



PMSE clearing the 700 MHz band

Support for PMSE equipment owners

Consultation

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13 July 2017

About this document

In October 2016 we published our spectrum management decision to work towards accelerating the 700 MHz clearance programme by 18 months and releasing the spectrum for mobile services in May 2020, instead of September 2021. As a result, we have served notice on PMSE equipment owners that operate in the 700 MHz band and they will no longer have access to spectrum in this band from 1 May 2020.

Government has decided to fund a grant scheme to support PMSE equipment owners that have to vacate the 700 MHz band earlier than expected. We have agreed with Government to design and run a grant scheme to disburse the funds.

This document sets out our proposals for how the grant scheme should operate, including the eligibility criteria that claimants should satisfy in order to be considered for funding.

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Section 1

Executive summary

A grant scheme to support PMSE equipment owners

- 1.1 In October 2016 we published our decision (the “2016 Statement”) to work towards accelerating the 700 MHz clearance programme by 16 months and completing the clearance programme by May 2020. We therefore served formal notice on PMSE equipment owners that access to the 700 MHz band would cease and we would no longer authorise its use for PMSE services beyond that date.
- 1.2 As part of its funding for the 700 MHz clearance programme, Government has agreed to fund a grant scheme to support PMSE equipment owners who will have to vacate the 700 MHz band earlier than expected. We have agreed with Government to design and run a grant scheme to disburse the support funding it will provide. Under s1(5) of the Wireless Telegraphy Act 2006, Ofcom has the power to make grants for spectrum management purposes, subject to consent from HM Treasury.¹
- 1.3 Government has decided that it will provide PMSE equipment owners with funding equivalent to the residual value of PMSE equipment operating in the 700 MHz band which they need to replace at the time of clearance.
- 1.4 Given our proposals for how we would calculate the rate card² we anticipate that PMSE equipment owners that are eligible for funding would be likely to receive funding equivalent to ca. 47% of their costs of replacing eligible equipment with equivalent equipment, which they claim for under the grant scheme.
- 1.5 We propose that, in order to be considered eligible for funding, claimants must:
 - 1.5.1 **EITHER** have held a licence in the 700 MHz band in the past 2 years (i.e. between 17 October 2014 and 17 October 2016)
OR must be able to produce verifiable evidence that their business is based on hiring out PMSE equipment rather than using it and therefore does not require a licence, i.e. be considered a ‘dry hirer’;
 - 1.5.2 Claimants will only be able to claim for equipment that belongs to them;
 - 1.5.1 Equipment being claimed for must be in working order;
 - 1.5.2 Equipment being claimed for must have more than 50% of its tuning range in the part of the 700 MHz band that ceases to be available for PMSE use after clearance; and
 - 1.5.3 Equipment being claimed for must have been purchased before we issued the notice in the 2016 Statement.
- 1.6 In addition, Ofcom is now consulting on the continued use of the 694 MHz – 703 MHz guard band for PMSE services. The outcome of that consultation could have a

¹ Under section 1(7) of the 2006 Act.

² The rate card will be used to calculate the amount of funding each eligible claimant is entitled to under the grant scheme. Section 4 explains how the rate card will be developed.

bearing on the location of the spectrum boundary (either 694 MHz or 703 MHz) and hence the categories of equipment that will be affected by the clearance programme and their eligibility for funding under the grant scheme.

- 1.7 This consultation explains the rationale for our proposals on design of the grant scheme and eligibility criteria in more detail.

Section 2

Introduction

Background

- 2.1 The spectrum between 470 MHz and 790 MHz is currently used by Digital Terrestrial Television (DTT), Programme Making and Special Events (PMSE)³ services and White Space Devices (WSDs).⁴ In November 2014, we published a statement (the ‘2014 Statement’)⁵ setting out our decision to clear these services from the part of this spectrum between 694 MHz and 790 MHz (the ‘700 MHz band’) and to reallocate the frequencies for mobile data.
- 2.2 A programme of work to implement this decision is underway (the ‘700 MHz clearance programme’). In October 2016 we published a further statement (the “2016 Statement”)⁶ which set out our aim to complete the 700 MHz clearance programme by May 2020.
- 2.3 In the 2016 Statement we served formal notice on PMSE equipment owners that access to the 700 MHz band would cease from 1 May 2020 therefore we would no longer authorise use beyond this date. As a result, approximately 300 – 600 PMSE equipment owners will need to replace a combined total of up to 20,000 pieces of PMSE equipment with equipment that operates in alternative spectrum.
- 2.4 In a previous statement published in 2010 (the ‘2010 Statement’) we had said that PMSE users’ access to the 700 MHz band would ‘not be degraded for spectrum management reasons unless we have given five years’ notice, not to be triggered before September 2016’. The 2010 statement indicated that where that security of tenure is breached for spectrum management reasons and this resulted in a loss to (certain) PMSE users (e.g. those who own equipment and need to replace it prematurely), they could expect some redress, which would be assessed at the time, in the light of all relevant factors.
- 2.5 The clearance timeline means that PMSE users will have to vacate the band by May 2020 – 16 months before the end of the period of security of tenure. In light of this, Government has decided to provide funding to support (certain) PMSE equipment owners that have to vacate the 700 MHz band earlier than expected. Specifically, it has decided that it will provide PMSE equipment owners with funding equivalent to the residual value of PMSE equipment operating in the 700 MHz band which they need to replace at the time of clearance.
- 2.6 We have agreed with Government that Ofcom will set up a grant scheme to disburse this funding. We anticipate that this grant scheme will launch in mid-2019,

³ The term PMSE refers to radio devices (e.g. wireless microphones, in-ear monitors and talk back intercoms which are used for activities such as broadcasting, newsgathering, community events, theatre productions and concerts.

