

HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

10th Report of Session 2016–17

**Local Government Pension
Scheme (Management
and Investment of Funds)
Regulations 2016**

**Correspondence:
Benefit Cap (Housing Benefit and
Universal Credit) (Amendment)
Regulations 2016**

Includes 5 Information Paragraphs on 5 Instruments

Ordered to be printed 18 October 2016 and published 20 October 2016

Published by the Authority of the House of Lords

Secondary Legislation Scrutiny Committee

The Committee was established on 17 December 2003 as the Merits of Statutory Instruments Committee. It was renamed in 2012 to reflect the widening of its responsibilities to include the scrutiny of Orders laid under the Public Bodies Act 2011.

The Committee's terms of reference are set out in full on the website but are, broadly, to scrutinise —

(a) every instrument (whether or not a statutory instrument), or draft of an instrument, which is laid before each House of Parliament and upon which proceedings may be, or might have been, taken in either House of Parliament under an Act of Parliament;

(b) every proposal which is in the form of a draft of such an instrument and is laid before each House of Parliament under an Act of Parliament,

with a view to determining whether or not the special attention of the House should be drawn to it on any of these specified grounds:

(a) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;

(b) that it may be inappropriate in view of changed circumstances since the enactment of the parent Act;

(c) that it may inappropriately implement European Union legislation;

(d) that it may imperfectly achieve its policy objectives;

(e) that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation;

(f) that there appear to be inadequacies in the consultation process which relates to the instrument.

The Committee may also consider such other general matters relating to the effective scrutiny of secondary legislation as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

Members

Baroness Andrews	Lord Hodgson of Astley Abbots	Lord Rowlands
Lord Bowness	Baroness Humphreys	Baroness Stern
Lord Goddard of Stockport	Rt Hon. Lord Janvrin	Rt Hon. Lord Trefgarne (<i>Chairman</i>)
Lord Haskel	Baroness O'Loan	

Registered interests

Information about interests of Committee Members can be found in the last Appendix to this report.

Publications

The Committee's Reports are published on the internet at www.parliament.uk/seclegpublications

The National Archives publish statutory instruments with a plain English explanatory memorandum on the internet at <http://www.legislation.gov.uk/uksi>

Information and Contacts

Any query about the Committee or its work, or opinions on any new item of secondary legislation, should be directed to the Clerk to the Secondary Legislation Scrutiny Committee, Legislation Office, House of Lords, London SW1A 0PW. The telephone number is 020 7219 8821 and the email address is hseclegscrutiny@parliament.uk.

Tenth Report

INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016 (SI 2016/946)

Date laid: 23 September 2016

Parliamentary procedure: negative

These Regulations deal with the management and investment of pension funds held by administering authorities for the Local Government Pension Scheme. They place an obligation on administering authorities to publish an investment strategy statement which must be in accordance with guidance from the Secretary of State; and they provide the Secretary of State with the power to intervene in the investment function of an administering authority if he is satisfied that the authority is failing to act in accordance with the Regulations and guidance.

Consultation by the Department for Communities and Local Government (DCLG) has shown high levels of opposition to the proposed power of intervention. In particular, 50 of 66 responses to the relevant consultation question did not agree that the proposed power met the objectives of the policy. While DCLG describes the power to intervene as a fall-back to protect public funds, likely to be used only rarely, significant numbers of consultation respondents consider that such a power is incompatible with the independence of the funds.

We draw these Regulations to the special attention of the House on the ground that they give rise to issues of public policy likely to be of interest to the House.

1. The Department for Communities and Local Government (DCLG) has laid these Regulations with an Explanatory Memorandum (EM). In replacing an earlier instrument,¹ the Regulations deal with the management and investment of pension funds held by administering authorities that are required to maintain such funds by the Local Government Pension Scheme Regulations 2013 (SI 2013/2356).
2. In the EM, DCLG says that the Regulations are the culmination of work that began early in 2013, that has looked into local government pension scheme investments. They have been developed following an earlier consultation, in May 2014, on whether savings might be delivered through collective investment and greater use of passive fund management.²

¹ The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (SI 2009/3093).

