

<b>Title: The Party Wall etc. Act 1996 (Electronic Communications) Order 2015</b>  <b>IA No:</b> RPC - 3258(1) - CLG  <b>Lead department or agency:</b> Department for Communities and Local Government  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>				
	<b>Date:</b> 18/02/2016				
	<b>Stage:</b> Final				
	<b>Source of intervention:</b> Domestic				
	<b>Type of measure:</b> Secondary Legislation				
<b>Contact for enquiries:</b> Sandra Simoni 0303 44 41781					
<b>Summary: Intervention and Options</b>					<b>RPC Opinion: Validated</b>

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2014 prices)	In scope of One-In, Two-Out?	Measure qualifies as
£5.8m	£5.8m	-£0.7m	Yes	Out

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

The Party Wall etc. Act 1996 (the Act) provides a framework for preventing and resolving disputes in relation to party walls, boundary walls and excavations near neighbouring buildings. It requires a building owner who is carrying out work covered by the Act to notify the adjoining owner(s) of proposed work to a party wall, boundary wall or nearby excavation. If agreement is not reached to the work, a dispute is deemed to have arisen. The Act provides for resolution through the appointment of a surveyor (or surveyors) who will draw up an award which may include: the detail of the work being carried out, the time and manner of executing any work being carried out, and issues such as compensation and security for expenses. Currently the Act does not allow for notices and documents to be served electronically; they can only be delivered in person or by post.

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

The policy change seeks to amend the Act under provisions in the Electronic Communications Act 2000 to allow notices and other documents required under the Act, only if both the giver and recipient agree, to be sent by electronic means, which is in line with Government policy on e-enabling and e-commerce. If people do not want to receive documents electronically there will be no change.

Use of electronic means for serving notices and documents under the Act would speed up processes which could lead to work being able to start earlier if all parties involved are in agreement. There would be no additional costs for anyone involved in the processes of the Act including building owners and their surveyors.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

The two options considered are (1) to do nothing or (2) to amend the Act under provisions in the Electronic Communications Act 2000, so that notices and documents required under the Act can be served electronically. Option 1 would continue to require all notices and documents required under the Act to be served either by delivering them in person or by sending the notices and/or documents by post. Option 1 would also mean that if notices and/or documents are sent electronically they will also need to be delivered in person or by post. For both reasons Option 2 is our preferred option.

<b>Will the policy be reviewed? If applicable, set review date:</b>					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro</b> YES	<b>&lt; 20</b> YES	<b>Small</b> YES	<b>Medium</b> YES
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> n/a		<b>Non-traded:</b> n/a

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible Minister: \_\_\_\_\_ **James Wharton** \_\_\_\_\_ Date: **10<sup>th</sup> March 2016**

## FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 4.1	High: 7.1	Best Estimate: 5.8

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	-	-	-
High	-	-	-
Best Estimate	0.03	-	0.03

### Description and scale of key monetised costs by 'main affected groups'

There is no monetised cost to surveyors, building owners or adjoining owners for the policy itself. They continue to serve notices via post or in person if there is no unanimous agreement to serve notices electronically. If they agree to electronic means, this is voluntary and would not cost them extra. Surveyors would find out about this change primarily via the newsletters from one of the professional surveyors' bodies.

There is, therefore, a small familiarisation cost as surveyors incur time cost to learn about the electronic alternative to serve notices and other documents. Using a blended hourly rate of £46 per hour, 15 minutes of familiarisation for 2,800 surveyors (see main text for evidence), the total comes at £32,200.

### Other key non-monetised costs by 'main affected groups'

The nature of a surveyor's job would suggest that the person would be competent using electronic communication. Therefore there is no non-monetised cost to surveyors.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low (30%)	-	0.5	4.1
High (70%)	-	0.8	7.1
Best Estimate (50%)	-	0.7	5.8

### Description and scale of key monetised benefits by 'main affected groups'

There are savings arising from the use of electronic means rather than post, including postage, stationery and time. Instead of sending by post, sending electronically would save £1.73 in postage, £0.39 in stationery, and £3.83 in time. Based on an average of 115,710 emails a year to replace serving notices via post, this implies a present value benefit of £5.8m, or an annual average of £0.7m.

