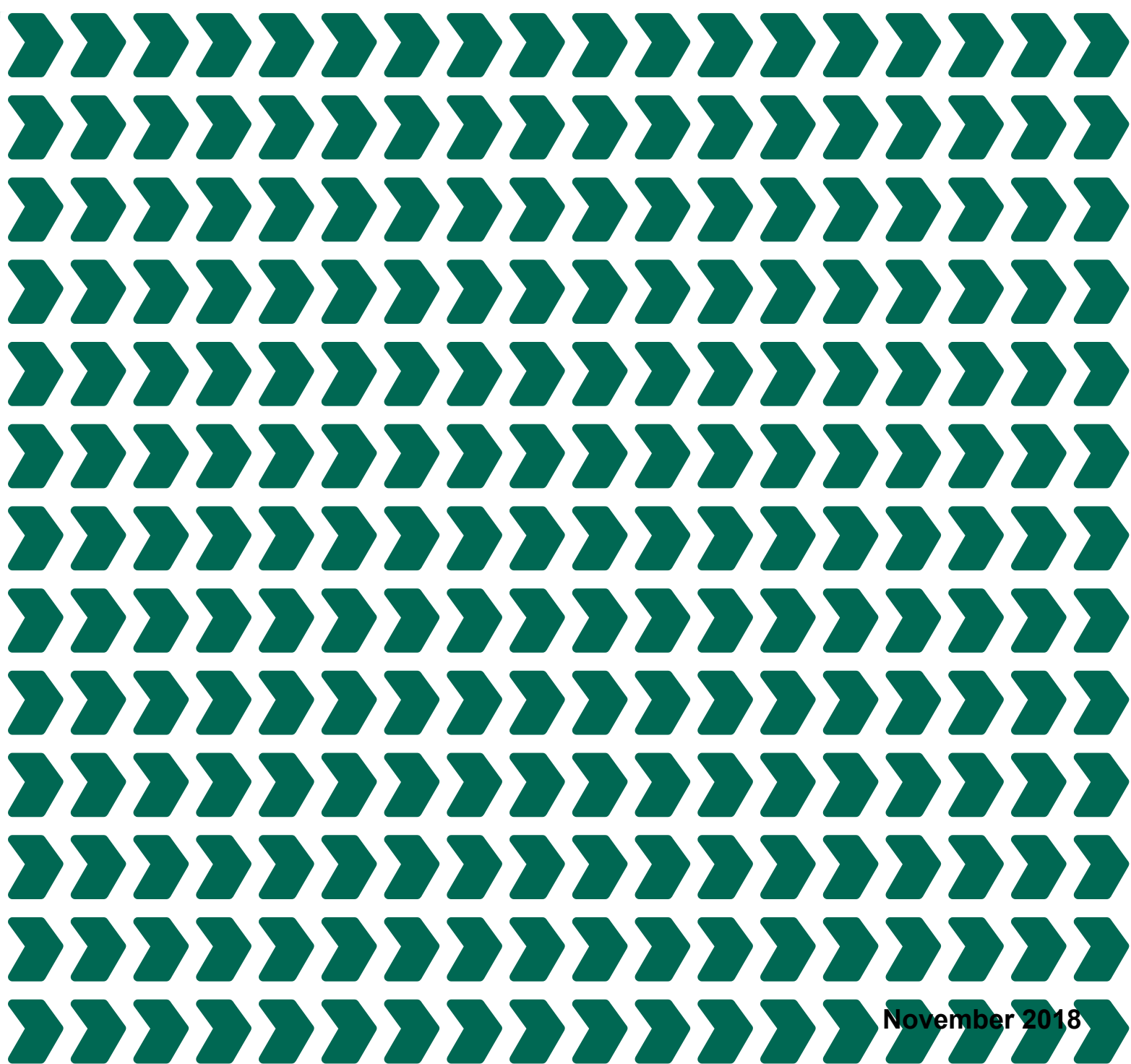




Department  
for Transport

# Review of Non-Statutory Property Schemes for High Speed Two (HS2)

Moving Britain Ahead



November 2018

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# Foreword: Parliamentary Under Secretary of State Nusrat Ghani MP



The legacy of HS2 will depend just as much on how the Government supports those impacted by the project as to how the railway is ultimately built and operated.

The Government is committed to treating all those impacted by HS2 with compassion, dignity, and respect. It falls upon the Government and HS2 Ltd to ensure they receive the right support at all stages of the project.

To this end, the Government has designed, consulted on, and implemented a package of non-statutory property schemes which goes over and above what is required by law. The full suite of schemes is open to potential applicants across the whole of the HS2 route.

As a result of feedback gathered from formal consultations, Members of Parliament (MPs), members of the public, communities, businesses, the HS2 Residents' Commissioner, HS2 Ltd, and other interested parties the Government has reviewed key elements of how the schemes operate.

While the Government has concluded that the schemes as they have been designed and implemented broadly continue to meet the objectives originally set, I believe that the changes that are outlined in this document will make them even fairer and more accessible to potential applicants.

In bringing forward changes to the schemes, the Government has sought to navigate a delicate balance between addressing the impacts of HS2 on individuals and businesses and protecting the public purse.

It is of the utmost importance that the Government listens and acts on the feedback about our plans for HS2. I am most grateful to all those who have given feedback to the Government and to HS2 Ltd in this respect. The Government is committed to keeping the non-statutory schemes under review throughout the life of the project. In doing so, it will ensure that they continue to provide reasonable and appropriate support to those most impacted by this exceptional project.

A handwritten signature in black ink, appearing to read 'N Ghani', written in a cursive style.

Nusrat Ghani MP

Parliamentary Under Secretary of State for Transport

# Executive Summary

- 1.1 The Government has consulted extensively on the non-statutory property schemes that it has made available to property owners impacted by HS2. Support which began with the HS2 Exceptional Hardship Scheme in 2010, has evolved into a package of assistance which goes beyond the statutory compensation regime.
- 1.2 The Government has always remained open to improving the schemes. It confirmed in its July 2017 response<sup>1</sup> to a 2016-2017<sup>2</sup> consultation that it would review a number of detailed suggested policy changes which had been raised in feedback.
- 1.3 The Government has carefully considered comments provided in response to that consultation, plus feedback gathered from Members of Parliament (MPs), members of the public, businesses, communities, the HS2 Residents' Commissioner, other interested parties, and HS2 Ltd to identify issues that merited further examination within this review.
- 1.4 Responses to a Community Cohesion research project<sup>3</sup> carried out during 2018 on behalf of the Department for Transport has also informed our examination and conclusions.
- 1.5 People who shared their concerns about the schemes commonly identified specific changes that they felt would make them fairer, more generous, or support the normal functioning of the property market. The requirements and operation of the Need to Sell (NTS) Scheme were singled out particularly in feedback as warranting more detailed Government consideration.
- 1.6 Suggested changes to the schemes were considered in the light of five objectives which were originally set by the Government when the package of support was first proposed, which were:
  - fairness;
  - value for money;
  - community cohesion;
  - feasibility, efficiency and comprehensibility; and
  - functioning of the housing market.
- 1.7 The review examines each suggested change, taking account of these objectives, as well as setting out the Government's policy principles, and its conclusions.
- 1.8 Following the review, the Government has concluded that the policy and scope of existing HS2 property schemes, as they have been designed and implemented, continue broadly to meet their objectives. No compelling evidence has been put

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<sup>1</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/629394/high-speed-two-phase-2b-crewe-to-manchester-west-midlands-to-leeds-and-beyond-property-consultation-response-web-version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/629394/high-speed-two-phase-2b-crewe-to-manchester-west-midlands-to-leeds-and-beyond-property-consultation-response-web-version.pdf)

<sup>2</sup> <https://www.gov.uk/government/consultations/hs2-crewe-to-manchester-west-midlands-to-leeds-property-consultation-2016>

<sup>3</sup> <https://www.gov.uk/government/publications/hs2-community-cohesion-public-research>

forward at this time that there is a case to make significant changes to the schemes, or that the existing package should be replaced with an alternative model of support.

- 1.9 Nevertheless, the Government has welcomed feedback on suggested improvements to the schemes and intends to take forward the following changes:
- **to uplift fixed Homeowner (HOP) payments with inflation at Royal Assent of relevant hybrid Bills;**
  - **to extend the boundaries of rural zoned schemes in areas where the HS2 track footprint widens;**
  - **to enable more formal consideration by the NTS panel and decision maker of a significant change in the predicted impact of HS2 where a cash offer has already been accepted; and**
  - **to introduce a new methodology to enable the Government to pay an adjusted price where appropriate where a case is accepted under the NTS Scheme but the No Prior Knowledge (NPK) criterion is not met.**
- 1.10 In addition, guidance will be amended to ensure schemes and their requirements remain as clear as possible to all potential applicants. In particular, changes to the NTS Scheme guidance will be made following the review to:
- clarify the valuation method where an NTS panel recommends discretion in exceptional circumstances where a case does not meet the NPK criterion;
  - set out the limited circumstances where it is not necessary for an applicant to demonstrate that they have made efforts to sell a property; and
  - set out the circumstances where evidence of retirement may not be required.
- 1.11 The Government will also consider providing further guidance on the types of evidence that a property owner may provide to successfully demonstrate that they had no knowledge of the likely impact of the proposed HS2 route on their property before they acquired it.
- 1.12 The changes being taken forward will ensure that HS2 property schemes better meet the Government's objectives. This includes making them fairer and more accessible to potential applicants while protecting the public purse.
- 1.13 Changes outlined in the review will be made at the first available opportunity, and timescales are indicated where appropriate. HS2 Ltd aims to publish revised versions of scheme guidance, and an information note on residential tenants' rights to compensation, by the end of this year.
- 1.14 The Government is committed to keeping its non-statutory property schemes for HS2 under review for the life of the project to ensure that people impacted by the project are properly supported. We therefore welcome feedback from anyone with an interest in the schemes at any time during their operation.
- 1.15 Issues relating to the statutory compensation regime were out of scope of the review. Where issues have been raised in relation to statutory compensation, these have been noted by the Government. Further information has been provided where the Government has considered this would be useful.

# Glossary of Terms

**Atypical cases:** cases with circumstances which may merit atypical treatment outside the non-statutory property schemes which have been established for HS2.

**Blight Notice:** a legal procedure for qualifying owner-occupiers affected by Statutory Blight to apply to the Government to purchase a property on compulsory purchase terms before it is needed for construction.

**Statutory Blight:** where a property owner is within the safeguarded area and may be eligible to serve a Blight Notice asking the Secretary of State for Transport to buy their property prior to it being needed for construction of HS2.

**Cash offer:** an option within the Rural Support Zone Scheme where an eligible property owner who wishes to remain in their home rather than sell through voluntary purchase can apply for a cash payment.

**Code of Construction Practice (CoCP):** a series of measures and standards of work that shall be applied by HS2 Ltd and its contractors throughout the construction period of HS2.

**Compensation Code:** a collective term for the principles deriving from Acts of Parliament and case law, relating to compensation for compulsory acquisition.

**Disturbance payment:** compensation that can be claimed if a person is forced to move due to compulsory purchase in certain circumstances to cover the expenses of moving.

**Exceptional Hardship Scheme:** a property scheme that was previously made available by the Government in respects of the HS2 project. It has been superseded by the Need to Sell Scheme.

**Express Purchase Scheme:** a non-statutory scheme introduced for HS2 which relaxes some of the rules that normally apply to Statutory Blight in specific circumstances.

**Extended Homeowner Protection Zone (EHPZ):** applies to previously safeguarded land which is no longer required for the project.

**High Speed Two Limited (HS2 Ltd):** the company responsible for developing and promoting HS2.

**Home loss payment:** a statutory payment designed to compensate for the emotional attachment to a property that is subject to compulsory purchase.

**Homeowner Payment (HOP) Scheme:** a non-statutory scheme introduced for HS2 that applies from 120 metres up to 300 metres from the line of route in rural areas where the line runs on the surface.

**Hybrid Bill:** legislation which affects both the general public, and private individuals, and organisations.

**Generalised blight:** the adverse effect on the market value of land and property, or the future enjoyment of the land and property, arising from the perceived effect of future developments. The risks of generalised blight is an accepted consequence inherent in the ownership of land and is not compensable.

**Need to Sell Scheme:** a non-statutory property scheme introduced for HS2.

**No Prior Knowledge (NPK):** knowledge and awareness of the proposed HS2 route at the time a property is acquired.

**Owner-occupier:** a person who owns a property (either outright or with a mortgage) as a freehold or on a fixed-term lease (with at least three years unexpired) and has it as their principal residence or place of business, subject to certain qualifiers. As defined in section 149 of the Town and Country Planning Act 1990.

**Part 1 compensation:** statutory compensation that may be claimed under Part 1 of the Land Compensation Act 1973 to address devaluation of a property arising from the physical impacts of the operational railway.

**Phase One:** the part of the HS2 route which runs from London to the West Midlands.

**Phase 2a:** the part of the HS2 route which runs from the West Midlands to Crewe.

**Phase 2b:** the part of the HS2 route which runs from Crewe to Manchester, and from the West Midlands to Leeds.



**Property Bond or Property Price Support Scheme (PPSS):** a mechanism designed to prevent a property owner from suffering financial loss as a result of generalised blight.

**Reluctant Landlord:** under the Need to Sell Scheme, an individual who can demonstrate they had a compelling reason to sell at the time they moved out of the property in order to avoid or escape a situation of unreasonable burden, and that letting the property could provide only temporary relief from this burden, and they do not own another home.

**Rent Back Scheme:** a non-statutory scheme established for HS2 which enables a former property owner to rent back their property from the Government.

**Rural Support Zone (RSZ):** the area outside the safeguarded area up to 120 metres from the centre line of the HS2 railway in rural areas.

**Safeguarding:** 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.

**Safeguarding Directions:** legal instruments issued by the Secretary of State to protect land from conflicting development. Safeguarding Directions are issued under Articles 18(4), 31(1) and 34(8) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 to Local Planning Authorities.

**Surface Safeguarding:** the protection of land which is either below ground level (subsurface) or above ground level (surface) that may be required for a project resulting from the issue of Safeguarding Directions.

**Unblighted market value:** the value of a property on the open market if the cause of blight were removed - in this case if there were no plans for HS2.

**Voluntary purchase:** an option within the Rural Support Zone whereby an eligible property owner can request that the Government purchases their property.

