

PROPERTY COMPENSATION CONSULTATION 2013

For the London-West Midlands HS2 route

Consultation document

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COMPENSATION
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Consultation document

September 2013



Department for Transport

High Speed Two (HS2) Limited has been tasked by the Department for Transport (DfT) with managing the delivery of a new national high speed rail network. It is a non-departmental public body wholly owned by the DfT.

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Foreword – Rt. Hon. Patrick McLoughlin



There is country-wide consensus that our rail network must be improved. The number of people travelling by train has doubled over the last 15 years. Demand for inter-city journeys, commuting and freight rail transport is rising fast and will continue to do so in the future. Britain's railways are already over-stretched and will get more and more overcrowded over the next 10 to 20 years.

HS2 is the only suitable answer to this problem – piecemeal upgrades, the type of which we have been and are continuing to invest in – will not be enough. A new line between London and Birmingham – the first line north of London for 120 years – comprises Phase One of HS2 and will tackle the congestion and overcrowding on the West Coast Main Line. Phase Two will do the same for the East Coast and Midland Main Lines from Birmingham to Manchester and Leeds.

HS2 will not only provide more frequent inter-city services for passengers, but will also provide better connections between our major towns and cities, as well as releasing capacity on the existing railway network for new inter-city, commuter and freight services.

As well as a necessary response to our overcrowded railway, the delivery of a state-of-the-art, safe, reliable high speed network is an opportunity we cannot afford to miss. HS2 will not only better serve our cities, but return Britain to the forefront of engineering and construction. It will enable us to support jobs and regeneration in cities and unite regions, allowing them to better compete with the capital and build a stronger Britain.

HS2 will make our railways fit for the next 50 years and beyond. Journeys will be shorter, our towns and cities will be closer together, there will be more regular and reliable services, our economy will benefit, and industry will get a boost from the construction of the new railway.

However, any project of this size cannot avoid having an effect on people and businesses nearby. We have made clear our desire to mitigate these impacts on people and landscape. Consultation has recently closed on a 5,000-page draft Environmental Statement, which detailed the impacts of the HS2 Phase One route between London and the West Midlands and how these would be minimised. At the same time, we consulted on suggested design refinements to the Phase One route which would further reduce the effect on people living on or near the line of route.

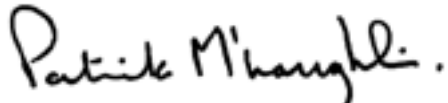
Compensation is also an important measure through which we can reassure and assist those whose enjoyment of their home is materially affected by the railway. The UK has a system of compensation, which combines statute and case law, that provides compensation when land is needed for infrastructure projects, and these arrangements will be available for HS2. There would also be compensation once the line was in operation, for people who find that their properties have reduced in value as a result of the physical effects of the line, such as noise or vibration.

In the case of this project we have always been clear that we want to do more. Many individuals and groups that have given us feedback on our proposals have focused on compensation and suggested options or ideas for the Government to consider. We welcome this level of interest, which helps us to understand the issues of most concern to those affected by HS2.

This consultation document refers to proposals made by others, as well as the Government's own proposal. Our aim is to introduce a discretionary package of compensation to address the most serious effects of HS2, as well as supporting the local housing markets along and around the proposed line of route.

Subject to the outcome of consultation, we would want to introduce new discretionary arrangements as soon as practicable – providing certainty about the type of compensation that can be sought and enabling us to put schemes in place for Phase One to help homeowners with minimum delay.

I strongly encourage you to help shape Government policy by responding to this consultation.

A handwritten signature in black ink that reads "Patrick McLoughlin." The signature is written in a cursive, slightly slanted style.

The Rt. Hon. Patrick McLoughlin MP

Secretary of State for Transport

Introduction

High speed rail

Until recently, the UK's railway infrastructure had not received the sustained investment required to keep pace with the growth in our population and the changes in our country. There is an ever-increasing demand for inter-city, commuting and freight rail travel and the geography of our country means that our north-south transport links are among our most important national assets. As a result, they will be the most exposed to these pressures.

The West Coast Main Line (WCML), the main railway line linking Birmingham, Manchester and Liverpool with London, will soon be full. The £9bn upgrade to the line, completed in 2008, resulted in a considerable increase in the number of long-distance services and freight paths, but it will not meet the long-term challenge we face. The East Coast Main Line (ECML) and the Midlands Main Line (MML) are also set to experience similar challenges in future years.

Therefore, on 10 January 2012 the Secretary of State for Transport announced that the Government had decided to proceed with plans to build a new high speed rail network (High Speed Two, 'HS2') to address this problem, and that it would be built in two phases.

Phase One will run between London Euston and the West Midlands, with a new station built in central Birmingham, linking to the existing West Coast Main Line (WCML) north of Lichfield. Phase One will also provide a direct link with Continental Europe through HS1 and the Channel Tunnel.

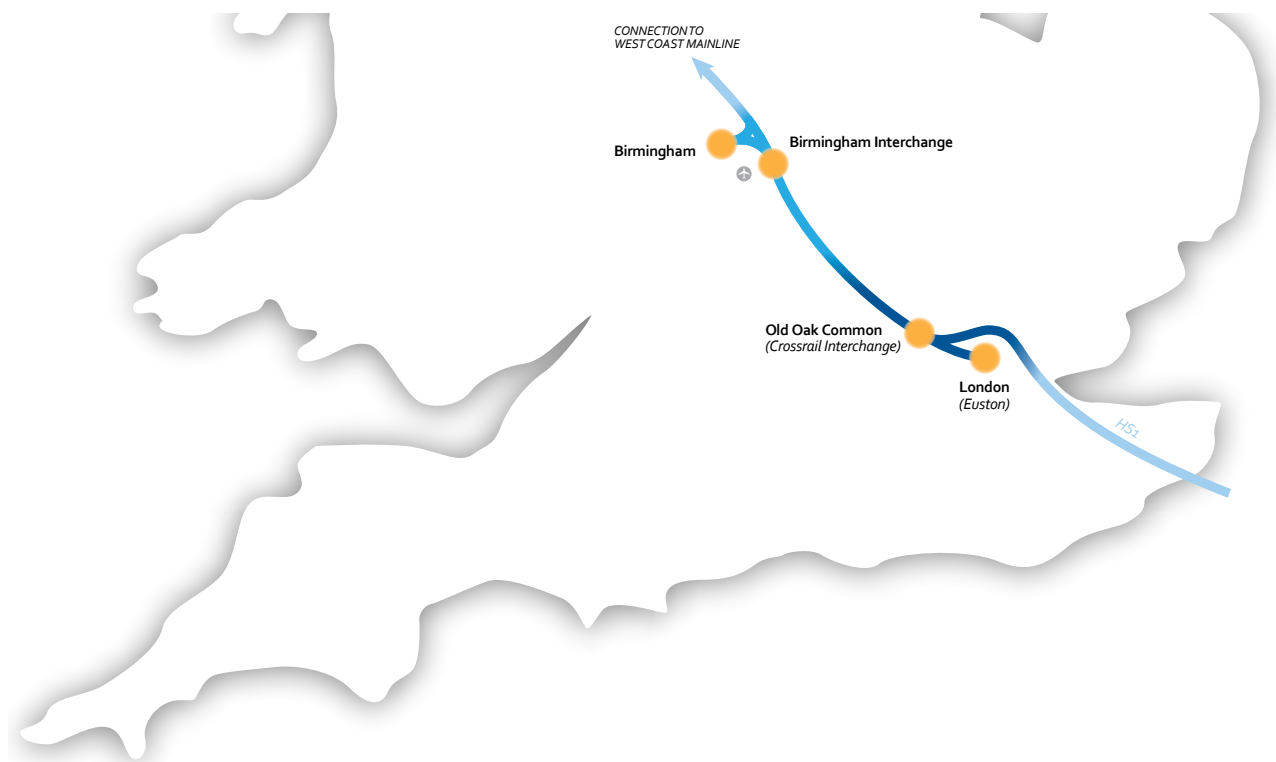


Figure 1 | Phase One of the High Speed Two (HS2) rail network



Figure 2 | Proposed High Speed Two (HS2) rail network

Phase Two will extend the high speed rail network from the West Midlands to both Manchester and Leeds. The proposed route will include stations at an East Midlands Hub near Toton, Sheffield Meadowhall in South Yorkshire, Leeds, Manchester Airport and Manchester Piccadilly. The proposals also include further connections to the existing ECML and WCML.

HS2 is the only viable means of meeting our capacity challenge. It also gives us the opportunity to create a better railway. It will offer better service, reliability and connectivity. It will have the potential for trains to leave just over three minutes apart, and the ability to move around 800,000 people every day, which will provide a huge boost to rail travel.

Transport infrastructure is vital to economic growth and there are many ways in which this investment can influence both the overall level of growth and the distribution of activity throughout the economy. HS2 will transform links between cities and give companies and employees access to a wider range of markets and jobs.

The connections it will provide, linking eight of Britain's largest cities, will radically re-shape the economic geography of the nation, bringing our cities closer together and rebalancing growth and opportunities.

HS2 offers the potential to put all the proven benefits of state-of-the-art transport infrastructure into practice in the UK and to build a national rail network which would help boost productivity, reduce costs, increase efficiency, expand business and labour markets and open up opportunities for increased national and international trade. Most significantly, it would do this on a national level, rather than focusing these benefits on London.

The Secretary of State for Transport intends to lay a hybrid Bill before Parliament later in 2013 to secure legal powers to construct and operate Phase One of the railway. If authorised, construction of Phase One would begin around 2016, with the line expected to open in 2026.

The High Speed Rail (Preparation) Bill is currently being considered by Parliament. Subject to its successful passage, the Bill will allow the Government to spend money on preparatory work for constructing HS2 in advance of the hybrid Bill for Phase One gaining Royal Assent. It also includes provisions that will allow the Government to provide property compensation following the outcome of this consultation.

1 About this consultation

1.1 Introduction

1.1.1 We are seeking your views on proposals for long-term discretionary property compensation schemes to assist owner-occupiers of properties affected by Phase One of HS2.

1.1.2 This document explains:

- the criteria against which we propose to develop long-term discretionary property compensation schemes for Phase One of HS2;
- a range of discretionary compensation options to be considered, comprising:
 - express purchase – a proposal for a streamlined system of purchasing owner-occupied properties that are within the safeguarded area or are brought into it by future safeguarding directions;
 - a voluntary purchase scheme;
 - a property bond scheme including discussion of the various forms such schemes might take;
 - a long-term hardship scheme;
- an approach to renting homes to their former owners following Government purchase;
- an overview of the compensation code (in Annex A); and
- a summary of a property bond option, as proposed by Deloitte LLP.

1.1.3 Please read this document and respond to the questions we have asked in the following ways:

- **Online:** you can respond online at: www.hs2.org.uk
- **Response form:** copies of the response form are available online at www.hs2.org.uk or can be requested by contacting 0300 123 1102.
- **Email:** you can email your response to: 2013hs2propertyconsultation@dialoguebydesign.com
- **Post:** you can post your response and additional material to the following FREEPOST address. You do not need to use a stamp.

Freepost RTET-YGJB-GUAH
Property Compensation Consultation 2013
PO Box 70178
LONDON
WC1A 9HS

1.1.4 HS2 Ltd and the Department for Transport cannot accept responsibility for ensuring responses that are sent to addresses other than those described above are included in the consultation process.

- 1.1.5 If you wish to talk to representatives from HS2 Ltd and the Department for Transport, you can attend one of a series of public information events in places close to the Phase One route. The dates, times and locations are available on the HS2 Ltd website at: www.hs2.org.uk.
- 1.1.6 At these events, representatives from HS2 Ltd and the Department for Transport will be on hand to discuss the proposals in this document. Further, detailed maps will also be available.
- 1.1.7 The consultation will run until Wednesday 04 December 2013. Further details of how to respond and our next steps can be found in chapter 10.
- 1.1.8 This consultation is separate from any previous HS2 consultation. Responses sent to any previous consultation will not be considered as part of this consultation process.

1.2 Who can respond to this consultation?

- 1.2.1 As with all HS2 consultations, the Property Compensation Consultation 2013 is open to the public at large and we welcome comments from all interested individuals or organisations. We have targeted the publicity and the public events at those living close to Phase One of HS2.
- 1.2.2 This consultation is about long-term property schemes for Phase One only. This is because any consultation would have to provide sufficient information to enable consultees to give proposals intelligent consideration and to formulate an informed response. Phase One is at a later stage of development and, as a result, more detailed information is available to those living along the line of route than is available for Phase Two. We could delay consulting on long-term property schemes until both phases are at the same stage of development and the same amount of detail is available, but we consider it important to provide some certainty to those affected by Phase One as soon as possible and that consulting separately is the best way to achieve that.
- 1.2.3 The long-term property schemes we implement for Phase One following this consultation will naturally be the starting point for our approach to long-term discretionary property compensation for Phase Two. Nevertheless, the Government cannot promise now that the Phase Two schemes will definitely be the same or, indeed, different.
- 1.2.4 We are currently consulting on the initial proposed route from the West Midlands to Manchester, Leeds and beyond. You can find further details about this consultation at www.hs2.org.uk/phase-two/route-consultation or by contacting HS2 Enquiries (020 7944 4908, hs2enquiries@hs2.org.uk).

2 Property and compensation

2.1 The effects of construction on property

- 2.1.1 The construction and operation of major projects, or the planned acquisition of land, can have a negative effect on nearby properties. This negative effect is commonly known as 'blight'. Property professionals recognise that this effect is greatest during the planning, design and construction phases of a project. Once a project is built and in operation, the local property market tends to return to normal as the actual impacts are less than first feared. It is normal for the perception of blight to contribute to the overall effect of a project on property prices, usually as a result of uncertainty and fear. Once that uncertainty and fear has been replaced by certainty, adverse impacts on property prices tend to dissipate.
- 2.1.2 In terms of property impacts, the Government considers HS2 to be an exceptional project for a number of reasons. The period of time needed for design and construction is very long. The linear nature and overall length of the development is also unusual, as is its largely rural setting. As a result, there has been a high level of public concern over the availability and fairness of the means of redress for reductions in property value.
- 2.1.3 Though not all property will be affected for all of the planning, construction and operation period, the Government believes that measures to assist owner-occupiers affected by the project must reflect the significant impact that comes with the construction and operation of a high speed rail line.
- 2.1.4 As was the case with High Speed One (HS1, also known as the Channel Tunnel Rail Link), we are fully prepared to recognise these points by going beyond what is required by law and providing discretionary compensation to supplement the compensation code. This document explains our proposals for discretionary compensation in more detail and asks for your opinion on them.
- 2.1.5 These proposals are a response to the exceptional nature of HS2 and should not be seen as setting a precedent for current or future infrastructure schemes.

