

**Consultation on *High
Speed Two – Proposed
Exceptional Hardship
Scheme***

Analysis of responses

Katherine Howes

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1. Introduction

1.1 On 11th March 2010, the Secretary of State published a Command Paper, *High Speed Rail*. This contained the Government's assessment of the case for high speed rail, with the preferred route option for a high speed route between London and the West Midlands.

1.2 On the same date, the Secretary of State also published the formal consultation *High Speed Two – Proposed Exceptional Hardship Scheme*, seeking views on whether there should be an Exceptional Hardship Scheme (EHS) before statutory blight provisions apply and ahead of decisions on whether, and if so how, to proceed with a high speed route. The consultation asked for comments on the proposed principles and system for operating the scheme.

1.3 The consultation document was published on the Department for Transport website, the HS2 website provided a link to the consultation document and hard copies were sent to 105 stakeholders listed at Annex A. Also, adverts were put in the local press and in local libraries in areas along the proposed route. The consultation was originally due to run for 10 weeks, closing on 20th May 2010. This was shorter than the standard 12 week period for Government consultations so that the EHS could be brought in quickly, should the decision be made to implement it.

1.4 However, due to the large number of responses, the new Secretary of State Philip Hammond agreed to extend the deadline by four weeks to 17th June 2010. This extended deadline was advertised on both the websites and again in the local press and local libraries.

Responses to the consultation

1.5 In total, 4,520¹ written responses were received relating to the consultation. Almost 4,000 of these responses were linked to campaigns², mostly to a large campaign by the HS2 Action Alliance group, which proposed an alternative compensation scheme called the Property Blight Protection Scheme (PBPS). There were also a few smaller, local campaigns. Details of the main points raised by all campaigns can be found in section seven.

1.6 The responses were broken down as follows:

Type of respondent	Number of responses
Individuals	4,275
Local Authorities	33
Other Interested Bodies	212
Total	4,520

1.7 Responses listed under Local Authorities included responses from local councillors, and some local authorities sent more than one response. Responses listed under Other Interested Bodies included all responses from or on behalf of groups of individuals, such as parish councils, residents' associations and MPs, charities, recreational facilities and businesses including farms. See Annex B for a list of the main organisations that responded.

¹ Some respondents sent more than one response and some responses did not relate to the three questions in the consultation; this number takes account of this.

² We defined campaigns as named, identifiable groups making similar points. Some used identical sections of text, some covered a number of similar themes and some expressed support for named groups or schemes. The boundary between campaign and non-campaign responses was not always clear cut.

1.8 We were also able to break down many of the responses by local authority area using the post code of respondents, see below:

Local Authority	Number of responses³
City of Westminster	8
London Borough of Barnet	5
London Borough of Brent	51
London Borough of Bromley	2
London Borough of Camden	128
London Borough of Croydon	1
London Borough of Enfield	3
London Borough of Hackney	1
London Borough of Hammersmith and Fulham	4
London Borough of Hillingdon	67
London Borough of Hounslow	1
London Borough of Islington	3
London Borough of Merton	1
London Borough of Redbridge	1
London Borough of Wandsworth	4
Royal Borough of Kensington and Chelsea	2
Royal Borough of Richmond-upon-Thames	5
Birmingham City Council	8
South Buckinghamshire District Council	8
Wycombe District Council	227
Chiltern District Council	1,231
Aylesbury Vale District Council	874
Stratford-on-Avon District Council	130
Warwick District Council	377
Rugby Borough Council	3
North Warwickshire Borough Council	197
Nuneaton and Bedworth Borough Council	1
Cherwell District Council	32
South Northamptonshire District Council	590
Coventry City Council	8
Solihull Metropolitan Borough Council	97
Lichfield District Council	149
Other	93
Total	4,312

³ Responses without post codes were not analysed. An assumption was made that all post codes with the same prefix are in the same local authority.

1.9 This report analyses the responses to the specific questions asked in the consultation document as follows:

- Section 3 – Introduction of an Exceptional Hardship Scheme
- Section 4 – Exceptional Hardship Scheme Principles and Criteria
- Section 5 – Operation of the Exceptional Hardship Scheme
- Section 6 – Local Authorities and Other Interested Bodies
- Section 7 – Campaigns

1.10 The statistics in sections 2 to 5 do not include campaign responses. Campaign statistics are included in section 7.

1.11 Where responses did not correspond directly with the questions posed, but took a more general approach, these comments have been considered under the most appropriate questions.

Methodology

1.12 Responses to the consultation were forwarded by HS2 to IHPR, an in house policy resource based in the Department for Transport, to analyse. IHPR provides a service to all of CLG, Defra, DECC and DfT. IHPR's role was to log and record responses in a specially designed database; this was then used as the basis for the analysis provided here.

1.13 Respondents commenting on the HS2 proposals themselves and/or the proposed route were given details of the forthcoming consultation in the autumn by HS2. Respondents asking to be registered for the EHS scheme will be sent information by HS2 if and when the scheme is launched.

2. Executive summary

2.1 The consultation presented the following questions:

Introduction of an Exceptional Hardship Scheme

Q1 Should the Department for Transport introduce an Exceptional Hardship Scheme ahead of decisions on whether, and if so how, to proceed with a high speed route?

All respondents who addressed this question (52% of non-campaign respondents) agreed that there should be a scheme for those affected by the proposed route, but many felt it should not be introduced in the form proposed in the consultation document. Some argued that the scheme should run for longer than proposed i.e. beyond the decision on the high speed route.

Exceptional Hardship Scheme Principles and Criteria

Q2 Do you agree with the proposed principles underpinning the proposed Exceptional Hardship Scheme? If not, what alternative principles would you propose, including specific criteria for determining qualification for the scheme?

80% of non-campaign respondents to this question did not agree with the underpinning principles and felt these should be broadened.

