

# **Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms**

## **Response by West Sussex County Council**

**October 2023**

### **General Comments**

West Sussex County Council welcomes the opportunity to consider the implementation of plan-making reforms consultation and comment as a Minerals and Waste Planning Authority.

The proposed reforms set out that the new plan-making system would be implemented in 12 months' time during autumn 2024. This raises real concerns as there are many areas where more detail is needed on the plan-making reforms in order to enable plan-making authorities to comment constructively, so help ensure a new plan-making system is deliverable and can be implemented effectively.

A key area of concern, expressed in the comments below, is with the proposed new 30-month plan preparation. It is considered that a 30-month period to submission, rather than adoption, would be a more meaningful and manageable requirement for planning authorities. Considerable additional resources and expertise would be required to implement the proposed new system, which is a further key concern of the current proposals.

West Sussex County Council would be very happy to work with the Government and others in plan-making reforms and welcome any opportunities to be involved in its preparation.

The following consultation responses reflect the County Council position as a Minerals and Waste Planning Authority; as such some questions are not relevant to the authority's role and functions; therefore, 'no comment' has been made.

## Chapter 1: Plan content

No.	Question	WSCC Response
1	Do you agree with the core principles for plan content? Do you think there are other principles that could be included?	<p>It is unclear what is meant by some of the aspects set out in para.16 in relation to mineral and waste (M&amp;W) plans:</p> <ul style="list-style-type: none"> <li>• <i>"amount, type and location of, and timetable for, minerals and waste development"</i> – It is unclear what is meant by timetable for minerals and waste development. The timing of much of M&amp;W development is outside of the control of County/Unitary authorities.</li> <li>• <i>"other policies in relation to development other than minerals and waste development, which are designed to secure that minerals and waste development in the relevant area can take place"</i> – Further clarification of what is meant by this is required. If this is a reference to strategic developments in local plans that may incorporate M&amp;W development, there will be an issue around the timing of different local plans.</li> </ul> <p>Para 22 - given the nature of minerals and waste development, the inclusion of <i>'recognising the importance of design, linking to design codes where appropriate'</i> may be difficult to deliver. Whilst WSCC tries to ensure good landscaping etc, the design might not always be considered to <i>'foster beautiful places'</i>; clarification with regard to minerals and waste plans is needed.</p> <p>The consultation appears to lack clarity around the alignment test, which is intended to replace the Duty to Cooperate. At both a County level (two tier) and District / Borough level, there are issues that local plans must address, which are cross-boundary in nature and require effective strategic planning.</p> <p>The consultation refers to local plans focussing on <i>'locally specific matters'</i>. Some complex policy issues might require national, regional and local level strategies i.e. water neutrality, transport planning, and minerals and waste planning.</p> <p>There are some areas that national guidance identifies as being important, which are not included in the Consultation. For example, the County is involved in health and wellbeing, and health creation (rather than just protecting health) i.e. promoting active travel and walkable neighbourhoods, promoting health and wellbeing through green infrastructure and access to nature. Reference to a positive contribution of health and wellbeing would improve the position and widen focus in plans.</p>