² See: "Local Government Pension Scheme: Opportunities for collaboration, cost savings and efficiencies": https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307923/Consultation_LGPS_structural_reform.pdf

Regulations 7 and 8

3. Of particular interest is Regulation 7, which places an obligation on administering authorities to publish an investment strategy statement which must be in accordance with guidance from the Secretary of State. The statement must demonstrate that investments will be suitably diversified and should outline the administering authority's maximum allocations for different asset classes, as well as their approach to risk and responsible investing. In the EM, DCLG says that the Secretary of State's guidance will clarify how the Government's announcement on boycotts, divestments and sanctions should be taken into account when investment decisions are taken. The guidance published in September 2016 states that: "... the Government has made clear that using pension policies to pursue boycotts, divestment and sanctions against foreign nations and UK defence industries are inappropriate, other than where formal legal sanctions, embargoes and restrictions have been put in place by the Government."³
4. Regulation 8 provides the Secretary of State with the power to intervene in the investment function of an administering authority if he is satisfied that the authority is failing to act in accordance with the Regulations and guidance. The Secretary of State can initiate enquiries as to whether an intervention is warranted and must consult the authority concerned; and he can intervene by directing the authority to undertake a broad range of actions to remedy the situation.

Consultation

5. In the EM, DCLG explains that the Regulations were subject to a statutory consultation process between 19 November 2015 and 19 February 2016; and that by 7 March 2016 23,516 responses had been received. About 98% of the 23,516 responses were from members of the public. Otherwise, there were 278 responses from trades unions; 62 from councils/administering authorities; two from representative bodies; six from religious groups; and 19 from asset managers, pension lawyers, consulting actuaries, and investment consultants.
6. DCLG says in the EM that over 23,000 members of the public disagreed with the proposal to grant the Secretary of State the power to intervene in local authorities' investment decisions. Among the concerns raised were that the proposal would undermine the rights and choices of pension fund members and the independence of financial decision-making to act in members' interests; that the proposed intervention power undermined the Government's policy of transferring power to local government; and that the proposed regulations would prevent administering authorities from taking ethical considerations into account when making investment decisions. The latter concern related in particular to the way in which the Secretary of State's guidance mentioned above dealt with compliance with UK foreign policy.
7. In September 2016, DCLG published a summary of responses to the 2015–16 consultation.⁴ This explains that there were 64 specific responses

3 See: "Local Government Pension Scheme - Guidance on Preparing and Maintaining an Investment Strategy": [Statement https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/553342/LGPS_Guidance_on_Preparing_and_Maintaining_an_Investment_Strategy_Statement.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/553342/LGPS_Guidance_on_Preparing_and_Maintaining_an_Investment_Strategy_Statement.pdf).

4 See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/555690/Government_response_to_2016_consultation.pdf.

to a consultation question on whether the proposed approach allowed the Secretary of State sufficient flexibility to ensure that he was able to introduce a proportionate intervention. 15 responses (24%) agreed that it did; 49 (76%) disagreed, commenting for example that the proposed intervention power was too broad, or that the power should only apply to the pooling arrangements. Noting the disagreement by a significant number of respondents, DCLG states in the summary that it remains “of the view that appropriate checks and balances are required in a framework that will significantly deregulate administering authorities’ investment functions, particularly given the very large sums of public money involved”. We obtained more information about these responses from DCLG, and we are publishing that information as Appendix 1.