The compensation code

- 2.1.6 The compensation code is the collective term for the principles derived from both statute and case law, relating to compensation for compulsory acquisition, which ensures that when land is needed to build an infrastructure project, the owners receive compensation to help them to move house or to relocate a business. The compensation code also ensures that those who experience real, physical effects, for example vibration or noise, from a scheme once it is in operation are entitled to compensation.
- 2.1.7 Where land is compulsorily acquired, compensation is based on the principle of equivalence, meaning that a person should be no worse off in financial terms after the acquisition than they were before. They should also be no better off.
- 2.1.8 Depending on the circumstances of each case, the heads of claim for compensation are:

- value of land taken;
- severance and injurious affection;
- loss payments;
- disturbance; and
- fees.

2.1.9 Further information regarding the compensation code can be found in Annex A. Detailed guidance on compulsory purchase can be found at: <http://tinyurl.com/ljnmdw6>

2.2 Could the Government rely on the compensation code alone to assist owner-occupiers?

2.2.1 There is no obligation on the Government to offer compensation for a loss in property value beyond that which is available through the compensation code. In drawing up proposals to address this issue, it is therefore appropriate and fair to the taxpayer to consider the option of not offering any additional support beyond what is already provided for in law.

2.2.2 This would involve maintaining the current Exceptional Hardship Scheme (EHS) for Phase One of HS2 and managing all further claims for assistance solely in accordance with the guidelines set out in the compensation code.

2.2.3 This would be the cheapest option for the taxpayer in terms of the money spent purchasing houses, because only the minimum number would be bought. It would also be the option with the lowest management cost, since only houses purchased under the EHS would need to be maintained. All other purchases would be properties intended for demolition and would need only to be secured until it was time to demolish them.

2.2.4 Once HS2 had been constructed and in operation for a year, it would be possible for owner-occupiers, the value of whose property is reduced as a consequence of physical factors arising from the line, to claim compensation under Part 1 of the Land Compensation Act 1973.

2.2.5 While the Government remains confident that reliance on the compensation code alone is appropriate for many other schemes, particularly those approved and built quickly, we believe the timescales, public concern and impact of the infrastructure itself means that for HS2 we should go further than those measures laid out in the compensation code.

2.2.6 The Government therefore does not recommend relying solely on the compensation code in this instance.

2.3 The case for assisting owner-occupiers in respect of HS2

2.3.1 Apart from a small number of properties in the immediate environs of a scheme, values can be expected to recover when the scheme is operational and its full effects are known. The Government considers that it is unreasonable to expect taxpayers to compensate for temporary reductions in property values that subsequently recover – having no long-term effect.

- 2.3.2 However, the Government recognises that owner-occupiers' properties are often both a home and a major part of the individual or family's assets – whether as an investment, a farm or as the premises of a small business. We are accustomed to a situation where, subject to the availability of finance to the individual and the operation of the local property market, people can sell their home and buy another more suitable or make other arrangements for living as they prefer. Since generalised blight reduces the level of interest in properties close to the proposed railway and the prices that people are willing to pay for them, this interferes with peoples' ability to move home when they need to. These problems can persist until the scheme is completed and the local property market recovers.
- 2.3.3 In many schemes, the period in which owner-occupiers experience this generalised blight is relatively short. However, the timescales for HS2 are substantial because of the need to allow first for public consultation and proper scrutiny of the Government's proposals by Parliament during the passage of the hybrid Bill. It is likely that many of the people most affected by the line will find their family or personal circumstances change during that period, giving them reason to wish to sell their homes without waiting for the scheme to be built. The Government believes it is right to assist:
- the owner-occupiers closer to the line and therefore more affected by the disruption of construction and by the operation of the line once it is built; and
 - those whose properties may be further away from the line, but who will experience hardship if they are unable to sell their home when they need to as a result of HS2.
- 2.3.4 People who own properties for commercial purposes or are landlords may see their properties affected temporarily by generalised blight and, like all property owners, can expect to see the value of their investment recover as the effects of the scheme become clearer. Meanwhile, the source of their commercial income – whether as rent from letting the property or from the business that they operate there – will usually not be affected by generalised blight. The Government is not persuaded that there is a justification for offering discretionary compensation in respect of commercial properties. Under the compensation code, however, provisions already exist to cater for commercial property that is required for the project. Further information about compulsory purchase can be found in Annex A and at <http://tinyurl.com/ljnmdw6>.
- 2.3.5 The compensation for this scheme – or any other scheme – is not intended to provide a complete guarantee of any level of house prices. Irrespective of an infrastructure scheme such as HS2, house prices can vary for a wide range of reasons – for example, if a school receives a strongly positive Ofsted report, prices in the vicinity can inflate even for those with no connection with the school. Similarly, a critical report can lead to the opposite effect. The Government's proposals should be considered against a backdrop where property price fluctuation is a likely factor in people's lives and where prices can vary for reasons outside their control.
- 2.3.6 However, the Government intends that where it agrees to purchase a property, it will provide the full and fair value, subject to independent assessment.

2.4 Existing discretionary compensation for HS2

Phase One Exceptional Hardship Scheme (EHS)

- 2.4.1 In August 2010 we introduced an EHS for Phase One. The EHS is designed to assist property owners during the early stages of the project whose properties are on or in close proximity to the proposed route of HS2 and who by reason of exceptional hardship have an urgent need to sell, but cannot do so except at a substantially reduced price. As of 1 August 2013, 118 applications to the EHS had been accepted. Of these, purchases had been completed in 94 cases, at a cost of more than £54 million.
- 2.4.2 This scheme will continue to operate until such a time as we introduce further, long-term discretionary measures for Phase One following the outcome of this consultation.

2.5 Further discretionary compensation for HS2

Review of Property Issues

- 2.5.1 Following the successful introduction of the EHS and further work to refine designs for Phase One, the Government considered how best to implement long-term compensation that went beyond what was required by law.
- 2.5.2 To this end, we consulted on further discretionary compensation in 2011 as part of a wider public consultation on HS2. The options for possible discretionary schemes presented included a hardship-based scheme, a property bond and a compensation bond. On 10 January 2012, when we published our conclusions on HS2, we also published a document called the "Review of Property Issues" (January 2012), which explained our views on discretionary compensation and that we had chosen to offer schemes based on hardship rather than on a property or compensation bond basis.

October 2012-January 2013 consultation

- 2.5.3 The decision about the Government's preferred discretionary compensation schemes (in particular, the decision to proceed with consultation on a hardship scheme rather than a property bond) was the subject of a legal challenge. The High Court ruled on 15 March 2013 that part of the 2011 consultation which dealt with potential property compensation arrangements did not provide enough information to consultees on the different discretionary compensation scheme proposals; that the basis on which the decision was taken differed from that which appeared from the consultation documents; and that the response of HS2 Action Alliance on property compensation was not conscientiously considered before the Secretary of State made a decision. As a result the court quashed (in essence, declared void) the Review of Property Issues document, and thus the Government's decision on the package of discretionary compensation arrangements it had proposed to take forward.
- 2.5.4 Prior to the Court's decision in March 2013, we launched a public consultation on further, long-term, discretionary compensation measures in October 2012. This consultation was based upon the decisions outlined in the Review of Property Issues document.
- 2.5.5 This consultation was not itself unlawful and the High Court judgment did not criticise it or the schemes that the Government had proposed. However, the basis of the consultation was compromised by the preceding decision-making process.

In order to ensure a full, fair and prompt resolution to questions surrounding long-term compensation, the Government gave an undertaking to the Court in March 2013 to launch a fresh consultation on property matters for HS2, including a property bond.

2.5.6 We are undertaking a new consultation by means of this document, which takes a fresh look at the issues surrounding long-term discretionary compensation and stands apart from its predecessor documents. We will also run a series of public information events along the Phase One route to ensure that those directly affected by plans for HS2 can more easily explore the details of our long-term, discretionary property compensation proposals and discuss their views with Government representatives. It is important that people who responded to the earlier consultation on property compensation do so again in reference to these revised policy proposals. Responses sent to the previous consultation will not be considered as part of this consultation process.

2.5.7 It should be noted that the proposals laid out in this document are designed to be implemented alongside the compensation code (as outlined in Annex A).

Tunnels and social housing

2.5.8 The 2012-13 consultation on property compensation included proposals for property schemes relating to tunnelled sections of the HS2 route and proposals for the Government's approach to replacing lost social housing.

2.5.9 These proposals do not fall within the Government's undertaking to consult again on property compensation. The Government will shortly announce its final decisions with regard to properties above tunnels and social housing.

2.6 The draft Code of Construction Practice

2.6.1 Some of the concerns about HS2 have arisen from fears about disruption during the construction period. In many cases, people would prefer not to move away from their homes, but wish to understand the way contractors will be required to work and what redress is available should there be adverse effects from the works.

2.6.2 This information will be set out in a Code of Construction Practice (CoCP) for Phase One of HS2, a draft version of which has already been out to consultation (from 16 May 2013 to 11 July 2013). The responses are being considered and will, where appropriate, feed into the CoCP deposited with the hybrid Bill for Phase One. The draft CoCP we consulted on shows how HS2 Ltd proposes to:

- provide effective planning, management and control during construction to deal with potential impacts upon people, businesses and the natural and historic environment; and
- provide the mechanisms to engage with the local community and their representatives throughout the construction period.

2.6.3 The draft CoCP shows current thinking on contractors' relations with the communities in which they will be working, advance notice of works, the provision of a community helpline and small claims procedures. Elsewhere it gives details about the requirements HS2 Ltd proposes to put upon contractors concerning working hours, the layout and management of construction sites, pollution incident control,

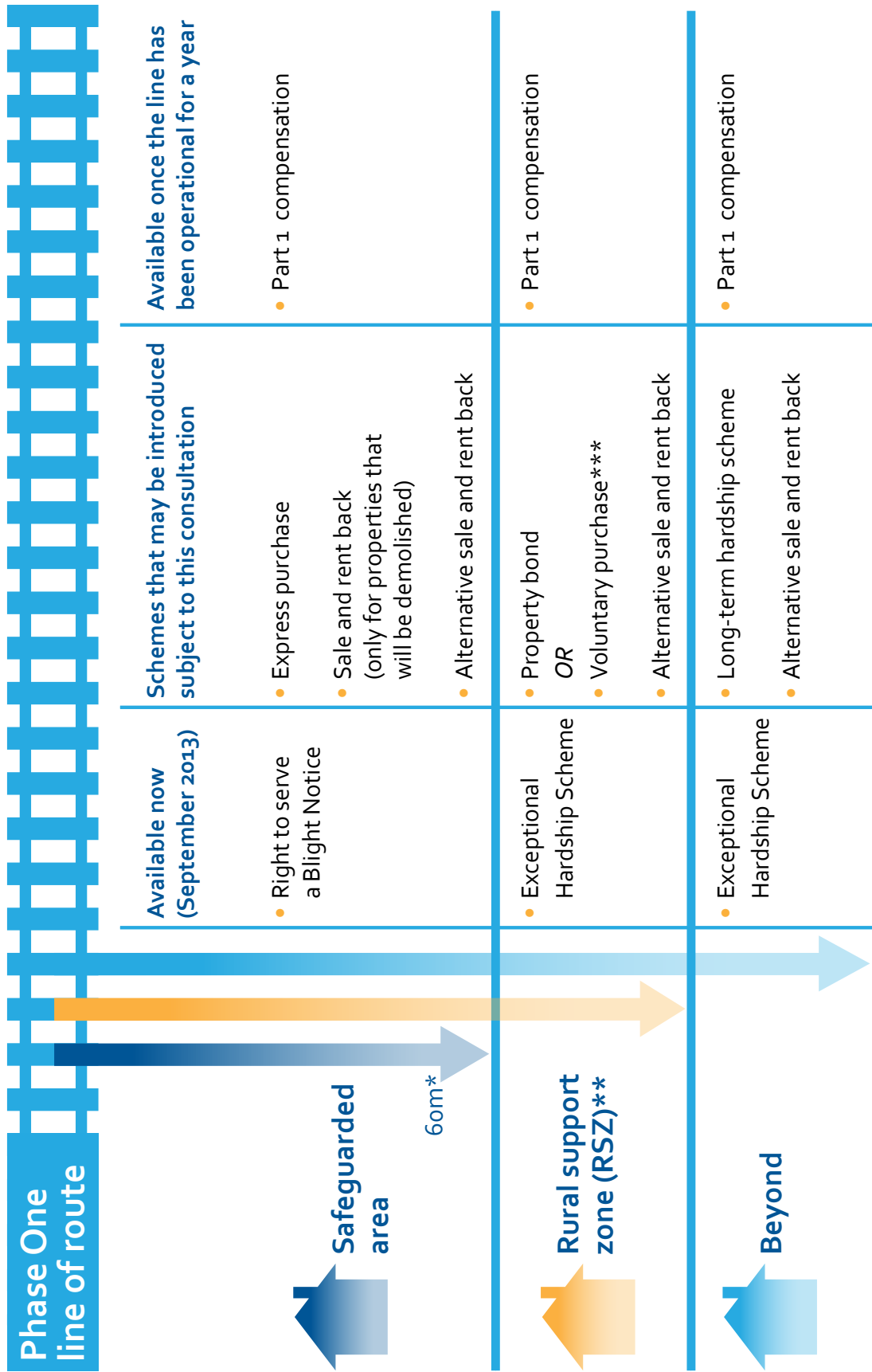
agriculture, forestry and soils management, air quality, cultural heritage, ecology, ground settlement, land quality, landscape and visual amenity, noise and vibration, traffic, waste and materials, water resources and flood risk.

3 Compensation schemes – our approach to discretionary compensation

3.1 Compensation policy

- 3.1.1 The Government proposes to use a number of criteria to decide the most appropriate long-term discretionary property compensation scheme. The final scheme will be put in place following this consultation. The criteria are:
- 3.1.2 Fairness – the Government should ensure that owner-occupiers whose properties (and property values) are most directly and specifically affected by the proposals for Phase One of HS2 are eligible for compensation; and that those eligible for compensation receive fair and reasonable settlements reflecting the location and circumstances of their property.
- 3.1.3 Value for money – the Government should ensure that HS2 property schemes are likely to offer satisfactory value for money to the taxpayer, are affordable, do not involve disproportionate expense and that any risks relating to the costs of property schemes can be effectively managed within HS2's long-term funding settlement.
- 3.1.4 Community cohesion – the Government should maintain as far as practicable the stability and cohesion of communities along the route, for example by enabling existing residents to remain in their homes where possible; by minimising the potential adverse effects of significant population turnover associated with multiple short-term tenancies; by ensuring that there is the best understanding about the likely effect of the railway on the enjoyment of properties; and by compensating those most affected by the project on a fair and reasonable basis.
- 3.1.5 Feasibility, efficiency and comprehensibility – the Government should devise clear and easily explained rules so that homeowners can readily understand their entitlements and the Government can predict how costs will be determined in any individual case. It is important also to have assurance that any scheme can be administered efficiently and effectively to provide good customer service for those whose property is affected by the railway.
- 3.1.6 Functioning of housing market – the Government should enable local residential property markets to function as normally as possible during the development and construction phases of the project.
- 3.1.7 Different compensation schemes or packages would be likely to compare differently under these criteria – a proposal which promised a great deal under one criterion could promise relatively little under another. The Government therefore does not expect the scheme it eventually adopts to necessarily be highly regarded under all criteria. However, it should provide – in the Government's reasonable opinion – the best balance between the criteria.

