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Ministry of Housing, Communities & Local Government

Guidance

Guidance on the compulsory purchase process

Updated 31 January 2025

Applies to England

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Tier 2: Enabling powers

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Separate but related guidance

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This publication is available at https://www.gov.uk/government/publications/compulsory-purchase-process-guidance/guidance-on-the-compulsory-purchase-process

This compulsory purchase guidance updates the previous version published in October 2024. It applies only to England.

Tier 1: Compulsory purchase overview

Guidance relevant to all compulsory purchase orders

This tier contains guidance on:

- General overview
- The compulsory purchase process:
  - Stage 1: Choosing the right compulsory purchase power
  - Stage 2: Justifying a compulsory purchase order
  - Stage 3: Preparing and making a compulsory purchase order
  - Stage 4: Consideration of the compulsory purchase order
  - Stage 5: Implementing a compulsory purchase order
  - Stage 6: Compensation

Additional guidance on the preparation, drafting and submission of compulsory purchase orders for highway schemes and car parks is set out in Department for Transport Local Authority Circular 2/97: Notes on the preparation, drafting and submission of compulsory purchase orders for highway schemes and car parks for which the Secretary of State for Transport is the confirming authority.

General overview

1. What are compulsory purchase powers?
1.1 These are powers which enable ('enabling powers') public bodies on which they are conferred to acquire land compulsorily. Compulsory purchase of land requires the approval of the confirming authority (see Who will take the decision to confirm or not a compulsory purchase order? for a definition of "confirming authority").

1.2 Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change. Used properly, they can contribute towards effective and

efficient urban and rural regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life.

1.3 Where the term “land” is used in this guidance it includes proprietary interests and rights in land as the context may allow.

2. When should compulsory purchase powers be used?

2.1 Acquiring authorities should use compulsory purchase powers where it is expedient to do so and where there is a compelling case in the public interest to make a compulsory purchase order.

2.2 The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to:

- understand the impact of the exercise of the compulsory purchase powers included in the compulsory purchase order and the acquisition of a person’s interest in the land on those persons, for example affected owners and occupiers, through direct engagement with those parties
- attempt the acquisition of all of the land and rights included in the compulsory purchase order by agreement

2.3 The reasonable steps to be taken will depend on the particular circumstances of each case. For example, the acquiring authority may decide not to continue with attempts to engage if the affected party has made it clear to the authority that they do not wish to communicate with the authority. Alternatively, a single attempt made by an acquiring authority to engage an affected party without eliciting a response is unlikely to be sufficient.

2.4 An affected party may be willing to engage with the acquiring authority on the impact of the exercise of compulsory purchase powers that is proposes to use but not on the acquisition of their interest by agreement. An acquiring authority would be expected to engage with the affected party on that impact despite the affected party not being willing to discuss the acquisition of their interest by agreement.

2.5 The confirming authority will expect the acquiring authority to have considered what mitigation measures will be in place against any identified impacts of the exercise of the compulsory purchase powers included in the compulsory purchase order and the acquisition of a person’s interest in the land. This may be through mitigation already built into the existing compulsory purchase order process and compensation regimes, or through specific mitigations put in place for the compulsory purchase order to deal with identified issues. For example, relocation options or charters for residents or businesses who wish to relocate. Identifying impacts early and considering possible mitigations may assist in discussions with affected parties.

2.6 This may mean agreement on the acquisition of land and rights is reached avoiding the need for the use of compulsory purchase powers or minimising the number of objections received to the compulsory purchase order.

2.7 Where acquiring authorities secure the acquisition of land by agreement, they may pay compensation as if it had been compulsorily purchased, unless the land was already on offer on the open market.

2.8 Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. However, an acquiring authority does not need to wait for negotiations with affected parties to break down or for the affected parties to begin to engage with them before starting the compulsory purchase process in parallel with negotiations. Delaying the start of the compulsory purchase process can result in valuable time in progressing a project being lost. Therefore, depending on when the land and/or rights are required, it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to:

- plan a compulsory purchase timetable as a contingency measure
- initiate formal procedures

2.9 This will also help to make the seriousness of the acquiring authority's intentions clear from the outset, which in turn can encourage those whose land is affected to enter more readily into meaningful engagement. In starting these procedures, the acquiring authority should make it clear that it is willing to continue to engage with affected parties to purchase land by agreement.

2.10 When making and confirming a compulsory purchase order, acquiring authorities and confirming authorities (see Who will take the decision to confirm or not a compulsory purchase order? for a definition of 'confirming authority') should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. The officers' report seeking authorisation for the compulsory purchase order to be made by the respective acquiring authority should address human rights issues. Further guidance on human rights can be found on the Equality and Human Rights Commission's website (https://www.equalityhumanrights.com/).

3. What should acquiring authorities consider when offering financial compensation in advance of a compulsory purchase order?

3.1 When offering financial compensation for land in advance of the making of a compulsory purchase order (including orders which include a direction applying section 14A of the Land Compensation Act 1961 – see Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation),

public sector organisations should consider value for money as a whole in order to avoid any repercussive cost impacts or pressures on both the scheme in question and other publicly-funded schemes.

3.2 Acquiring authorities can consider all of the costs involved in the compulsory purchase process when assessing the appropriate payments for purchase of land in advance of compulsory purchase. For instance, the early acquisition may avoid some of the following costs being incurred:

- legal fees (both for the order making process as a whole and for dealing with individual objectors within a wider order, including compensation claims)
- wider compulsory purchase order process administrative costs (for example, staff resources or costs of publishing public notices in newspapers or serving notices)
- the overall cost of project delay (for example, caused by delay in gaining entry to the land)
- any other reasonable linked costs (for example, potential for objectors to create further costs through satellite litigation on planning permissions and other orders)

In order to reach early settlements, public sector organisations should make reasonable initial offers, and be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant.

4. Who has compulsory purchase powers?

4.1 Many public bodies with statutory powers have compulsory purchase powers, including:

- local authorities (which include for some purposes national park authorities)
- statutory undertakers
- some executive agencies, including Homes England[footnote 1]
- health service bodies

Government ministers also have compulsory purchase powers, but departments that use them will have their own internal guidance.

5. How is a compulsory purchase order made?

5.1 Detailed guidance is provided in the section on the compulsory purchase order process.

6. How should the Public Sector Equality Duty be taken into account in the compulsory purchase regime?

6.1 All public sector acquiring authorities are bound by the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010 (https://www.legislation.gov.uk/ukpga/2010/15/section/149). Throughout the compulsory purchase process, acquiring authorities must have due regard to the need to: (a) eliminate unlawful discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. In performing their public functions, acquiring authorities must have due regard to the need to meet these 3 aims of the Equality Act 2010.

6.2 For example, an important use of compulsory purchase powers is to help regenerate run-down areas. Although low income is not a protected characteristic, it is not uncommon for people from ethnic minorities, the elderly or people with a disability to be over-represented in low income groups. As part of the Public Sector Equality Duty, acquiring authorities must have due regard to the need to promote equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This might mean that the acquiring authority devises a process which promotes equality of opportunity by addressing particular problems that people with certain protected characteristics might have (e.g. making sure that documents are accessible for people with sight problems or learning difficulties and that people have access to advocates or advice).

7. Can anyone else initiate compulsory purchase?

7.1 In certain circumstances an owner may also initiate a compulsory purchase process. An owner may initiate the process by serving:

- a purchase notice under section 137 of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/137) and section 32 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/32) – served by landowners following an adverse planning or listed building consent decision where, in specified circumstances, they consider that the land has become incapable of reasonable beneficial use in its existing state (see guidance on purchase notices (https://www.gov.uk/guidance/purchase-notices)
- a blight notice under section 150 of the Town and Country Planning 1990 Act (https://www.legislation.gov.uk/ukpga/1990/8/section/150) – served by landowners where they have made reasonable endeavours to sell their land but, because of blight caused by planning proposals affecting the land, they have not been able to do so, except at a substantially lower price than might reasonably have been expected. Blight notices can only be served in the circumstances listed in Schedule 13 to the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/schedule/13)

8. Are there any other ways to compulsorily acquire land?

8.1 Other powers of compulsory purchase include:

- a Transport and Works Act order under the Transport and Works Act 1992 – see guidance on Transport and Works Act orders (https://www.gov.uk/government/publications/transport-and-works-act-orders-a-brief-guide-2006)
- a development consent order under the Planning Act 2008 for a Nationally Significant Infrastructure Project (https://www.gov.uk/government/publications/planning-act-2008-procedures-for-the-compulsory-acquisition-of-land)
- a hybrid act of Parliament, such as the Crossrail Act 2008, which is one promoted by the government but in relation to specified land rather than the UK as a whole
- a harbour revision order and a harbour empowerment order under the Harbours Act 1964 – see guidance on Harbour Orders (https://www.gov.uk/guidance/harbour-orders)

This guidance relates to the use of compulsory purchase powers to make a compulsory purchase order that is provided by a specific Act of Parliament and requires the approval of a confirming authority.

The compulsory purchase order process

9. What is the process for making a compulsory purchase order?

9.1 There are 6 key stages in the process:

- Stage 1: Choosing the right compulsory purchase power
- Stage 2: Justifying a compulsory purchase order
- Stage 3: Preparing and making a compulsory purchase order
- Stage 4: Consideration of the compulsory purchase order
- Stage 5: Implementing a compulsory purchase order
- Stage 6: Compensation

Stage 1: Choosing the right compulsory purchase power

10. When can an acquiring authority use its compulsory purchase powers?

10.1 There are a large number of enabling powers, each of which specifies the bodies that are acquiring authorities for the purposes of the power and the purposes for which the land can be acquired. The purpose for which an acquiring authority seeks to acquire land will determine the statutory power under which compulsory purchase is sought. This in turn will influence the factors which the confirming authority will want to take into account in deciding whether to confirm a compulsory purchase order.

10.2 Most acts containing enabling powers specify that the procedures in the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/contents) apply to orders made under those powers. Where this is the case, an acquiring authority must follow those procedures.

11. Which power should an acquiring authority use to make a compulsory purchase order?

11.1 Acquiring authorities should look to use the most specific power available for the purpose in mind, and only use a general power when a specific power is not available. The authority should have regard to any guidance relating to the use of the power and adhere to any legislative requirements relating to it.

11.2 Specific guidance is available for:

- local authorities for planning purposes
- local authorities in conjunction with other powers or where land is required for more than one function
- Homes England
- urban development corporations
- new town development corporations
- mayoral development corporations
- local housing authorities for housing purposes
- to improve the appearance or condition of land
- for educational purposes
- for public libraries and museums
- for airport Public Safety Zones
- for listed buildings in need of repair
- for the purposes of facilitating biodiversity net gain

Stage 2: Justifying a compulsory purchase order

12. How does an acquiring authority justify a compulsory purchase order?

12.1 It is the acquiring authority that must decide how best to justify its proposal to compulsorily acquire land under a particular act. The acquiring authority will need to be ready to defend the proposal at any inquiry or through written representations and, if necessary, in the courts.

12.2 There are certain fundamental principles that a confirming authority should consider when deciding whether or not to confirm a compulsory purchase order (see How will the confirming authority consider the acquiring authority's justification for a compulsory purchase order?). Acquiring authorities may find it useful to take account of these in preparing their justification.

12.3 A compulsory purchase order should only be made where there is a compelling case in the public interest and reasonable efforts have been made by the acquiring authority to negotiate the purchase of land by agreement.

12.4 An acquiring authority should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights (https://www.legislation.gov.uk/ukpga/1998/42/schedule/1) and, in the case of a dwelling, Article 8 of the Convention. Acquiring authorities should also give consideration to the public sector equality duty (see How should the Public Sector Equality Duty be taken into account in the compulsory purchase regime?).

13. How will the confirming authority consider the acquiring authority's justification for a compulsory purchase order?

13.1 The confirming authority when considering a compulsory purchase order has to be able to take a balanced view between the intentions of the acquiring authority and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest. The more comprehensive the justification which the acquiring authority can present, the stronger its case is likely to be.

13.2. The confirming authority will consider each case on its own merits and this guidance is not intended to imply that the confirming authority will require any particular degree of justification for any specific order. It is not essential to show that land is required immediately to secure the purpose for which it is to be acquired. However, a confirming authority will need to understand, and the acquiring authority be able to demonstrate, that there are sufficiently compelling reasons for the powers to be sought at this time.

13.3 The acquiring authority should have a clear idea of how it intends to use the land which it is proposing to acquire and show that all the necessary

resources are likely to be available to achieve that end within a reasonable timescale. If it is unable to do so, then it may be difficult to show conclusively that the compulsory acquisition of the land included in the compulsory purchase order is justified in the public interest. However, it will not always be possible for acquiring authorities to have specific, detailed proposals for the land include in a compulsory purchase order beyond the general planning framework for the area (including a masterplan for the land) which has been endorsed by the acquiring authority). In these cases, the confirming authority will expect the statement of reasons accompanying the submission of the compulsory purchase order to include a summary of the planning framework for the land concerned in sufficient detail to give reassurance of the use of the land following acquisition and the justification for the timing of the acquisition.

13.4 The confirming authority will need to be satisfied that the interests of those affected by the exercise of the compulsory purchase powers have been considered. The confirming authority will also have regard to any mitigation offered by the acquiring authority when considering the impact of the exercise of the compulsory purchase powers included in the compulsory purchase order on affected parties.

14. What information about the resource implications of the proposed scheme does an acquiring authority need to provide?

14.1 In preparing its justification for the compulsory purchase order, the acquiring authority should address:

a) **sources of funding** – the acquiring authority should provide substantive information as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required. If the scheme is not intended to be independently financially viable, or the details cannot be finalised until there is certainty that the necessary land will be required, the acquiring authority should provide an indication of how any potential shortfalls are intended to be met. This should include:

- the degree to which other bodies (including the private sector) have agreed to make financial contributions or underwrite the scheme
- the basis on which the contributions or underwriting is to be made

b) **timing of that funding** – funding should generally be available now or early in the process. Failing that, the confirming authority would expect funding to be available to complete the compulsory acquisition within the statutory period (see section 4 of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/4)) following the operative date. In some circumstances it would be reasonable for an acquiring authority to acquire land with little prospect of the scheme being implemented for a number of years. For example, where funding is available to acquire the land for master planning purposes but the actual delivery of the underlying scheme is not immediate.

Evidence should also be provided to show that sufficient funding could be made available immediately to cope with any acquisition resulting from a blight notice.

15. How does the acquiring authority address whether there are any other impediments to the scheme going ahead?

15.1 It is not expected that all impediments to the delivery of a scheme will have been removed or overcome by the point at which the decision on the confirmation of a compulsory purchase order is made. It may be necessary to assemble land before removing or overcoming certain impediments to maximise the opportunities that exist for an area. The acquiring authority will however need to be able to show that the implementation of the scheme following the confirmation decision being made is unlikely to be blocked by any physical or legal impediments. These include:

- the programming of any infrastructure accommodation works or remedial work which may be required
- any need for planning permission or other consent or licence

15.2 Where planning permission will be required for the scheme, and permission has yet to be granted, the acquiring authority should demonstrate to the confirming authority that there are no obvious reasons why it might be withheld.

Stage 3: Preparing and making a compulsory purchase order

16. Can acquiring authorities enter land before deciding whether to include it in a compulsory purchase order?

16.1 Acquiring authorities have the right to enter and survey or value land in connection with a proposal to acquire an interest in or a right over land under powers in sections 172 to 179 of the Housing and Planning Act 2016 (https://www.legislation.gov.uk/ukpga/2016/22/part/7/crossheading/right-to-enter-and-survey-land) ("the 2016 Act").

16.2 If an acquiring authority wishes to conduct a survey or valuation of land prior to a compulsory purchase order being made or confirmed, it should engage with the landowner or occupier to seek their permission for access onto the land before exercise of the power of entry under section 172 of the 2016 Act (https://www.legislation.gov.uk/ukpga/2016/22/section/172) is considered. This is important because it will help the acquiring authority to understand whether conducting a survey or valuation would have any adverse effects on the person, business or land and what measures could be taken to mitigate those effects.

16.3 When exercising the power of entry under section 172 of the 2016 Act (https://www.legislation.gov.uk/ukpga/2016/22/section/172), a person authorised in writing by an acquiring authority:

(a) may only enter and survey or value the land at a reasonable time

(b) may not use force unless a justice of the peace has issued a warrant under section 173(1) of the 2016 Act (https://www.legislation.gov.uk/ukpga/2016/22/section/173) authorising the person to do so if they are satisfied that:

(i) another person has prevented, or is likely to prevent, the exercise of that power

(ii) it is reasonable to use force in the exercise of that power

16.4 A verbal or written refusal of permission by a landowner or occupier to allow access onto land should not be treated as an act of preventing the exercise of the power of entry under section 172 of the 2016 Act unless they state in the verbal or written communication that they intend to carry out a physical act to prevent the exercise of the power. Examples of physical acts to prevent entry, which may result an application for a warrant being made, could include padlocking gates, an individual padlocking/gluing themselves to gates, or the physical obstruction of access with vehicles or machinery.

16.5 A warrant issued under section 173(1) of the 2016 Act (https://www.legislation.gov.uk/ukpga/2016/22/section/173) must specify the number of occasions on which the warrant can be relied on by a person wishing to use force to enter and survey or value land. The number specified must be the number which the justice of the peace considers appropriate to achieve the purpose for which the entry and survey or valuation are required.

16.6 A person who obstructs the exercise of the power of entry under section 172 of the 2016 Act (https://www.legislation.gov.uk/ukpga/2016/22/section/172), without reasonable excuse, commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

A person also commits an offence if they disclose confidential information obtained in the exercise of the section 172 power i.e. information which constitutes a trade secret or the disclosure of which would or would be likely to prejudice the commercial interests of any person, for purposes other than those for which the power was exercised. The person will be liable on summary conviction to a fine, or, on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

16.7 A minimum of 14 days' notice of entry must be given to owners and occupiers of the land concerned and compensation is payable by acquiring

authorities for any damage arising as a result of the exercise of the powers under section 172 of the 2016 Act. If the land which is the subject of the survey or valuation is unoccupied, or the occupier is absent from the land when the acquiring authority enters it, the land must be left as secure as when the person entered it.

16.8. The notice of entry must include:

(a) a statement of the recipient's rights under section 176 of the 2016 Act (https://www.legislation.gov.uk/ukpga/2016/22/section/176) i.e. that compensation is available for damages caused by entry onto the land as a result of the exercise of the section 172 power, for example, damage caused to property

(b) a copy of the warrant if one has been issued under section 173(1) of the 2016 Act (https://www.legislation.gov.uk/ukpga/2016/22/section/173)

(c) if the acquiring authority proposes to do any of the following activities details of what is proposed:

(i) searching, boring or excavating

(ii) leaving apparatus on the land

(iii) taking samples

(iv) an aerial survey

(v) carrying out any other activities that may be required to facilitate compliance with the instruments mentioned in section 174(5) of the 2016 Act (https://www.legislation.gov.uk/ukpga/2016/22/section/174)

If the acquiring authority obtains a warrant after giving notice of entry, it must give a copy of the warrant to all those to whom it gave that notice.

16.9 Written authorisation from the appropriate Minister is required before the power of entry under section 172 of the 2016 Act (https://www.legislation.gov.uk/ukpga/2016/22/section/172) can be exercised if -

(a) the land is held by a statutory undertaker and it objects in writing to the acquiring authority regarding the proposed entry and survey or valuation of the land

(b) the objection is that the proposed entry and survey or valuation would be seriously detrimental to the statutory undertaker carrying on its undertaking

16.10 A person may only exercise the power of entry under section 172 of the 2016 Act (https://www.legislation.gov.uk/ukpga/2016/22/section/172) in relation to Crown land if they have the permission of the appropriate

authority (as defined in section 293 of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/293)).

16.11 Any disputes relating to compensation for damages caused by entry onto the land as a result of the exercise of the power of entry under section 172 are determined by the Upper Tribunal (Lands Chamber). Also, the provisions of section 4 of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/4) in relation to costs apply to the determination of such disputes.

17. What are the benefits of undertaking negotiations and engagement prior to, and in parallel with, preparing and making a compulsory purchase order?

17.1 Undertaking negotiations and engagement prior to, and in parallel with, preparing and making a compulsory purchase order can help build good working relationships with those whose interests are affected. Acquiring authorities should be open and honest with those whose interests are affected and treat their concerns with respect. This includes statutory undertakers and similar bodies as well as private individuals and businesses. Early communication with those whose interests are affected in the preparation of a compulsory purchase order will assist the acquiring authority understand more about:

(a) the land and rights it seeks to acquire

(b) the impact of the exercise of the compulsory purchase powers included in the compulsory purchase order on those whose interests are affected

(c) the amount of compensation which may be payable to those with an interest in the land if the compulsory purchase powers were to be exercised

(d) any physical or legal impediments to development that may exist

17.2 Acquiring authorities are encouraged to engage early and communicate regularly with those whose interests are affected (in particular on relocation issues) and who have indicated a willingness to engage with the authority. Greater transparency and community engagement, including with the wider community, early in the compulsory purchase order process can increase the likelihood of a compulsory purchase order being confirmed.

17.3 Such engagement can also help save time at the formal objection stage of the compulsory purchase order process by minimising misunderstandings which may arise. They may also help limit objections by identifying what measures can be put in place by the acquiring authority to minimise the impacts of the exercise of the compulsory purchase powers included in the compulsory purchase order on affected parties. This can also help reduce the costs of a scheme.

17.4 Acquiring authorities should consider a variety of different engagement methods to engage with those whose interests are affected to explain proposals, answer questions and confirm whether alterations can be made to their schemes.

17.5. It is essential acquiring authorities remove potential barriers and minimise risks to schemes by assessing potential objections up-front and building the arguments into the case for the compulsory purchase order.

17.6 Those with an interest in land, who are often involuntary participants in the compulsory purchase process, can in some instances argue that they do not receive adequate compensation and compensation is not paid out early enough, if at all. Understanding those concerns, communicating clearly and working at an early stage with those whose interests are affected, and sustaining engagement throughout the compulsory purchase process, including through alternative dispute resolution techniques, can deliver positive results for all parties involved. This can also prevent compensation cases from turning into referrals to the Upper Tribunal (Lands Chamber) or disputes over legal costs.

17.7 Agreeing to reimburse owners' and occupiers' reasonable costs of negotiation, or other costs and expenses likely to be incurred in advance of the process of acquisition, can help build relations and help the scheme proceed more efficiently. Further guidance on the award of costs in the case of compulsory purchase orders can be found on our guidance on Appeals (https://www.gov.uk/guidance/appeals).

17.8 Acquiring authorities are expected to provide evidence that the negotiations and engagement set out in When should compulsory purchase powers be used? have been undertaken, save for lands where land ownership is unknown or in question.

18. Can alternative dispute resolution techniques be used to address concerns about a compulsory purchase order?

18.1 In the interests of speed and fostering good will, acquiring authorities are urged to consider offering those with concerns about a compulsory purchase order full access to alternative dispute resolution techniques. These should involve a suitably qualified independent third party and should be available wherever appropriate throughout the whole of the compulsory purchase process, from the planning and preparation stage to agreeing the compensation payable for the acquired properties.

18.2 The use of alternative dispute resolution techniques can save time and money for both parties, while its relative speed and informality may also help to reduce the stress which the process inevitably places on those whose properties are affected.

For example, mediation might help to clarify concerns relating to the principle of compulsorily acquiring the land, while other techniques such as

early neutral evaluation might help to relieve worries at an early stage about the potential level of compensation eventually payable if the order were to be confirmed.

19. What other steps should be considered to help those affected by a compulsory purchase proposal?

19.1 Compulsory purchase proposals will inevitably lead to a period of uncertainty and anxiety for those with an interest in the land whether that is prior to, during or after the making of a compulsory purchase order. Acquiring authorities should therefore:

(a) provide full information from the outset about what the compulsory purchase process involves, the rights and duties of those affected and an indicative timetable of events - information should be in a format accessible to all those affected

(b) inform owners and occupiers of guidance which is publicly available and professionally published on compulsory purchase and compensation including: this guidance, the Department's plain English guides, and any information or guidance published by the acquiring authority (including on the scheme) or other professional body

(c) appoint a specified case manager during the preparatory stage to whom those with concerns about the proposed acquisition can have easy and direct access

(d) make owners and occupiers aware of professional advice available to assist them in understanding the impact of the scheme on their interest and the appropriate compensation which may be available to them

(e) where appropriate, in particular for estate regeneration or similar types of schemes, offer advice and assistance to affected occupiers in respect of their relocation and provide details of, and discuss with the occupier, available relocation properties

(f) keep any delay to a minimum by completing the statutory process as quickly as possible and taking every care to ensure that the compulsory purchase order is made correctly and under the terms of the most appropriate enabling power

Acquiring authorities should also:

(g) consider providing a 'not before' date, confirming that acquisition will not take place before a certain time

(h) where appropriate, give consideration to agreeing to fund owners' or occupiers' reasonable costs of negotiation or other costs and expenses likely to be incurred in advance of the process of acquisition. For example, professional fees for the undertaking of surveys or reports to assist in

understanding the impact of the exercise of compulsory purchase powers included in a compulsory purchase order on particular land

(i) consider offering to alleviate concerns about future compensation entitlement by entering into agreements about the minimum level of compensation which would be payable if the acquisition goes ahead (not excluding the claimant's future right to refer the matter to the Upper Tribunal (Lands Chamber)

(j) consider agreeing to fund owners' and occupiers' reasonable costs and expenses anticipated to be incurred by those owners and occupiers before an alternative property is acquired and the costs/expenses incurred. For example, professional fees for the undertaking of surveys or reports to assist in understanding the impact on the owner or occupier of the exercise of compulsory purchase powers

The acquiring authority's statement of reasons should explain how and to what extent the actions raised in the list above have been taken. Where an action has not been taken, the statement of reasons should set out why the acquiring authority decided to take this approach.

20. Why is it important to make sure that a compulsory purchase order is made correctly?

20.1 The confirming authority has to be satisfied that the statutory procedures have been followed correctly, whether the compulsory purchase order is opposed or not. This means that the confirming authority has to check that no one has been or will be substantially prejudiced as a result of:

- a defect in the compulsory purchase order
- by a failure to follow the correct procedures, such as the service of additional or amended personal notices

20.2 Where the procedures set out in the Acquisition of Land Act 1981 apply, acquiring authorities must prepare compulsory purchase orders in conformity with the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2004/2595/contents/made)[footnote 2] and are urged to take every possible care in doing so, including recording the names and addresses of those with an interest in the land to be acquired. (See also Can acquiring authorities seek advice from the confirming department?)

20.3 Advice on how to complete the forms of orders to which the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2004/2595/contents/made)[footnote 3] apply is available in Section 16: Preparing and serving the compulsory purchase order and notices below.

21. Are there any other important matters that may require consideration when making a compulsory purchase order?

21.1 Where relevant, acquiring authorities should also have regard to advice available on:

- the need to justify the extent of the scheme to be disregarded under the 'no scheme principle' for the purposes of assessing the value of land to be acquired
- the protection afforded to special kinds of land
- compulsory purchase of new rights and other interests – for example, in the compulsory creation of a right of access
- restrictions on the compulsory purchase of Crown land
- justifying the inclusion of a direction in a compulsory purchase order which applies section 14A of the Land Compensation Act 1961

22. How should acquiring authorities deal with any personal data collected in relation to a compulsory purchase order?

22.1 Acquiring authorities must ensure they comply with their obligations under the General Data Protection Regulations and Data Protection Act 2018 when undertaking a compulsory purchase order. As part of this, acquiring authorities need to provide information to any individuals involved in the process about how their personal data will be used ('privacy notifications'). This includes where the acquiring authority is serving notices on individuals or affixing site notices.

22.2 The notices required to be published and affixed by an acquiring authority under section 11 of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/11) must amongst other things:

(a) state the name of the place where a copy of the compulsory purchase order and map may be inspected

(b) specify the website on which a copy of the compulsory purchase order and map may be viewed

22.3 The prescribed form for a compulsory purchase order requires the personal data of individuals whose interests are proposed to be acquired under the order to be set out in the schedule to the order. When making a copy of the compulsory purchase order available to inspect or on a website, the acquiring authority is permitted by the General Data Protection Regulations and Data Protection Act 2018 to disclose the personal information contained in the schedule to the order without redaction because it is under a legal obligation to publish the compulsory purchase order as prescribed under the Acquisition of Land Act 1981.

22.4 For compulsory purchase order cases where the Secretary of State who has responsibility for housing and planning matters is the confirming authority, the privacy notifications should include reference to the public register of compulsory purchase order decisions issued by the Secretary of State who has responsibility for housing and planning matters (https://www.gov.uk/government/publications/compulsory-purchase-orders-register-of-decisions) in their role as the confirming authority and advise that decision letters and inspectors' reports may be published.

22.5 When submitting a compulsory purchase order for confirmation, acquiring authorities should confirm the relevant privacy notifications have been served.

23. Which parties should be notified of a compulsory purchase order?

23.1 The parties who must be notified of a compulsory purchase order are referred to as qualifying persons. A qualifying person includes:

- an owner
- an occupier
- a tenant (whatever the period of the tenancy)
- a person to whom the acquiring authority would be required to give notice to treat if it was proceeding under section 5(1) of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/5)
- a person the acquiring authority thinks is likely to be entitled to make a claim for compensation under section 10 of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/10) (compensation for injurious affection) if the order is confirmed and the compulsory purchase takes place, so far as they are known to the acquiring authority after making diligent inquiry; this relates mainly, but not exclusively, to easements and restrictive covenants

23.2 When serving notice of an order on qualifying persons, the acquiring authority is also expected to send to each one a copy of the authority's statement of reasons for making the order. A copy of this statement should also be sent, where appropriate, to any applicant for planning permission in respect of the land. This statement of reasons, although non-statutory, should be as comprehensive as possible.

23.3 When serving notice under on qualifying persons of a compulsory purchase order which includes a direction applying section 14A of the Land Compensation Act 1961, the notice must also contain specific information relating to the direction (see How will landowners be notified of a compulsory purchase order which has been made with a direction applying section 14A of the Land Compensation Act 1961 included?)

23.4 The general public will also be notified of a compulsory purchase order through newspaper notices, site notices, and notices published on a website

which contains information about the scheme or project that underlies the proposed purchase. The notices will state where copies of the compulsory purchase order and map may be viewed online or at a physical location. For guidance on the disclosure of personal data associated with the publishing of a compulsory purchase order (see How should acquiring authorities deal with any personal data collected in relation to a compulsory purchase order?)