⁴ WSDs are innovative new devices which are able to identify and make use of previously unused gaps in frequency bands.

⁵ 2014 Statement: https://www.ofcom.org.uk/_data/assets/pdf_file/0024/46923/700-mhz-statement.pdf

⁶ 2016 Statement: https://www.ofcom.org.uk/_data/assets/pdf_file/0031/92659/Maximising-the-benefits-of-700-MHz-clearance-Statement.pdf

approximately one year before completion of the 700 MHz clearance programme. In this consultation we set out our proposals on how we will design and operate the grant scheme, subject to the consent of HM Treasury which is required for the making of grants.⁷

2.7 The document is structured as follows:

- The remainder of this section gives an overview of the legal framework within which we are consulting;
- Section 3 sets out our proposals for the eligibility criteria that claimants will have to meet in order to access the grant scheme;
- Section 4 discusses the approach we propose to take when calculating funding entitlements;
- Section 5 sets out our proposals for how the claims process will work; and
- Section 6 sets out our next steps.

Legal context

Ofcom duties

Ofcom's specific duties and powers related to spectrum management

2.8 Ofcom's responsibilities for spectrum management are set out primarily in two Acts of Parliament which confer on us specific functions, powers and duties in respect of spectrum (and the other sectors we regulate): the Communications Act 2003 (the '2003 Act') and the Wireless Telegraphy Act 2006 (the 'WT Act').⁸

2.9 Amongst our functions and powers in relation to spectrum are the making available of frequencies for use for particular purposes and the granting of rights of use through wireless telegraphy licences and licence exemptions. They also include the power to make grants if, in our opinion, doing so is likely to promote the efficient use in the UK of the spectrum for wireless telegraphy or the efficient management of that use. We can make grants to wireless telegraphy licence holders and other persons on such terms and conditions as we consider appropriate. HM Treasury consent is required to make such grants and for the relevant terms and conditions.

2.10 Our principal duties, set under the 2003 Act, when carrying out our functions and exercising our powers, are to further the interests of citizens and consumers, where appropriate by promoting competition. In doing so, we are required (among other things) to secure the optimal use of spectrum and the availability throughout the UK of a wide range of electronic communications services. We must also have regard to the desirability of promoting competition in relevant markets; the desirability of

⁷ And which may, if HM Treasury chooses, be granted as standing consent for making grants meeting specified requirements.

⁸ The European Common Regulatory Framework for electronic communications (in particular, the Framework Directive and the Authorisation Directive) sets the broad legal framework for how spectrum use should be authorised and managed in the UK and aims to harmonise the regulation of electronic communications networks and services throughout the European Union.

encouraging investment and innovation in relevant markets; the desirability of encouraging the availability and use of high speed data transfer services throughout the United Kingdom; and the different needs and interests, so far as the use of the electro-magnetic spectrum for wireless telegraphy is concerned, of all persons who may wish to make use of it.

- 2.11 Additionally, in carrying out our spectrum functions, we have a duty under section 3 of the WT Act to have regard in particular to: (i) the extent to which the spectrum is available for use or further use for wireless telegraphy, (ii) the demand for use of that spectrum for wireless telegraphy and (iii) the demand that is likely to arise in future for the use of that spectrum for wireless telegraphy. We also have a duty to have regard, in particular, to the desirability of promoting: (i) the efficient management and use of the spectrum for wireless telegraphy, (ii) the economic and other benefits that may arise from the use of wireless telegraphy, (iii) the development of innovative services and (iv) competition in the provision of electronic communications services.
- 2.12 The proposals we set out in this document are consistent with these duties. In particular, the proposals support our decision to make available the 700 MHz band for more valuable use for mobile data, pursuant to our duty to secure optimal use. They help us to encourage the availability and use in that band of those high-speed data transfer services whilst, at the same time, helping to maintain the use of spectrum for PMSE.
- 2.13 That is, we have decided that mobile data services would make more valuable use of the 700 MHz band. In order to clear that band for such use, it is necessary to remove its availability to PMSE users.⁹
- 2.14 However, amongst other considerations, we recognise the demand for spectrum for PMSE use and the benefits that flow from it. Likewise, and particularly important, that PMSE users had security of tenure in that band and may incur losses for which they can expect some redress where they own equipment they are no longer able to use as a result of Ofcom's clearance decisions.
- 2.15 In these particular circumstances, it may be appropriate to pay grants. They could protect the interests of relevant PMSE equipment owners and facilitate their continued provision of PMSE services (and maintain the benefits derived from them) where they have a specific expectation of secure spectrum tenure, whilst helping to secure the benefits of using the 700 MHz band for mobile data. We may use the powers we have under section 1(5) of the WT Act to make grants where doing so is likely to promote efficient spectrum use. The eligibility criteria we propose flow from this analysis. Any grants we make according to those criteria would be subject to HM Treasury consent as required under section 1(7) of the WT Act.