QUESTION 1: What are your views on the criteria we have put forward to assess options for long-term discretionary compensation?



* The safeguarded area is typically 60m either side of the line of the route; however, in some areas this varies.

** In rural areas only. Boundary to be determined following the current consultation.

*** We propose to introduce one or other of these options, but not both.

Figure 3 | Proposals for property compensation for Phase One of HS2

4 Our proposals

4.1 Overview of the proposals

4.1.1 The proposals in this document are similar to, but supersede, those proposed in October 2012. The Government is consulting on a package of measures that could include:

- **express purchase** for qualifying owner-occupiers within the safeguarded area;
- **a long-term hardship scheme** for owner-occupiers who have strong personal reasons to move but cannot do so, other than at a significant loss, because of HS2;
- **a sale and rent back scheme** and an alternative approach to renting properties back to their former owners; and
within a rural support zone:
- a voluntary purchase scheme; or
- a property bond scheme.

4.2 Express purchase

Background

- 4.2.1 Following consultation, the Secretary of State for Transport has issued safeguarding directions under Articles 16(4), 25(1) and 29(6) of the Town and Country Planning (Development Management Procedure) (England) Order 2010¹ that cover the majority of the Phase One route. The safeguarded area is generally 60 metres each side of the centre line of the track. You can view maps of the safeguarded area on the HS2 Ltd website: <http://www.hs2.org.uk/safeguarding>
- 4.2.2 Safeguarding directions are a planning tool which ensures that proposed developments that might conflict with HS2 must be referred to HS2 Ltd via the local planning authority prior to planning permission being granted. Safeguarding also sets the geographic limits to which the statutory blight regime applies. Therefore, safeguarding is relevant to many of the proposals and schemes discussed in this consultation.
- 4.2.3 Similarly, an understanding of the compensation code and how and when it will apply to properties close to Phase One is also relevant to fully understanding the context of our proposals. We have provided an overview in Annex A.
- 4.2.4 Where a property is within the safeguarded area, owner-occupiers who meet the qualifying criteria and who wish to move house may serve a Blight Notice on the Secretary of State. If the Secretary of State agrees to buy the property, the price paid will be the full un-blighted open market value, as if there were no HS2, plus 10% of that value up to a maximum of £47,000, plus the reasonable costs of moving house.
- 4.2.5 However, the law requires that before deciding whether to buy the property, the Secretary of State must consider whether:
- a. the property is required for the railway; and
 - b. the owner-occupier has tried – that is, has made ‘reasonable endeavours’ – to sell the property.
- 4.2.6 This system is currently in place for Phase One of HS2. The Government considers that neither of the requirements above are desirable for the HS2 project in the longer term. While it is a valuable protection for the taxpayer to have these checks in place in normal circumstances, in the case of HS2 it is unrealistic to expect owner-occupiers and estate agents to put significant effort into attempting to sell properties that are at a high risk of demolition. Moreover, as the Government is not compelled to accept the Blight Notice (and may issue a Counter-Notice), an element of unnecessary uncertainty on the part of the property owner would be inevitable.
- 4.2.7 There are also risks for the taxpayer if the Government takes too narrow a view of which properties to buy in response to a Blight Notice. If the Secretary of State issues a Counter-Notice in respect of a property stating that the land in question is not required for the railway, he or she cannot subsequently buy it through compulsory purchase even if the route of the railway changes. Reaching a private deal could be very expensive for the taxpayer. Taking these points into account, together with

¹ 2010/2184.

the extended period over which these problems would persist, the Government is proposing to make a discretionary decision to relax both of these rules for properties within the safeguarded area for Phase One of HS2. The details of this are discussed below under the term 'express purchase'. The payment (as outlined above) would remain the same.

The Government's proposal

- 4.2.8 The Government is proposing to exercise its discretion in how the statutory blight provisions will work for HS2 in two specific ways, by accepting blight notices from eligible property owners:
- without regard to whether the property would be needed for construction or operation of the railway, provided the property is wholly within the safeguarded area; and
 - without requiring the owner to demonstrate reasonable endeavours to sell their property.
- 4.2.9 The intention is to give those within the safeguarded area – those most affected by HS2 – a greater degree of certainty about whether the Government will buy their property without eroding their right to the full payments that are available under the compensation code. The details of this compensation code entitlement are in Annex A.
- 4.2.10 Under the compensation code, an acquiring authority (in this case the Government) can reject a Blight Notice and serve a Counter-Notice, refusing to purchase a property within the safeguarded area on one or more grounds: for example, that the government does not intend to acquire the property to build or operate the railway; or if only part of the property is required.
- 4.2.11 To help reduce the uncertainty involved in this process, the Government proposes to accept Blight Notices from all eligible property owners whose properties are entirely within the safeguarded area, even if it is not yet clear whether the property would actually be needed for the construction or operation of the railway. 'Eligible property owners' refers to all those with a qualifying interest under section 149 of the Town and Country Planning Act 1990 – i.e. residential owner-occupiers; owner-occupiers of small business premises with an annual rateable value not exceeding £34,800; and owner-occupiers of agricultural units.
- 4.2.12 For eligible property owners whose properties are only partially within the safeguarded area, we are proposing to consider each Blight Notice on a case-by-case basis, but also to limit the issuing of Counter-Notices to exceptional circumstances. For example, under normal circumstances we would accept a Blight Notice where the garden of a typical residential property is within the safeguarded area but the property itself is not. However, where only a very small part of a much larger property is within the safeguarded area, we would be more likely to serve a Counter-Notice.
- 4.2.13 As under the compensation code, if a property owner does not agree with the decision to serve a Counter-Notice they may, within a period of two months, refer the matter to the Lands Chamber of the Upper Tribunal, which will determine the matter.
- 4.2.14 Under the statutory blight provisions, property owners within the safeguarded area who wish to serve a Blight Notice also need to show that they have made 'reasonable

endeavours' to sell their property on the open market. While this requirement is appropriate for many developments where the sale of a property in the safeguarded area on the open market may be possible, we do not, given the extended timescales of HS2, believe it to be appropriate here. It would also be inconsistent with the arrangements we are proposing for 'voluntary purchase' (see chapter 5 below) to require people closer to the line to demonstrate efforts to sell their property.

- 4.2.15 We are therefore proposing a process of 'express purchase' for HS2 through which eligible property owners within the safeguarded area, subject to the qualifications made above, should be able to issue a Blight Notice without having to attempt to sell their property. Instead, they would only have to show that their property was within the safeguarded area.
- 4.2.16 If the Secretary of State agrees to purchase a property under express purchase, the Government will pay the full entitlement, as under the compensation code. There is more information about this in Annex A, and further details can be found at <http://tinyurl.com/ljnmdw6>.
- 4.2.17 In summary, the payment would be:
- the full un-blighted open market value of the property, (that is, the value of the property if there was no HS2) valued as set out in Annex A; plus
 - a further 10%, up to a maximum of £47,000 (for residential properties), known as the 'Home Loss Payment'; plus
 - reasonable costs of moving.
- 4.2.18 There are slight differences in the compensation that may be available to commercial and agricultural property owners as further explained in Annex A and on the Department for Communities and Local Government website (<https://www.gov.uk/government/organisations/department-for-communities-and-local-government>).
- 4.2.19 It is important to note that the approach to express purchase set out above would not normally apply in those areas where safeguarding had been put in place to protect land above deep-bored tunnels or any other sub-surface works. The safeguarding in these areas relates only to the land beneath the surface and, for the purposes of our tunnels, we are only likely to require that part of the land which is well beneath the surface.
- 4.2.20 Maps showing the safeguarded area are available on the HS2 website at: <http://www.hs2.org.uk/safeguarding>. They will also be available at public events during this consultation.

A summary of express purchase

- The Government proposes to accept Blight Notices from all eligible property owners whose properties are entirely within the safeguarded area.
- Where properties are only partially within the safeguarded area, we are proposing to consider each Blight Notice on a case-by-case basis.
- We propose to pay the full entitlement for the property in question, as per the compensation code.

- This policy would not normally apply to properties where safeguarding had been put in place to protect land above deep-bored tunnels or other sub-surface works.

How does this differ from the 2012 consultation?

- This scheme was previously called the 'advanced purchase scheme'. We think that calling it an 'express purchase scheme' more accurately reflects its aims.
- The discussion of this scheme, as outlined above, has been redrafted to give more information about the policy reasons for offering this discretionary scheme, to clarify the terms on which the Government would buy properties under express purchase; and to show clearly the linkages between express purchase and safeguarding which was introduced for most of the Phase One route on 9 July 2013.

QUESTION 2: What are your views on our proposals for an express purchase scheme?

4.3 Long-term hardship scheme (LTHS)

Introduction

- 4.3.1 There will inevitably be some property owners who have strong personal reasons for selling their home but find themselves unable to do so, other than at a significant loss, because of HS2. The Government is proposing to introduce a long-term hardship scheme (LTHS) for Phase One to assist owner-occupiers outside the safeguarded area and the rural support zone who will suffer hardship if they are unable to sell their homes but are not eligible for the other schemes discussed in this document.
- 4.3.2 The Government proposes that HS2 Ltd should administer a LTHS. Applicants would be asked to provide evidence to demonstrate that they satisfy the scheme's proposed criteria, discussed below. Applications would be considered by a majority independent panel. The panel would consider applications and make a recommendation to the Secretary of State for Transport on whether they should be accepted or not. A senior civil servant acting on the Secretary of State's behalf would then decide the outcome of applications. Applicants would be informed of the outcome and, if unsuccessful, would be given a full explanation of why the application was unsuccessful.
- 4.3.3 Successful applicants would have their property purchased by the Government at 100% of its un-blighted, open market value using the process outlined under 'voluntary purchase scheme option' later in this document.

How applications would be judged

- 4.3.4 The Government believes that applications to a LTHS should be considered as fairly and transparently as possible. We therefore believe that they should be judged against five published criteria, all of which would have to be satisfied in order for an application to be successful (other than in exceptional circumstances). The proposed criteria are:
1. property type;
 2. location of property;

3. effort to sell;
4. no prior knowledge; and
5. hardship

Property type

- 4.3.5 At the time of applying to the scheme, an applicant must have a 'qualifying interest' in the residential property they are attempting to sell. This means that they must be an owner-occupier of the property as defined under Section 149 of the Town and Country Planning Act 1990.
- 4.3.6 If the property is commercially let, or if the occupier does not own the property and is a residential tenant subject to a periodic tenancy, then the applicant will not have a qualifying interest or be eligible for the LTHS. Owners of non-residential properties would also be ineligible, as would owners of residential properties which are not the owner's main residence – e.g. second homes.

Location of property

- 4.3.7 The Government believes that the adverse impacts of the railway on a property should be a factor taken into consideration when deciding on an application. This means that consideration of applications would take account of whether a property will be substantially adversely affected by the construction or operation of the railway.
- 4.3.8 We do not, however, believe it is appropriate to set a fixed outer distance from the line within which a property must be situated in order to satisfy this criterion. This is because the impact of HS2 will vary from area to area depending on the topography of the land and the construction of the line – e.g. whether the railway is in cutting or on viaduct.
- 4.3.9 The blight which prevents a sale would be assessed separately under the 'effort to sell' criterion (see below). Judgement would always be involved in the decision on the 'location' criterion, guided by the available information submitted by applicants as well as the engineering and construction plans. Since we are proposing that there would be no outer geographical limit for the LTHS, there is a clear need for a criterion that links the geography of the property with the geography of the line as currently proposed. This ensures that the Government is not obliged to accept an application in respect of property which is an unreasonable distance away.
- 4.3.10 In assessing against the 'location' criterion, consideration would be made of the likely impact of the construction or operation of the line on the property; that is the likely physical impact on the property's setting and not the impacts on the property market. We would therefore consider whether the property is in such close proximity to the route that it would be likely to be substantially adversely affected by the construction or operation of the new line. Each property would be considered on a case-by-case basis and there is no fixed distance within which a property must be situated in order to satisfy this criterion. Distance from the route is one factor, but others are:
- the particular characteristics of the property and the nature of its local area, including its position and its surroundings;

- the character of the line once completed (for example, whether it will run in a cutting or on a viaduct);
- the likely impacts of the construction of the line in the area;
- the topography of the area (for example, if it is a flat flood plain or hilly); and
- the distance to any nearby points of significant change to the character of the line (for example, a cut and cover tunnel entrance or a viaduct).

4.3.11 Experience from the Phase One Exceptional Hardship Scheme (EHS) shows that this criterion prompts applicants to provide important information on the situation of a property, which is relevant to the overall consideration of the application.

4.3.12 Hardship schemes associated with other transport infrastructure projects include a location criterion. One example, the Crossrail Hardship Scheme, focused on the expected construction effects of the project and did not set a geographic boundary, leaving it to the discretion of the decision maker to consider the seriousness of the effects. Details of the Crossrail Hardship scheme can be seen in its published paper, "C8 – Purchase of property in cases of hardship". This can be found at: www.crossrail.co.uk/about-us/crossrail-bill-supporting-documents/information-papers.

4.3.13 The HS2 Phase One EHS and the proposed Phase Two EHS are more generous, as they consider the effect of the operation of the line as well as its construction.

4.3.14 We want the panel to have as much information as possible, so for this scheme we have proposed that HS2 Ltd sourced mapping software and photographs are used to assist in consideration of this criterion. We therefore propose that applicants could include their own photographic or other evidence of the features of their property and the immediate vicinity to support their statements about the effects on the property.

Effort to sell

4.3.15 Applicants will need to prove that HS2 is the reason that their property has not sold despite them making 'all reasonable efforts' to sell.

4.3.16 In the October 2012 consultation, the Government proposed that 'to take account of the difficult market conditions currently being experienced across the country the property will need to have been on the market for at least 12 months prior to an application being made with no offer within 15% of its un-blighted, open market [value]'

4.3.17 Having reflected on the proposals, we feel that a six-month marketing period is a fair measure of a property owner's 'effort to sell'. The Government now proposes to cut that length of time from 12 months to six. Therefore the property would need to have been on the market for at least six months prior to an application being made, with no offers received within 15% of its realistic, un-blighted asking price (the price that a recognised estate agent would advise to be a realistic asking price for the property, were there no HS2).