24. Can objections be made to a compulsory purchase order?

24.1 There are statutory requirements for compulsory purchase orders that are about to be submitted for confirmation to be advertised in newspapers, on a website which contains information about the scheme or project that underlies the proposed purchase and through site notices. These invite the submission of objections to the relevant confirming authority. Objections can be made by owners, other qualifying persons and third parties, including members of the public. Objections must arrive with the confirming authority within the period specified in the notice. This must be a minimum of 21 days. For further information on the requirements for grounds of objection and objectors' statements of case in relation to an inquiry see What are the different types of objection? It is important to make objections as relevant as possible to the matters which fall for consideration, in order for the objection to have an effect.

24.2 Under rule 14 of the Compulsory Purchase (Inquiries Procedure) Rules 2007 (https://www.legislation.gov.uk/uksi/2007/3617/article/14/made), third parties have no right to be heard at an inquiry, although the inspector may permit them to appear at the inspector's discretion (although permission is not to be unreasonably withheld).

24.3 Objections should be sent to the confirming department at the address provided in Section 18 of this guidance.

25. Can acquiring authorities seek advice from the confirming department?

25.1 Acquiring authorities are expected to seek their own legal and professional advice when preparing and making compulsory purchase orders. Where an authority has taken advice but still retains doubts about particular technical points concerning the form of a proposed compulsory purchase order, it may seek informal written comments from the confirming department by submitting a draft for technical examination.

25.2 Experience suggests that technical examination by the confirming department can assist significantly in avoiding delays caused by drafting defects in orders submitted for confirmation. The role of the confirming department at this stage is confined to giving the draft compulsory purchase order a technical examination to check that it complies with the requirements on form and content in the statutes and the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as

amended) (https://www.legislation.gov.uk/uksi/2004/2595/contents/made)[footnote 4], without prejudice to the consideration of its merits or demerits.

26. What documents should accompany a compulsory purchase order which is submitted for confirmation?

26.1 Below is a checklist of the documents to be submitted to the confirming authority with a compulsory purchase order:

- 1 copy of the sealed compulsory purchase order and 2 copies of the sealed map
- 2 copies each of the unsealed compulsory purchase order and unsealed map – see guidance on order maps
- one copy of the general certificate in support of order submission including (where appropriate) confirmation that the proper notices have been correctly served in relation to: (a) an order made on behalf of a parish council; (b) Church of England property; or (c) a listed building in need of repair
- 1 copy of the protected assets certificate giving a nil return or a positive statement for each category of assets protection referred to in What information needs to be included in a positive statement? in section 16 (except for orders under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- 2 copies of the statement of reasons and, wherever practicable, any other documents referred to therein. A statement of reasons must include a statement concerning the planning permission (see How does the acquiring authority address whether there are any other impediments to the scheme going ahead?)

Where a compulsory purchase order is made which includes a direction applying section 14A of the Land Compensation Act 1961, an additional document (a 'statement of commitments') must be submitted with the order (see When may an acquiring authority seek to include direction in a compulsory purchase order for compensation to be assessed in accordance with section 14A of the Land Compensation Act 1961?)

26.2 Compulsory purchase orders for listed buildings in need of repair will also require:

- one copy of the repairs notice served in accordance with section 48, where the order is made under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990) – see further information on Compulsory purchase orders for listed buildings in need of repair

Stage 4: Consideration of the compulsory purchase order

27. Who will take the decision to confirm or not a compulsory purchase order?

27.1 The 'confirming authority' under the Acquisition of Land Act 1981 is the minister having the power to authorise the acquiring authority to purchase the land compulsorily.

27.2 However, under section 14D of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/14D)[footnote 5] a confirming authority can appoint an inspector to act instead of it in relation to the confirmation of a compulsory purchase order to which section 13A of the Acquisition of Land Act 1981 applies (i.e. a non-ministerial order where there is a remaining objection).

27.3 Where the Secretary of State who has responsibility for housing and planning matters is the confirming authority for such an order, they will carefully consider the suitability of 'delegating' the confirmation decision to an inspector in line with the criteria set out in this guidance. The Secretary of State will assess the suitability of each compulsory purchase order for delegation on its individual merits.

28. What criteria will the Secretary of State consider in deciding whether to delegate a decision on a compulsory purchase order?

28.1 The Secretary of State who has responsibility for housing and planning matters in their role as the confirming authority will carefully consider the suitability of all compulsory purchase orders to be delegated to an inspector but will generally delegate the decision on confirmation of a compulsory purchase order where, in their opinion, it appears unlikely to:

- conflict with national policies on important matters
- raise novel issues
- give rise to significant controversy
- have impacts which extend beyond the local area

The Secretary of State will assess the suitability of each compulsory purchase order for delegation on its individual merits.

29. If a compulsory purchase order is delegated to an inspector and new issues/evidence emerge, can the Secretary of State revisit their decision to appoint an inspector to take the confirmation decision?

29.1 Section 14D of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/14D) enables a confirming

authority to cancel the appointment of an inspector acting instead of it in relation to the confirmation of a compulsory purchase order. The appointment may be cancelled at any time before the inspector has made the confirmation decision.

29.2 While each compulsory purchase order will be considered on its individual merits, if, at any time until a decision is made by the appointed inspector, the Secretary of State who has responsibility for housing and planning matters considers that the compulsory purchase order now raises issues which should be considered by them in their role as the confirming authority, the Secretary of State may decide that the appointment of the inspector should be cancelled. In this instance, the inspector will be asked to submit a report and recommendation to the Secretary of State who has responsibility for housing and planning matters who will make the confirmation decision in their role as the confirming authority.

29.3 If the Secretary of State who has responsibility for housing and planning matters in their role as the confirming authority decides to cancel the appointment of an inspector (and does not appoint another inspector to take the decision instead), they must give its reasons for doing so to the inspector, acquiring authority and every person who has made a remaining objection (see section 14D(7) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/14D)).

30. What happens if no objections are made?

30.1 If no objections are made to a compulsory purchase order and the confirming authority is satisfied that the proper procedure for serving and publishing notices has been observed, they will consider the case on its merits. The confirming authority can then confirm, modify or reject the compulsory purchase order without the need for any form of hearing. If the order can be confirmed without modification and does not include statutory undertakers' land or special kinds of land or a direction which applies section 14A of the Land Compensation Act 1961, the confirming authority may remit the case back to the acquiring authority for confirmation using the power under section 14A of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/14A). (See Can the confirming authority modify an order? for more information.)

31. What happens if there are objections and these are not withdrawn?

31.1 If objections are received and not withdrawn, the confirming authority will either arrange for a public local inquiry to be held or – where all the remaining objectors and the acquiring authority agree to it – arrange for the objections to be considered through the written representations procedure.

32. What are the different types of objection?

32.1 A 'relevant objection' is one made by a person who is an owner, lessee, tenant or occupier of the land or a person to whom the acquiring authority would be required to give a notice to treat.

32.2 It may also be an objection made by a person who might be able to make a claim for injurious affection under section 10 of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/10), but only if the acquiring authority think that the person is likely to be entitled to make such a claim if the order is confirmed and the compulsory purchase takes place, so far as that person is known to the acquiring authority after making diligent inquiry.

32.3 A 'remaining objection' is a relevant objection that has not been withdrawn or disregarded (for example because it relates solely to compensation).

32.4 Other objections can be made by persons who are not a relevant objector, for example, by a third party, community group or special interest organisation.

33. Does an objection need to be in writing?

33.1 Section 13(3) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/13) enables the confirming authority to require every person who makes a relevant objection to state the grounds of objection in writing.

34. When might an objector's statement of case be required?

34.1 A confirming authority can also require remaining objectors, and others who intend to appear at inquiry, to provide a statement of case. This is a useful device for minimising the need to adjourn inquiries as a result of new information. This is most likely where commercial concerns are objecting to large or complex schemes. Under Rule 7(5) of the Compulsory Purchase (Inquiries Procedure) Rules 2007 (https://www.legislation.gov.uk/uksi/2007/3617/article/7/made), a person may be required to provide further information about matters contained in any such statement of case.

34.2 Objectors may wish to prepare a statement of case even when not asked to do so because it may be helpful for themselves and the inquiry.

35. How are objections considered?

35.1 Although all remaining objectors have a right to be heard at an inquiry, acquiring authorities are encouraged to continue to engage with both remaining and other objectors after submitting an order for confirmation, with a view to securing the withdrawal of objections. In line with the advice on alternative dispute resolution, this should include employing such alternative dispute resolution techniques as may be agreed between the parties.

35.2 The Compulsory Purchase of Land (Written Representations Procedure) (Ministers) Regulations 2004 (https://www.legislation.gov.uk/uksi/2004/2594/contents/made) prescribe a procedure by which objections to an order can be considered in writing if all

the remaining objectors agree and the confirming authority deems it appropriate, as an alternative to holding an inquiry.

In summary, these regulations provide that, once the confirming authority has indicated that the written representations procedure will be followed, the acquiring authority have 15 working days to make additional representations in support of the case it has already made for the order in its statement of reasons. Once these representations have been copied to the objectors, they will also have 15 working days to make representations to the confirming authority. These in turn are copied to the acquiring authority who then has a final opportunity to comment on the objectors' representations but cannot raise new issues.

35.3 For compulsory purchase orders made under housing and planning compulsory purchase powers, the written representations procedure will be offered to objectors except where it is clear from the outset that the scale or complexity of the order makes it unlikely that the procedure would be acceptable or appropriate. In such cases an inquiry will be called in the normal way. The practice for considering compulsory purchase orders made under other compulsory purchase powers may vary.

36. What procedures are followed for inquiries into compulsory purchase orders under Acquisition of Land Act 1981?

36.1 The Compulsory Purchase (Inquiries Procedure) Rules 2007 ('2007 Rules') (https://www.legislation.gov.uk/uksi/2007/3617/made)[footnote 6] apply all inquiries into compulsory purchase orders made under the Acquisition of Land Act 1981, both ministerial and non-ministerial, and to compulsory rights orders.

37. What information should an acquiring authority's statement of case, required to be submitted under the Compulsory Purchase (Inquiries Procedure) Rules 2007, contain?

37.1 It should be possible for the acquiring authority to use the non-statutory statement of reasons as the basis for the statement of case which is required to be served under the Compulsory Purchase (Inquiries Procedure) Rules 2007 (https://www.legislation.gov.uk/uksi/2007/3617/article/7/made) where an inquiry is to be held. The acquiring authority's statement of case should set out a detailed response to the objections made to the compulsory purchase order.

38. What supplementary information may be required?

38.1 When considering the acquiring authority's order submission, the confirming department may, if necessary, request clarification of particular points. These may arise both before the inquiry has been held or after the inquiry.

38.2 Such clarification will often relate to statutory procedural matters, such as confirmation that the authority has complied with the requirements relating to the service of notices. This information may be needed before the

inquiry can be arranged. But it may also relate to matters raised by objectors, such as the ability of the authority or a developer to meet development costs.

38.3 Where further information is needed, the confirming authority will write to the acquiring authority setting out the points of difficulty and the further information or statutory action required. The confirming authority will copy its side of any such correspondence to remaining objectors, and requests that the acquiring authority should do the same.

39. Should a programme officer be appointed?

39.1 Acquiring authorities may wish to consider appointing a programme officer to assist the inspector in organising administrative arrangements for larger compulsory purchase order inquiries. A programme officer might undertake tasks such as assisting with preparing and running of any pre-inquiry meetings, preparing a draft programme for the inquiry, managing the public inquiry document library and, if requested by the inspector, arranging accompanied site inspections. A programme officer would also be able to respond to enquiries about the running of the inquiry during its course.

40. When will an inquiry be held?

40.1 Practice may vary between departments but, once the need for an inquiry has been established, it will normally be arranged by the Planning Inspectorate in consultation with the acquiring authority for the earliest date on which an appropriate inspector is available. Having regard to the minimum time required to check the orders and arrange the inquiry, this will typically be held around 6 months after submission. It is important to ensure that adequate notification is given to objectors of the inquiry dates, so that they have sufficient time to prepare evidence for the inquiry. This will also assist in the efficient conduct of the inquiry.

40.2 Once the date of the inquiry has been fixed it will be changed only for exceptional reasons. A confirming department will not normally agree to cancel an inquiry unless all statutory objectors withdraw their objections or the acquiring authority indicates formally that it no longer wishes to pursue the order, in sufficient time for notice of cancellation of the inquiry to be published. As a general rule, the inquiry date will not be changed because the authority or an objector needs more time to prepare its evidence.

40.3 The authority should have prepared its case sufficiently rigorously before making the order to make such a postponement unnecessary. An inquiry date would not normally be changed because a particular advocate is unavailable on the specified date.

41. What scope is there for joint or concurrent inquiries?

41.1 It is important to identify at the earliest possible stage any application or appeal associated with, or related to, the order which may require approval or decision. This is to allow the appropriateness of arranging a joint inquiry or concurrent inquiries to be considered. Such actions might

include, for example, an application for an order stopping up a public highway (when it is to be determined at a ministerial level) or an appeal against the refusal of planning permission.

41.2 Any such arrangements cannot be settled until the full range of proposals and the objections or grounds of appeal are known. The acquiring authority should ensure that any relevant statutory procedures for which it is responsible (including actually making the relevant compulsory purchase order) are carried out at the right time to enable any related applications or appeals to be processed in step.

42. What advice is available about costs awards?

42.1 Advice on the inquiry costs for statutory objectors is given in Award of costs incurred in planning and other proceedings (https://www.gov.uk/guidance/appeals#the-award-of-costs-and-compulsory-purchase-and-analogous-orders). The principles of this advice also apply to written representations procedure costs.

42.2 When notifying successful objectors of the decision on the order under the Compulsory Purchase (Inquiries Procedure) Rules 2007 (https://www.legislation.gov.uk/uksi/2007/3617/contents/made) or the Compulsory Purchase of Land (Written Representations Procedure)(Ministers) Regulations 2004 (https://www.legislation.gov.uk/uksi/2004/2594/contents/made), the confirming authority will tell them that they may be entitled to claim inquiry or written representations procedure costs and invite them to submit an application for an award of costs.

43. Are acquiring authorities normally required to meet the costs associated with an inquiry or written representations?

43.1 Acquiring authorities will be required to meet the administrative costs of an inquiry and the expenses incurred by the inspector in holding it. Likewise, the acquiring authority will be required to meet the inspector's costs associated with the consideration of written representations. Other administrative costs associated with the written representations procedure are, however, likely to be minor, and the confirming authority will decide on a case by case basis whether or not to recoup them from the acquiring authority under section 13B of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/13B). The daily amount of costs which may be recovered where an inquiry is held to which section 250(4) of the Local Government Act 1972 (https://www.legislation.gov.uk/ukpga/1972/70/section/250) applies, or where the written representations procedure is used, is £630 per day as prescribed in the Fees for Inquiries (Standard Daily Amount) (England) Regulations 2000 (https://www.legislation.gov.uk/uksi/2000/2307/contents/made).

43.2 Further information on the award of costs is available in planning guidance: Award of costs incurred in planning and other proceedings (https://www.gov.uk/guidance/appeals#the-award-of-costs-and-compulsory-purchase-and-analogous-orders).

44. What happens if there are legal difficulties with an order?

44.1 Whilst only the courts can rule on the validity of a compulsory purchase order, the confirming authority would not think it right to confirm an order if it appeared to be invalid, even if there had been no objections to it. Where this is the case, the confirming authority will issue a formal, reasoned decision refusing to confirm the order. The decision letter will be copied to all those who were entitled to be served with notice of the making and effect of the order and to any other person who made a representation.

45. Can the confirming authority modify an order?

45.1 The confirming authority may confirm a compulsory purchase order with or without modifications. Section 14 of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/14) imposes limitations on the confirming authority's power to modify the order. This provides that a compulsory purchase order can only be modified to include any additional land if all the people who are affected give their consent.

45.2 There is no scope for the confirming authority to add to, or substitute, the statutory purpose (or purposes) for which the order was made. The power of modification is used sparingly and not to rewrite orders extensively. While some minor slips can be corrected, there is no need to modify an order solely to show a change of ownership where the acquiring authority has acquired a relevant interest or interests after submitting the order.

45.3 If it becomes apparent to an acquiring authority that it may wish the confirming authority to substantially amend the order by modification at the time of any confirmation, the authority should write as soon as possible, setting out the proposed modification.

45.4 This letter should be copied to each remaining objector, any other person who may be entitled to appear at the inquiry (such as any person required by the confirming authority to provide a statement of case) and to any other interested persons who seem to be directly affected by the matters that might be subject to modification. Where such potential modifications have been identified before the inquiry is held, the inspector will normally wish to provide an opportunity for them to be debated.

45.5 The confirming authority also has a specific power to modify a compulsory purchase order which includes a direction applying section 14A of the Land Compensation Act 1961 (see How will the confirming authority consider a compulsory purchase order which is made with a direction applying section 14A of the Land Compensation Act 1961 included?).

45.6 Where the confirming authority exercises the power under section 13D of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/13D) to extend the time limit for the implementation of a compulsory purchase order, the confirming

authority will modify the order by specifying a new time limit for its implementation.

46. Can a compulsory purchase order be confirmed in stages?

46.1 In cases where the Acquisition of Land Act 1981 applies to a compulsory purchase order, section 13C of that Act (https://www.legislation.gov.uk/ukpga/1981/67/section/13C) provides a general power for the order to be confirmed in stages, at the discretion of the confirming authority. This power is intended to make it possible for part of a scheme to be able to proceed earlier than might otherwise be the case, although its practical application is likely to be limited. It is not a device to enable the land required for more than one project or scheme to be included in a single order.

46.2 The decision to confirm in part must be accompanied by a direction postponing consideration of the remaining part until a specified date. The notices of confirmation of the confirmed part of the order must include a statement indicating the effect of that direction and be published, displayed and served in accordance with section 15 of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/15).

47. When might an order be confirmed in stages?

47.1 The power to confirm an order in stages may be used when the confirming authority is satisfied that a compulsory purchase order should be confirmed for part of the land covered by the order but is not yet able to decide whether the order should be confirmed in relation to other parts of the order land. This could be, for example, because further investigations are required to establish the extent, if any, of alleged contaminated land. Where an order is confirmed in part under this power, the remaining undecided part is then treated as if it were a separate order.

47.2 To confirm in part, the confirming authority will need to be satisfied that:

- the proposed scheme or schemes underlying the need for the order can be independently implemented over that part of the order land to be confirmed, regardless of whether the remainder of the order is ever confirmed
- the statutory requirements for the service and publication of notices have been followed
- there are no remaining objections relating to the part to be confirmed (if the confirming authority wishes to confirm part of an order prior to holding a public inquiry or following the written representations procedure)

47.3 If the confirming authority were to be satisfied on the basis of the evidence already available to them that a part of the order land should be excluded, they may exercise their discretion to refuse to confirm the order or, in confirming the order, they may modify it to exclude the areas of uncertainty.

48. When can a compulsory purchase order be confirmed by the acquiring authority?

48.1 Section 14A of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/14A) provides a discretionary power for a confirming authority to give the acquiring authority responsibility for deciding an order which has been submitted for confirmation if certain specified conditions are met. The confirming authority must be satisfied that:

- there are no outstanding objections to the order
- all the statutory requirements as to the service and publication of notices have been complied with
- the order is capable of being confirmed without modification

The power of the confirming authority to issue such notice is excluded in cases where:

- the land to be acquired includes land acquired by a statutory undertaker for the purposes of its undertaking, that statutory undertaker has made representations to the minister responsible for sponsoring its business and the confirming authority is satisfied that the land to be taken is used for the purposes of the undertaking
- the land to be acquired forms part of a common, open space, or fuel or field garden allotment

as confirmation of an order in these circumstances is contingent on other ministerial decisions.

48.2 The power of the confirming authority to issue such notice is also excluded where an acquiring authority has made a compulsory purchase order which includes a direction applying section 14A of the Land Compensation Act 1961 (see Can an acquiring authority confirm its own compulsory purchase order if it includes a direction applying section 14A of the Land Compensation Act 1961?).

48.3 The acquiring authority's power to confirm a compulsory purchase order does not extend to being able to modify the order or to confirm the order in stages. If the acquiring authority considers there is a need for a modification, for example, to rectify drafting errors, it will have to ask the confirming authority to revoke the notice given under these provisions.

49. What should the confirming authority do if it decides to give an acquiring authority the power to confirm a compulsory purchase order?

49.1 To exercise its discretionary power under section 14A of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/14A), the confirming authority serves a notice on the acquiring authority giving it the

power to confirm the compulsory purchase order. The sealed order and one sealed map (or sets of sealed maps) will be returned with the notice. The notice should:

- indicate that if the acquiring authority decides to confirm the order, it should be endorsed as confirmed with the endorsement authenticated by a person having authority to do so
- suggest a form of words for the endorsement
- refer to the statutory requirement to serve notice of confirmation under section 15 of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/15)
- require that the confirming authority should be informed of the decision on the order as soon as possible with (where applicable) a copy of the endorsed order

50. What should the acquiring authority do if it decides to confirm its own order?

50.1 If the acquiring authority decides to confirm its own order, it should return the notice of confirmation to the confirming authority. The form of the notice of confirmation is set out in Form 11 in the Schedule to the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2024/473/schedule/made) [footnote 7].

50.2 An acquiring authority exercising the power to confirm must notify the confirming authority as soon as reasonably practicable of its decision. Until such notification is received, the confirming authority can revoke the acquiring authority's power to confirm. This might be necessary, for example, if the confirming authority received a late objection which raised important issues, or if the acquiring authority were to fail to decide whether to confirm within a reasonable timescale.

50.3 Acquiring authorities are asked to ensure that in all cases the confirming department is notified without delay of the date when notice of confirmation of the order is first published in the press in accordance with the provisions of the Acquisition of Land Act 1981.

50.4 This is important as the 6 weeks' period allowed by virtue of section 23 of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/23) for an application to the High Court to be made begins on this date. Similarly, and for the same reason, where the Secretary of State has given a certificate under section 19 of, or paragraph 6 of Schedule 3 to, the Acquisition of Land Act 1981, the department giving the certificate should be notified straight away of the date when notice is first published.

51. Are there timetables for confirmation of compulsory purchase orders?

51.1 Section 14B of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/14B)[footnote 8] requires the Secretary of State to publish one or more timetables for confirmation of compulsory purchase orders. The timescales are set out in the paragraphs which follow. The target timescales will apply to all confirming authorities other than the Welsh Ministers (who have the power to publish their own timetables under section 14C of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/14C) in relation to compulsory purchase orders to be confirmed by them).

52. How long will it take to get a decision on a compulsory purchase order which is delegated to an inspector and subject to the written representation process?

52.1 Where a compulsory purchase order is delegated to an inspector and subject to the written representation procedure, there is a statutory requirement for a site visit, where necessary, to be conducted within 15 weeks of the starting date letter (see regulation 8(1) of the Compulsory Purchase of Land (Written Representations Procedure) (Ministers) Regulations 2004 as amended by the Compulsory Purchase of Land (Written Representations Procedure) (Ministers) (Miscellaneous Amendments and Electronic Communications) Regulations 2018 (https://www.legislation.gov.uk/uksi/2018/253/contents/made)).

52.2 A decision should be issued within 4 weeks of the site visit date in 80% of cases delegated by the Secretary of State in their role as the confirming authority; with 100% of cases being decided within 8 weeks of the site visit date.

52.3 In cases where there has not been a site visit, the timescales for decision will be taken from the final exchange of representations under regulation 5 of the Compulsory Purchase of Land (Written Representations Procedure) (Ministers) Regulations 2004 (https://www.legislation.gov.uk/uksi/2004/2594/regulation/5/made).

53. How long will it take to get a decision on a compulsory purchase order which is delegated to an inspector and subject to the public inquiry procedure?

53.1 Where a compulsory purchase order is delegated to an inspector and subject to the public inquiry procedure, the parties will be notified within 10 working days beginning with the day after the inquiry closes of the expected date on which a decision will be issued (see the modified version of rule 18 in Schedule 1 to the Compulsory Purchase (Inquiries Procedure) Rules 2007 as amended by the Compulsory Purchase (Inquiries Procedure) (Miscellaneous Amendments and Electronic Communications) Rules 2018 (https://www.legislation.gov.uk/uksi/2018/248/contents/made)).

53.2 A decision on the compulsory purchase order should be issued by the inspector within 8 weeks of the close of the Inquiry in 80% of cases delegated by the Secretary of State in their role as the confirming authority; with 100% of cases being decided within 12 weeks.

54. How long will it take to get a decision on a compulsory purchase order which is decided by a Secretary of State in their role as the confirming authority and subject to the written representation process?

54.1 Where a compulsory purchase order is subject to the written representation procedure, there is a statutory requirement for a site visit, where necessary, to be conducted within 15 weeks of the starting date letter (see regulation 8(1) of the Compulsory Purchase of Land (Written Representations Procedure) (Ministers) Regulations 2004 as amended by the Compulsory Purchase of Land (Written Representations Procedure) (Ministers) (Miscellaneous Amendments and Electronic Communications) Regulations 2018 (https://www.legislation.gov.uk/uksi/2018/253/contents/made)).

54.2 The Secretary of State in their role as the confirming authority should issue 80% of compulsory purchase decisions on written representation cases within 8 weeks of the site visit. The remaining 20% of cases should be decided within 12 weeks of the site visit.

54.3 In cases where there has not been a site visit, the timescales for decision will be taken from the final exchange of representations under regulation 5 of the Compulsory Purchase of Land (Written Representations Procedure) (Ministers) Regulations 2004 (https://www.legislation.gov.uk/uksi/2004/2594/contents/made).

55. How long will it take to get a decision on a compulsory purchase order which is decided by a Secretary of State in their role as the confirming authority and subject to the public inquiry process?

55.1 Where a compulsory purchase order is to be decided by the Secretary of State in their role as the confirming authority and subject to the public inquiry procedure, the parties will be notified within 10 working days beginning with the day after the inquiry closes of the expected date of the Secretary of State's decision (see rule 18(A1) of the Compulsory Purchase (Inquiries Procedure) Rules 2007 as amended by the Compulsory Purchase (Inquiries Procedure) (Miscellaneous Amendments and Electronic Communications) Rules 2018 (https://www.legislation.gov.uk/uksi/2018/248/contents/made)).

55.2 In addition, there is a target that 80% of cases should be decided by the relevant Secretary of State in their role as the confirming authority within 20 weeks of the close of the public inquiry – with the remaining cases decided within 24 weeks.

56. What happens if the Secretary of State in their role as the confirming authority or an inspector fails to issue a decision in

accordance with the published timescales?

56.1 The Secretary of State who has responsibility for housing and planning matters must issue an annual report to Parliament showing the extent to which confirming authorities have complied with the published timescales.

56.2 The validity of a compulsory purchase order is not, however, affected by any failure to comply with a timetable (see section 14B(4) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/14B)).

57. Can a compulsory purchase order be challenged through the courts after it has been confirmed?

57.1 Any person aggrieved who wishes to dispute the validity of a compulsory purchase order, or any of its provisions, can challenge the order through an application to the High Court under section 23 of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/23) on the grounds that:

- the authorisation of the order is not empowered to be granted under the Acquisition of Land Act 1981 or an enactment mentioned in section 1(1) of that Act
- a 'relevant requirement' has not been complied with

57.2 A 'relevant requirement' is any requirement under the Acquisition of Land Act 1981, of any regulations made under it, or the Tribunals and Inquiries Act 1992 or of regulations made under that act.

57.3 Any such application must be made within 6 weeks of the date specified in section 23(4) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/23).

58. What powers does the court have on an application under section 23 of the Acquisition of Land Act 1981?

58.1 Section 24 of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/24) sets out the powers of the court on an application under section 23 of the Acquisition of Land Act 1981. First, the court has the discretionary power to grant interim relief suspending the operation of the order or certificate pending the final determination of the court proceedings (section 24(1)). Second, where a challenge under section 23 of the Acquisition of Land Act 1981 is successful, the court has the discretionary power to quash:

- the decision to confirm the compulsory purchase order (section 24(3)) (NB: this does not apply in relation to an application under section 23 which was made before 13 July 2016)
- the whole or any part of an order (section 24(2))

59. Is the time period for implementing a compulsory purchase order extended where it is the subject of a legal challenge?

59.1 Under section 4A of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/4A) (for notice to treat process) and section 5B of the Compulsory Purchase (Vesting Declarations) Act 1981 (https://www.legislation.gov.uk/ukpga/1981/66/section/5B) (for general vesting declaration process) the applicable period for implementing a compulsory purchase order is extended for:

- a period equivalent to the period from the date an application challenging the order is made until it is withdrawn or finally determined
- one year

whichever is the shorter. NB: The extended time period does not apply to an application made in respect of a compulsory purchase order which became operative before 13 July 2016.

59.2 An application to challenge an order is finally determined after the normal time for submitting an appeal has elapsed or, where an appeal has been submitted, it is either withdrawn or finally determined.

60. Can a decision not to confirm a compulsory purchase order be challenged through the courts?

60.1 A decision not to confirm a compulsory purchase order can be challenged through the courts by means of an application for judicial review under Part 54 of the Civil Procedure Rules 1998 (https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part54).

61. Is there a record of compulsory purchase orders decisions?

61.1 A public register of compulsory purchase order decisions (https://www.gov.uk/government/publications/compulsory-purchase-orders-register-of-decisions) for cases which the Secretary of State who has responsibility for housing and planning matters is the confirming authority for is maintained on our website.

Stage 5: Implementing a compulsory purchase order

62. When does a compulsory purchase order become operative?

62.1 Unless the acquisition is subject to the special parliamentary procedure (for example, in the case of certain special kinds of land), a compulsory purchase order which has been confirmed becomes operative on the date on which the notice of its confirmation is first published.

62.2 The method of publication and the information which must be included in a notice is set out in section 15 of the Acquisition of Land Act 1981

(https://www.legislation.gov.uk/ukpga/1981/67/section/15). Confirmation notices must also:

- contain a prescribed statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981 set out in in Form 9A in the Schedule to the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2024/473/schedule/made)[footnote 9]
- invite any person who would be entitled to claim compensation if a declaration were executed under section 4 of that Act to give the acquiring authority information about the person's name, address and interest in land, using a prescribed form which is set out in Form 10 (where confirmation of the compulsory purchase order is not undertaken by the acquiring authority) or Form 11 (where confirmation of the compulsory purchase order is undertaken by the acquiring authority) in the Schedule to the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2004/2595/schedule/made)[footnote 10]

62.3 Where a compulsory purchase order which includes a direction applying section 14A of the Land Compensation Act 1961 is confirmed, additional information must be included in the confirmation notice (see How will landowners be notified of a compulsory purchase order which has been confirmed with a direction applying section 14A of the Land Compensation Act 1961 included?).