## 2. Purpose of the Review

- 2.1 The review examines a number of aspects of the HS2 non-statutory property schemes that have been raised by those impacted by, and interested in, the HS2 project.
- 2.2 The Government has committed to keeping the support available for property owners impacted by HS2 under review to ensure its schemes continue to deliver their objectives which are:
- **Fairness** – the Government should ensure that owner-occupiers whose properties (and property values) are most directly affected by the proposals 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.
  - **Value for money** – the Government should ensure that the 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.
  - **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.
  - **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.
  - **Functioning of the 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.
- 2.3 In its response to a public consultation on the package of property schemes proposed for Phase 2b of HS2 (Crewe to Manchester and West Midlands to Leeds)<sup>4</sup> the Government committed to considering a number of specific areas of policy that had been raised. These were:
- to re-examine the benefits and risks of a property bond scheme for this project;

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<sup>4</sup> <https://www.gov.uk/government/consultations/hs2-crewe-to-manchester-west-midlands-to-leeds-property-consultation-2016>

- to consider the benefits and implications of allowing those that elect to take the cash offer to be eligible for voluntary purchase at a later date;
- to review how we might allow flexibility in defined circumstances in the application of the No Prior Knowledge (NPK) criterion applications to the Need To Sell (NTS) Scheme; and
- to examine the case for assistance schemes near rolling stock depots.

2.4 Part One of this review examines these issues.

2.5 In November 2017 the-then Transport Minister, Paul Maynard, wrote to all MPs inviting them to give feedback on the non-statutory property schemes.

2.6 Three responses were received from MPs and are summarised as follows:

- Nigel Adams MP outlined his concern about pre-completion surveys, which he felt delayed the conveyancing process and would create an opportunity for HS2 Ltd to pay a reduced price for a property at the time of completion. He also outlined concerns about the detrimental effect empty homes could have upon community cohesion.
- Antoinette Sandbach MP highlighted a number of concerns about the NTS Scheme, including lower acceptance rates on the Phase 2b line of route compared to other phases of HS2. She suggested that there could be increased clarity of the NTS Scheme's evidence requirements and better communication and engagement with applicants. She supported allowing more flexibility in defined circumstances in the application of the NPK criterion in applications to the NTS Scheme, and the consideration of the benefits and implications of allowing those electing to take the cash offer to be eligible for voluntary purchase at a later date. She also supported the further examination of the case for assistance schemes near rolling stock depots, and provision of statutory compensation to tenants displaced by HS2. Ms Sandbach highlighted the need to review the package of schemes against their objectives, and supported the consideration of a property bond as an alternative to the package of non-statutory property schemes.
- Sir Keir Starmer MP highlighted the extent of blight and disturbance caused by HS2 in the Euston/Camden area, and suggested that a construction compensation scheme should be introduced. He also expressed his view that HS2 property schemes did not meet their objectives, expressing an interest in the introduction of a property bond scheme and highlighting the need for a review of the NTS Scheme's criteria, including requirements to evidence efforts to sell very high value properties.

2.7 The Government drew from feedback from MPs, businesses, members of the public, the Residents' Commissioner, HS2 Ltd and other interested parties to identify further issues relating to the schemes which it has considered in Part Two of this Review. Suggestions for changes to schemes are considered against the Government's five original objectives as set out at paragraph 2.2.

2.8 Given the number of public consultations that have taken place in relation to the HS2 non-statutory property schemes, the Government did not hold a specific public consultation to inform this review. Nor does the review examine well-founded principles relating to the schemes' application, such as the application of zoned schemes in rural but not urban areas. The review examines feedback on how the current schemes operate, how they meet their general objectives, and whether there is a case to make changes in light of feedback received.

2.9 In cases where schemes were subject to more fundamental challenge, a property bond (otherwise known as a Property Price Support Scheme, or PPSS) model was commonly suggested as an alternative model for support. The case for a PPSS for HS2 was the subject of a separate technical consultation<sup>5</sup>, and the Government response on this issue is summarised in Part One of the review.

2.10 Issues that the Government has examined as part of this review are broadly summarised as follows:

- access to, and principles, of the NTS Scheme;
- access to a cash offer payment option for owners of properties within a safeguarded area, or within the Extended Homeowner Protection Zone (EHPZ);
- access to, and value of payments under, the Homeowner Payment (HOP) Scheme;
- ability of landlords to access statutory and non-statutory schemes;
- fairness of boundaries of existing schemes in areas where the HS2 track footprint widens;
- access to compensation where the route or its alignment has changed;
- compensation for tenants and owners of unusual properties;
- use of surveys and management of properties which have been acquired by the Secretary of State; and
- some other matters relating to scheme operation and guidance.

2.11 To aid the reader, Part Two of this review is structured by the relevant property scheme where applicable. Matters that concern more than one scheme are examined in a "Cross Scheme Matters" section. Those issues concerning statutory compensation, or other matters, are considered separately in an "Other Matters" section.

2.12 Issues have also been considered in the context of research carried out in 2018 on Community Cohesion. The full research report and accompanying documents are published at:  
<https://www.gov.uk/government/publications/hs2-community-cohesion-public-research>

2.13 Part Three of the review provides the Government's overall conclusions on the package of HS2 non-statutory property schemes.

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<sup>5</sup> <https://www.gov.uk/government/consultations/hs2-property-price-support-scheme-technical-consultation>

## 3. HS2 non-statutory property schemes: a history

- 3.1 Recognising that a project the size and scale of HS2 may have impacts on the property market near the line of route, the Government set out to provide additional support to property owners over and above the statutory compensation regime.
- 3.2 An Exceptional Hardship Scheme was introduced for HS2 in 2010. Over the next seven years, the Exceptional Hardship Scheme evolved into the Need to Sell (NTS) Scheme and was complemented by other schemes made available to owners of properties near the HS2 line of route. The full package of schemes was informed by feedback to a number of public consultations held by the Government during this period.
- 3.3 Relevant consultations are set out chronologically below. Consultation documents, Government responses, and other documentation are available from relevant web links. Where applicable, online information indicates where consultations were published by previous Governments.

### Public consultations on HS2 non-statutory property schemes

**March 2010:** High Speed Two – Exceptional Hardship Scheme: A voluntary purchase scheme for property owners whose properties may be affected by a high speed rail link between London and the West Midlands

<https://www.gov.uk/government/consultations/high-speed-two-exceptional-hardship-scheme-consultation>

**October 2012:** High Speed Two: Property and Compensation for London – West Midlands. Compensation proposals for property owners and occupiers whose properties may be affected by a high speed rail link

<https://www.gov.uk/government/consultations/hs2-phase-two-exceptional-hardship-scheme-consultation>

**January 2013:** High Speed Two: Exceptional Hardship Scheme for Phase Two: A discretionary purchase scheme for property owners whose properties may be affected by high speed rail links from the West Midlands to Leeds and Manchester, and a Heathrow spur

<https://www.gov.uk/government/consultations/hs2-phase-two-exceptional-hardship-scheme-consultation>

**September 2013:** Property Compensation Consultation 2013 for the London-West Midlands HS2 route

<https://www.gov.uk/government/consultations/hs2-property-compensation-consultation-2013>

**July 2014:** Property Consultation 2014 for the London-West Midlands HS2 route

<https://www.gov.uk/government/publications/hs2-property-consultation-2014-consultation-document>

**November 2015:** HS2 Phase Two: West Midlands to Crewe Property Consultation 2015: Consultation document

<https://www.gov.uk/government/consultations/hs2-phase-two-west-midlands-to-crewe-property-consultation-2015>

**November 2016:** High Speed Two Phase 2b Crewe to Manchester West Midlands to Leeds Property Consultation 2016

<https://www.gov.uk/government/consultations/hs2-crewe-to-manchester-west-midlands-to-leeds-property-consultation-2016>

## 4. HS2 non-statutory property schemes: an introduction

4.1 The non-statutory schemes that are currently in place to support property owners impacted by HS2 are:

- Express Purchase Scheme;
- Rural Support Zone (RSZ) Schemes;
- Homeowner Payment (HOP) Scheme;<sup>6</sup>
- Need To Sell (NTS) Scheme;
- Extended Homeowner Protection Zone (EHPZ); and
- Rent Back Scheme.

4.2 A diagram showing where each scheme (or zone) applies can be found at the end of this Chapter.

4.3 The next section of this Chapter provide a summary of each scheme and where to find more information.

### Express Purchase Scheme

4.4 The Express Purchase Scheme is available to eligible owners of properties within the surface safeguarding area.

4.5 Under the Scheme, the Government relaxes some of the rules that normally apply to Statutory Blight, making it easier for owner-occupiers to sell their property to the Government.

4.6 Eligible property owners whose Blight Notice is accepted can sell their property to the Government at its unblighted open market value, as if there were no plans for HS2.

4.7 As at 30 September 2018, a total of 347 properties have been acquired by the Secretary of State as a result of Statutory Blight Notices being successfully served, including applicants applying using the Express Purchase Scheme, at a total cost of £261.90m to the Government.

4.8 Express Purchase is available in relevant locations across the whole of the HS2 route. More information on Express Purchase can be found at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/714976/CS957\\_Statutory\\_Blight\\_Guidance\\_and\\_FAQs.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714976/CS957_Statutory_Blight_Guidance_and_FAQs.pdf)

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<sup>6</sup> The HOP Scheme is open for applications in respect of Phase One owner-occupiers only at the time of this review. The HOP Schemes for Phase 2a and Phase 2b are due to be launched at Royal Assent of relevant hybrid Bills.

## Rural Support Zone (RSZ) Schemes

- 4.9 The RSZ is the area adjoining safeguarding and applies up to 120 metres from the centre line of the HS2 railway in rural areas. Two schemes operate in this zone.
- 4.10 RSZ Schemes were introduced to provide support to owner occupiers whose properties were most directly affected by HS2 proposals but were not required for construction or operation of the railway.
- 4.11 Eligible property owners within the RSZ are able to opt for either a cash offer payment if they wish to remain in their property, or to sell their property to the Government should they wish to move.
- 4.12 The cash offer amount is the equivalent of 10 per cent of the unblighted open market value of the property. There is a minimum payment of £30,000 and maximum payment of £100,000.
- 4.13 Under the voluntary purchase option, the Government would agree to buy a property for 100 per cent of its full, unblighted open market value. The Government would not cover any additional costs, such as legal fees or removal costs.
- 4.14 As at 30 September 2018, a total of 62 properties have been acquired by the Secretary of State under the RSZ voluntary purchase option at a total cost of £28.32m. A total of 179 cash offers have been made across the HS2 route at a total cost of £6.72m.
- 4.15 RSZ Schemes have been made available across the whole of the HS2 route. Further information and guidance on RSZ Schemes is available at:  
<https://www.gov.uk/government/publications/hs2-phase-one-rural-support-zone-schemes-guidance-and-application-form>

## Homeowner Payment (HOP) Scheme

- 4.16 The HOP Scheme is available to eligible owners of properties between 120 metres and 300 metres from the line of route where it runs on the surface in rural areas.
- 4.17 The aim of the Scheme is to ensure that people who live near the route but who may not necessarily directly benefit from use of an HS2 station receive an early share in the future economic benefits of HS2.
- 4.18 Eligible owner-occupiers can claim a £7,500, £15,000 or £22,500 payment depending on the band that their dwelling (or main building) falls, or 25 per cent of their land if they do not have a dwelling inside a HOP band.
- 4.19 The HOP Scheme for Phase One of HS2 was made available on Royal Assent of the Phase One hybrid Bill in February 2017. The Government has indicated that the scheme for Phases 2a and 2b will be made available only once the respective hybrid Bills becomes law. The Government currently expects this to be in 2019 for Phase 2a, and 2022 for Phase 2b.
- 4.20 As at 30 September 2018, a total of 689 property owners have successfully applied to the HOP Scheme on Phase One of the route. Payments total £8.84m.
- 4.21 Further information and guidance on the HOP Scheme can be found at:  
<https://www.gov.uk/government/publications/hs2-phase-one-homeowner-payment-scheme-guidance-and-application-form>



### **Need to Sell (NTS) Scheme**

- 4.22 The NTS Scheme was established to provide support to property owners who would face an unreasonable burden within the next three years if they were unable to sell their property (except at a significant loss) due to HS2 proposals.
- 4.23 The NTS Scheme is available in both urban and rural areas across the HS2 route in relation to the new HS2 line.
- 4.24 The NTS Scheme has no fixed boundary. Applicants must meet five criteria to be successful under the Scheme. Criteria include making reasonable efforts to sell their property on the open market and evidencing a compelling reason to sell.
- 4.25 As at 30 September 2018, a total of 173 properties have been acquired by the Secretary of State following successful applications to the NTS Scheme at a total cost of £151.01m to the Government.
- 4.26 Further information and guidance on the NTS Scheme can be found at:  
<https://www.gov.uk/government/publications/hs2-phase-one-need-to-sell-scheme-guidance-and-application-form>

### **Extended Homeowner Protection Zone (EHPZ)**

- 4.27 The application of the EHPZ enables eligible property owners to apply for Express Purchase, or serve a Blight Notice, for a period of five years after their property is removed from surface safeguarding following changes to the HS2 line.
- 4.28 The EHPZ was established to support homeowners who may have made long-term financial plans having been previously told that their property may be subject to compulsory purchase.
- 4.29 The EHPZ applies in certain circumstances where a property has been removed from surface safeguarding as a result of alignment changes. It does not apply where safeguarding has been removed from a depot or other infrastructure; where the line of route has moved into a deep tunnel; or where the line has moved significantly.
- 4.30 As at 30 September 2018, a total of 347 properties have been acquired by the Secretary of State as a result of Statutory Blight Notices being successfully served, including applicants applying using the Express Purchase Scheme, at a total cost of £261.90m.
- 4.31 More information on the EHPZ can be found at:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/714976/CS957\\_Statutory\\_Blight\\_Guidance\\_and\\_FAQs.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714976/CS957_Statutory_Blight_Guidance_and_FAQs.pdf)

