



## Consultation on Further Reform of the Compulsory Purchase System

### Proposed HE Responses

Historic England is the Government's statutory adviser on all matters relating to the historic environment in England. We are a non-departmental public body established under the National Heritage Act 1983 and sponsored by the Department for Culture, Media and Sport (DCMS). We champion and protect England's historic places, providing expert advice to local planning authorities, developers, owners and communities to help ensure our historic environment is properly understood, enjoyed and cared for.

We have an important role to play in the protection of the historic environment through the planning system including on occasion through the use of CPO powers. These are most often in partnership with local authorities and could be a town and country planning or housing power and scheme or a repairs notice on a listed building. In all cases a fairer and more certain system will mean that these powers can be used with more confidence and to better effect and so we support the changes proposed in this consultation.

We welcome the opportunity to submit a response on the following points:

**Question 1:** Do you agree with the proposal to codify the 'no scheme world' valuation principle in legislation?

**Yes this will hopefully add clarity to an area of CPO law which is often in dispute. This is something Historic England (HE) support since the clearer and more certain the use of CPOs are, the more likely they will be used by local authorities including for schemes involving heritage led regeneration or for repairs notices to individual listed buildings.**

**Question 2:** Do you consider that the proposal by the Law Commission (Rule 13) should be used as the basis on which to take forward amendments to the relevant legislation?

**See above answer for question 1**

**Question 3:** Do you agree that the date on which the scheme is assumed to be cancelled should be the launch date, not the valuation date as proposed by the Law Commission?

**See above answer for question 1**

**Question 4a:** Should the definition of the statutory project be extended to include an enabling power which would allow specific transport infrastructure projects to be identified that are to be disregarded within a defined area, over a defined period of time?

**Yes it would be fairer on the public and occasionally private sector acquiring authorities whom HE works in partnership with if their previous investment did not result in higher compensation for claimants.**

**Question 4b:** If yes, do you have any views on how the wider definition should be expressed?

**HE does not have a specific view on this save to say that it should allow for an element of discretion on behalf of the decision maker in each individual case rather than seek to prescriptively define all projects in statue.**

**Question 5:** Should other types of infrastructure schemes also be included within an extended definition of the statutory project?

**Yes, the principle is a sound one and should not be limited to transport only but apply to any relevant publically or privately funded improvements.**

**Question 6:** Do you agree that for the purposes of assessing compensation the whole mayoral development corporation area and all development in it should be disregarded in the same way as it is for new town and urban development corporations?

**See answer to question 5 above.**

**Question 7:** Do you agree that the compensation payable to those with minor tenancies should take account of the period for which the land occupied by the claimant might reasonably have been expected to be available for the purpose of their trade or business?

**Yes this would assist in CPOs being seen as fairer and hopefully lead to more confidence in considering their use where appropriate, with the benefits that could bring to the historic environment.**

**Question 8:** Do you agree that the current loss payments should be adjusted as set out in paragraphs 35 – 37 of this consultation paper?

**See answer to question 7 above**

**Question 9:** Do you agree that the method of calculating the 'buildings amount' should be changed to the net lettable area?

**See answer to question 7 above**

**Question 10:** Do you agree that the penal rate of interest should be set at 8% above base rate while debt remains unpaid?

**See answer to question 7 above**

**Question 11:** Do you agree with the proposal to increase the qualifying rateable value limit to serve a blight notice in London?

**See answer to question 7 above**

**Question 12a:** Do you consider there are other parts of the country that may need a higher rateable value limit?

**Yes**

**Question 12 b:** If yes, please state locations where a higher rateable limit should be set.

**If changed this should be based on land value information and reviewed regularly rather than fixed geographical locations which may be appropriate now but inappropriate when values alter in future. Likewise new areas may emerge therefore a flexible review system based on standardised criteria would be required to make it operate fairly. If this is too expensive to resource or to establish then it may be best to limit it to London instead.**

**Question 13:** Do you agree we should repeal section 15(1) of the Land Compensation Act 1961?

**No comment**

**Question 14:** Do you agree that we should repeal Part 4 of the Land Compensation Act 1961?

**No comment**

**Question 15:** Do you agree with the proposal to allow the Greater London Authority and Transport for London to promote a joint compulsory purchase order?

**Yes this would be beneficial in allowing for a more efficient CPO system and therefore increasing the chances of its use and the benefits that can bring.**

**Question 16:** Do you agree that the proposal should also apply to new combined authorities with mayors?

**Yes but it should also apply more widely and there may be other acquiring authorities outside of London and mayoral areas where similar efficiencies could be achieved. Extending the existing Local authority rule or the proposed new rule for Greater London to all acquiring authorities and all CPO powers would be worth considering rather than just selective ones.**

**Question 17:** Do you agree that all acquiring authorities should have the same power to take temporary possession of land?

**Yes temporary possession is a vital tool in bringing forward the public benefits of the scheme sooner and in providing for this in a clear and consistent way would be welcome.**

**Question 18:** If introduced, do you agree that the power should be based on precedent and model provisions and if so, which ones? If not, what would you suggest instead?

**Yes precedent provisions would provide certainty but we do not have a view on which ones. There is a risk with this change that it will open up another area of dispute and challenge with any land owners who are not in favour of the scheme. However on balance having the power would be of use and may make agreeing a commercial arrangement easier.**

**Question 19:** Do you have any views on whether modifications to the standard advance payment regime are required for temporary possession cases?

**No it should work as it currently is.**

**Question 20:** Do you agree that a target timescale should be introduced from confirmation of an order to the date the notice of confirmation is published?

**Yes a target timescale would assist in greater certainty in CPOs being deliverable in a specific timeframe. This in turn would hopefully lead to more confidence in considering their use where appropriate, with the benefits that could bring to the historic environment.**

**Question 21a:** If introduced, do you agree that a 6 week target unless the Secretary of State agrees a different period is appropriate?

**It seems a little on the short side and quite drastic to go from an open ended period to six weeks.**

**Question 21b:** If not, what should the target timescale be?

**A period of 3 months would seem more proportionate.**

**Question 22:** Do you agree with our assumptions that:

a) 'ransom payments' where land is required on a temporary basis are likely to be small and limited in number? **Yes but when they do occur ie with one major objector who could have several landholdings on a large scheme they could be very disruptive.**

b) there are likely to be 2 or fewer transport projects associated with regeneration promoted by public sector acquiring authorities backed by business per year?

**No comment**

**Question 23:** Do you have any evidence in relation to:

d) the scale of 'windfall payments' to claimants where a compulsory purchase regeneration scheme is facilitated by transport improvements by the public sector?

**No our experience of CPO is usually at arms length in consultation with or offering guidance and support to another acquiring authority. HE therefore does not have direct evidence of this issue.**

e) the number of compulsory purchase orders likely to be affected by each proposal?

**See answer to question 23(d) above**

f) the impact on compensation payments for each proposal?

**See answer to question 23(d) above**

**Question 24:** Do you agree with our assumptions on the impact of the proposal to reverse loss payment share for landlords and occupiers?

**See answer to question 7 above**

**Question 25:** Do you have any further comments on the likely impact of these proposals on business interests both for the acquiring authority and claimants?

**For the most part they seem to be welcome changes that will move us one step closer to a fairer CPO system with more certainty of outcome, particularly on compensation matters which should be welcomed by all.**

**Question 26:** Do you consider that there are potential equalities impacts arising from any of the proposals in this consultation paper? Please provide details including your views on how any impacts might be addressed.

**No**

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