



# Capping administration charges for equity share and loan arrangements offered by housing authorities

## **Consultation**





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and loan arrangements offered by housing  
authorities

**Consultation**

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# Introduction

1. This consultation paper seeks views on whether there should be a statutory upper limit on any administration fees which housing authorities may wish to charge when offering equity loan or equity share arrangements to assist leaseholders with the payment of service charges.
2. The Government does not propose any other limitations on the terms under which housing authorities can offer such arrangements to their leaseholders.
3. Subject to the views received in response to this consultation, any measures in relation to capping administration charges would come into effect in spring 2010.
4. Responses to the consultation are requested by **no later than Wednesday 23 September 2009**.

# Background

5. In a statement to Parliament in March 2007 (Hansard for 29 March 2007, column 118WS):  
  
<http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070329/wmstext/70329m0001.htm#07032949000022>  
  
 the Government announced that it intended to legislate to enable local authorities to offer equity loans to leaseholders and to buy back shares in properties so that leaseholders in difficulties do not have to revert to being tenants.
6. The intention was to provide housing authorities with a wider range of ways to assist leaseholders who were facing difficulties in paying their major works bills.
7. Housing authorities already had powers to buy back properties sold by themselves, or by a predecessor authority, or by a new town or the Commission for the New Towns. Authorities can buy back flats, maisonettes or houses, whether these were sold under the right to buy or another scheme, and they may buy from those who bought from them or from people who bought on the open market from a former tenant purchaser.
8. However, it appeared that these powers only related to buying back the property as a whole, and did not allow an authority to buy a share in a property. The Government considered that it would be appropriate to introduce a power for a housing authority to acquire an equitable interest in a property.
9. The existing legislation also enabled, and in some cases required, housing authorities to offer loans. In the case of a mandatory loan, authorities were required to charge interest on the loan. In the case of a discretionary loan, the terms of the loan were at the discretion of the authority. However, it was unclear whether authorities had the flexibility to offer a discretionary loan on terms other than those requiring interest to be charged.
10. The Government therefore concluded that it would be appropriate to introduce a power to enable housing authorities to offer equity loans – i.e., loans where repayment takes the form of a proportional share of the proceeds when the property is sold instead of interest being charged. This would give authorities greater flexibility to tailor the terms of a loan to the circumstances of the leaseholder.
11. Following public consultation in 2007<sup>1</sup>, the Government introduced these powers in the Housing and Regeneration Act 2008 (sections 308 and 309). The decision on whether to make use of these powers to buy an equity share

<sup>1</sup> <http://www.communities.gov.uk/publications/housing/righttobuyconsultation>

or offer an equity loan is wholly at the discretion of the housing authority. Whether or not to enter into any such agreement is entirely up to the authority and the leaseholder concerned, and it is also up to them to decide the terms of any such agreement.

12. The regulations to give effect to these measures came into force on 6 April 2009:

- the Housing (Purchase of Equitable Interests) (England) Regulations 2009 give housing authorities the power to assist a leaseholder by buying an equitable interest in the property concerned; i.e., a share of the value
- the Housing (Service Charge Loans)(Amendment) (England) Regulations 2009 amend the Housing (Service Charge Regulations) 1992, which provide for housing authorities to make loans under sections 450A and 450B of the Housing Act 1985, by giving a housing authority power to offer a discretionary loan on which no interest is charged but a share of the price is taken when the property is sold

Copies of both sets of regulations are attached as **Annex C** below.

13. Neither set of regulations includes provision for specifying administrative expenses, although a power to make such provision is included in the existing legislation. The regulations do provide the landlord with the power to charge administrative expenses, and for these to be taken into account with regard to the purchase price. However, the landlord can only recoup from the leaseholder the actual costs it has incurred in respect of the equity share or equity loan arrangement.

14. The Housing (Service Charge Loans) Regulations 1992 which specify that certain leaseholders have a mandatory right to a loan also provide that, in the case of a mandatory loan, administrative expenses of up to £100 may be charged to the leaseholder. But these regulations do not impose any limit on the level of administrative expenses which may be charged to the leaseholder in respect of a discretionary loan from a housing authority.