- Many argued that the criteria were both too restrictive and too vague, suggesting ways to clarify and/or broaden the criteria. Suggestions included broadening the eligibility criteria to include:
 - properties along the alternative routes;
 - properties above tunnelled areas;
 - businesses and farms;
 - second homes and buy to let investments;
 - all those wishing or needing to move for whatever reason.
- There was also support for reducing or removing the criteria around effort to sell, particularly the 15% threshold for offers, and that the criterion of prior knowledge of High Speed Two proposals could impact badly on the housing market.

Operation of the Exceptional Hardship Scheme

Q3 Do you agree with the proposed system for operating the proposed Exceptional Hardship Scheme? If not, what alternative arrangements would you suggest?

82% of non-campaign respondents to this question did not agree with the proposed system for operating the proposed EHS and suggested alternative arrangements.

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- There was some support for aspects of the proposed valuation process, including the use of independent valuers, but many did not agree with the proposal that the valuation would not include additional costs, and some suggested that vendors should receive compensation e.g. inconvenience payments.
 - Many commented on the use of an expert panel and the discretionary power of the Secretary of State, including the suggestion from many that the scheme should not be discretionary and that the Secretary of State should agree to purchase any properties that meet the criteria.
 - Some respondents argued that there should be a right to independent appeal against valuations and/or decisions by the panel and the Secretary of State.
 - There were also suggestions that the timescales for the process were too long, especially as many of the applicants would be under financial pressure.

Local Authorities and Other Interested Bodies

2.2 Responses from Local Authorities and Other Interested Bodies did not differ significantly from the responses from individuals. Approximately two thirds of both Local Authorities and Other Interested Bodies supported campaigns, mainly the HS2 Action Alliance campaign (see section seven for more information on this campaign).

2.3 Many respondents commented on the aspects of the scheme that were most important to them – such as farms and other businesses commenting on the omission of non-residential properties from the scheme – or within their area of expertise – such as estate agents and chartered surveyors commenting on valuation issues.

Campaigns

2.4 Almost 4,000 responses were linked to campaigns, mainly to the HS2 Action Alliance group. These covered many of the points raised in other responses, but also raised additional points, e.g. about tunnelling, human rights issues and extending the scheme.

3. Introduction of an Exceptional Hardship Scheme

Q1 Should the Department for Transport introduce an Exceptional Hardship Scheme ahead of decisions on whether, and if so how, to proceed with a high speed route?

3.1 305 respondents, 52% of non-campaign respondents, specifically addressed the question of whether the Department for Transport should introduce an EHS ahead of decisions on whether, and if so how, to proceed with a high speed route. Many respondents criticised aspects of the proposed principles, criteria and/or operating system without specifically addressing this question.

Type of respondent	Yes		No ⁴		Other ⁵	
	No.	%	No.	%	No.	%
Individuals	249	50	0	0	0	0
Local Authorities	8	73	0	0	0	0
Other Interested Bodies	48	63	0	0	0	0
Total	305	52	0	0	0	0

3.2 All respondents who addressed this question agreed that there should be some sort of scheme for those affected by the proposed route, as house prices were already being affected.

“Yes, there should be such a scheme. It should be introduced forthwith, noting from my own knowledge, for example, that exceptional (in my terms) hardship cases began within a couple of days of the announcement.” Resident

“An EHS should be introduced as soon as possible. Prospective house purchasers are already asking about the likely impact of the new line.” Resident

“I am delighted that an immediate compensation scheme has been proposed for those affected along the route. Government is acknowledging that there has been an immediate and detrimental impact on the marketability of private properties along the proposed route.” Resident

3.3 However, many argued that the scheme should not be introduced in the form proposed in the consultation document.

“Yes, the DoT surely has to introduce a Scheme to redress individuals’ losses. However this should be neither “Exceptional” nor solely in respect of “Hardship”. It should simply be a Restoration of the previous status quo.” Resident

“We agree that the Department for Transport should introduce the EHS prior to making any decisions on the HSR2, but do not believe as presently presented that it is fair or right.” Resident

⁴ Although some respondents responded negatively to this question, it was evident that they disagreed with the detail of the scheme rather than the principle.

⁵ This category is included as it would have been possible to give an answer that was not clearly yes or no.

3.4 There was some confusion over how long the EHS scheme would last and whether any other schemes would come into force later. Some agreed that there would need to be a scheme until there is a decision on whether to proceed with a high speed route whereas others argued that there would need to be a scheme from now until construction of the route is completed and operational.

“The timescales to possible construction are extremely long (10-15 years) and it is unreasonable to expect people to be uncompensated for blight over this period.” Resident

“...I submit that...the EHS continue in effect until completion of phase 1 (London – Birmingham) of the HSR project.” Resident

4. Exceptional Hardship Scheme Principles and Criteria

Q2 Do you agree with the proposed principles underpinning the proposed Exceptional Hardship Scheme? If not, what alternative principles would you propose, including specific criteria for determining qualification for the scheme?

4.1 583 respondents, 99% of non-campaign respondents, made comments about the proposed principles underpinning the proposed EHS, most of whom also suggested alternative principles and criteria for the scheme.

Type of respondent	Yes		No		Other	
	No.	%	No.	%	No.	%
Individuals	83	17	398	79	16	3
Local Authorities	0	0	11	100	0	0
Other Interested Bodies	13	17	60	79	2	3
Total	96	16	469	79	18	3

Underpinning principles

4.2 Very few respondents were entirely happy with the proposed principles and criteria. The majority of respondents did not agree with at least one of the proposed principles.

"I disagree with this proposal. As a property owner I do not see that my remit is to be penalised for not meeting an unreasonable criteria." Resident

"No because the current proposals are arbitrary and narrow in application and the vast majority of owners of blighted properties will not be eligible to benefit from the scheme." Resident

4.3 Most of those who seemed to agree with the underpinning principles had suggestions for changing the criteria for determining qualification for the scheme or had queries about these criteria.