### Other key non-monetised benefits by 'main affected groups'

The move to electronic communication when all parties agree could speed up dispute resolution concerning work related to party walls. There could be non-monetised benefits, such as being able to start building work earlier, to surveyors as well as building owners and adjoining owners.

### Key assumptions/sensitivities/risks

This policy is judged to be low-risk. If any one of the parties does not give consent to receiving correspondence electronically, then nothing changes with regard to the service of documents under the Act. The change only happens if all parties agree to electronic communication.

Discount rate (%)

3.5

## BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0.004	Benefits: 0.7	Net: 0.7	Yes	OUT

## **Evidence Base (for summary sheets)**

### **Problem under consideration**

The Party Wall etc. Act 1996 (the Act) provides a framework for preventing and resolving disputes in relation to party walls, boundary walls and excavations near neighbouring buildings. Before the Act came into effect, in most of England and Wales there was no requirement for building owners to consult their neighbours when carrying out work now covered by the Act or to ensure remedial work was carried out. Where a dispute arose the only option available to resolve the matter was to go to the civil courts. The Act was introduced to provide a framework for preventing and resolving disputes without the need for court action.

A building owner proposing to start work of any kind covered by the Act must give adjoining owners notice of their intentions in the way set down in the Act. If agreement is not reached to the work, a dispute is deemed to have arisen. The Act then provides for resolution through the appointment of a surveyor (or surveyors) who will draw up an award which may include: the detail of the work being carried out, the time and manner of executing any work being carried out, and issues such as compensation and security for expenses.

A number of Members of Parliament and others have suggested changes to the Act to allow notices and other documents required under the Act to be sent by electronic means to speed up the process. Provisions in the Electronic Communications Act 2000 can be used to do this.

***Note: Through out this IA a Party Wall Act notice and other documents may cover work to party walls, boundary walls or nearby excavations without distinction as to what notices and documents may cover.***

### **Rationale for intervention**

Use of electronic means for serving notices and documents under the Act would speed up processes which could lead to work being able to start earlier if all parties involved are in agreement.

There would be no additional costs for anyone involved in the processes of the Act including building owners and their surveyors.

### **Policy objective**

The policy objective is to allow the service of notices and documents required under the Act by electronic means, if all the parties involved are in agreement, which should speed up the process of reaching agreement on the work to be carried out and meet Government policy on e-enabling and e-commerce.

There will be no change to the processes. The only change will be the option of being allowed to serve notices and documents electronically as well as in person and by post.

## **Description of options considered (including do nothing)**

**Option 1:** To do nothing and not amend the Act meaning notices and documents are not allowed to be served electronically.

**Option 2:** To amend the Act using Section 8 of the Electronic Communications Act 2000, which grants powers to amend legislation for the purpose of authorising or facilitating the use of electronic communications, so that notices and documents required under the Act can be served electronically if all parties involved are in agreement as well as in person and by post.

## **Monetised and non-monetised costs and benefits of each option (including administrative burden)**

### **Costs**

#### **Option 1**

There are no costs associated with option 1 as there would be no changes to the current requirements. Option 1 is also the baseline against which option 2 is compared.

#### **Option 2**

Under the proposed amendment of the Act, surveyors, building owners and adjoining owners can serve notices and other documents via electronic means if and only if all parties involved agree. In this case there are no extra costs compared to if there is no unanimous agreement. The notices would still have to be prepared as required by the Act. The only difference is the change of the delivery means from sending by post or serving in person to sending electronically.

If there is no unanimous agreement to serve notices via electronic means, there will be no change. In this case there are no costs associated as this would be the same as the baseline scenario.

#### **(a) Familiarisation cost**

There are, nevertheless, familiarisation costs as surveyors. They will have to learn about the alternative mode of communication, and explain to their counterparties and clients. The surveyors may learn about this change in newsletters from a professional body, or by answering our questionnaire<sup>1</sup>. Based on discussions with interested parties in the profession, we estimate that this familiarisation process will on average take 15 minutes of a surveyor's work time. Taking the blended hourly rate of £46 per hour for building surveyors (table 59 of EC Harris Cost Report<sup>2</sup>) between the Annual Survey of Hours and Earnings plus 30% and industry estimates by EC Harris, 15 minutes would cost £11.50.