# The issue on which your views are sought

15. In a written statement to Parliament on 13 March 2009 (Hansard, column 33WS:

[http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090313/wmstext/90313m0001.htm#09031366000002\)](http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090313/wmstext/90313m0001.htm#09031366000002)

the Under Secretary of State for Housing, Iain Wright MP, said that the Government recognised that offering an equity loan or taking an equity share would involve administrative costs that housing authorities might wish to recoup from their leaseholders by charging fees, and that it was possible that high administrative costs might act as a barrier to leaseholders in taking up either of the two new options now available. The Government therefore proposed to consult on whether there should be a statutory limit on such costs and, if so, what this limit might be.

16. The Government has not reached a view on whether such a limit should be introduced. However, it considers that, if such a limit was imposed, this should not exceed £500. Responses to the consultation paper *Clarifying the Right to Buy rules* (August 2007) mentioned in paragraph 11 above indicated that the administrative cost of arranging individual equity loan or equity share arrangements would be around this figure. In the Government's view, a limit of £500 would represent a reasonable balance between, on the one hand, the need for housing authorities to be financially responsible and, on the other, the possibility that high administrative charges would discourage leaseholders from taking up an equity share or equity loan option.

## Questions:

1. Do you think the provision of an equity share or equity loan will cost more in administrative terms than the existing loan options under section 450 of the Housing Act 1985?
2. Do you think there should be a cap on administration charges?
3. What issues might (i) the imposition of a cap and (ii) the lack of a cap raise?
4. If there is a cap on administrative charges, what might it be and why?
5. If such a cap was imposed and set at £500, would landlords be more likely to incur a loss on the provision of an equity loan or an equity share, and if so how large on average might such a loss be?

# How to respond

17. The Government welcomes your views on the issue set out in this consultation paper and your responses to the question asked in connection with it. It also welcomes views on the impact assessment (IA).
18. Please let us have your comments no later than Wednesday 23 September 2009, sending them to:

Diana Fergus  
Home Ownership for Social Tenants  
Department for Communities and Local Government  
2/H10 Eland House  
Bressenden Place  
London  
SW1E 5DU

Telephone: 0207 944 5499  
Fax: 0207 944 3639  
Email: [diana.fergus@communities.gov.uk](mailto:diana.fergus@communities.gov.uk)

## Who are you consulting?

19. We are consulting all those listed in Annex A to this paper.
20. Local authorities and housing associations will wish to bring this issue to the attention of both their leaseholders and their tenants, so that interested persons have the opportunity to themselves comment directly, or via their housing authority.
21. Thank you for taking the time to consider this consultation paper.

# Annex A: List of those consulted

Chartered Institute of Housing

Council of Mortgage Lenders

Tenant Services Authority

Homes and Communities Agency

Intermediary Mortgage Lenders Association

Local authorities in England

Local Government Association

London Councils

National Housing Federation

Selected registered social landlords

Selected tenants' organisations

and other interested organisations.

## Annex B: The consultation criteria

This consultation document and consultation process have been planned to adhere to the code of practice on consultation issued by the Department for Business Enterprise and Regulatory Reform and are in line with the seven consultation criteria, which are:

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome;
2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible;
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals;
4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach;
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained;
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation;
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless this is specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please contact the Communities and Local Government Consultation Co-ordinator at:

Zone 6/H10  
Eland House  
London SW1E 5DU

or by e-mail to: [consultationcoordinator@communities.gsi.gov.uk](mailto:consultationcoordinator@communities.gsi.gov.uk)

# Annex C: The equity share and equity loan regulations

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STATUTORY INSTRUMENTS

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**2009 No. 601**

**HOUSING, ENGLAND**

**The Housing (Purchase of Equitable Interests) (England) Regulations  
2009**

<i>Made</i> - - - -	<i>10th March 2009</i>
<i>Laid before Parliament</i>	<i>13th March 2009</i>
<i>Coming into force</i> - -	<i>6th April 2009</i>

The Secretary of State, in exercise of the powers conferred by section 450D of the Housing Act 1985<sup>(2)</sup>, makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Housing (Purchase of Equitable Interests) (England) Regulations 2009 and shall come into force on 6th April 2009.

(2) These Regulations apply in relation to England only.

**Power to purchase an equitable interest to assist a tenant to meet service charge payments**

2.—(1) A housing authority (“the landlord”) may with the agreement of the tenant purchase an equitable interest in a flat where the conditions in paragraph (2) are satisfied.

