of £1,570 per landlord, plus a one-off familiarisation cost of £314 per landlord. This means it will cost the sector approximately £2. million in the year it is introduced (2019 prices), with around £1.7 million of this being borne by PRPs and around £270k by local authorities. Over a ten-year period, it is estimated this policy will cost £17.7 million (2019 prices, present value) to housing associations and £2.9 million



to LAs.

- 9.2.55 Total familiarisation costs are expected to be around £330k for PRPs and £55k for LAs.
- 9.2.56 **Requiring landlords to identify a nominated person responsible for compliance with their health and safety requirements.** This measure will require every provider to name a senior person within their organisation who acts as a champion for health and safety. For the nominated person, the work and reporting requirements will be similar across the sector regardless of the extent to which health & safety standards are currently met. We therefore assume a constant quantity of time is required for the nominated person across affected landlords.
- 9.2.57 Compliance with this measure is expected to take around 100 hours of time annually. This is based on the assumption that, while organisations should already have systems in place for monitoring compliance with health and safety requirements, for some organisations the requirement to have a nominated person visible to tenants in this area will require significant time throughout the year. We would expect the person to deal with an increase in tenant queries, and more widely act as the organisation's tenant-facing health and safety person. There would also be additional reporting requirements for which they would be ultimately responsible. As well as the costs of undertaking the new duties in year one, we also account for an additional 10 hours in the first year as a transitional cost.
- 9.2.58 When the policy comes into effect in 2025, it is estimated that it will generate a cost of £3,140 per landlord, plus a £314 transitional cost. This means it will cost the sector approximately £4.15 million in the year it is introduced (2019 prices), with £3.6 million of these costs borne by PRPs and £0.5 million by LAs. Between 2025 and 2035, it is estimated that this measure will cost housing associations £35.8 million (2019 prices, present value) and LAs £5.9 million (2019 prices, present value).
- 9.2.59 Total familiarisation costs are expected to be around £331k for PRPs and £55k for LAs.
- 9.2.60 **Enabling the Regulator to require local authorities to self-refer breaches of the consumer standard.** This measure will require local authorities to self-refer non-compliance with the standards to the Regulator. Local authorities are already required to comply with the consumer standards and are expected to self-refer for any breaches. This requirement was re-emphasised by the Chief Executive of the Regulator in May 2019 in a

letter to local authorities<sup>17</sup>. This measure will bring them on a par with PRPs and enshrine the requirement in legislation.

- 9.2.61 Local authorities should already have systems and processes in place to identify issues in their services and for most it should be a case of amending to ensure they pick up and report potential breaches in consumer standards. The impacts of local authorities being required to self-refer breaches on consumer standards can therefore be considered negligible because this is a formalisation of what already occurs.
- 9.2.62 **Require landlords to demonstrate how they have considered ways to improve tenant engagement.** This measure feeds into the overall objectives on the reforms in this Impact Assessment. It is for the Regulator to decide how a provider will demonstrate they have considered ways to improve tenant engagement and this will be included in their standards and any impact will be assessed when these are reviewed.

### **9.3 Strengthen the enforcement powers of the Regulator, enabling it to take robust action where landlords are in breach of the standards.**

- 9.3.1 The Regulator is being provided with additional powers to enforce its standards. As noted in the introduction to this chapter, this Impact Assessment does not provide costs for measures which only impact non-compliant providers.
- 9.3.2 **Performance improvement plans are to be formalised.** The Regulator, as part of its current approach, can already issue an Enforcement Notice setting out the action the provider needs to take, including milestones and a timetable for achieving this, which it then reviews to assess if key corrective actions have been completed. The main difference with the PIP is that the landlord will prepare it for the Regulator to approve so it should produce a more efficient plan from the provider's perspective. Consequently, we do not anticipate this incurring additional costs for providers. Additionally, it should be noted that this power will only be used in relation to non-compliant landlords.
- 9.3.3 **The notice period that the Regulator must give a landlord to survey the condition of properties will be reduced from 28 days to 2 days.** This should allow any emergency situations to be rectified in less time than under the current system, protecting tenants from potential harm. We do not

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<sup>17</sup> Regulator of Social Housing (2019), Housing stock-owning local authorities and the Regulator of Social Housing's consumer standards, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/802481/Letter\\_to\\_LAs\\_-\\_RSH\\_consumer\\_standards\\_-\\_May\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/802481/Letter_to_LAs_-_RSH_consumer_standards_-_May_2019.pdf)

anticipate additional costs to landlords as this change is about accelerating the timeframes for an existing Regulator power; there will not be additional costs to landlords of the Regulator conducting this survey more quickly. Surveys are only conducted where the Regulator suspects that landlords are failing to maintain premises to an acceptable standard.

