



## New burden assessment pro forma

In advance of discussions with others, or as part of these discussions, the lead department should complete the pro forma below (this can be tailored to the specific policy where appropriate but should cover the same information).

As highlighted in the guidance, these issues should be discussed with the Ministry of Housing, Communities and Local Government at the earliest possible stage, and the pro forma can be revised as the assessment is taken forward. The signed off pro forma should be sent to the Ministry of Housing, Communities and Local Government.

**If this is a first assessment, departments must complete those fields in bold to provide a sufficient level of reassurance that the requirements of the Cabinet are being met. The remaining fields must then be completed when policy is more developed. Section 20 requires departments to state when a full assessment will be completed.**

<b>Details of the proposal – please answer in area provided below question</b>	
<b>Q1</b>	<b>Name of Lead Department.</b>
A1	Ministry of Housing, Communities and Local Government
<b>Q2</b>	<b>Working level contact details in lead department.</b>
A2	<p><b>Name:</b> Nina Miles</p> <p><b>Team:</b> Planning- Development Plans</p> <p><b>Telephone:</b> 0303 444 4709</p> <p><b>E-mail:</b> <a href="mailto:Nina.Miles@communities.gov.uk">Nina.Miles@communities.gov.uk</a></p>
<b>Q3</b>	<b>Name of policy/duty/expectation.</b>
A3	Regulations associated with Local Plans, in the Neighbourhood Planning Act and changes to Town and Country Planning (Local Planning)(England) Regulations 2012
<b>Q4</b>	<b>Description of the policy objective.</b>
A4	The current plan-making regime was introduced in the Planning and Compulsory Purchase Act 2004. Local Plans set out a vision for the future development of the area, addressing needs and opportunities in relation to housing, the economy, community facilities and infrastructure – as well as a basis for safeguarding the environment, adapting to climate change and securing good design.

	<p>Government has made clear in the National Planning Policy Framework that all local planning authorities should have a Local Plan<sup>1</sup> in place because it gives certainty to local communities that the housing they need has been planned for. It is the Government's ambition that there should be 100% coverage of up-to-date Local Plans across England.</p> <p>A new statutory instrument ('The Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017, No 1244) makes amendments to the Town and Country Planning (Local Planning) (England) Regulations 2012 in consequence of some of the changes introduced by the Neighbourhood Planning Act 2017 relating to review of local development documents, plan submission requirements, the power to direct joint plan-making, and the power to invite county councils to prepare a strategic plan. Additionally, new commencement regulations (The Neighbourhood Planning Act 2017 (Commencement No. 3) Regulations 2018 No. 38 (C. 7) commence requirements from the Act relating to planning for strategic priorities, and powers relating to directing joint plans and inviting county councils to prepare strategic plans, to the extent that these are not already commenced.</p> <p><b>Statutory requirement for all areas to plan for strategic priorities</b> Requires local planning authorities in England to identify the strategic priorities for the development and use of land in the authority's area.</p> <p><b>Review of local development documents</b> Sets a period of five years within which an authority should undertake an assessment of whether its development plan documents, and its Statement of Community Involvement remain up to date. The expectation is that they should update it if not and there are policies in the NPPF to ensure development continues to come forward where plans are not kept up to date.</p> <p><b>Plan Submission</b> The requirement for authorities to submit both paper and electronic copies of the submission documents for examination has been removed, so that authorities can submit either a digital or paper copy.</p> <p><b>Power to direct joint plan-making</b> Enables the Secretary of State to direct a group of neighbouring authorities to prepare plans jointly, either as individual authorities working together on a joint development plan document or as a joint committee.</p> <p><b>Power to invite a County council to prepare a strategic plan</b> Enables the Secretary of State to invite a county council to prepare a plan.</p>
Q5	<b>Stage proposal is at (e.g. initial draft, consultation document, Cabinet clearance, etc.). If first draft, please state when update will be submitted.</b>
A5	Final stage - Secondary legislation has been through the Parliamentary process, and relevant commencement regulations have been made.

<sup>1</sup> By which we mean development plan documents adopted or approved under the 2004 Act that set the strategic planning policies for a local planning authority's area.