(2) The conditions mentioned in paragraph (1) are that—

- (a) a long lease of the flat was granted or assigned by the landlord or another housing authority;
- (b) the tenant is liable under the terms of the lease to pay service charges to the landlord in respect of repairs or improvement contributions (whether to the flat, the building in which it is situated or any other building or land); and
- (c) the purpose of the purchase is to assist the tenant to meet some or all of the service charge payments.

**Exercise of power to purchase**

3. The landlord may make a purchase under regulation 2 notwithstanding that the lease concerned was granted or assigned, or the service charge concerned became payable, before the coming into force of these Regulations.

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<sup>(2)</sup> 1985 c. 68. Section 450D was inserted by section 309 of the Housing and Regeneration Act 2008 (c.17). The power to make regulations under section 450D(1) is conferred on the “appropriate national authority”. By virtue of section 450D(10), the appropriate national authority is, in relation to England, the Secretary of State and, in relation to Wales, the Welsh Ministers.

**Purchase price**

4.—(1) The cost of the equitable interest purchased (“purchase price”) shall be met by the landlord reducing or (as the case may be) cancelling the service charge payable to the landlord by the tenant to such extent as corresponds to the amount concerned, but this is subject to paragraph (2).

(2) Where, in accordance with a term agreed as mentioned in regulation 5, the tenant is liable to pay the landlord’s administrative expenses, the purchase price may, at the option of the landlord, be reduced by the amount of those expenses.

**Administrative expenses**

5. It may be a term of the agreement for a purchase under regulation 2 that the tenant be liable for the administrative expenses of the landlord in connection with the purchase.

Signed by authority of the Secretary of State for Communities and Local Government

10<sup>th</sup> March 2009

*Iain Wright*  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations give a housing authority which is a landlord of a flat under a long lease a power to purchase an equitable interest in the flat in order to assist the tenant to meet some or all of the costs of service charge payments payable by the tenant to the landlord in respect of repairs and improvement contributions. The agreement of the tenant is required. The terms “housing authority” and “long lease” are defined in section 458 of the Housing Act 1985. Section 450D of that Act (under which these Regulations are made) modifies the definition of “housing authority”, and defines “improvement contribution” and “repairs”.

Regulation 2 sets out the conditions which must be met before the power to purchase an equitable interest can be exercised.

Regulation 3 provides that the landlord may exercise the power conferred by regulation 2 whenever the lease was granted or assigned, and whenever the service charge became payable.

Regulation 4 requires the landlord to pay for the equitable interest purchased by reducing or cancelling (as the case may be) the service charge payment for which the tenant is liable. Where the landlord and the tenant have agreed that the tenant will meet the landlord’s administrative expenses in connection with the purchase, the landlord may deduct these expenses from the purchase price.

Regulation 5 allows the landlord to require the tenant pay the landlord’s administrative expenses in connection with a purchase under regulation 2.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. However the proposed provision was included in a consultation document issued in August 2007 on proposed changes to the Right to Buy scheme, to which a general impact assessment regarding these changes was attached.

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STATUTORY INSTRUMENTS

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**2009 No. 602**

**HOUSING, ENGLAND**

**The Housing (Service Charge Loans) (Amendment) (England) Regulations 2009**

<i>Made</i> - - - -	<i>10th March 2009</i>
<i>Laid before Parliament</i>	<i>13th March 2009</i>
<i>Coming into force</i> - -	<i>6th April 2009</i>

The Secretary of State, in exercise of the powers conferred by sections 450B and 450C of the Housing Act 1985<sup>(3)</sup>, makes the following Regulations:

**Citation, commencement, application and interpretation**

6.—(1) These Regulations may be cited as the Housing (Service Charge Loans) (Amendment) (England) Regulations 2009 and shall come into force on 6th April 2009.

(2) These Regulations apply in relation to England only.

(3) In these Regulations “the 1992 Regulations” means the Housing (Service Charge Loans) Regulations 1992<sup>(4)</sup>.

**Terms of loans**

7. The 1992 Regulations are amended in regulation 6 (terms of loans) by the substitution for paragraph (2) of—

“(2) A loan made by virtue of regulation 5 may be made on terms that—

- (a) do not require the payment of interest; or
- (b) require the payment of interest only on part of the loan;

and shall otherwise, subject to paragraph (3), be on such terms as the lender may determine.”.