Impact assessment

- 2.16 Section 7 of the 2003 Act provides that where we are proposing to do anything for the purposes of or in connection with the carrying out of our functions, and it appears to us that the proposal is important, we are required to carry out and publish an assessment of the likely impact of implementing the proposal, or a statement setting out our reasons for thinking that it is unnecessary to carry out such an assessment. Where we publish such an assessment, stakeholders must have an opportunity to make representations to us about the proposal to which the assessment relates.

⁹ Subject to any further consultation Ofcom may conduct about the possible use of the 694 – 703 MHz guard band.

Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. As a matter of policy Ofcom is committed to carrying out impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, “Better policy-making: Ofcom's approach to impact assessment”, which are on our website.

- 2.17 The analysis presented in this document constitutes an impact assessment as defined in section 7 of the 2003 Act.

Equality impact assessment

- 2.18 Ofcom is required by statute to assess the potential impact of all its functions, policies, projects and practices on the following equality groups: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. Equality Impact Assessments (EIAs) also assist us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.
- 2.19 The proposals set out in this document are derived from an earlier decision to clear the 700MHz band. In reaching that decision we have previously conducted an Equality Impact Assessment to understand if change of use at 700MHz could disproportionately affect any particular group of consumers or raise specific issues for groups that are protected under equality laws.
- 2.20 In relation to the proposals set out in this consultation, we have not identified any further differential impact of our proposals in relation to the identified equality groups.

Section 3

Eligibility criteria

- 3.1 In this section we set out our proposals for who should be eligible for the grant scheme. As explained above, the reason for paying grants is that, where PMSE equipment owners incur losses as a result of losing access to the 700 MHz band before September 2021 and without having been given five years' notice, they can expect some redress. In these particular circumstances, payment of grants would be consistent with the functions and duties described. Accordingly, the guiding principle we have used when assessing who should be eligible for the grant scheme is that:
- 3.1.1 They should be PMSE equipment owners operating legally who will incur a loss attributable to Ofcom's decision that they should lose access to the 700 MHz band in May 2020.
- 3.2 To give effect to that principle, we propose that in order to be considered eligible for funding, claimants must:
- 3.2.1 **EITHER** have held a licence in the 700 MHz band in the past 2 years (i.e. between 17 October 2014 and 17 October 2016),
- OR** must be able to produce verifiable evidence that their business is based on hiring out PMSE equipment rather than using it and therefore does not require a licence i.e. be considered a 'dry hirer'. This would ensure that claimants can only access funding from the grant scheme if they are operating legally.
- 3.2.2 **Claimants will only be able to claim for equipment that belongs to them:** This would be evidenced by supplementary information including at least one of: receipts, asset register entries ¹⁰or insurance documentation and will ensure that funding is only provided to the legitimate owners of PMSE equipment.
- 3.2.3 **Equipment being claimed for must be in working order:** Broken equipment could not provide the PMSE services we are seeking to safeguard, and the change in the use of the 700 MHz band would not therefore give rise to the loss for which a grant may be made. The payment of a grant in those circumstances would not, in our view, represent value for money and would not be justified.
- 3.2.4 **Equipment being claimed for must have more than 50% of its tuning range in the 700 MHz band:**¹¹ We explain our rationale for this proposal later in this section.
- 3.2.5 **Equipment being claimed for must have been purchased before we issued the notice in the 2016 Statement:** Our provisional view is that, where a PMSE user purchased equipment after we served notice and therefore in the knowledge that it would become obsolete or otherwise subject to loss of utility before September 2021, our decision to change the

¹⁰ Asset registers/inventories must be endorsed by a Chartered Accountant.

¹¹ Subject, as explained below, to our consultation on the use of relevant parts of the band – the 694 MHz – 703 MHz guard band in particular – for PMSE services.

use of the 700 MHz band has not given rise to a loss for which a grant may be made. Again, the payment of a grant in those circumstances would not, in our provisional view, represent value for money and would not be justified.

Question 1: Do you agree with our proposed criteria for who should be eligible for the grant scheme?

Tuning range of eligible equipment

- 3.3 Above we have proposed that applicants should only be able to make claims in respect of equipment that has more than 50% of its tuning range in the 700 MHz band. Here we explain the rationale for this proposal.
- 3.4 Not all PMSE equipment operating between 470 and 790 MHz will be affected by clearance in the same way. So, in line with the general principle for eligibility set out above, we propose that eligibility criteria for equipment should be based on the loss of utility of equipment experienced as a result of clearance. The extent to which such loss occurs depends on the tuning range of PMSE equipment and where it operates within the 700 MHz band.
- 3.5 In our 2014 Statement we identified three categories of equipment that we considered would be affected by clearance. These are:
- 3.5.1 Equipment operating exclusively in the 700 MHz band;
 - 3.5.2 Equipment operating exclusively below 694 MHz; and
 - 3.5.3 Equipment that operates partially in the 700 MHz band and partially below 694 MHz.¹².
- 3.6 We now consider each of these categories of equipment in turn. In doing so, we note that Ofcom is now consulting on the continued use of the 694 MHz – 703 MHz guard band for PMSE services. If the guard band is used for that purpose, the boundaries described in the previous paragraph would shift accordingly.
- 3.7 That is, equipment in the first category would be that operating exclusively in the 700 MHz band above 703 MHz. Equipment in the second would be that operating exclusively below 703 MHz and that in the third would be equipment operating partially in the 700 MHz band above 703 MHz and partially below that frequency. The proposals in the following paragraphs should be read accordingly.