62.4 Acquiring authorities must issue the confirmation notice within 6 weeks of the date of the order being confirmed or such longer period as may be agreed between the acquiring authority and the confirming authority (section 15(3A) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/15)). Where an acquiring authority fails to do so, the confirming authority may take the necessary steps itself and recover its reasonable costs of doing so from the acquiring authority.

62.5 The acquiring authority may then exercise the compulsory purchase power (unless the operation of the compulsory purchase order is suspended by the High Court). The actual acquisition process will proceed by one of two routes – either by the acquiring authority serving a notice to treat or by executing a general vesting declaration.

63. How do I register a confirmation notice as a local land charge?

63.1 Section 15(6) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/15) provides that a confirmation notice should be sent by the acquiring authority to the Chief Land Registrar and that it shall be a local land charge. Where land in the order is situated in an area for which the local authority remains the registering authority for local land charges (i.e. where the changes made by

Parts 1 and 3 of Schedule 5 to the Infrastructure Act 2015 (https://www.legislation.gov.uk/ukpga/2015/7/schedule/5) have not yet taken effect in that local authority area), the acquiring authority should comply with the steps required by section 5 of the Local Land Charges Act 1975 (https://www.legislation.gov.uk/ukpga/1975/76/section/5) (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered.

64. What is a notice to treat?

64.1 There is no prescribed form for a notice to treat but the document must:

- describe the land to which it relates
- demand particulars of the interest in the land
- demand particulars of the compensation claim of the recipient
- state that the acquiring authority is willing to treat for the purchase of the land and for compensation for any damage caused by the execution of the works

64.2 Possession cannot normally be taken until the acquiring authority has served a notice of entry and the minimum period specified in that notice has expired.

64.3 Title to the land is subsequently transferred by a normal conveyance.

65. When should a notice to treat be served?

65.1 A notice to treat may not be served after the end of the period of 3 years beginning with the date on which the compulsory purchase order becomes operative, under section 4 of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/4) unless that time limit is extended by the confirming authority under section 13D of the Acquisition of Land Act 1981. The notice to treat then remains effective for a further 3 years under section 5(2A) of that Act (https://www.legislation.gov.uk/ukpga/1965/56/section/5).

65.2 It can be very stressful for those directly affected to know that a compulsory purchase order has been confirmed on their property. The prospect of a period of up to 6 years (and possibly longer where the time limit is extended by the confirming authority under section 13D of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/13D)) before the acquiring authority actually takes possession can be daunting. Acquiring authorities are therefore urged to keep such people fully informed about the various processes involved and of their likely timing, as well as keeping open the possibility of earlier acquisition where requested by an owner.

66. What period of notice should be given before taking possession under the notice to treat process?

66.1 Once the crucial stage of actually taking possession is reached, the acquiring authority is required by section 11 of the Compulsory Purchase Act 1965 ("the 1965 Act") (https://www.legislation.gov.uk/ukpga/1965/56/section/11) to serve a notice of its intention to gain entry. In respect of a compulsory purchase order which is confirmed on or after 3 February 2017, the notice period will be not less than 3 months beginning with the date of service of the notice, except in either of the following circumstances:

- where it is a notice to which section 11A(4) of the 1965 Act applies (i.e. where it is being served on a 'newly identified person' under section 11A(1)(b) and that person is not an occupier, or the acquiring authority was unaware of the person because they received misleading information in response to their inquiries under section 5(1) of the 1965 Act) - in these circumstances, section 11A(4) provides for a shorter minimum notice period
- where it is a notice to which paragraph 13 of Schedule 2A to the 1965 Act applies (i.e. where under the material detriment provisions in that schedule, an acquiring authority is permitted to serve a further notice of entry, after the initial notice of entry ceased to have effect under paragraph 6, in respect of the land proposed to be acquired)

66.2 Although it is necessary for a notice to treat to have been served, this can be done at the same time as serving the notice of entry. A notice of entry cannot be served after a notice to treat has ceased to be effective. A notice to treat can only be withdrawn in limited circumstances.

66.3 Acquiring authorities are encouraged to negotiate a mutually convenient date of entry with the claimant. It is good practice for the acquiring authority to:

- give owners and occupiers (where appropriate) an indication of the approximate date when possession will be taken when serving the notice to treat
- consider the steps which those being dispossessed will need to take to vacate their properties before deciding on the timing of actually taking possession

66.4 Authorities should also be aware that:

- agricultural landowners or tenants may need to know the date for the notice of entry earlier than others because of crop cycles and the need to find alternative premises
- short notice often results in higher compensation claims

- until there is an actual or deemed notice to treat an occupier is at risk that any costs they incur in anticipation of receiving such a notice may not be claimable; acquiring authorities would be advised to analyse how long it will take most occupiers to relocate and if the notice of entry is inadequate then they should consider giving an earlier commitment to pay certain costs such as their reasonable costs in identifying suitable alternative accommodation

66.5 It is usually important to make an accurate record of the physical condition of the land at the valuation date.

67. What happens if the acquiring authority does not take possession at the time specified in the notice of entry?

67.1 Where a compulsory purchase of land has been authorised on or after 3 February 2017 (i.e. where the order was confirmed on or after that date), section 11B of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/11B) allows occupiers with an interest in the land to serve a counter-notice on an acquiring authority to require entry on a specified date which must not be earlier than the date specified in the notice of entry. The occupier must give at least 28 days notice of the date they want entry to be taken.

68. What is a general vesting declaration?

68.1 A general vesting declaration can be used as an alternative to the notice to treat procedure. It replaces the notice to treat, notice of entry and the conveyance with one procedure which automatically vests title in the land with the acquiring authority on a certain date.

68.2 General vesting declarations are made under the Compulsory Purchase (Vesting Declarations) Act 1981 (https://www.legislation.gov.uk/ukpga/1981/66/contents) and in accordance with the Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017 (https://www.legislation.gov.uk/uksi/2017/3/contents/made).

69. When might a general vesting declaration be used?

69.1 An acquiring authority may prefer to proceed by general vesting declaration as this enables the authority to obtain title to the land without having first to be satisfied as to the vendor's title or to settle the amount of compensation (subject to any special procedures such as in relation to purchase of commoners' rights: see section 21 of (https://www.legislation.gov.uk/ukpga/1965/56/section/21), and Schedule 4 to, Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/schedule/4)). It can therefore be particularly useful where:

- some of the owners are unknown
- the authority wishes to obtain title with minimum delay (for example, to dispose of the land to developers)

69.2 A general vesting declaration may be made for any part or all of the land included in the compulsory purchase order except where an acquiring authority has already served (and not withdrawn) a notice to treat in respect of that land.

69.3 Section 4(1B) of the Compulsory Purchase (Vesting Declarations) Act 1981 (https://www.legislation.gov.uk/ukpga/1981/66/section/4) makes clear that the above exception does not apply to deemed notices to treat that may, for example, arise from a blight notice or purchase notice.

69.4 For minor tenancies and long tenancies which are about to expire, a general vesting declaration will also not be effective. However, there is a special procedure set out in section 9 of the Compulsory Purchase (Vesting Declarations) Act 1981 (https://www.legislation.gov.uk/ukpga/1981/66/section/9) for dealing with them.

69.5 Where unregistered land is acquired by general vesting declaration, acquiring authorities are recommended to voluntarily apply for first registration under section 3 of the Land Registration Act 2002 (https://www.legislation.gov.uk/ukpga/2002/9/section/3).

70. When should a general vesting declaration be served?

70.1 For compulsory purchase orders which become operative on or after 13 July 2016, section 5A of the Compulsory Purchase (Vesting Declarations) Act 1981 (https://www.legislation.gov.uk/ukpga/1981/66/section/5A) makes clear that a general vesting declaration may not be executed after the end of the period of 3 years beginning with the day on which the compulsory purchase order becomes operative or such longer period as extended by the confirming authority under section 13D of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/13D).

71. What period of notice should be given before taking possession under the general vesting declaration process?

71.1 For a compulsory purchase of land authorised on or after 3 February 2017, the acquiring authority must give at least 3 months' notice before taking possession (as this is the minimum vesting period which must be given in a general vesting declaration under section 4(1) of the Compulsory Purchase (Vesting Declarations) Act 1981 (https://www.legislation.gov.uk/ukpga/1981/66/section/4)). Acquiring authorities should consider how long it will take occupiers to reasonably relocate and if 3 months is considered insufficient, consider increasing the vesting period (and therefore the notice period). Acquiring authorities and the owner of the relevant interest may postpone the vesting of the interest in the acquiring authority by written agreement and agree a different vesting date under section 8A of the Compulsory Purchase (Vesting Declarations) Act 1981 (https://www.legislation.gov.uk/ukpga/1981/66/section/8A).

72. How does the acquiring authority make a general vesting declaration if the owner, lessee or occupier is unknown?

72.1 If it is not possible (after reasonable enquiry) to ascertain the name or address of an owner, lessee or occupier of land, the acquiring authority should comply with section 329(2) of the Town and Country Planning Act 1990 to serve notice after execution of the declaration (required under section 6 of the Compulsory Purchase (Vesting Declarations) Act 1981 (https://www.legislation.gov.uk/ukpga/1981/66/section/6)).

73. How can Charity Trustees convey land to a public authority?
73.1 If acquiring land from a charity, acquiring authorities should be aware of the provisions in Part 7 of the Charities Act 2011 (https://www.legislation.gov.uk/ukpga/2011/25/part/7) and may need to consult the Charity Commission.

Stage 6: Compensation

74. What is the basis of compensation?
74.1 The rights to compensation for those affected by compulsory purchase – and the procedures for assessing the correct amount – are governed by a combination of legislation, case law and established practice. These are sometimes referred to collectively as the ‘compensation code’. However, there is no single, published document called the compensation code.

74.2 The overriding general principle of compulsory purchase compensation under the compensation code is the ‘equivalence principle’. This is the principle that a person who has an interest in land acquired compulsorily should be paid neither less nor more than the value of their loss other than where:

(a) a compulsory purchase order is confirmed with a direction for minimum compensation included where an owner of a listed building has deliberately allowed the building to fall into disrepair to justify its demolition and the development of the site (see What if the owner has deliberately allowed the listed building to fall into disrepair to justify its demolition?)

(b) a compulsory purchase order is confirmed with a direction applying section 14A of the Land Compensation Act 1961 included (see Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation)

75. What are the elements of compensation where land is taken?
75.1 The compensation payable where land is taken is a single global figure, and in practice, the assessment of that compensation will involve various elements.

75.2 Broadly, the elements of compensation where land is taken are:

- [the market value of the interest in the land taken]{#para77)
- ‘disturbance’ payments for losses caused by reason of losing possession of the land and other losses not directly based on the value of land, for example, costs arising from the relocation to a replacement property
- loss payments for the distress and inconvenience of being required to sell and/or relocate from your property at a time not of your choosing
- ‘severance/injurious affection’ payments for the loss of value caused to retained land by reason of it being severed from the land taken, or caused as a result of the use to which the land is put

76. What are the elements of compensation where no land is taken?
76.1 Broadly, the elements of compensation where no land is taken are:

- injurious affection
- Part 1 Land Compensation Act 1973 claims

77. What is the market value of the interest in the land taken?
77.1 The value of land taken is the amount which it might be expected to realise if sold on the open market by a willing seller (Land Compensation Act 1961, section 5, rule 2 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/5)), disregarding any effect on value of the scheme of the acquiring authority (known as the ‘no scheme’ principle). In addition to existing planning permissions, section 14 of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14) (as amended by section 189 of the Levelling-up and Regeneration Act 2023 (https://www.legislation.gov.uk/ukpga/2023/55/section/189)) provides for certain assumptions as to what planning permissions might be granted in the no scheme world to be taken into account in determining the open market value of land (‘planning assumptions’).

77.2 Certificates of Appropriate Alternative Development may be used to indicate the planning permissions that could have been obtained in the no scheme world, which will affect any development value of the land (see Section 23 for guidance on Certificates of Appropriate Alternative Development). Alternatively, where the property is used for a purpose for which there is no general demand or market (e.g. a church) and the owner intends to reinstate elsewhere, the owner may be awarded compensation on the basis of the reasonable cost of equivalent reinstatement (see Land Compensation Act 1961, section 5, rule 5 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/5)).

78. What are the planning assumptions?
78.1 Section 14 of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14) (as amended by section 189 of the Levelling-up and Regeneration Act 2023 (https://www.legislation.gov.uk/ukpga/2023/55/section/189)) provides the legal framework for assessing compensation for the compulsory purchase of land

in accordance with rule (2) of section 5 of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/5) (determining open market value). The planning assumptions under section 14 (as amended) are as follows:

(i) subsection (2): account may be taken of

(a) any planning permission in force the development on the relevant land or other land at the relevant valuation date; and
(b) the prospect of planning permission being granted on or after the relevant valuation date for development on the relevant land or other land other than for development for which planning permission is already in force at the relevant valuation date. The prospects of planning permission under subsection (2)(b) (https://www.legislation.gov.uk/ukpga/2023/55/section/189) are to be assessed on the assumptions set out in subsection (5) (see below) and otherwise in the circumstances known to the market at the relevant valuation date (subsection (2B)(b) (https://www.legislation.gov.uk/ukpga/2023/55/section/189)).

(ii) subsection (2A) (https://www.legislation.gov.uk/ukpga/2023/55/section/189): if a description of development is certified under section 17 of the 1961 Act as appropriate alternative development in relation to the relevant land or any part of it, it is to be taken as certain for the purposes of assessing the prospect of planning permission under subsection (2)(b) (https://www.legislation.gov.uk/ukpga/2023/55/section/189) that:

(a) planning permission for that description of development would be, or would have been, granted on the relevant valuation date, and
(b) the permission would be, or would have been, granted subject to any conditions or pre-conditions given under section 17(5B) (https://www.legislation.gov.uk/ukpga/2023/55/section/189).

(iii) subsection (5) (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14): contains the basic assumptions referred to above under subsection 2(b) (https://www.legislation.gov.uk/ukpga/2023/55/section/189) that:

(a) the scheme underlying the acquisition had been cancelled on the launch date;
(b) no action has been taken by the acquiring authority for the purposes of the scheme;
(c) there is no prospect of the same or a similar scheme being taken forward by the exercise of a statutory power or by compulsory purchase; and
(d) if the scheme is for a highway, no other highway would be constructed to meet the same need as the scheme.

(iv) subsection (6): (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14) defines the ‘launch date’ as:

(a) for a compulsory purchase order, the publication date of the notice required under section 11 (https://www.legislation.gov.uk/ukpga/1981/67/section/11) of, or paragraph 2 of Schedule 1 (https://www.legislation.gov.uk/ukpga/1981/67/schedule/1) to, the Acquisition of Land Act 1981;
(b) for any other order (such as under the Transport and Works Act 1992 (https://www.legislation.gov.uk/ukpga/1992/42/contents) or a development consent order under the Planning Act 2008 (https://www.legislation.gov.uk/ukpga/2008/29/contents)) the date of first publication or service of the relevant notice; or
(c) for a special enactment, the date of first publication of the first notice required in connection with the acquisition.

79. On what date are the planning assumptions assessed?
79.1 The planning assumptions are assessed on the relevant valuation date (as defined in section 5A of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/5A)) rather than the launch date of the scheme (even though the scheme is still assumed to have been cancelled on the launch date). This will avoid the need to reconstruct the planning regime that existed on the launch date, including old development plans, national planning policy and guidance. Also, that the planning assumptions are based on 'the circumstances known to the market at the relevant valuation date', which would include the provisions of the development plan. This removes the need for the specific references to the development plan which were contained in the previous section 16 of the Land Compensation Act 1961 that had become out of date and was subsequently repealed.

80. How should the value of the land be assessed in light of the 'no scheme principle'?
80.1 Sections 6A to 6E of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/contents) (inserted by section 32 of the Neighbourhood Planning Act 2017 (https://www.legislation.gov.uk/ukpga/2017/20/section/32)[footnote 11]), set out how the value of the land should be assessed applying the 'no scheme principle'.

80.2 Section 6A sets out the 'no scheme principle' that any increases or decreases in value caused by the scheme underlying the compulsory purchase order, or the prospect of that scheme, must be disregarded. When applying the 'no scheme principle', the following 5 rules (i.e. the 'no scheme rules') are to be followed:

- rule 1: it is to be assumed that the scheme underlying the compulsory purchase order was cancelled on the relevant valuation date
- rule 2: it is to be assumed that no action has been taken (including acquisition of any land, and any development or works) by the acquiring authority, or on behalf of the acquiring authority, wholly or mainly for the purposes of the scheme underlying the compulsory purchase order. For

example, where an acquiring authority has entered into an agreement with a developer to deliver a scheme underpinned by use of compulsory purchase powers, actions taken by the developer are actions taken by the acquiring authority for the purposes of this Rule. Any such action taken, including, for example, works carried out by that developer, should be assumed not to have been taken

- rule 3: it is to be assumed that there is no prospect of the same scheme which is underlying the compulsory purchase order, or any other project to meet the same or substantially the same need as that being delivered by the scheme underlying the compulsory purchase order, being carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers
- rule 4: it is to be assumed that no other projects would have been carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers if the scheme underlying the compulsory purchase order had been cancelled on the relevant valuation date
- rule 5: if there was a reduction in the value of land as a result of—

(a) the prospect of the scheme underlying the compulsory purchase order (including before the scheme or the compulsory acquisition in question was authorised)

(b) the fact that the land was blighted land as a result of the scheme underlying the compulsory purchase order

that reduction is to be disregarded. “Blighted land” in this regard means land of a description listed in Schedule 13 to the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/schedule/13)

80.3 Section 6B provides that any increases in the value of the claimant’s other land, which is contiguous or adjacent to the land taken, is deducted from the compensation payable. This is known as ‘betterment’. 80.4 Section 6C provides that where a claimant is compensated for injurious affection for other land when land is taken for a scheme, and then that other land is subsequently subject to compulsory purchase for the purposes of the scheme, the compensation for the acquisition of the other land is to be reduced by the amount received for injurious affection.

80.5 Section 6D defines the ‘scheme’ for the purposes of establishing the no-scheme world. The default case, set out in subsection (1), is that the ‘scheme’ to be disregarded is the scheme of development underlying the compulsory acquisition. Subsection (2) makes special provision for new towns, urban development corporations and mayoral development corporations. Where land is acquired in connection with these areas, the ‘scheme’ is the development of any land for the purposes for which the area is or was designated.

80.6 Section 6D(3) and (4) also makes special provision. It provides that where land is acquired for development (including redevelopment, regeneration and improvement as per section 6D(7)) which is facilitated or made possible by a 'relevant transport project' (defined in section 6D(4)(a)) 'the scheme' includes the relevant transport project.

81. Why is special provision made for relevant transport projects?

81.1 New transport projects often raise land values in the vicinity of stations or hubs which can facilitate development such as regeneration, redevelopment and improvement schemes. Where land is acquired for a development scheme, which is facilitated or made possible by a relevant transport project, the effect of Section 6D(3) is that the scheme to be disregarded includes the relevant transport project – subject to the qualifying conditions and safeguards in section 6E (see below). The intention of this special provision is to ensure an acquiring authority should not pay for land it is acquiring at values that are inflated by its own or others' public investment in the relevant transport project.

81.2 Where it applies, the land in question will be valued as if the transport project as well as the development scheme had been cancelled on the relevant valuation date (defined in section 5A). The qualifying conditions and safeguards in section 6E(2) are, in summary that:

- the development (including regeneration, redevelopment or improvement) of land in the vicinity of land comprised in the relevant transport project was part of the published justification for that relevant transport project
- the instrument authorising the compulsory purchase of the land acquired for development was made or prepared in draft on or after 22 September 2017
- the development land must be in the vicinity of land comprised in the relevant transport project
- the works comprised in the relevant transport project are first opened for use no earlier than 22 September 2022
- the compulsory purchase of the land acquired for development must be authorised within 5 years of the works comprised in the relevant transport project first opening for use

81.3 However, 'the scheme' for the purposes of assessing compensation payable to a person in respect of the compulsory acquisition of the land for development will not be treated as if it included the relevant transport project if the owner acquired the land after plans for the relevant transport project were announced but before either:

(a) 8 September 2016 (the day after the Neighbourhood Planning Bill was printed), in a case where the land was acquired for regeneration or redevelopment and regeneration or redevelopment was part of the published justification for the relevant transport project)

(b) in any other case, 1 May 2024 (the first day after the period of 3 months beginning with 31 January 2024 i.e. the day on which section 188 of the Levelling-up and Regeneration Act 2023 came into force (see section 6E(3A)(b) of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/6E) inserted by section 188(2)(d) of the Levelling-up and Regeneration Act 2023)

81.4 This specific safeguard (under section 6E(3) (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/6E)) is intended to provide protection in circumstances where land was purchased:

- on the basis of a public announcement whose effect was to provide a reasonable degree of certainty about the delivery of a relevant transport project at a particular location
- before the Government introduced legislation that made special provision for relevant transport projects

81.5 Where the specific safeguard applies, the 'scheme' will not be treated as if it included the relevant transport project in assessing the compensation payable in respect of the compulsory acquisition of that land. In such circumstances, any increase or decrease in the value of the owner's land caused by the relevant transport project does not have to be disregarded.

82. When is a relevant transport project announced for the purposes of the specific safeguard in section 6E(3)?

82.1 Whether and/or when such a project is 'announced' is a question of fact in each case to be determined by the Upper Tribunal (Lands Chamber) in the event of disagreement. The evidence put before the Upper Tribunal (Lands Chamber) could include, among other things, the following matters:

- the inclusion of the relevant transport project, at or near a particular location, in an approved or adopted development plan document
- the inclusion of the relevant transport project in an application for a development consent order or in a compulsory purchase order
- the inclusion of the relevant transport project in a proposal contained in an application for, or in a draft, Transport and Works Act Order for the purposes of the Transport and Works Act 1992
- the inclusion of the relevant transport project in any Bill put before Parliament
- a decision announced by a Minister of, or of approval for, a relevant transport project at a particular location

83. What if the definition of the 'scheme' is disputed?

83.1 Section 6D(5) provides that if there is disagreement between parties as to the definition of the 'scheme' to be disregarded that this can be determined by the Upper Tribunal as a question of fact subject as follows.

First, the ‘scheme’ is to be taken by the Upper Tribunal to be the underlying scheme provided for by the act, or other authorising instrument unless it is shown that the ‘scheme’ is a scheme larger than, but including, the scheme provided for by that authorising instrument. Second, except by agreement or in special circumstances, the Upper Tribunal may only permit the acquiring authority to advance evidence of a larger scheme if that larger scheme was identified in the authorising instrument and any documents made available with it read together.

84. What is the relevant valuation date?

84.1 Section 5A of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/5A) establishes the date at which land compulsorily acquired is to be valued for compensation purposes (the ‘relevant valuation date’). It also establishes that such a valuation is to be based on the market values prevailing at the valuation date and on the condition of the relevant land and any structures on it on that date.

84.2 The relevant valuation date is:

- the date of entry and taking possession if the acquiring authority have served a notice to treat and notice of entry (https://www.legislation.gov.uk/ukpga/1965/56/section/11)
- the vesting date if the acquiring authority has executed a general vesting declaration
- the date on which the Upper Tribunal (Lands Chamber) has determined compensation if earlier

84.3 A claimant can agree compensation with the acquiring authority at any time in accordance with the provisions of section 3 of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/3).

84.4 The relevant valuation date for the whole of the land included in any single notice of entry is the date on which the acquiring authority first takes possession of any part of that area of land (under section 5A(5) of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/5A)). This means that compensation becomes payable to the claimant for the whole site covered by that notice of entry from that date.

The claimant also has the right to receive interest on the compensation due to them in respect of the value of the whole site covered by that notice of entry from that date until full payment is actually made (under section 5A(6) of the 1961 Act).

84.5 Under the terms of section 11 of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/11), simple interest is payable at the prescribed rate (https://www.gov.uk/guidance/planning-guidance-letters-to-chief-planning-officers#section-17) from the date on which the

authority enters and takes possession until the outstanding compensation is paid. Interest is not compounded as, neither section 32 nor regulations made under it, confer any power to pay interest on interest, and neither refers to frequency of calculation nor provides for periodic rests, which would be essential to any calculation of interest on a compound basis. It is therefore important that the date of entry is properly recorded by the acquiring authority.

85. Is an advance payment of compensation available?

85.1 If requested, and subject to sufficient information being made available by the claimant, the acquiring authority must make an advance payment on account of any compensation which is due for the acquisition of any interest in land, under section 52 of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/52) (as amended by sections 194 and 195 of the Housing and Planning Act 2016 and section 38 of the Neighbourhood Planning Act 2017)[footnote 12]. Advance payments must be registered as local land charges to ensure that payments are not duplicated.

85.2 The amount payable in advance is:

- 90% of the agreed sum for the compensation
- 90% of the acquiring authority's estimate of the compensation due, if the acquiring authority takes possession before compensation has been agreed

86. Is an advance payment available for a mortgage?

86.1 In certain circumstances, a claimant can require the acquiring authority to make advance payments of compensation direct to the claimant's mortgage lender. Advance payments relating to the amount owing to the mortgage lender can be made:

- direct to the mortgage lender only with their consent
- to more than one mortgage lender, if the interest of any other mortgage lender whose interest has priority has been released

86.2 Section 52ZA of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/52ZA) (as amended by section 195 of the Housing and Planning Act 2016) enables an acquiring authority to make an advance payment to a claimant's mortgage lender where the total amount outstanding under the mortgage does not exceed 90% of the estimated total compensation due to the claimant. Alternatively, section 52ZB (https://www.legislation.gov.uk/ukpga/1973/26/section/52ZB) (as amended by section 195 of the Housing and Planning Act 2016) applies where the total amount exceeds 90% of the total estimated compensation due to the claimant.

86.3 The conditions relating to both types of payments are complex and, in order to protect the interests of all parties, it will be advisable for an acquiring authority to work closely with both the claimant and the claimant's mortgage lender(s) in determining the amount of the advance payment payable.

87. What information should a claimant provide when requesting an advance payment of compensation?

87.1 As the amount payable is 90% of the acquiring authority's estimate of the compensation due, it is in the interests of claimants to provide early and full information to the authority to ensure that the estimate is as robust as possible.

87.2 Acquiring authorities should encourage claimants to seek professional advice in relation to their compensation claim. They should also provide claimants with information as to the kinds of evidence they may be expected to provide in support of their compensation claim including, for example:

- detailed records of losses sustained and costs incurred in connection with the acquisition of their property
- all relevant supporting documentary evidence such as receipts, invoices and fee quotes
- business accounts for at least 3 years prior to the acquisition and continuing to the date of the claim
- a record of the amount of time they have spent on matters relating to the compulsory purchase of their property

87.3 Sections 52(2) and (2A) (https://www.legislation.gov.uk/ukpga/1973/26/section/52) and 52ZC(2) of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/52ZC) (as amended by section 194 of the Housing and Planning Act 2016) set out what information the claimant must provide and give the acquiring authority 28 days to request further information. The Secretary of State who has responsibility for housing and planning matters has published on the government's website a model claim form (https://www.gov.uk/government/publications/compulsory-purchase-process-guidance) which claimants are strongly encouraged to use when making a claim for an advance payment.

88. Is there a deadline for making and paying an advance payment? [footnote 13]

88.1 Section 52(1) of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/52) (as amended by section 195 of the Housing and Planning Act 2016) allows a claim for an advance payment to be made and paid at any time after the compulsory acquisition has been authorised. However, an acquiring authority must

make an advance payment within 2 months of receipt of the claim or any further information requested under subsection 52(2A)(b) or 52ZC(2), or the date the notice of entry was issued or general vesting declaration was executed, whichever is the later.

88.2 There is special provision, under subsections (1A) and (4) of section 52 of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/52), where the compulsory acquisition is one to which the Lands Clauses Consolidation Act 1845 (https://www.legislation.gov.uk/ukpga/Vict/8-9/18/contents) applies. In these cases, the acquiring authority may not make an advance payment if they have not taken possession of the land, but must do so if they have. The payment must be made before the end of the day on which possession is taken, or, if later, before the end of the period of 2 months beginning with the day on which the authority received the request for the payment or any further information required under section 52(2A)(b) (https://www.legislation.gov.uk/ukpga/1973/26/section/52).

88.3 Acquiring authorities should make prompt and adequate advance payments as this can:

- reduce the amount of the interest ultimately payable by the authority on any outstanding compensation
- help claimants to have sufficient liquidity to be able to make satisfactory arrangements for their relocation

88.4 Acquiring authorities are urged to adopt a sympathetic approach and take advantage of the flexibility offered by section 52(1) of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/52) where possible.

89. What happens if an advance payment is made but the compulsory purchase does not go ahead?[footnote 14]

89.1 Section 52AZA of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/52AZA) (as amended by section 197 of the Housing and Planning Act 2016) requires a claimant to repay any advance payment if the notice to treat is withdrawn or ceases to have effect after the advance payment is made.

89.2 If another person has since acquired the whole of the claimant's interest in the land, the successor will be required to repay the advance payment (provided it was registered as a local land charge in accordance with section 52(8A) of the Land Compensation Act 1973) (https://www.legislation.gov.uk/ukpga/1973/26/section/52).

89.3 Section 52ZE of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/52ZE) (as amended by section 198 of the Housing and Planning Act 2016) provides for the

recovery of an advance payment to a mortgage lender if the notice to treat has been withdrawn or ceases to have effect. In these circumstances, the claimant must repay the advance payment unless someone else has acquired the claimant's interest in the land. In this case, the successor to the claimant must make the repayment.

90. What is compensation for disturbance?

90.1 One element of compensation payable to a claimant is in respect of losses caused as a result of being disturbed from possession of the land taken and other losses caused by the compulsory purchase. This is known as 'disturbance' compensation. The right to compensation for disturbance is set out in the Land Compensation Act 1961, section 5, rule 6 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/5). Disturbance payments may include, for example, the costs and expenses of vacating the property and moving to a replacement property such as legal costs, other fees and losses, conveyancing costs and other professional fees.

90.2 There are also specific provisions for disturbance payments relating to different interests in land as follows:

- section 20 of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/20) – disturbance for persons who have no greater interest in the land than as tenant for a year or from year to year
- section 46 of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/46) – disturbance where a business is carried on by a person over 60
- section 47 of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/47) – disturbance where land is the subject of a business tenancy
- section 37 of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/37) – disturbance for persons without compensatable interests in the land acquired

91. Does the 'Bishopsgate principle' still apply to compensation for disturbance?

91.1 Prior to measures in the Neighbourhood Planning Act 2017, case law (Bishopsgate Space Management v London Underground [2004] 2 EGLR 175) held that for disturbance compensation purposes where the interest in the land to be acquired was a minor tenancy (a tenancy with less than a year left to run, or a tenancy from year to year) or an unprotected tenancy (a tenancy without the protection of Part 2 of the Landlord and Tenant Act 1954), the acquiring authority should assume that the landlord terminates the tenant's interest at the first available opportunity following notice to treat, whether that would happen in reality or not.