No.	Question	WSCC Response
2	Do you agree that plans should contain a vision, and with our proposed principles preparing the vision? Do you think there are other principles that could be included?	<p>Yes, it is important that plans contain a vision.</p> <p>It is not clear, however, what the intention is behind the Vision setting “measurable outcomes” for the plan period, and how they would be monitored.</p> <p>A vision that serves as a ‘golden thread’ will be reflected in all policies within a plan. All policies within a plan usually contain ‘monitoring and implementation’ requirements, that are reported on annually.</p> <p>It should be made clear how the monitoring of the vision and the monitoring of policies differs, how they must be reported, and the actions as a result of any issues raised. It must also be clear what the outcomes of any such measures will seek. For example, if a Plan contains 15 strategic policies, and monitoring indicates a problem for one of those policies, in theory, that could mean a failure of the Vision.</p>
3	Do you agree with the proposed framework for local development management policies?	<p>While this might streamline local plans and their production, it is difficult to comment until more information around minerals and waste DM policies is available.</p> <p>Para 32, bullet two, states that “<i>local DM policies should, wherever possible, enable delivery of the plan’s vision</i>”. Should local DM policies not enable delivery of a vision full stop, rather than “where possible”?</p> <p>If the new Local Plans system were to be implemented from Autumn 2024, clarification is needed now on the framework for local development management policies to ensure plan scope and resource management can be properly considered and programmed to achieve new requirements for plan-making.</p>
4	Would templates make it easier for local planning authorities to prepare local plans? Which parts of the local plan would benefit from consistency?	<p>It is not clear what templates are proposed, for a whole plan, parts and if so what parts. Plans cannot be consistently produced as there are so many local differences that need to be planned for. Most local plans are produced using some desk top publishing template. It is not clear how using templates will speed the process up or make it easier. The production of plans and ensuring there is evidence to support the plan, as well as political buy-in, takes time in local plan production, not the structure.</p>
5	Do you think templates for new style minerals and waste plans would need to differ from local plans? If so, how?	<p>Yes. M&amp;W plans do not need to cover the full range of issues included in other local plans and therefore a template should be tailored specifically to these land uses. They are also based on distinct evidence (LAA, waste data), which is subject to extensive scrutiny and challenge at examination in terms of how it is presented in the local plans</p>

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		<p>(e.g. landbanks, shortfalls within/outside of policies etc). A template that is specifically tailored to M&amp;W Plans could ensure consistency between authorities and potentially less challenge/dispute at examination. However, more detail is needed in order to constructively comment.</p> <p>The new arrangements allow for M&amp;W plans to be incorporated into a local plan (depending on which body is responsible for preparing it). Although there may be some benefits to including M&amp;W alongside other land uses, the strategic nature of such development means that it is considered more appropriate for it to be planned for at county level or through joint plan-making.</p>

## Chapter 2: The new 30-month plan timeframe

No.	Question	WSCC Response
6	Do you agree with the proposal to set out in policy that planning authorities should adopt their plan, at the latest, 30 months after the plan preparation process begins?	<p>Concern about the 30-month timeframe for preparing local plans, particularly if authorities are joint plan-making due to different consultation requirements and governance arrangements. Gathering evidence, preparing for meaningful consultations, and analysing responses is time consuming and the 23 months identified for plan-making itself is considered insufficient. Resource constraints and changes can lead to delays in plan-making.</p> <p>The LA is also tied to the Planning Inspectorate's timetable i.e. whether there are Inspectors available and the amount of time they take to write and have their report checked. In some cases, this can take mean the Plan is under examination for longer than six months. All of which impact on the timing of the local plan adoption within 30 months. It is considered that a 30-month to submission period, rather than adoption would be a more meaningful and manageable requirement by the planning authority.</p> <p>How would the mandatory 6-week or 8-week consultations work? Some authorities set out longer periods for consultation, particularly if the consultation runs through holiday periods, which is likely (when considering the Easter, Summer and Christmas holiday periods, as well as school half terms). Where a proposed local plan includes sites for allocation, particularly minerals or waste sites, they often raise a lot of local concern, and require local events/exhibitions. Often, complaints are received that consultation</p>

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		<p>periods are not sufficient, and decisions can be politically driven for longer consultation periods.</p> <p>It is important to remember the Local Plan is a Council document and not a corporate document. The process for member approval for Local Authorities takes time, particularly if scrutiny committees are required, impacting the achievement of a 30-month timetable.</p> <p>The introduction of National DM policies would not significantly reduce time taken to prepare a plan, as local communities are often most interested in proposals/sites, that result in large numbers of responses that must be examined by officers.</p> <p>If 30 months plans are to be required by Government, there will be a need to consider providing more funding/resource to planning departments and other public bodies (namely statutory consultees who often are not able to respond in detail to consultations due to their own resource issues). Further resource may be required to fulfil the alignment test responsibilities.</p> <p>Overall, WSCC is concerned that local communities, who are now used to the outcomes of Localism and their levels of involvement to shape a plan, will feel as if their thoughts are no longer relevant, as plans are prepared in a short space of time. It is likely that there will be an increase in objections, as the time pressures will not allow full understanding.</p> <p>NB Figure 1 refers to an examiner being appointed by the secretary of state – this is for neighbourhood plans. Local Plans are examined by Planning Inspectors.</p>
7	Do you agree that a Project Initiation Document will help define the scope of the plan and be a useful tool throughout the plan making process?	<p>Many LPAs already do this or something similar, and it is good practice throughout the plan-making process. A standardised template that can be used by all authorities would ensure consistent good practice. What is not clear is the timing of the 30-month time period. Call for sites and evidence gathering are usually well underway before officers start writing plans and policies.</p>