#### **(b) Estimated number of surveyors in England and Wales**

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<sup>1</sup> The questions are: number of notices (and where possible other documents) served each year? Of the above how many notices/documents are served in person and how many by post? Expected numbers of take up if notices/other documents can be sent electronically?

<sup>2</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/353387/021c\\_Cost\\_Report\\_11th\\_Sept\\_2014\\_FI\\_NAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/353387/021c_Cost_Report_11th_Sept_2014_FI_NAL.pdf)

There is no statutory authority involved in Party Wall processes and so no recorded statistics of the number of party-wall notices served each year in England and Wales. This makes it more difficult to estimate the number of cases as no official body is counting, however, it is possible to gauge the number based on the estimated number of surveyors practising party wall related work.

Having sought advice from members of the Royal Institution of Chartered Surveyors (RICS), Pyramus & Thisbe Club and the Faculty of Party Wall Surveyors, we approximate there are 1,200 members at the Pyramus & Thisbe Club and 800 members at the Faculty of Party Wall Surveyors. Out of the estimated 1,800 surveyors belonging to these organisations and carrying out party wall related activities, approximately 200 are part of both organisations and have been taken out of our calculations to avoid double counting. That leaves about 1,800 surveyors belonging to either or both bodies.

Nevertheless, there are also surveyors practising in the field of party walls in England and Wales who are members of neither of the above mentioned institutions, estimated to be 1,000 from the advice from the Pyramus & Thisbe Club.

That puts the total estimated number of practising surveyors in England and Wales at 2,800.

### **Total cost**

15 minutes of 2,800 surveyors' time would be a one-off cost of £32,200. In line with previous Impact Assessments, including the Housing Standards Review – Security<sup>3</sup>, we have spread out the familiarisation cost into three years, 70% of the nominal total in the first year, 20% in the second, and 10% in the third. This puts the present value of this one-off familiarisation cost at £31,768, and the equivalent annual cost to business is £3,691.

### **Benefits**

#### **Option 1**

There are no benefits associated with option 1 as it is the baseline which option 2 is compared against.

#### **Option 2**

Under the amendment of the Act, surveyors, building owners and adjoining owners can serve notices via electronic means if all parties involved agree to it. In this case there are benefits compared to if there is no unanimous agreement. The notices would still have to be prepared, but there will be a business saving as the serving of notices would no longer incur postage or stationery costs. Time costs will also be reduced. As part of surveyors' service to the parties involved, they would benefit as businesses. They may pass this on to the customers.

#### **(a) Postage costs**

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<sup>3</sup> <https://www.gov.uk/government/publications/housing-standards-review-final-implementation-impact-assessment>

According to Royal Mail<sup>4</sup>, a signed for first-class letter up to 100 grams costs £1.73 from March 2015. Although the last 10 years have seen postage prices increase significantly faster than inflation, since the privatisation of Royal Mail in 2012 there have been only modest price increases for first class stamps<sup>5</sup>. They have increased in price by less than 1% in real terms. Given that Royal Mail is regulated to limit price increases on second class postage to no more than CPI inflation, it is reasonable to assume that the cost of first class post will also track inflation. For the purpose of this analysis, we have therefore assumed a zero real increase in the cost of postage, which remains at £1.73 in 2015 prices throughout the appraisal period.

### **(b) Stationery costs**

There are costs to printing, paper and envelope to serve a party-wall notice by post. For printing, we took a typical model of printer cartridge available for purchase online (£13.65), divided by the number of pages it is capable by printing (210). A notice of average length, taking 4 pages, would cost £0.26 in ink. For paper, we took a typical £2.39 cost of a paper pack of 500 sheets. Hence an average notice of 2 sheets would cost £0.02 in paper. For envelopes, we took a representative C3-size envelope pack of 125 (£13.82). Therefore the average envelope cost for a notice is £0.11.