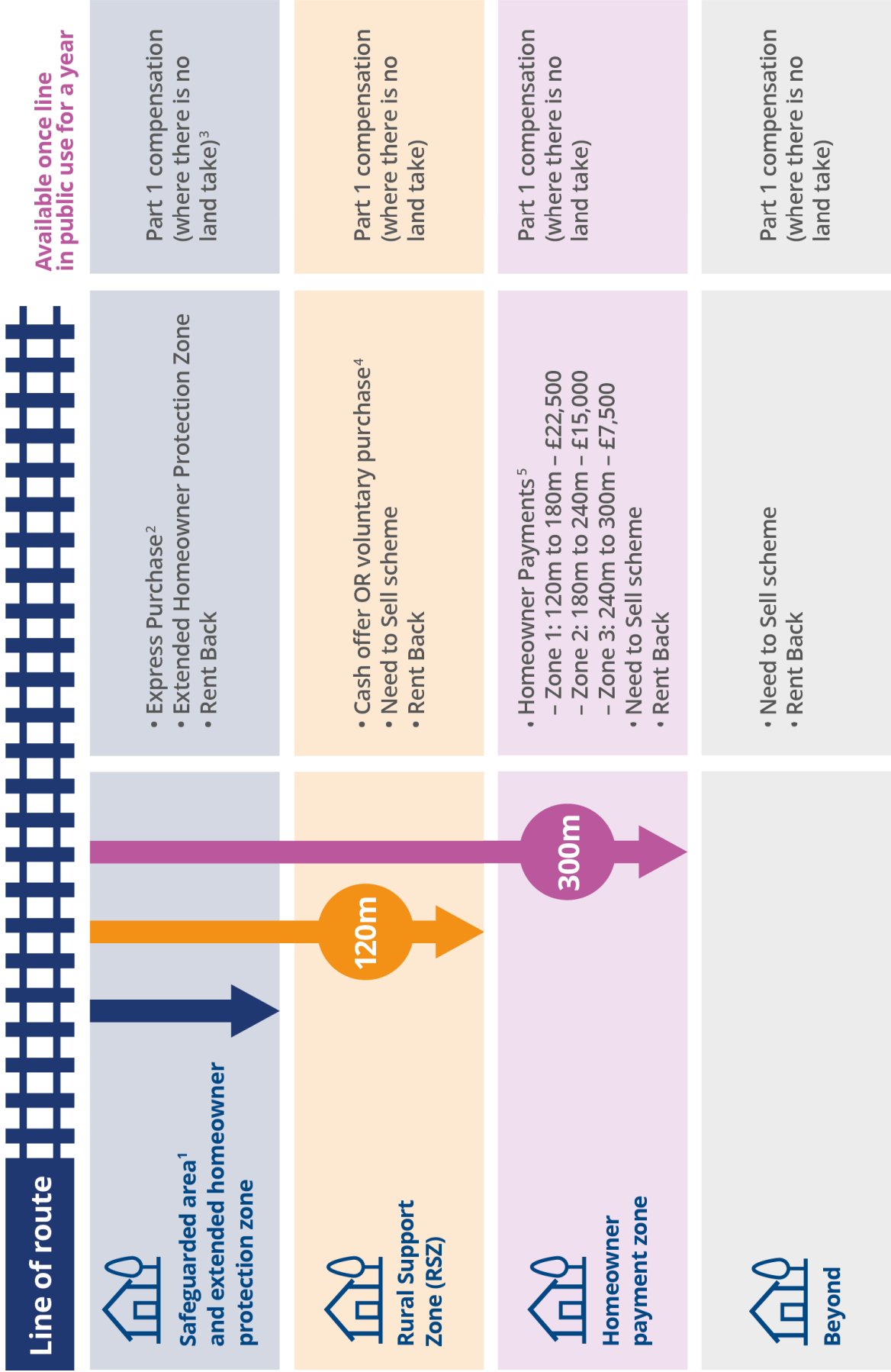
### **Rent Back Scheme**

- 4.32 Wherever the Government agrees to purchase a property under Statutory Blight, Express Purchase or a non-statutory property scheme, it will also consider any requests from the owner to rent back their home for a period of time.
- 4.33 The Rent Back Scheme was established so that a person selling their property to the Government could choose to remain in their property until a time that is more convenient for them, or nearer to a time when it is actually required.
- 4.34 As at 30 September 2018 a total of 12 properties acquired by the Secretary of State have been rented out to their former owners under the Rent Back Scheme.

4.35 More information on the Rent Back Scheme is available in property scheme guidance which is available per phase of HS2 at:

<https://www.gov.uk/government/publications/hs2-property-schemes-between-london-and-the-west-midlands>

# HS2 Property Schemes



## 5. Part One: examination of policy issues raised during consultation

5.1 Part One of the review examines four specific areas of policy that were raised during the Phase 2b property consultation<sup>7</sup>, and which the Government agreed in its response<sup>8</sup> to consider further in the context of the whole of the HS2 route. These were to:

- re-examine the benefits and risks of a property bond scheme for the HS2 project;
- consider the benefits and implications of allowing those that elect to take the cash offer to be eligible for voluntary purchase at a later date;
- review how the Government might allow flexibility in defined circumstances in the application of the No Prior Knowledge (NPK) criterion applications to the Need to Sell (NTS) scheme; and
- examine the case for assistance schemes near rolling stock depots.

### Re-examining the benefits and risks of a property bond scheme

5.2 There have been repeated calls from some MPs and members of the public for the Government to consider a property bond, or "Property Price Support Scheme" (PPSS), for the HS2 project. Those who have argued for such a scheme claim that it would better meet the Government's objectives to provide fair support, to deliver better value for money, and to support the normal functioning of the property market compared to the existing package of schemes.

### Policy principles / Government consideration

- 5.3 A PPSS is a tool that provides eligible property owners with an assurance that no financial loss is suffered as a result of generalised blight. A PPSS therefore has the potential to help support the normal functioning of the property market in areas impacted by HS2.
- 5.4 There is not a single type of PPSS. There are varying assumptions on how a scheme could operate and the costs associated with it. A PPSS is expected to operate only during the planning or development phase of an infrastructure project. Any effects felt after the development phase are addressed separately through existing statutory compensation.

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<sup>7</sup> <https://www.gov.uk/government/consultations/hs2-crewe-to-manchester-west-midlands-to-leeds-property-consultation-2016>

<sup>8</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/629394/high-speed-two-phase-2b-crewe-to-manchester-west-midlands-to-leeds-and-beyond-property-consultation-response-web-version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/629394/high-speed-two-phase-2b-crewe-to-manchester-west-midlands-to-leeds-and-beyond-property-consultation-response-web-version.pdf)

- 5.5 In the context of HS2, a PPSS could potentially take the form of a non-statutory compensation scheme whereby the Secretary of State would guarantee either to purchase a blighted property in full, or make up the difference between its blighted and unblighted price (as if HS2 had not been proposed and no blight had occurred). This is a different model to the existing HS2 schemes which generally enable an owner of a blighted property to sell it to the Secretary of State at an unblighted value in prescribed circumstances.
- 5.6 The Government committed to consult on aspects of the PPSS concept in its July 2017 response to the HS2 Phase 2b property compensation consultation.
- 5.7 An eight-week technical consultation took place from 15 May to 9 July 2018. Its focus was not on what form a particular scheme might take, but on the likely effects of a scheme on aspects of the housing market, and on the potential cost to introduce such a scheme. The technical consultation produced 14 responses: four of these were from organisations and the remainder from individuals.

### **Government decision**

- 5.8 Independent analysis of the responses to the consultation concluded that there was insufficient consistency, and the sample set too small, to draw any statistical conclusion or provide a clear mandate for any particular course of action. Nor is there an evidence base from which to draw an estimate of the cost of a PPSS to the Government.
- 5.9 The Government therefore proposes, as a next step to fill the evidence gap left by the consultation responses, to assemble a panel of industry specialists and others with knowledge and experience of the PPSS concept and variations of it.
- 5.10 We will work through that panel to develop a more comprehensive evidence base with a view to concluding whether a PPSS should form some part of the compensation package for HS2.
- 5.11 In the Government's view, there is nothing in the responses to the PPSS consultation that inhibits the changes put forward in this review to the existing package of non-statutory property schemes.

### **Benefits and implications of allowing those that elect to take the cash offer to be eligible for voluntary purchase at a later date**

- 5.12 Some respondents to the Phase 2b property consultation felt that property owners within the Rural Support Zone (RSZ) who elected to take the cash offer should have the ability to elect voluntary purchase at a later date. It is not currently possible to take up the RSZ voluntary purchase option once a cash offer has been received.
- 5.13 Respondents felt that a property owner's personal circumstances may change, or that the predicted impact of HS2 on their property may change, once the route design in their local area had been finalised. They felt that having greater flexibility in these circumstances to opt for voluntary purchase at a later date would be a fairer approach for the Government to take.
- 5.14 The Government committed in its response to the Phase 2b consultation to examine the current policy in respects of the whole HS2 route.

## **Policy principles / Government consideration**

- 5.15 While those wishing to see a change in policy argued that allowing voluntary purchase after a cash offer had been accepted would be a fairer approach, the Government also has to consider its other objectives such as community cohesiveness and value for money.
- 5.16 Within the RSZ property owners should consider their long-term plans before making a decision to either take a cash offer, or to sell their property through voluntary purchase. The option of a cash offer is designed to encourage homeowners who fall within the RSZ to consider remaining within their home and the community, rather than moving away. Where a homeowner does not wish to remain in their home, the voluntary purchase option enables them to sell their home to the Secretary of State.
- 5.17 Actual take up of voluntary purchase and cash offer options across the HS2 route varies by phase and between areas within each phase, which suggests that those applying consider a number of different factors before making a decision on whether to take up either of the RSZ Schemes. Feedback from Community Cohesion research on this topic carried out during 2018 was limited but produced fairly mixed responses. Some respondents expressed interest in having greater freedom to choose voluntary purchase after having accepted a cash offer, and some stated that having this ability may influence them to remain in the area for longer or indefinitely. Others felt that a cash offer followed by voluntary purchase option would reduce any “get out while you can” mentality by alleviating fears that a property might be unsellable in the future.
- 5.18 However, there was no definitive evidence that providing a voluntary purchase option would increase the take up of the cash offer and encourage people to remain within their homes and communities. There would also be additional administrative costs associated with conveyancing should the Government allow voluntary purchase after a cash offer had already been accepted. Rather than amend the RSZ Schemes therefore, the Government has considered whether it could provide greater reassurance to property owners who may later need to move having accepted a cash offer that their circumstances could be considered.
- 5.19 The Government notes that two key themes recurring in feedback were that property owners wished to have the option to move if their personal circumstances were to change, and if the predicted impact of the railway was to change in the future.
- 5.20 In the first of these circumstances, property owners in the RSZ who have received a cash offer can currently apply through the NTS scheme in cases where they can evidence a compelling reason to sell. The Government would recoup the cash offer payment from the house proceeds if they were successful.
- 5.21 In the second of these circumstances, a property owner may have made a decision to accept a cash offer on the basis of information published by the Government or HS2 Ltd on the predicted impact of the project on their property and planned mitigation works. Such information may change as the route evolves as a result of design changes: for example, changes to the way noise and other impacts would be mitigated; or in the light of Parliamentary consideration.
- 5.22 While some property owners may be successful if they applied through the current NTS Scheme, we consider that applicants, the panel and decision-makers may benefit from further guidance on evidence that could be provided to support these circumstances.

## **Government decision**

- 5.23 RSZ Schemes will be available for each phase of HS2 up until one year after the railway is operational. We would not wish to discourage careful consideration of the RSZ schemes by enabling all applicants to opt for a voluntary purchase at a later date having previously accepted a cash offer payment.
- 5.24 However, where the predicted impact of HS2 on a property has significantly changed since a cash offer was accepted, the Government will enable more formal consideration by the NTS panel and decision-maker of a significant change in predicted impact of HS2 where a cash offer has already been accepted.
- 5.25 HS2 Ltd will provide revised guidance on the NTS Scheme regarding the types of evidence applicants would need to provide in these circumstances. HS2 Ltd aims to publish the amended guidance by the end of this year.
- 5.26 The applicant would still need to provide evidence that the impact of HS2 contributes to their compelling need to sell.
- 5.27 The change would apply to all phases of HS2, including to those who have already accepted a cash offer. We believe these changes will make the scheme fairer where the predicted impact of HS2 changes significantly after a property owner has made a decision to accept a cash offer.

## **Allowing flexibility in defined circumstances in the application of the No Prior Knowledge (NPK) criterion applications to the Need to Sell (NTS) Scheme**

- 5.28 Some MPs and respondents to the Phase 2b property consultation made a case that the NTS Scheme should be more flexible in cases where an applicant did not meet the NPK criterion. They argued that the criterion could discourage people from buying properties in areas close to HS2.
- 5.29 The Government signalled in its July 2017 response to the Phase 2b property consultation that it would review how it might allow flexibility in defined circumstances in the application of the NPK criterion.
- 5.30 In its response the Government said:

*"...after considering the recommendations made by respondents the Government agrees that there is a case that some flexibility could be granted to those with prior knowledge of HS2, but where the compelling reason to sell could not have reasonably been foreseen at the time of their purchase. We also believe that in these situations, applicants should have to show that further blight has occurred since purchasing their property..."*

*In light of this, the Government will investigate the impact of providing this level of flexibility before deciding whether to introduce changes to the criterion. A decision on whether to implement any changes will be dependent on the results of this work."*

## **Policy principles / Government consideration**

- 5.31 Criterion 4 of the NTS Scheme requires applicants to demonstrate that they were not aware of the HS2 route when they acquired their property - the NPK criterion. The criterion is in place as an important safeguard against a person profiting from selling a property acquired at a blighted price to the Secretary of State for an unblighted price through an HS2 property scheme at the expense of the public purse.

- 5.32 The Government has considered the impact of changes in delivering the Schemes' objectives, which include fairness, support for the normal functioning of the property market, and value for money.
- 5.33 Where a property owner has bought a property with knowledge of HS2 but later finds they have a compelling need to sell, the expectation is that they would attempt to sell on the open market and be prepared to accept competitive offers.
- 5.34 Importantly, the NTS Scheme already allows for cases to be given discretion where a strong overall case is made, but where not all the NTS Scheme criteria have been met. Community cohesion research revealed that this aspect of the Scheme is not well-known, and indicated more generally that homeowners who responded did not consider that an application made to the NTS Scheme was guaranteed to be successful.
- 5.35 This suggests that allowing greater flexibility under the NTS Scheme's NPK criterion is unlikely to drive significant, positive behavioural change within the property market by encouraging buyers in areas impacted by HS2. Conversely, relaxing the NPK criterion - even in limited circumstances - could expose the Government to unlimited costs as new purchasers move into homes close to HS2 and qualify for the NTS Scheme.
- 5.36 We do not consider that it is necessary to change the scheme itself to enable discretion to be shown where the NPK criteria is not met, as this discretion is already within the scope of the panel and decision-maker.
- 5.37 However, where discretion is shown, a property owner may stand to benefit if they had bought their property at a blighted price, but then sold it to the Government under the NTS Scheme at an unblighted value. We consider that this may have the effect of discouraging the panel and decision-maker from applying discretion in these cases.
- 5.38 In such circumstances, it would be possible for the Government to make an adjustment to the price it is willing to pay for the property to take account of the property's value at the time it was originally purchased. This would avoid abuse of the scheme by property owners exploiting support arrangements at the expense of the public purse.
- 5.39 Where an owner-occupier has had prior knowledge of HS2, the price Government would pay for the property could be determined by establishing whether they paid a blighted price due to HS2 when they initially purchased the property. This would be determined by reviewing two valuations:
- valuation 1 - the current unblighted value of the property.
  - valuation 2 – the unblighted value at the time of purchase.
- 5.40 If the original purchase price was within 15<sup>9</sup> per cent of valuation 2, then the Government would agree to pay the full unblighted value of the property (valuation 1). The assumption would be in this case that the property was purchased at an unblighted value.
- 5.41 However, if the price was less than 85 percent of valuation 2 at the time of purchase, then it would be assumed that the buyer had originally paid a blighted value. If it can be determined that the blight resulted from HS2 and not some other factor, the

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<sup>9</sup> A seller of a property in a normal market would normally be expected to accept an offer up to 15% below market price in cases where they have a compelling reason to sell. If a price paid is greater than 15% below market price then it is assumed in the methodology that a blighted price has been paid.