- 9.3.4 **We will allow the Regulator to arrange emergency remedial work following completion of a survey.** The Regulator can already carry out a survey where it believes premises fail to meet the standards it is required to, but the onus is on the landlord to rectify the situation. The change is that the Regulator will now be able to sanction post-survey emergency remedial work. There will be an initial cost to the Regulator from finding and establishing contracts with trusted partners. There will also be a small administrative cost to organise and log the issue. The Regulator would charge back to landlords the cost of works. We do not monetise these costs in the impact assessment because these are repairs it is already expected landlords would have to have carried out. Only the new power to sanction post-survey emergency remedial work may generate a cost to the Regulator but this will not create additional costs to compliant landlords.
- 9.3.5 **Removing the requirement for the Regulator to receive Secretary of State approval for hiring its own staff to carry out inspections.** This is an administrative amendment and will result in no costs.
- 9.3.6 **Removing the cap on the level of fines the Regulator is able to issue.** The removal of the cap means that landlords can be charged higher fines than under the current system. This policy increases the power of the Regulator and creates a greater cost for non-compliance. Given the measure is predominantly intended as a deterrent, and would not incur costs for compliant landlords, we do not anticipate an additional cost for this measure.
- 9.3.7 **Giving the Regulator the ability to appoint a consultant to the Regulator to conduct an Inquiry.** The Regulator may incur a cost in identifying and appointing inquirers. There would be no direct cost to landlords.
- 9.3.8 **We are making changes through the Bill relating to the Regulator's ability to appoint a manager.** This will enable the Regulator to appoint a manager to a failing provider more quickly, meaning they will be able to resolve issues sooner and have a better chance of stopping the situation deteriorating. This will have no additional costs.
- 9.3.9 **We are adding new grounds to the powers of the Regulator to by order remove or suspend officers etc of registered providers.** The Regulator is already able to suspend or remove officers in certain circumstances. This simply extends the list of reasons for which it can do so. As a result, there

are no new costs for landlords.

- 9.3.10 **We will remove restrictions on the Regulator’s ability to take enforcement action against registered charities that have not received public assistance.** These powers will only be used when a provider is not in line with regulatory standards and has failed to take sufficient action to bring itself back into compliance. This will have no additional costs.
- 9.3.11 **We will remove a series of restrictions on the Regulator’s ability to use enforcement powers in relation to for-profit providers.** The changes would more closely align the regulatory regime for for-profit PRPs with that of not-for-profit PRPs, by extending some of the Regulator of Social Housing’s powers to both types of provider. Given the measures are predominantly intended as a deterrent, and should not incur direct costs for compliant landlords, we do not anticipate an additional cost for this measure.
- 9.3.12 **We will amend the Regulator’s powers to appoint an officer to providers.** The changes will ensure the Regulator can renew the appointment of an officer on multiple occasions, and amend the requirements to consult with the Charity Commission to a requirement to notify instead. This change will not result in any new costs for providers.
- 9.3.13 **We will clarify the rights of RPs making statutory appeals against regulatory judgments.** The amendments will clarify a 28-day time limit for making statutory appeals against the Regulator, and that certain enforcement actions (including penalty notices and compensation orders) will be suspended while an appeal is pending. We will clarify the timing of deregistering a provider when the Regulator makes a decision to deregister and an appeal is launched, ensuring the appeal is given 28 days to proceed and that the judgment is suspended while the appeal is pending. The changes will also restrict a provider’s ability to challenge the imposition of mandatory annual fees so that they may only challenge the amount of fees payable. These changes will not result in new costs for providers.
- 9.3.14 **We will remove enforcement grounds laid out in Section 23 the Welfare Reform and Work Act 2016 (WRWA).** These provisions relate to requirements that have now fallen away because they applied for four years and expired on the 30 March 2021, meaning the grounds are now redundant. This change will incur no costs.
- 9.3.15 In conclusion, the additional enforcement powers provided to the Regulator will not create costs.

## **9.4 Refining the existing economic regulatory regime to make sure social housing providers are well governed and financially viable, to protect homes and investment in new supply.**

- 9.4.1** **Introducing a regulatory ‘look-through’ power** will allow the Regulator to stop providers operating as for-profit but claiming that they are not, for example, to stop them inappropriately advancing the interests of third-parties. The benefits here are therefore to society (for example, by stopping exploitation of the housing benefit system) and the cost is borne by the landlords that no longer receive the benefits of being labelled as not-for-profit. However, the “cost” of adhering to requirements following the introduction of these powers should therefore not be counted because it was either unlawful activity or against the spirit of the law. The look through-power may represent a small additional administrative burden to third-parties, but we would not expect the power to be used frequently and we view the overall cost to be negligible.
- 9.4.2 PRPs can take a number of corporate forms. **We will change the requirements for providers to notify the Regulator of a change in corporate form.** Similar to the provisions described above it is about ensuring the Regulator is provided with, or able to require, the information to enable it to carry out its functions most effectively. We would expect the additional cost of such a requirement to be negligible.
- 9.4.3 **Amending the requirements for notifications to trigger a moratorium on disposal of land** is a technical change that will have no cost implications, but will simply clarify the existing situation.
- 9.4.4 **We will amend existing insolvency provisions to include LLPs and unincorporated charities.** We deem there to be no cost implication for providers.
- 9.4.5 **We will tighten the definition of non-profit.** This is a technical change that will have no cost implications for providers.
- 9.4.6 **We will restrict registration with the Regulator to bodies registered in England.** This measure will clarify which bodies can register, and will have no direct cost implications for providers.
- 9.4.7 **Amending stock leasing arrangements** is a technical change that will close a legal loophole which currently allows a registered provider of social housing to dispose of or declassify social housing stock without notifying or seeking consent from the Regulator. The amendment will have no cost implications but will simply close an existing legal loophole.