"I agree with the broad principles underpinning the proposed EHS, but would augment this further for those people who have been made redundant (extreme financial pressure) and also individuals who are in the process of ending their marriage and need to sell their marital home." Resident

Criteria to determine qualification of the EHS

4.4 Approximately 90% of respondents answering this question commented or implied that the criteria were too restrictive. Many of the responses criticised a number of the qualifying criteria.

Closeness to route

4.5 Approximately 50% of respondents answering this question commented on the criteria for area eligibility, either complaining, asking for clarification or suggesting new criteria. In particular, many questioned the terms “close vicinity” and “immediate vicinity” and asked for greater clarity.

“Guidance should be provided in relation to what constitutes ‘close vicinity’ and any other specific factors that will be taken into account in determining eligibility.” Resident

4.6 There were a number of suggestions about how to define eligible areas. Some argued for example that the whole of their village would be affected and should therefore be eligible. A few respondents suggested that eligible properties should be a specific distance from the track. Eligible distances of 100m, 200m, 500m, 0.5 miles, one mile, two, three and five miles were suggested, the most popular suggestions being one mile and two miles which were both at least three times more popular suggestions than other distances.

4.7 A few respondents suggested the use of a sliding scale for compensation, in which the distance from the route would affect the level of compensation received.

“A sliding scale should be adopted for dwellings, farms, businesses, etc surrounding the railway. Those nearer will receive maximum compensation whilst those further away should receive less. The sliding scale should be banded depending on when it applies e.g. consultation, pre-construction, construction and operational periods.” Residents

4.8 Some respondents made the following point about the scheme:

“...needs to take into account, on a case by case basis, the added inconvenience where the route is carried on a viaduct that could be as high as 5.8 metres at track level.” Residents

4.9 There was also the suggestion that noise levels during construction should be used to define eligibility:

“The criteria therefore need to include some method of estimating the pattern of noise levels with respect to distance from the track. This could be in the form of noise level ‘contours’ superimposed on the existing maps, a graph, or series of graphs, showing the relationship between noise levels and distance from the track at various heights and depths of track location, to be used in conjunction with the existing maps, or simple formulae to enable calculation.” Resident

4.10 Some respondents suggested that any affected properties should be eligible without going into further detail about what constitutes an affected property. Some did define this.

“The EHS must include every property in communities affected by the proposed route in the first instance...An affected community being defined as one in which at least one property is within line of sight or sound of the proposed route.” Residents

4.11 Some respondents commented that a wide area would be affected during the construction phase, not just those properties next to the route and that the distance from the route should not be the defining factor for eligibility:

“This is not just an issue that only applies to those in the path of the route, or to people and properties closely adjacent to the route. It also applies to people and the value of their properties which are further away from the route which will nevertheless still be blighted over the exceptionally long period of construction work... This impact will be caused by the large number of heavy vehicles negotiating narrow roads, many passing through villages and hamlets in the Chiltern Hills. Unlike Kent, the road network does not comprise suitable major roads.” Resident and small business owner

“...a number of the present criteria are arbitrary, for example distance from the proposed route. I can give examples of properties that are very close to the route but will suffer very little blight, for example they may be sited close to a busy main road...yet some properties that are maybe half a mile to a mile or more away are badly affected, for example where the route cuts through an attractive view over the fantastic Chiltern countryside...” Resident

Alternative routes

4.12 Some respondents disagreed with the scheme only covering properties along the preferred route; some of these respondents then made the point that the consultation document says that “uncertainty as to the exact route may ‘blight’ a property”.

“The blight caused by publication of the proposals affects not only the preferred route but all others that are published in this document. In my day to day activities as a surveyor in the locality I am aware of purchasers withdrawing from transactions by virtue of all the proposed rail routes and the disruption, heartache and potential financial hardship this is causing to the vendors.” Resident

4.13 A number of respondents living near the proposed alternative route 2.5 made the following argument:

“...all properties on the alternative route 2.5 should be covered by the scheme.” Residents

Tunnelled sections

4.14 Approximately 15% of respondents who answered this question, most of whom live over the proposed tunnels, made the point that properties above tunnelling should be included in the scheme. They argued that such properties would also be blighted.

“Selling of properties, on or above the proposed route have already suffered and an ‘expert’ commented on television last week that those above the line would experience vibration in their home.” Residents

“...it is grossly unfair to deny full compensation to holders of property over the proposed tunnel. It seems... in the absence of proper assessments completely arbitrary, to maintain that settlement and vibration effects will be minimal.” Resident

Type of property and qualifying interests

4.15 Approximately 55% of respondents to this question disagreed with the proposal that only residential property owner-occupiers would be eligible for the scheme.

Businesses

4.16 Many argued that farms and other businesses should be included.

“All properties including farms and businesses should be included. Why shouldn’t they?” Resident

“The scheme must be extended to commercial and agricultural properties which are currently excluded for no explained reason.” Farm owner

“It seems to us a gross injustice that business premises are excluded from the EHS. Small businesses underpin the economy of this country, and will be the key to a steady and stable economic recovery over the next few years.” Business owner

4.17 A handful felt that small and medium enterprises in particular should be eligible, especially in rural and village communities.

“...the compensation arrangements need to take proper account of local rural businesses that will initially be adversely affected by the plans.” Business association

Land

4.18 A number of respondents argued that affected land should also be eligible.

“The criteria should be based on compensating land owners and householders for any loss in value to their property, caused by the proposal.” Resident

Second homes and buy to let properties

4.19 Some argued that second homes and buy to let properties should be included, many making the point there may be a pressing need to sell these properties due to financial difficulties.

“...and the scheme should apply equally to second homes as to primary residences. The householders covered by the scheme will in many instances be unable to maintain or receive benefit from their second homes...” Resident

All properties

4.20 Some simply argued that all properties should be eligible.

“We feel the scheme should cover all types of property, not just owner occupied residential dwellings. Exceptional circumstances that may give rise to a claim under the current proposals may equally apply in relation to other property investments, for instance farm land; commercial

property and buy to let property or second homes, particularly in the case of people who are under extreme financial pressure to liquidise their assets.” [Chartered surveyors](#)

Exceptional hardship

4.21 Approximately 55% of respondents to this question commented on the exceptional hardship criteria.

Freedom to move

4.22 Many argued that the scheme shouldn't just be for those with a “pressing need to sell”, but should be for anyone who wishes to sell their property for whatever reason.