8. The September 2016 summary also states that there were 66 responses to a question on whether the proposed power of intervention met the objectives of the policy, namely to allow the Secretary of State to make a proportionate intervention in the investment function of an administering authority if it had not had regard to best practice. 16 responses (24%) agreed that it would meet the policy objectives. 50 responses (76%) did not agree. Of these, 30 objected to the proposals in broad terms; 18 said that more clarification in guidance was necessary; and two suggested that the intervention power should only be considered on the recommendation of the scheme advisory board. DCLG refers back to its earlier response on the issue of the breadth of the power of intervention; and, noting that the Regulations in any case include provision for a report from the board to be taken into account by the Secretary of State before a direction is issued, it concludes that there would be no advantage in making further changes.

Further information

9. The further information from DCLG which we are publishing as Appendix 1 also refers to statements about the Government’s intentions in relation to the use of the power of intervention. The Department has told us that the Secretary of State will allow administering authorities to continue to be in control of the investment of these funds, as long as he remains satisfied that the funds are being invested in the best interests of the Scheme and in accordance with his guidance; and that these Regulations establish “a much less regulatory regime than applied previously, which is an indication of [the Secretary of State’s] confidence in those authorities”.

Conclusions

10. A good deal of consideration has been given to the handling of local government pension scheme investments, in preparation for the laying of these Regulations. Large sums of money are involved: Local Government Pension Scheme (LGPS) data show that market value for all LGPS funds for England and Wales, at the end of 2014–15, stood at £214 billion.⁵ The Government’s proposals, and in particular the power of intervention, remain controversial, as the outcome of the consultation on the Regulations demonstrates. While DCLG describes the power to intervene as a fall-back to protect public funds, likely to be used only rarely, significant numbers of consultation respondents consider that such a power is incompatible with the independence of the funds.

5 See: <https://www.gov.uk/government/statistical-data-sets/local-government-pension-scheme-funds-summary-data-2014-to-2015>.

CORRESPONDENCE

Benefit Cap (Housing Benefit and Universal Credit) (Amendment) Regulations 2016 (SI 2016/909)

11. In our last Report, the 9th Report of this session,⁶ we drew attention to these Regulations on the ground of policy interest. The Regulations reduce, from 7 November 2016, the level of the benefit cap applicable to workless working-age households from £26,000 to £23,000 for couples and single-parent households in Greater London and to £20,000 for those elsewhere. Similar reductions are made for individual benefit claimants. The Committee also wrote to the Minister to express its concern about the tone of the Equality Analysis produced to support this instrument which seemed not to conform with the normal standards of objective evidence-based analysis that we expect. The Minister has responded, acknowledging the defects and undertaking to bear our concerns in mind for the future. The correspondence is published at Appendix 2.

INSTRUMENTS OF INTEREST

Paris Agreement (Cm 9338)

12. This instrument seeks the ratification by the United Kingdom of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change.⁷ The Paris Agreement, which replaces the Kyoto Protocol, was adopted by 195 countries on 12 December 2015. Ratification of the Agreement constitutes consent to be bound to the rights and obligations of the treaty in international law; to act to strengthen the global response to the threat of climate change (including the provision of aid to developing countries); to hold the increase in the global average temperature to below 2°C above pre-industrial levels; to pursue efforts to limit it to 1.5°C above pre-industrial levels; and to achieve net zero emissions in the second half of the century. There are, however, no legally binding emissions targets for individual countries in the Agreement. UK domestic law is already compliant: the Climate Change Act 2008 sets a target to reduce emissions by at least 80% by 2050 compared to 1990 levels.