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<sup>(3)</sup> 1985 c. 68. Sections 450B and 450C were inserted by the Housing and Planning Act 1986 (c.63). Section 450B was amended by S.I. 1996/2325 and S.I. 2008/3002. There are other amendments of which none is relevant to this Order. Section 450C was amended by section 308 of the Housing and Regeneration Act 2008 (c. 17). The functions of the Secretary of State under sections 450B and 450C, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) article 2 and Schedule 1. Under paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), functions formerly exercised by the National Assembly for Wales are now exercisable by the Welsh Ministers.

<sup>(4)</sup> S.I. 1992/1708, amended by S.I. 2000/1963, and S.I. 2008/2831.

### **The rate of interest**

8. The 1992 Regulations are amended, in paragraph 1(a) of Schedule 2, by the insertion after “loan” of “or the part of it on which interest is payable”.

Signed by authority of the Secretary of State for Communities and Local Government

10<sup>th</sup> March 2009

*Iain Wright*  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Housing (Service Charge Loans) Regulations 1992 (“the 1992 Regulations”) which provide for housing authorities to make loans to their tenants in respect of service charges for repairs or improvements. The amendments, which apply only in relation to England, relate to loans made under the discretionary power in regulation 5 of the 1992 Regulations. That power may be exercised, in respect of flats, by “housing authorities”. The term “housing authority” for the purposes of these amendments is defined in section 450B(4) of the Housing Act 1985.

Regulation 2 substitutes regulation 6(2) of the 1992 Regulations to provide that a loan made under the power in regulation 5 may be on terms that do not require the payment of interest or that require the payment of interest on only part of the loan.

Regulation 3 amends paragraph 1(a) of Schedule 2 to the 1992 Regulations in consequence of the new regulation 6(2).

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. However the proposed provision was included in a consultation document issued in August 2007 on proposed changes to the Right to Buy scheme, to which a general impact assessment regarding these changes was attached.

# Annex D: Impact assessment

## Summary: Intervention & Options

Department/Agency:

**Communities and Local Government**

Title:

**Impact Assessment of capping administration charges for equity share and equity loan arrangements offered by housing authorities**

**Stage:** Consultation

**Version:** 1

**Date:** 11 June 2009

**Related Publications:** Consultation paper: Capping administration charges for equity share and equity loan arrangements offered by housing authorities

13 March 2009 – Written statement to Parliament on Equity Share and Equity Loan Regulations

**Available to view or download at:**

<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090313/wmstext/90313m0001.htm#09031>

**Contact for enquiries:** D Fergus

**Telephone:** 0207 944 5499

**What is the problem under consideration? Why is government intervention necessary?**

To help leaseholders of housing authorities to meet their service charge bills, powers were included in the Housing and Regeneration Act 2008 to allow housing authorities to take an equity share in properties or offer interest-free equity loans. Housing authorities may charge to cover the actual administration costs they incur in offering such arrangements. The Government is concerned that high administration charges may unfairly limit the take-up of the equity share and equity loan options by leaseholders. We are therefore seeking views from interested parties on whether there should be an upper limit (a 'cap') on such administration charges.

**What are the policy objectives and the intended effects?**

The aim of any cap would be to ensure that high administration charges did not impose a disproportionate disincentive on any leaseholder, preventing them from taking up the new equity share and equity loan options.

**What policy options have been considered? Please justify any preferred option.**

The Government is considering legislating to introduce a statutory upper limit on administration charges, rather than leaving housing authorities to impose administration charges at their discretion (which under the existing legislation may not exceed the actual costs they have incurred in providing the equity share or equity loan arrangement). The Government has not reached a view on whether such administration charges should be capped or at what level, and is seeking opinions from interested parties. Below, we consider the impact of a cap of £500 on administration charges.

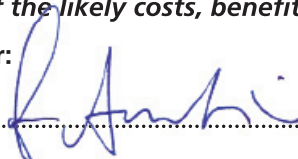
**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?**

Details of how this policy proposal would be evaluated will be published alongside the final Impact Assessment.

**Ministerial Sign-off** For  Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:



Date: ..... June 2009 .....