Taking these costs together, the average stationery cost for a party-wall notice comes at £0.39. This estimate is assumed to stay constant throughout the appraisal period.

### **(c) Time savings**

In accordance with appraisal guidance and in line with the Housing Standards Review Impact Assessment<sup>6</sup> and other impact assessments by the Department, we have adopted the earnings estimates EC Harris Cost Report. The blended hourly rate, between the Annual Survey of Hours and Earnings (plus 30%) and an EC Harris's industry survey, is £46 for building surveyors. 5 minutes saved would be £3.83 were a notice to be served electronically.

### **(d) Overall unit savings of electronic means over posting**

The savings from postage, stationery and the time to post are summarised in table 3 below:

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Postage	£1.73	£1.73	£1.73	£1.73	£1.73	£1.73	£1.73	£1.73	£1.73	£1.73
Stationery	£0.39	£0.39	£0.39	£0.39	£0.39	£0.39	£0.39	£0.39	£0.39	£0.39
Time	£3.83	£3.83	£3.83	£3.83	£3.83	£3.83	£3.83	£3.83	£3.83	£3.83
<b>Overall</b>	<b>£5.95</b>	<b>£5.95</b>	<b>£5.95</b>	<b>£5.95</b>	<b>£5.95</b>	<b>£5.95</b>	<b>£5.95</b>	<b>£5.95</b>	<b>£5.95</b>	<b>£5.95</b>

### **(e) Estimated number of Party Wall Act notices**

#### (i) Counterfactual: via post and in person

We consider the typical Party Wall Act scenario where a proposed change to a party wall, boundary wall or nearby excavation concerns two adjoining owners. Working on

<sup>4</sup> <http://www.royalmail.com/sites/default/files/Royal-Mail-UK-and-international-parcel-and-letter-prices-30-March-2015.pdf>

<sup>5</sup> <http://www.royalmailgroup.com/first-and-second-class-stamp-prices-0> ; <http://www.royalmailgroup.com/first-and-second-class-stamp-prices>

<sup>6</sup> <https://www.gov.uk/government/publications/housing-standards-review-final-implementation-impact-assessment>

the advice from the surveying profession, it appears reasonable to assume that each surveyor is appointed by each side of two adjoining owners each month. This equates to the service of 24 initial notices per year per practising surveyor, or 67,200 in England and Wales.

If all parties consent to the works, there would not be any further correspondence beyond the initial notices. However, it is estimated that 95%, in line with advice received, will not consent to the initial notice so as to protect themselves from potentially damaging work to the party wall, boundary wall or from nearby excavation. This would trigger surveyors' assessments and awards. The service of notices detailing the work to parties themselves would amount to 95% of 67,200, i.e. 63,840.

In addition, there would be additional notices when the work is not straight forward or requires further changes along the way. The Secretary of the Pyramus & Thisbe Club suggests these additional miscellaneous documents could amount to further correspondence of 1.5 times the amount of notices served detailing the work - this gives 95,760 additional notices being served per year. The total number of notices served via post is therefore the sum of initial notices (67,200), further notices (63,840) and additional notices (95,760), i.e. 226,800.

Although the Party Wall etc. Act 1996 allows notices to be served in person, we were advised by those surveyors consulted that a very small number of notices are served in person or by affixing it to the adjoining building. One response suggests that relevant figure is 1%. We feel this is a reasonable estimate given that serving notices via post is generally more convenient; a certificate of posting can also be obtained to prove that the document has been served. We have therefore assumed 1% of the 226,800 total notices are served in person, leaving 224,532 notices sent by post in the baseline.

As party-wall related matters typically concern owners of older buildings, it is reasonable to anticipate that the total number of notices to be served stays the same in our 10-year appraisal period.