Secretary of State could adjust the price he is willing to pay by the same percentage difference between the blighted value, and its unblighted value at the time it was purchased.

### **Government decision**

- 5.42 No compelling evidence has been presented to the Government to suggest that a change to the NTS Scheme's NPK criterion to allow flexibility in limited circumstances would stimulate or support the normal functioning of the property market in areas close to HS2, or achieve the Government's other objectives.
- 5.43 The NTS Scheme guidance already sets out the way in which a decision-maker would seek to determine whether a property was acquired with prior knowledge of the HS2 route, and the evidence an applicant should provide. The current NTS Scheme enables the panel and decision-makers to consider every application individually on the merits of the case put forward.
- 5.44 The Government does not believe it would be helpful to prescribe to the NTS panel or decision-makers the types of circumstances where discretion could be shown in relation to the NPK criterion, as this may fetter their consideration. However, the Government will consider providing further guidance on the types of evidence that may be provided to successfully demonstrate that a property buyer had no prior knowledge of the likely impact of the proposed HS2 route on their property before they acquired it.
- 5.45 Where an NTS case is successful but has not met the NPK criterion, the methodology set out above means the Government can ensure it protects the public purse from property buyers profiting from established support arrangements.

### **Examining the case for assistance schemes near depot locations**

- 5.46 Some respondents to the 2016 Phase 2b property consultation observed (primarily in the context of the-then proposed depot at Crofton on the Phase 2b route) that residents around the depot faced disruption from the construction and operation of HS2 but would not be in scope of the RSZ Scheme, or the HOP Scheme.
- 5.47 The Government committed in its response to the Phase 2b consultation to examine whether to change the current policy with regard to rolling stock depots (RSDs)<sup>10</sup>. Further consideration of the impact of depots and the potential to extend further Government support to communities living close to depot sites has also been supported by the HS2 Residents' Commissioner.
- 5.48 While feedback centred primarily on support given to residents located around RSDs, we have additionally considered whether property owners living near Infrastructure Maintenance Depots (IMDs)<sup>11</sup> should be within scope of any changes in policy, since these will also be permanent depot sites.

### **Policy principles / Government consideration**

- 5.49 In reviewing this specific policy, the Government has looked closely at the number of properties close to permanent depots sites, the impact that the operation of these

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<sup>10</sup> RSDs provide a place to clean and maintain HS2 trains (rolling stock).

<sup>11</sup> IMDs provide a base for planning and managing all infrastructure maintenance work

sites may have on nearby properties, as well as the other ways in which communities affected by these depots are supported.

- 5.50 There are six permanent depot sites on the HS2 route, three of which are RSDs (Washwood Heath, Crewe and Leeds East) and three of which are IMDs (Staveley, Calvert, and Stone). Four of the depots are in rural areas (Crewe, Staveley, Calvert, and Stone), while two (Washwood Heath, Leeds East) are in urban areas. Fewer than 20 properties were found to be within 120 metres of a permanent depot site across the entirety of the HS2 route.
- 5.51 Neither of the RSZ Schemes, nor the HOP Scheme, was developed to address the specific impact from construction or operation of the railway on individual properties. Where properties are located near the HS2 route or supporting infrastructure, all efforts are made to avoid or mitigate environmental impacts including noise, dust, and visual impacts from construction and operation of the railway.
- 5.52 Proposed measures are set out in the Environmental Statement published for each phase of the route at the point a hybrid Bill is laid before Parliament. Where impacts cannot be avoided or mitigated, HS2 would work with communities or property owners to reinstate lost amenities or provide other amelioration such as sound insulation or temporary rehousing.
- 5.53 It is unclear whether areas around depots are affected by generalised blight in the same way as other areas near to the line of route. This is due to the employment opportunities (direct and indirect) and other economic benefits brought to an area attributed to the siting of an IMD Depot, the effects of which may result in the countering of any negative market impact.
- 5.54 Open market sales in the immediate areas around urban depots appear to be consistent with wider market trends. While there is some evidence of a potential market slow-down in rural areas immediately surrounding depot locations, the paucity of market sales prior to safeguarding announcements means the evidence is inconclusive as to whether any market effect is attributable to HS2, or caused by other local and wider economic factors.
- 5.55 If the Government was to extend the RSZ and HOP Schemes in rural depot locations then it may have the unintended effect of extending the perception that generalised blight exists in these areas. For example, an applicant satisfying the RSZ Scheme's location requirements and other criteria does not have to test the market before seeking the Secretary of State's agreement to acquire the property. This may lead to the Government intervening where there is a potentially active market.
- 5.56 Some respondents to the Phase 2b consultation highlighted the impact on properties close to the then proposed Crofton depot. The proposed depot was subsequently relocated, as confirmed by the decision document published on 4 July 2018<sup>12</sup>. One of the reasons for moving the depot was to remove the impact of the depot on residents of Crofton.

### **Government decision**

- 5.57 Having considered the feedback from members of the public and the HS2 Residents' Commissioner in the context of the schemes' objectives, we do not believe there is a compelling case to amend the scope of the existing rural zoned schemes in order to extend them to land adjacent to permanent depot locations.

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<sup>12</sup> <https://www.gov.uk/government/publications/hs2-phase-2b-eastern-leg-rolling-stock-depot-decision>

5.58 Impacts of HS2 on properties close to depot sites will vary from location to location and site use. Specific impacts on individual properties that cannot be mitigated can be considered under atypical circumstances, or the NTS Scheme in relevant circumstances. Actual devaluation of a property from the physical impacts of the railway can be addressed through a claim under Part 1 of the Land Compensation Act 1973.

5.59 Separately, HS2 Ltd has developed proposals for an additional “Prolonged Disturbance Compensation Scheme”, for those who are likely to be exceptionally impacted by HS2 construction works. Details on the Scheme will be published in due course.

## 6. Part Two: examination of other policy issues raised

- 6.1 Part Two of the review examines a number of further aspects of the property schemes that were raised in feedback from MPs, through correspondence, from discussions with members of the public including at information events held by HS2 Ltd across the route, and from other interested parties in the course of operating the schemes.
- 6.2 In many instances, issues raised with the Government or HS2 Ltd concerned one or two scheme objectives: typically fairness or community cohesion. The Government has considered the suggestions in the light of all five of the schemes' objectives, which are set out in paragraph 2.2.
- 6.3 To aid the reader, Part Two is structured by property scheme where relevant, with cross-scheme, and non-scheme matters considered separately.

### Non-Statutory Scheme matters

- 6.4 This section of the review more general examines feedback on the package of non-statutory property schemes established for HS2.
- 6.5 Issues raised, the Government's consideration of those issues, and its conclusions are considered where appropriate by the relevant property scheme.

### Rural Support Zone (RSZ) Schemes

- 6.6 We have considered two key areas concerning the RSZ Schemes in the sections which follow.
  - Award of moving costs and other compensation to those taking voluntary purchase; and
  - Minimum 25 per cent land threshold where a dwelling is not within the RSZ.
- 6.7 More information on the RSZ Schemes can be found in paragraphs 4.9-4.15.

#### **Award of moving costs and other compensation to those taking voluntary purchase**

- 6.8 There have been a number of calls on the Government, including respondents to Community Cohesion research, to replicate what was offered on the Channel Tunnel Rail Link scheme, where as well as the unblighted market value of the property, full costs of moving were reimbursed.

- 6.9 Stakeholders wishing these costs to be reimbursed believed that it would improve the fairness of the voluntary purchase option, by ensuring those choosing voluntary purchase were not worse off because of their decision to move.
- 6.10 Some stakeholders additionally highlighted that homeowners who had elected for the voluntary purchase option at an earlier stage of the project would lose out on compensation to which they may have later been entitled had they remained in their home if it was later required to build or operate HS2, and/or included in safeguarded land.

### **Policy principles / Government consideration**

- 6.11 Where there is a threat of compulsory purchase, the law recognises that threat through Statutory Blight compensation. Where the promoter of a project (in this case, the Secretary of State) agrees to acquire a property under the Statutory Blight regime, he agrees to pay the unblighted market value, plus a home loss payment (equivalent to 10 per cent of the property's unblighted value, subject to minimum and maximum amounts), and disturbance payments to reimburse the owner's reasonable costs of moving.
- 6.12 By contrast, at the point a property owner takes up RSZ voluntary purchase, there is no threat of compulsory purchase. The RSZ scheme simply enables a property owner to sell their property to the Secretary of State. A property owner effectively makes a free choice to move, and in normal circumstances, they would expect to meet the costs of moving.
- 6.13 The cash offer was established as an option within the RSZ Scheme to encourage property owners in this zone to consider remaining in their home or business in anticipation that values would generally return to normal after the railway becomes operational. The policy has been designed in this way to help deliver the Government's community cohesion and value for money objectives.
- 6.14 Safeguarding is reviewed periodically throughout the project to ensure that land which is required for the project is protected where necessary from potentially conflicting development. However, until safeguarding directions have been issued by the Secretary of State to protect land required for the project, there is no legal threat of compulsory purchase. The property owner therefore has no legal right to apply to the Government to acquire the property or receive compensation in these circumstances.

### **Government decision**

- 6.15 The Government recognises the benefits of encouraging people to remain in their properties. It means a reduced impact on community cohesion, reduced costs due to avoided property acquisitions by the Government, and reduced levels of Government intervention in the housing market.
- 6.16 The Government maintains that providing an incentive to move by paying additional costs where a property is not expected to be required for the project would be counter to these objectives.
- 6.17 Properties within the RSZ which are not also within safeguarding - at the stage the property scheme boundaries are confirmed - are not under threat of compulsory purchase, and it therefore is a matter of choice for the owner to decide whether to sell or to remain in their home.

6.18 The Government is not prepared to give access to statutory compensation terms before the relevant Safeguarding Directions are issued.

### **Minimum 25 per cent land threshold where a dwelling is not within the RSZ**

6.19 Some applicants to the RSZ Schemes have questioned the fairness of the requirement within the Scheme where a property without a dwelling within the RSZ has to have at least 25 per cent of its total land in order to be eligible. They have argued that their properties have been blighted – whatever the proportion of land which is within the scheme zone boundary.

### **Policy principles / Government consideration**

- 6.20 In establishing the RSZ Schemes, the Secretary of State has determined that he would automatically acquire a property where the dwelling itself is in the RSZ, or where at least a quarter of the property's total land is within it.
- 6.21 The principle in setting a threshold for the total amount of land that must be within the RSZ to be eligible was to give certainty to applicants as to the circumstances where their application would be accepted, thereby delivering the Government's feasibility, efficiency and comprehensibility objectives, and to target support to those property owners who are most directly affected by HS2.
- 6.22 In previous public consultations on the RSZ Schemes, an alternative to setting a percentage-based threshold was for each case to be judged on a case-by-case basis. This alternative option was not supported by respondents to consultations on the RSZ Schemes who favoured clarity on whether or not an application was likely to be successful. The alternative option was also considered to be more difficult to administer and potentially less fair because it would necessitate more subjective decision-making and may therefore not deliver consistent or transparent decisions.

### **Government decision**

- 6.23 The RSZ Schemes have been established in such a way that they favour acceptance: even if the majority of a property's land is outside the RSZ, if at least a quarter of it lies within the RSZ then the application would be accepted if other Scheme requirements are met.
- 6.24 The Government maintains that the current RSZ Schemes' eligibility requirements effectively deliver the Government's objectives to provide support to property owners who are most directly affected by HS2, deliver community cohesion, and value for money through a scheme which is both efficient and comprehensible. The set threshold provides clarity on whether or not an applicant will be successful before they apply and favours acceptance even though the majority of a property may not lie within the RSZ.
- 6.25 Property owners who do not qualify for the RSZ Schemes but who have a compelling reason to sell are able to apply to sell their property through the NTS Scheme, as the latter does not have a boundary or a land requirement threshold. Atypical properties or special circumstances can also be considered by exception under established arrangements.

## Homeowner Payment (HOP) Scheme

6.26 We have considered a number of areas concerning the HOP Scheme in the sections which follow. More information on the HOP Scheme can be found in paragraphs 4.16-4.21.

6.27 Issues examined in this section are:

- increasing fixed HOP Scheme payments with inflation;
- bringing forward the introduction of the HOP Scheme for Phase Two; and
- application of the HOP Scheme to tenants and owners of mobile homes and houseboats.

### Bringing forward the introduction of the Homeowner Payment (HOP) Scheme on Phase Two

6.28 The Government has previously committed to launching a HOP Scheme for each Phase of HS2 when Royal Assent for each phase is secured. This is the point at which Parliament gives its approval to each phase of HS2. The progression from a Bill to an Act is a major milestone for the HS2 project and significant changes to the HS2 route would not be anticipated beyond this point.

6.29 Given that the HOP Scheme is not established in law, it is within the discretion of Ministers to introduce schemes for Phases 2a and 2b before the respective hybrid Bills for those parts of the route achieve Royal Assent. There have been some calls on the Government to do so in public responses to consultations, and we have considered this further as part of this review.

### Policy principles / Government consideration

6.30 Since the Government is proposing to uplift HOP Scheme payments with inflation (see paragraphs 6.45 to 6.54), earlier introduction of a HOP Scheme for Phases 2a and 2b of HS2 is not necessary to ensure HOP Scheme payments retain their real value over time. Therefore, we have examined other potential benefits and disbenefits of bringing forward the launch of HOP Schemes for Phase Two of the HS2 project prior to Royal Assent of relevant hybrid Bills.

6.31 Launching the HOP Scheme for each phase at Royal Assent provides certainty to the Government and to property owners that the line of route has been agreed. Until that point, it is possible for the route to change as a result of changing engineering needs, or as a result of discussion by Parliament, or petitioning by those impacted by the hybrid Bill.

6.32 Bringing forward the HOP Scheme to a point earlier than Royal Assent increases the likelihood that recipients of a HOP Scheme payment are later placed into safeguarding or another property scheme zone where they have the option to sell. In these cases, if they chose to sell their property to the Government, they would have to repay the HOP Scheme payment from the proceeds of their house sale.