“At the moment the proposed scheme focuses on property owners who have an urgent need to sell. We live in a democracy and should be free to move house as and when we wish.” [Resident](#)

“The idea that one would have to have a pressing reason or almost ask permission to sell is absurd.” [Resident](#)

“All those wanting to move but unable to do so without loss due to HS2 should be assisted, the scheme should not just be restricted to those who are forced to move.” [Resident](#)

4.23 One respondent backed up this point by arguing that choosing to move is a big decision.

“I do not believe that owner-occupiers take the decision to move lightly and thus anyone who has made effort to sell seriously should be considered.” [Resident](#)

Clarification of criteria

4.24 Some asked for clarification of or asked questions about the criteria for “exceptional hardship”, “extreme hardship” and “pressing need to sell”.

“I am also concerned with the definition of ‘Extreme financial pressure’. How will this be measured and what criteria will be used.” [Resident](#)

Suggestions for additional exceptional hardship criteria

4.25 Many respondents listed criteria other than the five listed in the consultation document that they believe should be included.

“The EHS criteria should be expanded to encompass all those adversely affected by the proposals, to include those wishing to downsize, having to sell through changed circumstances including equity release and a desire to escape the impact of the HS2 and alternative route proposals.”
[Residents](#)

4.26 Many suggesting additional criteria/reasons to move listed retirement; some are planning to downsize soon to release equity and move to a more manageable property:

“The scheme should compensate retired people who have planned to fund their retirement by downsizing and now find they are unable to do so without suffering aggravated loss.” Resident

4.27 A couple of respondents suggested that some of the criteria were biased towards younger people.

“The accommodation of an enlarged family’ would lead to age-discrimination. Older people will be wanting to downsize their property, usually because their family has moved away so that the property is now larger than they require.” Resident

4.28 Other reasons respondents gave for moving included releasing equity and divorce.

“There is no provision for people wishing to sell a house on divorce, or even if one of the residents died.” Resident

4.29 Inheriting property was another reason given by many for wanting/needing to move.

“...the circumstance outlined below should be included in the proposals:

A property which is within the estate of a deceased person, where the property was owner occupied at the time of death.

The reasons for including this situation are:

- 1. The cost of maintaining an empty property creates unavoidable financial demands, while there is no income to cover the ongoing expense of maintaining a property in a condition for sale.*
- 2. There is a pressing need to sell without delay in order to give closure to families.” Resident*

4.30 A few argued that HS2 alone was reason enough to wish to move and should be included in the criteria.

“...I think there should be a requirement to also compensate those people who merely choose to move in order to avoid living in a blighted area.” Resident

Effort to sell

4.31 Approximately 40% of the respondents to this question commented on the criteria relating to effort to sell.

15% threshold for offers

4.32 The majority of the comments were around the criterion of 15% threshold for offers; that to be eligible for the EHS, no offers would have been received within 15% of its existing open market price, that is the price it would most likely have fetched if there had been no HS2 proposals. There also appeared to be a widespread misunderstanding about the 15% figure; some respondents took the 15% threshold criterion to mean that they would only be offered 85% of the value of their property if their application for the EHS was accepted.

“The proposal to limit compensation to 85%, (or any percentage under 100%) of some notional value is perverse and unreasonable.” [Residents](#)

4.33 Many respondents did not agree with the criterion that no offers should have been received within 15% of the existing open market property price. However, it was often unclear what respondents were referring to when commenting on the open market property price; they may have assumed this to be the initial asking price recommended by estate agents. The vast majority argued that there should be no threshold for offers, but a handful made suggestions for other thresholds; 5% was suggested by at least 10 respondents, but suggestions of 2%, 7.5% and 10% were also made by individual respondents.

“There should be no obligation on any homeowner to accept a reduced offer below the price it would have fetched before the announcement of this scheme.” [Resident](#)

“The proposal that only purchase offers of 85% of market price pre HS2 announcement is understandable but the effect is automatically to cut prices by 10-14% since an offer in that range leaves a seller with no recourse to the scheme...The proposed 15% is far too high.” [Resident](#)

“The 15% threshold is in my opinion too high and that a lower figure would be more appropriate – say 5%. I do not believe most people would or could afford to generally accept 15% less than the market value.” [Resident](#)

“In part 2.15 of the proposals, it is stated that Extreme Hardship can be claimed provided that (amongst other things), no offer has been made within 15% of the guide price of the property. We believe that this is too much, and that the margin should be far narrower. For example, if a property is on the market at £450,000, the vendor would only have to have had an offer of £382,500 before they became ineligible to claim EHS. This is clearly unreasonable and the limit should be reduced to 5% (£427,500 on a property for sale at a guide of £450,000).” [Chartered surveyors](#)

4.34 There was also the suggestion of a threshold of a specific value, rather than a percentage, especially considering the high value of many of the properties along the proposed route.

“In some of the areas under consideration, due to the very reasons why this proposed route is so unacceptable, there are many properties of exceptionally high value. Given this fact, we consider it unreasonable to set a figure of 15% as the level at which the EHS could be applied, as 15% of £1,000,000 represents a far higher sum than 15% of say the national average house price. It seems unreasonable that those with higher value properties should have to demonstrate a greater potential financial loss before being eligible for this scheme. Perhaps the criterion should be set at, say outside an offer figure of £x,000 below market value, setting x at, say 20 perhaps.” Residents

Three month marketing requirement

4.35 Some respondents agreed that the requirement to have a property on the market for at least three months was reasonable. However, others disagreed with this requirement. It is also worth noting that there was some confusion about when the property would have had to have gone on the market, some worried that as their property was not on the market before the proposed route was announced, they would not be allowed to apply.