4.3.18 We know that buyers and sellers often agree a price that is lower than the asking price – a long-term average of 12% below. Therefore, we would expect applicants to demonstrate that nobody in the open market was prepared to pay a price that the seller would normally have accepted. Our test for this under the 'effort to sell' criterion is to ask applicants to demonstrate that nobody has made an offer for that property

that is within 15% of the realistic un-blighted asking price. This is a long-standing approach used over the years by other compensation schemes, for example by Channel Tunnel Rail Link, Crossrail and by the Highways Agency on road schemes.

- 4.3.19 The requirement that all reasonable efforts should have been made to sell a property and that, despite those efforts, no offers have been received within 15% of its realistic un-blighted asking price helps to demonstrate the effect of HS2. Our interest in these figures does not mean we would expect an applicant to accept the blighted value of the property (i.e. the amount the property is worth following the HS2 announcement).

No prior knowledge

- 4.3.20 Applicants will not be eligible for the LTHS if, at the time they bought their property, they could reasonably have been expected to be aware of the proposals for HS2. In broad terms, this applies if a property was purchased after the initial preferred route was announced 11 March 2010. However, we would also take into account subsequent route changes, with applications judged from the date the announcement was made.

Hardship

- 4.3.21 The Government believes that applicants should be able to show that they will suffer hardship if they are not able to sell their property.
- 4.3.22 We recognise that individuals' situations are often complex and therefore do not feel it is appropriate to set out a definitive list of circumstances that might qualify as hardship. Hardship may originate from situations including, but not at all limited to, issues around:
- a need to sell due to changed family circumstances;
 - a need to relocate to take up a new or different job, outside reasonable commuting distance;
 - external financial pressure that necessitates a sale, for example the need to realise assets in conjunction with a divorce, to realise capital in connection with a business or with retirement, or to avoid threatened repossession;
 - a medical condition such as a severe disability causing inability to negotiate stairs, loss of mobility, or a requirement to go into sheltered accommodation, to co-locate with family members, or to move to a long-term nursing home due to infirmity or ill-health; or
 - the winding-up of the estate of a deceased person.
- 4.3.23 Where an applicant does not have an immediate need to sell their property but will need to sell in the near future (generally within three years) to avoid suffering hardship, it should be possible to accept that this criterion has been met without waiting for that need to become urgent.
- 4.3.24 The aim would be to enable a fair assessment of the ways in which, for example, an applicant's physical or financial situation might deteriorate over a period of time. Therefore, rather than simply assessing an applicant's current circumstances, it would be possible to take into account forthcoming changes when deciding whether to recommend providing assistance.

- 4.3.25 For example, a couple who are approaching retirement age might find that as they are facing a reduced income they need to downsize in order to reduce their outgoings and realise capital. Such applicants would only have to prove a need to sell in the near future, allowing them to plan in advance for their retirement.
- 4.3.26 We also recognise that some circumstances will necessitate an even longer-term view and will therefore consider such applications on a case-by-case basis.
- 4.3.27 While we propose to ask participants to provide evidence that they meet all the scheme's criteria, the decision maker may exercise discretion in relation to any criteria if there is a strong case overall for an application to be accepted. This process relates to (and is referred to as) extenuating circumstances.
- 4.3.28 In offering these proposals, the Government hopes to make the LTHS an effective source of assistance for those affected by Phase One of HS2. It is also hoped that by allowing the panel to assess an applicant's future as well as present circumstances, those living close to the line of route will be able to plan any move in advance of it becoming a necessity.

How would this scheme operate?

Guidance to applicants

- 4.3.29 In establishing a LTHS the Government would aim to ensure that applicants are given as much information as possible as to what type and detail of evidence should be submitted as part of their application. We want to ensure that applications are not refused because of the evidence provided being incomplete.
- 4.3.30 The Government therefore proposes to produce a detailed guidance document for applications to the LTHS. This will not only give details of the scheme and how applications will be handled, but also make clear the type of evidence and the level of detail that will be required by the panel in order for them to be able to recommend the acceptance of an application.

The panel

- 4.3.31 Confidence in the independence and fairness of a LTHS will be crucial to its successful operation. To ensure that each application to the scheme is judged fairly and consistently we propose that the panel should consist of two individuals who are not employed by HS2 Ltd or the Department for Transport and are completely independent of those two organisations. It is proposed that the third member would be a HS2 Ltd staff member. Members of the HS2 Ltd property team, which would operate the LTHS, would not be eligible for this role.
- 4.3.32 Though it may seem desirable to select panel members who are specialists in a specific relevant field, it would be impractical to operate a system that considers requests promptly yet has representatives from all potentially relevant fields present at each panel meeting.
- 4.3.33 Nor could we select a smaller number of experts, as people in a wide range of circumstances would be likely to apply to the LTHS. It would be inappropriate and unfair to have experts in some areas while others fall outside the specific remit of anyone on the panel.

4.3.34 Therefore, we propose that the panel comprises a range of informed laypeople drawn from a range of professional backgrounds and that applicants provide information in a way that can be understood by non-experts, which can include expert evidence – for example, reports from specialists such as medical practitioners.

4.3.35 We have also considered the inclusion of site visits and personal appearances before the panel as part of the LTHS process. However, the extra time taken to incorporate these additions would significantly lengthen the time taken to reach a decision on applications as well as making the process overly bureaucratic. We therefore believe that neither are appropriate nor proportionate steps to take.

Successful applications

4.3.36 Successful applicants would have their property purchased by the Government at 100% of its un-blighted, open market value using the process outlined under 'voluntary purchase' later in this document.

4.3.37 We propose that purchase offers made to successful applicants be time limited to six months. We do not believe it is reasonable to expect the Government to hold open such an offer for an indefinite period as situations may change and offers could become out of date. If an offer to purchase were to lapse, applicants would be entitled to reapply to the scheme.

Re-application

4.3.38 Unsuccessful applicants would be entitled to reapply to the scheme if there was a change in their circumstances or they were able to provide additional evidence which was related to the reason or reasons their original application had been refused. We propose that a reapplication to the LTHS submitted within six months of the original decision being communicated should normally be considered only against the criterion or criteria upon which the original application was refused, provided there has been no material change in circumstances in relation to the criteria on which the application was considered met.

4.3.39 We believe re-application would be the most effective way of asking the Government to look again at an applicant's case. We consider it more beneficial for applicants to re-apply with any additional supporting evidence or information on which reconsideration can be based, rather than to simply appeal against the previous decision on the basis of the previous application.

A summary of the long-term hardship scheme

- The LTHS is designed to assist owner-occupiers who have strong personal reasons for selling their home but cannot do so, other than at a significant loss, because of HS2.
- Successful applicants would have their property purchased by the Government at 100% of its un-blighted, open market value.
- The LTHS would operate in addition to voluntary purchase or the property bond option outlined in chapter 5.
- It would not operate within the rural support zone or the safeguarded zone.
- HS2 Ltd would administer the LTHS.

- Applications to the LTHS would be judged against five published criteria, all of which would have to be satisfied in order for an application to be successful, other than in exceptional circumstances.
- The criteria are: property type; location of property; effort to sell; no prior knowledge; and hardship.
- Applications would first be considered by a panel.
- A senior civil servant acting on the Secretary of State's behalf would then decide the outcome of applications.

How does this differ from 2012 consultation?

- The time period requirement in the 'effort to sell' criterion is reduced from 12 months to six.
- Current proposals also clarify the Government's position on a number of areas, seeking to make the proposals easier to understand and explaining the reasons why we have proposed specific measures, e.g. clarifying that property owners who need to sell their property in order to release equity to fund their retirement will be eligible for compensation under the hardship criterion, subject to their meeting the other criteria.

4.3.40 These changes are intended to provide a more robust package of compensation and to reassure property owners that the Government is committed to treating those affected by HS2 in a fair and appropriate manner.

QUESTION 3: What are your views on the proposed long-term hardship scheme?

4.4 Options for sale and rent back

4.4.1 In October 2012, we offered a 'sale and rent back scheme', which would apply only to those whose homes needed to be demolished to build and operate the railway. This scheme is reproduced below and we are consulting on it again. However, we are also proposing an alternative approach which would allow us to extend sale and rent back to all homes purchased by the Government through an HS2 property purchase scheme.

Sale and rent back

- 4.4.2 The sale and rent back scheme would apply to those whose homes need to be demolished to build and operate the railway. The scheme would enable eligible homeowners to sell their homes to the Government and remain in residence as tenants until the property is needed for construction. The government believes that this will give those people most directly affected by the railway more options and greater flexibility, allowing for a more straightforward transition to their new home. Such a scheme could also lead to a more organic process by which individuals and families would move from a property, lessening the immediate impacts of acquisition on local communities.
- 4.4.3 This section sets out how the Government's proposals for a sale and rent back scheme would work, who would be eligible and what applicants would be entitled to.

How would the sale and rent back scheme work?

- 4.4.4 A sale and rent back scheme would enable eligible homeowners to realise the equity in their property but remain in their home as tenants until they chose to move or the property was needed for construction – whichever came sooner. These homeowners would still be entitled to a home-loss payment (which would be paid at the moment of sale) and reasonable moving costs (which would be paid when they moved to another property).
- 4.4.5 When the time came to move, no further home-loss payments would be made as the tenancy given as part of the scheme would not qualify.

4.5 Eligibility

- 4.5.1 We propose that to be eligible to apply to the sale and rent back scheme, applicants must:
- be eligible to serve a Blight Notice; and
 - be the owner-occupier of a residential property that, according to the current work undertaken by HS2 Ltd, is likely to be demolished to make way for the construction or operation of HS2.
- 4.5.2 If you are an owner of one of the properties we believe we will need to demolish to construct Phase One of HS2, the Secretary of State for Transport should already have written to you to inform you that based on our current design work, your property will be needed for the line.
- 4.5.3 We believe it would not be appropriate to extend eligibility to second-home owners or landlords. This is because the scheme is designed to help alleviate the stress and anxiety of losing a home as a result of HS2. This would not apply to the same extent in the case of second-home owners or landlords. However, we recognise that there may be a need for some flexibility on a case-by-case basis, for example where an owner-occupier had moved out only in the short term. We would therefore reserve the right to make exceptions under certain circumstances.
- 4.5.4 As with other compulsory purchases, if a property bought by the Government under the sale and rent back scheme was not in the end required to build the railway, it would be offered back to the original owner, or their successors, at its then current market value before being offered for sale on the open market under the Crichel Down Rules that are explained in Annex A.

The application process

- 4.5.5 The proposed eligibility process is that once an eligible homeowner's Blight Notice had been accepted, they would be asked whether they would like to take up the sale and rent back option. If they would, assessments would be made to establish:
- the un-blighted open market value of the property, as would be the case under the statutory blight procedure;
 - the cost of any repairs or improvements that might be needed to bring the property up to the legal letting standard; and

- the market rent, net of management costs, once those repairs had been completed.

- 4.5.6 If a property was accepted onto the scheme, the Government, under the Landlord and Tenant Act 1985, would become responsible for bringing the property up to a legal letting standard and for the majority of ongoing repairs. We would aim to work with the new tenants to ensure that any improvements were made in the least disruptive way possible. However, in cases where significant work is required, applicants may have to leave the property for a period of time to allow this work to be carried out. In these circumstances, alternative accommodation will be provided with the costs taken into account as part of the 'value for money' test detailed below.
- 4.5.7 These potential costs mean that before accepting an application for sale and rent back the Government would first need to run a value for money test. This would ensure that accepting the property onto the scheme would be an appropriate use of public money. For example, spending more on repairs and other associated costs than could potentially be recouped on rent before the property needed to be demolished would not represent good value for public money. The value for money test would be administered by HS2 Ltd as part of its role in running the sale and rent back scheme.
- 4.5.8 The value for money test would in practice become more stringent closer to the start of construction and demolition, as the potential for rental income would be reduced. As a result of this, and once more detailed construction plans and timetables have been developed, the Government would introduce cut-off dates after which it would not be possible to accept new applications for sale and rent back. Cut-off dates would be introduced on an area-by-area basis.
- 4.5.9 It is also important to note that value for money will continue to be a priority for the Government throughout the tenancy. If significant repairs, going beyond everyday maintenance, were required, for example a new roof, the Government would need to consider whether these costs could be recouped prior to demolition. If not, the Government might need to give notice to the tenants earlier than expected as the property would no longer meet the standards required to rent it out. While we expect such cases to be comparatively rare, if it were to occur then HS2 Ltd would make every effort to work with the tenants to manage this process in the least disruptive way possible.
- 4.5.10 Finally, there may be cases where owner-occupiers are content with the condition of their property, but despite this, substantial and expensive work would be needed to bring the property up to legal letting standards. In such cases, where the Government was unable to offer sale and rent back, the owner-occupiers would be free to choose to remain in their properties until their property was compulsory purchased or continue the Blight Notice process and move.

Tenancy contract

- 4.5.11 Sale and rent back tenancies would take into account the following:
- The government, in accordance with the value for money test outlined above, would give an assurance that we would give notice only if one or more of the following conditions applied:
 - the property was needed for the construction of the railway;

- HS2 Ltd was confident that the property would not in fact be needed and so could be sold, either back to the original owner as required under the Crichel Down Rules or (if the original owner did not want it) on the open market; and
- maintaining the property as a rental property no longer offered value for money;
- the tenancy would stipulate the impending construction project and expressly provide for the tenant to give up possession on receipt of reasonable notice;
- the Government would reserve the right to access the land and/or property for survey purposes if and when necessary; and
- sale and rent back tenants would not be allowed to sub-let the property.

A summary of the sale and rent back scheme

- The sale and rent back scheme would apply to those whose homes need to be demolished to build and operate the railway.
- Therefore, it would not apply to homes outside the safeguarded area.
- It would enable eligible homeowners to sell their homes to the Government and remain in residence as tenants until the property is needed for construction.
- Before accepting an application for sale and rent back the Government would first need to run a value for money test.
- A bespoke form of tenancy would be created to service 'rent back'.

QUESTION 4: What are your views on the 'sale and rent back' scheme?

4.6 Alternative approach

- 4.6.1 A small number of the properties purchased under the EHS for Phase One have been rented to their former owners. This has established a principle that rental of properties to their former owners need not be restricted to those properties that we expect to demolish. These rentals have been achieved using routine mechanisms for property management to ensure value for money for the taxpayer.
- 4.6.2 We therefore propose, as an alternative to the sale and rent back scheme discussed above, that we take an approach to management of all of the properties that we buy that includes as an option rental to the previous owner-occupier where it is economic to do so.
- 4.6.3 Various details of the scheme outlined above would be altered:
- home loss payments and reasonable moving costs would be payable only if the owner-occupier was eligible to serve a Blight Notice;
 - references to the Crichel Down Rules would apply only to homes that were in the safeguarded area; and
 - we would use standard assured shorthold leases and commercial management practices, rather than introduce the additions proposed above to tenancy contracts.