## 9.5 Housing Ombudsman

- 9.5.1 The proposals to strengthen the Housing Ombudsman target providers who are not already complying with their existing obligations or expectations. The intention of these proposals is not to require landlords to do anything new but simply to strengthen the ability of the Housing Ombudsman to ensure that landlords meet their existing obligations. Consequently, the only landlords impacted by these proposals are:
- a. Members that have complaints against them upheld by the Housing Ombudsman and are subsequently issued with recommendations by the Housing Ombudsman to review their approach to policy and/or practice, but are not engaging with these recommendations.
  - b. Members who are not meaningfully engaging with the Complaint Handling Code.
- 9.5.2 Providers that are not engaging with Housing Ombudsman recommendations arising from an upheld complaint will be required to do so once it is issued as an order. This will require providers to allocate resources to review the policy/practice related to service failure identified by the Housing Ombudsman and provide evidence. This does not introduce any new expectations of providers but strengthens the ability of the Housing Ombudsman to ensure providers seek to learn from incidents where they have fallen short of what is expected of them, leading to a complaint being upheld and recommendations issued. As such, we have not monetised these costs. No additional costs will be incurred by the Housing Ombudsman from the proposal to expand the scope of orders as the issuing and compliance monitoring of these new orders can be integrated within the existing business processes and structures of the Housing Ombudsman.
- 9.5.3 The Housing Ombudsman does not monitor compliance with recommendations, so it is difficult to estimate the number of members who are not engaging with recommendations that would come under the scope of Housing Ombudsman orders following this proposal being implemented. In 2020-21, the Housing Ombudsman issued recommendations to 118 landlords that would be issued as orders under this proposal. This is only 5% of the total 2,316 member landlords and a number of these 118 landlords may already be complying with recommendations made by the Housing Ombudsman. This indicates that only a small number of landlords would be impacted by this proposal.
- 9.5.4 Regarding members who are not meaningfully engaging with the Complaint Handling Code, all member landlords are already required to comply with, and self-assess against the Complaint Handling Code, under the membership conditions of the Housing Ombudsman. These proposals do not

introduce any new expectations of compliant.

9.5.5 The Housing Ombudsman does not currently monitor compliance with the Complaint Handling Code, so it is difficult to assess how many landlords are non-compliant. However, the Housing Ombudsman does assess compliance as part of their dispute support and investigations, and of the 713 landlords who have had complaints against them handled by the Housing Ombudsman dispute support team since April 2021, 8 (1%) were identified as having not self-assessed against the Complaint Handling Code. This indicates that it is only a small minority of landlords who will be impacted by this proposal.

## **9.6 Electrical Safety**

9.5.6 If the Government proceeds to regulate in respect of electrical safety (subject to further consultation), there may be direct costs associated with undertaking 5-yearly (at minimum) electrical installation checks, portable appliance testing and remedial work. There will also be familiarisation costs to social landlords. The clause specifies that regulations may require the landlord to provide a copy of a certificate to tenants, prospective tenants, or any other person specified in the regulations. The cost of posting a certificate has therefore been included in this assessment.

9.5.7 Following the Equivalised Annual Net Direct Cost to Business (EANDCB) metric, only impacts on businesses are included. The definition of business includes PRPs but excludes all other providers of social housing including local authority housing providers and arms-length management organisations.

9.5.8 Based on our engagement with stakeholders through the Electrical Safety in Social Rented Homes Working Group, we know that the majority of social landlords perform electrical safety checks on their properties, with many already carrying out checks as frequently as once every 5 years. The Regulator have confirmed this and highlighted that some social landlords are in the process of rolling out checks across their portfolios, meaning the frequency of electrical safety checks will vary across social landlords.

9.5.9 Based on engagement with stakeholders, we estimate that 75% of social landlords already carry out safety checks at least every 5 years and are therefore compliant with the proposed legislation. We estimate that the remaining 25% of social landlords carry out electrical safety checks on average at least every 10 years and will therefore have to carry out additional checks under the proposed legislation.