91.2 This was to be contrasted with the position for compensation for disturbance for occupiers of business premises with no interest in the land (payable under section 37 of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/37)) which was not subject to this artificial assumption.

91.3 Section 47 of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/47) (inserted by section 35 of the Neighbourhood Planning Act 2017[footnote 15]) brings the assessment of compensation for disturbance for minor and unprotected tenancies into line with that for licensees and protected tenancies (a tenancy with the protection of Part 2 of the Landlord and Tenant Act 1954 (https://www.legislation.gov.uk/ukpga/Eliz2/2-3/56/part/II)). Regard should be had to the likelihood of either continuation or renewal of the tenancy, the total period for which the tenancy might reasonably have been expected to continue, and the likely terms and conditions on which any continuation or renewal would be granted. For protected tenancies, the right of a tenant to apply for a new tenancy is also to be taken into account.

92. What are loss payments?

92.1 Loss payments are intended to compensate for the claimant's distress and inconvenience of being required to sell and/or relocate from their property at a time not of their choosing (see sections 29 to 36 of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/part/III)). There are 3 main types of loss payment:

- home loss payments – see sections 29 to 33 of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/part/III/crossheading/home-loss-payments)
- basic loss payment – see section 33A of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/33A)
- occupier's loss payment – see sections 33B (https://www.legislation.gov.uk/ukpga/1973/26/section/33B) and 33C of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/33C)

93. What are severance and injurious affection?

93.1 Severance occurs when the land acquired contributes to the value of the land which is retained, so that when severed from it, the retained land loses value.

93.2 For example, if a new road is built across a field it may no longer be possible to have access by vehicle to part of the field, rendering it less valuable.

93.3 Injurious affection is the depreciation in value of the retained land as a result of the proposed construction on, and use of, the land acquired by the

acquiring authority for the scheme. For example, even though only a small part of a farm holding may be acquired for a new road, the impact of the use of the road may reduce the value of the farm.

93.4 The principle of compensation for severance is set out in section 7 of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/7).

94. What is injurious affection where no land is taken?
94.1 Injurious affection where no land is taken refers to the right to compensation in certain circumstances where the value of an interest in land has been reduced as a result of the execution of works authorised by statute.

94.2 The principle of compensation for injurious affection where no land is taken is set out in section 10 of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/10).

95. What are Part 1 claims?
95.1 In certain circumstances compensation is payable to landowners in respect of depreciation of the value of their land by certain physical factors (noise, vibration, smell, fumes, smoke, artificial lighting, discharge on the land of a liquid or solid substance) caused by the use of a new or altered highway, aerodrome or other public works (see Part 1 of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/part/I)).

Tier 2: Enabling powers

It is likely that only one of the following enabling powers will be relevant in an individual case.

96. Where can further information on the powers of acquisition be found?

96.1 Further information can be found on:

- Section 1: Advice on section 226 of the Town and Country Planning Act 1990
- Section 2: Advice on section 121 of the Local Government Act 1972
- Section 3: Homes England
- Section 4: Urban Development Corporations
- Section 5: New Town Development Corporations
- Section 6: Mayoral Development Corporations

- Section 7: Powers of local housing authorities for housing purposes and listed buildings in slum clearance
- Section 8: To improve the appearance or condition of land
- Section 9: For educational purposes
- Section 10: For public libraries and museums
- Section 11: For airport Public Safety Zones
- Section 12: For listed buildings in need of repair
- Section 13: For the purposes of facilitating biodiversity net gain

Section 1: Advice on section 226 of the Town and Country Planning Act 1990

97. Can local authorities compulsorily acquire land for development and other planning purposes?

97.1 Under section 226 of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/226) the following bodies (which are local authorities for the purposes of that section):

- county, district or London borough councils (section 226(8) (https://www.legislation.gov.uk/ukpga/1990/8/section/226))
- joint planning boards (section 244(1) (https://www.legislation.gov.uk/ukpga/1990/8/section/244))
- national park authorities (section 244A (https://www.legislation.gov.uk/ukpga/1990/8/section/244A))

can acquire land compulsorily for development and other planning purposes as defined in section 246(1) (https://www.legislation.gov.uk/ukpga/1990/8/section/246).

98. What is the purpose of this power?

98.1 This power is intended to provide a positive tool to help local authorities with planning powers to assemble land where this is necessary to implement proposals in their development plan or where strong planning justifications for the use of the power exist. It is expressed in wide terms and can therefore be used to assemble land for regeneration and other schemes where the range of activities or purposes proposed mean that no other single specific compulsory purchase power would be appropriate.

99. Can this power be used in place of other more appropriate enabling powers?

99.1 This power should not be used in place of other more appropriate enabling powers. The statement of reasons accompanying the order should

make clear the justification for the use of this specific power. In particular, the confirming authority may refuse to confirm an order if they consider that this general power is or is to be used in a way intended to frustrate or overturn the intention of Parliament by attempting to acquire land for a purpose which had been explicitly excluded from a specific power.

100. What can the power be used for?

100.1 The power can be used as follows:

- section 226(1)(a) enables local authorities with planning powers to acquire land if they think that it will facilitate the carrying out of development (as defined in section 55 of Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/55)), redevelopment or improvement (which includes regeneration) on, or in relation to, the land being acquired and it is not certain that they will be able to acquire it by agreement – further guidance on use of the power under section 226(1)(a) (https://www.legislation.gov.uk/ukpga/1990/8/section/226) can be found below in paragraphs 105 to 110
- section 226(1)(b) (https://www.legislation.gov.uk/ukpga/1990/8/section/226) allows a local authority, if authorised, to acquire land in their area which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated. The potential scope of this power is broad. It is intended to be used primarily to acquire land which is not required for development, redevelopment or improvement (which includes regeneration), or as part of such a scheme
- section 226(3) (https://www.legislation.gov.uk/ukpga/1990/8/section/226) provides that an order made under either section 226(1)(a) or (b) may also provide for the compulsory purchase of:

(a) any adjoining land which is required for the purpose of executing works for facilitating the development or use of the primary land

(b) land to give in exchange for any of the primary land which forms part of a common or open space or fuel or field garden allotment

A local authority intending to acquire land for either of these purposes in connection with the acquisition of land under subsection (1) must therefore specify in the same order the appropriate subsection (3) acquisition power and purpose.

101. Does an order have to specify which paragraph of section 226(1) it is made under?

101.1 The Secretary of State who has responsibility for housing and planning matters takes the view that an order made under section 226(1) should be expressed in terms of either paragraph (a) or paragraph (b) of that subsection. As these are expressed as alternatives in the legislation, the order should clearly indicate which is being exercised, quoting the

wording of paragraph (a) or (b) as appropriate as part of the description of what is proposed.

102. Can the powers in section 226(1) or 226(3)(a) be used only if the purpose or activity specified in the order is to be taken forward by the acquiring authority itself?

102.1 Section 226(4) (https://www.legislation.gov.uk/ukpga/1990/8/section/226) provides that it is immaterial by whom the authority propose that any activity or purpose mentioned in section 226(1) or 226(3)(a) should be undertaken or achieved. In particular, the authority does not need to undertake an activity or achieve a purpose themselves.

103. In deciding whether to confirm orders made under section 226, does the confirming authority need to take into account all objections?

103.1 Section 245(1) of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/245) provides the confirming authority with the right to disregard objections to compulsory purchase orders made under section 226 of that Act which, in its opinion, amount to an objection to the provisions of the development plan.

104. Can Crown land be compulsorily purchased?

104.1 Sections 293 (https://www.legislation.gov.uk/ukpga/1990/8/section/293) and 226(2A) of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/226) apply where a local authority with planning powers proposes to acquire land compulsorily under section 226 in which the Crown has an interest. The Crown's interest cannot be acquired compulsorily under section 226, but an interest in land held otherwise than by or on behalf of the Crown may be acquired with the agreement of the appropriate body. This might arise, for example, where a government department which holds the freehold interest in certain land may agree that a lesser interest, perhaps a lease or a right of way may be acquired compulsorily and that that interest may, therefore, be included in the order. For further advice about the purchase of interests in Crown land (see Section 22 of this guidance.

Section 226(1)(a)

105. Does the development, redevelopment or improvement (which includes regeneration) scheme need to be taking place on the land to be acquired?

105.1 The scheme of development, redevelopment or improvement (which includes regeneration) for which the land needs to be acquired does not necessarily have to be taking place on that land so long as its acquisition can be shown to be essential to the successful implementation of the scheme. This could be relevant, for example, in an area of low housing demand where property might be being removed to facilitate replacement housing elsewhere within the same neighbourhood.

106. Are there any limitations on the use of this power?

106.1 The wide power in section 226(1)(a) is subject to the restriction under section 226(1A). This provides that the local authority must not exercise the power unless they think that the proposed development, redevelopment or improvement (which includes regeneration) is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the area for which the local authority has administrative responsibility.

106.2 The benefit to be derived from exercising the power is not restricted to the area subject to the compulsory purchase order, as the concept is applied to the well-being of the whole (or any part) of the local authority's area.

107. What justification is needed to support a compulsory purchase order to acquire land compulsorily under section 226(1)(a)?

107.1 Any programme of land assembly needs to be set within a clear strategic framework and this will be particularly important when demonstrating the justification for acquiring land compulsorily under section 226(1)(a). Such a framework will need to be founded on an appropriate evidence base and to have been subjected to consultation processes, including those whose property is directly affected.

107.2 Whilst it is not expected that all impediments to the delivery of a scheme will have been removed or overcome by the point at which the decision on the confirmation of compulsory purchase order is made, the planning framework providing the justification for the order should be as detailed as possible to demonstrate that there are unlikely to be planning or other impediments to the implementation of the scheme following the confirmation decision being made.

107.3 Where the justification for a scheme is linked to proposals identified in a development plan document which has been through the consultation processes but has either not yet been examined or is awaiting the recommendations of the inspector, this will be given due weight.

107.4 Where the local plan is out of date, it may well be appropriate to take account of more detailed proposals being prepared on a non-statutory basis with the intention that they will be incorporated into the local plan at the appropriate time. Where such proposals are being used to provide additional justification and support for a particular order, there should be clear evidence that all those who might have objections to the underlying proposals in the supporting non-statutory plan have had an opportunity to have them taken into account by the body promoting that plan, whether or not that is the authority making the order. In addition, the National Planning Policy Framework is a material consideration in all planning decisions and should be taken into account.

108. Do full details of a scheme need to be worked up before a local authority can proceed with a compulsory purchase order?

108.1 It may not always be feasible or sensible to wait until the full details of the scheme have been worked up, and planning permission obtained, before proceeding with the order. Furthermore, in cases where the proposed acquisitions form part of a longer-term strategy which needs to be able to cope with changing circumstances, it may not always be possible to demonstrate with absolute clarity or certainty the precise nature of the end use proposed. It may also be necessary to assemble land before removing or overcoming certain impediments to maximise the opportunities that exist for the area and to attract investment. In all such cases the responsibility will lie with the local authority to put forward a compelling case for acquisition in advance of resolving all the uncertainties.

108.2 The confirming authority will expect the statement of reasons accompanying the submission of the compulsory purchase order to include a summary of the planning framework for the land concerned in sufficient detail to give reassurance of the use of the land following acquisition and the justification for the timing of the acquisition.

109. What factors will the confirming authority take into account in deciding whether to confirm a compulsory purchase order under section 226(1)(a)?

109.1 Any decision about whether to confirm an order made under section 226(1)(a) will be made on its own merits, but the factors which the confirming authority can be expected to consider include:

- whether the purpose for which the land is being acquired fits in with the development plan for the area (including the adopted local plan for the area or, where no such up to date local plan exists, with the draft local plan) and the National Planning Policy Framework (https://www.gov.uk/guidance/national-planning-policy-framework)
- the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area
- whether the purpose for which the local authority is proposing to acquire the land could be achieved by any other means. This may include considering the appropriateness of any alternative proposals put forward by the owners of the land, or any other persons, for its reuse (see below). It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired
- the potential financial viability of the scheme for which the land is being acquired. A general indication of funding intentions, and of any commitment from third parties, will usually suffice to reassure the confirming authority that there is a reasonable prospect that the scheme will proceed. The greater the uncertainty about the financial viability of the scheme, however, the more compelling the other grounds for undertaking the compulsory purchase will need to be. The timing of any available funding may also be important. For example, a strict time limit on the

availability of the necessary funding may be an argument put forward by the local authority to justify proceeding with the order before finalising the details of the replacement scheme and/or the statutory planning position

110. What does the confirming authority have to consider where there are other proposals for the use of land contained within a compulsory purchase order?

110.1 Where the owners of land or other parties have their own proposals for the use or development of land contained within a compulsory purchase order, considerations for the confirming authority will include whether the alternative proposals fit with the objectives of the local authority or deliver better outcomes when judged against the relevant purposes set out in section 226 of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/226).

110.2 Another consideration could be whether the alternative proposals are capable of being or likely to be implemented in a timely manner, taking into account other relevant factors including:

- the land's ownership and the ability for the current ownership to bring forward the relevant proposal
- any previous attempts to bring forward development, redevelopment or improvement (which includes regeneration) on the land
- the condition of the relevant land

However, there may be circumstances where, despite there being a reasonable alternative proposal, acquisition by the local authority is appropriate and in the public interest to best achieve the objectives of the local authority.

Section 2: Advice on Section 121 of Local Government Act 1972

111. What can the general compulsory purchase powers for local authorities be used for?

111.1 The general power of compulsory purchase at section 121 of the Local Government Act 1972 (https://www.legislation.gov.uk/ukpga/1972/70/section/121) can (subject to certain constraints) be used by local authorities in conjunction with other enabling powers to acquire land compulsorily for the stated purpose. It may also be used where land is required for more than one function and no precise boundaries between uses are defined.

111.2 Section 121 can also be used to achieve compulsory purchase in conjunction with section 120 of the Local Government Act 1972. Section 120 provides a general power for a principal council i.e. a county, district or London borough council to acquire land by agreement for a statutory function in respect of which there is no specific land acquisition power or where land is intended to be used for more than one function.

111.3 Some of the enabling powers in legislation (in the enabling act) for local authorities to acquire land by agreement for a specific purpose do not include an accompanying power of compulsory purchase, for example:

- public walks and pleasure grounds – section 164 of the Public Health Act 1875 (https://www.legislation.gov.uk/ukpga/Vict/38-39/55/section/164)
- public conveniences – section 87 of the Public Health Act 1936 (https://www.legislation.gov.uk/ukpga/Geo5and1Edw8/26/49/section/87)
- cemeteries and crematoria – section 214 of the Local Government Act 1972 (https://www.legislation.gov.uk/ukpga/1972/70/section/214)
- recreational facilities – section 19 of the Local Government (Miscellaneous Provisions) Act 1976 (https://www.legislation.gov.uk/ukpga/1976/57/section/19)
- refuse disposal sites – section 51 of the Environmental Protection Act 1990 (https://www.legislation.gov.uk/ukpga/1990/43/section/51)
- land drainage – section 62(2) of the Land Drainage Act 1991 (https://www.legislation.gov.uk/ukpga/1991/59/section/62)

111.4 In addition, section 125 contains a general power for a district council to acquire land compulsorily (subject to certain restrictions) on behalf of a parish council which is unable to purchase by agreement land needed for the purpose of a statutory function.

112. What considerations apply in relation to making and submitting an order under Part 7 of the Local Government Act 1972?

112.1 The normal considerations in relation to making and submission of a compulsory purchase order, as described in Section 16: Preparing and serving the order and its notices, would apply to orders relying upon section 121 or section 125. These include the requirement that compulsory purchase should only be used where there is a compelling case in the public interest.

113. Who is the confirming authority for orders under Part 7 of the Local Government Act 1972?

113.1 The confirming authority for orders under Part 7 of the 1972 Act (https://www.legislation.gov.uk/ukpga/1972/70/part/VII) is the Secretary of State who has responsibility for housing and planning matters.

114. What information should be included in orders under sections 121 or 125 about the acquisition power?

114.1 Paragraph 1 of the order should cite the relevant acquisition power (section 121 or 125) and state the purpose of the order, by reference to the enabling act under which the purpose may be achieved.

114.2 Where practicable, the words of the relevant section(s) of the enabling act(s) should be inserted into the prescribed form of the order (see Note (f) to Forms 1 to 3 in the Schedule to the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2024/473/schedule/made)[footnote 16]). For example:

'…. the acquiring authority is under section 121 [125] of the Local Government Act 1972 hereby authorised to purchase compulsorily [on behalf of the parish council of ……] the land described in paragraph 2 for the purpose of providing premises for use as a recreation/community centre under section 19 of the Local Government (Miscellaneous Provisions) Act 1976.'

115. What restrictions are there to the use of the powers under sections 121 and 125?

115.1 Section 121(2) sets out certain purposes for which principal councils may not purchase land compulsorily under section 121 as follows:

(a) for the purposes specified in section 120(1)(b), i.e. the benefit, improvement or development of their area. Councils may consider using their acquisition powers under the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/contents) for these purposes

(b) for the purposes of their functions under the Local Authorities (Land) Act 1963 (https://www.legislation.gov.uk/ukpga/1963/29/contents)

(c) for any purpose for which their power of acquisition is expressly limited to acquisition by agreement only, e.g. section 9(a) of the Open Spaces Act 1906 (https://www.legislation.gov.uk/ukpga/Edw7/6/25/section/9)

There are similar limitations in section 125(1) for orders made by district councils on behalf of parish councils.

116. What should a district council consider in deciding whether to make an order on behalf of a parish council?

116.1 The district council should have regard to the representations made to them by the parish council in seeking to get them to make such an order and to all the other matters set out in section 125.

117. What restrictions are there on a district council's power to make an order on behalf of a parish council?

117.1 A district council may not acquire land compulsorily on behalf of a parish council for a purpose for which a parish council is not, or may not be, authorised to acquire land, e.g. section 226 of the Town and Country Planning Act 1990 (see subsections (1) and (8)).

117.2 Section 125 also does not apply where the purpose of the order is to provide allotments under the Smallholdings and Allotments Act 1908. In such a case, by virtue of section 39(7) of the 1908 act, the district council should purchase the land compulsorily, on behalf of the parish council, under section 25 of that Act.

118. What happens if a district council refuses to make an order on behalf of a parish council or does not make one within required time period?

118.1 If a district council refuses to make an order under section 125, or does not make one within 8 weeks of the parish council's representations or within such an extended period as may be agreed between the 2 councils, the parish council may petition the Secretary of State who has responsibility for housing and planning matters, who may make the order.

118.2 Where an order is made by the Secretary of State in such circumstances, section 125 and the Acquisition of Land Act 1981 apply as if the order had been made by the district council and confirmed by the Secretary of State.

119. Can a single order be made by more than one authority and covering mixed purposes, and if so, how is it confirmed?

119.1 A single order may be made under section 121 of the Local Government Act 1972 by more than one council and for more than one purpose.

119.2 Where this would involve more than one confirming authority, the order may be submitted to one Secretary of State but it has to be processed through all the relevant government departments, involving concerted action by them.

119.3 Where an inquiry is required or is considered to be appropriate, the inspector's report will be submitted to each of the departments simultaneously and the decision will be given by the relevant confirming authorities acting together.

120. Can a district council make an order on behalf of more than one parish council?

120.1 A district council may also make an order on behalf of more than one parish council. Such an order might, for example, be made under section 125, for the purposes of section 214, on behalf of several parish councils which form a joint burial committee in the area of the district council.

121. What does a parish council need to consider before asking a district council to make an order on its behalf?

121.1 A parish council should consider very carefully whether it has the necessary resources to carry out a compulsory purchase of land. A district council which makes an order on behalf of a parish council may (and, in the case of an order made under the Allotments Act 1908, shall) recover from the parish council the expenses which it has incurred. This includes:

- the administrative expenses and costs of the inquiry
- the inquiry costs awarded to successful statutory objectors, should the order not be confirmed, or confirmed in part
- statutory compensation including, where appropriate, any additional disturbance, home loss, or other loss payments, to which the dispossessed owners may be entitled
- any compensation for injurious affection payable to adjoining owners who may be entitled to claim

121.2 When considering whether to confirm or make an order, the Secretary of State will have regard to questions concerning the ability of the parish council to meet the costs of purchasing the land at market value and to carry forward the scheme for which the order has been or would be made.

Section 3: Homes England

122. What compulsory purchase powers does Homes England have?

122.1 Homes England (https://www.gov.uk/government/organisations/homes-england) has compulsory purchase powers to acquire land and new rights over land under subsections (2) and (3) of section 9 of the Housing and Regeneration Act 2008 (https://www.legislation.gov.uk/ukpga/2008/17/section/9).

123. When can Homes England use its compulsory purchase powers?

123.1 Homes England can use its powers to make a compulsory purchase order to facilitate the achievement of its objects set out in section 2 of the Housing and Regeneration Act 2008 (https://www.legislation.gov.uk/ukpga/2008/17/section/2). These are:

- to improve the supply and quality of housing in England
- to secure the regeneration or development of land or infrastructure in England
- to support in other ways the creation, regeneration or development of communities in England or their continued wellbeing
- and to contribute to the achievement of sustainable development and good design in England

with a view to meeting the needs of people living in England.

123.2 Where Homes England decides to make a compulsory purchase order, it will be submitted for confirmation to the Secretary of State who has responsibility for housing and planning matters in their role as confirming authority in the way set out in Tier 3 of this guidance.

123.3 The Localism Act 2011 (https://www.legislation.gov.uk/ukpga/2011/20/contents) amended the Greater London Authority Act 1999 (https://www.legislation.gov.uk/ukpga/1999/29/contents) so that Homes England's activities in London are now the responsibility of the Mayor of London to undertake.

124. Why does Homes England have compulsory purchase powers?
124.1 Homes England is tasked with supporting private and public sector bodies to deliver housing and regeneration priorities throughout England by providing land, funding and expertise. Homes England's wide powers to compulsorily acquire land can, subject to the usual safeguards, ensure that activities undertaken for the purpose of, or incidental to, its object (such as the delivery of housing or infrastructure and associated enabling works, mitigation measures, ecological works) can take place in the right place at the right time, including to encourage its development by others by giving the market confidence that sites will be assembled.

124.2 The powers can also help Homes England achieve its role of facilitating the delivery of strategic and locally important sites, and of assisting other public and private sector delivery bodies including, for example, by taking a role in assembling land in an area where there is a development corporation or where a development corporation is being established.

125. How does Homes England justify the use of its compulsory purchase powers?
125.1 Homes England must demonstrate that:

- the proposed acquisition is for the purposes (or 'objects') set out in section 2 of the Housing and Regeneration Act 2008 (https://www.legislation.gov.uk/ukpga/2008/17/section/2) (see When can Homes England use its compulsory purchase powers?)
- there is a compelling case in the public interest for the making of a compulsory purchase order (see When should compulsory purchase powers be used?)

125.2 Homes England should also demonstrate that the proposed acquisition contributes to towards achieving the objectives of its Strategic Plan and that it is consistent with national planning policies or other

national, regional or local housing or regeneration strategies or initiatives (including the relevant development plan for the area concerned).

125.3 The justification should be included in the statement of reasons for the compulsory purchase order and preferably backed by a development framework or masterplan which has been endorsed by Homes England's Board.

125.4 It is not expected that all impediments to the delivery of a proposed scheme will have been removed or overcome by the point at which Homes England decide to make a compulsory purchase order. However, it may not always be feasible or sensible to wait for all impediments to the delivery of a proposed scheme to be resolved or overcome by the point at which the compulsory purchase order is made. For example, it may be necessary to assemble land via the making of a compulsory purchase order prior to removing or overcoming the following impediments to maximise the opportunities that exist for an area:

- lack of planning permission for the proposed scheme
- not having a site allocation in the development plan
- not completing all statutory procedures such as highways stopping-up orders

Such impediments should not prevent Homes England from taking steps to stimulate wider market investment and confidence. In such a case, the justification for the making of a compulsory purchase order could rely on matters such as:

- national or strategic planning policy or policies in an adopted development plan document, or
- particularly where there is no current adopted local plan, or where local plan policy is out of date, a comprehensive development framework or masterplan which has been consulted upon and endorsed by Homes England's Board. 125.5 The circumstances in which Homes England may decide to make a compulsory purchase order in advance of seeking planning permission include where:
- early action is needed to assemble land for schemes of strategic national, regional or local importance
- there is a need to create market confidence
- the delivery of the public benefits associated with a comprehensive approach to development would be put at risk if development was to proceed in a piecemeal way

125.6 Where impediments have yet to be resolved or overcome, Homes England should demonstrate why compulsory acquisition is necessary at that point in time, explain how the use of the powers would help promote the

achievement of its statutory objects, and show that the implementation of the scheme following the confirmation decision being made is unlikely to be blocked by any physical or legal impediments.

125.7 In all cases, Homes England will be expected to demonstrate it has reasonably firm intensions as to the proposed use of the land. Where the land is required for a defined end use or to provide essential infrastructure or mitigation measures (including among other things to achieve biodiversity net gain) to facilitate housing, regeneration or economic development, Homes England will also normally be expected to have a long-term strategic need for the land.

125.8 When preparing and justifying the making of a compulsory purchase order, Homes England should have regard to the general advice available in Tier 1 of this guidance.

126. Can Homes England compulsorily acquire land even if it has no specific development proposals in place?

126.1 To achieve its statutory purposes (objects), it may be appropriate for Homes England to compulsorily acquire land for development or regeneration even though there is no planning permission and no specific detailed development proposals in place. Homes England does not usually undertake extensive building of development itself. Instead, it often provides assistance for a scheme by stimulating private sector investment and market confidence. Therefore, in some circumstances, it may be counterproductive for Homes England, through for example submitting a planning application, to predetermine what private sector development should take place once the land has been assembled.

126.2 There will be cases where Homes England will need to use its powers before detailed proposals have been developed due to a need to assemble land and interests to help provide confidence that a deliverable and/or investable proposition will be brought to the market. Also, Homes England may want to retain flexibility in the form and nature of the emerging proposals to assist market delivery of the scheme.

126.3 Nevertheless, when using its compulsory purchase powers, Homes England will still need to provide adequate justification and show that:

- the compulsory acquisition is supported by reasonably firm proposals or a long-term strategic need for the land
- the compulsory acquisition will achieve a clearly defined and deliverable objective in support of the achievement of its objectives in its Strategic Plan
- there is a compelling case in the public interest for the making of a compulsory purchase order

127. How will the confirming authority decide whether to confirm Homes England's compulsory purchase order?

127.1 To reach a decision about whether to confirm a compulsory purchase order made under section 9 of the Housing and Regeneration Act 2008 (https://www.legislation.gov.uk/ukpga/2008/17/section/9), the confirming authority will keep the following in mind:

- whether Homes England has demonstrated that the acquisition of the land will help further its statutory purposes (objects)
- the general considerations identified in the Tier 1, Stage 4 general advice in this guidance on the consideration of the compulsory purchase order
- any guidance and directions which may be given under section 46 and/or section 47 of the Housing and Regeneration Act 2008 or otherwise issued by the Secretary of State
- whether the compulsory purchase of the land supports the activities described in Homes England's statement of reasons which accompanies the compulsory purchase order
- whether the compulsory purchase of the land supports the achievement of Homes England's objectives in its Strategic Plan

127.2 The confirming authority will also take other factors into consideration, depending on whether Homes England has specific proposals for the development or regeneration of the land or it wishes to acquire the land to stimulate private sector investment:

a) if Homes England has specific proposals for the land

If Homes England has proposals for the development or regeneration of the land that it wishes to acquire through compulsory purchase, the confirming authority will also consider

- the effect on the surrounding area that the purchase of the land by Homes England will have in terms of stimulating and/or maintaining the regeneration of the area, and/or being a catalyst for other development in the area
- if Homes England intends to carry out direct development, whether this would displace or disadvantage private sector development or investment without proper justification and that the objects of Homes England cannot be achieved by any other means
- the quality and sustainability of Homes England's proposals for the land and the timetable for completing those proposals

b) if Homes England does not have specific proposals for the land

If Homes England proposes to acquire the land for the purpose of providing confidence to the market that development, regeneration and/or

infrastructure will be deliverable to stimulate private sector investment, the confirming authority will also have regard to the fact that it will not always be possible or desirable to have specific proposals for the land included in the compulsory purchase order (beyond any broad support in the context of its Strategic Plan or any justification given in statement of reasons accompanying the compulsory purchase order). However, the confirming authority will still want to be reassured that:

- there is a realistic prospect of the land being brought into beneficial use within a reasonable timeframe
- Home England can show that the use of its compulsory purchase powers is clearly in the public interest

c) where there are alternative proposals for the use of land included within a compulsory purchase order

Where landowners or other parties have their own proposals for the use or development of land which has been included within a compulsory purchase order, considerations for the confirming authority on whether there is a compelling case for the compulsory acquisition of the land by Homes England will include:

- whether such alternative proposals are likely to be, or are capable of being, implemented (including consideration of the experience and capability of the landowner or developer and any previous track record of delivery)
- the extent to which the alternative proposals may prejudice the delivery of comprehensive proposals being promoted by Homes England or may result in a reduced level of public benefits when compared to the proposals being advanced by Homes England
- how the alternative proposals fit with Homes England's scheme or Strategic Plan
- the land's ownership and the ability for the current owners to bring forward the relevant proposal
- any previous attempts to bring forward development, redevelopment or regeneration on the land
- the condition of the relevant land

However, there may be circumstances where, despite the adequacy of an alternative proposal, acquisition by Homes England may be in the public interest in order to optimise the public benefits for the area. Further, notwithstanding a landowner's willingness to take forward their own proposals, it may be considered by Homes England that it would be more appropriate for it to acquire the land.

For example, this could be where Homes England seeks to deliver a comprehensive scheme and only through fully assembling all of the necessary land will the public benefits be optimized, or where the landowner's inaction could risk the timely delivery of development or regeneration, or where leaving land with the existing owner(s) may have a negative impact on market confidence and interest.