Equipment that operates exclusively in the 700 MHz band

- 3.8 Clearance of the 700 MHz band means that this equipment will lose its entire tuning range and will therefore be rendered obsolete. We propose that, as a result, this equipment would be eligible for funding.

Equipment that operates exclusively below 694 MHz

- 3.9 Ofcom acknowledges that 700 MHz clearance could in principle have an impact on this type of equipment in some locations. This is because PMSE operates in interleaved broadcast spectrum (frequencies within the spectrum allocated to DTT

¹² Subject to the conclusion of the consultation in relation to the 9 MHz guard band

which are not used by DTT in a particular place). As we explained in our 2014 Statement, clearance will mean we need to re-plan the DTT network in the remaining broadcast spectrum between 470 and 694 MHz. The re-plan will result in changes to the frequencies DTT uses in the 470-694 MHz band and by extension will cause localised changes to the interleaved spectrum available for PMSE. In some cases, this may reduce the proportion of a wireless microphone's tuning range that is usable in a particular location. Notwithstanding this impact, we do not consider that relevant PMSE equipment owners should be able to make grant applications in respect of equipment in this category.

- 3.10 Our provisional view is that most PMSE equipment in this category is likely to have a sufficiently broad tuning range to cope with changes in interleaved spectrum access below 694 MHz. PMSE equipment typically has tuning ranges greater than 24 MHz, with most having tuning ranges greater than 40 MHz and some being in excess of 100 MHz. As DTT frequency assignments are typically not made on all successive adjacent channels at a transmitter, sufficient utility will remain across the tuning range of the PMSE equipment, i.e. even after re-planning DTT there will be available white space in each DTT coverage area. The greater the tuning range the greater the utility will be. In these circumstances, our provisional view is that even where localised changes in interleaved spectrum availability did decrease the usable tuning range of equipment, that equipment would generally retain sufficient utility to continue to serve its intended purpose.
- 3.11 Even if changes in spectrum availability below 694 MHz do render a particular piece of equipment unfit for its intended purpose in one location, we would expect it to remain usable in other areas of the country where the configuration of interleaved spectrum is different. Consequently, if a hire company owns the piece of equipment in question they will be able to continue hiring it out. Moreover, the equipment will have a re-sale value on the secondary market (given that it will be usable in other locations in the UK). Therefore, if the owner uses the equipment in a fixed location, they should be able to realise the residual value of their equipment by selling it on.
- 3.12 Furthermore, in some cases it is possible to use PMSE equipment indoors even when it is operating on the same frequency as a DTT multiplex. This will further reduce the impact changes in spectrum access below 694 MHz have on the PMSE community. We do, however, recognise that for a proportion of users operating on the same channel as DTT will not be feasible even indoors. Therefore, in undertaking our analysis, we have placed less weight on the possibility of indoor use co-channel with DTT.
- 3.13 For the reasons set out above, our provisional view is that the changes in the configuration of interleaved spectrum below 694 MHz which are associated with clearance will not result in a material loss to PMSE equipment owners. Consequently, we propose to exclude equipment that operates exclusively below 694 MHz from the grant scheme.

Question 2: Do you agree with our assessment of the impact clearance will have on equipment which operates exclusively below 694 MHz?

Equipment straddling the 700 MHz band and the spectrum below 694 MHz

- 3.14 Some PMSE equipment has a tuning range which straddles the 700 MHz band and spectrum in the 470-694 MHz band. Loss of the 700 MHz band will result in the reduction of this equipment's usable tuning range. In some cases, this could result in

a reduction in the equipment's utility. To assess the extent of this, we looked at the tuning ranges of equipment from the two largest PMSE equipment manufacturers (by market share). Equipment which straddles the two bands either has only a few MHz in the 700 MHz band, or has more than 50% of its tuning range in the 700 MHz band. Equipment with only a few MHz of its tuning range in the 700 MHz band is likely to be substantially unaffected by clearance (bearing in mind the points we have made above about the impact of changes to interleaved spectrum availability below 694 MHz). However, we believe there is a high probability that equipment with more than 50 % of its tuning range in the 700 MHz band will suffer a significant reduction in utility as a result of loss of access to the 700 MHz band. Therefore, the owners of such equipment could suffer a material loss as a result of losing access to the 700 MHz band early. On that basis, we propose that if more than 50% of the tuning range of equipment that straddles the 700 MHz band and below tunes to the 700 MHz band then it should be eligible under the grant scheme.

Question 3: Do you agree with our analysis of the impact clearance will have on equipment which straddles the 700 MHz band and the spectrum below 694 MHz?

Question 4: Do you have any evidence that an alternative boundary for the tuning range of equipment should be drawn?

Exceptional circumstances

- 3.15 We also propose that, where an applicant fails to meet the eligibility criteria but considers that there are exceptional circumstances that mean they should nonetheless be included in the grant scheme, they can make their case to us. We propose that we would consider such applications on a case-by-case basis.