<b>Q6</b>	<b>Brief expected timeline of the forthcoming key stages, including committee clearance.</b>
A6	<p>The proposals implement and commence measures associated with local plans from the Neighbourhood Planning Act 2017, with most of the amendments to the 2012 regulations coming into force on 15 January 2018 , including requirements around plan submission, although, because in some cases the relevant primary powers commence on 16 January 2018 (as per the commencement regulations), in effect the earliest date the requirements apply is 16 January for statutory duty to plan for strategic priorities, the power for the SOS to direct a joint plan, and for the SOS to invite a county council to prepare a plan. The requirement for five year review of Local Plans and Statements of Community Involvement regulations, is subject to transitional provisions, and will come into force on 6 April 2018.</p>
<b>Q7</b>	<b>What the proposal requires local authorities to do, and how this differs from what they are doing now. If there is no difference, why is the new power/duty/ expectation being made?</b>
A7	<p>We are bringing forward a package of regulatory measures. The following are further to powers in the Neighbourhood Planning Act (section numbers below reference relevant Act sections):</p> <p><b>(1). Section 8 Statutory requirement for all areas to plan for strategic priorities</b></p> <p>Requires local planning authorities in England to identify the strategic priorities for the development and use of land in the authority’s area. Each authority will be required to ensure policies are in place to address those priorities in their development plan documents taken as a whole.</p> <p>The Planning and Compulsory Purchase Act 2004 introduced the concept of development plan documents (the documents that collectively make up the Local Plan). Since the Act came into force a number of local planning authorities (over 73%) have put in place Local Plans, however as at December 2017, 18% of local planning authorities do not yet have a post 2004 Act Local Plan in place. In September 2015 the Government appointed the Local Plans Expert Group to consider how local plan making could be made more efficient and effective. The Group’s final report was published in March 2016. We agreed with the central thrust of the Group’s recommendations, which have informed the Local Plan amendments in the Act. The Group recommended that all local planning authorities should be subject to a statutory duty to have a plan and to review it. We are now bringing forward regulations, further to the power in the Neighbourhood Planning Act, to place a statutory duty on all local planning authorities to ensure that a development plan document is in place that sets out policies to address their strategic priorities and to set at five years, the period for review of local development documents, deriving from the primary legislation.</p>

The requirement to produce a plan and review it regularly is not a new requirement. Government policy, set out in the National Planning Policy Framework (March 2012) set a clear policy expectation that local planning authorities should produce a Local Plan for their area and they should review their development plan documents at regular intervals. Planning Practice Guidance makes it clear that local planning authorities should regularly update their development plan documents (every 5 years).

The duty to put a plan in place under the Neighbourhood Planning Act provides greater flexibility for local authorities to decide which geography to plan over, to allow them to deliver their key strategic planning priorities in the most appropriate type of plan for their area. Up-to-date plans can play a key role in ensuring sufficient land is allocated for housing.

### **(2) Section 12 Five year review of local development documents**

The regulations require a review of Local Plans and Statements of Community Involvement to take place every five years from the adoption date, but don't necessarily mean that an update needs to take place within this time frame. If the local planning authority finds through the review that policies need to be updated they should update their Local Development Scheme with the new timetable; and the update can take place over a longer timescale. If the review finds that policies do not need updating, the local planning authority must publish their reasons for this decision on their website.

### **(3.) Section 9: Directing joint plans**

This power enables the Secretary of State to direct two or more local planning authorities to prepare a joint development plan document where the Secretary of State considers that it will facilitate effective planning of the development and use of land in one or more of those authorities.

Local authorities are already required to collaborate under the Duty to Cooperate to address and plan for their cross boundary strategic planning priorities. However, not all authorities have been successful in achieving positive outcomes. This has mostly been in areas where authorities have challenges, such as the amount of housing needed in an area and the infrastructure required to support it.