- 4.6.4 Extending sale and rent back to all properties could be attractive to many owner-occupiers. Use of standard leases and management practices would enable the Government to more effectively manage its property portfolio. By renting back properties which are not scheduled for demolition, the Government would be able to invest much more economically in maintaining those properties to a rentable standard, enabling occupiers to stay in the property for longer and with a higher standard of living. This more open alternative would also make renting the property back to the former owner a much more cost-effective prospect in the medium to long term. Furthermore, by opening this option to properties further from the railway line, it is reasonable to assume greater benefits to community cohesion from enabling more owner-occupiers to remain in their homes as tenants after those homes have been sold to the Government.

A summary of the alternative approach

- The principle of renting back properties to their former owners would apply to all homes purchased by the Government through an HS2 property purchase scheme.
- It would enable eligible homeowners to sell their homes to the Government and remain in residence as tenants.
- Before accepting an application for sale and rent back the Government would first need to run a value for money test.
- We would use standard assured shorthold leases, rather than introduce the additions proposed above to tenancy contracts.

How does this differ from the 2012 consultation?

- The sale and rent back scheme is as presented in October 2012.
- We have presented an alternative that meets the same objectives in what we believe is a simpler and fairer way. The explanation for offering the alternative is set out above.

QUESTION 5: What are your views on our alternative proposals for renting properties to their previous owners?

4.7 Establishing a rural support zone (RSZ)

- 4.7.1 The Government recognises the consequences of generalised blight on the property market. At the current stage of the project's development, this effect is also likely to be found outside the safeguarded area. However, it is not possible to develop any precise assessment of the extent of generalised blight. There are several reasons for this:

- While it is generally true that generalised blight is greatest close to the route and is less severe further away, it would be incorrect to assume that there is an even gradient of generalised blight depending on the distance of a property from the route. The severity of generalised blight will vary with a range of factors, including:

- the local terrain – concerns about the effects of the route will vary depending on whether the railway would run through a plain, a valley, dense woodland, a hilly area, an industrial area, etc;
 - whether the route runs level with the ground, in a cutting, or on an embankment or viaduct; and
 - plans for mitigation of the effects of the route, which may change over time.
- The effects of blight vary over time. As plans for the railway become more developed and uncertainty reduces, generalised blight will start to reduce. The pace at which this happens will vary from one location to another.
 - It is generally accepted that blight is more readily felt in rural areas, which are by their nature less accustomed to large-scale developments or construction sites.
 - Generalised blight does not, in any event, have a direct relationship with the real effects of the railway. Generalised blight is caused partly by concerns, fears and uncertainties, which lead to a lack of confidence in the property market. While these factors have their origins in the Government's proposals for a railway, feedback from the public indicates that fears and concerns are sometimes sustained by misperceptions or confusion about what exactly is proposed.

4.7.2 These factors make it impossible to assess or forecast in a meaningful way the degree of generalised blight to which a property is subject, or to use such an assessment as the basis for a discretionary property scheme.

4.7.3 The Government is consulting on alternative discretionary scheme options for rural areas that would be available to people who live within a specified distance of the proposed line, but outside the safeguarded area. This region, or 'zone', would be called the 'rural support zone' (RSZ).

4.7.4 Subject to the outcome of this consultation, a RSZ would be brought in as soon as possible and remain in operation until one year after Phase One of HS2 became operational. Once the railway had been open for one year, eligible property owners would be able to make a claim for Part 1 compensation payments under the Land Compensation Act 1973 as set out in Annex A of this document.

4.8 Where would a RSZ run?

4.8.1 We expect that negative effects on the property market will be particularly felt in rural areas where the lack of existing transport infrastructure and low population densities mean that impacts are likely to be felt further away than would be the case in more urban areas. This reasoning has been borne out by the higher number of Exceptional Hardship Scheme applications we have received from rural areas. We have incorporated this thinking into our proposals, meaning that no RSZ will be created beyond the West Coast Main Line junction at Handsacre, past Water Orton on the approach to Birmingham or within the urban area of Greater London.

4.8.2 In October 2012 we proposed that a 'voluntary purchase zone' would run from the M25 to the HS2 / West Coast Main Line junction at Water Orton. However, having listened to feedback from members of the public that this proposal may not include all areas of a predominantly rural character, we have modified the boundary. We are

now proposing that the rural support zone, and consequently voluntary purchase, should operate north of the point where the HS2 route crosses the boundary between Buckinghamshire and the London Borough of Hillingdon. For practical reasons, because the actual boundary is the river which follows a meandering course at that point, we have chosen the point where the latest proposed HS2 route crosses nearby Moorhall Road as the start point for the rural support zone. Maps identifying the proposed RSZ are available at: www.hs2.org.uk. This change extends the RSZ further than the 'voluntary purchase zone' proposed in the 2012 consultation.

- 4.8.3 We also propose to exclude those areas where the line is in deep-bored tunnels, as properties in these areas will not experience the same level of impact from either the construction or operation of HS2.
- 4.8.4 Although the preferred line of route for Phase One of HS2 has been identified, this route is subject to change through Parliamentary process and it will not be fixed until the hybrid Bill reaches Royal Assent. The rural support zone that is proposed uses the latest alignment for HS2 as of May 2013 (as set out in the recent draft Environmental Statement consultation materials).
- 4.8.5 In drawing up this proposal, we have explored the option of extending the RSZ to more urban areas. However, such a corridor in more urban areas would encompass homes a number of streets away from the proposed line, where the impact of HS2 is likely to be negligible. Such an approach cannot be justified.
- 4.8.6 While not perfect, using a distance from the line allows for a supplementary scheme that is easy to understand and which focuses taxpayers' money on those most likely to experience generalised blight over the entire life of the HS2 project.

4.9 Options for providing assistance in a RSZ

- 4.9.1 We are considering two options for providing support to property owners within the proposed RSZ. These are:
- establishing a discretionary voluntary purchase scheme available to people who live up to 120m from the centre of the proposed line but outside the safeguarded area; or
 - establishing a property bond scheme operating within a distance-based boundary set with reference to further assessment of costs and benefits.
- 4.9.2 These options are set out in more detail in the next chapter.

5 Options for the rural support zone

5.1 Voluntary purchase scheme option

5.1.1 One option for the RSZ is to introduce a voluntary purchase scheme, whereby eligible owner-occupiers of property within the rural support zone would be able to ask the Government to purchase their property at 100% of its un-blighted open market value.

5.1.2 By 'eligible property owners', we mean all those with a qualifying interest under section 149 of the Town and Country Planning Act 1990 – i.e. residential owner-occupiers, owner-occupiers of small business premises with a rateable value not exceeding £34,800, and owner-occupiers of agricultural units. These are the same categories of property owners who, if they were within the safeguarded area, would be eligible to serve a Blight Notice.

Setting a boundary

5.1.3 We propose that under a voluntary purchase scheme, the RSZ would extend up to 120m either side of the line, where the land had not already been safeguarded. The safeguarding area typically extends 60m either side of the line, but with adjustments to take account of local geography and construction needs.

5.1.4 In proposing a distance of 120m for the RSZ, the Government does not mean that all properties within 120m of the line will be blighted in reality, or that all properties further away will not be blighted. The boundary has been selected to balance the burden on the taxpayer with the Government's intention to be more generous than the law requires, and in recognition that blight is more likely to be felt in rural than in urban areas. This approach follows the precedent set by HS1, where a 'voluntary purchase zone' was established, within which voluntary purchase operated.

5.1.5 We propose to consider properties that are only partly within the RSZ on a case-by-case basis, but we are likely to favour acceptance. For example, if you are the owner-occupier of a typical residential property and a significant part of your garden is within the RSZ, we would be likely to accept your application to sell your property to the Government. We would, however, be likely to contest applications where only a small part of a much larger property lies within the RSZ.

Valuing properties

5.1.6 Successful applicants would have their property purchased by the Government at 100% of its un-blighted, open market value. This value would be assessed using two independent valuers, chosen from a pool of valuers familiar with the local area and property type. The Government would pay for these valuations.

5.1.7 The property owner would select one of these valuers from the pool while HS2 Ltd would choose the other. The final valuation would be the average of the two. If the valuations differed by more than 10%, the applicant would have the choice of selecting another valuer to conduct a third valuation. The offer made would be the average of the closest two valuations.

5.1.8 It would be impractical to appoint valuers afresh each time HS2 Ltd needs to procure valuations. Instead, it is proposed that valuers must pre-qualify for this work and enter into an arrangement called a 'framework'. Valuers for specific pieces of work would

be chosen from those who are on the framework. They would remain independent of HS2 Ltd.

- 5.1.9 We do not propose to offer property owners who sell under voluntary purchase any additional compensation payments on top of the un-blighted open market value of their property. That is because this is a voluntary scheme and it is very unlikely that any of the properties within the RSZ will need to be compulsorily purchased.

Summary of voluntary purchase

- Would provide owner-occupiers of properties up to 120m from the line with a guaranteed buyer for their property should they wish to sell.
- Owner-occupiers would sell their property to the Government for 100% of its un-blighted value – that is, the value were there no proposals for HS2.
- The Government would be obliged to buy homes from all eligible owner-occupiers. There would be no way of forecasting or limiting the impact this would have on communities.
- There would be no need to pre-value all properties within the rural support zone, and therefore the administrative burden for the Government or for owner-occupiers prior to receipt of individual cases would be limited.
- The Government would need to adopt a policy for sale or management of these rural homes to minimise losses to the taxpayer and to avoid causing blight through poor management practices. This could be done by selling properties back into the market quickly. In that case, potential new owners would be aware of the proximity of the railway and be able to plan accordingly. Alternatively, the Government could hold the properties, letting them out and selling them in due course.

How does this differ from the 2012 consultation?

- The southern boundary for the new rural support zone has changed as opposed to its predecessor 'voluntary purchase zone'.
- Maps demonstrating the rural support zone have been updated in order to reflect route re-alignments and the revised southern boundary of the zone as discussed above.

- 5.1.10 In all other respects, the scheme is as proposed in October 2012.

QUESTION 6: What are your views on our proposals for a voluntary purchase scheme within a 'rural support zone'?

5.2 Property bond option

What is a property bond?

- 5.2.1 The term 'property bond' has been used to describe a range of proposals to support property owners affected by major long-term developments. The defining characteristic of property bond schemes is the idea that eligible property owners, at an early stage of the project's development, would be given a specific and binding promise of a well-defined, individual settlement, which the property owner would

be entitled to redeem in specified circumstances. If the bond recipient transfers the property to a third party, the bond would also be transferred to the same third party. Settlements would be defined with reference to independent professional property valuations.

- 5.2.2 Property bond proposals are of two broad types. A 'time-based' property bond scheme would involve a specific promise to purchase an individual property at a defined time – for example, following a specific event or a specific marketing period. In contrast, a 'value-based' property bond scheme would involve a specific promise to compensate for any difference between the price an individual property achieves in the open market, and a specified price which that property would be likely to achieve in the absence of the relevant major development. Value-based property bond schemes have sometimes been described and defined as 'compensation bond' schemes, as distinct from other 'property bond' schemes, but all such schemes have much in common, so they are treated in this chapter as varieties of the property bond concept.
- 5.2.3 The aim of property bond schemes is to ensure that eligible property owners do not suffer unreasonable losses because of any reductions in the market value of their properties, caused either by the direct impact of the proposed development, or 'blighting' effects of the proposed development on local property markets. Some proponents of property bond schemes also claim that bond schemes, by building confidence in property values and helping to maintain normal property market activity, can also help to prevent or reduce property blight.
- 5.2.4 As is the case for all other forms of discretionary support or compensation, promoters of major developments are not required to consider or implement property bond schemes, so any decision to do so is at the discretion of the scheme promoter.
- 5.2.5 A handful of property bond schemes have been designed or partially implemented by private companies in the United Kingdom, but none of the relevant major developments have commenced construction. Those bond schemes have been generally modest in geographical scope, aiming to support a well-defined group of property owners either within an area proposed for redevelopment or in the immediate vicinity. Their aim has generally been to provide support to people very likely to suffer property blight; they have not attempted to prevent or reduce the extent of blight itself. No property bond scheme has yet been developed or introduced by any national or local Government organisation in the UK.

Property bond proposals and HS2

- 5.2.6 Since the Government set out its initial proposals for Phase One of HS2, a number of organisations and individuals have argued that the Government should use its discretion to implement a property bond scheme to assist property owners affected, or potentially affected, by HS2. Some of those organisations and individuals have described the specific features of bond schemes that they consider appropriate for HS2.

The HS2 Action Alliance (HS2AA), a group opposed to the HS2 project, has published a description of a 'Recommended Bond Scheme' and has campaigned for it to be adopted as a supplement to other proposed discretionary measures.

The current (May 2013) version of the HS2AA proposal is a 'time-based' bond scheme, under which property owners could have their properties purchased following a marketing period. It has several features distinguishing it from previous bond schemes developed in the UK. For example:

- Eligibility for bonds would not be defined by any kind of boundary, and bonds would be available to all homeowners, not just owner-occupiers. Any property owner who considers they may be potentially affected by HS2 would be entitled to apply for a bond, and could redeem it if they can later show that HS2 had an impact on the value of their property, or their ability to sell it;
- Bonds would be available to owners of property in urban areas, and around proposed tunnelled sections, on the same basis as they would be available to other property owners; and
- Buyers of properties subject to bonds would be entitled to reclaim the Stamp Duty Land Tax charged on their purchase.

The HS2AA has argued that this scheme would be likely to prevent the spread of property blight associated with HS2 and reduce its severity, as well as providing fair support for property owners.

The full HS2AA proposal can be seen at:

<http://www.hs2actionalliance.org/index.php/compensation/property-bond>

Another proposal specific to HS2 Ltd that we have received is of the 'value-based' type. For example:

- The bond could only be redeemed after the opening of the relevant phase of HS2, if bond-holders could show that the operation of HS2 had blighted their property;
- Bonds would be offered to property owners within a defined boundary that reflects the extent of actual property blight, ascertained through property market data and evidence from estate agents;
- As in the HS2AA proposal, buyers of properties subject to a bond would not be required to pay Stamp Duty Land Tax.

The aim of such a bond scheme would be to focus on tackling blight as it occurs, by 'underpinning' the market value of properties across a wide area while preventing distortions in local property markets – for example, distortions that could occur if the Government were to acquire a large number of homes in a particular area.