Town and Country Planning (Section 62A Applications) (Amendment) Regulations 2016 (SI 2016/944)

13. The Department for Communities and Local Government (DCLG) has laid these Regulations, with an Explanatory Memorandum (EM). In the EM, DCLG explains that the Growth and Infrastructure Act 2013 introduced the regime (“the 2013 Act regime”) under which a local planning authority may be “designated” on the basis of an assessment of its performance on the speed and quality of decisions on applications for major development. Where an authority is designated in this way, planning applicants have the option of submitting applications for major development directly to the Planning Inspectorate (who act on behalf of the Secretary of State).
14. In 2015, the Government announced the intention to extend the designation regime to include an assessment of local planning authorities’ performance on determining applications for non-major development. In amending an earlier instrument,⁸ these Regulations prescribe and define applications for “non-major development” alongside applications for “major development”.
15. In the EM, DCLG says that performance data indicate that the 2013 Act regime has been effective in speeding up applications for major development. It notes that 83% of major applications were decided on time in April to June 2016, compared with 57% in July to September 2012, the quarter in which the designation regime was first announced. We obtained further information from DCLG about these data, and about designations under the 2013 Act regime, which we are publishing as Appendix 3.
16. DCLG consulted on these and other changes between 18 February and 15 April 2016.⁹ The consultation paper stated that a summary of responses would be published on the Department’s website within three months of the

7 The UNFCCC is an international environmental treaty, adopted in 1992, with the objective of stabilising greenhouse concentrations in the atmosphere at a level “that would prevent anthropogenic interference with the climate system”.

8 Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013 (SI 2013/2142).

9 See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/507019/160310_planning_consultation.pdf

closing date. DCLG has told us, however, that the summary of responses is still to be issued. The Government's consultation principles state that a summary of responses relating to a statutory instrument should be published before or at the same time as the instrument is laid, save in very exceptional circumstances. We see nothing exceptional in this case, and we reiterate the view that we have expressed before that Government Departments should provide all relevant information to Parliament at the point at which it is required to scrutinise secondary legislation.

Criminal Justice (Electronic Monitoring) (Responsible Person) Order 2016 (SI 2016/954)

17. This Order puts in place some of the administrative arrangements required to run the GPS tagging pilot for prisoners on parole announced by the former Prime Minister on 8 February 2016. In particular this Order specifies that all monitoring of tagged persons will be undertaken by police officers of the Hertfordshire police force (and others employed by that police force) although the pilot will be conducted in various parts of the country. There are two pilot areas covering different cohorts with phased start dates:
 - The first area to start will cover Bedfordshire, Cambridgeshire, Hertfordshire and Northamptonshire and will involve tagging people released on licence from custody.
 - The second area, initially Leicestershire, with Nottinghamshire, Staffordshire, and West Midlands following in order, will involve people on court-imposed bail, community orders and suspended sentence orders as well as prisoners sentenced to indeterminate sentences for public protection and life sentences who are released on licence by the Parole Board.
18. The pilot will run for 12 months with a six-month follow-up period to evaluate the lessons learned, including how decision-makers react to the option of imposing a GPS tag. The Ministry of Justice states that the option of a GPS tag may provide additional reassurance to Parole Board panel members when deciding whether or not an individual's risks can be effectively managed, and monitored in the community.

Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) Regulations 2016 (SI 2016/965)

19. The Department for Communities and Local Government (DCLG) has laid these Regulations with an Explanatory Memorandum (EM), in which DCLG states that the Regulations amend an earlier instrument¹⁰ ("the Eligibility Regulations") in order to make a new category of persons eligible for an allocation of social housing and homelessness assistance - namely, persons granted leave on family or private life grounds under Article 8 of the European Convention on Human Rights. The need for these amendments has arisen because of changes which the Home Office made to the Immigration Rules from 9 July 2012. DCLG has told us that the interplay of the Immigration Rules and the Eligibility Regulations meant that certain persons who were eligible prior to July 2012 became ineligible after that date; that this was not intentional but an oversight; and that these amending Regulations seek to restore their eligibility.

¹⁰ Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006 (SI 2006/1294).