- 9.5.10 The 75% of social landlords that already carry out electrical safety checks at least every 5 years will not face an additional burden. In our lowest compliance scenario, by 2025 we assume the current practice for checks will not have changed, meaning 25% of social landlords will carry out checks at least every ten years, but less frequently than every five.
- 9.5.11 A legal requirement to carry out electrical safety checks every five years would result in 25% of social landlords carrying out an additional check once every 10 years. This means that by 2025 the sector will be obliged to carry out 2 checks per dwelling every 10 years, when it currently carries out 1.75 checks per dwelling every 10 years. Therefore, 12.5% of the checks carried out under new requirements will be an additional burden to the sector in our lower compliance scenario.
- 9.5.12 Our upper compliance scenario assumes that the remaining 25% of social landlords will have increased the frequency of checks to every 5 years by 2025, and therefore a legal requirement for electrical safety checks will not place an additional burden on the sector. This is based on evidence from the Regulator that PRPs already have plans in place to increase the frequency of electrical safety checks to at least every 5 years. Our upper compliance scenario therefore assumes that by 2025 the remaining non-compliant social landlords will have implemented their plans to increase the frequency of carrying out electrical safety checks.
- 9.5.13 Our central scenario takes the midpoint between the upper and lower compliance scenarios and assumes that by 2025 6.25% of electrical safety checks carried out by social landlords will be additional. The central scenario reflects that some, but not all, social landlords will be scaling up the frequency of electrical safety checks and that by 2025 more properties than today will have their electrical installations checked at least every 5 years (but not all properties).
- 9.5.14 The number of PRP properties in scope of this measure in 2019/20 was 2,479,680. Assuming growth in PRPs dwelling stock of around 1.4% per year, there will be 2,656,924 PRP dwellings in 2025. The number of LA properties in 2019/20 was about 1.58m across 333 LA areas. To estimate to number of LA dwellings in 2025, we have taken data from LAHS (Local Authority Housing Statistics) to assume a growth rate of 2.76% of net additional properties new build affordable housing and the provision of affordable housing other than new build (acquisitions) owned by local authorities, based on this assumption, in 2025 we estimate there will be 7,275 additional LA homes.
- 9.5.15 Our central scenario estimates that 166,058 PRP properties and 101,578 LA properties do not receive an electrical safety check at least every 5 years and therefore would fall in scope of legislation. In the second year after



legislation is introduced, only net additional homes would require an electrical safety check. The number of net additional homes is calculated by subtracting total number private registered homes between 2026-2025 and LA homes between 2026-2025 and multiplying this by the rate of additional checks (6.25%). Therefore, we estimate that in 2026 2,322 PRP and 473 LA properties would be affected by the legislation. This calculation is applied until 2030. From 2030, all new net additions plus all properties that were checked 5 years prior will require an electrical safety check. Therefore, in 2030 168,513 PRP properties and 102,106 LA properties will require a check.

- 9.5.16 In the central scenario, we estimate that the average cost to PRPs of an electrical safety check will be around £170.67 per property and £164.80 for local authorities (but there will be variation across the sector according to portfolio size and geographic location). If PRPs and LAs (Local Authorities) were required to carry out an electrical safety check every 5 years, that would equate to a cost of about £34.13 and £32.96 respectively per year per property.
- 9.5.17 On average the requirement to carry out a 5 yearly electrical safety checks is estimated to impose a direct cost on PRPs of £5.59m per annum, with an estimated one-off familiarisation cost of £101k. For Local Authorities, the estimated direct cost is £3.50m per annum, with a one-off familiarisation cost of £10K. The total cost for the policy over the initial 10-year period is around £56.04 million for PRPs and £31.37 million for LAs.

#### Portable Appliance Testing (PAT) Testing

- 9.5.18 The central cost for a registered provider to carry out PAT testing (assuming testing is carried out at least every five years) is £67.21 plus a cost of £0.88 per item tested.
- 9.5.19 Approximately 2% of social rented properties are let furnished.<sup>18</sup> We have heard from stakeholders that when a social tenancy is furnished, this would usually include approximately 3 items which would require a PAT test under the proposed legislation. On average, the estimated cost to PRPs of testing portable appliances where they are provided as part of the tenancy would be £1.06 million over ten years. However, we have assumed that these costs are not 'additional' as evidence gathered from stakeholders suggests that in

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<sup>18</sup> End Furniture Poverty analysed Understanding Society data, which suggested 2% of social housing tenancies are offered furnished or part furnished.

<http://endfurniturepoverty.org/wp-content/uploads/sites/4/2021/06/NoPlaceLikeHomeFinalOnline.pdf>

University of Essex, Institute for Social and Economic Research. *Understanding Society: Waves 1-11, 2009-2020 and Harmonised BHPS: Waves 1-18, 1991-2009*. [data collection]. 15th Edition. UK Data Service, 2022 [Accessed 15 March 2022]. Available from: DOI: [10.5255/UKDA-SN-6614-16](https://doi.org/10.5255/UKDA-SN-6614-16)

the limited number of homes where appliances are provided, portable appliance testing is already undertaken.

### Costs of remedial work

9.5.20 We have not estimated the costs of carrying out remedial work to remove the electrical safety hazards because we are unable to reliably estimate the number of repairs that may be carried out if this policy were to be implemented. In any case, landlords are already obliged by law to keep electrical installations in repair and homes should be free of serious electrical hazards. The repair and remediation costs are therefore not 'additional' to landlord's responsibilities without the policy.

## 9.7 Summary of costs

Table 9: Private Registered Providers - Summary of Costs

Measure	Ten-year costs £m			Single year costs £m		
	Familiarisation costs	Compliance costs	Total	Familiarisation costs	Compliance costs	Total
<b>Access to information scheme</b>	£0.85	£16.72	£17.57	£0.09	£1.67	£1.76
<b>Responsible person for consumer compliance</b>	£0.33	£17.73	£18.06	£0.03	£1.77	£1.81
<b>Responsible person for health &amp; safety</b>	£0.33	£35.46	£35.79	£0.03	£3.55	£3.58
<b>Serious Detriment Test</b>	£0.48	£0.61	£1.08	£0.05	£0.06	£0.11
<b>Consumer inspections</b>	£0.50	£2.50	£3.00	£0.05	£0.25	£0.30
<b>Electrical safety</b>	£0.10	£55.94	£56.04	£0.01	£5.59	£5.60
<b>Total</b>	<b>£2.49</b>	<b>£128.95</b>	<b>£131.55</b>	<b>£0.26</b>	<b>£7.30</b>	<b>£13.15</b>