### Chapter 3: Digital plans

No.	Question	WSCC Response
8	What information produced during plan-making do you think would most benefit from data standardisation, and/or being openly published?	Minerals and waste data is often used to assemble regional monitoring reports, so enabling access to this monitoring data could help with this.  Waste data being more accessible and regionalised would be advantageous for plan making. Supporting regional work on waste planning as already seen with minerals planning would also assist plan-making.
9	Do you recognise and agree that these are some of the challenges faced as part of plan preparation which could benefit from digitalisation? Are there any others you would like to add and tell us about?	While the reasons set out in para 71 set out why digitisation may help in local planning, there are only a couple which can be overcome through digitising i.e. monitoring and keeping plans up-to-date. It is not clear why, for example, digitising local plans would help <i>'the majority of people who do not engage in plans, or know why and how they can be involved'</i> . That is more about communication and engagement in general.
10	Do you agree with the opportunities identified? Can you tell us about other examples of digital innovation or best practice that should also be considered?	Yes, agree with opportunities identified, particularly around the visualisation of plans and the use of checklists/templates. The use of AI to process and report consultation data in future could save significant resources; however accuracy would require consideration when using automation.
11	What innovations or changes would you like to see prioritised to deliver efficiencies in how plans are prepared and used, both now and in the future?	No comment.

### Chapter 4: The local plan timetable

No.	Question	WSCC Response
12	Do you agree with our proposals on the milestones to be reported on in the local plan timetable and minerals and waste timetable, and our proposals surrounding when timetables must be updated?	Support for a simpler timetable that can be updated more easily as the current system of LDS often become out-of-date quickly and it would enable authorities to respond to changing circumstances more easily.

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		Paragraph 82 suggests that planning authorities are to revise timetables every six months, suggesting all plans will fall behind timetables. A review or health check of timetables would ensure clarity on what is being sought.
13	Are there any key milestones that you think should automatically trigger a review of the local plan timetable and/or minerals and waste plan timetable?	Any triggers should be trend based for minerals and waste plans given the way that forecasting (LAAs etc) is undertaken. For example, if a 7-year landbank is not maintained in one year, there may be specific local circumstances for this, or development in the pipeline. Minerals or waste applications often take considerable time from submission to sites becoming active; therefore, using a longer trend point trigger is more pragmatic.

### Chapter 5: Evidence and the tests of soundness

No.	Question	WSCC Response
14	Do you think this direction of travel for national policy and guidance set out in this chapter would provide more clarity on what evidence is expected? Are there other changes you would like to see?	<p>It appears this will provide more certainty as to what is expected to be provided as evidence. However environmental assessments i.e. HRA, AA etc, should not be omitted in order to speed the process up.</p> <p>SFRAs are fundamental to ensuring development is located in areas away from flood risk. The data is provided for SFRAs by the EA, and used by local authorities through consultants to produce SFRAs, which is time consuming and expensive. It seems more logical for the EA to produce the background / evidence as they have the data.</p>
15	Do you support the standardisation of evidence requirements for certain topics? What evidence topics do you think would be particularly important or beneficial to standardise and/or have more readily available baseline data?	<p>There has always been an issue with the accuracy of data for calculating commercial and industrial and construction, demolition and excavation waste. Local authorities are reliant on the EA Waste Data Interrogator, which contain significant issues around waste flow, double counting, and understanding end fates. A standardised methodology for calculating waste arisings and forecasts would ensure a consistent approach between authorities and less scope for challenge. Capacity calculations can also be complex, with many waste sites undertaking various waste management methods. Standardisation of waste site categorisation and capacity calculation approaches could be beneficial.</p> <p>Aggregate sales data is collated via annual surveys through the Aggregates Working Party, or on a 4-yearly basis via the National Surveys. The collation of this data is time</p>