6.33 Earlier introduction of the HOP Scheme would also not be without additional cost. Earlier introduction increases the likelihood that the Government would make payments to individuals whose properties are later removed from the HOP Scheme zone because of route or alignment changes, which would not be in keeping with the

Government's published objectives, and particularly fairness, value for money, and feasibility, efficiency and comprehensibility.

- 6.34 Community cohesion research reveals little indication that eligibility for a payment under the HOP Scheme affects homeowners' decisions to stay within an area. There is no evidence therefore that bringing forward access to HOP Scheme payments would contribute to the Government's community cohesiveness objective.

### **Government decision**

- 6.35 'Anchoring' the HOP Scheme to Royal Assent for each phase of HS2 reduces uncertainty and the likelihood of recipients being asked to repay their HOP Scheme payments from the proceeds of properties acquired under compulsory purchase, statutory blight, or as a result of voluntary purchase.
- 6.36 The additional costs of bringing forward the HOP Scheme as a result of potential route realignments, and the likelihood of having to reclaim some HOP Scheme payments, supports the existing approach to only release HOP Schemes following Royal Assent of the relevant hybrid Bills.
- 6.37 The Government therefore does not propose any changes to the existing policy.

### **Application of the HOP Scheme to tenants and owners of mobile homes and houseboats**

- 6.38 There have been some calls on the Government - from members of the public and some MPs - to extend the HOP Scheme to tenants, and owner-occupiers who may not otherwise be eligible. It has been argued that as both freeholders and tenants are impacted by HS2, both groups should be able to benefit equally from the Scheme, as should owners of mobile (park) homes, and houseboats.

### **Policy principles / Government consideration**

- 6.39 Eligibility to non-statutory HS2 property schemes, including the HOP Scheme, is founded upon the statutory qualifying conditions that apply under the statutory blight regime in Part 6 of the Town and Country Planning Act 1990. Eligibility to schemes generally extends to residential owner-occupiers, owner-occupiers of small businesses (currently up to an annual rateable value of £34,800), and owner-occupiers of agricultural units.
- 6.40 In the case of the HOP Scheme (which, unlike other HS2 schemes, does not enable sale of a property or relate to its market value) the Government has considered whether it would be appropriate to allow tenants of a property, or someone who did not have a qualifying interest in the property, to claim a HOP payment if they satisfied other criteria.
- 6.41 As reflected in its name, the HOP Scheme was designed primarily for homeowners to access, although eligibility extends to all those with a qualifying interest in a property (as defined under section 149 of the Town and Country Planning Act 1990).
- 6.42 It was considered that those without a qualifying interest in a property have more flexibility to move from an area which is impacted by HS2. In consequence, the Scheme was designed to give back to more permanent residents and used the statutory qualifying conditions that apply under the statutory blight regime.



## **Government decision**

- 6.43 The Government continues to believe that it is appropriate to align the non-statutory schemes as closely as possible to the statutory entitlements to compensation, which generally apply only to owner-occupiers, and focus on those property owners who have made an area their permanent home.
- 6.44 We are therefore not persuaded that there is a strong need to change the existing policy.

## **Increasing fixed HOP Scheme payments with inflation**

- 6.45 In its response to the 2016 Phase 2b Property consultation, the Government agreed that it would review whether the HOP Scheme's fixed payments should be adjusted to reflect inflation in the future.<sup>13</sup>
- 6.46 This commitment recognised that the longevity of the HS2 project would mean the erosion in real terms of the HOP Scheme's fixed payment values over time from inflation. It recognised that those living on Phase 2b of the route would receive less in real terms compared to property owners along Phase One who are able to apply for HOP Scheme payments now.

## **Policy principles / Government consideration**

- 6.47 The Government accepts that the value of the HOP Scheme's fixed payments would be worth less in real terms to claimants on Phase 2a and Phase 2b of the HS2 route compared to those on Phase One should inflation continue year-on-year.
- 6.48 The Government considers that adjusting the fixed payments over time to reflect inflation would help provide greater equity across the whole of the HS2 route. In considering a policy change in this area, the Government reflected on how an inflationary change to the HOP Scheme payments might be calculated, and at what points of the project might uplifts be made.
- 6.49 The Government considers that the Gross Domestic Product Deflator index, which reflects general inflation in the domestic economy, would best align with the objectives of the HOP Scheme.
- 6.50 The Government anticipates that eligible property owners would likely take up their HOP Scheme payment within three years of a scheme opening. Uplifting amounts on an annual basis would therefore likely become redundant within three years of a Scheme's launch because it is assumed that all payments will have been made by that point.
- 6.51 This is consistent with experiences from HOP Scheme take-up on Phase One where around 40 per cent of anticipated HOP Scheme payments had been made within the first year of the Scheme opening.

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<sup>13</sup> The commitment is set out in paragraph 4.55 within the consultation response available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/629394/high-speed-two-phase-2b-crewe-to-manchester-west-midlands-to-leeds-and-beyond-property-consultation-response-web-version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/629394/high-speed-two-phase-2b-crewe-to-manchester-west-midlands-to-leeds-and-beyond-property-consultation-response-web-version.pdf)

## **Government decision**

- 6.52 The Government agrees that the value of HOP Scheme payments should be adjusted periodically to reflect inflation to ensure that payments retain their real values during the period within which payments are likely to be claimed.
- 6.53 The Government considers that it would be appropriate to make adjustments to the HOP Scheme payment values across the route at points where the relevant Phase Two hybrid bills enter into law.
- 6.54 In making this change we have also considered the reduction over time in the real value of the maximum RSZ cash offer (£100,000), and whether the fall in value of a fixed amount that does not increase with inflation could - over the longer term - encourage property owners to opt for voluntary purchase, and adversely affect community cohesion.
- 6.55 Having considered this carefully, we believe that the maximum cash offer strikes the right balance between encouraging homeowners whose properties are not required for the project to remain within their homes, thereby contributing to community cohesiveness, while protecting the public purse. However, the Government will keep this policy under review in case any change is warranted in the future.

## **Need to Sell (NTS) Scheme**

- 6.56 The Government has considered whether any changes should be made to the NTS Scheme in light of feedback. Paragraphs 4.22-4.26 provide an introduction to the NTS Scheme.
- 6.57 Issues considered in this section are:
- intention or attempts to sell prior to HS2 route announcements;
  - “effort to sell” criterion;
  - acceptance rates and access to the NTS Scheme;
  - guidance to HS2 Ltd on the NTS Scheme;
  - relaxation or removal of the compelling reason to sell;
  - the 15 per cent threshold for sales on the open market;
  - introduction of an independent appeals process for NTS Scheme; and
  - provision of guidance to estate agents marketing properties affected by HS2.

### **Intention or attempts to sell prior to HS2 route announcements**

- 6.58 The Government is aware from correspondence it has received that some unsuccessful applicants to the NTS Scheme who tried to move house before HS2 routes were announced felt it was unfair that they should be treated no differently to applicants who decided to sell their house after an HS2 route announcement. They argued that their intent to sell should constitute a compelling reason to sell. Homeowners in this position may have marketed their property, had viewings, and even received offers on their property.

## **Policy principles / Government consideration**

- 6.59 The underpinning principle of the NTS Scheme is that the property owner has to evidence a compelling reason to sell, or present a strong overall case if all the Scheme criteria have not been met. While a homeowner may have intended to move prior to an HS2 route being announced, it does not follow that their reason for selling was, or is, compelling.
- 6.60 Efforts to sell prior to an HS2 route announcement are taken into account under criterion 3 of the current scheme. Indeed, a key way of demonstrating efforts to sell under this criterion is to determine whether it is the blight resulting from the HS2 route, rather than any other factor, which is the reason why a property has not been sold, or could not be sold, other than at a substantially reduced (blighted) value.
- 6.61 Applicants can provide evidence in their NTS Scheme application that they had actively marketed their property before the announcement of the relevant HS2 route. If the level of interest before and after the route announcement indicates that generalised HS2 blight is most likely the reason why the property could not be sold unless at a significantly reduced value, this evidence would be taken into account by the panel and decision-maker.

## **Government decision**

- 6.62 The Government does not propose changing the NTS Scheme in this respect. Removing the need for a compelling reason to sell under the NTS Scheme would not be in keeping with the Government's community cohesion, fairness, or value for money objectives.
- 6.63 The Government is satisfied that extenuating circumstances can be considered under the existing NTS Scheme, and efforts to sell a property are already taken into account under criterion 3 of the Scheme. In addition, atypical properties and special circumstances can be considered by exception.

## **"Age and Stage" circumstances in NTS applications**

- 6.64 The House of Commons Select Committee on the High Speed Rail (London - West Midlands) Bill, which examined the petitions on Phase One of HS2, suggested in its Second Special Report of Session 2015–16 that the Government should take "a more considerate, generous approach" to NTS applications, including "a recognition that people's 'age and stage' in life might be good reason to want to move."<sup>14</sup> This could include, for example, property owners of retirement age who are seeking to downsize due to retirement or ill health, or those wishing to move due to other personal or family circumstances related to their stage of life.
- 6.65 In response, the Government improved the NTS Scheme guidance to provide successful and unsuccessful examples under criterion 5 (compelling reasons to sell), of the NTS Scheme, and the types of evidence that an applicant could submit to evidence compelling reasons to sell. However, feedback indicates there is still confusion on the types of circumstances that might be successful, and the Government has considered whether it is possible to provide more detailed guidance.

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<sup>14</sup> <https://publications.parliament.uk/pa/cmhs2/129/129.pdf>

## **Policy principles / Government consideration**

- 6.66 The Government is clear that the NTS Scheme can only operate effectively if applicants meet all eligibility requirements, or if they present a strong overall case in order to be accepted.
- 6.67 Applications are received on a wide range of different personal circumstances relating to an applicant's health, financial, employment or family circumstances.
- 6.68 The age of applicants may be relevant in order to support, for example, changing financial circumstances due to retirement. It may also be relevant should the owners' capacity or health affect their ability to maintain a property. Property owners responding to the needs and requirements of their family may also be able to provide evidence of a compelling need to sell in order to acquire a different size or type of home. In these respects, the NTS panel and decision-maker already take such factors into account when making decisions on applications.
- 6.69 However, for example, it would not be sufficient for an applicant simply to provide evidence of their planned or actual retirement from full time employment as a compelling reason to sell under the Scheme. Retirement must be connected to a financial, health or another compelling reason to sell under criterion 5 of the Scheme.

## **Government Decision**

- 6.70 The Government agrees that factors relating to an applicant's age and stage of life should be taken into account as part of their application. However, it would not be consistent with the Scheme's objectives, or desirable as a policy, for the Government to guarantee that all such applications would be successful. Applicants must link their personal circumstances to a compelling reason to sell.
- 6.71 However, the Government recognises that plans to retire from full or part time work particularly can often prompt financial or other personal circumstances leading to a compelling reason to sell. Where this is the case and an applicant (or a person relevant to the household to which the application relates) is of national retirement age (or will be within the next three years), then HS2 Ltd's NTS Secretariat will not seek evidence to support that person's plans to retire.
- 6.72 By making changes to guidance to confirm that evidence is not required in these circumstances, the Government intends to make the NTS Scheme simpler and fairer to relevant applicants and streamline administration to contribute to the Government's feasibility, efficiency, and comprehensibility objective.

## **“Effort to sell” criterion**

- 6.73 Some applicants considered that the “effort to sell” criterion (criterion 3) was unfair in that they were forced to market their property for at least three months when they felt it was obvious that they were suffering from generalised blight. The Government has considered the current policy in the context of its objectives, and particularly its aim to provide schemes which are fair, contribute to community cohesion, deliver value for money, and support the normal functioning of the housing market.

## **Policy principles / Government consideration**

- 6.74 A key principle of the NTS Scheme is that sufficient testing of the local property market has taken place to demonstrate that there are no buyers willing to pay an

unblighted market value for a property. This ensures that public funds are targeted only where there is an established need for Government intervention.

- 6.75 In locations where there is a strong local market despite the presence of HS2, property owners may find that they are able to sell their property at an unblighted price. Performance of the local market will largely depend on the type, condition, size and location of a property, and supply and demand within the local housing market. The independent panel and decision maker would take a number of factors into account when deciding if the marketing undertaken by an applicant demonstrates a sufficient effort to sell the property in question.
- 6.76 For example, higher value or unusual properties may need longer on the market in order to sell, and more active marketing. Similarly, more remote properties tend to be on the market for longer before selling compared to those in less remote locations. The presence of HS2 might be one factor affecting the ability to sell a property, but there will be others including the asking price and the marketing strategy used, the local economy, and supply and demand for the style, age, and size of a property, all of which would need to be considered.
- 6.77 There are also some recognised circumstances where it may not be possible to demonstrate efforts to sell. In others, it may not be necessary to demonstrate that a property cannot be sold on the open market. Circumstances include:
- where the applicant has written evidence (emails or letters) that they are unable to market their property owing to at least three recognised estate agents refusing to take it on due to HS2; and
  - if the NTS panel believes that extenuating circumstances mean an application should be accepted despite not meeting all the Scheme's criteria. In these cases the can recommend that the application should still be accepted.
- 6.78 Additionally, we consider that where a reluctant landlord applies to the NTS Scheme who would otherwise be eligible for the Express Purchase Scheme or the RSZ Scheme if they were an owner-occupier, they should not have to evidence their efforts to sell. Evidence that they had made reasonable endeavours to sell would not be required under the Express Purchase or RSZ Schemes if the landlord was an owner-occupier. We consider that this should also be the case for a representative of a deceased person applying to the NTS Scheme where a property is within the RSZ.

### **Government Decision**

- 6.79 The Government has committed to clarifying in the NTS Scheme guidance the circumstances where it is not necessary for an applicant to demonstrate that they have made efforts to sell a property.
- 6.80 By making these changes we intend to make the NTS Scheme simpler and fairer to relevant applicants and streamline administration in these circumstances (feasibility, efficiency and comprehensibility objectives).
- 6.81 HS2 Ltd will make changes to NTS Scheme guidance which it aims to do by the end of the year.

### **Acceptance rates and access to the NTS Scheme**

- 6.82 A number of members of the public, applicants, and Antoinette Sandbach MP have expressed concern about the acceptance rates to the NTS Scheme on Phase 2b of

the route. To date,<sup>15</sup> acceptance rates on Phase 2b (32%) are lower on average than rates for Phase One (51%) and Phase 2a (63%).

- 6.83 A number of recommendations have been made by individuals wishing to see higher rates of acceptance, including a recommendation that applicants should be able to present their case personally in front of decision-makers. This was supported by the call for increased face-to-face engagement more generally in responses to Community Cohesion research.