Table 10: Local Authority providers – Summary of Costs

Measures	Ten-year costs £m			Single year costs £m		
	Familiarisation costs	Compliance costs	Total	Familiarisation costs	Compliance costs	Total

<b>Access to information scheme</b>	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
<b>Responsible person for consumer compliance</b>	£0.05	£2.92	£2.98	£0.01	£0.29	£0.30
<b>Responsible person for health &amp; safety</b>	£0.05	£5.85	£5.90	£0.01	£0.58	£0.59
<b>Serious Detriment Test</b>	£0.06	£0.08	£0.14	£0.01	£0.01	£0.01
<b>Consumer inspections</b>	£0.05	£1.92	£1.97	£0.01	£0.19	£0.20
<b>Electrical safety</b>	£0.01	£31.36	£31.37	£0.00	£3.14	£3.14
<b>Total</b>	<b>£0.23</b>	<b>£42.13</b>	<b>£42.36</b>	<b>£0.02</b>	<b>£4.21</b>	<b>£4.24</b>

9.7.1 The estimated cost to providers of social housing, over the 10 year appraisal periods is estimated at £173.90 million as a result of the combined effect of these policies. This is split £131.55 million to PRPs and £42.36 million to LAs. The largest source of cost is predicted to come from the requirements on PRPs to perform 5 yearly electrical safety checks (£56.04 million)

9.7.2 Insofar as the overall impact on social landlords, for large PRPs, the medium scenario cost of £13.15m per annum would equate to just 0.2% of the £10bn the PRP sector spends managing and maintaining its social stock each year. In 2019, the sector invested £12.1bn in new housing supply (predominantly social housing, but also properties for sale and for market rent). It also spent £1.9bn on capital improvements to existing stock. Expenditure on repairs and maintenance of existing social stock was £5.5bn. In aggregate, the underlying surplus of PRPs was £3.5bn.

9.7.3 The Regulator will ultimately fund the majority of its regulatory activities through the fees regime and grant-in-aid funding. The level at which fees will be set is a separate policy outside the scope of this Impact Assessment. Any changes to the existing fees regime to reflect the new role of the Regulator in relation to consumer regulation will be subject to further consideration in the development of the new regime, including further consultation with stakeholders.

9.7.4 There are non-monetisable costs associated with the package of measures and there are measures in this Impact Assessment which will be fully assessed during their design process by the Regulator.

9.7.5 It should also be noted that we do not anticipate there being any costs for social housing tenants.

# 10 RISKS AND ASSUMPTIONS

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## 10.1 Registered Providers

- 10.1.1 The Regulator already sets consumer standards that landlords must comply with and landlords should be considering consumer issues in their management and processes. Consequently, we do not anticipate a major restructuring of organisations will be required.
- 10.1.2 Though all registered providers should already comply with the consumer standards and be assured of this, being proactively regulated will require landlords to ensure that they can prove this to the Regulator. This will require providers to familiarise themselves with the reforms being made and enact organisational change. Landlords will necessarily tailor their approach to suit their organisation meaning there is no one common approach.
- 10.1.3 The Regulator is required to be proportionate and minimise interference in registered providers and will take this into account in delivering the reforms for which it is responsible. The wider package of measures has been designed in line with this approach. How the Regulator will require assurance and what this will entail as well as improvements that may be required, beyond those specific measures in this Impact Assessment, are not known and therefore were not assessed in this assessment.
- 10.1.4 The policies will only affect social landlords registered with the Regulator (it is important to note that registration is voluntary for PRPs– although most choose to). These can be broken down into three groups of landlords:
- i. Large PRPs – private providers (mostly Housing Associations) who own more than 1,000 units. These providers collectively own c.95% of all PRP stock and develop most new affordable homes. These policies will subject providers to more intensive regulatory scrutiny – primarily through proactive consumer regulation (large PRPs are currently subject to proactive economic regulation);
  - ii. Small PRPs – private providers which own fewer than 1,000 units. There are currently c.1,200 such landlords with a total stock of around 127,000 homes; and
  - iii. Local authorities – local authorities own a total stock of around 1.58m homes.
- 10.1.5 There is a wide range in scale of social landlords with the largest owning over 125,000 units to the smallest with only a few units. Therefore, the above categories contain within them significant variance in not only size but operations and business model; with some developing and expanding while others' operations are focused on providing homes along with care and

support services.

10.1.6 The Regulator currently tends to regulate economic standards at a provider group level, not the individual entities within a group. This group-level regulatory approach is likely to be adopted for the consumer regulation regime also. In total, there are 1,377 registered provider groups (both PRPs and LA registered providers). Where applicable, the assessment of costs to providers is based on the Regulator regulating the consumer regime at group level.