The direction to prepare a joint plan will be used where the Secretary of State considers that it would facilitate more effective planning of the development and use of land. At the point of taking a decision an appraisal would be undertaken of the best way of doing this, and it is likely to be used where one or more local planning authorities are failing to make progress with plan-making. The Secretary of State in considering whether to use these powers would need to consider a number of factors including the financial implications and the best value way of implementing that decision. While one authority may be failing in its duty to plan, triggering a direction, neighbouring authorities may be making progress, and there may therefore be a potential burden on those authorities. In theory there could be potential overall public spending savings compared to preparing a single local plan (due to the ability to share evidence base work, and other costs such as for

	<p>consultation and examination), but these may accrue differently to different parties and also depend on the existing expenditure on these matters.</p> <p>There is already a policy expectation (as set out above, in the National Planning Policy Framework, 2012) on authorities to prepare a local plan as well as flexibility over the way in which identified strategic priorities are planned for. Therefore a joint plan, which would be prepared <i>instead</i> of an individual local plan, would not be a new requirement, and where authorities were already intending to plan for strategic priorities via a joint plan, would not need to be directed by the Secretary of State. However, this may not be the case for all authorities that may be subject to the direction.</p> <p><b>(4). Section 10: Inviting County Councils and Mayors to produce a plan for a local planning authority</b></p> <p>This power enables the Secretary of State to invite a county council (in two tier areas) to prepare a development plan document for a local planning authority in their area where a local planning authority is failing or omitting to prepare, revise or adopt their documents.</p> <p>Commencing the power to invite a County Council in two tier areas to prepare a plan for a district authority in its area will contribute towards the Government's aims of ensuring every local planning authority has an adopted plan and has therefore planned for its housing need. It is similar to powers available in the Housing and Planning Act 2016 for the Secretary of State to invite a Mayor or Combined Authority to prepare a local plan in their area where a local planning authority has failed to do so and will enable development plan documents to be prepared at the most local level possible. These powers will also be used sparingly and the costs of the county council will be recovered from the local planning authority for whom the plan is being prepared. We consider that this measure will not place a new burden on county councils as it is an invitation and the county council could refuse. We would discuss whether any specific support is needed on a case by case basis.</p> <p><b>(5). Change to regulation 22, Town and Country (Local Planning) (England) Regulations 2012.</b></p> <p>In addition a further change to the Town and Country (Local Planning) (England) Regulations 2012 modifies requirements under regulation 22 for authorities to submit both a paper and digital copy of documents for independent inspection, so that they may submit either.</p> <p>No new burdens are anticipated, because this measure introduces a potential reduction in costs associated with printing and delivering documents to the Planning Inspectorate.</p>
Q8	<b>Expected date the policy impacts on local authorities. If implementation is to</b>

	<b>be phased in, please give estimated dates for each phase.</b>
A8	The earliest date these regulations will commence will be 16th January 2018 (in respect of the requirement to plan for strategic priorities, directing a joint plan, inviting county councils to produce a plan, and removing the requirement for paper and digital copies) with 5 year review on 6th April (common commencement date). The joint plan-making power will only actually be implemented when a direction is first issued.
<b>Q9</b>	<b>Is an impact assessment being completed? If this shows that the policy impacts on the private sector in the same way with no disproportionate impact on local authorities, contact the Communities and Local Government New Burdens Team to confirm that the new burdens rules do not apply in this case - this does not mean there are no local government finance matters that might need to be addressed.</b>
A9	A regulatory impact assessment is not needed as these proposals will not have an impact on the private sector/businesses. The purpose of the measures is to ensure that all local planning authorities have an up-to-date development plan document in place.
<b>Estimated costs/savings</b>	
<b>Q10</b>	<b>Has the proposal been appraised in accordance with HM Treasury <i>Green Book</i> principles? What was the outcome of the appraisal?</b>
A10	Not applicable, as costs and savings cannot be estimated at this stage. . In respect of use of the power to direct a joint plan, this would be an alternative to an authority preparing an individual local plan (which has been a policy expectation until now), but would only be used where it was considered more effective and would be in cases where there was a failure by an authority to prepare a local plan. However, neighbouring authorities subject to the direction, who may not have been failing to plan, could potentially be subject to a new burden, meaning either additional costs or a saving. Potential savings are likely from the sharing of evidence base and examination costs – however an appraisal is not possible without knowing the specific circumstances involved. The SoS in considering whether to use these powers would need to consider a number of factors including the financial implications and the best value way of implementing that decision. An assessment of costs and savings would be undertaken at the time of a decision to exercise this power to direct a joint plan.
<b>Q11</b>	<b>Best estimate of reasonable costs and savings involved for local authorities for each individual year. Please give breakdown <u>by financial year</u> and state whether costs are revenue or capital.</b>

**Section references below refer to relevant sections in the Neighbourhood Planning Act 2017:**

**Item 1 & 2: Section 8 Statutory requirement for all areas to plan for strategic priorities and Section 12 Five year review of local development documents**

Negligible as the planning system has been plan-led since the 1990s. Government policy has been clear that local planning authorities should have plans in place and that these should be regularly reviewed to ensure the policies in them are up-to-date. These regulations do not therefore represent a significant change in practice.