### **Policy principles / Government consideration**

- 6.84 The difference in acceptance rates between phases of HS2 is not easily explained, since the scheme is administered identically across the route.
- 6.85 The NTS Scheme relies on a written, evidence-based application process, which enables claimants to fully share and evidence their circumstances with an independent panel and decision maker. If they wish to, applicants may submit photographic evidence of the features of their property and the immediate vicinity to support their statements about the impact of the HS2 project on their property.
- 6.86 HS2 Ltd's NTS Secretariat (which administers the Scheme) can also seek further evidence from the applicant in cases where they have identified deficiencies in the evidence supplied.
- 6.87 Enabling claimants to appear in person in front of a panel would likely slow the decision-making process because it would be necessary for both the panel and the decision-maker to have access to the same information when reaching a recommendation / decision, meaning that a claimant would likely need to appear before both the panel and the decision-maker for the process to be fair and fully transparent.

### **Government Decision**

- 6.88 While we appreciate that claimants wish to have their circumstances properly understood by a panel the Government maintains that a written, evidence-based application process is the best way to ensure decisions are made consistently, and transparently, and that the NTS Scheme delivers the Government's five objectives.
- 6.89 We do not agree that enabling claimants to appear in person in front of a panel and a decision-maker would necessarily lead to a fairer or more accessible scheme.
- 6.90 The Government does not propose to make changes to the NTS Scheme to allow applicants to appear in front of the independent panel or decision-maker.

### **Guidance to HS2 Ltd on the NTS Scheme**

- 6.91 Some members of the public and some MPs in their correspondence and feedback to the review have suggested that further guidance should be given to HS2 Ltd to ensure they are sympathetic to NTS cases presented, and do not take an "overly subjective" view of applicants' circumstances.

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<sup>15</sup> Acceptance rates are as at September 30 2018

## **Policy principles / Government consideration**

- 6.92 The NTS Scheme has been established with a number of qualifying criteria.
- 6.93 While an applicant may be able to more readily provide evidence against criteria 1-4, the Government accepts that whether or not a need to sell is compelling (criterion 5) may be more difficult to evidence and relies on more subjective assessment by decision-makers. In order to enable transparent and consistent decisions, the Government has therefore put in place an independent process to consider NTS applications. Decisions on NTS Scheme applications are not made by HS2 Ltd.
- 6.94 A panel of three, fully independent people review all NTS applications against the Scheme criteria. The panel's recommendation is then reviewed by a Senior Civil Servant (SCS) who is unconnected to the HS2 project on behalf of the Secretary of State. Should the panel and the SCS decision-maker disagree, the case is referred to a Minister for a final decision.
- 6.95 The panel and SCS decision-makers receive thorough training on the NTS Scheme. Detailed panel guidance has also been published<sup>16</sup>. The panel will consider each application on a case-by-case basis, taking into account the variable characteristics of the planned railway line and the evidence provided against the Scheme's criteria.
- 6.96 When considering an application, the panel will use engineering and construction drawings, mapping software and aerial photographs (if available) provided by HS2 Ltd to consider the impact of the construction or operation on the applicant's property. They will consider all other evidence submitted by the applicant to support their qualifying interest in the property, efforts to sell, their awareness of the HS2 route at the time they acquired the property, and their need to sell. The SCS decision-maker reviews the panel's recommendations, viewing supporting evidence as required, and makes their decision in line with the Scheme's criteria.
- 6.97 The panel and decision-makers are supported administratively by the HS2 Ltd NTS Secretariat who receive applications, anonymise all information, and ensure decision makers have access to all evidence supplied.

## **Government decision**

- 6.98 In light of the established decision-making process for NTS applications, the Government is satisfied that the existing NTS Scheme and guidance provides an effective framework for decision-making in order to deliver the Schemes' five objectives. The Government does not therefore agree there is a need for further guidance to be issued to the panel or decision-makers.
- 6.99 As with all guidance, the NTS Scheme guidance is kept under review by the Government and by HS2 Ltd and will be updated where necessary.

## **Relaxation or removal of the compelling reason to sell**

- 6.100 A key criticism of the NTS Scheme has been the need for an applicant to evidence a compelling reason to sell under criterion 5. Those challenging this aspect of the

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<sup>16</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/568959/Need\\_to\\_sell\\_scheme\\_-\\_panel\\_guidancev.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/568959/Need_to_sell_scheme_-_panel_guidancev.pdf)

Scheme have argued that it is difficult for those wishing to move to be successful under the NTS Scheme, and the criterion has resulted in low acceptance rates.

- 6.101 Those seeking a removal of the compelling reason to sell criterion, or to relax it, have suggested that a reason to sell should still be given by an applicant, but that reason need not be “compelling,” or that they should be able to give a “justifiable” reason to move.

### **Policy principles / Government consideration**

- 6.102 The need to evidence a compelling reason to sell reflects the general principle that the Secretary of State - not the individual householder - will ultimately decide whether or not to spend public money on acquiring a property which is not required for the project. The prescribed NTS Scheme criteria enable targeted support to those impacted by HS2 who are most in need.
- 6.103 The Government has carefully considered the Scheme criteria, including the need for an applicant to have a compelling reason to sell in the context of the Schemes' objectives, and particularly in delivering fairness, value for money, community cohesiveness and schemes which are feasible, efficient, and comprehensible.
- 6.104 The NTS Scheme is a scheme modelled on similar hardship schemes used for other infrastructure projects, such as the Channel Tunnel Rail Link, and Crossrail. It evolved from the original "Exceptional Hardship Scheme", which was first introduced in 2010 for HS2, in order to make it more accessible.
- 6.105 Criticism of the current Scheme's criteria is based on the view that the Government should acquire any property that cannot be sold on the open market due to the perception of generalised blight on that property from the HS2 project. This is not the objective of the HS2's schemes, or indeed other similar Exceptional Hardship schemes.
- 6.106 The NTS Scheme has been developed to target Government support to those with a real and evidenced need to sell their property. Importantly, it is not designed to address circumstances where a homeowner cannot sell their property on the open market due to generalised blight. This is an accepted risk of owning property which is not compensable under the law.
- 6.107 Generalised blight is caused by the perception of a project, and fear of its impact. It is generally accepted from evidence gathered from other infrastructure projects that blight increases in the planning stages of a project and hits a peak during the construction phase<sup>17</sup>. Property values then generally move back in line with the norm as construction completes and a project commences operations.
- 6.108 Many homeowners, understandably, are concerned in the early stages of a project before the true impacts on their community and property are known. They often wish to move in order to protect their financial investment. Common fears are that a local community will adversely change and properties will be permanently devalued by the proximity of a road or rail scheme, housing development, or another type of development.
- 6.109 Should the Secretary of State acquire the property of every person who wished to move due to a development or project, the number of properties purchased would significantly increase, with the associated costs to the public purse. For HS2, there

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<sup>17</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/327755/hs2-property-bond-cost-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/327755/hs2-property-bond-cost-report.pdf)



would also likely be an adverse effect on community cohesion as a result of large scale movements of property owners living near the line of route, and disruption to the normal functioning of the property market.

- 6.110 The Parliamentary Select Committee<sup>18</sup> which examined the NTS Scheme in the context of its use on Phase One of HS2 and Human Rights law, concluded that it was disproportionate for the Government to introduce a “wish” to sell scheme. It agreed that the non-statutory property schemes which had been established for HS2 could appropriately support those impacted by HS2, and consideration of atypical cases outside the schemes could accommodate applicants with special circumstances.
- 6.111 We maintain that the most appropriate form of support for those outside the RSZ and safeguarding is an evidenced-based NTS Scheme. The Government also maintains that its objectives can only realistically be achieved by requiring applicants to evidence a compelling need to sell.
- 6.112 HS2 Ltd’s NTS Secretariat provides support to the panel process. While the NTS Secretariat is unable to give advice to applicants on which evidence will result in a successful application, it will contact applicants to ensure any missing information is supplied, and ask applicants to provide supporting information if there is an obvious lack of evidence provided in relation to any of the criteria. Where an NTS application has been rejected, the decision will be communicated to the applicant with the reasons why. Where the panel requires more evidence to support an application, the claimant can reapply again, supplying further evidence if relevant.

### **Government decision**

- 6.113 The Government does not agree that there is sound reason to remove or relax the compelling reason to sell criterion, which is a fundamental principle of the NTS Scheme, and other similar hardship schemes which operate in respect of Government-led infrastructure projects.
- 6.114 All HS2 property schemes have prescribed eligibility criteria, which means not all applicants are successful. Success will depend on the strength of the application and the evidence provided. Applicants should provide sufficient evidence to support their application against the published scheme criteria so that consistent and fair decisions can be reached.
- 6.115 The Government and HS2 Ltd are committed to continue efforts to increase the accessibility and transparency of the NTS Scheme, including through:
- simplified video guidance, which has already been used at information events across the Phase 2b route;
  - surgeries offered in areas where rates of acceptance are lower than average;
  - publishing statistics on NTS acceptance and rejection rates, as well as unsuccessful and successful compelling reasons; and
  - improved NTS guidance which is clear and comprehensive.
- 6.116 The Government will continue to keep application and reapplication acceptance rates under review to assess whether and in what form any further support to applicants could be provided. It will also seek regular feedback from applicants on

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<sup>18</sup> <https://publications.parliament.uk/pa/ld201617/ldselect/ldhs2/83/83.pdf>

their experiences in applying to ensure the scheme remains efficient and comprehensible.

### **15 per cent threshold for sales on the open market**

- 6.117 Some respondents to the Phase 2b consultation did not agree with the NTS Scheme's requirement that offers made for a property within 15 per cent of the property's market value should be considered. This has been challenged as it was felt that it was unfair for a property owner to have to accept an amount lower than the asking price of their property. Sir Keir Starmer MP particularly highlighted that owners of £1million properties in London would need to reduce their asking price by £150,000 to be eligible under this criterion of the NTS Scheme.

### **Policy principles / Government consideration**

- 6.118 Criterion 3 of the NTS Scheme requires that applicants demonstrate the absence of buyers on the open market who are prepared to make an offer within 15 per cent of the property's realistic, unblighted asking price.
- 6.119 The requirement for a property owner to test the market, and consider offers which are within 15 per cent of the property's market value, is a long standing approach used by other compensation schemes, such as those used by the Channel Tunnel Rail Link, Crossrail and Highways Agency road schemes.
- 6.120 It is not uncommon for buyers and sellers to agree upon a price lower than the asking price in normal market circumstances. In addition, a vendor may be willing to accept an offer that is lower than market value if they have an urgent need to sell.
- 6.121 The inclusion of criterion 3 within the NTS Scheme prevents the Government from stepping in to acquire properties where it is considered there is a functioning property market.

### **Government decision**

- 6.122 The Government believes that the requirement within the NTS Scheme for consideration of offers made for a property within 15 per cent of the property's market value is fair and reasonable, and supports the normal functioning of the property market amongst other objectives.
- 6.123 The Government does not therefore propose making changes to the NTS Scheme's criteria to relax or remove this requirement.

### **Introduction of an independent appeals process for the NTS Scheme**

- 6.124 In her response to the Government's call for feedback for the review of schemes, Antoinette Sandbach MP asked the Government to consider the introduction of an appeals mechanism to the NTS Scheme, on the basis that homeowners "often have to apply many times, and they may not be satisfied with the decision but have no means of recourse".

## **Policy principles / Government consideration**

- 6.125 The NTS Scheme evolved from the HS2 Exceptional Hardship Scheme, which itself was based on schemes used by other projects, including the Channel Tunnel Rail Link, and Crossrail. Neither of these schemes - nor a similar scheme provided by Highways England in relation to road projects - provide an independent appeals mechanism in respect of decisions made on discretionary exceptional hardship cases. The promoter of an infrastructure scheme (in the case of HS2, the Secretary of State) ultimately retains the right to decide whether or not to acquire a property which is not required by the project. The lawfulness of his decision remains subject to challenge via the Judicial Review process.
- 6.126 The Secretary of State has established the requirements of the HS2 NTS Scheme in order to draw a distinction between those whose property is needed to build or operate the railway, and those whose property is acquired under a non-statutory scheme because of their personal circumstances. In this way, the scheme targets the expenditure of public money in the support of those most in need.
- 6.127 The NTS Scheme has been designed so that applications are considered by more than one person who has been trained and has experience in assessing applications against the established criteria. An independent panel will make a recommendation to accept or reject each application on the basis of the evidence submitted. A member of the SCS then makes a decision on behalf of the Secretary of State in the light of all information (including where members of the independent panel members might disagree) and the panel's recommendation. Ministers would make a final decision should the SCS member's decision disagree with the panel's recommendation.
- 6.128 Having heard from petitioners who wished to see an independent appeals mechanism established for the NTS Scheme, the House of Lords Select Committee who examined the Scheme noted "the existence of the independent panel which makes a recommendation does provide a genuinely independent element."
- 6.129 The Committee was reluctant to direct the institution of an independent appeals mechanism, instead favouring the publication of more detailed information on matters that may amount to a "compelling reason" to sell. NTS Scheme guidance has since been revised to provide more detailed information to potential applicants.
- 6.130 Under the current scheme, where an NTS application has been rejected, the decision is communicated to the applicant with the reasons why their application has not been successful. The claimant can reapply again, supplying further evidence to support their circumstances. This is an important part of the NTS Scheme which enables the independent panel and decision makers to make decisions consistently and fairly based on evidence.

## **Government decision**

- 6.131 Not all applications to the NTS Scheme are likely to be successful. The Government maintains that the existing NTS Scheme's design ensures that evidence-based, consistent, and transparent decisions can be made, and does not agree that there is a need for an independent appeals mechanism to be established. This approach is in keeping with similar schemes provided for road or other rail infrastructure projects.

- 6.132 The Department and HS2 Ltd have made changes to the Scheme guidance and will continue to improve it to give clearer support to potential applicants. For example, the guidance was updated in 2017 to provide examples of the types of evidence that could be provided under the compelling reasons to sell criterion. The Government has also published the types of compelling reasons to sell which have been both been successful and unsuccessful from applications already considered.
- 6.133 Where an applicant is repeatedly unsuccessful under any HS2 non-statutory property scheme, HS2 Ltd is committed to engage with them to reduce the risk that they reapply where they have no or little hope in being successful unless their circumstances were to change.
- 6.134 We do, however, recognise that the requirements of the Scheme to some can be overwhelming, or complex to understand. The Government and HS2 Ltd will continue to make efforts to improve guidance, obtain feedback, and provide support to those considering applying to the NTS Scheme.

### **Provision of guidance to estate agents marketing properties affected by HS2**

- 6.135 Antoinette Sandbach MP called for the Government / HS2 Ltd to provide guidance to estate agents confirming that they should market properties at unblighted prices and provide information about the NTS Scheme.