(ii) Policy: electronically, via post and in person

Allowing correspondences to be served electronically offers an efficient, low-cost alternative way to communicate. Nevertheless, in most Party Wall Act cases, the appointed surveyors obtain contact details of parties concerned by undertaking a search of the Land Registry. Currently, it is not a requirement of registration that owners provide email addresses. Therefore, for the purpose of this Impact Assessment, it is reasonable to assume **initial notices would still be served via post or in person.**

However, because of the benefits of electronic communication, there is an incentive to agree to delivering further correspondence electronically. We do not know at this point how many would prefer electronic communication, nor is it proportionate to conduct what could amount to a national survey for this proposed small change in legislation.

The responses to our survey (see footnote 1) on expected take-ups for electronic communication of further correspondence (after initial notices) vary. Some were concerned proofs of electronic communication might not stand up in courts, while some expected a take-up of close to 100% due to the convenience of electronic communication. Based on responses to our survey and on feedback from members of the Faculty of Party Wall Surveyors and the Secretary of the Pyramus & Thisbe Club, we have estimated that take up of would be between 30% and 70%, with a central estimate of 50% uptake of further correspondence and additional notices being by email, and no use of electronic communications in the initial correspondence.

We project the electronic communication take-up to increase by 5% a year for further and additional notices in all scenarios as surveyors and building owners become more familiar with the process being dealt with over email, with take-up capped at 95%. Table 3 below summarises these estimates for the central scenario:

'000s	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Further notices (assuming 50% of 63,840 total, increasing by 5pps. p/a)	31.9	35.1	38.3	41.5	44.7	47.9	51.1	54.3	57.5	60.6
Additional notices (assuming 50% of 95,760 total, increasing by 5pps. p/a)	47.8	52.6	57.5	62.2	67.0	71.8	76.6	81.4	86.2	90.9
<b>Total sent electronically</b>	<b>79.8</b>	<b>87.8</b>	<b>95.8</b>	<b>103.7</b>	<b>111.7</b>	<b>119.7</b>	<b>127.7</b>	<b>135.7</b>	<b>143.6</b>	<b>151.6</b>

Sources: Department's estimates based on surveyors' advice.

### **Total and net benefits**

The unit savings from table 2 and the estimated numbers of Party Wall Act notices served electronically from table 3 help us ascertain the total benefits. We multiplied the unit savings by the numbers of emails that would have otherwise have been sent by post. Table 4 below presents the central estimate of benefits of the policy:

2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
475	523	570	618	665	713	760	808	855	903

The low-scenario benefits average £0.5m, and range from £0.3m to £0.7m in a 10-year appraisal period. The high-scenario benefits average £0.8m and range from £0.7m to £0.9m. The central-scenario benefits average £0.7m and range from £0.5m to £0.9m. The central scenario present value benefit is £5.8m and after the one-off familiarisation cost with a present value of £32k the net present value is **£5.8m**.



The equivalent annual net cost to business (EANCB) is -£0.7m discounted to 2015 in 2014 prices. Therefore under the current methodology, this policy provides a net 'OUT' of **£0.7m**.

## **Specific Impacts Tests**

### *Statutory equality duties*

We have considered whether the statutorily protected groups would be impacted through the completion of our equality statement for changes to the Party Wall etc. Act 1996. We concluded that for the proposed changes there would be no impact.

### **Economic impacts**

The main specific group affected by the proposed change are micro-and small businesses as the nature of surveyors' work suggests. As the use of email is voluntary only surveyors (and their building owner clients) who think it will be beneficial to their business will wish to use it.

### **Environmental impacts**

The policy encourages moving from printing and posting to sending emails. This could be beneficial to the environment by lowering carbon emission, compared against the counterfactual.

### **Social impacts and sustainable development**

No impact.

## **Summary (including preferred option and implementation plan)**

The Department therefore proposes to proceed with Option 2, to amend the Party Wall etc. Act 1996 so that the service of notices and/or documents required under the Act can be done electronically where all parties involved have agreed, so as to speed up the process and to reduce costs and burdens of complying with the Party Wall etc. Act 1996 at an equivalent annual net benefit to business of **£0.7m**.

The proposed amendments to the Party Wall etc. Act 1996 are likely to come into force in April 2016.

The Department will publish revised guidance on the Act to coincide with the amendment coming into force and ask the representative organisations to publicise the revised guidance.