Section 4: Urban Development Corporations

128. What is the purpose of an urban development corporation?
128.1 An urban development corporation is set up under section 135 of the Local Government, Planning and Land Act 1980 ('the Act') (https://www.legislation.gov.uk/ukpga/1980/65/section/135) with the object, as set out in section 136(1) of the Local Government, Planning and Land Act 1980 (https://www.legislation.gov.uk/ukpga/1980/65/section/136), of securing the regeneration of the relevant urban development area. Under section 134(1) of the Local Government, Planning and Land Act 1980 (https://www.legislation.gov.uk/ukpga/1980/65/section/134), an area of land may be designated as an urban development area if the Secretary of State is satisfied that it is expedient in the national interest to do so. An urban development area is likely to have been designated because it contains significant areas of land not in effective use, suffered extensive dereliction and be unattractive to existing or potential developers, investors and residents. The acquisition of land and buildings by compulsory purchase is one of the main ways in which an urban development corporation can take effective steps to secure its statutory objectives.

129. How can regeneration be achieved?
129.1 Section 136(2) of the of the Local Government, Planning and Land Act 1980 (https://www.legislation.gov.uk/ukpga/1980/65/section/136) indicates regeneration can be achieved particularly by:

- bringing land and buildings into effective use
- encouraging the development of existing and new industry and commerce
- creating an attractive environment
- ensuring that housing and social facilities are available to encourage people to live and work in the area

130. What powers does an urban development corporation have under the of the Local Government, Planning and Land Act 1980?
130.1 Subject to any limitations imposed under section 137 (https://www.legislation.gov.uk/ukpga/1980/65/section/137) or section 138 (https://www.legislation.gov.uk/ukpga/1980/65/section/138), section 136(3) of the

Act (https://www.legislation.gov.uk/ukpga/1980/65/section/136) provides an urban development corporation can acquire, hold, manage, reclaim and dispose of land, and carry out a variety of incidental activities. The compulsory purchase powers are set out in section 142 of the Act (https://www.legislation.gov.uk/ukpga/1980/65/section/142). They cover both land and 'new rights' over land (as defined in section 142(4)) and, in the circumstances described in section 142(1)(b) and (c), their exercise may extend outside the urban development corporation's area.

131. What compulsory purchase powers are available to urban development corporations?

131.1 It is for an urban development corporation to decide how best to use its land acquisition powers, having regard to this guidance. The compulsory purchase powers available to urban development corporations to assist with urban regeneration are expressed in broad terms.

131.2 While an urban development corporation should acquire land by agreement wherever possible, it is recognised that this may not always be practicable, for example, in terms of timings for the delivery of a scheme. It is for an urban development corporation to decide how best to use its land acquisition powers and it may sometimes be necessary to use its power to make a compulsory purchase order at the same time as attempting to purchase land by agreement.

132. Do urban development corporations have to predetermine what development will take place on land before it is acquired?

132.1 To achieve its objectives, it may sometimes be necessary for an urban development corporation to assemble land for which it has wider comprehensive development objectives. Urban development corporations are expected to achieve their objectives largely by stimulating and attracting greater private sector investment and market confidence. Although they have the power to undertake extensive development themselves, they may procure development partners to achieve their objectives. Urban development corporation ownership of land can also stimulate confidence that regeneration will take place and help to secure investment. Urban development corporations can often bring about regeneration by assembling land and providing infrastructure over a wide area to secure or encourage its development by others.

133. What will the confirming authority consider when reaching a decision on whether to confirm a compulsory purchase order made under section 142 of the Local Government, Planning and Land Act 1980?

133.1 In reaching a decision on whether to confirm a compulsory purchase order made under section 142 of the Act (https://www.legislation.gov.uk/ukpga/1980/65/section/142), the confirming authority will:

- take into account the statutory objectives of the urban development corporation set out in What is the purpose of an urban development corporation?
- consider amongst other things

i. whether the urban development corporation has demonstrated that the land is needed to further its objectives

ii. whether the proposed use of the land by the urban development corporation would be in accordance with the powers in relation to land that it has under section 136

iii. what alternative proposals (if any) have been put forward by the owners of the land or other persons for regeneration

iv. whether regeneration is on balance more likely to be achieved if the land is acquired by the urban development corporation

v. the recent history and condition of the land

vi. any comprehensive master-planning or development proposals for the urban development corporation area

133.2 Where a landowner indicates a willingness to implement a scheme on their land in accordance with the objectives of the urban development corporation then, subject to the further guidance in this section, the urban development corporation would be expected to attempt to secure a commitment in writing from the landowner that their scheme will be delivered in a timely manner.

133.3 If it is not possible to secure such a commitment, and otherwise attempts at the voluntary acquisition of the land have been unsuccessful, the urban development corporation may consider it expedient to make a compulsory purchase order providing there is a compelling case in the public interest to do so in order to secure the relevant land for appropriate regeneration and to enable timely delivery.

133.4 However, there may also be instances where, notwithstanding a landowner's willingness to take forward a scheme in line with the general objectives of the urban development corporation, it is considered by the urban development corporation that it would be more appropriate for it to acquire the land. For example, where the urban development corporation is looking to include the land as part of a comprehensive scheme and only through fully assembling all of the necessary land will the objectives of the urban development corporation be delivered most effectively.

133.5 It may be counterproductive for an urban development corporation to predetermine what private sector development should take place before land has been assembled.

133.6 Land will often be suitable for a variety of uses and the market may change rapidly as implementation proceeds.

133.7 Nevertheless, when making a compulsory purchase order, an urban development corporation will be expected to show there is a compelling case in the public interest which is supported by reasonably firm proposals or a long-term strategic need for the land and a clearly defined objective which is supported by the planning framework for the urban development corporation area.

134. What level of detail do urban development corporations need to provide when making a compulsory purchase order?

134.1 The confirming authority recognises that given their specific duty to regenerate their areas, it will not always be possible for urban development corporations to have specific, detailed proposals for the land included in a compulsory purchase order beyond their general planning framework for the regeneration of the area.

134.2 The confirming authority will expect the statement of reasons accompanying the submission of the compulsory purchase order to include a summary of the planning framework for the land concerned in sufficient detail to give reassurance of the use of the land following acquisition and the justification for the timing of the acquisition.

134.3 It is not expected that all impediments to the delivery of a scheme will have been resolved or overcome by the point at which the decision on the confirmation of compulsory purchase order is made. However, it may not always be feasible or sensible to wait for all impediments to the delivery of a proposed scheme to be resolved or overcome by the point at which the compulsory purchase order is made. For example, it may be necessary to assemble land via the making of a compulsory purchase order before resolving or overcoming impediments to maximise the opportunities that exist for the area.

134.4 In all cases, urban development corporations will be expected to:

(a) provide evidence to support the case for the acquisition in the context of its development strategy

(b) demonstrate there is a compelling case in the public interest for the making of a compulsory purchase order and that there is a real prospect of the land being brought into beneficial use within a reasonable timeframe

(c) where impediments are yet to be resolved or overcome, show why compulsory acquisition is necessary at that point in time to maximise the opportunities which exist for the regeneration of the relevant urban development corporation area, explain how the use of the powers would help promote the achievement of the urban development corporation objectives, and show that the implementation of the scheme following the

confirmation decision being made is unlikely to be blocked by any physical or legal impediments

(d) evidence why it has not been possible, or would not be practicable, to secure the commitments of the landowner for the regeneration of the relevant land in accordance with the objectives and timescales of the urban development corporation without the making of a compulsory purchase order or otherwise securing the acquisition of the land by voluntary agreement

135. What does the confirming authority have to consider where there are other proposals for the use of land contained within a compulsory purchase order?

135.1 Where the owners of land or other parties have their own proposals for the use or development of land contained within a compulsory purchase order, it will be necessary for the confirming authority to consider whether these are capable of being or likely to be, implemented, taking into account the planning position, how long the land has been unused, and how the alternative proposals may conflict with the objectives of the urban development corporation.

135.2 Another consideration will be whether the alternative proposals are capable of being or likely to be implemented in a timely manner, taking into account other relevant factors including:

- the land's ownership and the ability for the current ownership to bring forward the relevant proposal
- any previous attempts to bring forward regeneration on the land
- the condition of the relevant land

135.3 However, as outlined above, there may be circumstances where, despite there being a reasonable alternative proposal, acquisition by the urban development corporation may be appropriate and in the public interest to deliver most effectively the objectives of the urban development corporation.

136. When an urban development corporation submits a compulsory purchase order for confirmation can they include a direction applying section 14A of the Land Compensation Act 1961?

136.1 Where an urban development corporation submits a compulsory purchase order to the confirming authority which is made under section 142 of the Local Government, Planning and Land Act 1980, it may include in the order a direction that compensation is to be assessed in accordance with section 14A of the Land Compensation Act 1961 (cases where prospect of planning permission to be ignored) providing provision of affordable housing is to be facilitated by the scheme underlying the compulsory purchase order (see Section 27: Compulsory purchase orders which include directions to

remove the prospects of planning permission from the assessment of compensation).

137. What is the effect of the confirmation of an urban development corporation compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 include?
137.1 Where an urban development corporation compulsory purchase order is confirmed with a direction applying section 14A of the Land Compensation Act 1961 included, the effect will be as described in What is the effect of the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?

Section 5: New Town Development Corporations

138. What is the purpose of a new town development corporation?
138.1 A new town development corporation can be established under section 3 of the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/section/3) for the purposes of developing a new town. The objects of a new town development corporation, as set out in section 4(1) of the New Towns Act 1981, are to secure the laying out and development of the new town in accordance with proposals approved under the New Towns Act 1981. In pursuing those objects, new town development corporations must aim to contribute to the achievement of sustainable development, having particular regard to the desirability of good design (see sections 4(1A) and (1B) of the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/section/4)).

138.2 An area can be designated as the site of a proposed new town under section 1 of the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/section/1) where the Secretary of State is satisfied, after consulting with any local authorities who appear to the Secretary of State to be concerned, that it is expedient in the national interest for that area to be developed as a new town by a new town development corporation.

138.3 The development of new towns has traditionally been overseen by the Secretary of State who has responsibility for housing and planning matters. However, under section 1A of the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/section/1A) the Secretary of State may appoint one or more local authorities (an ‘oversight authority’) to oversee the development of the area as a ‘locally-led’ new town. Where an oversight authority is appointed a number of functions that would otherwise be exercisable by the Secretary of State are instead exercisable by the oversight authority – as provided for by the New Towns Act 1981 (Local

Authority Oversight) Regulations 2018 (https://www.legislation.gov.uk/uksi/2018/891/contents/made).

138.4 The government has published separate guidance on the process for designating a new town and establishing locally-led new town development corporations (https://www.gov.uk/government/publications/new-towns-act-1981-local-authority-oversight-regulations-2018-guidance).

139. What powers does a new town development corporation have under the New Towns Act 1981?

139.1 Subject to any restrictions imposed under section 5 of the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/section/5), section 4(2) gives new town development corporations the power, among other things, to acquire, hold, manage and dispose of land and other property, and generally to do anything necessary or expedient for the purposes or incidental purposes of the new town.

140. What powers does a new town development corporation have to acquire land?

140.1 The powers of new town development corporations to acquire land are set out in section 10 of the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/section/10). They provide for a new town development corporation to acquire (whether by agreement or by compulsion):

- any land within the area of the new town, whether or not it is proposed to develop that land
- any land adjacent to that area which they require for purposes connected with the development of the new town
- any land, whether adjacent to that area or not, which they require for the provision of services for the purposes of the new town

140.2 The compulsory purchase powers provided for by section 10 of the New Towns Act 1981 apply to all new town development corporations – including in the case of locally-led new towns. Compulsory purchase orders made by new town development corporations (regardless of whether the new town is nationally or locally-led) are subject to confirmation by the Secretary of State who has responsibility for housing and planning matters.

140.3 For nationally-led new towns the new town development corporation must obtain consent from the Secretary of State who has responsibility for housing and planning matters to acquire land by agreement. For locally-led new towns the new town development corporation must obtain consent to acquire land by agreement from the oversight authority, as provided by the New Towns Act 1981 (Local Authority Oversight) Regulations 2018.

141. What is the procedure for a new town development corporation acquiring land compulsorily by a compulsory purchase order?

141.1 The procedure for making a compulsory purchase order under the New Towns Act 1981 is set out in Schedule 4 to that Act (https://www.legislation.gov.uk/ukpga/1981/64/schedule/4).

142. In what circumstances can new town development corporations use their compulsory purchase powers?

142.1 It is for new town development corporations to decide how best to use their land acquisition powers, having regard to this guidance. The compulsory purchase powers available to a new town development corporation in section 10 of the New Towns Act 1981 are expressed in broad terms, and are intended to assist with land assembly that is necessary to carry out its statutory objects of securing the laying out and development of a new town.

142.2 While a new town development corporation should acquire land by agreement wherever possible, it is recognised that this may not always be practicable, for example, in terms of timings for the delivery of the new town. It is for a new town development corporation to decide how best to use its land acquisition powers and it may sometimes be necessary to use its power to make a compulsory purchase order at the same time as attempting to purchase land by agreement.

142.3 New town development corporation ownership of land early in the development process may assist with the proper planning for, infrastructure provision in and sustainable development of, a new town – in pursuit of its statutory objects under sections 4(1), (1A) and (1B) of the New Towns Act 1981.

Specifically, it may help to ensure that developments brought forward using these powers are planned, designed and delivered in a sustainable and holistic way, in which the provision of infrastructure and community facilities are coordinated with the provision of new homes. New town development corporation ownership of land may also provide greater certainty of delivery: helping to stimulate confidence that the new town will proceed, helping to secure infrastructure investment, and thereby helping to promote development.

143. Can new town development corporations acquire land even if they have no specific development proposals in place?

143.1 Section 10(1) of the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/section/10) enables new town development corporations to acquire land (compulsorily or by agreement) within the area of the new town whether or not it is proposed to be developed.

143.2 The Secretary of State who has responsibility for housing and planning matters recognises that to achieve its statutory objects, it will not always be possible for a new town development corporation to have

specific, detailed proposals in place for the land included in a compulsory purchase order.

144. What level of detail do new town development corporations need to provide when seeking an order?

144.1 Given their scale, new towns are likely to be developed over an extended period of time, during which market conditions may change. In this context, the Secretary of State who has responsibility for housing and planning matters recognises that it will not always be possible or desirable for new town development corporations to have fully worked up, and secured approval for, detailed development proposals prior to proceeding with a compulsory purchase order. While the Secretary of State who has responsibility for housing and planning matters will need to be reassured that there is a reasonable prospect of the scheme being funded and the development proceeding, it is also recognised that funding and delivery details will not necessarily have been fully worked up at that stage.

144.2 It is not expected that all impediments to the delivery of a scheme will have been resolved or overcome by the point at which the decision on the confirmation of compulsory purchase order is made. However, it may not always be feasible or sensible to wait for all impediments to the delivery of a proposed scheme to be resolved or overcome by the point at which the compulsory purchase order is made. For example, it may be necessary to assemble land before overcoming impediments to maximise the opportunities that exist for taking forward development proposals relating to a new town.

144.3 Where a new town development corporation does not have detailed proposals for the order lands, it will still be expected to demonstrate a compelling case for acquisition in the context of the planning framework that will guide development of the new town. The new town development corporation needs to be able to show that using compulsory purchase powers is necessary in the public interest and that the acquisition will support investment in and development of the new town.

144.4 The Secretary of State who has responsibility for housing and planning matters will expect the statement of reasons accompanying the submission of the compulsory purchase order to include a summary of the planning framework for the development of the new town in sufficient detail to give reassurance of the use of the land following acquisition and the justification for the timing of the acquisition. Furthermore, that the new town development corporation will be in a position to present evidence at inquiry to support its case for compulsory acquisition.

144.5 While confirmation of a compulsory purchase order is a separate and distinct process from that of designating a new town (https://www.gov.uk/government/publications/new-towns-act-1981-local-authority-oversight-regulations-2018-guidance), the Secretary of State who has responsibility for housing and planning matters acknowledges that evidence

used to support the case for designation in the national interest may also be relevant to justifying the use of compulsory purchase powers in the public interest under section 10 of the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/section/10).

145. What factors will the Secretary of State take into account in deciding whether to confirm a compulsory purchase order under section 10 of the New Towns Act 1981?

145.1 Any decision about whether or not to confirm a compulsory purchase order will be made on its individual merits, but the factors which the Secretary of State who has responsibility for housing and planning matters can be expected to consider include:

- the statutory objects of the new town development corporation
- whether the purpose(s) for which the order lands are being acquired by the new town development corporation fits with the planning framework for the new town area
- whether there is a compelling case in the public interest for the making of the compulsory purchase order
- whether the new town development corporation has satisfactorily demonstrated that the order lands are needed to support the overall development of the new town
- the appropriateness of alternative proposals (if any) put forward by the owners of the land or other persons
- where impediments are yet to be resolved or overcome, why compulsory acquisition is necessary at that point in time and how the implementation of the new town scheme following the confirmation decision being made is unlikely to be blocked by any physical or legal impediments

146. What does the Secretary of State have to consider where there are other proposals for the use of land contained within a compulsory purchase order?

146.1 Where objectors put forward alternative proposals for the use or development of land contained within a compulsory purchase order, considerations for the Secretary of State who has responsibility for housing and planning matters will include:

- whether the alternative proposals are likely to be implemented, taking into account the planning position and their promoter’s track record of delivering development proposals on the land
- how the alternative proposals may conflict with objectives of the new town development corporation
- how the alternative proposals may, if implemented, affect
- the delivery of a new town on land designated for that purpose

- the new town development corporation's ability to fulfil its statutory objects (including in relation to achieving sustainable development and good design), and/or the purposes for which it was established

146.2 Another consideration will be whether the alternative proposals are capable of being or likely to be implemented in a timely manner, taking into account other relevant factors including:

- the land's ownership and the ability for the current ownership to bring forward the relevant proposal
- the condition of the relevant land

146.3 However, as outlined above, there may be circumstances where, despite there being a reasonable alternative proposal, acquisition by a new town development corporation may be appropriate and in the public interest to deliver most effectively the objectives of the new town development corporation.

147. How can new town development corporations dispose of the acquired land?

147.1 New town development corporations may dispose of land in such a manner as they deem expedient for securing the development of the new town or for purposes connected with the development of the new town (see section 17 of the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/section/17)).

147.2 Section 18 of the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/section/18) sets out certain requirements in respect of persons who were previously living or carrying on a business on land acquired by the new town development corporation. If such persons wish to obtain accommodation on land belonging to the new town development corporation and are willing to comply with any requirements of the corporation as to its development and use, section 18 requires the corporation, 'so far as practicable, to give them the opportunity to do so.

148. When a new town development corporation submits a compulsory purchase order for confirmation can they include a direction applying section 14A of the Land Compensation Act 1961?

148.1 Where a new town development corporation submits a compulsory purchase order to the Secretary of State who has responsibility for housing and planning matters under Part 1 of Schedule 4 to the New Towns Act 1981, it may include in the order a direction that compensation is to be assessed in accordance with section 14A of the Land Compensation Act 1961 (cases where prospect of planning permission to be ignored) providing provision of affordable housing is to be facilitated by the new town (see Section 27: Compulsory purchase orders which include directions to remove

the prospects of planning permission from the assessment of compensation).

148.2 Where a new town development corporation submits for confirmation a compulsory purchase order which includes a direction that applies section 14A of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14A), the provisions of paragraph 5A in Schedule 4 to the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/schedule/4) will apply or paragraph 5A of Schedule 5 to the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/schedule/5) where the land being acquired is operational land belonging to a statutory undertaker.

149. What is the effect of the confirmation of a new town development corporation compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?

149.1 Where a new town development corporation compulsory purchase order is confirmed with a direction applying section 14A of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14A) included, the effect will be as described in What is the effect of the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?

150. How can a new town development corporation include a direction applying section 14A of the Land Compensation Act 1961 in a compulsory purchase order?

150.1 The relevant wording for including in a new town development corporation compulsory purchase order a direction which applies section 14A of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14A) is set out in the relevant optional paragraphs in Forms 2 and 3 in the Schedule to the New Towns (Compulsory Purchase of Land) Regulations 1977 (as amended) (https://www.legislation.gov.uk/uksi/2024/913/schedule/made)[footnote 17].

151. When a new town development corporation submits an application under Part 1 of Schedule 5 to the New Towns Act 1981, can it include a request for a direction to apply section 14A of the Land Compensation Act 1961?

151.1 Where a new town development corporation submits an application under Part 1 of Schedule 5 to the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/schedule/5), it may include in the application a request for a direction to apply section 14A of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14A) providing provision of affordable housing is to be facilitated by the new town (see Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation). Where such an application is submitted by a new town development corporation, the provisions of

paragraph 5A in Schedule 5 to the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/schedule/5) will apply.

152. What is the effect of a decision by the Secretary of State and appropriate Minister to make a compulsory purchase order on an application submitted under Part 1 of Schedule 5 to the New Towns Act 1981 and included within it a direction applying section 14A of the Land Compensation Act 1961?

152.1 Where the Secretary of State who has responsibility for housing and planning matters and appropriate Minister decide to make a compulsory purchase order on an application submitted under Part 1 of Schedule 5 to the New Towns Act 1981 and included within it is a direction which applies section 14A of the Land Compensation Act 1961, the effect will be as described in What is the effect of the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?

153. How can a new town development corporation include a request for a direction to apply section 14A of the Land Compensation Act 1961 in an application under Part 1 of Schedule 5 to the New Towns Act 1981?

153.1 The relevant wording for requesting a direction to apply section 14A of the Land Compensation Act 1961 in an application under Part 1 of Schedule 5 to the New Towns Act 1981 is set out in the relevant optional paragraphs in Form 7 in the Schedule to the New Towns (Compulsory Purchase of Land) Regulations 1977 (as amended) (https://www.legislation.gov.uk/uksi/2024/913/schedule/made)[footnote 18].

Section 6: Mayoral Development Corporations

154. What is the purpose of a mayoral development corporation?

154.1 A mayoral development corporation is established under Chapter 2 in Part 8 of the Localism Act 2011 (“the 2011 Act”) (https://www.legislation.gov.uk/ukpga/2011/20/part/8/chapter/2) with the statutory object of securing the regeneration of the area for which the mayoral development corporation has been established (section 201(1) of the 2011 Act (https://www.legislation.gov.uk/ukpga/2011/20/section/201)). Provision for establishing mayoral development corporations was originally for Greater London, however, the ability to establish mayoral development corporations has been extended to several combined authorities in other areas of England.

154.2 Section 197(3) of the 2011 Act (https://www.legislation.gov.uk/ukpga/2011/20/section/197) provides the rationale for why an area may be designated as a mayoral development area by the relevant Mayor. In relation to Greater London, it is if the Mayor of London

considers the designation of the area is expedient for furthering any one or more of the Greater London Authority's principal purposes i.e.

(a) promoting economic development and wealth creation in Greater London
(b) promoting social development in Greater London
(c) promoting the improvement of the environment in Greater London

154.3 A similar requirement exists for other mayoral development corporation areas, i.e. the relevant Mayor must consider that the designation of the area is expedient for the purposes of economic development and regeneration in the relevant area (for example, see the York and North Yorkshire Combined Authority Order 2023 (https://www.legislation.gov.uk/uksi/2023/1432/contents) or the North East Mayoral Combined Authority (Establishment and Functions) Order 2024 (https://www.legislation.gov.uk/uksi/2024/402/contents/made)).

154.4 A mayoral development area is likely to have been designated because it contains significant areas of land not in effective use and that may be unattractive to existing or potential developers, investors and occupiers. The acquisition of land and buildings, if necessary by compulsory purchase, is one of the main ways in which a mayoral development corporation can take effective steps to secure its statutory objectives.

154.5 When considering the powers of a mayoral development corporation, it is important to consider the terms of the 2011 Act alongside any relevant statutory instrument that has established the particular mayoral development corporation. The relevant statutory instrument may amend or supplement the terms of the 2011 Act and the relevant powers of that particular mayoral development corporation.

155. What powers does a mayoral development corporation have under the Chapter 2 in Part 8 of the Localism Act 2011?

155.1 As a starting point, under section 201(2) of the 2011 Act (https://www.legislation.gov.uk/ukpga/2011/20/section/201), a mayoral development corporation may do anything it considers appropriate for the purposes of its object (i.e. securing the regeneration of its area) or for purposes incidental to those purposes. A mayoral development corporation may also have further specific powers such as acquiring land by agreement in its area or elsewhere. Likewise, it may have powers to acquire land in its area by compulsory purchase.

156. What compulsory purchase powers are available to mayoral development corporations?

156.1 Under section 207 of the 2011 Act (https://www.legislation.gov.uk/ukpga/2011/20/section/207), a mayoral development corporation can acquire land and rights including compulsorily if authorised to do so by the Secretary of State who has responsibility for housing and planning matters.

156.2 Section 206 of the 2011 Act (https://www.legislation.gov.uk/ukpga/2011/20/section/206) sets out the powers of a mayoral development corporation in relation to land in broad terms. It is for a mayoral development corporation to decide how best to use its land acquisition powers with regard to its powers in relation to land under section 206 and its overall object under section 201 of the Act to secure the regeneration of its area.

156.3 Various parts of the Housing and Regeneration Act 2008 (https://www.legislation.gov.uk/ukpga/2008/17/contents) apply to mayoral development corporations in relation to the use of their compulsory purchase power as they do to the compulsory acquisition of land by Homes England.

156.4 While a mayoral development corporation should acquire land by agreement wherever possible, it is recognised this may not always be practicable, for example, in terms of timings for the delivery of a scheme. It may sometimes be necessary for a mayoral development corporation to use its compulsory purchase power to make a compulsory purchase order at the same time as attempting to purchase an interest in land by agreement.

157. Do mayoral development corporations have to predetermine what development will take place on land before it is acquired?

157.1 To achieve its objectives, it may sometimes be necessary for a mayoral development corporation to assemble land for which it has wider comprehensive development objectives. Mayoral development corporations are expected to achieve their objectives largely by stimulating and attracting greater private sector investment and market confidence. Although they have the power to undertake extensive development themselves, they may procure development partners to achieve their objectives. Mayoral development corporation ownership of land can also stimulate confidence that regeneration will take place and help to secure investment. Mayoral development corporations can often bring about regeneration by assembling land and providing infrastructure over a wide area to secure or encourage its development by others.

158. What will the Secretary of State consider when reaching a decision on whether to confirm a compulsory purchase order made under section 207 of the Localism Act 2011 by a mayoral development corporation?

158.1 In reaching a decision on whether to confirm a compulsory purchase order made under section 207 of the 2011 Act (https://www.legislation.gov.uk/ukpga/2011/20/section/207), the Secretary of State who has responsibility for housing and planning matters will:

- take into account the statutory objectives of the mayoral development corporation set out in What is the purpose of a mayoral development corporation? and the powers that the mayoral development corporation

has in relation to land set out under section 206 of the 2011 Act (https://www.legislation.gov.uk/ukpga/2011/20/section/206)

- consider amongst other things:

i) whether the mayoral development corporation has demonstrated that the land is needed to further those objectives

ii) whether the proposed use of the land by the mayoral development corporation would be in accordance with the powers in relation to land that it has under section 206 of the 2011 Act

iii) what alternative proposals (if any) have been put forward by the owners of the land or other persons for regeneration

iv) whether regeneration is on balance more likely to be achieved if the land is acquired by the mayoral development corporation

v) the recent history and state of the land

vi) any comprehensive master-planning or development proposals for the mayoral development area

158.2 Where a landowner indicates a willingness to implement a scheme on their land in accordance with the objectives of the mayoral development corporation then, subject to the further guidance in this section, the mayoral development corporation would be expected to try to secure a commitment in writing from the landowner that their scheme will be delivered in a timely manner. If it is not possible to secure such a commitment, and otherwise attempts at the voluntary acquisition of the land have been unsuccessful, the mayoral development corporation may consider it expedient to make a compulsory purchase order providing there is a compelling case in the public interest to secure the relevant land for appropriate regeneration and to enable timely delivery.

158.3 However, there may also be instances where, notwithstanding a landowner's willingness to take forward a scheme in line with the general objectives of the mayoral development corporation, it is considered by the mayoral development corporation that it would be more appropriate for it to acquire the land.

For example, where the mayoral development corporation is looking to include the land as part of a comprehensive scheme and only through fully assembling all of the necessary land will the objectives of the mayoral development corporation be delivered most effectively.

158.4 It may be counterproductive for a mayoral development corporation to predetermine what private sector development should take place before land has been assembled. Land will often be suitable for a variety of uses and the market may change rapidly as implementation proceeds.

158.5 Nevertheless, when using its compulsory purchase powers, a mayoral development corporation will be expected to show there is a compelling case in the public interest for the compulsory acquisition which is supported by reasonably firm proposals or a long-term strategic need for the land and a clearly defined objective which is supported by the planning framework for the urban development corporation area.

159. What level of detail do mayoral development corporations need to provide when making a compulsory purchase order?

159.1 The Secretary of State who has responsibility for housing and planning matters recognises that given their specific duty to regenerate their areas, it will not always be possible for mayoral development corporations to have specific, detailed proposals for the land included in a compulsory purchase order beyond their general framework for the regeneration of the area.

159.2 The Secretary of State who has responsibility for housing and planning matters will expect the statement of reasons accompanying the submission of the compulsory purchase order to include a summary of the planning framework for the land concerned in sufficient detail to give reassurance of the use of the land following acquisition and the justification for the timing of the acquisition.

159.3 It is not expected that all impediments to delivery will have been resolved or overcome by the point at which the decision on confirmation of compulsory purchase order is made. However, it may not always be feasible or sensible to wait for all impediments to the delivery of a proposed scheme to be resolved or overcome by the point at which the compulsory purchase order is made. For example, it may be necessary to assemble land before resolving or overcoming impediments in order to maximise the opportunities that exist for the area and to attract investment.

159.4 In all cases, mayoral development corporations will be expected to:

(a) provide evidence to support the case for the acquisition in the context of its development strategy

(b) demonstrate there is a compelling case in the public interest for exercising compulsory acquisition powers and that there is a real prospect of the land being brought into beneficial use within a reasonable timeframe

(c) where impediments are yet to be resolved or overcome, show why compulsory acquisition is necessary at that point in time to maximise the opportunities which exist for the regeneration of the relevant mayoral development area, explain how the use of the powers would help promote the achievement of the mayoral development corporation objectives, and show that the implementation of the scheme following the confirmation decision being made is unlikely to be blocked by any physical or legal impediments

(d) evidence why it has not been possible, or would not be practicable, to secure the commitments of the landowner for the regeneration of the relevant land in accordance with the objectives and timescales of the mayoral development corporation without the making of a compulsory purchase order or otherwise securing the acquisition of the land by voluntary agreement

160. What does the Secretary of State have to consider where there are other proposals for the use of land contained within a compulsory purchase order?

160.1 Where the owners or other parties have their own proposals for the use or development of land contained within a compulsory purchase order, it will be necessary for the Secretary of State who has responsibility for housing and planning matters to consider whether these are capable of being or likely to be, implemented, taking into account the planning position, how long the land has been unused, and how the alternative proposals may conflict with the objectives of the mayoral development corporation.