Table 11, Breakdown of PRPs by size:

Size of RP (units)	Number of PRPs (weighted)	Percentage of total PRPs	Stock (weighted)	Percentage of total stock
0	110	7.8	-	-
1-250	889	63.0	45,687	1.6
251-1,000	164	11.6	83,714	3.0
1,001-2,500	62	4.4	99,226	3.5
2,501-10,000	107	7.6	614,252	21.8
10,001-50,000	72	5.1	1,558,291	55.3
Over 50,000	6	0.4	418,922	14.9
<b>Total</b>	<b>1,411</b>	<b>100.0</b>	<b>2,820,092</b>	<b>100.0</b>

Table 12, Breakdown of LAs by size:

Size of LARP (units)	Number of LARPs	Percentage of total LARPs	Stock	Percentage of total stock
0	18	8.5	0	0.0
1-250	28	13.1	808	0.1
251-1,000	3	1.4	977	0.1
1,001-2,500	9	4.2	16,083	1.0
2,501-10,000	102	47.9	543,450	34.5
10,001-50,000	51	23.9	900,500	57.1
Over 50,000	2	0.9	114,552	7.3
<b>Total</b>	<b>213</b>	<b>100.0</b>	<b>1,576,370</b>	<b>100.0</b>

## 10.2 Wage costs

10.2.1 This analysis uses data on wages at several points. These are therefore set out here for ease of reading. Data on wages originates from ONS ASHE data<sup>19</sup> and is then uplifted by 20.2% to account for non-labour wage costs<sup>20</sup>. For senior managers, we use the hourly wage of “corporate managers and directors”. For housing managers, we use “property, housing and estate managers”. For housing officers and secretarial occupations, we use the wage entries with the same name. The wages assumed for this analysis are set out below.

Table 13: Wage assumptions

(2020, nominal)		Wage	Wage (uplifted)
Senior manager wage	£	22.73	27.32
Housing manager wage	£	16.77	20.16
Housing officer wage	£	14.61	17.56
Secretarial and related occupations	£	10.37	12.46

10.2.2 The wages are profiled over time by using the average earning growth and long-term average earning growth from the OBR’s Economic and Fiscal Outlook<sup>21</sup> and Fiscal Sustainability Report<sup>22</sup>.

## 10.3 Other assumptions

10.3.1 Familiarising with new requirements, setting up new processes and training staff will create a transitional cost. There is not a common or standardised approach to assessing familiarisation costs<sup>23</sup>, therefore we have formulated assumptions based on policy expectations and stakeholder engagement. Assumptions have been formed in a similar way where there is little or no data to assist formulation of assumptions.

10.3.2 This Impact Assessment uses HM Treasury GDP deflators to convert costs into real terms. It also follows the Green Book and uses a 3.5% social time preference rate to discount future costs and convert these to present value terms.

<sup>19</sup> Office of National Statistics (2020), Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14.

<sup>20</sup> Department for Business, Energy and Industrial Strategy (2017), Business Impact Target.

<sup>21</sup> Office of Budget Responsibility (2020), Economic and Fiscal Outlook: March 2021.

<sup>22</sup> Office of Budget Responsibility (2020), Fiscal Sustainability Report: July 2020.

<sup>23</sup> BEIS (2017), Business Impact Target - Appraisal of guidance: assessments for regulator-issued guidance, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/609201/business-impact-target-guidance-appraisal.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609201/business-impact-target-guidance-appraisal.pdf)

## 10.4 Electrical safety

### Five yearly mandatory tests

10.4.1 We estimate that the average cost to social landlords of an electrical safety check will be £170.67 per property. If providers were required to carry out an electrical installation check every five years, the cost would equate to £34.13 per year per property.

10.4.2 We have assumed that around 75% of the sector already perform electrical safety checks every five years. It is estimated that the remaining 25% of the sector currently perform an electrical safety check at least every 10 years on average and will therefore have additional tests to perform under the new requirements. The number of additional electrical safety inspections that will need to be carried out as a result of this legislation (if we proceed to made secondary regulations) is as follows:

*Table 14: PRP, Dwellings requiring electrical checks*

Year	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
Dwellings in scope	2,656,924	2,694,082	2,731,760	2,769,965	2,808,704	2,847,985	2,887,815	2,928,202	2,969,154	3,010,679
Dwellings that require a check	166,058	2,322	2,355	2,388	2,421	168,513	4,812	4,879	4,947	5,017

10.4.3 We have assumed that there will a cost to landlords associated with familiarising themselves with the new requirements. We have assumed that it will take each PRP approximately 10 hours to familiarise themselves with the policy and approximately 15 hours to research, liaise, prepare and oversee the inspection. The costs are based on the hourly wages set out in table [13] above. The clause specifies that regulations may require the landlord to provide a copy of a certificate to tenants, prospective tenants, or any other person specified in the regulations. The cost of posting a certificate has therefore been included in this assessment.

### Portable Appliance Testing (PAT) Testing

10.4.4 The analysis has assumed that 2% of PRP properties are furnished<sup>24</sup> and on average, there are three tests required per furnished property (cooker, fridge, washing machine). There is likely to be significant variation across the sector depending on geographical location.

<sup>24</sup> <https://gbr01.safelinks.protection.outlook.com/GetUrlReputation>

## Remedial costs

10.4.5 Any electrical installations which were deemed to be unsafe for continued use would require remedial work. This would not, however, represent a direct cost for PRPs who are already required under the Landlord and Tenant Act 1985 to keep electrical installations in any property they rent out in good repair and proper working order and can already be required by the local authority to undertake such works as are necessary to remove from the property any serious hazard, including electrical, in the home.