Proof of HS2’s impact on price

4.36 There were a number of queries and complaints about how to prove the reduction in price is due to HS2 alone, with a couple of suggestions.

“Proof of inability to sell is due to HS2 is too onerous as proving a negative is likely to be difficult as there is no means of identifying those prospective purchasers who are deterred by the perception that the property is blighted. The simple failure to sell after the property has been on the market for three months should be sufficient proof.” Residents

Other suggested effort to sell criteria

4.37 Some argued that the effort to sell criteria should be replaced by the requirement to prove that a reduction in value of a property is due to HS2.

“The EHS should cover...anyone who wishes to move and can prove that the publication of the routes by the government has adversely affected the value of their property.” Residents

4.38 Some respondents suggested using eligibility criteria in line with the statutory blight provisions.

“The statutory blight provisions require only that a person has made reasonable endeavours to sell and has not been able to other than ‘at a price substantially lower than that for which it might reasonably have been expected to sell’ in the absence of the blight. We would recommend that this more flexible test is adopted in the scheme.” Professional organisation

Prior knowledge of High Speed Two proposals

4.39 A few respondents thought the criterion about prior knowledge of the HS2 route option to be reasonable, but a similar number of respondents queried this criterion, generally asking how people could have been aware of the plans before the announcement.

"When we purchased our house some 5 months ago we were assured by the solicitor that no-one would develop in an AONB...." [Resident](#)

4.40 Some also mentioned the expected impact this criterion would have on the housing market.

"The condition requiring proof that owners had no knowledge of HS2 before acquiring the property will discourage many from buying such properties from this time on and thus disadvantage existing owners who now already face a high risk of being unable to sell their properties at proper market value. To set aside this condition would be the right thing to do." [Residents](#)

5. Operation of the Exceptional Hardship Scheme

Q3 Do you agree with the proposed system for operating the proposed Exceptional Hardship Scheme? If not, what alternative arrangements would you suggest?

5.1 463 respondents, 78% of non-campaign respondents, made comments about the proposed system for operating the proposed EHS and suggested alternative arrangements.

Type of respondent	Yes		No		Other	
	No.	%	No.	%	No.	%
Individuals	44	9	339	67	20	4
Local Authorities	1	9	5	45	3	27
Other Interested Bodies	9	12	36	47	6	8
Total	54	9	380	64	29	5

5.2 Only a small number of respondents were entirely happy with the proposed operating system.

"I agree with the proposed operating system, particularly the fact that the panel of experts who make recommendations to the Secretary of State would consider each application on its own merits." Resident

Valuation and compensation

5.3 Approximately 60% of respondents to this question commented on valuation issues. There were suggestions about who should carry out the valuation and who should appoint the valuation experts. Many backed up the proposal to have independent valuations carried out, although some suggested that the vendor should be able to choose who carries out the valuations. Some suggested that only local valuation experts should carry out the valuations as they would understand the market better.

"...which should be established by, say, taking the average of 3 local (important as only local valuers will know the local market) and reputable valuers' opinions." Resident

5.4 There was also a suggestion from a few respondents that specialist properties would need specialist valuations.

"...the scheme needs to be flexible enough to accommodate properties of special historical and architectural interest – a market valuation for 'unique' properties will not be straightforward as in many cases it will be difficult to find comparable properties on which to base an assessment. Unique properties with Grade II listings etc which fall within the blighted area of the route will need specialist input." Resident

5.5 Some respondents agreed with the consultation's proposal to assess the value of a property on the unaffected (blight-free) realistic open market value. Some provided detailed comments on what this would entail, using a valuation based on 100% of the market value as at 10th or 11th March, then adding inflation, measured against a suitable house prices index; this is effectively what was proposed in the consultation. However, some did not agree with the proposed valuation assessment; suggestions included valuations based on pre-blight prices, 100% of open market value at an unspecified time and some respondents simply stated that the proposed compensation was insufficient.

"We think all property owners should receive compensation at 100% of the pre blight market value of our homes." [Residents](#)

Additional compensation

5.6 Some respondents suggested that those eligible for the scheme should receive additional compensation. It may be that they were under the incorrect impression that there would be no further schemes after the EHS; however, the statutory blight provisions will be triggered. A few respondents suggested a compensation package on top of the market value of the property of 25%. Some respondents did not agree with the proposal that valuations would not cover additional costs, such as the seller's agents and legal fees or removal costs. Some of these respondents went further, suggesting other types of payments such as "inconvenience payments", damages for psychological distress and relocation payments.

"In addition the scheme should include for an inconvenience payment to reflect the disruption and cost of moving similar to a commercial relocation allowance." [Residents](#)

5.7 Some respondents suggested that all affected property owners should be compensated, whether they wished to move or not.

"If people do not want to leave their homes, you should offer compensation against the loss of value of their homes for future, that way, they can invest in triple glazing and planting options and other methods that make living with the route easier." [Resident](#)

5.8 A few respondents suggested the use of a transferable bond for compensation.

"Consideration should be given to the provision of compensation through a transferable bond, which ensures that the agreed loss is recovered at the time the freeholder decides such compensation to be linked to a suitable house prices index. This would enable freeholders affected by the proposals to sell and move on without unfair penalty." [Resident](#)

Use of panel of experts and discretionary powers of Secretary of State

5.9 Approximately 40% of respondents to this question commented on the use of a panel of experts and the Secretary of State's discretionary powers. Some thought it unfair that the scheme is to be discretionary at all and that all those meeting the criteria should be compensated. Some respondents made the following points:

“The EHS should...

- *Apply to all those who suffer loss*
- *Should offer absolute clarity on the compensation criteria and it should not be on a ‘discretionary’ basis” Residents*

“To reassure current and... future beneficiaries the scheme should not be “discretionary” but guaranteed.” Resident

5.10 Some respondents were not in favour of the panel of experts at all, asked questions about the membership of the panel or made specific caveats about membership of the panel.