20. When the Home Office laid the relevant Statement of Changes in Immigration Rules (HC 194) in June 2012, we drew them to the special attention of the House.¹¹ The Changes covered a number of aspects beyond the issue addressed by these Regulations. We noted that the Home Office had the policy aim of using HC194 as a vehicle to gain Parliament's endorsement of its approach to Article 8, to assist the courts when deciding appeals on immigration matters; but that it had provided no evidence to support its view that its approach would lead the courts to react in that way. We chose therefore to report HC 194 on the ground that it might imperfectly achieve its policy objective. These Regulations have become necessary because of an unforeseen consequence of the interaction between HC 194 and previous secondary legislation on social housing and homelessness assistance.

Non-Contentious Probate (Amendment) Rules 2016 (SI 2016/972)

21. This instrument makes minor adjustments to the Non-Contentious Probate Rules 1987 to permit the Ministry of Justice to develop a new online procedure to allow applicants to obtain grants of probate or letters of administration in respect of the estates of deceased persons. The initial pilot will run from November 2016 to April 2017. In this first stage it will be limited to personal applicants (that is, from those not using a solicitor) who will be invited to participate by the registry (initially about two applicants a day). Processes are being developed to allow submission of supporting documents, such as the will and the death certificate. As online applications would be made without an oath, modifications are also being made to include a "statement of truth" form which will warn the applicant of the possible consequences of a false statement. It is intended that the system will also accept applications from professional probate services in due course.

¹¹ [6th Report](#), Session 2012–13 (HL Paper 26).

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

The Committee has considered the instruments set out below and has determined that the special attention of the House need not be drawn to them.

Instruments subject to annulment

Cm 9335	Convention for the Establishment of the European Communications Office (ECO), The Hague on 23rd June 1993 as amended at Copenhagen on 9th April 2002 and at Copenhagen on 23rd November 2011
Cm 9338	Paris Agreement
SI 2016/937	Al-Qaida (Asset-Freezing) (Amendment) Regulations 2016
SI 2016/941	Local Justice Areas Order 2016
SI 2016/944	Town and Country Planning (Section 62A Applications) (Amendment) Rules 2016
SI 2016/945	Prison and Young Offender Institution (Amendment) (No. 2) Rules 2016
SI 2016/954	Criminal Justice (Electronic Monitoring) (Responsible Person) Order 2016
SI 2016/955	Town and Country Planning (Section 62A Applications) (Hearings) (Amendment) Rules 2016
SI 2016/965	Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) Regulations 2016
SI 2016/968	Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2016
SI 2016/972	Non-Contentious Probate (Amendment) Rules 2016

APPENDIX 1: LOCAL GOVERNMENT PENSION SCHEME (MANAGEMENT AND INVESTMENT OF FUNDS) REGULATIONS 2016 (SI 2016/946)

Additional Information from the Department for Communities and Local Government

The Clerk to the Secondary Legislation Scrutiny Committee has asked three questions in relation to the Government response to the consultation entitled “Local Government Pension Scheme: Revoking and replacing the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009”.

The questions, and our responses, are set out below. However, the Committee may wish to note that, under the Public Service Pension Act 2013, all of the other public service pension schemes involve contributions being paid directly to central government. The Government is able to decide how to invest that money and the powers in the 2013 Act would permit the LGPS to be run on identical lines. We have no plans to take that level of control over these funds. The Secretary of State will allow administering authorities to continue to be in control of the investment of these funds, as long as he remains satisfied that the funds are being invested in the best interests of the Scheme and in accordance with his Guidance. The Secretary of State has established through these Regulations a much less regulatory regime than applied previously, which is an indication of his confidence in those authorities.

Q1: In relation to question 7 (which asked if the proposed approach allowed the Secretary of State to intervene in a proportionate manner), can you specify which of the groups identified in para. 6 of the summary supported the proposal (i.e., the 15 of 64), and which of them opposed it (i.e., the other 49)?

A1: The majority both of those who supported and of those who opposed the proposed approach were from the group recorded as councils/administering authorities. Those in support included religious groups, a representative body, a pensions lawyer and an asset manager. Those opposed included a union, representative bodies, an asset manager, a pensions lawyer, a consulting actuary and others.