Section 4

Principles underpinning the rate card

- 4.1 In this section we explain the approach we propose to take when developing the rate card and the principles we propose to apply in doing so.
- 4.2 Given the volume of equipment we anticipate applicants will claim for as part of the grant scheme, we do not consider it would be feasible to do case-by-case assessments of the level of funding to provide for each individual piece of equipment. Rather, we propose to develop a rate card listing all models of equipment which we expect to be eligible for the grant scheme and setting out how much funding will be made available in respect of each model.

Our overarching approach to calculating funding levels

- 4.3 As explained in section 2, Government has decided to provide stakeholders with funding equivalent to the residual value of PMSE equipment at the time of clearance. In order to calculate the amount of funding awarded in respect of a given type of equipment, we propose to apply the following formula:

$$F_i = RC_i \left(1 - \frac{A}{L} \right)$$

Where F_i is the funding for each i piece of equipment, RC_i is current cost of replacing that model of equipment, A is the age of the equipment at the time of clearance and L is the expected asset life of the equipment.

Question 5: Do you agree with the proposed formula to estimate the level of funding?

Our approach to gathering information needed to feed into this calculation

- 4.4 In order to develop the rate card, we will therefore need to generate a comprehensive list of the models of audio PMSE equipment operating in the 700 MHz band which are in use today. We will also need information about the retail price of this equipment. In order to do this, we propose to use a combination of:
- 4.4.1 the results of the survey of users' PMSE equipment holdings (the '2013 equipment survey') which we conducted in 2013 and which informed our 2014 Statement;
 - 4.4.2 information from equipment manufacturers; and
 - 4.4.3 advice from industry experts (including our own in-house experts).
- 4.5 We will also need to gather information about the asset life and asset age of equipment. We discuss our proposed approach to doing this below.

Asset life

- 4.6 Equipment asset lives will depend on a variety of factors such as quality of the equipment, intensity of use, level of maintenance and use environment, among others.
- 4.7 We recognise that in practice asset lives are likely to be different for different types of equipment and different users. However, our provisional view is that it would not be possible to precisely ascertain how long each individual piece of equipment would have lasted absent clearance.
- 4.8 We had previously assessed the asset lives for PMSE equipment in our August 2010 statement relating to funding for clearance of Channel 69¹³. At the time we found that, on average, PMSE equipment owners estimated the lives of their equipment to be 16.8 years. On the other hand, equipment manufacturers stated that equipment had a life of either 10 or 20 years. Based on this evidence we concluded that the appropriate life to use for funding would be 15 years.
- 4.9 In our 2013 equipment survey we asked PMSE equipment owners for both the purchase date of their equipment as well as the date in which they expected to replace it¹⁴. From the data that was provided for the survey, the resulting average asset life is ca. 10.5 years, with asset lives ranging from 5 to 18 years and ca. 72% of the equipment being categorised as having an asset life of 10 years.
- 4.10 We believe that the information provided for the 2013 survey¹⁵ on the expected replacement date is likely to be conservative. Furthermore, we are not aware of any changes in PMSE technology or industry working practices since the 2010 Channel 69 statement that would have led to significant changes in the average asset life of PMSE equipment.
- 4.11 Therefore, we propose to use an average asset life of 15 years in the calculation of funding entitlements in the rate card.

Question 6: Do you agree with our approach to calculating asset life?

Question 7: Are you aware of any developments which would mean data from the 2013 equipment survey or the 2010 Channel 69 statement are likely to misrepresent average asset life?

¹³ See https://www.ofcom.org.uk/_data/assets/pdf_file/0021/46551/statement.pdf

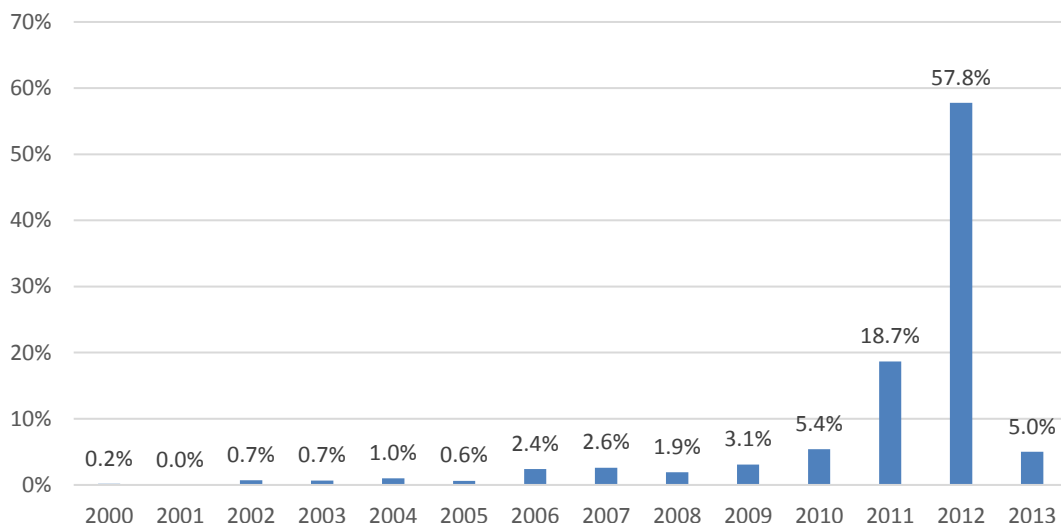
¹⁴ The information on expected replacement date was provided for only about half of all the equipment that was surveyed.

