

**The proposed approach to statements of  
common ground: Will the Government's  
proposals help or hinder the duty to  
co-operate?**

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**4 December 2017**

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**Shortcomings of the Duty to Co-operate ("DtC")**



**Local Plans Expert Group's Report, March 2016**

- "Respondents were almost unanimous in their agreement that the Duty to Cooperate is not working effectively ... one [LPA] responded that *"the current DtC legislation and practice is one of the most serious obstacles to local plan progress"*. We identified very few examples in which neighbouring authorities have accepted unmet needs from adjoining authorities."
  - Perception: "a duty to chat"; "a duty to delay"
  - "These issues are some of the most serious in explaining Local Plan failure. The difficulties are substantially responsible for the consistent failure of areas of high housing demand to meet housing needs and in turn for escalating unaffordability. Without change or intervention, the position is likely to get worse."
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## Shortcomings of the Duty to Co-operate (“DtC”)



### LPEG recommendations, March 2016

- Add wording in to the soundness tests at the end of [182] NPPF:
  - The product of joint working between authorities is expected to be agreement on the distribution of full OAN, unless there is clear and convincing agreed evidence that the adverse effects of meeting the need in full would significantly outweigh the presumption that the need should be met;
  - Plan making authorities expected to identify in their submitted plans how needs that they are not planning to meet are likely to be met and to proactively work towards that;
  - LPAs that are requested to meet needs from adjacent authorities will be expected to treat that unmet need as part of their own OAN.

## Shortcomings of the Duty to Co-operate (“DtC”)



- Government should make clear that where authorities in a HMA have failed to reach sufficient agreement on meeting and distributing housing needs by March 2017, the Government will use powers to make Regulations to direct the preparation of a Joint Local Plan for the HMA (or a suitable geography such as transport corridors) within a prescribed timetable



## Consultation proposals

- Three problems identified at [62]:
  - Lack of transparency / sufficient certainty about how effectively LPAs are co-operating
  - DtC only tested towards the end of the plan-making process – too late to remedy failures, plans typically withdrawn
  - LPAs not legally required to reach agreement
- **Proposal:** set out in NPPF that all LPAs should produce a statement of common ground



## Consultation proposals

- Over the HMA, or other agreed geographical area where justified and appropriate
- Set out the “cross-boundary issues” (these including the housing need for the area, distribution and proposals for meeting any shortfalls) and “record where agreement has, and has not been reached”
- Will serve as evidence of how the LPA has met the DtC; “should enable the examination to progress more quickly”
  - Will it? “Co-operation will continue to be tested by virtue of the statutory [DtC] when a plan is submitted for examination”

## Consultation proposals



### Proposed amendments to the tests of soundness: include

- “Plans should be prepared based on a strategy informed by agreements over the wider area”; and
- “Plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the statement of common ground”.

### Sanctions:

- “In instances where [SoCG] are not being produced or maintained, we propose in the first instance to engage with relevant authorities to understand the issues at hand. However, where it is necessary, we will consider the use of our range of intervention powers to take action including, for example, directing LPAs to amend their plan-making timetables to align the production of plans in the wider area...”

## Consultation proposals



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