- 5.2.7 As described in chapter 3, the Government's aim for discretionary property schemes for Phase One of HS2 is to achieve the best balance between a set of specific policy objectives relating to fairness; value for money; community cohesion; feasibility, efficiency and comprehensibility; and the functioning of the housing market.
- 5.2.8 In considering which package of property scheme proposals for Phase One of HS2 could achieve the best overall balance between these objectives, we recognise that a positive case for property bonds could be made.
- 5.2.9 All the options we have considered for discretionary property schemes would involve making commitments of one form or another to property owners who are affected, or who may potentially be affected, by the HS2 proposals. However, under a property bond scheme, instead of making general commitments to groups of property owners, the bond scheme operator would make specific commitments, backed by the Government, to individual property owners at an early stage. It is reasonable to assume that such specific and individual commitments would provide greater certainty and comfort to property owners and potential buyers. This greater certainty and comfort could in turn help to achieve some of our policy objectives.
- 5.2.10 However, given that no property bond scheme has been implemented and tested in the UK through the actual construction of a project, there is no information available about the effect of bond schemes in practice on property owners, potential buyers or property blight. Any bond scheme would involve making binding commitments to property owners; these could result in substantial liabilities that would have to be covered by taxpayers. Our aim to achieve value for money requires us to be confident that any such use of public money would be likely to bring corresponding benefits. So, before introducing a bond scheme, the Government should be confident that a package of discretionary measures that includes a property bond scheme would do significantly more to achieve our policy objectives than a package without such a scheme, by achieving a better overall balance between the policy criteria set out in chapter 3.
- 5.2.11 To help us assess a potential bond scheme for Phase One of HS2, the Department for Transport commissioned a review and assessment of property bond schemes and proposals from property advisers at Deloitte LLP. We also asked Deloitte to propose the design of an 'optimal' bond scheme that would be most likely to achieve the best balance between the Government's policy objectives for discretionary HS2 property schemes. Our aim was to ensure that the potential costs, benefits and risks of this optimal property bond option could be fairly considered by the Government, and by respondents to this consultation, alongside other proposals.
- 5.2.12 The Deloitte report and advice is summarised below. This summary is followed by the Government's response to this advice and other bond scheme proposals. The full text of the Deloitte report has also been published at www.hs2.org.uk alongside this consultation paper. A full description of Deloitte's proposals for a property bond scheme for HS2 is included in this consultation document, as Annex B, to help illustrate how a scheme of that type would work.

Summary of Deloitte advice

- 5.2.13 Deloitte reviewed the design and operation of property bond schemes designed for other UK developments, distinguishing between 'time-based' property bond

proposals involving promises to purchase homes, and 'value-based' proposals involving compensation payments. They considered the relevance of such schemes to the HS2 scheme and the Government's policy objectives. They then compared these to other proposals put forward for HS2 property bond schemes – including the proposal from the HS2AA, and considered the extent to which those proposals would meet the Government's policy criteria. Their report advises that:

- it is not possible at this stage to undertake meaningful quantitative analysis of the bond schemes studied, particularly because no property has ever been acquired under previously developed schemes and there is little data available on their effects;
- previous bond schemes developed in the UK were largely aimed at the owners of properties that would be acquired by the scheme promoter in order to build the proposed development. They were not designed to address blight effects on properties not required for the development, which is a key aim of the bond schemes proposed for HS2;
- in general, value-based property bond schemes (compensation bonds) would do less than time-based property purchase schemes to create certainty in property markets and enable normal property market function; value-based schemes may also have a greater tendency to reinforce or 'crystallise' perceptions of loss in value that would otherwise be only temporary;
- a value-based property bond scheme would carry a risk of greater exposure to collusion or fraud, because the payment made by Government would be determined by the price agreed between third parties with a stake in the outcome, rather than through independent professional valuations.
- a bond scheme that does not restrict eligibility through a defined boundary could attract a potentially unlimited number of applicants; and the cost of independent valuations required before bonds could be issued under such a scheme could be prohibitive; and
- there is some risk that the existence of an HS2-related property bond on a particular property, or on nearby properties, may affect market perceptions of the impact of HS2 on that property – even where those impacts would otherwise be unlikely to affect the value or marketability of that property. Any adverse market perceptions of this kind could risk prolonging, deepening or widening blight effects. It is hard to assess the size of this risk in the absence of data from real-world schemes.
- given the long-term nature of the Phase One HS2 project, any bond scheme in which bonds could not be redeemed until after the opening of Phase One (i.e. not before 2026) may do relatively little to support the housing market in the early stages of the project, when property blight effects are likely to be at their peak, or to reassure buyers whose primary concerns are about impacts during the construction phase.

5.2.14 In making proposals for an 'optimal' property bond scheme for HS2 Phase One that achieves the best balance between the Government's policy objectives (as described in Chapter 3), Deloitte has generally avoided the more novel features of the bond schemes previously proposed for HS2. In its view, an 'optimal' property bond scheme

would broadly reflect the overall design of bond scheme proposals previously developed by private companies in the UK, but would include some new features that take account of the nature of the HS2 project.

The scheme proposed by Deloitte LLP for Phase One of HS2 has the following design features:

- Owner-occupiers who acquired residential dwellings before 10 March 2010, within an area up to 120m each side of the centre line of the proposed railway (or within any safeguarded land outside this corridor) in rural areas, may apply for a bond.
- Bonds would also be available on the same basis to any persons entitled to serve a Blight Notice relating to property within the areas safeguarded for the scheme (this would include eligible owners of smaller business premises and owner-occupiers of agricultural units).
- The bond issued would state a 'base bond price', reflecting either an actual price paid for the property within the 12 months before 10 March 2010, or an independent professional assessment of the property's value on that date.
- The price set by the bond would be kept adjusted, through indexation, to reflect subsequent changes in average property values in the relevant area. Bond prices would also be adjusted to reflect any significant changes in the size, configuration or condition of the property.
- The bond transfers to the property's new owners in the event of a sale, inheritance, mortgage repossession or other transfer of the property.
- Any extant bonds would expire one year after Phase One of HS2 becomes operational, at which point property owners would instead be able to pursue claims under Part 1 of the Land Compensation Act 1973.
- If a holder of a bond for a property within a designated safeguarded area wishes to redeem the bond and sell their property to the bond scheme operator, they may do so on request, subject to any necessary re-inspection or revaluation to confirm a bond purchase price, and would also be eligible for a home loss payment and a disturbance payment.
- If a holder of a bond for a property within the remaining bond scheme area (i.e. the rural corridor 120m each side of the centre line) wishes to sell their property, they will notify the bond scheme operator. The operator will inspect the property and confirm the bond purchase price. The property would then be marketed by the owner for six months. If within that time the property does not sell at a price at or above the bond purchase price, it would then be purchased by the bond scheme operator for that price. The bond scheme operator would pay estate agents' fees if they are able to arrange a sale at or above the bond purchase price. No other payments would be made to the bond holder.
- Given that the qualifying area of the proposed bond scheme is the same as that of the voluntary purchase scheme proposed above, Deloitte does not consider it would be necessary for both schemes to be in effect at the same time.

- 5.2.15 Deloitte has advised that its proposed property bond scheme would be practicable and could be consistent with the Government's policy aims, in particular by possibly doing more overall than the package described in chapter 4 to support the normal operation of local property markets in and around the HS2 Phase One route. However Deloitte also highlights very significant uncertainties, because property bond schemes are untested in practice in the UK. The effects of such schemes on property markets, and on the perceptions and decisions of property owners, potential property buyers and property professionals are unknown. Deloitte has also noted that the proposed scheme would involve significant additional administrative costs, because of the need for independent property valuations in advance of issuing bonds, and the need to keep the value of the bond up to date (for example, to reflect changes in the condition of the property).

Consideration of property bond options for HS2

- 5.2.16 In considering the various proposals made for property bond schemes for HS2, the Government has taken careful account of the independent expert advice from Deloitte, as well as the various proposals, submissions and ideas submitted by others. We know that all interested parties share a strong desire to be fair and supportive to property owners – many of whom are understandably anxious about the effect of HS2 on the value of their properties – and to enable property market conditions around the HS2 scheme to be as close to normal as possible during and following the development. We accept that a well-designed property bond scheme, in theory, may have the potential to improve the position of property owners affected by HS2 and further our policy objectives relating to fairness, property market function and community cohesion.
- 5.2.17 However, the Government also has a duty to ensure that our policies are likely to offer value for money, in terms of their overall pattern of costs and benefits, taking into account relevant risks and uncertainties and the need to ensure affordability. We must also ensure our policies can be administered efficiently and effectively. So in considering property bond proposals, we must also take these issues into account before making decisions, seeking to ensure that the package selected meets our objectives and achieves the best overall balance between the criteria set out in chapter 3.
- 5.2.18 It is clear from the Deloitte review of property bond proposals that there is very little hard evidence available to help inform an overall assessment of property bond proposals. All such proposals rely on as-yet untested assumptions about how people in the British residential property marketplace – property owners, potential buyers, and property professionals such as valuers, estate agents and mortgage lenders – would behave in response to the offer and issue of a property bond. The claimed benefits of property bond schemes derive from predicted changes in their behaviour.
- 5.2.19 It is also important to separate the potential effect of a bond scheme on behaviours from the potential effect of other incentives – such as proposals for Stamp Duty Land Tax exemption or reimbursement. The Government believes that bond schemes could be justified only if they produce desirable behaviour changes in their own right, discounting any effect of other financial incentives. So for the purpose of considering property bond options on an equal basis with other options, we have not taken into account any potential effects of changes to taxation policy.

- 5.2.20 In the absence of any data from mature property bond schemes implemented in the UK, the behaviour changes due to such schemes are inherently very uncertain. The review of property bond proposals carried out by Deloitte has necessarily been of a largely qualitative nature, relying on existing knowledge of UK property markets. We did not ask Deloitte to carry out detailed technical studies or modelling work on property bond proposals, as there was limited time available for their review since the High Court judgment, and, given the wider uncertainties, we could not be confident that such studies would produce useful additional information.
- 5.2.21 However, we are confident that the Deloitte advice reflects the company's extensive professional experience of the UK residential property market, which has enabled it to make judgements about likely responses to various proposed bond schemes. Nonetheless, Deloitte has emphasised that there remains a great deal of uncertainty about the market response to any property bond scheme. This degree of uncertainty, the Government believes, justifies a cautious approach to property bond proposals for Phase One of HS2.
- 5.2.22 The Government accepts the Deloitte advice that property bond schemes which are not defined by a specific boundary would attract many more valid applications for bonds than options defined by a specific boundary. Boundary-free schemes would be very likely to lead to much higher administrative costs, to cover the necessary costs of robust, independent property valuations. These additional up-front costs are hard to predict with any degree of confidence, because it is hard to foresee how many property owners would apply for a bond offered without such a restriction. Given the lack of real-world evidence about the effect of property bond schemes, there is no evidence available to show that those significantly higher costs would be likely to achieve corresponding benefits.
- 5.2.23 We do not therefore propose to introduce any property bond scheme that does not feature a clear boundary to define eligibility.
- 5.2.24 We also accept the Deloitte advice that value-based property bonds (compensation bonds) would do less than property purchases underpinned by time-based property bond schemes to encourage normal property market conditions and address the extent and spread of property blight. It could reasonably be argued that value-based schemes would prevent the Government from having to acquire residential properties it does not need for construction of the railway, and reduce the impact of excessive Government acquisitions on vulnerable communities. However, schemes of this nature cannot provide a buyer who is willing and ready to acquire properties at the un-blighted price. So these schemes fail to prevent situations in which owners are unable to sell their properties except at a significant discount. Compared with time-based property bond schemes, we therefore agree that value-based bond schemes are much less likely to address adverse market perceptions of property blight, or prevent the spread of blight to new areas.
- 5.2.25 For this reason, we do not propose that the Government should introduce a value-based property bond scheme. We have noted the Deloitte advice that such schemes may also be more vulnerable to collusion or fraud, but as we have a clear reason for not proposing such a scheme, we have not examined in detail whether there might be potential to reduce that risk.

Preferred property bond type

- 5.2.26 Of the various bond schemes that have been proposed for HS2, we consider that property bond schemes of the Deloitte type – time-based property bond schemes, with eligibility determined with reference to a clearly defined boundary – appear to perform the best overall against the policy criteria set out in chapter 3. We have therefore considered the key design issues for property bond schemes of this type, and whether such a scheme should be introduced for HS2.
- 5.2.27 Under a scheme of this type, it would be necessary for a property to be marketed for up to six months before the Government would consider buying it at the agreed price, in order to give the property market the necessary opportunity to function normally. Without this marketing period it is unlikely that any of the suggested property market benefits of the bond scheme would be achieved.
- 5.2.28 This type of bond scheme would not be implemented alongside the proposed voluntary purchase scheme proposed above, although it could be accompanied by the other discretionary property measures set out in chapter 4. The voluntary purchase scheme would not require property owners to offer their properties for sale in the marketplace, and would be preferred by many eligible property owners because it would be likely to offer them a quicker and more certain sale process. The Government believes that introducing a voluntary purchase scheme alongside a Deloitte-type bond scheme would therefore undermine the bond scheme in practice, and significantly reduce the property market benefits it might otherwise offer.
- 5.2.29 Defining a simple distance-based boundary to determine eligibility for a Deloitte-type bond is likely to be relatively objective and less prone to challenges and disputes – and therefore easier, quicker and less expensive to administer – than defining a boundary through other methods. Such a boundary could in theory be set at any distance. The Government does not have a view at this stage about which distance would be most appropriate. However, the Deloitte analysis suggests that as that distance increases, the likely administrative costs of such a scheme would rise rapidly, while the scheme's overall property market benefits would tend to approach a limit. We would therefore take account of such costs and benefits in determining the boundary distance of any Deloitte-type property bond scheme for HS2, should we decide to introduce one following this consultation.
- 5.2.30 Deloitte has assessed the benefits of its proposed property bond scheme design, if made available within a 120m boundary. Deloitte suggests that such a scheme would achieve – subject to the high degree of uncertainty already noted – an overall performance against the policy criteria set out in chapter 3 that is broadly equivalent to the proposed voluntary purchase scheme. It believes such a scheme might achieve somewhat greater property market benefits than the proposed voluntary purchase scheme in the same area, while noting that there is no evidential support for this judgement. On the other hand, this scheme would result in greater up-front costs than the voluntary purchase scheme, due to the need for additional valuations of properties before bonds could be issued, and greater ongoing administration costs.
- 5.2.31 The Government has noted these Deloitte conclusions, but we are conscious of the great uncertainties involved in this kind of analysis. In considering whether to implement a property bond scheme of the Deloitte type, as an alternative to the

voluntary purchase scheme, we wish to take into account the views, comments and suggestions of people responding to this consultation.

- 5.2.32 We would also welcome any additional evidence from respondents that may help us to determine the most appropriate detailed design and boundary for a bond scheme of the Deloitte type, to assess the likely overall costs and benefits of such a property bond scheme, and to decide whether these provide a better overall performance against the policy criteria set out in chapter 3 than the alternative voluntary purchase scheme.

QUESTION 7: What are your views on the option to introduce a 'time-based' property bond scheme within a 'rural support zone' as an alternative to the voluntary purchase scheme?