## Summary: Analysis & Evidence

### Policy Option:

**Description:** Capping the administration charges on equity share and equity loan arrangements offered by housing authorities

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£0		
	Average Annual Cost (excluding one-off)		
£ Not Quantified		<b>Total Cost (PV)</b> £ Not Quantified	
<p><b>Other key non-monetised costs by 'main affected groups'</b> When extending equity loans or acquiring equity shares, landlords would be prevented from recovering administrative costs above the upper limit. This could cause them to offer less help to leaseholders, and to recover less of the funds which they are owed.</p>			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£0		
	Average Annual Benefit (excluding one-off)		
£ Not Quantified		<b>Total Benefit (PV)</b> £ Not Quantified	
<p><b>Other key non-monetised benefits by 'main affected groups'</b> Some leaseholders that access equity loan and equity share arrangements will be made better off through reductions in cost.</p>			

### Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ Not Quantified	NET BENEFIT (NPV Best estimate) £ Not Quantified

What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	Specified post RA			
Which organisation(s) will enforce the policy?	LAs, RSLs, courts			
What is the total annual cost of enforcement for these organisations?	£0			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£N/A			
What is the value of changes in greenhouse gas emissions?	£N/A			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase)	
Increase of	£	Decrease of	£
			<b>Net Impact</b> £

Key: **Annual costs and benefits: Constant Prices**

**(Net) Present Value**

## Evidence Base (for summary sheets)

### Background

1. Some housing authority leaseholders, particularly in London, are facing high service charge bills arising from works of repair or refurbishment by social landlords aiming to bring homes up to standards in line with the Government's decent homes programme.
2. Having reviewed the issues being faced by leaseholders, the Government announced in Parliament on 29 March 2007 a commitment to add to the ways in which social landlords could assist leaseholders in financial difficulties, by legislating to give housing authorities powers to:
  - i. acquire an equitable interest in a property – i.e., take a share of the value
  - ii. offer an equity loan – i.e., a loan where repayment takes the form of a proportional share of the proceeds when the property is sold instead of interest being charged.
3. The Government introduced these powers in the Housing and Regeneration Act 2008, and the regulations to give effect to these measures came into force on 6 April 2009.
4. Neither set of regulations includes provision for specifying administrative expenses, although a power to make such provision is included in the existing legislation. However, the regulations do provide landlords with a power to charge administrative expenses, and for these to be taken into account with regard to the purchase price. The landlord can only recoup from the leaseholder the actual costs it has incurred in respect of the equity share or equity loan arrangement.
5. The intention to consult on whether there should be a statutory limit on administrative expenses, and what this limit might be, was announced in a written statement to Parliament on 13 March 2009.

### Costs and benefits

6. The decision on whether to make use of the powers to buy an equity share or offer an equity loan, and on what terms, is wholly at the discretion of the housing authority. It is also entirely at the discretion of the leaseholder whether to enter into any such agreement with a housing authority. The voluntary nature of these powers makes assessing the exact impact of placing a statutory upper limit on administration charges difficult. However, limiting administrative charges is expected to benefit a number of households who take advantage of the products and result in an increase in the numbers of households who would like to access equity loans. It may also lead to a fall

in the number of equity loans made by housing authorities by raising the cost of providing these. These impacts are considered in further detail below.

7. The main impact of imposing a statutory ceiling on administrative expenses would be to prevent social landlords that incur administrative costs above the pre-determined limit from recovering all of these from leaseholders when extending equity loans or acquiring equity shares. In some cases the proposal might therefore raise the cost to landlords of providing these types of financial arrangement relative to the status quo. This might make such housing authorities less inclined to make such arrangements available to leaseholders.
8. Limiting administrative charges would reduce the price of obtaining equity loans or offering equity shares for households whose landlords might levy high administrative charges. This would be expected to bring about an increase in demand for these products as a means of paying major repairs bills, relative to a situation where administrative charges are not limited.
9. The policy is therefore likely to have a distributional impact. Some leaseholders who are able to access equity loan and equity share arrangements will be made better off through reductions in cost. Capping administrative charges might benefit the neediest households through reducing the cost of receiving help in this way. However there is a possibility that some households that would otherwise have received assistance paying service bills will no longer be given access to equity loan and equity share arrangements if landlords are prevented from fully funding the cost of administering these powers provided in the Housing and Regeneration Act 2008.
10. The magnitude of these impacts depends on how big a change in administrative costs is brought about by the imposition of a statutory limit, as well as the importance of cost as a driver of housing authorities' behaviour and leaseholders' responsiveness to the price of equity loans and equity shares. The impact will also depend on how landlords respond to the added incentive to reduce their administration costs to a level below the cap by developing more efficient systems and procedures for providing equity options. At present we are not able to quantify the overall impact on landlord's behaviour because the powers to provide equity loans and shares only came into force in April 2009 and there is no available evidence on the extent or circumstances in which landlords might make use of them.
11. A statutory limit to the administrative costs that can be levied in relation to equity loans and equity shares could be set at a number of different levels. The Government has not yet decided what level is appropriate, but this impact assessment considers the possible implications of implementing a cap at £500. Capping at this level would allow landlords to charge administrative fees that are broadly comparable to the lower-end arrangement fees charged by commercial lenders for mortgages and secured loans (on 1 April 2009 the average fee was £937, Moneyfacts).