160.2 Another consideration will be whether the alternative proposals are capable of being or likely to be implemented in a timely manner, taking into account other relevant factors including:

- the land's ownership and the ability for the current ownership to bring forward the relevant proposal
- any previous attempts to bring forward regeneration on the land
- the condition of the relevant land

160.3 However, as outlined above, there may be circumstances where, despite there being a reasonable alternative proposal, acquisition by the mayoral development corporation may be appropriate and in the public interest in order to deliver most effectively the objectives of the mayoral development corporation. ####161. When a mayoral development corporation submits a compulsory purchase order for confirmation can they include a direction applying section 14A of the Land Compensation Act 1961?

161.1 Where a mayoral development corporation submits a compulsory purchase order to the Secretary of State who has responsibility for housing and planning matters which is made under section 207 of the 2011 Act (https://www.legislation.gov.uk/ukpga/2011/20/section/207), it may include in the order a direction that compensation is to be assessed in accordance with ection 14A of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14A) (cases where prospect of planning permission to be ignored) providing provision of affordable housing is to be facilitated by the scheme underlying the compulsory purchase order (see Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation).

162. What is the effect of the confirmation of a mayoral development corporation compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?

162.1 Where a mayoral development corporation compulsory purchase order is confirmed with a direction applying section 14A of the Land Compensation Act 1961 included, the effect will be as described in What is the effect of the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?

Section 7: Powers of local housing authorities for housing purposes and listed buildings in slum clearances

Housing Act 1985: Part 2, Provision of housing accommodation

163. What can the power under Part 2 of the Housing Act 1985 be used for?

163.1 Section 17 of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/section/17) empowers local housing authorities to acquire land, houses or other properties by compulsion for the provision of housing accommodation. Acquisition must achieve a quantitative or qualitative housing gain.

163.2 The main uses of this power have been to assemble land for housing and ancillary development, including the provision of access roads; to bring empty properties into housing use; and to improve substandard or defective properties. Current practice is for authorities acquiring land or property compulsorily to dispose of it to the private sector, housing associations or owner-occupiers.

164. What information should be included with applications for confirmation of orders under section 17?

164.1 When applying for the confirmation of a compulsory purchase order made under Part 2 of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/part/II) the authority should include in its statement of reasons information regarding needs for the provision of further housing accommodation in its area. This information should normally include:

- the total number of dwellings in the district
- the total number of substandard dwellings (i.e. the quantity of housing with Category 1 hazards as defined in section 2 of the Housing Act 2004 (https://www.legislation.gov.uk/ukpga/2004/34/section/2))

- the total number of households and the number for which, in the authority's view, provision needs to be made
- details of the authority's housing stock by type, particularly where the case for compulsory purchase turns on need to provide housing of particular type
- where a compulsory purchase order is made with a view to meeting special housing needs, e.g., of the elderly, specific information about those needs;
- where the authority proposes to dispose of the land or property concerned, details of the prospective purchaser, their proposals for the provision of housing accommodation and when this will materialise, and details of any other statutory consents required
- where it is not possible to identify a prospective purchaser at the time a compulsory purchase order is made, details of the authority's proposals to dispose of the land or property, its grounds for considering that this will achieve the provision of housing accommodation and when the provision will materialise
- where the authority has alternative proposals, it will need to demonstrate that each alternative is preferable to any proposals advanced by the existing owner

165. When does development on land to be acquired for housing development under section 17 need to be completed?

165.1 Section 17(4) of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/section/17) provides that the Secretary of State who has responsibility for housing and planning matters (i.e. the confirming authority) may not confirm a compulsory purchase order unless they are satisfied that the land is likely to be required within 10 years of the date the order is confirmed.

166. Will the confirming authority refuse to confirm an order made under housing powers if it could have been made under planning powers instead?

166.1 Where an authority has a choice between the use of housing or planning compulsory purchase powers the confirming authority will not refuse to confirm a compulsory purchase order solely on the grounds that it could have been made under another power.

166.2 Where land is being assembled under planning powers for housing development, the confirming authority will have regard to the policies set out in this section.

167. When is the acquisition of empty properties for housing use justified?

167.1 Compulsory purchase of empty properties may be justified as a last resort in situations where there appears to be no other prospect of a

suitable property being brought back into residential use. Authorities will first wish to encourage the owner to restore the property to full occupation. However, cases may arise where the owner cannot be traced and therefore use of compulsory purchase powers may be the only way forward.

167.2 When considering whether to confirm such an order the confirming authority will normally wish to know:

- how long the property has been vacant
- what steps the authority has taken to encourage the owner to bring it into acceptable use and the outcome
- what works have been carried out by the owner towards its reuse for housing purposes

168. When is the acquisition of substandard properties justified?

168.1 Compulsory purchase of substandard properties may be justified as a last resort in cases where:

- a clear housing gain will be obtained
- the owner of the property has failed to maintain it or bring it to an acceptable standard
- other statutory measures, such as the service of statutory notices, have not achieved the authority's objective of securing the provision of acceptable housing accommodation

168.2 However, the confirming authority would not expect an owner-occupied house, other than a house in multiple occupation, to be included in a compulsory purchase order unless the defects in the property adversely affected other housing accommodation.

168.3 In considering whether to confirm such a compulsory purchase order the confirming authority will wish to know:

- what the alleged defects in the order property are
- what other steps the authority has taken to remedy matters and the outcome
- the extent and nature of any works carried out by the owner to secure the improvement and repair of the property
- the authority's proposals regarding any existing tenants of the property

169. Are there any limitations on the use of the power under Part 2 of the Housing Act 1985 to acquire property for the purpose of providing housing accommodation?

169.1 The powers do not extend to the acquisition of property for the purpose of improving the management of housing accommodation. A qualitative or quantitative housing gain must be achieved.

169.2 Following the judgment in the case of R v Secretary of State for the Environment ex parte Royal Borough of Kensington and Chelsea (1987) it may, however, be possible for authorities to resort to compulsory purchase under Part 2 where harassment or other grave conduct of a landlord has been such that proper housing accommodation could not be said to exist at the time when the authority resolved to make the compulsory purchase order. Such an order could be justified as achieving a housing gain.

170. Is consent required for the onward disposal of tenanted properties?

170.1 Consent may be required for the onward disposal of tenanted properties which have been compulsorily purchased. Before a local authority can dispose of housing occupied by secure tenants to a private landlord it must consult the tenants in accordance with section 106A of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/section/106A).

170.2 The Secretary of State who has responsibility for housing and planning matters cannot give consent for the disposal if it appears to them that a majority of the tenants are opposed. An authority contemplating onward sale should, therefore, ensure in advance that it has the tenants' support.

171. Can the confirming authority confirm an order where an acquiring authority has given an undertaking that it will not implement the order if the owner subsequently agrees to improve the property?

171.1 Such undertakings are a matter between the acquiring authority and owner, and the confirming authority has no involvement. A compulsory purchase order which is the subject of such an agreement will be considered by the confirming authority on its individual merits. The confirming authority has no powers to confirm an order subject to conditions.

Housing Act 1985: Part 9, Slum clearance

172. What information needs to be submitted with an application for confirmation of a clearance area compulsory purchase order?

172.1 In addition to the general requirements, an authority submitting an order under section 290 of Part 9 of the Housing Act 1985 should only do so after considering all possible options for the area and will be expected to deal with the following matters in their statement of reasons:

- the declaration of the clearance area and its justification including a statement that all other possible options to maintain the clearance area have been considered
- the standard of buildings in the clearance area: incorporating a statement of the authority's principal grounds for being satisfied that the buildings are substandard
- the justification for acquiring any added lands included in the order

- proposals for rehousing and for relocating commercial and industrial premises affected by clearance
- the proposed after use of the cleared site
- where it is not practicable to table evidence of planning permission, the authority should demonstrate that their proposals are acceptable in planning terms and that there appear to be no grounds for thinking that planning permission will not materialise
- how they have fully considered the economic aspect of clearance and that they have responded to any submissions made by objectors regarding that

172.2 General guidance on clearance areas can be found in Housing health and safety rating system enforcement guidance (https://www.gov.uk/government/publications/hhsrs-operating-guidance-housing-act-2004-guidance-about-inspections-and-assessment-of-hazards-given-under-section-9).

172.3 Further information on listed buildings and unlisted buildings in conservation areas which are included in clearance compulsory purchase orders.

Local Government and Housing Act 1989: Part 7, Renewal Areas
173. What can the powers under Part 7 of the Local Government and Housing Act 1989 be used for?
173.1 Section 93(2) of the Local Government and Housing Act 1989 (https://www.legislation.gov.uk/ukpga/1989/42/section/93) can be used by authorities:

- to acquire by agreement or compulsorily premises consisting of, or including, housing accommodation to achieve or secure their improvement or repair
- for their proper and effective management and use
- for the wellbeing of residents in the area

They may provide housing accommodation on land so acquired.

173.2 Authorities acquiring properties compulsorily should consider subsequently disposing of them to owner occupiers, housing associations or other private sector interests in line with their strategy for the Renewal Area. Where property in need of renovation is acquired, work should be completed as quickly as possible in order not to blight the area and undermine public confidence in the overall Renewal Area strategy. In exercising their powers of acquisition authorities will need to bear in mind the financial and other (e.g. manpower) resources available to them and to other bodies concerned.

173.3 Section 93(4) of the Local Government and Housing Act 1989 (https://www.legislation.gov.uk/ukpga/1989/42/section/93) can be used by authorities to acquire by agreement or compulsorily land and buildings for the purpose of improving the amenities in a Renewal Area. This power also extends to acquisition where other persons will carry out the scheme. Examples might include the provision of public open space or community centres either by the authority or by a housing association or other development partner. Demolition of properties should be considered as a last resort only after all other possible options have been considered. In these exceptional cases regard should be had to any adverse effects on industrial or commercial concerns.

173.4 The powers in sections 93(2) and 93(4) of the Local Government and Housing Act 1989 (https://www.legislation.gov.uk/ukpga/1989/42/section/93) are additional powers and are without prejudice to other powers available to local housing authorities to acquire land which might also be used in Renewal Areas.

173.5 The extent to which acquisitions will form part of an authority's programme will depend on the particular area. In some cases strategic acquisitions of land for amenity purposes will form an important element of the programme. However, as a general principle, the confirming authority would not expect to see authorities acquiring compulsorily in order to secure improvement except where this cannot be achieved in any other way. Where acquisition is considered to be essential by an authority, they should first attempt to do so by agreement.

173.6 Where an authority submit a compulsory purchase order under section 93(2) or 93(4) of the Local Government and Housing Act 1989, their statement of reasons for making the order should demonstrate compulsory purchase is considered necessary in order to secure the objectives of the Renewal Area.

173.7 It should also set out the relationship of the proposals for which the order is required to their overall strategy for the Renewal Area; their intentions regarding disposal of the property; and their financial ability, or that of the purchaser, to carry out the proposals for which the order has been made.

Other housing powers

174. Are there any other housing powers under which local authorities can make compulsory purchase orders?

174.1 Compulsory purchase orders can also be made by local authorities under sections 29 (https://www.legislation.gov.uk/ukpga/1985/68/section/29) and 300 of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/section/300) and section 34 of the Housing Associations Act 1985 (https://www.legislation.gov.uk/ukpga/1985/69/section/34). These orders will be considered on their merits in the light of the general requirement that there

should be a compelling case for compulsory purchase in the public interest. The confirming authority will also have regard to the policies set out in this section where applicable.

Listed buildings in slum clearance

175. If a building including in a clearance compulsory purchase order under section 290 of the Housing Act 1985 is subsequently listed will the clearance go ahead?

175.1 This is a matter for the local planning authority concerned. It will need to decide urgently whether the building should be retained because of its special interest, or whether it should proceed with the clearance proposals.

175.2 If the authority favours clearance, it must apply to the Secretary of State for Culture, Media and Sport for listed building consent within 3 months of the date of listing (section 305 of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/section/305)).

176. What happens if the building is listed after the order has been submitted to the Secretary of State for Culture, Media and Sport for confirmation but before a decision is reached?

176.1 If a building in a clearance compulsory purchase order is listed after the order has been submitted to the Secretary of State for Culture, Media and Sport for confirmation, but before the Secretary of State has reached a decision on it, the authority should inform the Secretary of State urgently how it wishes to proceed in the light of listing.

176.2 If it favours retaining the building, the authority should request that the building be withdrawn from the order.

176.3 If the authority applies for listed building consent to demolish, the Secretary of State for Culture, Media and Sport will normally hold a joint local public inquiry at which the compulsory purchase order and the application for listed building consent will be considered together.

177. What happens if the building is listed after the order has been confirmed by the Secretary of State for Culture, Media and Sport?

177.1 If listed building consent is applied for and granted, acquisition, if not completed, can proceed and demolition can follow.

177.2 If listed building consent is refused, or if no application is made within the 3 month period, subsequent action depends on whether or not notice to treat has been served and, if it has, whether the building is vested in the authority:

- if notice to treat has not been served, section 305(2) of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/section/305) prohibits the authority from serving it unless and until the Secretary of State for Culture, Media and Sport gives listed building consent. Refusal of listed building consent or failure to apply for it within the specified period will

effectively release the building from the compulsory purchase order and, where applicable, from the clearance area. In the latter event, the authority must then consider other appropriate action for dealing with unfitness under the housing acts

- if notice to treat has been served before the listing, but acquisition has not been completed before listed building consent is refused or the expiry of the 3 month period, compulsory acquisition may continue, but this will be under the powers contained in Part 2 of the Housing Act 1985 for residential buildings or Part 9 of the Town and Country Planning Act 1990 for other buildings
- if the building is already vested in the authority, it will be appropriated to Part 2 of the 1985 Act (https://www.legislation.gov.uk/ukpga/1985/68/part/II) or Part 9 of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/part/IX) as the case may be

177.3 Local authorities are reminded that Housing health and safety rating system enforcement guidance (https://www.gov.uk/government/publications/hhsrs-operating-guidance-housing-act-2004-guidance-about-inspections-and-assessment-of-hazards-given-under-section-9) advises that listed buildings and buildings subject to a building preservation notice should only be included in clearance areas in exceptional circumstances and only where listed building consent has been given.

178. What happens if the building was purchase by agreement under Part 9 of the Housing Act 1985, or under some other power and now held under Part 9 and is subsequently listed?

178.1 Under section 306 of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/section/306) the authority may apply for listed building consent if it still favours demolition. If consent is refused or not applied for within the specified period of 3 months from the date of listing, the authority is no longer subject to the duty to demolish the building imposed by Part 9 of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/part/IX) and must appropriate it to Part 2 of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/part/II) or Part 9 of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/part/IX) as the case may be.

179. Is planning permission required to demolish an unlisted building in a conservation area where the building is included in a clearance compulsory purchase order?

179.1 In these circumstances demolition is permitted development (subject to article 4 directions and any Environmental Impact Assessment requirements) so an application for planning permission is not required – see What permissions/prior approvals are required for demolition in a conservation area? (https://www.gov.uk/guidance/when-is-permission-required) in planning guidance for further information.

179.2 Where a submitted clearance compulsory purchase order includes buildings within a conservation area, the Secretary of State for Culture, Media and Sport will wish to have regard to the conservation area aspect in reaching their decision on the order.

Section 8: To improve the appearance or condition of land

180. Can a local authority compulsorily acquire land to improve its appearance or condition?

180.1 In some circumstances a local authority can compulsorily acquire land to improve its appearance or condition. For instance, a local authority can use their compulsory purchase powers under section 89(5) of the National Parks and Access to the Countryside Act 1949 (https://www.legislation.gov.uk/ukpga/Geo6/12-13-14/97/section/89) specifically for this purpose.

180.2 If the local authority is unsure whether to use these specific powers or if various uses are proposed for the land, the authority may consider using the powers granted by section 226 of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/part/IX/crossheading/acquisition-for-planning-and-public-purposes) instead.

180.3 There are also various other compulsory purchase powers that local authorities may use to acquire and develop land that is derelict, neglected or unsightly for particular purposes such as housing or public open space.

181. When can a local authority use their powers under section 89 of the National Parks and Access to the Countryside 1949 Act to compulsorily purchase land?

181.1 A local authority can use their powers under section 89(5) of the National Parks and Access to the Countryside Act 1949 (https://www.legislation.gov.uk/ukpga/Geo6/12-13-14/97/section/89) to compulsorily purchase land to plant trees to preserve or enhance the natural beauty of the land. The local authority can also use this power to carry out works to reclaim, improve or bring back into use land in their area that the authority believes to be:

- derelict, neglected or unsightly
- likely to become derelict, neglected or unsightly because the authority anticipate that the surface may collapse as a result of underground mining operations (other than coal mining)

182. Can a local authority still consider land to be ‘derelict, neglected or unsightly’ even if it is in use?

182.1 A local authority may still consider land to be ‘derelict’ or ‘neglected’ even if it is being put to some slight use when its condition is compared to the potential use of the land. However, it is not the purpose of these powers to enable a local authority to carry out works or acquire land solely because they believe that they can provide a better use than the present one.

183. Who decides whether to confirm an order to compulsorily purchase land under section 89 of the National Parks and Access to the Countryside Act 1949?

183.1 The Secretary of State for Environment, Food and Rural Affairs decides whether to confirm an order under section 89(5) of the National Parks and Access to the Countryside Act 1949 (https://www.legislation.gov.uk/ukpga/Geo6/12-13-14/97/section/89).

184. What does the phrase ‘derelict, neglected or unsightly’ mean in connection with these compulsory purchase powers?

184.1 There are no statutory definitions so the natural, common sense meaning of the words should be taken. If possible, it is also preferable to consider the 3 words taken together as there is considerable overlap between each. For instance, the untidy or ‘unsightly’ appearance of the land may also be relevant in considering whether it is ‘derelict’ or ‘neglected’, or land might be considered ‘neglected’ but not ‘derelict’ if no building works, dumping or excavation have taken place.

184.2 The authority may wish to obtain the views of the Secretary of State for Environment, Food and Rural Affairs on the meaning of these words when considering whether to make a section 89(5) order (https://www.legislation.gov.uk/ukpga/Geo6/12-13-14/97/section/89).

Section 9: For educational purposes

185. What powers does a local authority have to make a compulsory purchase order for educational purposes?

185.1 A local authority can make a compulsory purchase order for educational purposes using its powers under section 530 of the Education Act 1996 (https://www.legislation.gov.uk/ukpga/1996/56/section/530), as amended, with the confirmation of the Secretary of State for Education. These powers can be used to acquire land which is required for the purposes of its educational functions, including the purposes of:

- any local authority maintained or assisted school or institution
- an academy (whether established or to be established)

186. How does a local authority make a compulsory purchase order for educational purposes?

186.1 When making an order a compulsory purchase order under section 530 of the Education Act 1996, the authority should have due regard to statutory requirements from the Department for Education. The local authority may also seek guidance, if necessary, from that department on the form of draft orders where there is doubt about a particular point.

186.2 The local authority submits the order and other required documents for confirmation to the Secretary of State for Education at the following address:

> Education Funding Agency
> Schools Assets Team
> Mowden Hall
> Staindrop Road
> Darlington
> County Durham
> DL3 9BG

186.3 If the compulsory purchase order is for a voluntary aided school, the local authority will need to submit certain additional documents with the order, as well as the standard documents required.

187. When may a local authority make a compulsory purchase order for educational purposes which includes a direction applying section 14A of the Land Compensation Act 1961?

187.1 Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation provides advice on including in a compulsory purchase order a direction that requires compensation to be assessed in accordance with section 14A of the Land Compensation Act 1961.

188. What additional documents are required to make a compulsory purchase order for voluntary aided schools?

188.1 In addition to the standard list of documents required to make a compulsory purchase order, an order for a voluntary aided school will require the following documents:

a) completed copy of the Site Acquisition form (form SB1), available from the Department for Education

b) a qualified valuer's report

188.2 These additional documents should accompany, or be submitted as soon as possible after, the order.

189. Can a local authority make a compulsory purchase order in connection with a proposal for changes in school provision?

189.1 A local authority may make a compulsory purchase order (under section 530 of the Education Act 1996) in connection with certain proposals for changes in school provision. A proposal could involve:

- the establishment of a new school for children of compulsory school age (under Part 2 of the Education and Inspections Act 2006 (https://www.legislation.gov.uk/ukpga/2006/40/part/2))
- a prescribed alteration to an existing maintained school (under Part 2 of the Education and Inspections Act 2006)

190. How does the Secretary of State for Education consider a compulsory purchase order for educational purposes if it is accompanied by a statutory proposal?

190.1 The Secretary of State for Education considers a compulsory purchase order made under section 530 of the Education Act 1996 (https://www.legislation.gov.uk/ukpga/1996/56/section/530) separately to any accompanying statutory proposal for changes in school provision (made under Part 2 of the Education and Inspections Act 2006).

191. When can the Secretary of State for Education compulsorily purchase land that is required by an academy?

191.1 The Secretary of State for Education can compulsorily purchase land that is required by an academy using the powers granted by paragraphs 5 and 7 of Schedule 1 to the Academies Act 2010 (https://www.legislation.gov.uk/ukpga/2010/32/schedule/1).

The Secretary of State can use these powers if a local authority has either:

- disposed of land
- made an appropriation of land (that they hold a freehold or leasehold interest in) under section 122 of the Local Government Act 1972 (https://www.legislation.gov.uk/ukpga/1972/70/section/122)

without the consent of the Secretary of State, and if the land in question has been used wholly or mainly for the purposes of a school or a 16 to 19 academy at any time in the period of 8 years ending with the day on which this disposal or appropriation was made.

192. What happens once the Secretary of State for Education has completed the compulsory purchase of the land?

192.1 Once the Secretary of State for Education has completed the compulsory purchase, the land must be transferred to a person concerned with the running of the academy. The Secretary of State is entitled to recover from the local authority any compensation awarded (and any interest) in relation to the compulsory purchase, together with costs and expenses incurred in connection with the making of the compulsory purchase order.

Arrangements for publishing/seeking proposals for a change in school provision that requires a compulsory purchase order

193. What can a local authority do, if it wishes to compulsorily purchase land to establish a new school for children of compulsory school age?

193.1 When a local authority decides that it needs a new school in its area for children of compulsory school age, it is required by section 6A of the Education and Inspections Act 2006 (https://www.legislation.gov.uk/ukpga/2011/21/schedule/11) to seek proposals to establish an academy. If the local authority requires land to be compulsorily acquired for this purpose, it should publish the notice seeking proposals before making a compulsory purchase order.

193.2 The local authority is also expected to notify the Department for Education of their plan to seek proposals as soon as the need for a new school has been decided upon.

193.3 A local authority can only publish its own proposals in the limited circumstances set out in Part 2 of that Act, for example if the new school is to replace one or more maintained schools. Further information is available from the Department for Education.

194. What can a local authority do, if it wishes to compulsorily purchase land to make a prescribed alteration to a school?

194.1 If a local authority wishes to make a prescribed alteration under Part 2 of the Education and Inspections Act 2006 (https://www.legislation.gov.uk/ukpga/2006/40/part/2), the local authority should publish their proposals before making a compulsory purchase order.

195. What can an appropriate authority do if their proposal to restructure school sixth form education requires the compulsory purchase of land?

195.1 The appropriate authority (the Skills Funding Agency or the Education Funding Agency) should publish their proposal to restructure school sixth form education before the relevant local authority makes a compulsory purchase order.

Deciding an application for approval for a change in school provision that accompanies a compulsory purchase order

196. How is a proposal for a change in school provision considered, if it relies on the approval of a compulsory purchase order?

196.1 Depending on the nature of the proposal, an application for approval is considered as follows:

a) proposals to establish a new academy

The Secretary of State for Education makes the final decision on whether to approve a proposal to establish a new academy.

When considering the proposal, the Secretary of State takes into account the need for a compulsory purchase order and any decision to approve the proposal is then conditional on the local authority acquiring the site. The local authority is then informed of the decision on the proposal so that it may make and submit the compulsory purchase order.

b) proposals to make a prescribed alteration to an existing maintained school

The relevant local authority or schools adjudicator decides whether to approve a proposal to make a prescribed alteration to an existing maintained school.

The relevant local authority or schools adjudicator considers the application for approval of a proposal for a prescribed alteration. Consideration is given on the merits of the proposal and independently from the Secretary of State for Education's consideration of the compulsory purchase order.

196.2 Approval can only be given on the condition that the relevant site is acquired under regulation 16(2)(b) of the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 (https://www.legislation.gov.uk/uksi/2013/3109/regulation/16/made). The local authority will then be informed of the decision so that it may make and submit the compulsory purchase order.

197. What happens if the proposal for a change in school provision is rejected?

197.1 If the decision is to reject the proposal for a change in school provision, the local authority is advised not make the order since, in these circumstances it would be inappropriate for the Secretary of State for Education to confirm it.

198. What happens once the Secretary of State for Education has decided whether or not to confirm the compulsory purchase order?

198.1 If the Secretary of State for Education decides to confirm the compulsory purchase order the order will be sealed and returned to the local authority. When the local authority has purchased the site, the condition of the approval is met and the approval of the proposal becomes final with no further action required. If the Secretary of State decides not to confirm the order, the proposal falls as the condition is not met.

Section 10: For public libraries and museums

199. Who has compulsory purchase powers to acquire land for public libraries and museums?

199.1 A local authority can compulsorily acquire land for public libraries and museums under section 121 of the Local Government Act 1972 (https://www.legislation.gov.uk/ukpga/1972/70/section/121), using an appropriate enabling power (such as section 7 or 12 of the Public Libraries and Museums Act 1964 (https://www.legislation.gov.uk/ukpga/1964/75/contents)).

200. How does a local authority make a compulsory purchase order for public libraries and museums?

200.1 When making a compulsory purchase order for public libraries and museums the local authority should have due regard to statutory requirements.

200.2 The order should be accompanied by each of the following additional documents:

- a completed copy of form CP/AL1 (obtainable from the Department for Culture, Media and Sport, Libraries Division)
- a qualified valuer's report

The order and accompanying documents are submitted to the Secretary of State for Culture, Media and Sport for confirmation at the outlined in Section 18.

Section 11: For airport Public Safety Zones

201. Can an airport operator compulsorily purchase property that is located near an airport?

201.1 An airport operator can compulsorily purchase whole or part of a property if it is located within the 1 in 10,000 individual risk contour of an airport and if the property, or the relevant part of it, is:

- an occupied residential property
- a commercial or industrial property that is occupied as an all-day workplace

201.2 However, a compulsory purchase order should only be made as a last resort, if the airport authority is unable to purchase the property by agreement.

202. What should the airport operator do if a property falls into the categories described above?

202.1 If a property falls into the categories described above, the airport operator is expected to offer to purchase the property by agreement, with compensation being payable under the Compensation Code.

202.2 If purchase by agreement is not possible, the Secretary of State for Transport will be prepared to consider applications for compulsory purchase by airport operators with powers under section 59 of the Airports Act 1986 (https://www.legislation.gov.uk/ukpga/1986/31/section/59).

202.3 To make a compulsory purchase order, the airport operator will need to demonstrate that the property falls within the categories described and that it has not been possible to purchase the property by agreement. The compulsory purchase order should be sent to the Secretary of State for Transport at:

> Airports Policy Division
> Zone 1/26, Great Minster House
> 33 Horseferry Road
> London
> SW1P 4DR

202.4 Once the property has been acquired, the airport operator will be expected to demolish any buildings and to clear the land.

203. What is the '1 in 10,000 individual risk contour' of an airport and why is property within this area significant?

203.1 The '1 in 10,000 individual risk contour' is an area of land within the Public Safety Zone of an airport where individual third party risk of being killed as a result of an aircraft accident is greater than 1 in 10,000 per year.

203.2 The level of risk in the '1 in 10,000 individual risk contour' is much higher than in other areas of the Public Safety Zone and at some airports, this contour extends beyond the airport boundary.

203.3 As a result, it is the Secretary of State for Transport's policy that there should be no occupied residential properties or all day workplaces within this area.

203.4 Further information can be found on the Department for Transport website (see Circular 1/10: Control of Development in Airport Public Safety Zones (https://data.parliament.uk/DepositedPapers/Files/DEP2010-0605/DEP2010-0605.pdf)).

Section 12: For listed buildings in need of repair

204. Who has compulsory purchase powers for listed buildings in need of repair?

204.1 Section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/47) gives an

appropriate authority compulsory purchase powers to acquire a listed building in need of repair with the authorisation of the Secretary of State for Culture, Media and Sport. The appropriate authority may be:

- the relevant local planning authority
- Historic England, if the listed building is located in Greater London
- the Secretary of State for Culture, Media and Sport

204.2 It is the Secretary of State for Culture, Media and Sport's policy to only use this power in exceptional circumstances.

205. How does an appropriate authority make a compulsory purchase order for a listed building in need of repair?

205.1 To make a compulsory purchase order for a listed building in need of repair under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the appropriate authority is required to:

- serve a repairs notice under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/48) on the owner (see section 31(2) of Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/31) / section 336 of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/336)) of the listed building at least 2 months before making the compulsory purchase order
- prepare and serve the compulsory purchase order and its associated notices, if the repairs notice has not been complied with within 2 months of service
- submit the compulsory purchase order, a copy of the repairs notice and all supporting documents to the Secretary of State for Culture, Media and Sport

206. What if the owner has deliberately allowed the listed building to fall into disrepair to justify its demolition?

206.1 If there is clear evidence that the owner of a listed building has deliberately allowed the building to fall into disrepair to justify its demolition and the development of the site (or an adjoining site), the acquiring authority can include a direction for minimum compensation within the compulsory purchase order. Provisions for minimum compensation are given in section 50 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/50).

206.2 The relevant wording for including a minimum compensation direction in a compulsory purchase order are set out in optional paragraph 4 of Form 1 in the Schedule to the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2024/473/schedule/made)[footnote 19]. See

advice on how to include a direction for minimum compensation within a compulsory purchase order.

207. What should a local authority do if an application is made to a magistrates' court to contest a direction for minimum compensation?
207.1 As soon as a local authority becomes aware of any application to a magistrates' court:

- to stay further proceedings on the compulsory purchase order, under section 47(4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/47)
- for an order that a direction for minimum compensation is not included in the compulsory purchase order, under section 50(6) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/50)

they should notify the Secretary of State for Culture, Media and Sport immediately. Depending on the circumstances, it may be necessary to hold the order in abeyance (i.e. suspend the order) until the court has considered the application.

Repairs notices
208. When might an appropriate authority serve a repairs notice?
208.1 An appropriate authority may consider issuing a repairs notice (under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/48)) if a listed building is at risk because its owner has failed to keep the building in reasonable repair for an extended period of time. A repairs notice is not the same as a notice for urgent works (section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/54)) and can be served whether the listed building is occupied or not.