6 Atypical properties and special circumstances

6.1 Flexibility

- 6.1.1 The Government recognises that properties vary widely, as do the circumstances of owner-occupiers. Accordingly, the Government has purposely designed its proposed discretionary schemes to be broad, inclusive and flexible.
- 6.1.2 This said, we appreciate that it may be desirable to supplement our compensation proposals with further assistance for atypical properties. By 'atypical properties', we mean properties to which the strict application of our rules would unfairly disadvantage the owner over typical applicants for compensation. Similarly, some individuals may be subject to unusual circumstances which mean that additional assistance or support is needed.
- 6.1.3 We would expect in most instances that flexibility could be provided within the structures of the discretionary schemes proposed here. Where that is not possible, HS2 Ltd will work directly with owners of atypical properties or those who are experiencing special circumstances in order to consider how their needs can best be met while protecting the interests of the taxpayer.

7 Private rented housing

7.1 Effects of blight

- 7.1.1 The proposals in this document are primarily aimed at owner-occupiers of residential property. The Government recognises that owner-occupiers are particularly affected by the generalised blight that the proposals for HS2 will cause, which inhibits the property market close to the proposed route, making it difficult to sell properties as the owner needs or wishes. Reasons for selling vary – with changing family needs, personal circumstances or financial pressures. The long timescales for the project mean that these difficulties will continue for so long that it will make a significant difference to owner-occupiers' freedom to live as they wish, subject to the general property market, for a substantial period of time.
- 7.1.2 The Government considers that people who rent their homes are not affected in the same way by generalised blight, as the perceived value of the property they occupy need have no effect on the tenancy arrangements.

8 Businesses

8.1 Businesses affected by HS2

- 8.1.1 This document is focused on addressing the needs of owner-occupiers, which includes owner-occupiers of any business property where the annual (rateable) value of the premises does not exceed £34,800 in the 2010 valuation list and owner-occupiers of an agricultural unit with at least six months' occupation of the whole or part.
- 8.1.2 The Government considers that other business premises are not affected in the same way by generalised blight. Accordingly, we do not see a need to assist such businesses through discretionary schemes like those in discussed in this consultation.
- 8.1.3 This is not to say that no recourse is available to those businesses directly affected by HS2. The compensation code includes provisions to ensure that businesses are fairly treated where the railway has an actual effect on a business. We recommend that businesses make contact with HS2 Ltd to understand the effect the railway will have on their premises or activity and open a dialogue about measures that will need to be taken in the future to enable the business to continue.
- 8.1.4 The Government has committed to undertake in-depth, one-to-one engagement with larger businesses to ensure that their unique and diverse circumstances are appropriately catered for throughout the development of HS2. For instance, we will seek to work with affected businesses in finding alternative accommodation and to help them relocate successfully.

9 Summary of consultation questions

9.1.1 There are a number of reasons why the Government undertakes public consultations: to garner views and preferences, to understand possible unintended consequences of a policy and to get views on implementation. Increasing the level of transparency improves the quality of policy making by bringing to bear expertise and alternative perspectives, and identifying unintended effects and practical problems. This is a part of strengthening policy making.

9.1.2 The Government is determined to ensure that those directly affected by HS2 are treated fairly, and that the schemes we put in place to supplement the compensation code are the very best possible. We are therefore interested to hear the public's views on the range of questions below. The responses we receive will be analysed, and will help to shape the Government's long-term policy.

Summary of consultation questions:

1. What are your views on the criteria we have put forward to assess options for long-term discretionary compensation?
2. What are your views on our proposals for an express purchase scheme?
3. What are your views on the proposed long-term hardship scheme?
4. What are your views on the 'sale and rent back' scheme?
5. What are your views on our alternative proposals for renting properties to their previous owners?
6. What are your views on our proposals for a voluntary purchase scheme within a 'rural support zone'?
7. What are your views on the option to introduce a 'time-based' property bond scheme within a 'rural support zone' as an alternative to the voluntary purchase scheme?

10 How to respond and next steps

10.1 Closing date and further copies

10.1.1 The consultation closes on Wednesday 4 December 2013. Emails and online responses can be submitted until 23:59 on the final day of the consultation. Paper responses must be posted on or before the final day of the consultation.

10.1.2 If you would like further copies of this consultation document or the consultation response form, you can download them at www.hs2.org.uk. Alternatively you can order a hard copy by calling 0300 123 1102.

How to respond

10.1.3 You can respond to the consultation in the following ways:

- **Online:** you can respond online at www.hs2.org.uk
- **Response form:** these are available online at www.hs2.org.uk or can be requested by contacting 0300 123 1102
- **Email:** you can email your response to 2013hs2propertyconsultation@dialoguebydesign.com
- **Post:** you can post your response and additional material to the following FREEPOST address. You do not need to use a stamp.

Freepost RTET-YGJB-GUAH
Property Compensation Consultation 2013
PO Box 70178
LONDON
WC1A 9HS

10.1.4 If responses are sent to other addresses, HS2 Ltd and the Department for Transport cannot accept responsibility for ensuring their inclusion in the consultation.

10.1.5 All responses must include your name (and the name of your organisation, if applicable). If you are responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

10.1.6 If you have any queries, you can contact us at HS2Enquiries@hs2.org.uk or on 0207 944 4908.

Events

10.1.7 We are holding a series of consultation events to provide further information about the issues described in this document. Visitors to these events will have an opportunity to speak with members of HS2 staff, collect consultation documents and view maps relevant to the local area. Further information on these events is available at www.hs2.org.uk or by contacting 0207 944 4908.

Consultation responses will not be accepted at events. Please send these via the dedicated channels described above.

What will happen next?

- 10.1.8 Valid responses sent during the consultation period will be analysed as part of an independent summary report that the Government will use when making decisions about the proposals described in this document.

Freedom of information

- 10.1.9 Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.
- 10.1.10 If you want information that you provide to be treated as confidential, please be aware that, under FOIA, there is a statutory Code of Practice which guides public authorities and which deals, amongst other things, with obligations of confidence.
- 10.1.11 It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department for Transport or HS2 Ltd.
- 10.1.12 The Department and HS2 Ltd will process your personal data in accordance with the Data Protection Act 1998. In the majority of circumstances this will mean that your personal data will not be disclosed to third parties. The contact details you provide may be used to inform you of the outcomes of the consultation in due course.

11 Glossary

Assured Shorthold Tenancies: These are the names of the commonest forms of arrangement for the renting of houses and flats by private tenants. In their current form, they were introduced by the Housing Act 1988, but important changes were made by the Housing Act 1996 with effect from 28 February 1997.

An assured or shorthold tenancy is the usual form of letting if:

- you are a private tenant and your landlord is a private landlord;
- the tenancy began on or after 15 January 1989; or
- the house or flat is let as separate accommodation and is your main home.

Blight: Planning proposals such as HS2 may have an adverse effect on property so that an owner-occupier is unable to realise the market value that would have been obtainable had the owner's land not been affected by the proposals because prospective purchasers, having learned of the planning proposals, either will not proceed with the purchase or will only offer a lower price.

Blight Notice: A Blight Notice is a means of asking the Government to purchase a property on compulsory purchase terms before it is needed for construction.

Crichel Down Rules: The Crichel Down Rules are non-statutory guidance dating originally from the 1950s, relating to the disposal of land acquired by, or under the threat of, compulsory purchase. They contain the procedures for offering former owners, or their successors, the opportunity to purchase back, at current market value, land acquired from them which has become surplus to the purpose for which it was acquired, provided that it has not materially changed in character since acquisition. The current version was issued in 2004.

Crossrail: A railway line being built across London. Crossrail will connect 37 stations, including Heathrow Airport and Maidenhead in the west and Canary Wharf, Abbey Wood and Shenfield in the east.

Exceptional Hardship Scheme (EHS): The existing interim measure introduced to assist homeowners who have an urgent need to sell, but because of HS2, cannot do so or can do so only at a substantially reduced price.

Home-loss payment: If you are required to vacate your home for the construction of HS2, you may be entitled to receive a 'home-loss payment'. If you also own your home (either freehold or with a lease with more than three years still to run), you will be entitled to a sum equal to 10% of its value, subject to a current minimum payment of £4,700 and a current maximum of £47,000. This applies to all eligible properties subject to compulsory purchase. If the interest is other than an owner's interest, then the payment is a specified statutory amount (currently £4,700).

HS1: High Speed One – also known as Channel Tunnel Rail Link (CTRL) – is the high speed railway running from the Channel Tunnel to London St. Pancras.

Hybrid Bill: Public Bills change the law as it applies to the general public and are the most common type of Bill introduced in Parliament. Private Bills change the law only as it applies to specific individuals or organisations, rather than the general public. Groups or individuals potentially affected by these changes can petition Parliament against the proposed Bill and present their objections to committees of MPs and Lords. A Bill with characteristics of both a Public Bill and a Private Bill is called a hybrid Bill.

Initial preferred route: On 28 January 2013, the Secretary of State for Transport announced an initial preferred route for Phase Two. A public consultation on this route will run until 31 January 2014. Subject to the outcome of this consultation, along with ongoing development work, the route could change in the future.

Owner-occupier: An owner-occupier is anyone who owns a property (either outright or with a mortgage) as a freehold or on a fixed term of years lease (with at least three years unexpired) and has it as their principal residence or place of business. This is as laid out in the Town and Country Planning Act 1990.

Part 1 compensation: Compensation which may be claimed by the owner-occupiers of dwellings, small business premises and agricultural units under Part 1 of the 1973 Land Compensation Act for any reduction in the value of their property as a result of the physical effects of the operation of the railway. This can be claimed only after the scheme has been open for one year.

Rural support zone (RSZ): The area within which the Government proposes to introduce either a voluntary purchase scheme or a property bond scheme. The RSZ would apply in rural areas only, running from where the latest proposed HS2 route crosses Moorhall Road, close to the boundary between Buckinghamshire and the London Borough of Hillingdon to the junction with the West Coast Main Line. It would not apply south of Moorhall Road, or for the section of track towards central Birmingham to the west of the Delta junction at Water Orton. It would also not apply to areas where the line is in deep-bored tunnels. The distance of the outer boundary from the line of the route would be dependent on the scheme which was chosen.

Safeguarding: Safeguarding is a planning tool which aims to ensure that new developments which may conflict with planned infrastructure schemes do not affect the ability to build or operate the scheme or lead to excessive additional costs.

Stamp duty: Stamp Duty Land Tax (SDLT), more commonly known as 'stamp duty', is generally payable on the purchase or transfer of property or land in the UK where the amount paid is above a certain threshold. Broadly speaking, SDLT is charged as a percentage of the amount paid for property or land when it is bought or transferred.

Un-blighted open market value: This is the value that a property would have on the open market if the cause of blight were removed – in this case, if there were no plans for HS2.

12 Consultation principles

This consultation is being conducted in line with the Government's key consultation principles which are listed below. Full details of the Government's guidance on consultation can be found at <https://www.gov.uk/government/publications/consultation-principles-guidance>

This guidance was issued in July 2012 and replaces the Code of Practice for Consultation issued in July 2008.

If you consider that this consultation does not comply with the key consultation principles, or if you have comments about the consultation process, please contact:

Consultation Co-ordinator
Department for Transport
Zone 2/25 Great Minster House
33 Horseferry Road
London
SW1P 4DR

Email: consultation@dft.gsi.gov.uk

The key consultation principles are that:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
- departments will need to give more thought to how they engage with and consult with those who are affected;
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between Government and the voluntary and community sector will continue to be respected.

13 ANNEX A: The compensation code

The existing law around compensation and blight is complex and based on both statute and case law. It reflects the large variety of circumstances for which the compensation code must cater.

Set out below is a brief overview of how the compensation code works, who is eligible for compensation and what they are likely to receive. This information is intended to be introductory only. Further information can be found in existing guidance produced by the Department for Communities and Local Government.

What can be claimed?

The type and level of compensation paid to landowners² if their land is required on a compulsory purchase basis will depend on their circumstances. However, the categories of compensation (or 'Heads of Claim') paid to landowners are common across the system and are set out below:

- *The value of the land taken* – meaning the un-blighted open market value of the owner's interest in the land taken. In other words, the value of the land if there had been no plans for HS2;
- *Severance and injurious affection* – Severance is the loss in value of retained land when part of the holding is taken – for example, a 10 hectare field is worth less per hectare than the original 15 hectare holding that existed before five hectares were taken. Injurious affection is the loss in value of retained land because of construction on and use of the land taken (e.g. noise). Where no land is taken, injurious affection is the loss in value because of construction (e.g. restricted access);
- *Disturbance* – generally available only to the occupiers of properties³, it means compensation for the additional costs and losses incurred as a result of being required to move from a property both during construction and for subsequent use; and
- *Fees* – Meaning compensation for reasonable surveyors' and/or solicitors' fees that may be incurred as a result of the land being compulsorily purchased.

Residential owner-occupiers (freehold or leasehold with at least three years remaining) whose property needs to be compulsorily purchased could therefore expect to receive:

- the un-blighted open market value of their property;
- a home-loss payment (10% of the value of the property, subject to a current minimum payment of £4,700 and a maximum of £47,000) if they have occupied the property as their main residence for a year or more; and
- reasonable moving costs (such as expenses for removing possessions, surveyors' and legal fees and stamp duty on a new property of equivalent value).

It is important to note that tenants and lessees who are displaced from their homes may also be eligible for home-loss payments as set out in section 29(4) of the Land Compensation Act 1973.

More information about compensation payments for residential properties can be found at: <http://tinyurl.com/ljnmdw6>

² Compensation can be claimed by owners of land. The term 'land' includes any property on that land (i.e. building, for example a home). Therefore the value of land would include the value of land including any building on that land.

³ Based on case law, it may be possible to claim disturbance when not in occupation but only for the costs reasonably incurred as the unavoidable consequence of a compulsory purchase order and in relation to finding suitable similar alternative accommodation.

Owners or occupiers of commercial or agricultural land are also entitled to claim compensation under the same heads of claim outlined above. However, compensation payments may differ to reflect individual circumstances faced by owners or occupiers of commercial or agricultural land. For example, in addition to the un-blighted open market value of their interest in any land taken:

- Commercial property owner-occupiers could receive payments to cover the relocation or total extinguishment of their business. Non-occupying landlords of commercial or residential properties could receive a loss payment of 7.5% of the value of their interest in the property, up to a ceiling of £75,000. Moreover, occupiers receive 2.5% (up to £25,000) unless the value of the interest is small, when the land or buildings amount would be paid.
- For agricultural property owners, the un-blighted open market value of the land taken will reflect future profits that could be expected to be made from farming. Agricultural tenants (depending on the type of tenancy held) could receive compensation for the termination of all or part of their tenancy, as well as disturbance payments including an allowance for the sum that an incoming tenant would have been expected to pay for items such as growing crops. If only part of the holding is taken, a rent reorganisation payment of four times the rent of the land taken can also be made to help tenants to reorganise their estate.