**Item 3: Section 9: Directing joint plans**

The majority of local planning authorities (over 79%) have an adopted Local Plan in place. As part of the business case for local plan interventions, updated estimates have been made of the cost of plan production. These were estimated to range from £1m to £5m (and include the costs of preparing evidence base, consultation and examination costs).

A number of authorities have already prepared a joint plan, with 9 already adopted. Currently 22 joint plans are in preparation. Our expectation is that more authorities will decide to work on joint plans. However, these regulations will enable the Secretary of State to direct the preparation of a joint plan where he considers it will lead to better planning. This will most likely be in circumstances where it is apparent that a local authority is failing to progress its local plan.

It is not possible to accurately estimate the cost of preparing a joint plan for individual authorities involved, as this will vary significantly according to the circumstances, i.e. the number of authorities involved, and how far through the process the authorities are. Costs and savings would need to be estimated at the time of making a decision to exercise this power.

**Item 4 – Section 10: Inviting County Councils and Mayors to produce a plan for a local planning authority**

Inviting a county council does not involve a financial burden, as they are not being compelled, and so could refuse to accept the invitation. Furthermore although there may be an increase in resources required, these can be recouped by the county council from local planning authorities. As above, LPA's are already expected to produce plans, so the power would only be used where there is a failure to comply with this requirement, and does not represent a new burden.

**Item 5. Change to regulation 22, Town and Country (Local Planning) (England) Regulations 2012 to allow authorities to submit both a paper and digital copy of documents for independent inspection, so that they may submit either.**

No new burdens are anticipated from the changes to regulation 22, because this measure introduces a potential reduction in costs associated with printing and delivering documents to the Planning Inspectorate.

<b>(a)</b>	<b>Overall <u>additional</u> total costs to local authorities for each year.</b>
A(a)	The power to direct a joint plan would likely be used in circumstances where one or more authorities are failing to produce a plan, which they should already be working towards. Furthermore delivering a joint plan is likely to result in a reduction in costs compared to the production of an individual plan, although this will depend on the individual circumstances and may not be the case for all authorities. The total additional costs and savings would need to be calculated on a case by case basis, depending on the number of authorities directed to prepare a joint plan, and the stage of preparation that each authority is at. Our best estimate is that we are likely to direct the preparation of between 2 to 5 joint plans in a year.
<b>i.</b>	<b>Element attributable to 'one off' implementation costs.</b>
A(i)	Nil
<b>ii.</b>	<b>Recurring costs element (for the first 3 years).</b>
A(ii)	Nil
<b>(b)</b>	<b>Estimated specific and identified <u>savings</u> for each year - these must be additional to the annual savings authorities are expected to make and their treatment consistent with the appropriate HM Treasury guidance on efficiency.</b>
A(b)	Anecdotal information from authorities that have chosen to work with others on a joint plan have found that savings can be made from preparing a joint plan. Savings can be made when working with other authorities to prepare evidence jointly and taking one plan through examination. Savings can also be achieved from better use of staff resources and access to expertise. These cannot be quantified until specific circumstances are known.
<b>(c)</b>	<b>What are the direct and indirect impacts on local authorities pay and</b>