## 11 IMPACT ON SMALL AND MICRO BUSINESSES

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- 11.1 The Regulator is already required to be proportionate and minimise interference in registered providers and will take this into account in delivering the reforms for which it is responsible. The wider package of measures has been designed in line with this approach.
- 11.2 The majority of social housing stock, around 95.6%, is held by large registered providers (PRPs and LAs) who will have sufficient size and expertise across their organisation to deliver the objectives of the reforms we are implementing. However, though small landlords own a relatively minimal number of homes, they make up the vast majority of registered providers.
- 11.3 The central objective of these reforms is for landlords to become tenant focussed and reflect their tenants needs, and we do not think that any social landlord should be exempt from this requirement.
- 11.4 One of the measures, regular inspections of landlords, will only apply to providers of over 1,000 homes. This is part of the risk-based approach to regulation and will reduce the burden of this measure on small providers. These providers could still, however, be subject to reactive inspections at the Regulator's discretion.
- 11.5 Additionally, measures are designed to be outcome-focused. This means that different types of provider will be able to meet the standards through designing and using processes that work for their provider type.
- 11.6 However, one measure that is likely to disproportionately impact on small and micro landlords in particular is the Tenant Satisfaction Measures. These are currently in development by the Regulator, and the Regulator has carried out its own Impact Assessment.
- 11.7 The Regulator's assessment of the impact of TSMs on small providers suggests a disproportionately high impact on small providers when considered as a proportion of turnover. While the transition costs represent an average of 0.04% of annual turnover for all providers, for providers with under 250 dwellings this rises to 0.46% of turnover.
- 11.8 For the Tenant Satisfaction Measures, the Regulator has proposed that providers with fewer than 1,000 relevant homes will still need to publish the measure for tenants, but will not need to provide the data to the Regulator. Additionally, to carry out Tenant Satisfaction Measures there will be a minimum number of responses required to have a statistically significant result and to preserve anonymity for tenants. The Regulator has also proposed that providers with under 1,000 tenants:

- Would only be required to collect the tenant perception TSMs at least once every two years;
- Would be able to report TSMs based on any reporting year and year end. This is to ensure there is not a significant extra burden for the 50% of small providers who do not have an April-March reporting year;
- Would be able to determine their population for relevant tenant perception questions (i.e., whether they sample low cost rental accommodation and low cost home ownership separately or both combined) based on a reasonable assessment of their stock (this should help them meet statistical accuracy requirements); and
- Would also be able to meet the Regulator's requirements for statistical accuracy in the perception survey by undertaking a census.

11.9 For the Access to Information Scheme, we acknowledge that more limited staff resourcing may increase the time to manage information requests. However, we expect the number of information requests to be proportionate to the size of the provider, as shown by the example of the Scottish FOI scheme referred to above. We are consequently not proposing any exemptions for small providers.

11.10 We have assessed that to provide any universal exemption to small and micro-business would involve an unacceptable compromise, leaving tenants of smaller landlords at a higher risk of being provided a poor service without potential recourse. It would not be acceptable to reduce the expectations or standards for the services landlords provide, based on their size. Additionally, any exemption could create loopholes for less scrupulous landlords to abrogate their responsibilities and requirements. However, for those measures above and those that will be delivered through significant further regulatory work, the Regulator may look to ensure requirements for small and micro businesses are proportionate, and seek to avoid unintended impacts that outweigh the potential positive gains.

## **12 WIDER IMPACTS**

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### **12.1 Public Sector Equalities Duty**

12.1 The Public Sector Equalities Duty for the measures in this Impact Assessment are covered by a separate impact assessment.

### **12.2 Justice Impact**

12.2 We will be completing a separate justice impact test.

### **12.3 Implementation review**

12.3 See Section 14 for details of the proposed monitoring and evaluation of implementation.

### **12.4 New Burdens Assessment**

12.4 Our proposals are not considered to be a new burden for the majority of local authority social housing, as social housing revenue and spending is ring fenced in the Housing Revenue Account (HRA). To determine the potential burden on stock held outside the HRA, we will prepare a separate New Burdens Assessment before the implementation of measures that directly impact local authorities.

### **12.5 State Aid**

12.5 The policies in this Impact Assessment do not make any provisions for state aid.

### **12.6 Rural Proofing**

12.6 The policies in this Impact Assessment do not have any impact on rural proofing.

### **12.7 Competition**

12.7 The policies in this Impact Assessment do not restrict or hinder competition, and in fact mitigate the impact of the lack of competition in the sector.

### **12.8 Privacy**

12.8 We will be considering the need for a separate data protection impact assessment.

### **12.9 Health**

12.9 The policies in this Impact Assessment do not present a negative health impact, and in fact are likely to increase the focus of the social housing sector on health.

### **12.10 Environment**

12.10 The policies in this Impact Assessment do not have any potential environmental implications.

## **13 A SUMMARY OF THE POTENTIAL TRADE IMPLICATIONS OF MEASURES**

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- 13.1 The policies in this Impact Assessment do not have any potential trade implications.