If only part of a property is required, all residential, commercial or agricultural property owners will receive the un-blighted open market value of the land taken plus any loss in value to the part retained – as set out above, this is called ‘severance’. If a significant part of the land is lost (such that the part remaining will be less useful or significantly less valuable), it is possible to request that the acquiring authority, which in the case of HS2 is the Government, purchase the whole of the property. This is called ‘material detriment’ and occurs if it can be demonstrated that buying a part of a property would have a serious impact on the part which remains, making it significantly less useful or valuable. If a dispute occurs, the issue will be resolved by the Lands Chamber of the Upper Tribunal.

More information about compensation payments for commercial and agricultural properties can be found on the Government website at: <http://tinyurl.com/ljnm6w6>

When can compensation be claimed?

The Government intends to introduce a hybrid Bill for Phase One of HS2 later in 2013, providing compulsory purchase powers for HS2 that will become available for use once the bill is enacted (i.e. once it has received Royal Assent). Much of the proposed Phase One route was safeguarded on 9 July 2013. This means that applications for planning permission must be referred to HS2 to make sure that such development will not interfere with the construction or use of the railway. Safeguarding also means that a property owner whose property is wholly or partly within the safeguarded area will be eligible to serve a Blight Notice on the Government. A Blight Notice is a means of asking the Government to purchase a property on compulsory purchase terms before it is needed for construction.

In order to qualify to serve a Blight Notice, property owners must be one of the following:

- a resident owner-occupier of a private dwelling (i.e. a freeholder or lessee with at least three years’ unexpired term) who has occupied the property for at least six continuous months of the last 18 months;
- an owner-occupier of any business property where the annual (rateable) value of the premises does not exceed £34,800 in the 2010 valuation list;

- an owner-occupier of an agricultural unit with at least six months' occupation of the whole or part; or
- certain mortgagees and personal representatives.

A Blight Notice is valid for three years and allows the property owner to require the Government to buy the property on compulsory purchase terms at any point within that time. Unless a Counter-Notice is served a Blight Notice takes effect and is deemed to be accepted and requires the Government to buy the property. A Blight Notice may be served at any point after safeguarding directions are made. The Government may serve a Counter-Notice within two months if:

- no part of the property is within the safeguarding area;
- the property is not needed to build or operate the railway;
- only part of the land is required to build and operate the railway;
- on the date of the notice, the property owner is ineligible, for example:
 - because he/she has not shown 'all reasonable endeavours' to sell the property; or
 - the rateable value of the business is more than £34,800; or
- the property owner's interest in the property does not qualify (e.g. he/she is not a freeholder or lessee with at least three years left on the lease who has occupied the property for at least six continuous months of the last 18 months).

Property owners who do not agree with a decision to serve a Counter-Notice have two months to refer the matter to the Lands Chamber of the Upper Tribunal, which will determine the matter.

Property owners or occupiers whose property is required for the railway, but who are not eligible to serve a Blight Notice or who choose not to do so, will receive compensation if their property is acquired for the railway and will be required to move. However, particular properties may not be required until a considerable period after the Bill has received Royal Assent.

Part 1 compensation payments

If a property is not needed for the line, but will be physically affected (e.g. by increased noise, vibration or light pollution), the law allows owner-occupiers of dwelling houses, small business premises and agricultural units to claim for loss of value to their property as a result of these factors. These payments (known as 'Part 1 payments' after Part 1 of the Land Compensation Act 1973) can be claimed after the scheme or project has been open for one year (as it is only at this stage that the actual impact can be assessed).

The Crichton Down Rules

The Crichton Down Rules apply when a property that is compulsorily purchased is later found not to be needed for construction or operation of the scheme for which it was bought. Broadly, under the Crichton Down Rules, it has to be first offered to the former owner (or the former owner's successor) at the current open market value before an attempt is made to sell it on the open market.

Safeguarding

Safeguarding is the means by which the Government and HS2 Ltd will protect the land that is needed to build and operate the railway from conflicting development. The boundaries of the

safeguarded area for Phase One are based on planning and engineering factors to ensure inclusion of the land required, as well as areas where developments or projects could have an impact on the railway, based on current knowledge. This means that sites likely to be required for access or areas identified as potential construction sites may be included within the safeguarded area.

Following the consultation on the safeguarded area, the Secretary of State for Transport has issued safeguarding directions for Phase One. This means that local authorities need to seek the views of HS2 Ltd when they receive a planning application for the development of land within the safeguarded area. HS2 Ltd will then assess whether the proposals could conflict with plans for the railway. The aim of safeguarding is not to prevent development in the area surrounding the line of route, but to ensure that no conflict is created. This can often be achieved through the insertion of conditions on planning approval rather than outright rejection.

As well as protecting the land needed to build and operate the railway, the safeguarding directions also trigger what is known as 'statutory blight'. As described above, this means that property owners within the area may be eligible to serve a Blight Notice asking the Government to buy their property prior to it being needed for construction.

It is important to note that the inclusion of a property in the safeguarded area does not necessarily mean that it will need to be compulsorily purchased or demolished to make way for the railway. It is also possible that additional property or land outside the safeguarded area may be required as construction and engineering plans are further refined.

14 Annex B: Property bond summary

As explained in Chapter 5, to support property owners within the rural support zone proposed, the Government is considering an option to introduce a 'time-based' property bond scheme, in which eligibility would be determined with reference to a clearly defined boundary. The full description of the bond scheme proposed by Deloitte LLP (below) illustrates one potential design for a scheme of this type. If the Government decides to introduce a property bond scheme for HS2 following this consultation, final decisions on the design of that scheme would take into account available evidence, including evidence from people responding to this consultation.

Full description of HS2 Phase One property bond option, as proposed by Deloitte LLP

1. The property bond would be a legal agreement between a suitably qualified operator of the HS2 property bond scheme (potentially HS2 Ltd), and the owner of a qualifying interest in a property that is located within a defined geographical boundary. Within this boundary, the availability of a property bond would help support the normal functioning of the property market by offering eligible owners of qualifying interests⁴ the certainty and security that they can sell their interests at unaffected market value to the operator of the bond scheme, if they cannot sell them in the open market within a reasonable marketing period. The term 'bond' simply means a legal agreement, or promise, which would be attached to the deeds of a property and registered with the Land Registry. It would not in itself be a separate, tradeable commodity.
2. The existence of property bonds throughout the bond area would aim to underpin the market at 'pre-HS2' values because the bond scheme operator would commit to purchasing properties if they could not be sold at or above the bond price.
3. Within the geographical limits of the bond scheme, owners would be able to 'trigger' the bond at any point up to the closure of the bond scheme, which we propose to be one year after the railway line opens to passengers. After this date, the impacts of the construction of the railway will have abated and statutory 'Part 1 Claims' provisions would apply in relation to the operation of the railway.

How would the bond work?

4. The 'bond purchase price' of a qualifying interest would be the value of the property in its physical circumstances as it is seen at the date of valuation, but having regard to the prevailing economic environment (i.e. market) just before there was general awareness of the route of the proposed railway line. We have called this the 'base date'. The use of such an antecedent valuation date is quite common in the world of statutory valuations (e.g. for assessing business rates and Council Tax bands). To bring the valuation as at the base date up to date as it would have been without the HS2 Phase One proposals, the assessed value would be indexed forwards from the base date to the date of valuation using a reliable property market index. If circumstances have changed since the base date or the date of any previous bond issue – such as improvements or alterations, or a change in the condition of the property – this would be taken into account at the new valuation date.

⁴ The owner-occupier of a residential dwelling or mixed hereditament (i.e. residential property held together with commercial premises under single occupation) that is in (or substantially within) the safeguarded area or the owner-occupier of a residential dwelling that is in the area currently described as the rural support zone (RSZ). The qualifying interest must have been acquired prior to the base date of 10 March 2010, being the day before the initial announcement of the initial alignment of the HS2 Phase One route. For properties within the safeguarded area, this definition is extended to include any persons who would otherwise be entitled to serve a Blight Notice (i.e. owner-occupier of business property with a rateable value below £34,800 and owner-occupiers of agricultural units).

5. In summary, the bond purchase price would be determined according to the following general formula:

Bond Purchase Price	=	Assessed value as at the 2010 base date	+/-	Value impact of any alterations	+/-	Value impact of any change in condition	+/-	Indexation
(Value of the property as seen at the valuation date but disregarding HS2)		(Average of 2-3 valuations or, if higher, the actual purchase price if purchased within previous 12 months of the base date)		(since any previous bond issue)		(since any previous bond issue)		(in accordance with market movements for the type of property since the base date)

6. The bond issue process would be triggered by an owner submitting a form. The bond scheme operator would arrange for a survey of the property to be undertaken within a reasonable period (to be confirmed) to assess its value as at the base date, but as the property is seen at the valuation date.
7. The proposed base date is 10 March 2010, which is the day before the initial announcement of the preferred alignment of the HS2 Phase One route. The assessed value at this date would be determined by the average of two independent valuations; or, if the property had been bought within 12 months of the base date, the actual purchase price if higher, subject to it having been openly marketed. If the valuations differ by more than 15%, a third valuation would be undertaken, with the average of the highest two being used. The valuations would be undertaken at the bond scheme operator’s cost. To maintain standards, fairness and consistency, the operator will establish a panel of approved independent valuers, who are qualified to assess local values and record details of the property, such as its condition and its physical surroundings. The operator would append the valuers’ reports, including an agreed photographic survey and condition report, to the bond documentation. The operator’s website will provide guidelines to valuers on the principles of valuation to be adopted, together with examples and the required format of the valuation report.
8. We do not expect all owners of qualifying interests to require a valuation as soon as the bond scheme opens, as there may be no intention to sell immediately or at any time during the bond period. Knowledge that a bond may be taken out at any time before the bond scheme closes should provide owners with the security of knowing that if they chose to move, the bond would be available to them, and would transfer to the purchaser.
9. The bond scheme operator would publish on its website a house price index or indices, updated monthly⁵. The published index would enable property owners who were issued with a bond (or others who were aware of the approximate value of their interest at the base date) to estimate the bond price of their property at any point until the bond scheme closes.
10. In order for the bond price to mirror normal market conditions, the indexation would be applied upwards and downwards; that is, the bond price would move up or down in line with general market movement.

⁵ The index that Deloitte LLP proposes is the Land Registry House Price Index (HPI). See <http://www.landregistry.gov.uk/public/house-prices-and-sales>.

Where would the bond scheme apply?

11. The inner zone of the proposed property bond option would cover the safeguarded area (typically 60m from the line of route, but variable to match the likely land acquisition boundary). The outer zone would typically extend from 60m (or the extent of the safeguarding area) to 120m either side of the line in rural areas. The outer zone would apply from immediately outside the Greater London boundary and run to the junction with the West Coast Main Line. It would not apply within Greater London, or to the section of track towards central Birmingham to the west of delta junction at Water Orton.
12. The HS2 property bond option would be an alternative to the voluntary purchase scheme in the proposed rural support zone – i.e. the two schemes would not operate alongside each other. Within the safeguarded area, the usual compensation code provisions would continue to apply, but under this option the bond scheme mechanism could be adopted as an alternative by a qualifying owner.
13. The principles of the advanced purchase scheme would apply under the bond option in the safeguarded area. In other words, an eligible property owner could ask the bond scheme operator to buy the property under the terms of the bond scheme before it is needed for the construction of the railway without the need to demonstrate an effort to sell the property.
14. Within the bond area, but outside the safeguarded area, owners would need to demonstrate an effort to sell the property at or above the bond price – see below.
15. This property bond scheme would not be available for properties beyond the geographical boundary set out above – namely, for areas more than 120m from the line of route (or the safeguarded area where that is further). Beyond the bond scheme boundary, the proposed long-term hardship scheme would apply.

When would the property bond scheme be valid?

16. The property bond scheme would commence from the date on which the hybrid Bill for Phase One is deposited, but for the first six months it would be available only within the inner bond area (safeguarded area) and to those owners in the outer bond area (typically to 120m) who wish to put their houses on the market within this period. After the first six months, it would be open to all in the inner and outer bond zones. The scheme would last until one year after Phase One opens to passengers (which is currently estimated at 2026). At this point, statutory Part 1 compensation would become available.

What amount would be paid?

17. The general principle is that the bond scheme operator would pay owners the bond price in the circumstances described above. In the safeguarded area, qualifying owner-occupiers might, in addition, be eligible for home loss and disturbance compensation in line with prevailing statutory provisions.
18. The bond scheme operator will pay for the first requested assessment of value and condition when the bond is triggered. It will also pay for a reassessment as and when a property is put on the market. It will consider undertaking reassessments of value at the operator's cost, if material changes have been made to the property (and the bond price is likely to be adjusted), but no more than once in a 12-month period. The operator will also pay vendors' agents' reasonable fees in the circumstances described below.

When would a sale under the bond scheme take place?

19. The owner would register the intention to sell the property with the bond scheme operator, at which point the operator would organise for the property to be inspected or re-inspected to assess its value.
20. In the safeguarded area, no effort to sell would need to be demonstrated and the qualifying owner would be able to trigger the purchase of the interest by the operator at any point while the bond scheme is valid.
21. Outside the safeguarded area, the general principle under the bond scheme would be that the eligible owner of a qualifying interest in property would need to have marketed their property for at least six months before requesting that the bond scheme operator purchase the property at the assessed bond purchase price. Six months is approximately the current average sales period in the region. If, after proper marketing, the owner has not found a purchaser able to proceed with the purchase at or above the bond purchase price, the owner can request a purchase under the terms of the bond scheme. In practical terms, 'ability to proceed' means exchange of contracts.
22. If the property sells at or above the bond purchase price within the six-month marketing period, then the bond would transfer to the new owner and subsequent purchasers, as well as mortgagees in possession, until the bond scheme closes. This will give the market confidence that the value of the property would continue to be underpinned by the base bond price, indexed to take into account general market movements since the base date.
23. If the bond scheme operator has acquired a property and then chooses to sell it, the property bond would be transferred to the purchaser if the property is purchased at, or above, the bond price. This would give subsequent owners the security of the bond price if they, in turn, wish to sell while the bond scheme is operational.
24. If the property is purchased at a price below the bond price, no onward bond commitment would be offered, as any diminution in value would have been realised by the bond scheme operator at the point of sale.
25. To avoid speculative sales, previous owners will not be able to buy back the same property from the bond scheme operator or other purchasers during the currency of the bond scheme. Vendors who sell properties to the bond scheme operator under the bond scheme would be able to buy other properties acquired and marketed by the bond scheme operator outside the safeguarded area.

Would the bond scheme operator cover the cost of sale, including agents' fees?

26. As in any normally functioning property market, estate agents would still be obliged and incentivised to achieve the highest value possible for their clients.
27. If the bond scheme operator purchases a property at the agreed bond purchase price, then it will pay fees to the agents who had made efforts to but who had made efforts – albeit unsuccessfully – to market the property during the previous six months. The operator would publish on its website a table of maximum agents' fees, which it could revise in keeping with market rates for particular types of property and value bands.