“The ‘Panel of Experts’ assessing cases should be totally independent – paragraph 2.9 states that this panel will be set up ‘including independent members’. We strongly feel that in the interests of fairness, open government, and natural justice that this panel should be set up as consisting only of members who are independent of the Government or HS2 Limited.” Residents

5.11 Some argued that there should be local experts on the panel. Some went further, suggesting that expert panels should be local but that a central, national panel could have other uses.

“...the determination of applications by a national panel would be remote and poorly informed about local situations. They could, however, oversee the definitions of blighted areas prepared locally and they could handle appeals.” Resident

5.12 Some respondents argued that the Secretary of State should not be able to overrule recommendations made by the expert panel.

“...we see no justification for the Secretary of State to have powers to overrule the decisions of the Panel.” Resident

5.13 A number of respondents argued that the decisions of the panel and Secretary of State must be transparent and the criteria used for their decisions must be available.

Appeals

5.14 Approximately 25% of respondents to this question said that there should be a right to an independent appeal against decisions made and/or valuations.

“...that it should incorporate an independent appeals process...” Resident

“It seems extraordinary that there is no provision for homeowners to appeal against unsatisfactory decisions made by the EHS. This is unjust and should be rectified.” Resident

Other aspects of the process

5.15 Some respondents expressed dismay at the length of time the system may take. They argued that having to wait up to three months for an answer on whether their application has been accepted is unfair.

“...we believe that the timescale proposed for a decision (three months) is too long for cases recognised as ‘exceptional hardship’ and suggest that 6 to 8 weeks would be more appropriate.”
Agricultural Group

“The SoS would have up to three months to consider applications, this is particularly harsh if you are experiencing extreme financial pressures. Residential owner occupiers may well be bankrupt before they get an answer.” *Local Authority*

5.16 A few respondents suggested other reasonable timescales for decisions on whether an application has been approved. Timescales of one month and six to eight weeks were both suggested by a couple of respondents.

5.17 Some respondents suggested that owners of properties in an affected community should not need to apply for the scheme. However, nobody put forward a suggestion of how such an alternative scheme would work.

“The EHS must include every property in communities affected by the proposed routes from the outset and should not require an application or opt in.” *Residents*

5.18 A handful of respondents said that an agreed timescale for purchase was needed.

“Once a loss has been demonstrated due to the HS2 proposal, there should be an agreed timescale for the purchase of the property at the agreed value.” *Chartered surveyor*

5.19 A few respondents asked what would happen to the properties after being purchased and commented on the possible impacts of the scheme.

“We consider that such a purchase scheme would blight any affected area with the possibility that any such houses purchased under the scheme would either remain empty or would be passed to the local Council to be utilised for social housing, leading to a perceived deterioration in the desirability of the area by some, and a fall in property values.” *Residents’ Association*

6. Local Authorities and Other Interested Bodies

6.1 The responses from Local Authorities and Other Interested Bodies were largely in line with the responses from individuals.

6.2 Approximately two thirds of the Local Authority responses endorsed the arguments made by specific campaign groups, mainly the HS2 Action Alliance group, but also the Primrose Hill HS2 Reference Group. Other Local Authorities commented on issues in a similar vein to the individual respondents, including the need to include non-residential owner-occupiers. Some responses used standard arguments, but others raised specific local issues, for example:

- Those in areas where tunnelling is planned commented on the expected impact on the area and argued that properties over tunnelled sections should be eligible for the EHS.
- A rural local authority commented on the expected impact of the scheme on rural businesses and the necessity to include them in the scheme.

6.3 Approximately two thirds of responses from Other Interested Bodies also supported campaigns, including many residents' associations, parish councils and local HS2 action groups. Others were responses generally along similar lines to the individual responses, although they often commented on the issues that were most important to them and/or within their area of expertise, for example:

- Business associations and owners of businesses, farms and sports clubs commented on the omission of non-residential properties from the EHS eligibility criteria.
- Parish councils in the areas surrounding alternative routes argued that properties in alternative routes should be included.
- Estate agents and chartered surveyors commented on issues around valuation of properties and the state of the housing market.
- An MP commented on some of the common misunderstandings of constituents, such as that the Government would only pay 85% of the value of a property and that there wouldn't be statutory blight provisions following the EHS.

7. Campaigns

HS2 Action Alliance

7.1 The HS2 Action Alliance is a campaign group, centrally run but with a number of local action groups such as Burton Green HS2 Action Group and SNAG (South Northants Action Group). The HS2 Action Alliance campaign group encouraged respondents to respond to the consultation, to suggest an alternative compensation scheme called the Property Blight Protection Scheme (PBPS), based on private sector best practise.

7.2 Almost 3,800 responses were linked with the HS2 Action Alliance campaign group. Most of the responses were from individuals, but at least 60% of the responses from both Local Authorities and Other Interested Bodies endorsed the campaign group's proposals.

7.3 These responses were submitted in a number of formats, including via the HS2 Action Alliance website. Many respondents attached a standard Alternative Compensation Solution annex. The main points made in this annex are set out below:

- HS2 is the cause of blight in the locality of HS2, and should therefore bear the cost of any reduction in property values.
- A new PBPS should start when the route is selected, but the Government should offer now to guarantee blight-free market values for all properties affected by the chosen route.
- The PBPS would not replace statutory blight provisions; both schemes would run.
- The only criterion for eligibility would be that there has been a reduction in market value due to HS2. A few general conditions would have to be met.
- The PBPS would also apply on an interim basis to the preferred route option with immediate effect.

7.4 The HS2 Action Alliance also provided a number of different templates to respond to the three questions. Many respondents used the templates for their responses. Some respondents did not attach the Alternative Compensation Solution annex but either endorsed the PBPS or some of its arguments.