208.2 Further information on repairs notices and notices for urgent works are available from the Historic England website (https://historicengland.org.uk/advice/technical-advice/buildings/maintenance-and-repair-of-older-buildings/).

209. What information should the repairs notice include?
209.1 The repairs notice must:

- specify the works which the authority considers reasonably necessary for the proper preservation of the building
- explain the effect of sections 47 to 50 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/part/I/chapter/V)

210. What works might be specified in the repairs notice?

210.1 The works specified in the repairs notice will always relate to the circumstances of the individual case and will involve judgments about what is considered reasonable to preserve (rather than restore) the listed building.

210.2 Other considerations may be used as a basis for determining the scope of works required. For example, the condition of the building when it was listed may be taken into account if the building has suffered damage or disrepair since being listed.

210.3 In this case, the repairs notice may include works to secure the building's preservation as at the date of listing, but should not be used to restore other features.

210.4 Alternatively, the notice may specify works that are necessary to preserve the rest of the building, such as repairs to a defective roof, whether or not the particular defect was present at the time of listing.

The form of the compulsory purchase order and its associated notices
211. How are the compulsory purchase order and associated notices prepared?
211.1 See general guidance on the format of compulsory purchase orders.

211.2 For compulsory purchase orders for listed buildings in need of repair, there are additional provisions set out in regulation 4 of the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2004/2595/regulation/4/made) [footnote 20]. These require additional paragraphs from the schedule to the regulations to be inserted into the relevant forms, as described below.

211.3 When preparing any personal notices:

- include additional paragraphs 3 and 5 of Form 8 (https://www.legislation.gov.uk/uksi/2024/473/schedule/made)
- if a direction for minimum compensation is included within the order insert additional paragraphs 3 to 5 of Form 8
- include an explanation of the meaning of the direction, as required by section 50(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/50). This should normally include the text of subsections (4) and (5) of section 50 of that Act

211.4 When preparing the compulsory purchase order:

- if a direction for minimum compensation is included within the order, include optional paragraph 4 of Form 1 in orders drafted using Form 1

Section 13: For the purposes of facilitating biodiversity net gain

212. Can a compulsory purchase order be made which includes land for the purposes of facilitating biodiversity net gain?

212.1 The Town and Country Planning Act 1990 (as amended by the Environment Act 2021 (https://www.legislation.gov.uk/ukpga/2021/30/contents)) imposes a condition on the grant of planning permission for biodiversity net gain: see section 90A (https://www.legislation.gov.uk/ukpga/1990/8/section/90A) and Schedule 7A of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/schedule/7A).

212.2 It may be necessary for an acquiring authority to acquire land for biodiversity net gain purposes either together with other land required for the scheme or alone. Where an acquiring authority is considering making a compulsory purchase order which will include land for the purposes of satisfying biodiversity net gain requirements it should consider the following matters:

- the principles outlined in When should compulsory purchase powers be used? will apply equally to that land as it does to other land in the scheme, in particular:
  - use of compulsory purchase powers is intended as a last resort
  - a compelling case in the public interest in relation to the acquisition of the land for biodiversity net gain purposes will need to be established
- the scope of the compulsory purchase powers which the acquiring authority intends to use and whether those powers are sufficient to be exercised to compulsorily acquire land required for biodiversity net gain purposes

212.3 In relation to local authorities specifically, there are a number of enabling powers which may be sufficiently wide to enable the acquisition of land to satisfy biodiversity net gain requirements. For example, the powers of compulsory purchase conferred on local authorities under section 226(1)(a) of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/226) are widely drawn. As such, they may be used by a local authority with planning powers to acquire land if they think that it will facilitate the carrying out of development, redevelopment or improvement (which includes regeneration) providing it is likely to contribute to achieving one of the listed statutory aims in section 226(1A) of the Town and Country Planning Act 1990:

(a) the promotion or improvement of the economic well-being of their area
(b) the promotion or improvement of the social well-being of their area

(c) the promotion or improvement of the environmental well-being of their area

212.4 The acquisition of land for biodiversity net gain purposes may, in appropriate circumstances, be a sufficiently integral part of the scheme underlying the compulsory purchase order (i.e. the relevant proposal needing to satisfy the biodiversity net gain requirements) which will facilitate those aims.

Tier 3: Procedural issues

213. Where can guidance on common procedural issues be found?

Guidance can be found on:

- Section 14: Preparing statement of reasons
- Section 15: General certificate
- Section 16: Preparing and serving the compulsory purchase order and notices
- Section 17: Compulsory purchase order maps
- Section 18: Addresses

214. Where can further information on other procedural issues which will only apply in certain cases be found?

Further information can be on:

- Section 19: For community assets (at the request of the community)
- Section 20: Special kinds of land
- Section 21: Compulsory purchase of new rights and other interests
- Section 22: Compulsory purchase of Crown land
- Section 23: Certificates of appropriate alternative development (under the Land Compensation Act 1961)
- Section 24: Protected assets certificate
- Section 25: Objection to division of land (material detriment)
- Section 26: Overriding easements and other rights
- Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation

Common procedural issues

Section 14: Preparing statement of reasons

215. What information should be included in the statement of reasons?

215.1 The statement of reasons should include the following information:

(i) a brief description of the order land and its location, topographical features and present use

(ii) an explanation of the use of the particular enabling power

(iii) an outline of the authority's purpose in seeking to acquire the land

(iv) a statement of the authority's justification for compulsory purchase, with regard to Article 1 of the First Protocol to the European Convention on Human Rights, and Article 8 if appropriate

(v) a statement in relation to the acquiring authority's public sector equality duty and how that has been taken into account in making the compulsory purchase order

(vi) where applicable, a statement of the authority's justification for including in a compulsory purchase order a direction which applies section 14A of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14A) (see How will an acquiring authority demonstrate the inclusion of a direction applying section 14A of the Land Compensation Act 1961 in a compulsory purchase order is justified in the public interest? for advice on what information should be provided to accompany the statement)

(vii) a statement justifying the extent of the scheme to be disregarded for the purposes of assessing compensation in the 'no-scheme world'

(viii) a description of the proposals for the use or development of the land

(ix) a statement about the planning position of the order site (see also Section 1: Advice on section 226 of the Town and Country Planning Act 1990 for planning orders)

(x) information required in the light of government policy statements where orders are made in certain circumstances e.g. as stated in Section 7: Local

housing authorities for housing purposes where orders are made under the Housing Acts (including a statement as to unfitness where unfit buildings are being acquired under Part 9 of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/part/IX))

(xi) any special considerations affecting the order site e.g. ancient monument, listed building, conservation area, special category land, consecrated land, renewal area, etc

(xii) if the mining code has been included, reasons for doing so

(xiii) details of how the acquiring authority seeks to overcome any obstacle or prior consent needed before the order scheme can be implemented e.g. need for a waste management licence

(xiv) a summary of:

(a) the anticipated impact of the exercise of the compulsory purchase powers on affected owners and occupiers (either generically and/or individually as appropriate) as the acquiring authority understands those impacts having engaged with such owners and occupiers on the potential impact (where information included in the statement constitutes personal data the acquiring authority should take appropriate steps before making such data available, for example, redaction or anonymisation - guidance on the disclosure of personal data associated with the publishing of a compulsory purchase order is included in How should acquiring authorities deal with any personal data collected in relation to a compulsory purchase order?)

(b) the mitigation (if any) which will be in place to alleviate those impacts either through the existing compulsory purchase process or compensation regimes or through specific mitigation that the acquiring authority is proposing to put in place

(xv) details of any views which may have been expressed by a government department about the proposed development of the order site

(xvi) what steps the authority has taken to negotiate for the acquisition of the land by agreement

(xvii) any other information which would be of interest to persons affected by the order e.g. proposals for rehousing displaced residents or for relocation of businesses

(xviii) details of any related order, application or appeal which may require a co-ordinated decision by the confirming authority e.g. an order made under other powers, a planning appeal/application, road closure, listed building

(xix) if, in the event of an inquiry, the authority would intend to refer to or put in evidence any documents, including maps and plans, it would be helpful if the authority could provide a list of such documents, or at least a notice to explain that documents may be inspected at a stated time and place

Section 15: General certificate

216. What is the purpose of a general certificate in support of an order submission?

216.1 A general certificate has no statutory status but is intended to provide reassurance to the confirming authority that the acquiring authority has followed the proper statutory procedures.

217. What form should a general certificate in support of an order submission take?

217.1 The certificate should be submitted in the following form:

THE ……. COMPULSORY PURCHASE ORDER 20…

I hereby certify that:

1. A notice in the Form numbered……in the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (SI 2004 No. 2595) ("the 2004 Prescribed Forms Regulations") was published in two issues of the …….. dated ……. 20…. and …… 20….(being one or more local newspapers circulating in the locality). The time allowed for objections was not less than 21 days from the date of the first publication of the notice and the last date for them is/was…….. …… 20….

A notice in the same Form was published on a website containing information about the proposed compulsory purchase on …….. 20… and from that date remained in place for a period of at least 21 days which was the period allowed for objections, the last date being …… 20…..

A notice in the same Form was affixed to a conspicuous object or objects on or near the land comprised in the order on …….. 20…. and from that date remained in place for a period of at least 21 days which was the period allowed for objections, the last date being …… 20….

2. Notices in the Form numbered ……. in the said Regulations were duly served on:

(i). every owner, lessee, tenant and occupier of all land to which the order relates;

(ii). every person to whom the acquiring authority would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965, be required to give a notice to treat; and

(iii). every person the acquiring authority thinks is likely to be entitled to make a claim for compensation under section 10 of the Compulsory Purchase Act 1965 if the order is confirmed and the compulsory purchase takes place, so far as such a person is known to the acquiring authority after making diligent inquiry. (NB: For:

(a) orders made under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the notice must include additional paragraphs in accordance with regulation 4 of the 2004 Prescribed Forms Regulations (as amended); or

(b) orders which include a direction that applies section 14A of the Land Compensation Act 1961, the notice must include additional paragraphs in accordance with regulation 4A of the 2004 Prescribed Forms Regulations (as amended).)

The time allowed for objections in each of the notices was not less than 21 days and the last date for them is/was …….. 20…. The notices were served by one or more of the methods described in section 6(1) of the Acquisition of Land Act 1981.

[Where the order includes land in unknown ownership insert the following: Notices in the same Form were duly served by one or more of the methods described in section 6(4) of the Acquisition of Land Act 1981. The time allowed for objections in each of the notices was not less than 21 days and the last date is/was …….. 20…. .]

3. A copy of the order and of the map were deposited at …… on …… 20…. and will remain/remained available for inspection until …….. .

4. A copy of the order and of the map were published online at www.…… ……on …… 20…. and will remain/remained available to view until …….. .

5. (1) A copy of the authority's statement of reasons for making the order has been sent to:

(a) all persons referred to in paragraph 2(i), (ii) and (iii) above (see Which parties should be notified of a compulsory purchase order?);

(b) as far as is practicable, other persons resident on the order lands, and any applicant for planning permission in respect of the land.

(2) Two copies of the statement of reasons are herewith forwarded to the Secretary of State.

6. [Where the order includes ecclesiastical property insert the following: Notice of the effect of the order has been served on the Church Commissioners (section 12(3) of the Acquisition of Land Act 1981.]

NB. The Town and Country Planning (Churches, Places of Religious Worship and Burial Grounds) Regulations 1950 (SI 1950 No. 792) (https://www.legislation.gov.uk/uksi/1950/792/contents/made) apply where it is proposed to use for other purposes consecrated land and burial grounds which here acquired compulsorily under any enactment, or acquired by agreement under the Town and Country Planning Acts, or which were appropriated to planning purposes. Subject to sections 238 to 240 of the 1990 Act, permission (a 'faculty') is required for material alteration to consecrated land. (See Faculty Jurisdiction Measure 1964 (https://www.legislation.gov.uk/ukcm/1964/5/contents); Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (https://www.legislation.gov.uk/ukcm/1991/1/contents).)

Section 16: Preparing and serving the compulsory purchase order and notices

218. What format should a compulsory purchase order adopt?

218.1 The order and associated schedule should comply with the relevant form as prescribed by regulation 3 of, and the Schedule to, the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2024/473/schedule/made)[footnote 21].

218.2 In accordance with the notes to the prescribed forms, the title and year of the act authorising compulsory purchase must be inserted. Each acquisition power must be cited and its purpose clearly stated in paragraph 1 of the order. For orders made under section 17 of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/section/17), the purpose of the order may be described as 'the provision of housing accommodation'. Where there are separate compulsory acquisition and enabling powers, each should be identified and its purpose stated. In some cases, a collective title may be sufficient to identify two or more acts. (See Section 1: Advice on section 226 of the Town and Country Planning Act 1990 and Section 21: Compulsory purchase of new rights and other interests for examples of how orders made under certain powers may be set out. Section 2: Advice on section 121 of the Local Government Act 1972 contains guidance on orders where the acquisition power is section 121 or section 125 of the Local Government Act 1972 and on orders for mixed purposes.)

219. Where should the compulsory purchase order maps be deposited?

219.1 A certified copy of the order map should be deposited for inspection at an appropriate place within the locality e.g. the local authority offices. It should be within reasonably easy reach of persons living in the area affected. It should also be published on a website which contains information about the scheme or project that underlies the proposed purchase. The 2 sealed order maps should be forwarded to the offices of the confirming authority.

220. Can the 'the mining code' be incorporated into a compulsory purchase order?

220.1 Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/schedule/2), relating to mines ('the mining code'), may be incorporated in a compulsory purchase order made under powers to which the act applies. The incorporation of both parts does not, of itself, prevent the working of minerals within a specified distance of the surface of the land acquired under the order; but it does enable the acquiring authority, if the order becomes operative, to serve a counter-notice stopping the working of minerals, subject to the payment of compensation. Since this may result in the sterilisation of minerals (including coal reserves), the mining code should not be incorporated automatically or indiscriminately. 220.2 Therefore, authorities are asked to consider the matter carefully before including the code, and to omit it where existing statutory rights to compensation or repair of damage might be expected to provide an adequate remedy in the event of damage to land, buildings or works occasioned by mining subsidence.

220.3 The advice of the Valuation Office Agency's regional mineral valuers is available to authorities when considering the incorporation of the code.

221. Who should authorities notify if they make a compulsory purchase order incorporating the mining code?

221.1 In areas of coal working notified to the local planning authority by the Coal Authority (https://www.gov.uk/government/organisations/the-coal-authority) under article 16 (https://www.legislation.gov.uk/uksi/2015/595/article/16/made) of, and paragraph (o), Schedule 4 to, the Town and Country Planning (Development Management Procedure) (England) Order 2015 (https://www.legislation.gov.uk/uksi/2015/595/schedule/4/made), authorities are asked to notify the Coal Authority and relevant licensed coal mine operator if they make an order which incorporates the mining code.

222. What information about the land to be acquired should be included in a compulsory purchase order?

222.1 The prescribed order formats set out in the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2024/473/schedule/made)[footnote 22] require, subject to the flexibility to adapt them permitted by Regulation 2, that the extent of the land should be stated. Therefore, the area of each plot, e.g. in

square metres, should normally be shown. This information will be particularly important where any potential exists for dispute about the boundary of the land included in the order, because section 14 of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/14) prohibits the modification of an order on confirmation to include land which would not otherwise have been covered. It may not always be necessary for a measurement of the plot to be quoted, if the extent and boundaries can be readily ascertained without dispute. For instance, the giving of a postal address for a flat may be sufficient.

222.2 Each plot should be described in terms readily understood by a layperson, and it is particularly important that local people can identify the land described. The Regulations require that the details about the extent, description and situation of the land should be sufficient to tell the reader approximately where the land is situated without reference to the map (see notes to prescribed Forms 1 to 6 in the Schedule to the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2024/473/schedule/made)[footnote 23]).

222.3 Simple descriptions in ordinary language are to be preferred. For example, where the land is agricultural it should be described as ‘pasture land’ or ‘arable land’; agricultural and non- agricultural afforested areas may be described as ‘woodland’ etc.; and, if necessary, be related to some well known local landmark, e.g. ‘situated to the north of School Lane about 1 km west of George’s Copse’.

222.4 Where the description includes a reference to Ordnance Survey field numbers the description should also state or refer to the sheet numbers of the Ordnance Survey maps on which these field numbers appear. The Ordnance Survey map reference should quote the edition of the map.

222.5 Property, especially in urban areas, should be described by name or number in relation to the road or locality and where part of a property has a separate postal address this should be given. Particular care is necessary where the street numbers do not follow a regular sequence, or where individual properties are known by more than one name or number. The description should be amplified as necessary in such cases to avoid any possibility of mistaken identity.

222.6 If the order when read with the order map fails to clearly identify the extent of the land to be acquired, the confirming authority may refuse to confirm the order even though it is unopposed.

223. What information should be included in the compulsory purchase order where the authority already owns an interest in the land to be acquired?

223.1 Except for orders made under highway land acquisition powers in Part 12 of the Highways Act 1980 (https://www.legislation.gov.uk/ukpga/1980/66/part/XII), to which section 260 of that Act (https://www.legislation.gov.uk/ukpga/1980/66/section/260) applies, where the acquiring authority already own an interest or interests in land but wish to acquire the remaining interest or interests in the same land, usually to ensure full legal title, they should include a description of the land in column 2 of the Schedule in the usual way but qualify the description as follows; 'all interests in [describe the land] except those owned by the acquiring authority'. The remaining columns should be completed as described in What information should be included in the compulsory purchase order schedule? This principle should be extended to other interests in the land which the acquiring authority does not wish to acquire, e.g. Homes England might decide it wishes to exclude its own interests and local authority interests from an order.

223.2 Compulsory purchase should not be used merely to resolve conveyancing difficulties. It is accepted, however, that it may only be possible to achieve satisfactory title to certain interests by the use of compulsory powers, perhaps followed by a general vesting declaration (see Stage 5: Implementing a compulsory purchase order). Accordingly, acquiring authorities will be expected to explain and justify the inclusion of such interests. The explanation may be either in their preliminary statement of reasons or in subsequent correspondence, which may have to be copied to the parties. If no explanation is given or if the reasons are unsatisfactory, the confirming authority may modify an order to exclude interests which the acquiring authority already own, on the basis that compulsory powers are unnecessary.

223.3 A similar form of words to that described above may be appropriate where the acquiring authority wish to include in the order schedule an interest in Crown land which is held otherwise than by or on behalf of the Crown. (In most cases, the Crown's own interests cannot be acquired compulsorily.) Further guidance on this subject is given in Section 22: Compulsory purchase of Crown land.

224. Who is the acquiring authority required to serve notice of the making of the compulsory purchase order?

224.1 The schedule to the order should include the names and addresses of every qualifying person as defined in section 12(2), 12(2A) and 12(2B) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/contents) and upon whom the acquiring authority is required to serve notice of the making of the order. A qualifying person is:

i. every owner, lessee, tenant, and occupier (section 12(2)(a) of the Acquisition of Land Act 1981)

ii. every person to whom the acquiring authority would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/5), be required to give a notice to treat (section 12(2A) of the Acquisition of Land Act 1981)

iii. every person the acquiring authority thinks is likely to be entitled to make a claim for compensation under section 10 of the Compulsory Purchase Act 1965 if the order is confirmed and compulsory purchase takes place, so far as such a person is known to the acquiring authority after making diligent inquiry under section 12(2B) of the Acquisition of Land Act 1981

225. Should the compulsory purchase order schedule include persons who may have a valid claim to be owners or lessees?

225.1 The schedule should include persons who may have a valid claim to be owners or lessees for the purposes of the Acquisition of Land Act 1981, e.g. persons who have entered into a contract to purchase a freehold or lease.

226. How should partnerships be dealt with?

226.1 The acquiring authority should ask the partnership to nominate a person for service. This avoids having to include the names of all partners in a partnership in the schedule and ensuring all partners are personally served. Notice served upon the partner who habitually acts in the partnership business is probably valid (see section 16 of the Partnership Act 1890 (https://www.legislation.gov.uk/ukpga/Vict/53-54/39/section/16)), especially if that partner has control and management of the partnership premises, but the position is not certain.

227. How should corporate bodies be dealt with?

227.1 Service should be effected on the secretary or clerk at the registered or principal office of a corporate body, which should be shown in the appropriate column, i.e. as owner, lessee etc. (section 6(2) and (3) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/6)). NB: under Company Law requirements, notices served on a company should be addressed to the secretary of the company at its principal or registered office. It is good practice to send copies to the actual contact who has been dealing with negotiations.

228. How should Trusts be dealt with?

228.1 Individual trustees should be named and served.

229. How should unincorporated bodies be dealt with?

229.1 In the case of unincorporated bodies, such as clubs, chapels and charities, the names of the individual trustees should be shown and each trustee should be served as well as the secretary. NB: The land may be vested in the trustees and not the secretary, but the trustees may be somewhat remote from the running of the club etc.; and since communications should normally be addressed to its secretary, it is

considered to be reasonable that the secretary should also be served. However, service solely on the secretary of such a body is not sufficient unless it can be shown that the secretary has been authorised by the trustees, or has power under the trust instrument, to accept order notices on behalf of the trustees.

230. How should charitable trusts be dealt with?

230.1 In the case of land owned by a charitable trust it is advisable for notice of the making of the order to be served on the Charity Commissioners at their headquarters address as well as on the trustees. See Part 7 of the Charities Act 2011 (https://www.legislation.gov.uk/ukpga/2011/25/part/7).

231. How should land which is ecclesiastical property be dealt with?

231.1 Where land is ecclesiastical property, i.e. owned by the Church of England, notice of the making of the order must be served on the Church Commissioners as well as on the owners etc. of the property (see section 12(3) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/12)).

232. How should ancient monuments be dealt with?

232.1 Where it appears that land is or may be an ancient monument, or forms the site of an ancient monument or other object of archaeological interest, authorities should, at an early stage and with sufficient details to identify the site, contact the Historic Buildings and Monuments Commission for England (otherwise known as Historic England), or the County Archaeologist, according to the circumstances shown below:

- in respect of a scheduled ancient monument – Historic England (https://historicengland.org.uk/)
- in respect of an unscheduled ancient monument or other object of archaeological interest – the County Archaeologist

232.2 This approach need not delay other action on the order or its submission for confirmation, but the authority should refer to it in the letter covering their submission.

233. How should land in a national park be dealt with?

233.1 Where orders include land in a national park, acquiring authorities are asked to notify the National Park Authority. Similarly, where land falls within a designated Area of Outstanding Natural Beauty or a Site of Special Scientific Interest, they should notify Natural England (https://www.gov.uk/government/organisations/natural-england).

234. How should land which is being used for sport of physical recreation be dealt with?

234.1 When an order relates to land being used for the purposes of sport or physical recreation, Sport England (https://www.sportengland.org/) should be

notified of the making of the order.

235. Can notice be served at a person's accommodation address?

235.1 Notice can be served at an accommodation address, or where service is effected on solicitors etc., provided the acquiring authority has made sure that the person to be served has furnished this address or has authorised service in this way; where known, the served person's home or current address should also be shown.

236 What information should be included in the compulsory purchase order schedule?

- about the owner or reputed owner - where known, the name and address of the owner or reputed owner of the property should be shown. If there is doubt whether someone is an owner, they should be named in the column and a notice served on them. Likewise, if there is doubt as to which of 2 (or more) persons is the owner, both (or all) persons should be named in the sub-column and a notice served on each. Questions of title can be resolved later. If the owner of a property cannot be traced the word 'unknown' should be entered in the column. An order should include those covenants or restrictions which amount to interests in land that the authority wish to acquire or extinguish. Where land owned by the authority is subject to such an encumbrance (for example, an easement, such as a private right of way), they may wish to make an order to discharge the land from it. In any such circumstances, the owner or occupier of the land and the person benefiting from the right should appear in the relevant table of the schedule. The statement of reasons should explain that authority is being sought to acquire or extinguish the relevant interest. Where the encumbrance affects land in which the acquiring authority have a legal interest, the description in the schedule should refer to the right etc. and be qualified by the words 'all interests in, on, over or under [the land] except those already owned by the acquiring authority'. This should avoid giving the impression that the authority has no interest to acquire
- about lessees, tenants, or reputed lessees or tenants - where there are no lessees, tenants or reputed lessees or tenants a dash should be inserted, otherwise names and addresses should be shown
- about occupiers - where a named owner, lessee, or tenant is the occupier, the word 'owner', 'lessee' or 'tenant' should be inserted or the relevant name given. Where the property is unoccupied the column should be endorsed accordingly

How should acquiring authorities deal with any personal data collected in relation to a compulsory purchase order? provides advice on publishing personal data contained in a schedule to a compulsory purchase order schedule.

237. What information about qualifying persons under sections 12(2A) and 12(2B) found by diligent enquiries should be included in the

compulsory purchase order schedule?

237.1 Although most qualifying persons will be owners, lessees, tenants or occupiers, the possibility of there being anyone falling within one of the categories in sections 12(2A) and (2B) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/12) should not be ignored. The name and address of a person who is a qualifying person under section 12(2A) who is not included in column (3) of the order schedule should be inserted in column (5) together with a short description of the interest to be acquired. An example of a person who might fall within this category is the owner of land adjoining the order land who has the benefit of a private right of way across the order land, which the acquiring authority have under their enabling power a right to acquire which they are seeking to exercise.

(An example of this is section 18(1) of the National Parks and Access to the Countryside Act 1949 (https://www.legislation.gov.uk/ukpga/Geo6/12-13-14/97/section/18) which empowers the Natural England to acquire an 'interest in land' compulsorily which is defined in section 114(1) (https://www.legislation.gov.uk/ukpga/Geo6/12-13-14/97/section/114) to include any right over land.)

237.2 Similarly the name and address of a person who is a qualifying person under section 12(2B) who is not included in columns (3) and (5) of the order schedule should be inserted in column (6), together with a description of the land in respect of which a compensation claim is likely to be made and a summary of the reasons for the claim. An example of such a potential claim might be where there could be interference with a private right of access across the land included in the order as a result of implementing the acquiring authority's proposals.

238. What is meant by 'diligent enquiries'?

238.1 In determining the extent to which it should make 'diligent' enquiries, an authority will wish to have regard to the fact that case law has established that, for the purposes of section 5(1) of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/5), 'after making diligent inquiry' requires some degree of diligence, but does not involve a very great inquiry (see Popplewell J. in R v Secretary of State for Transport ex parte Blackett [1992] JPL 1041).

238.2 Acquiring authorities are encouraged to serve formal notices seeking information on all interests they have identified to find out if there any additional interests they are not aware of if a landowner has been served with a notice and fails to respond.

238.3 An acquiring authority does not have any statutory power under section 5A of the Acquisition of Land Act 1981 to requisition information about land other than that which it is actually proposing to acquire. However, the site notice procedure in section 11(3) and (4) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/11) provides an additional

means of alerting people who might feel that they have grounds for inclusion in column (6) and who can then identify themselves.

239. How should special category land be recorded in the order?

239.1 Special category land i.e. land to which sections 17, 18 and 19 of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/part/III/crossheading/orders-subject-to-special-parliamentary-procedure) apply, (or paragraphs 4, 5 and 6 of Schedule 3 to the Act (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3) in the case of acquisition of a new right over such land) should be shown both in the order schedule and in the list at the end of the schedule, in accordance with the relevant notes. But in the case of section 17 of the Act (or, for new rights, Schedule 3, paragraph 4) it is only necessary to show land twice if the acquiring authority is not mentioned in section 17(3) or paragraph 4(3) of Schedule 3 (see also Section 20: Special kinds of land). If an order erroneously fails to state in accordance with the prescribed form that land to be acquired is special category, then the confirming authority may need to consider whether confirmation should be refused as a result.

240. What information should be recorded in the order schedule where the land is common, open space etc.?

240.1 An order may provide for special category land to which section 19 of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/19) applies ('order land') to be discharged from rights, trusts and incidents to which it was previously subject; and for vesting in the owners of the order land, other land which the acquiring authority propose to give in exchange ('exchange land'). Such orders must be made in accordance with the appropriate prescribed form (Forms 2, 3, 5 or 6 (https://www.legislation.gov.uk/uksi/2024/473/schedule/made)) adapted, in compliance with the notes, to suit the particular circumstances.

240.2 The order land and, where it is being acquired compulsorily, the exchange land, should be delineated and shown as stated in paragraph 1 of the order. Therefore, exchange land which is being acquired compulsorily and is to be vested in the owner(s) of the order land, should be delineated and shown (e.g. in green) on the order map and described in schedule 2 to the order. If the exchange land is not being acquired compulsorily it should be described in schedule 3.

240.3 When an authority make an order in accordance with Form 2, if the exchange land is also acquired compulsorily, the order should include paragraph 2(ii), adapted as necessary, and cite the relevant acquisition power, if different from the power cited in respect of the order land. Paragraph 2(ii) of the Form also provides for the acquisition of land for the purpose of giving it in part exchange, e.g. where the acquiring authority already own some of the exchange land.

240.4 In Form 2, there are different versions of paragraphs 4 and 5(2) (see Note (j)). Paragraph 4 of Form 2 defines the order land by reference to

schedule 1 and either:

a) where the order land is only part of the land being acquired, the specific, 'numbered' plots

b) where the order land is all the land being acquired, the land which is 'described' 240.5 But if the acquiring authority seek a certificate under paragraph 6(1)(b) of Schedule 3 to the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3), because they propose to provide additional land in respect of new rights being acquired (over 'rights land'), the order should include paragraph 5(1) and the appropriate paragraph 5(2) of the Form (https://www.legislation.gov.uk/uksi/2024/473/schedule/made) (see Note (j)). Paragraph 5 becomes paragraph 4 if only new rights are to be acquired compulsorily. (See Section 21: Compulsory purchase of new rights and other interests) in relation to additional land being given in exchange for a new right.)

240.6 Where Form 2 (https://www.legislation.gov.uk/uksi/2024/473/schedule/made) is used, the order land, including rights land, must always be described in Schedule 1 to the order. Exchange and additional land should be described in Schedule 2 to the order where it is being acquired compulsorily; in Schedule 3 to the order where the acquiring authority do not need to acquire it compulsorily; or both schedules may apply, e.g. the authority may only own part of the exchange and/or additional land. Schedule 3 becomes Schedule 2 if no exchange or additional land is being acquired compulsorily. Exchange or additional land which is not being acquired compulsorily should be delineated and shown on the map so as to clearly distinguish it from land which is being acquired compulsorily.