¹⁵ See Annex 12: https://www.ofcom.org.uk/_data/assets/pdf_file/0025/28492/consultation-future-use-700MHz-band.pdf

Asset age

- 4.12 A precise calculation of the funding entitlement for each piece of eligible equipment would require accurate information on the age of each piece of PMSE equipment being claimed for as part of the grant scheme.
- 4.13 However, based on our experience with the Channel 69 funding scheme¹⁶, a significant proportion of claimants may not have the documentation necessary to prove how old their equipment is. As a result, our provisional view is that it would not be practicable to do a case-by-case assessment of the age of each piece of equipment being claimed for.
- 4.14 Therefore, in order to calculate funding entitlements, we propose to estimate the average age of all eligible PMSE equipment that needs replacing as a result of 700 MHz clearance. We propose that we will then use this average as an input into the calculation of funding entitlements.
- 4.15 We recognise that this proposed approach would over, or under estimate the level of funding. Owners of equipment that was older than average would receive more funding than they would have, had we been able to do a case-by-case assessment of asset age; conversely, owners of equipment that is newer than average will receive less funding than they otherwise would have. However, we have not been able to identify a viable alternative to this approach. Moreover, as figure 4.1 demonstrates, the 2013 equipment survey suggests that a very large proportion of the equipment in circulation was purchased in 2011/2012 (around the time of channel 69 clearance). The concentrated nature of the distribution of equipment purchase dates would suggest that the proportion of equipment that is either materially older or materially newer than average is relatively limited.

Figure 4.1. Distribution of sampled equipment by year of purchase



¹⁶ See Section 4: https://www.ofcom.org.uk/_data/assets/pdf_file/0021/46551/statement.pdf

- 4.16 The equipment survey suggested that in 2013 the average age of PMSE equipment was just over 2.5 years¹⁷. If we assume that all equipment was replaced 15 years after being purchased (consistent with the estimate of average asset life we have set out above), that PMSE equipment owners have not materially expanded their stocks of equipment since 2013 and that equipment that expired between 2013 and today was replaced by new equipment, then the data from the survey would indicate that, on average, equipment which is eligible for the scheme will be around 8.5 years old by the date in which PMSE users have to vacate the band (2020). We propose to use this estimate in the funding calculation described above.
- 4.17 If we use the estimates of average asset life and average asset age discussed above, we would anticipate that applicants would receive funding equivalent to ca. 47% of the retail price of eligible equipment which they claimed for under the scheme.

Question 8: Do you agree with the use of an average asset age for the estimation of funding entitlements? If not, do you have any suggestions for an alternative approach?

Question 9: Are we correct in our assumption that a large proportion of PMSE equipment owners will not have evidence of when they purchased their equipment?

Question 10: Do the data in the 2013 equipment survey provide a reasonable basis for calculating average equipment age? If not do you have an alternative approach for gathering relevant data for making this calculation?

Funding for equipment modifications

- 4.18 In some cases, PMSE equipment owners may be able to modify their equipment rather than replacing it. We propose to fund the cost of these modifications providing that the cost of modifying equipment is no greater than the funding that would have been available to replace it.

¹⁷ The average age of the sample for which purchase date was provided was 2.54 years. The survey only collected information on year of purchase. We have therefore used complete years to estimate the age.