Q2: What assurances has the Secretary of State given about his intentions to use the power in Regulation 8?

A2: In a speech to the Pensions and Lifetime Savings Association on 17 May, Marcus Jones MP, Minister for Local Government, said:

“... where there is evidence to suggest that an authority is acting unreasonably, it may be appropriate for the Secretary of State to intervene, but only where this is justified and where all relevant parties have been fully consulted. I fully expect any intervention power to be used sparingly and only where fully justified.”

The Government response to the consultation states:

“Draft Regulation 8 includes a number of safeguards, including full consultation with the relevant authority, to ensure that the proposed power is used appropriately, proportionately and only where justified by the evidence.”

Q3: The Regulations are made under the Public Service Pensions Act 2013. Did the Secretary of State have a similar power of intervention in relation to the Local Government Pension Scheme under the arrangements that applied before the 2013 Act? If not, why is the power now considered necessary?

A3: There was no similar power of intervention under previous arrangements because, under the old regime, there was tight control of how funds were invested. Now that control has been lifted, the power to issue a direction has been taken as a fall-back to protect around £200 billion of public funds, in the rare circumstances where it might be necessary to do so.

Furthermore, the Secretary of State has come to the view that pooling of local government pension scheme assets is essential to reduce costs, while maintaining performance to deliver best value for money. He has allowed individual administering authorities and the emerging pools to determine the best way of putting pooling into practice, without prescription from the centre, in a further indication of his confidence in those authorities. However, the Secretary of State's power to intervene provides a backstop in circumstances where insufficient progress is being made. In practice, good progress is being made towards pooling and the Secretary of State currently has no intention of intervening.

13 October 2016

**APPENDIX 2: CORRESPONDENCE: BENEFIT CAP (HOUSING
BENEFIT AND UNIVERSAL CREDIT) (AMENDMENT)
REGULATIONS 2016 (SI 2016/909)**

Letter from Lord Trefgarne, Chairman of the Secondary Legislation Scrutiny Committee, to Caroline Nokes, MP, Minister for Welfare Delivery at the Department for Work and Pensions

Quality of Supporting Documentation to SI 2016/909

I am writing as the Chairman of the Secondary Legislation Scrutiny Committee which, at its meeting yesterday, expressed concern over the documentation provided in support of the Benefit Cap (Housing and Universal Credit) (Amendment) Regulations 2016 (SI 2016/909).

Our particular concerns arose in relation to the Equality Analysis:

- First, we were very disappointed that the Analysis was submitted three weeks after the other documentation associated with the instrument, and only just in time for our meeting: we expect all relevant documents to be laid at the same time as the instrument to facilitate our scrutiny.
- Second, we found the tone of the text to be, in places, quite inappropriate for an Equality Analysis. We note, for example, that page 4 states “people who do the right thing and move into work are not affected by the cap”: we would not expect such analyses to assert value judgments in this way.
- Third, it seemed to us that some of the conclusions stated in the Analysis were speculative and not to the standard of evidence-based decision-making that we would expect to find in such a document. We note, for example, that on pages 8 and 9 of the Analysis, at several points, reference is made to the department not holding adequate or any information on a particular issue (such as pregnancy and maternity). Nonetheless, the Analysis goes on to make statements about the likelihood of adverse impact despite this lack of evidence.
- Finally, neither this document nor the Explanatory Memorandum recognise that variations in the regional success of the benefit cap in moving people back to work might be affected by the availability of jobs in the local area.

I would be grateful for your comments on this case and your assurance that future Statutory Instruments will be accompanied by more appropriate material.

12 October 2016

Letter from Caroline Nokes, MP, to Lord Trefgarne

Thank you for your letter of 12th October 2016 on behalf of the Secondary Legislation Scrutiny Committee about their concerns over the documentation provided in support of the Benefit Cap (Housing and Universal Credit) (Amendment) Regulations 2016 (SI2016/909), in particular in relation to the Equality Analysis.