No.	Question	WSCC Response
		<p>consuming, and often difficult to work with due to commercial confidentiality, making it difficult to prepare local aggregate assessments (LAAs). Standardisation could benefit the production of LAAs, notwithstanding the importance of allowing for the consideration of "other relevant local information", as required by NPPF paragraph 213a.</p> <p>As the consultation does not indicate what kinds of evidence would not now be required to be submitted to an examination, it is hard to comment in a meaningful way.</p>
16	Do you support the freezing of data or evidence at certain points of the process? If so which approach(es) do you favour?	While this may make sense in principle to speed the local plan process up, there may be some data that becomes available later in the process, which needs to be taken account of for example coastal and surface water flooding from the EA and LLFA. Any update to this data can have an impact on development and should be taken into account whenever it is available.
17	Do you support this proposal to require local planning authorities to submit only supporting documents that are related to the soundness of the plan?	Yes. However, clear guidance will be needed on what supporting documents will be expected to underpin a plan to make it sound and avoid the preparation/publication of unnecessary supporting documents.

## Chapter 6: Gateway assessments during plan-making

No.	Question	WSCC Response
18	Do you agree that these should be the overarching purposes of gateway assessments? Are there other purposes we should consider alongside those set out above?	In principle, the gateway assessments make sense and will help with certainty that the local plan has been produced with the right evidence etc. It appears that gateway assessments are more frequent and more formalised than the planning inspectorate advisory visits, as well as being earlier in the process. All of which will help the plan production.
19	Do you agree with these proposals around the frequency and timing of gateways and who is responsible?	Consideration of the gateway outcomes may result in substantive amendments to Plans, which in turn may require member approval and agreement. The process for member approval for Local Authorities takes time, particularly if scrutiny committees are required. Further, joint plan-making authorities often have different timetables/dates for key decision-making meetings.



No.	Question	WSCC Response
20	Do you agree with our proposals for the gateway assessment process, and the scope of the key topics? Are there any other topics we should consider?	<p>The Gateway 1 (Table 1) sets out that the headline position on delivering new homes (Housing needs test) is to be included. Consideration should be given to including waste needs assessments and LAAs to Gateway 1.</p> <p>Site assessment methodologies and outputs from any 'Call for Sites' could be included at Gateway 1, given the complex nature of undertaking site assessments, which are often at the heart of local community objections.</p> <p>It would be beneficial to include potential soundness issues at Gateway 2, expanding on the topic-specific advice at bullet point 2.</p>
21	Do you agree with our proposal to charge planning authorities for gateway assessments?	No. If it is part of a mandatory process through the Planning Inspectorate to speed up the local plan, the Inspectorate should be adequately funded by the Government to provide this service. There should not be additional financial burdens on the local authority.

## Chapter 7: Plan examination

No.	Question	WSCC Response
22	Do you agree with our proposals to speed up plan examinations? Are there additional changes that we should be considering to enable faster examinations?	Yes. However, it is noted that the public notification period for hearings is three weeks. This might be hard for community groups / parish and town councils, where they often meet monthly, to attend meetings and prepare responses to requests from the Inspector(s). It is thought that a six week period is more fair for the notification of local plan hearings.
23	Do you agree that six months is an adequate time for the pause period, and with the government's expectations around how this would operate?	Yes. A six-month period for pausing to overcome substantive matters would be preferred to withdrawal or pauses for extended periods, sometimes years. There should be an element of flexibility for the Inspector to work with the local authority if it something that can be overcome within six months.