	<b>pensions costs?</b>
A(c)	Nil
<b>(d)</b>	<b>Overall estimate of the <u>Net</u> Additional Cost (costs-savings) to local authorities for each year.</b>
A(d)	The net costs-savings associated with directing a joint plan will vary significantly depending on the circumstances. The power is envisaged as being used where it is more effective to do so; in circumstances where one or more authorities are failing to prepare a local plan. Where this is the case it is likely that savings will be made, however the amount of potential savings or costs will vary according to individual circumstances, and could only be assessed on a case-by-case basis.
<b>Discussion with authorities</b>	
<b>Q12</b>	<b>What discussions have taken place with local authority associations, e.g. with the LGA or LC? If there is no planned contact with local authorities through representative bodies, please explain why.</b>
A12	<p>Initial engagement and consultation took place as part of the Bill stage (which included previous engagement with the LGA and other interested bodies such as the DCN and CCN) about the Local Plans measures in the Neighbourhood Planning Bill. We explained that we were taking forward recommendations on streamlining plan-making submitted by the Local Plans Expert Group and the impact they will have on local planning authorities and county councils. LPEG published their report on 16<sup>th</sup> March 2016. It made 47 recommendations for plan reform. It was open for representations until 27 April 2016 and 143 representations were received.</p> <p>Recommendation 17 of the LPEG report was to place a statutory duty to produce a local plan and maintain an up to date plan. The Housing White Paper confirmed that a requirement to review every 5 years will be taken forward in order to strengthen our expectations about keeping plans up to date.</p> <p>Further stakeholder engagement has also been undertaken with the Royal Town Planning Institute, Campaign for Protection of the Rural Environment, Home Builders' Federation, Town and Country Planning Association, and Planning</p>

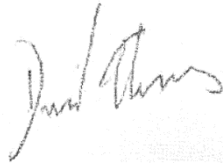
	Officers Society during November 2017.
Q13	<b>Give a brief description of the authorities' views, particularly on costs and financing (note: there is no obligation to agree final finance assessments with them).</b>
A13	<ul style="list-style-type: none"> <li>• CPRE: The focus on strategic sites leaves space for smaller housebuilders.</li> <li>• HBF: What will Govt do where plans come forward without allocations?</li> <li>• HBF: On 5 year review, concern things could get worse because it is the LPA that gets to decide if it is out of date.</li> <li>• RTPi: Old housing planning and delivery grant was the only way LPA policy teams ever got money. No ring-fenced funding for policy currently. Planning fees don't cover cost of delivery. Planning delivery fund £25m. We want an element of that on plan-making, and more cooperative working – i.e. joint plans. But it won't be just cash, but asks and scrutiny.</li> <li>• 5 year review should signal that not all of plan policies need to be updated – e.g. design policies etc.</li> <li>• TCPA: Concern about only having a legal requirement for strategic policies. They felt this would mean that place making policies would be less of a priority, particularly where local planning authorities have other resource pressures. Concern that this is seen as a "minimum requirement."</li> <li>• POS: concern proposals may be seen to make detailed policies/ site allocations "optional," doesn't give planning officers leverage over senior staff to get resources to put plans in place.</li> <li>• LB Croydon: Estimate £300k/ £400k figure for the whole Local Plan process (excluding staff costs).</li> <li>• Local Government Association: no specific financial costs raised at the Neighbourhood Planning Bill stage.</li> <li>• The Government undertook a technical consultation on the detailed regulations to implement some of the neighbourhood planning measures in the Neighbourhood Planning Bill between 7 September and 19 October 2016. This consultation included a question on a requirement for authorities to review their Statements of Community Involvement at least every five years. In response five local planning authorities considered that the review period should be shorter. Conversely, five authorities were of the view that a local planning authority should have the flexibility to update the statement of community involvement as and when necessary, indicating that a five year period would be too long. Four local planning authorities stressed that resourcing would be an issue and five authorities stated that statement of community involvement should be updated when Local Plans are reviewed. They went on to state that the authority regularly reviews the statement of community involvement, so the requirement to include the need for such reviews in regulations should not have any further financial impact. One authority suggested that a negative financial implication could arise from reviewing, and if necessary, updating the statement of community involvement. The Government's response published in December 2016 stated due to the strong overall support for the proposal it would be taken</li> </ul>