Turning to your first point regarding the late submission of the Equality Analysis, I apologise for the delay. The Equality Analysis had been seen and cleared by myself prior to approving the regulations but on this occasion publication was delayed. I apologise for this and can reassure you we always aim to ensure all associated documents are laid alongside the relevant statutory instrument.

With regard to the other points you raise, I note the views of the committee. We sought to explain the rationale for the changes and there is evidence to support the Government's view that people are better off in work and reference to some of this material is included at page 9 of the Equality Analysis. But we will also look to take extra care on some of the wording we use to ensure the evidence is presented factually, in neutral terms in the future.

For some issues we consider within the Equality Analysis, where we do not have data about the impact on a particular group, we have considered our broader understanding of the system and of the policy measure. I think it is important that this wider thinking is done whilst we also consider the mitigations in place to ease the transition for those affected by the cap.

Regarding your final point concerning the labour market. We presented the regional impacts of the policy, prior to behavioural change, in the Impact Assessment which was published on 25th August 2016. This flags that any impacts are sensitive to changes in the labour market. I acknowledge that reference to this perhaps should have been made in the Equality Analysis, and it was mentioned in the Explanatory Memorandum at paragraph 10.3. We do seek to include the most relevant points in these documents, and are working hard to ensure we take on board recommendations previously made by the committee. We will continue to prepare future material with this in mind and build on this and previous learning.

I hope that this reply answers the Committee's concerns.

14 October 2016

APPENDIX 3: TOWN AND COUNTRY PLANNING (SECTION 62A APPLICATIONS) (AMENDMENT) REGULATIONS 2016 (SI 2016/944)

Additional Information from the Department for Communities and Local Government

Q1: How can the Department for Communities and Local Government (DCLG) be sure that the regime introduced under the Growth and Infrastructure Act 2013 (the “2013 Act”) has served to speed up applications for major development? Have there been no other factors, such as a reduction in the number or complexity of such applications while local authority planning resources have not fallen by the same amount?

A1: The speed of decisions on major applications have increased significantly with 83% of major applications decided on time in April to June 2016, compared with 57% in July to September 2012, the quarter in which the existing designation regime was first announced. In the same period the number of major applications determined by local planning authorities continued to increase from 3,000 in July to September 2012 to 3,800 in April to June 2016. In contrast, a recent National Audit Office report found that there has been a 46% reduction in spending on planning and development services by local authorities in the period 2010–11 to 2014–15. Figure 3 of our latest statistical release published on 15 September 2016 shows the increase in performance cannot be explained solely on the basis of an increased use of extension of time and planning performance agreements by local planning authorities. We are therefore satisfied that the regime has had a positive effect on the performance of local planning authorities.

Q2: How many authorities have been designated under the regime introduced by the 2013 Act? How many “robust action plans” have been put in place to “address the weaknesses of the local authority’s processing of ... applications more generally”? (para. 7.5 of the Explanatory Memorandum)

A2: Three local authorities have been designated as under-performing in respect of their performance in determining applications for major development. Each council put in place an action plan addressing areas of weakness that it identified as having contributed to its under-performance. All 3 councils have now been de-designated following improved performance. Blaby District Council, the first local planning authority to be designated, has acknowledged that the process helped it to improve significantly, and the designation was lifted after 12 months.

6 October 2016

APPENDIX 4: INTERESTS AND ATTENDANCE

Committee Members' registered interests may be examined in the online Register of Lords' Interests at www.publications.parliament.uk/pa/ld/ldreg.htm. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 18 October 2016 Peers declared no interests.

Attendance:

The meeting was attended by Baroness Andrews, Lord Bowness, Lord Goddard of Stockport, Lord Haskel, Lord Hodgson of Astley Abbots, Lord Janvrin, Baroness Humphreys, Lord Rowlands, Baroness Stern and Lord Trefgarne.