## **14 MONITORING AND EVALUATION**

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### **14.1 Full Review**

- 14.1.1 The Department will work with the Regulator to undertake a full review at the end of one regulatory cycle, after four years of the new regulatory regime being in place.
- 14.1.2 This full review will allow the Department, along with the Regulator, to determine the impact of measures introduced, whether the original objectives were met, the efficacy of the data collected on the impact of implementation, and the efficacy of the monitoring mechanisms in place.
- 14.1.3 For electrical safety measures, we will confirm any plans to review the policy, including monitoring and evaluation, when we have concluded the consultation (due for publication in Spring 2022).

### **14.2 Social Housing White Paper Programme: Monitoring and Evaluation**

- 14.2.1 The Social Housing White Paper programme has a monitoring and evaluation strategy which covers a number of the reforms in this assessment. The Department has:
- i. Undertaken work on a 'Theory of Change' model. This identifies the outcomes the programme is trying to achieve, and maps these against our outputs of the programme, such as the consumer regulatory regime. Additional work has been undertaken to explore the assumptions, metrics and success criteria associated with both intermediate and long-term outcomes. The model has been reviewed by the programme implementation board and an expert challenge panel comprised of external stakeholders.
  - ii. Developed a set of baseline metrics, reflecting the pre-White Paper position in a number of areas, to allow us to effectively monitor and evaluate the impact of the measures being introduced. These metrics are taken from a range of sources, including the English Housing Survey, Housing Ombudsman data, data from the Office for National Statistics and written responses from the Social Housing Green Paper consultation. To address gaps in existing data, the Department is commissioning new research to support the development of these

metrics, including a Resident Survey. Survey questions will be aligned with the programme outcomes. This will be used to support evaluation of the programme, providing a clear baseline so we can access impact.

- iii. Convened an expert challenge panel, consisting of key sector stakeholders and academic bodies, to scrutinise implementation of the programme.
- iv. Set up a process to report stakeholder feedback to the Programme Board on a regular basis, recognising how this qualitative insight can supplement data.
- v. Started developing plans for a holistic impact and process evaluation and case study research, identifying key research questions which will underpin this work.
- vi. Started work to develop a benefits realisation plan.

### Monitoring of Implementation

14.2.2 The Regulator is operationally independent but its activities are overseen and reviewed by the sponsoring department, DLUHC. Existing processes for reviewing Regulator activity will continue, such as:

- i. Regular accounting officer meetings; and
- ii. Regular regulatory implementation board meetings.

14.2.3 It is for the Regulator to decide and design its own monitoring and evaluation programmes for the measures it will be taking forward, as it does with its current regime. As an arms-length body they are sponsored by DLUHC and will be expected to report the effectiveness of the reforms and feed into the SHWP programme as appropriate. The Regulator will be expected to:

- i. Advise government on the changes it is carrying out as required, including the results of consultations
- ii. Advise on current and emerging risks to the implementation and performance of the reforms it is undertaking
- iii. Feedback results of any monitoring activity pertinent to the wider SHWP monitoring and evaluation programme.

### Monitoring by the Regulator and Ombudsman

14.2.4 Currently the Regulator uses a range of tools to monitor and assess the sector. It operates on a co-regulatory basis with providers having to assure the Regulator that they comply with the standards. Providers are required to provide a suite of regulatory returns which the Regulator uses to assess individual and sector performance, identifying trends and risks. The Regulator is proportionate in its approach and therefore the intensity of its regulation is based on its risk profile of registered providers, for example

providers with over 1,000 units are subject to in-depth assessments. The Regulator does not currently monitor local authorities as they are not subject to economic regulation.

- 14.2.5 As the Regulator implements the proactive consumer regulatory regime, it will retain its current approach, expecting providers to assure it that they comply with the standards as well as using its own monitoring tools, specifically on the consumer side. They will conduct regular inspections on the largest landlords and use the Tenant Satisfaction Measures as part of their assessment of a provider's performance.
- 14.2.6 The Regulator will have its own programme to monitor and evaluate the impact of measures and the new consumer standards. The Department will engage closely with the Regulator on this in the review process noted above.
- 14.2.7 The Housing Ombudsman will have its own monitoring and evaluation programme for the measures it will be taking forward, in particular the access to information scheme. The Housing Ombudsman will be expected to advise government on the effectiveness of the scheme as a whole and the appeals process, in particular, the referrals (for which it is responsible).

### **14.3 Further Assessments**

What circumstances / changes in the market or sector would require the policy to be reviewed sooner or change the preferred option?

- 14.3.1 Policies have been designed to ensure effective regulation of new types of provider that have become increasingly prevalent in recent years. The Department will work with the Regulator to review any new provider structures appearing following the introduction of the measures, and consider whether these would necessitate any policy changes.
- 14.3.2 We do not envisage any circumstances or changes in the sector that would require the policy to be changed ahead of the proposed review cycle.

How will you assess whether the original objectives have been met, or whether the intervention should be amended?

- 14.3.3 We will make this assessment through the review cycle referred to above.

Will you need to collect extra data that is not already being collected to assess whether the policy has been successful?

- 14.3.4 The Department's new Resident Survey will provide new data to support the assessment of the measures, while Tenant Satisfaction Measures will also provide data regarding performance on consumer issues.