### **Policy principles / Government consideration**

- 6.136 The NTS Scheme requires that marketing proposals are sought from at least three recognised estate agents. A refusal by a local estate agent to market a property can be accepted as one attempt to obtain a market appraisal, although it is preferable to include as many market appraisals as possible if other agents are willing to market the property.
- 6.137 Should three or more local estate agents refuse to market a property, it would be necessary to provide evidence of this refusal from each estate agent.
- 6.138 NTS Scheme guidance provides detailed information and is available at: <https://www.gov.uk/government/publications/hs2-phase-one-need-to-sell-scheme-guidance-and-application-form>

### **Government decision**

- 6.139 The Government is satisfied that published guidance on the NTS Scheme provides estate agents and property owners with relevant information on the marketing of properties impacted by HS2.

### **Cross-scheme matters**

- 6.140 In some cases, feedback from stakeholders related to a principle that applied to more than one of the non-statutory property schemes.
- 6.141 Issues considered in this section are:
- the ability of landlords to access statutory and non-statutory schemes;

- compensation for those on Phase 2b Meadowhall route;
- the case for extending the scope of rural property schemes where the HS2 track area footprint widens;
- atypical properties and special circumstances; and
- access to a cash offer for owners of properties within safeguarding / the Extended Homeowner Protection Zone (EHPZ).

### **Ability of landlords to access statutory and non-statutory schemes**

- 6.142 Where a property affected by HS2 is owned by a landlord, that person would be eligible for statutory compensation only if and when that property is required for the project and is subject to compulsory purchase. This approach is in line with other Government-led infrastructure projects.
- 6.143 There have been a number of calls from MPs and members of the public who are affected by this policy to review this approach. They have pressed for a change that would enable landlords of properties anywhere along the route to apply to sell their property to the Government in advance of need, or under a voluntary purchase option.

### **Policy principles / Government consideration**

- 6.144 The rules which apply to the statutory blight regime are set out under the Town and Country Planning Act 1990 and apply to all projects where land will be compulsorily acquired. Under statutory provisions, a claimant has the ability to sell a property ahead of need to the acquiring authority (in this case, the Secretary of State for Transport).
- 6.145 Statutory blight is only available to those with a qualifying interest in the property – i.e. generally, those who own and occupy a property, although mortgagees and executors are also able to serve a valid Blight Notice. This enables owner-occupiers whose property may be subject to a compulsory purchase order at a future point to sell in advance, at a time more convenient to them.
- 6.146 It is expected that a landlord is able to continue to let their property during the development phase of the project, continuing the income stream until it is acquired. It is possible that the acquiring authority may later confirm that the property is not required.
- 6.147 HS2's non-statutory property schemes generally seek to mirror compulsory purchase law, including how they apply to investment landlords. The one exception is under the NTS Scheme which extends to “reluctant landlords”<sup>19</sup>.
- 6.148 Any financial investment, such as property, comes with a level of risk that the value of it will fluctuate. The Government considers that it should not use public money to acquire such properties until such time that they are required by the project.
- 6.149 The NTS Scheme also allows for discretion to be shown where there are extenuating circumstances if not all criteria are met but where a strong overall case

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<sup>19</sup> A “reluctant landlord” is defined in NTS guidance as: “individuals who can demonstrate that they had a compelling reason to sell at the time they moved out of the property in order to avoid or escape a situation of unreasonable burden, and that letting the property could provide only temporary relief from this burden, and they do not own another home.”

is made to accept. Atypical properties/special circumstances can also be considered outside the package of schemes.

### **Government decision**

- 6.150 The exclusion of investment landlords from elements of statutory compensation is an established principle under the compulsory purchase code, and one which has been mirrored by the non-statutory property schemes for HS2. The Government does not agree that there is a case to change this fundamental principle which supports the normal functioning of the property market, community cohesion, and value for money objectives.
- 6.151 There is already scope within the NTS Scheme for reluctant landlords to apply to sell their property to the Government. The ability to consider other types of landlord's atypical properties/special circumstances outside the schemes, means that the Government does not see a compelling reason to broaden the definition of a reluctant landlord, or change its general approach to supporting other types of landlord.

### **Compensation for those on Phase 2b Meadowhall route**

- 6.152 In 2013, as part of the proposals for Phase 2b of HS2, the Government proposed to serve South Yorkshire via a new station on the HS2 main line close to the Meadowhall retail complex, to the north east of Sheffield. The proposed Meadowhall station site was located between Sheffield and Rotherham, 20 miles south west of Doncaster and 11 miles south east of Barnsley. Land which would have been required for the Meadowhall route was not protected via safeguarding, neither were property compensation schemes implemented for the potential route in this area.
- 6.153 Following recommendations made by Sir David Higgins (the-then HS2 Ltd chair) in his report Sheffield and South Yorkshire<sup>20</sup> (July 2016), the Government decided in 2016 to consult<sup>21</sup> on an initial preferred route in this area, superseding the original Meadowhall route.
- 6.154 Some homeowners on the Meadowhall route consider they should be awarded compensation for experiencing generalised blight, stress, and uncertainty due to the length of time taken by the Government to make a final decision on that part of the Phase 2b route.

### **Policy principles / Government consideration**

- 6.155 The Government maintains that it is good policy to consult on potential HS2 routes before they are confirmed. This provides a way to listen to and respond to feedback from communities affected by the proposals, as well as experts, and other stakeholders.
- 6.156 While the Government understands that communities along all the Phase 2b routes endured a period of uncertainty while the route was being confirmed, it believes that it was right to take the time to get this complex and difficult decision right.

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<sup>20</sup> <https://www.gov.uk/government/publications/hs2-sheffield-and-south-yorkshire-report-2016>

<sup>21</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/568208/high-speed-two-crewe-manchester-west-midlands-leeds-web-version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/568208/high-speed-two-crewe-manchester-west-midlands-leeds-web-version.pdf)

- 6.157 In November 2016, in recognition of the generalised blight that may still affect the Meadowhall route, the Government extended the NTS Scheme to the Meadowhall route, despite it not being a preferred route for HS2 Phase 2b. The NTS Scheme was withdrawn from the Meadowhall route three months after the July 2017 route decision which confirmed the M18 alignment through South Yorkshire.

### **Government decision**

- 6.158 The Government considers that it provided an appropriate level of support to those who were in the most need as a result of the consulted Meadowhall route, and does not believe it would be appropriate to provide further monetary compensation.

### **The case for extending the scope of rural property schemes where the HS2 track area footprint widens**

- 6.159 In the course of operating the property schemes, HS2 Ltd noted that the rural zoned schemes did not take into account the widening of the track's footprint on specific areas of the route.
- 6.160 The Government has considered whether there is a case to extend the scope of rural property schemes in these locations in order to ensure it provides the right level of support to those impacted by HS2.

### **Policy principles / Government consideration**

- 6.161 The boundaries of the RSZ Schemes and the HOP Scheme have been determined by measuring a fixed distance from the centreline of the railway. Since HS2's track will often consist of one "up" line and one "down" line which allows trains to run in opposite directions, property scheme zones are measured from the middle point in between the tracks.
- 6.162 The up and down lines are usually spaced five metres apart, known as "standard track separation". However, in some areas of the HS2 route, the distance between the up and down lines can be greater than five metres. In other areas, there may be more than two sets of tracks or other deviations. In such cases, the total footprint of the track will be wider than normal.
- 6.163 Since the RSZ Scheme and HOP Scheme boundaries are determined by assuming standard track separation measurements, zones do not currently take into account instances where the footprint of the railway is wider than normal. This means that some properties which are as near to a track as other properties within scheme zones or bands, may not currently be similarly eligible because of the way scheme boundaries have been applied.

### **Government decision**

- 6.164 The Government believes there is a case to amend the way the rural zoned scheme boundaries are calculated in areas where the track footprint is wider than normal. This change would be in keeping with the spirit of the policy and we consider this would be a fairer and more consistent application of the zoned schemes, providing support to those impacted by HS2.

- 6.165 There are a number of locations where the track footprint widens across the route. This change is therefore expected to bring more properties within a scheme zone and will mean some properties fall within a different scheme or band (i.e. a move from HOP band 1 to RSZ, HOP band 2 to HOP band 1, or HOP band 3 to HOP band 2).
- 6.166 HS2 Ltd aims to revise the existing boundaries for all phases by spring 2019 to take account of this change. HS2 Ltd will write to owners of properties which are affected by the change. Property owners who have already successfully applied for a HOP Scheme payment will be able to claim the difference between any payment they may have already received, and any new payment to which they may be eligible.

### **Atypical properties and special circumstances**

- 6.167 Antoinette Sandbach MP and some members of the public expressed their wish to see more guidance on how to apply to the HS2 "atypical scheme" and examples of the types of properties that are likely to qualify.

### **Policy principles / Government consideration**

- 6.168 The non-statutory schemes established for HS2 ensure those impacted by this unique and national infrastructure project are properly supported. In the majority of cases, access to schemes ensures that the Government can balance the requirements of an infrastructure project of this scale, with the needs and circumstances of individuals directly affected, as well as those who are more generally impacted.
- 6.169 However, in establishing the HS2 non-statutory schemes, the Secretary of State has recognised that there are likely to be cases that, on assessment, would merit special consideration, but which do not meet the requirements of statutory or non-statutory schemes. His focus was principally on the fact that there may be people for whom the status of their ownership and occupation of the property mean that they do not fit naturally within the schemes' qualifying criteria. The arrangement is intended to ensure that deserving applications do not fail simply because they do not fit within the stated criteria of the established schemes. The Secretary of State has stated his willingness to consider cases of this kind on their own individual merits under established "atypical" arrangements.
- 6.170 Such cases are considered by HS2 Ltd, and where necessary, also considered by the Department for Transport. It is not possible to 'apply' to an atypical 'scheme', but it is possible for anyone to request that HS2 Ltd considers their circumstances and whether an atypical approach could be adopted. It is important to recognise that atypical arrangements are designed to support people who have genuinely unique circumstances: they should not be regarded as an 'appeal' facility for those who do not meet the requirements of the Government's existing schemes.
- 6.171 What constitutes an "atypical property" or "special circumstances" is not defined in guidance as we would not wish to limit the kinds of cases which may be considered. Some broad examples of where a wish to be considered atypically has been successful include where a property has been isolated from its community by HS2 works, where neighbouring properties are empty and a property is impacted significantly by HS2 proposals, and where there are compelling personal circumstances which cannot appropriately be handled under the established property schemes.



### **Government decision**

- 6.172 The Government does not agree that it would be helpful to narrow the interpretation of what could be considered as "atypical" (either types of atypical properties, or special circumstances) by setting a strict definition of what might constitute an "atypical property" or "special circumstances"). The Department for Transport is able to consider such cases on behalf of the Secretary of State without fettering its discretion (with the agreement of HM Treasury where necessary) where circumstances support acting outside the established property schemes. Such cases are, by their nature, unique and often it is a combination of factors and circumstances which may lead to the decision to take an atypical approach.
- 6.173 However, the Government agrees that it would be helpful to provide some further guidance on the process by which such cases would be considered. HS2 Ltd aims to publish revised guidance by the end of this year which will include further information on atypical consideration.

### **Access to a Cash Offer in Safeguarding / Extended Homeowner Protection Zone (EHPZ)**

- 6.174 For the majority of properties along the HS2 route the current cash offer policy is only available to owner occupiers whose properties are within the RSZ. This gives eligible homeowners within this zone the option to take up a cash offer if they wish to remain in their properties, as an alternative to voluntary purchase.
- 6.175 In the light of feedback from HS2 Ltd, the Government has considered whether there is a case to extend the cash offer to owners of properties which are located within the safeguarded area or the EHPZ. Eligible owners of these properties currently only have the ability to serve a Blight Notice to sell their property to the Government, but they cannot apply to receive a cash payment should they wish to remain in their property.

### **Policy principles / Government consideration**

- 6.176 The key objectives in examining considering whether to extend the cash offer in areas where the EHPZ applies were to:
- encourage greater community cohesion by incentivising people to remain in their homes;
  - deliver better value for money for the tax payer as a consequence of the Government spending less money on acquiring and managing properties; and
  - provide another option for those who currently can only serve a Blight Notice. For example, owners of properties in an urban area, or where safeguarding extends beyond the RSZ boundary.
- 6.177 Land required for the construction and/or operation of the HS2 line is protected from conflicting development through safeguarding. Safeguarding Directions are issued by the Secretary of State in order to protect the land needed for delivery of the project. As the engineering plans for the railway develop, land requirements often change. This means that some land once not required may be newly required, and other land that was required may no longer be needed.

- 6.178 The Government keeps land requirements under review for the life of the project, and where land is no longer needed, it removes the legal protection by amending and reissuing Safeguarding Directions. Where land is subsequently removed from surface safeguarding and is placed within the non-statutory EHPZ an owner can apply for their property to be purchased under statutory blight terms for a period of five years from the date Safeguarding Directions are lifted.
- 6.179 In rural areas, properties in the EHPZ will normally also fall into the RSZ or HOP Scheme bands. Within the RSZ, an eligible owner-occupier can already apply to receive a cash offer if they wish to remain in their home. The HOP Scheme also provides a fixed cash payment, although owners of properties in the HOP zone do not have an option to sell their property unless under the NTS Scheme or under atypical consideration.
- 6.180 However, urban homeowners within the EHPZ do not also have the option of applying for the RSZ cash offer since the scheme operates only in rural areas. While there may be benefits in considering introduction of a cash offer in these areas, currently there are no urban properties which fall into the EHPZ, so a change in policy would have little practical application.

### **Government decision**

- 6.181 The Government considers that it would be of limited practical benefit at this stage of the project to offer a cash offer option within the safeguarded area. Properties within this area may still be required in order to construct or operate HS2.
- 6.182 The Government is committed to updating the extent of safeguarding periodically throughout the project to ensure that land that is not required for project is not subject to Government controls longer than is necessary. In rural areas, properties removed from safeguarding will usually have the option of applying for the RSZ cash offer if they wish to remain in their home.
- 6.183 However, we do agree that there may be a case to offer a cash offer alternative to properties which are removed from safeguarding in urban areas which are subsequently placed into the EHPZ. While there are currently no properties which would be in scope of a change in policy, it is possible that this may change in future as the route design develops. The Government will therefore keep this area under review.

### **Other matters**

- 6.184 A number of other matters have been raised in feedback which did not relate specially to the policy of the existing package of non-statutory property schemes for HS2.
- 6.185 Nevertheless, the Government has considered this feedback and has set out its general policy in the sections below, which consider:
- statutory compensation for tenants;
  - international comparisons;
  - provision of designated specialist agricultural liaison officers to support farmers;
  - management of properties acquired by the Secretary of State; and
  - surveys during the purchase process.