## Chapter 8: Community engagement and consultation

No.	Question	WSCC Response
24	Do you agree with our proposal that planning authorities should set out their overall approach to engagement as part of their Project Initiation Document? What should this contain?	Query about how the proposal to set out the approach to engagement in the PID will sit alongside the wider role of the SCI in relation to non plan-making matters, such as Neighbourhood Planning and Development Management, if these are to continue?
25	Do you support our proposal to require planning authorities to notify relevant persons and/or bodies and invite participation, prior to commencement of the 30 month process?	<p>Yes. Authorities often notify stakeholders and the public at the start of plan preparation anyway, but a standardised approach would give more certainty about the plan making process and timings.</p> <p>It is important that statutory bodies are adequately resourced to provide timely responses to consultations etc.</p>
26	Should early participation inform the Project Initiation Document? What sorts of approaches might help to facilitate positive early participation in plan-preparation?	Engagement from community stakeholders is often limited at early stages of plan preparation, and it is at the point that sites are identified (either proposed for allocation, or simply being under consideration) that large amount of comments are submitted, which take considerable time to work through. Therefore, any early stage engagement is unlikely to result in much response; however once sites are identified, the information that was available at the early participation stage would become of significant interest (particularly if it had included site assessment methodology or needs assessment methods), which may mean the current issues at hand (that communities are engaged to late) would not be overcome.
27	Do you agree with our proposal to define more clearly what the role and purpose of the two mandatory consultation windows should be?	<p>Authorities take different approaches to consultation under the current plan making regulations. Some authorities undertake informal Regulation 18 consultation on Issues and Options only, which are seeking views on early shaping of a plan, and then progress to Regulation 19 with a draft Plan. Others opt to publish draft plans are Regulation 18, meaning stakeholders have an earlier sight of policies/proposed allocations, and provides the opportunity to overcome significant concerns in advance of the Regulation 19 formal representations period.</p> <p>Consideration should be given to the earliest possible engagement, via the PID, to include broad options and a vision for the plan being prepared, meaning that the</p>

No.	Question	WSCC Response
		consultation 1 includes a draft Plan, and at consultation 2 the focus is on substantive matters of soundness.
28	Do you agree with our proposal to use templates to guide the form in which representations are submitted?	<p>Most authorities already use templates for representations, and online consultation. However, there should always be an opportunity for the public to submit letters, etc to ensure everyone has an opportunity to comment on local plans, which will always affect their area.</p> <p>If digital representations are to be encouraged, there should also be a requirement for names and addresses to be included to ensure it is a real person making the comment. Just using a poll on X (twitter), for example, is not real public engagement; it may just generate a volume of responses that do not include constructive/meaningful comments.</p>

### Chapter 9: Requirement to assist with certain plan-making

No.	Question	WSCC Response
29	Do you have any comments on the proposed list of prescribed public bodies?	<p>Clarity needs to be provided on the meaning of 'assist' in para 158.</p> <p>Should the operators of safeguarded aerodromes be included. They are currently Statutory Consultees for planning applications under the DfT Circular 01/2003 'Safeguarding of Aerodromes, Technical Sites &amp; Military Explosives storage Areas: The Town and Country Planning (Safeguarded Aerodromes Technical Sites &amp; Military Explosives storage Areas) Direction 2002.</p> <p>WSCC consults aerodrome operators when plan-making as they have distinct safety requirements. It is noted that the CAA are listed.</p>
30	Do you agree with the proposed approach? If not, please comment on whether the alternative approach or another approach is preferable and why.	We are aware of Districts / Boroughs in our area giving advance warning of consultations to bodies such as EA / Natural England and still not getting responses in the statutory time period. There should be a way of ensuring there are resources to enable these bodies to hit the deadlines, especially if the local plan process is going to be 30 months.

## Chapter 10: Monitoring of plans

No.	Question	WSCC Response
31	Do you agree with the proposed requirements for monitoring?	<p>Authority Monitoring Reports can be time and resource intensive due to the amount of data that needs to be gathered/prepared (e.g. calculating waste capacities and arisings for waste local plans) and preparation of the report itself. There is also often difficulty in obtaining data for some indicators, e.g. data from non-aggregate mineral operators, capacities of waste sites, waste arisings data. This means AMRs are often based on estimates or a methodology-based approach to calculating data. Support for a more focused approach with nationally set metrics is supported. This would help to streamline the monitoring process and ensure consistency with other authorities.</p> <p>Data for minerals and waste monitoring can either be available on a calendar or financial timeframe and flexibility over preparation of AMRs would allow authorities to prepare AMRs to adapt to this.</p> <p>It is not clear why the requirement for submitting the year 4 review to the Secretary of State is introduced; this seems an unnecessary additional burden on both parties and will not guide decision making as the plan will need to be updated after five years in any case.</p>
32	Do you agree with the proposed metrics? Do you think there are any other metrics which planning authorities should be required to report on?	<p>The purpose of the proposed metrics is unclear; are they intended to monitor effectiveness of an individual plan/authority (in which case, they would monitor things outside WSCC's control) or any they intended to be used to build a strategic picture of issues across different geographies i.e. local/regional/national (in which case, there are some gaps).</p> <p>To be able to draw clear conclusions from monitoring, it is important that the data is relevant and of the required quality.</p> <p><i>Minerals</i></p> <p><i>"Amount (ha) of non-mineral development granted permission in a Mineral Safeguarding Area despite a Mineral Planning Authority objection"</i> – Sometimes proposals for non-mineral development only fall partly within an MSA, so this metric would need to clarify whether it should include only the part of the development within the MSA. Potential consideration needs to be given to the fact that MPAs do not necessarily object to development in safeguarded areas, for example where the relevant mineral resource assessments are undertaken and the developer (of the</p>