Section 5

The claims process

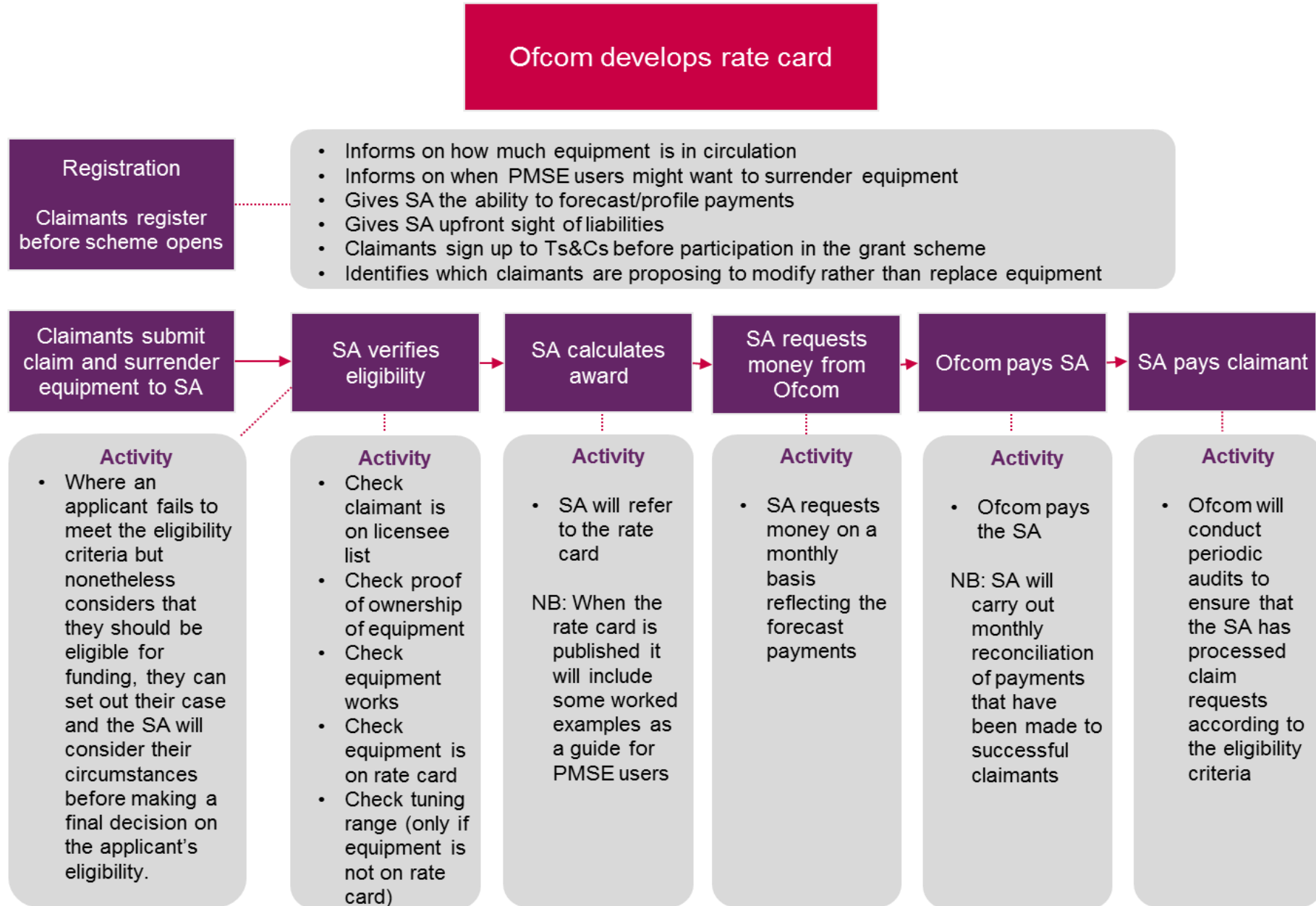
- 5.1 In this section we set out our proposals for how the claims process will work, including what evidence grant scheme participants will need to submit to support their applications. In proposing these processes, we have sought to strike a balance between ensuring that:
- The claims process is sufficiently robust to enable us to ensure we give effect to the general principle of the grant scheme and achieve value for money in the use of public funds; and
 - The claims process does not impose a disproportionate administrative burden on PMSE operators and enables us to process claims quickly (thereby reducing any adverse impact on stakeholders' cashflow).

Administration of the grant scheme

- 5.2 Figure 1 provides an illustration of how we propose the claims handling process should work. We describe the different stages in the process in more detail in paragraphs 5.6 – 5.13.
- 5.3 Under section 1(5) of the Wireless Telegraphy Act 2006 Ofcom has the power to make grants for spectrum management reasons. This function can be carried out by Ofcom or discharged through a third party contractor appointed by Ofcom.¹⁸ Ofcom has yet to decide whether to administer the grant scheme or to appoint a third party scheme administrator. In the paragraphs below we set out our proposals for how claims would be handled whether the grant scheme is delivered directly through Ofcom or a third party contractor. Regardless of whether this role is fulfilled by Ofcom or a third party the remainder of this document refers to the claims handling process being carried out by the 'scheme administrator'.

¹⁸ Which contractor would process the paying out of grants on the basis of the eligibility criteria decided and applied by Ofcom and, in all cases, subject to HM Treasury consent.

Figure 1 - Illustrative PMSE claims process plan



Registration

- 5.4 Prior to the grant scheme launching we propose to hold a registration process where PMSE equipment owners would need to register their intention to seek funding through the scheme. Registration would take place shortly before the grant scheme opens. As part of the registration process, prospective claimants would have to sign up to the grant scheme terms and conditions; list the equipment they wish to claim for and to broadly indicate the timeframe within which they would like their claim to be processed. The registration process would help us budget and plan for the administration of the grant scheme.

Verifying claims and calculating awards

- 5.5 Once the grant scheme formally opens we envisage that claimants would submit their claim to the scheme administrator.¹⁹ Claimants would have to surrender the equipment they wish to claim against. This will allow the scheme administrator to carry out appropriate checks to ensure that the equipment being claimed for is in working order and operates within the tuning range identified as being eligible for funding.
- 5.6 In addition to surrendering their equipment, we propose that claimants will have to provide evidence that they own the equipment to which their application relates. The type of evidence that we would expect claimants to provide in support of their application would be at least one of the following including:
- 5.6.1 Receipts of purchase of equipment;
 - 5.6.2 Asset register entries to identify equipment and/or when equipment was acquired;
 - 5.6.3 Relevant insurance documentation.
- 5.7 Furthermore, unlicensed hire companies would also need to produce verifiable evidence that their business is based on hiring out equipment, rather than using it and therefore does not require a licence. The information that such claimants could provide would include but is not limited to the following:
- 5.7.1 Rental agreements, orders, invoices or contracts;
 - 5.7.2 Company documentation – e.g. memorandum and articles of association setting out the objects of the company; and
 - 5.7.3 Marketing materials (e.g. brochures, advertising and directory listings etc).
- 5.8 Using the information provided by claimants, the scheme administrator would check and verify that the claimants meet the eligibility criteria.
- 5.9 Once the scheme administrator is satisfied that the claim meets all the necessary criteria, it would calculate the amount of the award using the rate card. In addition,

¹⁹ Either Ofcom or a third-party Scheme Administrator.