## Statutory compensation for tenants

- 6.186 In her response to the Government, Antoinette Sandbach MP, highlighted a number of concerns about the statutory compensation payable to tenants who are impacted by the scheme, seeking commitments to:
- extend tenants' compensation to all tenants where their landlord serves notice because the property is to be acquired under any of the HS2 compensation schemes (currently certain tenants only receive compensation if the property is within the safeguarded zone and compulsorily purchased under a blight notice);
  - widen the types of tenancies under which tenants can receive compensation to include assured shorthold, periodic and all agricultural tenancies;
  - ensure that the guidance should specify that home loss payments and reasonable moving costs are payable to the tenant;
  - clarify what "reasonable moving costs" are and what is included; and
  - review the level of the home loss payment regularly.
- 6.187 There were also calls from a handful of MPs in the course of handling specific enquiries from their constituents, or during discussion on HS2 hybrid Bills within Parliament, to apply statutory compensation to owners of unusual properties affected by HS2, such as houseboats and park homes.

## Policy principles / Government consideration

- 6.188 While statutory compensation was out of scope of the review, the Government acknowledges that rights to compensation are complex. In this section it has endeavoured to set out the general principles of compensation and their interaction with the package of non-statutory schemes established for HS2.
- 6.189 Landlords cannot generally apply to sell their property to the Government under HS2 non-statutory property schemes. Exceptions to this general rule are set out in paragraphs 6.148-6.149. This policy means that, in practice, a tenant would not be displaced from the property in which they live directly due to HS2 prior to that property being required.
- 6.190 The Secretary of State applies the statutory compensation regime wherever land is compulsorily acquired as a consequence of HS2. Whether land is taken or not, the Compensation Code makes provision for occupiers, including tenants, as well as owners. The principal elements of compensation commonly payable to tenants are 'disturbance' and 'loss' payments.
- 6.191 The existing compensation regime already provides compensation to those leasing mooring sites or owners of parked homes on sites, who are displaced by an infrastructure scheme.
- 6.192 Rights to compensation will depend on each person's individual circumstances and are set out in existing law. Rights to compensation will depend on the nature of the tenancy, and how long the tenant has lived at the property. It is therefore difficult to generalise what a person who is displaced by a scheme like HS2 may be eligible to claim.
- 6.193 Reasonable moving costs are not defined in legislation. By doing so, the Government may inadvertently limit the types of reasonable and evidenced costs

that a person may incur as a direct result of being displaced from their rental home and subsequently be able to claim back.

- 6.194 HS2 Ltd has published guidance on the statutory blight regime for those affected by HS2 which includes examples of types of reasonable costs which may be recovered which is available at:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/712127/Selling\\_your\\_home\\_-\\_Statutory\\_Blight.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/712127/Selling_your_home_-_Statutory_Blight.pdf)
- 6.195 Guidance on Compulsory purchase process and the Crichel Down Rules,<sup>22</sup> re-published by the Ministry of Housing, Communities and Local Government in February 2018, sets out the compulsory purchase process in more detail. There are also user-friendly and accessible information booklets which were published by the Government in 2004 explaining, in simple terms, how the compulsory system works. These are available at:  
<https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>
- 6.196 The Government will give consideration to the need to update these information booklets.
- 6.197 As confirmed in the Government's response to the House of Commons Select Committee's Second Special Report on Phase 2a of HS2,<sup>23</sup> the non-statutory atypical arrangements established for HS2 can also be used to support tenants, if considered appropriate, as well as owner-occupiers.

### **Government decision**

- 6.198 While out of scope of the review, the Government recognises that rights to statutory compensation is a complex area, and may not be well understood by the general public.
- 6.199 In the light of the established statutory regime and non-statutory compensation arrangements, we believe that there are already sufficient measures in place to fairly compensate and support tenants who are impacted by HS2.
- 6.200 However, in order to provide residential tenants with more specific information about their rights to compensation, the Government has directed HS2 Ltd to publish an information note to explain the compensation to which they may be entitled. HS2 Ltd aims to publish this by the end of this year.

### **International Comparisons**

- 6.201 In designing a support package for HS2, the Government has been keen to draw from examples within the UK where owners of properties have been compensated when they have been impacted by a national infrastructure project. We have also been encouraged by the HS2 Residents' Commissioner to look at international examples.

### **Policy principles / Government consideration**

- 6.202 Other major projects in the UK have developed compensation schemes that go beyond what is prescribed by law, and for a variety of reasons, aim to maintain

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<sup>22</sup> A copy of which can be found at <http://www.gov.uk/government/publications/compulsory-purchase-process-and-the-crichel-down-rules-guidance>

<sup>23</sup> <https://www.gov.uk/government/publications/hs2-phase-2a-promoters-response-to-select-committees-second-special-report>

community cohesion; mitigate the effects of construction and operation; and in some cases reduce public opposition to schemes.

- 6.203 By the same token, other jurisdictions outside the UK mandate that compensation should be paid to owners for the acquisition of their land and property when required for major infrastructure projects. Various schemes around the world provide compensation for blight and disturbance caused by such projects. Learning from how these schemes operate and comparing the HS2 compensation package against overseas equivalents is part of how we ensure the appropriateness and continued relevance of the HS2 property compensation schemes.
- 6.204 In late 2017, officials undertook a study visit to the Netherlands to consider their compensation regime relating to major infrastructure projects. The Dutch system is not specific to high speed rail, but it is widely perceived as fair, with low numbers of appeals and judicial challenges.
- 6.205 The Dutch system provides for two types of compensation, depending on whether the planning decisions by national or local government lead to permanent or temporary effects on the property market (in the case of homeowners) or turnover (in the case of businesses). However, both types of compensation are limited through an expectation that individuals and entrepreneurs accept some level of 'normal social risk' or 'normal entrepreneurial risk' should they face disadvantage or damage by government derived activities, such as road or railway maintenance schemes.
- 6.206 Compensation is only paid for damage that is outside the 'normal social risk' or 'normal entrepreneurial risk'. Only if disadvantage is disproportionately high compared to that experienced by others would compensation apply and the property owner or business is expected to absorb the first 2 per cent of any loss (with some variation permitted in exceptional circumstances).
- 6.207 The Dutch system also emphasises individual negotiation rather than general schemes applicable to particular categories of property. The Dutch approach is arguably simpler than the UK's, it is also arguably, less generous overall.

### **Government decision**

- 6.208 The Government remains interested in comparing the schemes in operation on HS2 with compensation arrangements in other jurisdictions, but we see no impetus to change the package we have developed for HS2, which we think is proportionate and meets the objectives Government has set.
- 6.209 However, we will continue to apply findings from both domestic and international comparisons to HS2 where it is appropriate and cost-effective to do so. We will continue to undertake international comparison work, through desk-based research and, where appropriate, direct engagement with key officials in other countries.

### **Provision of designated specialist agricultural liaison officers to support farmers**

- 6.210 Antoinette Sandbach MP called for a designated specialist agricultural liaison officer to be appointed to liaise with farmers on Phase 2b of the route, making a case that such land owners and tenants often needed early engagement with HS2 Ltd due to their often complex land management needs.

### **Policy principles / Government consideration**

- 6.211 HS2 Ltd recognises that good communication is essential during the design and construction of HS2, and strives for regular engagement with all farmers who are impacted by the HS2 route.
- 6.212 Once the design is at a detailed stage, HS2 Ltd write to all affected farmers setting out whether all or part of the land they own or occupy is likely to be required by construction, and a timeframe for when the land is likely to be needed.
- 6.213 The Department for Transport has agreed with the National Farmers' Union and the Country Land and Business Association that, prior to the completion of the detailed design process, HS2 Ltd will consult the owner/tenant of an agricultural holding regarding the detailed design of works proposed to be undertaken on any part of the land holding affected, and is required to have regard to responses it receives.
- 6.214 HS2 Ltd must seek to minimise as far as possible the loss of Grade 1, 2 and 3a agricultural land; and through engagement seek to accommodate reasonable proposals to facilitate efficient management of the agricultural holding following completion of construction.
- 6.215 HS2 Ltd has appointed an Agricultural Stakeholder Manager who is dedicated to liaising with farmers on Phase 2b of the route. It has also appointed rural land agents who will also be engaging with affected farmers and their representatives.
- 6.216 Guidance booklets have been produced by HS2 Ltd which set out its approach to engaging with affected farmers and growers on Phase One and Phase 2a of the route which are available at: <https://www.gov.uk/government/publications/hs2-guide-for-farmers-and-growers>
- 6.217 A further guidance booklet is expected to be published in respects of Phase 2b which will generally reflect the Phase 2a booklet. This will be issued at a similar point of the Phase 2b design progression as has been the case for Phases One and 2a of the route, and before relevant petitions are considered.

### **Government decision**

- 6.218 The Government is satisfied that the arrangements HS2 Ltd already has in place will provide specialist support to agricultural land owners impacted by Phase 2b of the route.

### **Management of properties acquired by the Secretary of State**

- 6.219 Nigel Adams MP raised a concern on behalf of some of his constituents about the security of empty properties which had been purchased by the Secretary of State, and their impact on the feel of the local community.
- 6.220 The MP's constituents felt that the number of empty homes was leading to a deterioration in the appearance of their local neighbourhood and the fracturing of community cohesion. They suggested that it would be better to offer these properties for sale at a discounted price rather than leave them empty.

### **Policy principles / Government consideration**

- 6.221 In order to ensure long term value for money, the Government currently rents out the majority of lettable properties acquired under the HS2 project. This is to ensure

a continuity of occupation for security and community reasons, and to provide a revenue stream for the project to offset other costs.

- 6.222 Prior to letting a property, contractors working on behalf of HS2 Ltd will undertake repair work and improvements to ensure the property is statutorily compliant and is in a lettable condition. The Secretary of State takes his position as a responsible landlord very seriously ensuring properties are fully Health and Safety Rating System compliant and in good repair before proceeding with any letting.
- 6.223 Where HS2 properties are let, occupants are required under the terms of their tenancy agreement to keep the outside areas of the premises (including any gardens, paths, driveways, fences, boundaries or other outbuildings) in good condition. Upon moving in, all tenants are issued with a copy of HS2 Ltd's Tenants' Handbook, which explains their responsibilities, including a section on being a good neighbour. This handbook also sets out the responsibilities of the Secretary of State as landlord.
- 6.224 For let properties, formal inspection is undertaken every six months but in some cases, inspections are carried out more frequently, and any necessary assessments carried out.
- 6.225 However, it is not always possible to rent out properties acquired where there would be significant or disproportionate costs involved in bringing the property up to the required standards in order to do so.
- 6.226 In the case of vacant properties, these are properly secured, alarmed and, in the winter, drained-down to prevent water damage. HS2 Ltd - through its managing agents - undertakes inspections of all vacant property every 14 days and landscaping/garden maintenance checks are carried out by HS2 Ltd's landscape contractor on a similar frequency.
- 6.227 The Government's longer term intention is to dispose of properties which have been acquired by the Secretary of State but are not required for the project once the first HS2 trains are operational.

### **Government decision**

- 6.228 The Government is satisfied that its approach to renting and disposing of property acquired under the HS2 project both supports community cohesion and delivers value for money to the tax payer.
- 6.229 Where possible and proportionate to do so, properties which have been acquired by the Secretary of State are brought up to the required standards and rented out to tenants. Under the current land disposal policy for HS2, the Government does not intend to sell properties it acquires that are not needed for the project until trains are running. This will allow property values to recover once the project is in operation in the future, with the proceeds of sale returned to the public purse.

### **Surveys during the purchase process**

- 6.230 In his feedback on the non-statutory property schemes Nigel Adams MP raised a number of concerns over the use and terminology of "pre-completion surveys". These surveys are required whenever a property is bought by the Secretary of State. The concern was that these caused delays in the process and did not properly describe their purpose.

## **Policy principles / Government consideration**

- 6.231 There are a number of stages which need to be completed before any property can legally be transferred, including to the Secretary of State. One of the steps includes a building condition survey, which is the same type of survey commonly used in any private property purchase. The survey is undertaken by a Chartered Surveyor and enables any issues concerning the condition of a property to be identified before the exchange of contracts.
- 6.232 After a building condition survey has been carried out, a property management agent will undertake an inspection of the property to provide a Pre-Completion Report (PCR). This highlights any requirements for the property ahead of purchase completion day, such as safely securing the property, assessing any immediate maintenance or repair work to be carried out and assessing health and safety compliance and certification work prior to letting. The PCR is also used to estimate the rental value of the property which is particularly useful in cases where a vendor wishes to rent back the property.

### **Government decision**

- 6.233 Building condition surveys and PCRs are necessary parts of the acquisition process, and ensure that the Government is using tax payer money responsibly when acquiring, securing and renting out properties.
- 6.234 The undertaking of the PCRs should not have an impact on completion timescales in the majority of cases but provide a way to ensure that any repairs have been completed and steps to secure the property are taken prior to legal completion. Alternatively in the case of a rent back, it ensures that compliance works between exchange and completion are carried out.
- 6.235 A guide published by HS2 Ltd provides further detail on the process of selling a property to the Secretary of State through the statutory blight process, including the stages where a PCR is necessary. The guidance is available at:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/712127/Selling\\_your\\_home - Statutory Blight.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/712127/Selling_your_home_-_Statutory_Blight.pdf)



## 7. Part Three: Review conclusions

- 7.1 The Government acknowledges that there are likely to be differences in views on what constitutes "fair and reasonable" support, and pressure throughout the HS2 project to make property schemes ever more generous, and requirements more relaxed.
- 7.2 Nevertheless, the Government believes it is right to have undertaken this detailed review of the property schemes that have been progressively rolled out from 2010 and now apply to all phases of the HS2 project.
- 7.3 Notwithstanding the changes to schemes and guidance which the Government intends to take forward as a result of this review, the Government has concluded that the policy and scope of existing HS2 property schemes as they have been designed and implemented continue broadly to meet their five objectives.
- 7.4 No compelling evidence has been put forward to the Government at this time that there is a case to make significant changes to HS2 property schemes, or that the package of schemes should be replaced with an alternative model of support.
- 7.5 While the Government will continue to keep support for property owners and individuals impacted by HS2 under review for the life of the project, it is satisfied that the existing non-statutory property schemes strike the right balance between providing fair support to property owners adversely impacted by HS2, and protecting the public purse.
- 7.6 While scheme requirements are often viewed as restrictive or limiting in effect by applicants and other stakeholders, the clear benefits of setting out the schemes in this way are that they provide certainty to applicants on their eligibility and likely success. They also support the normal functioning of the property market where willing buyers exist, and encourage those living near the HS2 route to remain in their communities where possible.
- 7.7 The Government remains satisfied that, together, the package of schemes continue to provide reasonable and appropriate support to individuals and small businesses who are most directly affected by HS2, as well as those who are otherwise impacted by the project.