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		<p>proposed non-mineral development) argues that the need for the proposed development outweighs the need to safeguard the mineral; that decision can only be taken by the decision maker (often the D&amp;B council).</p> <p>Consideration should be given to metrics associated with the loss of minerals infrastructure (e.g. wharves and railheads).</p> <p><i>Waste</i></p> <p>Capacity against planned shortfalls.</p> <p>Non-waste development granted permission on/near waste sites despite WPA objection.</p>

### Chapter 11: Supplementary plans

No.	Question	WSCC Response
33	Do you agree with the suggested factors which could be taken into consideration when assessing whether two or more sites are 'nearby' to each other? Are there any other factors that would indicate whether two or more sites are 'nearby' to each other?	No comment.
34	What preparation procedures would be helpful, or unhelpful, to prescribe for supplementary plans? e.g. Design: design review and engagement event; large sites: masterplan engagement, etc.	No comment.
35	Do you agree that a single formal stage of consultation is considered sufficient for a supplementary plan? If not, in what	While it is recognised that there is a need to respond flexibly to changing circumstances, the use of Supplementary Plans with full development plan status with no right for the public to be heard at an examination, might undermine the trust of the

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	circumstances would more formal consultation stages be required?	public in planning. The focus of Supplementary Plans on site-specific requirements mean there should be a requirement for more formal consultation.
36	Should government set thresholds to guide the decision that authorities make about the choice of supplementary plan examination routes? If so, what thresholds would be most helpful? For example, minimum size of development planned for, which could be quantitative both in terms of land use and spatial coverage; level of interaction of proposal with sensitive designations, such as environmental or heritage.	No comment.
37	Do you agree that the approach set out above provides a proportionate basis for the independent examination of supplementary plans? If not, what policy or regulatory measures would ensure this?	No comment.

## Chapter 12: Minerals and waste plans

No.	Question	WSCC Response
38	Are there any unique challenges facing the preparation of minerals and waste plans which we should consider in developing the approach to implement the new plan-making system?	<p>A number of comments have been made in this response that touch upon the unique challenges faced in preparing a minerals and/or waste plan, including generally a lack of support for site allocations from local communities, and the complex nature of planning for minerals and waste development.</p> <p>Minerals plans are also required to contain policies on oil and gas development (both conventional and unconventional). Oil and gas development, particularly those involving unconventional methods, are highly contentious and different to planning for construction aggregates. It is important that proper guidance is provided.</p>

### Chapter 13: Community Land Auctions

No.	Question	WSCC Response
39	Do you have any views on how we envisage the Community Land Auctions process would operate?	No comment.
40	To what extent should financial considerations be taken into account by local planning authorities in Community Land Auction pilots, when deciding to allocate sites in the local plan, and how should this be balanced against other factors?	No comment.

### Chapter 14: Approach to roll out and transition

No.	Question	WSCC Response
41	Which of these options should be implemented, and why? Are there any alternative options that we should be considering?	It is unclear with the proposed routes, the options available for a planning authority who would not meet a June 2025 deadline in the current system, and then would lose their protection from speculative development due to the plan becoming out-of-date before autumn 2024.

### Chapter 15: Saving existing plans and planning documents

No.	Question	WSCC Response
42	Do you agree with our proposals for saving existing plans and planning documents? If not, why?	No comment.

## Equalities impacts

No.	Question	WSCC Response
43	Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?	No comment.