12. Evidence in social landlords' responses to the August 2007 consultation on *Clarifying the Right to Buy Rules* suggests that administrative costs typically range between £500 and £700, although they can be as low as £300 or as high as £1,500. This suggests that imposing a cap of £500 on charges might prevent a number of housing authorities that currently incur administrative costs at the upper end of the range from recouping these in full.
13. This is likely to reduce the incentive for these landlords to offer equity arrangements and might therefore reduce the availability of such arrangements. However, housing authorities are likely to take factors other than cost into account when deciding how many equity arrangements to offer. For instance, they may consider the circumstances of households and the way in which the assistance would further their wider objectives. They may also look at whether equity arrangements can increase the proportion of service bills that are paid by leaseholders. In part because the powers to provide equity loans and shares came into force very recently (April 2009), we do not know the extent to which cost influences landlords' decision over how many equity loans or shares to provide.
14. In analysing the possible scope of the impacts, we estimate that in total there are around 200,000 leaseholders living in ex-social sector flats that have been purchased from local authorities and housing associations in England on a leasehold basis.
15. The number of large major works bills issued is closely related to upgrades of the stock of social housing that are being carried out as part of the decent homes programme. Work under this programme is due to be largely completed by 2010 and a large proportion has already been carried out. It is therefore likely that the number of large bills being issued will decline significantly after the next couple of years. The best available data suggests that 6 per cent of local authority leaseholders in London have been issued with service charge bills of £10,000 or more. Assuming that a similar proportion of all ex-social sector leaseholders have been issued with service bills of £10,000 or more, this would mean that around 12,000 households might have to finance such repair bills in the short term.
16. There is no evidence available on how many of these households might draw on an equity option as a result of being in some kind of financial difficulty (other payment options are available to them). However a 2002–03 survey<sup>2</sup> of how households would pay for major repairs to their home found that 9 per cent would seek a grant from their council and another 5 per cent report that they would not be able to pay. These percentages are taken as a guide to the financial situation of local authority leaseholders likely to be served with major repair bills, meaning that around 1700 households might be eligible for consideration of equity loan or equitable interest arrangements. In addition, a further 10 per cent of households surveyed responded that they would pay for repairs by drawing on flexible mortgage equity. As a result of recent declines in house prices and continuing dislocation in financial markets, it may not be possible for these households to draw down equity

<sup>2</sup> Survey of English Housing 02–03, Table S361

at present. For this reason we include this group of households in our upper end estimate of the number of leaseholders who might utilise an equity release product in order to pay major repair bills: around 2,800.

17. However we expect that local authorities would only provide a few of the most distressed households with equity options in order to assist them pay for their major works bills. The number of households impacted by any change to rules governing administrative charges is therefore likely to be much lower than the estimates above.
18. The Government will seek to improve the evidence base which underpins the analysis presented above, in advance of any publication of a final impact assessment of the proposal to cap administrative charges. This will enable the likely costs and benefits of the policy to be estimated with a greater degree of certainty. As well as making use of submissions made in response to this consultation, we will aim to draw on emerging data on landlords' take-up of powers to enter into equity arrangements and gather additional information on the administrative costs incurred by housing authorities.
19. Any cap on administrative expenses will apply to all areas of England and is not expected to impact adversely on *rural communities*. The policy is not thought likely to have any *race or gender equality* impacts.
20. There is unlikely to be any *environmental impact*.
21. There will be no *impact on small businesses*, nor any adverse impact on *competition*.
22. *Enforcement* will not be an issue.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	Yes
Small Firms Impact Test	Yes	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	No	No
Rural Proofing	Yes	Yes



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