20%²⁰ in funding will be paid to claimants who are not VAT registered, to recognise that they will not be able to offset or reclaim VAT on items or services they buy.

- 5.10 The scheme administrator would then, subject to the requirement for HM Treasury consent, arrange payment to the appropriate PMSE licensee or, in the case of an unlicensed hire company, to the entity that registered with the grant scheme.

Payments in relation to equipment modifications

- 5.11 We also propose that claimants who modify rather than replace equipment would need to provide verifiable evidence that their equipment has been modified, as well as meeting all other eligibility criteria. This could include receipts showing that the tuning range of the equipment has been modified and indicating the cost of the modification work that has been undertaken. Funding for equipment modifications will be available through the grant scheme, provided the cost does not exceed the cost for replacing equipment, as indicated on the rate card.

Overall provisional conclusions

- 5.12 On the bases set out in the preceding sections of this document, our provisional view is that our proposals for the grant scheme would be an appropriate and proportionate means of Ofcom making decisions to distribute the funding Government has decided to make available.
- 5.13 One effect of those proposals, we propose, would be that PMSE equipment owners would be eligible for funding in respect (only) of losses they necessarily incur that are attributable to Ofcom's decision to bring forward clearance of the 700 MHz band in advance of September 2021. A further effect, in our provisional view, would be to support the clearance of the band and help to realise both the benefits of the use of that band for mobile data services and of the continued use of spectrum for PMSE services. Each of these impacts would be consistent with Ofcom's functions, powers and duties as set out in this document. We are also minded to think that our proposals, in terms of eligibility, the rates at which grants would be made and the process for making claims would, for the reasons explained, provide value for money.

Question 11: Do you have any comments on our proposals for how the claims handling process should operate?

²⁰ Or whatever the standard VAT rate is at the time of processing a claim.

Section 6

Next steps

- 6.1 In this document we have set out our proposals for establishing and running a grant scheme to disburse funding to support PMSE equipment owners that will have to vacate the 700 MHz band sooner than expected.
- 6.2 Our consultation closes on Thursday 13 July 2017. After considering all responses, we intend to publish a statement later this year setting out our decision on the proposals set out in this consultation. Subject to that, in early 2018 we would start work on compiling the rate card. We intend that we would publish a draft of the rate card for comments in the first half of 2018 and issue an updated version of the rate card (reflecting any comments we receive) in the second half of 2018. As set out above we envisage starting the registration process in September 2018 and envisage that the scheme will start considering grant applications in mid-2019.

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, **by 5pm on Thursday 13 July 2017**.
- A1.2 We strongly prefer to receive responses via the online form at <https://www.ofcom.org.uk/consultations-and-statements/category-1/support-pmse-equipment-owners>. We also provide a cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>) for responses sent by email or post; please fill this in, as it helps us to maintain your confidentiality, and speeds up our work. You do not need to do this if you respond using the online form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to UHFSI@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>).
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation.
- Spectrum Group
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 If you would like to submit your response in an alternative format (e.g. a video or audio file), please contact Alberto Fernandes on 020 7981 3000, or email alberto.fernandes@ofcom.org.uk
- A1.6 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A1.7 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.8 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 3. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A1.9 If you want to discuss the issues and questions raised in this consultation, please contact Alberto Fernandes by email to alberto.fernandes@ofcom.org.uk

Confidentiality

- A1.10 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited

resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on our website, www.ofcom.org.uk, as soon as we receive them.

- A1.11 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.12 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.13 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

Next steps

- A1.14 Following this consultation period, Ofcom plans to publish a statement in Q3 2017.
- A1.15 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details, please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

Ofcom's consultation processes

- A1.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.17 If you have any comments or suggestions on how we manage our consultations, please call our consultation helpdesk on 020 7981 3003 or email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.

If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Steve Gettings
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Tel: 020 7981 3601
Email steve.gettings@ofcom.org.uk

Annex 2

Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.

A2.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.

A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.

A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.

A2.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 3

Consultation questions

Question 1: Do you agree with our proposed criteria for who should be eligible for the grant scheme?

Question 2: Do you agree with our assessment of the impact clearance will have on equipment which operates exclusively below 694 MHz?

Question 3: Do you agree with our analysis of the impact clearance will have on equipment which straddles the 700 MHz band and the spectrum below 694 MHz?

Question 4: Do you have any evidence that an alternative boundary for the tuning range of equipment should be drawn?

Question 5: Do you agree with the proposed formula to estimate the level of funding?

Question 6: Do you agree with our approach to calculating asset life?

Question 7: Are you aware of any developments which would mean data from the 2013 equipment survey or the 2010 Channel 69 statement are likely to misrepresent average asset life?

Question 8: Do you agree with the use of an average asset age for the estimation of funding entitlements? If not, do you have any suggestions for an alternative approach?

Question 9: Are we correct in our assumption that a large proportion of PMSE equipment owners will not have evidence of when they purchased their equipment?

Question 10: Do the data in the 2013 equipment survey provide a reasonable basis for calculating average equipment age? If not do you have an alternative approach for gathering relevant data for making this calculation?

Question 11: Do you have any comments on our proposals for how the claims handling process should operate?