7.5 Most of the points raised under the three questions have already been covered in sections three to six. The main additional points are summarised below:

- Yes, a scheme is needed now, but it needs to be in line with the PBPS outlined in the Alternative Compensation Solution annex.
- Rules on proximity are arbitrary. The market should determine which properties have been affected by HS2 and should therefore be eligible for the EHS. This should also include routes over tunnels if they have lost value due to HS2.
- The three month rule on effort to sell is unclear and should be replaced by a simple time limit, adjusted for different property price bands instead.
- The proposed operating system is unfair.

- HS2 Ltd should purchase any property that has lost value because of HS2. There should be few properties to purchase if the government's assertion that few properties will be affected is correct.

7.6 A few respondents quoted from the campaign template on specific human rights issues when commenting on the proposed scheme.

“Articles 1 and 8 of European Convention on Human Rights (given effect in UK law by the Human Rights Act 1998) give individuals certain rights of enjoyment of their possessions, that can only be infringed by the state if it's in the public interest. A 2003 High Court judgement concluded ‘common fairness demands that where the interests of the minority, let alone an individual, are seriously interfered with because of an overriding public interest the minority should be compensated’.”

7.7 In addition to the written responses, a petition signed by 173 people was also received, with the following message – *“We ask you to reject the EHS and urge you to use the Alternative Compensation scheme developed by HS2 Action Alliance to ensure fair and just compensation for all.”*

Primrose Hill HS2 Reference Group

7.8 At least 80 responses were based on the response from the Primrose Hill HS2 Reference Group. Many referred to the letter by the Group representative on behalf of the group or endorsed aspects of it.

7.9 The main additional points they raised in relation to the three consultation questions are summarised below:

- The EHS is welcomed, but with the following caveats:
- Properties above tunnelled sections should be eligible for the EHS. HS2 has admitted that there may be some settlement and vibration effects above tunnelled sections, but there has been no Environmental Impact Assessment (EIA) or vibration assessment yet. The EIA won't be produced until the Bill stage and the vibration assessment can only be carried out after the track design has been finalised and the soil analysis carried out. Therefore, HS2 cannot comment on the impact of tunnelling below properties and these properties should be eligible.
- Anyone who wishes to sell their property but who *“cannot achieve a sale price at the prevailing market value less the blighting effect”* should be eligible for the scheme. [Representative of Primrose Hill HS2 Reference Group](#)
- “Extreme financial pressure” needs to be clarified and those with other legitimate reasons to sell property should be considered. It is not clear whether the five exceptional hardship criteria listed is the full list of eligible criteria; this also needs to be clarified.
- The scheme should not be wholly discretionary. It is unfair that the Secretary of State has no obligations. The criteria the SoS will be using must be clear and transparent.

Kensal Triangle Residents' Association

7.10 Over 40 responses were based on the response from the Kensal Triangle Residents' Association, which made some similar points to the Primrose Hill HS2 Reference Group with regard to the proposed principles and criteria.

7.11 The main additional points they raised are summarised below raised below:

- Yes, there should be an EHS.
- Properties above tunnelled sections should be eligible. There are many concerns about the impact on properties and the impact of an emergency access shaft.
- The criteria are very limited. The criteria of pressing need and hardship should only apply during the first 12 months; after that, any residents who wish to move for whatever reason should be eligible. The decision to proceed with a high speed route may be some time away.

Chalcots Estates Ltd and Hawtrey Residents' Association

7.12 A letter from the Director of Chalcots Estates Ltd and the Chairman and Treasurer of the Hawtrey Residents' Association, agreed with the views expressed by the Primrose Hill HS2 Reference Group and with the proposal for the PBPS put forward by the HS2 Action Alliance group. More than 10 responses also endorsed these views.

7.13 Most of the points made have already been covered, but they also made the additional points on tunnelling, arguing that properties over tunnelled sections should be eligible as the impact of tunnelling was unknown. They argued that as well as needing supporting evidence from the EIA and vibration assessment, there would also need to be:

"...an objective analysis of the behaviour property markets to the level of uncertainty implicit in these proposals and arising from the current political and economic climate." [Residents' Association](#)

7.14 They also added specific information about the likely impacts of the emergency access shaft on their properties.

"Possible effects include:

- *Compulsory purchase of certain properties...;*
- *Adverse effects on the values of those properties:*
 - *Close to the access shaft site, both as a result of the construction due to take place there... and from proximity to the multi storey structure that is expected will house the emergency access shaft;*
 - *In Hawtrey Road arising from the compulsory purchase of part of the common parts of Hawtrey Road – a private road. The loss of roadway will turn Hawtrey Road into a cul-de-sac and will cause increased traffic flows and congestion for many owners as a result of the loss of one of the two exits to the public Highway...It will also lead to a loss of valuable central London parking space;*

-
- *That back onto the communal garden if...Hawtreay Road are subject to compulsory purchase. The communal garden is currently secluded and entirely enclosed. If...Hawtreay Road are demolished the gardens will be opened up and exposed with a corresponding loss of amenity; and*
 - *On or close to the preferred HS2 route due to the risk of subsidence and vibration caused by construction of the tunnel and access shaft and the running of the trains themselves.” [Residents’ Association](#)*

Annex A Organisations invited to respond to the consultation

Individual Local Authorities

- Greater London Authority
- London Borough of Barnet
- London Borough of Brent
- London Borough of Camden
- London Borough of Ealing
- London Borough of Hammersmith and Fulham
- London Borough of Harrow
- London Borough of Hillingdon
- London Borough of Islington
- Royal Borough of Kensington and Chelsea
- Westminster City Council
- Buckinghamshire County Council
- Hertfordshire County Council
- Leicestershire County Council
- Northamptonshire County Council
- Oxfordshire County Council
- Staffordshire County Council
- Warwickshire County Council
- Birmingham City Council
- Coventry City Council
- Dudley Metropolitan Borough Council
- Sandwell Metropolitan Borough Council
- Solihull Metropolitan Borough Council
- Walsall Metropolitan Borough Council
- Wolverhampton Metropolitan Borough Council