	<p>forward.</p> <ul style="list-style-type: none"> <li>• Recommendation 17 of the Local Plans Expert Group report was to place a statutory duty on authorities to produce a local plan and to maintain an up to date local plan. This received general support from respondents; however, a number were concerned that authorities are insufficiently resourced to meet such a duty. There was support from developers and trade bodies for time limiting out-of-date plans; however there were mixed views from other respondents, including authorities. There was concern about potential significant resource implications, particularly if the principle of ‘saved’ policies were to be abandoned. Similarly there was concern over the proposed timescales and it was suggested there should be a more flexible approach before special measures were considered. There were concerns that such a duty would negatively affect the quality of Local Plans, as the process would be rushed in order to complete them within prescribed timescales. Some respondents felt more information was needed to understand how such a duty could be introduced in terms of phasing and exemptions for local authorities at certain stages in the process.</li> <li>• There has been no direct consultation relating to directing a group of authorities to work together or invite a county council to prepare development plan documents for one or more LPAs in their area. However, given the precedent in the National Planning Policy Framework and planning guidance, it was not considered to be a fundamental change.</li> </ul>
<p><b>Providing the resources</b></p>	
<p><b>Q14</b></p>	<p><b>If there are net additional costs, has the lead department identified where the funding for this new burden is coming from and agreed to fully fund them? Please give details.</b></p>
<p>A14</p>	<p>The requirement to prepare a joint plan does not change the expectation to plan, rather it changes the way in which this is done – making it more likely to be cost-effective, due to the potential for cost savings. Generally this is expected to be broadly cost neutral, however costs and savings to individual authorities may fall unevenly, and could only be calculated when a decision to direct a joint plan is being taken, as this varies according to specific circumstances. Once a decision is being taken to direct a joint plan, an assessment would be made of costs and savings, and whether there is any new burden. Any new burden would be funded. Section 9 of the Neighbourhood Planning Act 2017 inserts provision into sections 21 and 27 of the Planning and Compulsory Purchase Act 2004 which allows the Secretary of State to apportion liability for the expenditure (on joint local development document or a joint development plan document) “on such basis as the Secretary of State thinks just” between the local planning authorities for whom the document has been prepared.</p> <p>Similarly schedule 2 paragraph 4 of the Neighbourhood Planning Act 2017 inserts new section 7D of Schedule A1 to the Planning and Compulsory Purchase Act 2004 which provides that a lower-tier planning authority must reimburse the upper-tier county council for its expenditure in respect of anything which is done by them under paragraph 7B which the lower-tier planning authority failed or omitted to do and for any expenditure that the upper-tier county council incur in connection with</p>

	an examination held.
<b>Q15</b>	<b>What costing evidence/analysis do you have/are you going to undertake to demonstrate that the funding is sufficient, and when will you be providing this?</b>
A15	Costs/savings would be determined at the point of taking a decision to direct a joint plan according to specific circumstances.
<b>Q16</b>	<b>If costs are to be met by charging, do these cover the full net additional costs, and do authorities have the freedom to determine the fee levels consistent with recovering reasonable costs?</b>
A16	There is no specific budget for this..
<b>Q17</b>	<b>If your assessment is that the proposal will result in no additional costs being placed on local authorities, how will you ensure that this is the case?</b>
A17	In relation to using powers to direct a joint plan or invite a county council to prepare a plan, local planning authorities are funded to prepare development plan documents. Any decision to issue a direction under these powers will be subject to an evaluation of the individual circumstances at the time of taking a decision. This would be where this represents a more effective course of action, likely to be in circumstances where a local planning authority is failing in its statutory duty to plan for its strategic priorities. The Secretary of State also has power to apportion costs between authorities as he sees fit. (See Q14)
<b>MHCLG New Burdens Team Sign Off</b>	
<b>Q18</b>	<b>Have you shared your assessment with the New Burdens Team?</b>
A18	
<b>Departmental Finance Director Sign Off</b>	
<b>Q19</b>	<b>Please state if this is a first or a final assessment of your proposal. If first please indicate when a final assessment will be submitted.</b>
A19	Final assessment.
<p><b>Certification that the estimated net additional costs falling on local authorities has been assessed in accordance with the guidance on new burdens and that this will be fully funded. That to the best of finance director's knowledge the estimates are a true and fair assessment of the net additional costs falling on authorities.</b></p> <p><b>Confirmation that their department is aware that if the proposed policy or initiative is implemented, there may be an independent post-implementation scrutiny carried</b></p>	

out (paid for from within their department's existing resources) and that under or over-payments of grant revealed by the scrutiny may inform future decisions on funding.

Signed:

A handwritten signature in black ink, appearing to read 'David Thomas', written over a light grey rectangular background.

Name: David Thomas

Date: 13 June 2018

Telephone number: 0303 44 48364

Address: 2 Marsham Street, London, SW1P 4DF

**Please send the form to the relevant Ministry of Housing, Communities and Local Government contact.**

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For completion by the MHCLG New Burdens Team:

Date received: ..... Reference number: .....