- Aylesbury Vale District Council
- Central Bedfordshire District Council
- Cherwell District Council
- Chiltern District Council
- Dacorum Borough Council
- Daventry District Council
- Lichfield District Council
- North Warwickshire Borough Council
- Nuneaton and Bedworth Borough Council
- Rugby Borough Council
- Slough District Council
- South Buckinghamshire District Council
- South Northamptonshire District Council
- South Oxfordshire District Council
- Stratford-on-Avon District Council
- Tamworth District Council
- Three Rivers District Council
- Warwick District Council
- Wycombe District Council
- Welsh Assembly Government
- Scottish Government

Other Interested Bodies

- ACTVaR
- Advantage West Midlands
- Age Concern
- Association of North East Councils
- Birmingham International Airport
- BAA
- British Chambers of Commerce
- British Retail Consortium
- Campaign for Better Transport
- Campaign for the Protection of Rural England
- CBI
- Centro
- Chilterns Conservation Board
- Chiltern Society
- Citizens Advice
- Commission for Integrated Transport
- Commission for Rural Communities
- Council for the Protection of Rural England
- Council of Mortgage Lenders
- County Councils Network
- Country Land and Business Association
- Crown Estate Commissioners
- Disabled Persons Transport Advisory Committee
- East of England Regional Assembly
- East Midlands Regional Assembly
- East of England Development Agency
- East Midlands Development Agency
- English Heritage
- Environment Agency
- Equality and Human Rights Commission
- Federation of Small Businesses

- Forum of Private Businesses
- 4NW
- Friends of the Earth
- Help the Aged
- Homes and Communities Agency
- Local Government Yorkshire and Humber
- London Development Agency
- Local Government Association
- London Councils
- National Association of Local Councils
- National Association of Estate Agents
- National Farmers Union
- National Trust
- Natural England
- NEC Group
- Northern Way
- North West Regional Development Agency
- One North East
- Passenger Transport Executive Group
- Royal Institution of Chartered Surveyors
- Royal Town Planning Institute
- South East of England Development Agency
- South East England Partnership Board
- Sustainable Development Commission
- Town and Country Planning Association
- Transport for London
- West Midlands Leaders Board
- Yorkshire Forward

Annex B Main organisations that responded to the consultation

Individual Local Authorities

- Amersham Town Council
- Aylesbury Vale District Council
- Beaconsfield Town Council
- Birmingham City Council
- Buckinghamshire County Council
- London Borough of Camden
- Cherwell District Council
- Chiltern District Council
- Dacorum Borough Council
- Hertfordshire County Council
- London Borough of Hillingdon
- Kenilworth Town Council
- Lichfield District Council
- Milton Keynes Council
- North Warwickshire Borough Council
- Oxfordshire County Council
- Solihull Metropolitan Borough Council
- South Buckinghamshire District Council
- South Northamptonshire District Council
- Staffordshire County Council
- Three Rivers District Council
- Warwick District Council
- Warwickshire County Council
- Wolverhampton Metropolitan Borough Council
- Wycombe District Council

Other Interested Bodies

- 71 King Henry's Road Residents' Association
- Age Concern UK
- Amersham Free Church
- Ashow, Burton Green & Stoneleigh Joint Parish Council
- Balsall Common Village Residents' Association
- Berkswell Charities
- Birmingham City University
- Bledlow-cum-Saunderton Parish Council
- Boddington Parish Council
- Buckingham Society
- Burton Green HS2 Action Group
- Business Voice WM
- Camden Railway Heritage Trust
- Central Association of Agricultural Valuers
- Centro
- Chalcot Crescent (Management) Co. Ltd
- Chalcots Estates Ltd and Hawtrey Residents' Association
- Chetwode Parish
- Chilterns Conservation Board
- Chiltern Countryside Group
- Chiltern Society
- Chipping Warden and Edgcote Parish Council
- Church of England Archbishops' Council
- Coldharbour Parish Council
- Compulsory Purchase Association
- Country Land and Business Association
- County Councils Network
- Crackley Residents' Association
- Culworth Parish Council
- Dame Alice Leigh's Almshouse
- Darwin Court Residents' Association
- Dunsmore Society

- Finmere Parish Council
- Fulmer Parish Council
- Great Missenden Parish Council
- Hampden Meadow Management Ltd
- Hampton-in-Arden Society
- Harmondsworth and Sipson Residents' Association
- Hughenden Parish Council
- Ickenham Residents' Association
- Joint Parish Council of Eathorpe, Hunnigham, Offchurch and Wappenbury
- Joint Strategy & Investment Board (West Midlands Leaders Board and Advantage West Midlands)
- Kensal Triangle Residents' Association
- Kings Sutton Parish Council
- Lacey Green Parish Council
- Ladbroke Action Group Against HS2
- Ladbroke Parish Council
- Litchborough Parish Council
- Little Chalfont Parish Council
- Longwick cum Ilmer Parish Council
- Middleton Parish HS2 Action Group
- Mixbury Parish
- Nash Parish Council
- National Farmers Union
- NEC Group
- Offchurch Parish Council
- Old Amersham Business Association
- Pitstone Parish Council
- Primrose Hill HS2 Reference Group
- Princess Royal Trust for Carers
- Quainton Parish Council
- Rail Estate
- RNIB
- Royal Institute of Chartered Surveyors
- South East England Partnership Board

- South Northamptonshire Action Group
- Stalbridge House Residents' Association
- Steeple Claydon Parish Council
- Stoke Mandeville Parish Council
- Stoneleigh Action Group
- Stoneleigh Park, National Agricultural Centre
- Sulgrave Parish Council
- Thornton Parish Council
- Thorpe Mandeville Parish Council
- Town Lands Charity
- Transport for London
- Turner House Residents' Association
- Turweston Parish Council
- Weeford Parish Council
- Wendover HS2 Strategic Group
- Wendover Parish Council
- West Midlands Regional Business Community
- Whaddon Parish Council
- Yardley Hastings Parish Council