240.7 Paragraph 4 of Form 3 (https://www.legislation.gov.uk/uksi/2024/473/schedule/made) should identify the order land, by referring to either:

a) paragraph 2, where the order land is all the land being acquired

b) specific numbered plots in the schedule, where the order land is only part of the land being acquired

240.8 This form may also be used if new rights are to be acquired but additional land is not being provided. An order in this form will discharge the order land, or land over which new rights are acquired, from the rights, trusts and incidents to which it was previously subject (in the case of land over which new rights are acquired, only so far as the continuance of those rights, trusts and incidents would be inconsistent with the exercise of the new rights).

240.9 An order may not discharge land from rights etc. if the acquiring authority seek a certificate in terms of section 19(1)(aa) (https://www.legislation.gov.uk/ukpga/1981/67/section/19) of or paragraph 6(1)(aa) of Schedule 3 to the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3). (See also In what circumstances might an application for a certificate under section 19(1)(aa) of the Acquisition of Land Act 1981 be appropriate? and In which circumstances may a certificate be given?) Note that the extinguishment of rights of common over land acquired compulsorily may require consent under section 22 of the Commons Act 1899 (https://www.legislation.gov.uk/ukpga/Vict/62-63/30/section/22).

241. What is the procedure for sealing, signing and dating orders?

241.1 All compulsory purchase orders should be made under seal, duly authenticated and dated at the end (after the schedule). They should never be dated before they are sealed and signed, and should be sealed, signed and dated on the same day. The order map(s) should similarly be sealed, signed and dated on the same day as the order. Authorities may wish to consider whether they ought to amend their standing orders or delegations to ensure that this is achieved.

241.2 Authorities may also wish to check whether their standing orders and constitution allow for compulsory purchase orders to be made under seal, signed and dated electronically.

Section 17: Compulsory purchase order maps

242. What information should compulsory purchase order maps provide?

242.1 Order maps should provide details of the land proposed to be acquired, land over which a new right would subsist and exchange land in accordance with the requirements set out in the notes to the Forms e.g. paragraph (g) of the notes that accompany both Forms 1 and 2 (https://www.legislation.gov.uk/uksi/2024/473/schedule/made).

242.2 The heading of the map (or maps) should agree in all respects with the description of the map headings stated in the body of the order. The words ‘map referred to in [order title]’ should be included in the actual heading or title of the map(s).

242.3 Land may be identified on order maps by colouring or any other method (see Note (g) to Forms 1, 2 and 3 (https://www.legislation.gov.uk/uksi/2024/473/schedule/made) and, in relation to exchange land, Note (h) to Form 5 (https://www.legislation.gov.uk/uksi/2024/473/schedule/made) in the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as

amended)[footnote 24]) at the discretion of the acquiring authority. Where it is decided to use colouring, the longstanding convention (without statutory basis) is that land proposed to be acquired is shown pink, land over which a new right would subsist is shown blue, and exchange land is shown green. Where black-and-white copies are used they must still provide clear identification of the order or exchange land.

242.4 The use of a sufficiently large scale, Ordnance Survey based map is most important and it should not generally be less than 1/1250 (1/2500 in rural areas). Where the map includes land in a densely populated urban area, experience suggests that the scale should be at least 1/500, and preferably larger. Where the order involves the acquisition of a considerable number of small plots, the use of insets on a larger scale is often helpful. If more than one map is required, the maps should be bound together and a key or master 'location plan' should indicate how the various sheets are interrelated.

242.5 Care should be taken to ensure that where it is necessary to have more than one order map, there are appropriate references in the text of the order to all of them, so that there is no doubt that they are all order maps. If it is necessary to include a location plan, then it should be purely for the purpose of enabling a speedy identification of the whereabouts of the area to which the order relates. It should be the order map and not the location plan which identifies the boundaries of the land to be acquired. Therefore, whilst the order map would be marked 'Map referred to in… 'in accordance with the prescribed form' (as in Form 1), a location map might be marked 'Location plan for the Map referred to in…' Such a location plan would not form part of the order and order map, but be merely a supporting document.

242.6 It is also important that the order map should show such details as are necessary to relate it to the description of each parcel of land in the order schedule or schedules. This may involve marking on the map the names of roads and places or local landmarks not otherwise shown.

242.7 The boundaries between plots should be clearly delineated and each plot separately numbered to correspond with the order schedule(s). (For orders which include new rights, see Section 21: Compulsory purchase of new rights and other interests.) Land which is delineated on the map, but which is not being acquired compulsorily should be clearly distinguishable from land which is being acquired compulsorily.

242.8 There should be no discrepancy between the order schedule(s) and the map or maps, and no room for doubt on anyone's part as to the precise areas of land which are included in the order. Where there is a minor discrepancy between the order and map confirming, the authority may be prepared to proceed on the basis that the boundaries to the relevant plot or plots are correctly delineated on the map. Where uncertainty over the true extent of the land to be acquired causes or may cause difficulties, the confirming authority may refuse to confirm all or part of the order.

Section 18: Addresses

243. Where should orders, applications and objections be sent?

Ministry of Housing, Communities and Local Government

Type of order or application:
Most orders for which the Secretary of State for Housing, Communities, and Local Government is confirming authority.

Applications for certificates relating to open space under section 19 of, or paragraph 6 of Schedule 3 to, the Acquisition of Land Act 1981.

Applications for certificates relating to fuel or field garden allotments under section 19 of, or paragraph 6 of Schedule 3 to, the Acquisition of Land Act 1981.

Address:

> Ministry of Housing, Communities and Local Government
> Planning Casework Unit
> 23 Stephenson Street
> Birmingham
> B2 4BH

Email: pcu@communities.gov.uk

Department for Environment, Food and Rural Affairs

Type of order or application:
Applications for certificates relating to common land, town or village greens under section 19 of, or paragraph 6 of Schedule 3 to, the Acquisition of Land Act 1981.

Address:

> Common Land Casework
> The Planning Inspectorate
> 3F Hawk Wing
> Temple Quay House
> 2 The Square
> Bristol
> BS1 6PN

Email: commonlandcasework@planninginspectorate.gov.uk

Type of order or application:
Orders for waste disposal purposes.

Address:

> Secretary of State for Environment, Food and Rural Affairs
> Waste Strategy & Management
> Seacole Building
> 2 Marsham Street
> London
> SW1P 4DF

Type of order or application:
Orders made by water or sewerage undertakers

Address:

> Secretary of State for Environment, Food and Rural Affairs
> Water Programme
> Seacole Building
> 2 Marsham Street
> London
> SW1P 4DF

Type of order or application:
Orders made under section 62(2) of the Land Drainage Act 1991, relating to sewerage or flood defence (land drainage) functions by a local authority, and orders made by internal drainage boards under section 62(1)(b) of that Act.

Orders made by the Environment Agency in relation to its flood defence functions, or by local authorities under Part I of the Coast Protection Act 1949 relating to coast protection work.

Address:

> Secretary of State for Environment, Food and Rural Affairs
> Water and Flood Risk Management
> Seacole Building
> 2 Marsham Street
> London
> SW1P 4DF

Department for Transport

Type of order or application:
Orders made under the Highways Act 1980 or the Road Traffic Regulation Act 1984.

Address:

> Secretary of State for Transport
> National Transport Casework Team
> Department for Transport
> Tyneside House
> Skinnerburn Road
> Newcastle upon Tyne
> NE4 7AR

Type of order or application:
Airports, and airport Public Safety Zones orders.

Civil aviation orders under the Civil Aviation Act 2012 and the Airports Act 1986.

Address:

> Secretary of State for Transport
> Aviation Policy & Reform
> Zone 1/25, Great Minster House
> 33 Horseferry Road
> London
> SW1P 4DR

Other confirming authorities – for other confirming authorities the correspondence should be addressed to the appropriate Secretary of State. The following addresses may be helpful.

Department for Education

> Real Estate Team
> Education and Skills Funding Agency
> Bishopsgate House
> Darlington
> DL1 5QE

Department of Health and Social Care
For NHS and civil estate occupied by DH

Richmond House
79 Whitehall
London
SW1A 2NS

Home Office

2 Marsham Street
London
SW1P 4DF

Department for Culture, Media and Sport
Orders relating to (a) listed buildings; (b) public libraries and museums

100 Parliament Street
London
SW1A 2BQ

Department for Work and Pensions
For Benefits Agency

BA Estates
1 Trevelyan Square
Boar Lane
Leeds
LS1 6AB

Department for Energy Security and Net Zero
Electricity and gas undertakings. Onshore Electricity Development Consents.

Licensing and Consents Unit
3 Whitehall Place
London
SW1A 2AW

Procedural issues applying to some compulsory purchase orders

Section 19: For community assets (at the request of the community or a local body)

244. What requests can be made to a local authority?
244.1 Authorities can receive requests from the community or local bodies to use their compulsory purchase powers to acquire community assets, which may have been designated as Assets of Community Value (https://www.legislation.gov.uk/ukdsi/2012/9780111525791/contents), that are in danger of being lost where the owner of the asset is unwilling to sell or vacant commercial properties that are detracting from the vitality of an area.

245. What considerations need to be made when receiving a request?
245.1 Local authorities should consider all requests from third parties, but particularly voluntary and community organisations, and commercial groupings like Business Improvement District bodies, which put forward a scheme for a particular asset which would require compulsory purchase to take forward, and provide a formal response.

245.2 Local authorities must be able to finance the cost of the scheme (including the compensation to the owner) and the compulsory purchase order process either from their own resources, or with a partial or full contribution from those making the request.

245.3 Local authorities should, for example, ascertain the value of the asset to the community, or the effect of bringing it back into use; the perceived threat to the asset; the future use of the asset and who would manage it (including a business plan where appropriate); any planning issues; and how the acquisition would be financed.

Section 20: Special kinds of land

246. What are ‘special kinds of land’?
246.1 Certain special kinds of land are afforded some protection against compulsory acquisition (including compulsory acquisition of new rights across them) by providing that the confirmation of a compulsory purchase order including such land may be subject to special parliamentary

procedure. The ‘special kinds of land’ are set out in Part 3 of, and Schedule 3 to, the Acquisition of Land Act 1981 (“the 1981 Act”) (https://www.legislation.gov.uk/ukpga/1981/67/contents) and are:

(a) land acquired by a statutory undertaker for the purposes of their undertaking (section 16 (https://www.legislation.gov.uk/ukpga/1981/67/section/16) and Schedule 3, paragraph 3 (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3)) (see What protection is given by section 16 of the Acquisition of Land Act 1981?)

(b) local authority owned land; or land acquired by any body except a local authority who are, or are deemed to be, statutory undertakers for the purposes of their undertaking (section 17 (https://www.legislation.gov.uk/ukpga/1981/67/section/17) and Schedule 3, paragraph 4) (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3) (see What protection is given by section 17 of the Acquisition of Land Act 1981?)

(c) land held by the National Trust inalienably (section 18 (https://www.legislation.gov.uk/ukpga/1981/67/section/18) and Schedule 3, paragraph 5) (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3) (see What protection is given by section 18 of the Acquisition of Land Act 1981?)

(d) land forming part of a common, open space, or fuel or field garden allotment (section 19 (https://www.legislation.gov.uk/ukpga/1981/67/section/19) and Schedule 3, paragraph 6 (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3)) (see What protection is given by section 19 of the Acquisition of Land Act 1981?)

247. Which bodies are defined as statutory undertakers under the Acquisition of Land Act 1981?

247.1 Section 8(1) of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/8) defines ‘statutory undertakers’ for the general purposes of the Act. These include:

- transport undertakings (rail, road, water transport)
- docks, harbours, lighthouses
- Civil Aviation Authority and National Air Traffic Services
- universal postal service providers

247.2 British Telecom is not a statutory undertaker for the purposes of the 1981 Act. Private bus operators, other road transport operators, taxi and car hire firms which are authorised by licence are not statutory undertakers for the purposes of the 1981 Act. Where their operations are carried out under the specific authority of an act, however, such operators will fall within the definition in section 8(1) of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/8).

247.3 In addition, other bodies may be defined as, or deemed to be, statutory undertakers for the purposes of section 16 of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/16) (various health service bodies) or section 17 of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/17) (e.g. Homes England - see What protection is given by section 17 of the Acquisition of Land Act 1981?).

248. What protection is there for statutory undertakers' land?

248.1 Sections 16 and 17 of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/part/III) provide protection for statutory undertakers' land.

248.2 In both cases, the land must have been acquired for the purposes of the undertaking. The provisions do not apply if the land was acquired for other purposes which are not directly connected to the undertakers' statutory functions. Before making a representation to the appropriate Minister under section 16, or an objection in respect of land to which they think section 17 applies, undertakers should take particular care over the status of the land which the acquiring authority propose to acquire, have regard to the provisions of the relevant act, and seek their own legal advice as may be necessary. For example, whilst a gas transporter qualifies as a statutory undertaker, the protection under sections 16 and 17 would not apply in relation to non-operational land held by one, e.g. their administrative offices. In the circumstances, the land is not held for the purpose of the statutory provision: namely, the conveyance of gas through pipes to any premises or to a pipeline system operated by a gas transporter.

249. What protection is given by section 16 of the Acquisition of Land Act 1981?

249.1 Under section 16 of the 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/16) Act, statutory undertakers who wish to object to the inclusion in a compulsory purchase order of land which they have acquired for the purposes of their undertaking, may make representations to 'the appropriate Minister'. This is the minister operationally responsible for the undertaker, e.g. in the case of a gas transporter or electricity licence holder, the Secretary of State for Energy Security and Net Zero. Such representations must be made within the period stated in the public and personal notices, i.e. not less than twenty-one days, as specified in the 1981 Act.

249.2 A representation made by statutory undertakers under section 16 (https://www.legislation.gov.uk/ukpga/1981/67/section/16) is quite separate from an objection made within the same period to the confirming authority. Where the appropriate Minister is also the confirming authority the intention of the statutory undertakers should be clearly stated, particularly where it is intended that a single letter should constitute both a section 16 representation and an objection. The appropriate Minister would also be the confirming authority where, for example, an airport operator under Part 5 of

the Airports Act 1986 (https://www.legislation.gov.uk/ukpga/1986/31/part/V) makes a section 16 representation to the Secretary of State for Transport about an order made under section 239 of the Highways Act 1980 (https://www.legislation.gov.uk/ukpga/1980/66/section/239).

250. Can an order be confirmed where a representation under section 16 of the Acquisition of Land Act 1981 is not withdrawn?

250.1 Generally, where a representation under section 16 of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/16) is not withdrawn, the order to which it relates may not be confirmed (or made, where the acquiring authority is a minister) so as to include the interest owned by the statutory undertakers unless the appropriate Minister gives a certificate in the terms stated in section 16(2). These are either that:

- the land can be taken without serious detriment to the carrying on of the undertaking (section 16(2)(a) (https://www.legislation.gov.uk/ukpga/1981/67/section/16))
- if taken it can be replaced by other land without serious detriment to the undertaking (section 16(2)(b) (https://www.legislation.gov.uk/ukpga/1981/67/section/16))

However, by virtue of section 31(2) of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/31#section-31-2), an order made under any of the powers referred to in section 31(1) of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/31#section-31-1) may still be confirmed where:

- a representation has been made under section 16(1) (https://www.legislation.gov.uk/ukpga/1981/67/section/16) without an application for a section 16(2) (https://www.legislation.gov.uk/ukpga/1981/67/section/16) certificate, or where such an application is refused
- the confirmation is undertaken jointly by the appropriate Minister and the confirming authority

251. What protection is given by section 17 of the Acquisition of Land Act 1981?

251.1 Section 17(2) of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/17) provides that for an order acquiring land owned by a local authority or statutory undertaker, if that authority or undertaker objects, any confirmation would be subject to special parliamentary procedure.

251.1 However, section 17(3) of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/17) excludes the application of section 17(2) if the acquiring authority is one of the bodies referred to in section 17(3) which includes a local authority, urban development corporation, mayoral development corporation, and any

statutory undertaker as defined in section 17(4) of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/17). The application of section 17(2) (https://www.legislation.gov.uk/ukpga/1981/67/section/17) will therefore, be very limited.

251.3 The Secretary of State may by order under section 17(4) of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/17) extend the definition of statutory undertaker for the purposes of section 17(3) (https://www.legislation.gov.uk/ukpga/1981/67/section/17) to include any other authority, body or undertaker. Also, some authorities have been defined as statutory undertakers for the purposes of section 17(3) by primary legislation. Examples of such provisions are:

(a) a housing action trust – section 78 (https://www.legislation.gov.uk/ukpga/1988/50/section/78) and Schedule 10, paragraph 3 (https://www.legislation.gov.uk/ukpga/1988/50/schedule/10) of the Housing Act 1988

(b) Homes England – section 9(6) (https://www.legislation.gov.uk/ukpga/2008/17/section/9) and Schedule 2, paragraph 1(2) (https://www.legislation.gov.uk/ukpga/2008/17/schedule/2) of the Housing and Regeneration Act 2008

252. What protection is given by section 18 of the Acquisition of Land Act 1981?

252.1 Where an order seeks to authorise the compulsory purchase of land belonging to and held inalienably by the National Trust (as defined in section 18(3) of the 1981 Act), (https://www.legislation.gov.uk/ukpga/1981/67/section/18) it will be subject to special parliamentary procedure if the Trust has made, and not withdrawn, an objection in respect of the land so held.

253.What protection is given by section 19 of the Acquisition of Land Act 1981?

253.1 Compulsory purchase orders may sometimes include land or rights over land which is, or forms part of, a common, open space, or fuel or field garden allotment. Under the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/contents):

- ‘common’ includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882, and any town or village green; the definition therefore includes, but may go wider than, land registered under the Commons Registration Act 1965 (https://www.legislation.gov.uk/ukpga/1965/64/contents)
- ‘open space’ means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground
- ‘fuel or field garden allotment’ means any allotment set out as a fuel allotment, or field garden allotment, under an Inclosure Act

253.2 An order which authorises purchase of any such land will be subject to special parliamentary procedure unless the relevant Secretary of State (see Who should an acquiring authority apply to for a certificate under section 19 of the 1981 Act 1981?) gives a certificate under section 19 of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/19) indicating the Secretary of State's satisfaction that either:

- exchange land is being given which is no less in area and equally advantageous as the land taken (section 19(1)(a) (https://www.legislation.gov.uk/ukpga/1981/67/section/19))
- that the land is being purchased to ensure its preservation or improve its management (section 19(1)(aa) (https://www.legislation.gov.uk/ukpga/1981/67/section/19))
- that the land is 250 sq. yards (209 square metres) or less in area or is for the widening and/or drainage of an existing highway and that the giving of exchange land is unnecessary (section 19(1)(b) (https://www.legislation.gov.uk/ukpga/1981/67/section/19))

253.3 Likewise, an order which authorises the purchase of new rights over such land will be subject to special parliamentary procedure unless the relevant Secretary of State gives a certificate under paragraph 6 of Schedule 3 to the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3) (see also Section 21: Compulsory purchase of new rights and other interests).

254. Who should an acquiring authority apply to for a certificate under section 19 of and/or Schedule 3 to the Acquisition of Land Act 1981?

254.1 An acquiring authority requiring a certificate from the relevant Secretary of State under section 19 of (https://www.legislation.gov.uk/ukpga/1981/67/section/19), and/or paragraph 6 of Schedule 3 to (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3), the 1981 Act, should apply as follows:

- common land – Secretary of State for Environment, Food and Rural Affairs
- open space – Secretary of State who has responsibility for housing and planning matters
- fuel or field garden allotments – Secretary of State who has responsibility for housing and planning matters

Contact details can be found in Section 18: Addresses.

255. When should acquiring authority apply for a certificate under section 19 of and/or Schedule 3 to the Acquisition of Land Act 1981?

255.1 Applications for certificates should be made when the order is submitted for confirmation or, in the case of an order prepared in draft by a minister, when notice is published and served in accordance with

paragraphs 2 and 3 of Schedule 1 to the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/schedule/1).

256. What information should be provided when applying for a certificate under section 19 of and/or Schedule 3 to the Acquisition of Land Act 1981?

256.1 The land, including any new rights, should be described in detail, by reference to the compulsory purchase order, and all the land clearly identified on an accompanying map.

256.2 This should show the common/open space/fuel or field garden allotment plots to be acquired in the context of the common/open space/fuel or field garden allotment space as a whole, and in relation to any proposed exchange land.

256.3 The acquiring authority should also provide copies of the order, including the schedules, and order map. For a particularly large order, they may provide:

(a) copies of the order and relevant parts or sheets of the map

(b) a copy, or copies, of the relevant extract or extracts from the order schedule or schedules, which include the following:

(i) the plot(s) of common, open space etc. which they propose to acquire or over which they propose to acquire a new right ('the order land')

(ii) any land which they propose to give in exchange ('the exchange land')

256.4 Where paragraph 6(1)(b) of Schedule 3 to the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3) applies and additional land is being given in exchange for a new right, substitute 'the rights land' and 'the additional land' for the definitions given in (i) and (ii) above, respectively.

256.5 When drafting an order, careful attention should be given to the discharging and vesting provisions of section 19(3) of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/19) or of paragraph 6(4) of Schedule 3 to the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3).

256.6 It must be specified under which subsection(s) an application for a certificate is made e.g. section 19(1)(a), (aa) or (b), (https://www.legislation.gov.uk/ukpga/1981/67/section/19)v and/or paragraph 6(1)(a), (aa), (b) or (c) of Schedule 3 (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3). Where an application is under more than one subsection, this should be stated, specifying those plots that each part of the application is intended to cover. Where an application is under section 19(1)(b)

(https://www.legislation.gov.uk/ukpga/1981/67/section/19), it should be stated whether it is made on the basis that the land does not exceed 209 square metres (250 square yards) or under the highway widening or drainage criterion. In writing, careful attention should be given to the particular criteria in section 19 (https://www.legislation.gov.uk/ukpga/1981/67/section/19) and/or paragraph 6 of Schedule 3 (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3) that the relevant Secretary of State will be considering. The information provided should include:

- the name of the common or green involved (including CL/VG number)
- the plots numbers and their areas, in square metres
- details of any rights of common registered, or rights of public access, and the extent to which they are exercise
- the purpose of the acquisition
- details of any special provisions or restrictions affecting any of the land in the application
- any further information which supports the case for a certificate

257. How will the relevant Secretary of State decide whether to grant a certificate under section 19 of and/or Schedule 3 to the Acquisition of Land Act 1981?

257.1 In most cases, arrangements will be made for the order/rights land to be inspected and, if applicable, for a preliminary appraisal of the merits of any proposed exchange/additional land. If, at this stage, the relevant Secretary of State is satisfied that a certificate could, in principle, be given, the Secretary of State will direct the acquiring authority to publish notice of the Secretary of State's intention to give a certificate, with details of the address to which any representations and objections may be submitted. In most cases where there are objections, the matter will be considered by the inspector at the inquiry into the compulsory purchase order.

257.2 Where an inquiry has been held into the application for a certificate (including, where applicable, the merits of any proposed exchange/additional land), the inspector will summarise the evidence in their report and make a recommendation. The relevant Secretary of State's consideration of and response to the inspector's recommendation are subject to the statutory inquiry procedure rules which apply to the compulsory purchase order. Where there is no inquiry, the relevant Secretary of State's decision on the certificate will be made having regard to an appraisal by an inspector or a professionally qualified planner, and after taking into account the written representations from any objectors and from the acquiring authority.

258. When must a certificate under section 19 of and/or Schedule 3 to the Acquisition of Land Act 1981 be declined by the relevant Secretary

of State?

258.1 The relevant Secretary of State must decline to give a certificate if the Secretary of State is not satisfied that the requirements of the section have been complied with. Where exchange land is to be provided for land used by the public for recreation, the relevant Secretary of State will have regard (in particular) to the case of LB Greenwich and others v Secretary of State for the Environment, and Secretary of State for Transport (East London River Crossing: Oxleas Wood)([1994] J.P.L. 607).

259. What matters does the relevant Secretary of State take into account when considering a certificate for 'exchange land' under section 19(1)(a) of the Acquisition of Land Act 1981?

259.1 Where a certificate would be in terms of section 19(1)(a) of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/19), the exchange land must be:

- no less in area than the order land
- equally advantageous to any persons entitled to rights of common or to other rights, and to the public

259.2 Depending on the particular facts and circumstances, the relevant Secretary of State may have regard to such matters as relative size and proximity of the exchange land when compared with the order land. The date upon which equality of advantage is to be assessed is the date of exchange. (See paragraphs 5 and 6 of Form 2 in the Schedule to the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2024/473/schedule/made) [footnote 25].) But the relevant Secretary of State may have regard to any prospects of improvement to the exchange land which exists at that date.

259.3 Other issues may arise about the respective merits of an order and exchange land. The latter may not possess the same character and features as the order land, and it may not offer the same advantages, yet the advantages offered may be sufficient to provide an overall equality of advantage. But land which is already subject to rights of common or to other rights, or used by the public, even informally, for recreation, cannot usually be given as exchange land, since this would reduce the amount of such land, which would be disadvantageous to the persons concerned.

There may be some cases, where a current use of proposed exchange land is temporary, e.g., ending development. In such circumstances it may be reasonable to give the land in exchange since its current use can thereby be safeguarded for the future. The relevant Secretary of State will examine any such case with particular care.

260. What is the definition of 'the public' in regard to exchange land?

260.1 Regarding exchange land included in an order, the relevant Secretary of State takes the view that 'the public' means principally the section of the

public which has hitherto benefited from the order land and, more generally, the public at large. But circumstances differ. For example, in the case of open space, a relatively small recreation ground may be used predominantly by local people, perhaps from a particular housing estate. In such circumstances, the relevant Secretary of State would normally expect exchange land to be equally accessible to residents of that estate. On the other hand, open space which may be used as a local recreational facility by some people living close to it, but which is also used by a wider cross-section of the public may not need to be replaced by exchange land in the immediate area. One example of such a case might be land forming part of a regional park.

261. In what circumstances might an application for a certificate under section 19(1)(aa) of the Acquisition of Land Act 1981 be appropriate?

261.1 In some cases, the acquiring authority may wish to acquire land to which section 19 of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/19) applies, e.g. open space, but do not propose to provide exchange land because, after it is vested in them, the land will continue to be used as open space.

261.2 Typical examples might be where open space which is privately owned may be subject to development proposals resulting in a loss to the public of the open space; or where the local authority wish to acquire part or all of a privately owned common in order to secure its proper management.

261.3 Such a purpose might be 'improvement' within the sense of section 226(1)(a) of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/226), or a purpose necessary in the interests of proper planning (section 226(1)(b) (https://www.legislation.gov.uk/ukpga/1990/8/section/226)). The land might be neglected or unsightly (see Section 8: To improve the appearance or condition of land), perhaps because the owner is unknown, and the authority may wish to provide, or to enable provision of, proper facilities. Therefore, the acquisition or enabling powers and the specific purposes may vary. In such circumstances, i.e. where the reason for making the order is to secure preservation or improve management of land to which section 19 of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/19) applies, a certificate may be given in the terms of section 19(1)(aa).

261.4 NB: Where the acquiring authority seek a certificate in terms of section 19(1)(aa) (https://www.legislation.gov.uk/ukpga/1981/67/section/19), section 19(3)(b) of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/19) cannot apply and the order may not discharge the land purchased from all rights, trusts and incidents to which it was previously subject. See also Section 16: Preparing and serving the order and notices.

262. What factors does the relevant Secretary of State have to consider when giving a certificate under section 19(1)(b) of the

Acquisition of Land Act 1981?

262.1 A certificate can only be given in terms of section 19(1)(b) of the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/section/19) where the relevant Secretary of State concerned is persuaded that the land is 250 square yards (209 square metres) or less in area or is for the widening and/or drainage of an existing highway and that the giving of exchange land is unnecessary. The relevant Secretary of State will have regard to the overall extent of common land, open space land or fuel or field garden allotment land being acquired compulsorily. Where all or a large part of such land would be lost, the relevant Secretary of State may be reluctant to certify in terms of section 19(1)(b) (https://www.legislation.gov.uk/ukpga/1981/67/section/19). Should the relevant Secretary of State refuse such a certificate, it would remain open to the acquiring authority to consider providing exchange land and seeking a certificate in terms of section 19(1)(a) of the 1981 Act. (https://www.legislation.gov.uk/ukpga/1981/67/section/19)

263. What is special parliamentary procedure?

263.1 If an order includes land whose acquisition is subject to special parliamentary procedure, any confirmation of the order by the confirming authority would be made subject to that procedure. This means that if the order is being confirmed so as to include the special category land, the acquiring authority will not be able to publish and serve notice of confirmation in the usual way. The order will, instead, be governed by the procedures set out in the Statutory Orders (Special Procedure) Acts 1945 (https://www.legislation.gov.uk/ukpga/Geo6/9-10/18/contents) and 1965 (https://www.legislation.gov.uk/ukpga/1965/43/contents/enacted) (as amended by the Growth and Infrastructure Act 2013 (https://www.legislation.gov.uk/ukpga/2013/27/contents/enacted)). The confirming authority will give full instructions at the appropriate time.

263.2 In brief, the special parliamentary procedure is:

- following the confirming authority's decision to confirm, after giving 3 days' notice in the London Gazette, the order is laid before Parliament
- if a petition against the special authorisation is lodged within a 21 day period, it will be referred to a Joint Committee of both Houses to consider and report to Parliament as to whether to approve
- if no petition is lodged, the confirmation is usually approved without such referral

Section 21: Compulsory purchase of new rights and other interests

264. Is it possible to compulsorily acquire rights and other interests over land, without acquiring full land ownership?

264.1 There are powers available which provide for the compulsory acquisition of new rights over land where full land ownership is not required e.g. the compulsory creation of a right of access.

265. How can compulsory acquisition of rights over land be achieved?

265.1 The creation of new rights can only be achieved using a specific statutory power, known as an 'enabling power'. Powers include (with the bodies by whom they may be exercised) the following:

(i) section 13 of the Local Government (Miscellaneous Provisions) Act 1976 (https://www.legislation.gov.uk/ukpga/1976/57/section/13) (local authorities)

(ii) section 250 of the Highways Act 1980 (https://www.legislation.gov.uk/ukpga/1980/66/section/250) (all highway authorities) – guidance on the use of these powers is given in Department for Transport Local Authority Circular 2/97: Notes on the preparation, drafting and submission of compulsory purchase orders for highway schemes and car parks for which the Secretary of State for Transport is the confirming authority

(iii) section 155(2) of the Water Industry Act 1991 (https://www.legislation.gov.uk/ukpga/1991/56/section/155) (water and sewerage undertakers)

(iv) section 154(2) of the Water Resources Act 1991 (https://www.legislation.gov.uk/ukpga/1991/57/section/154) and section 2(1)(a)(iv) of the Environment Act 1995 (https://www.legislation.gov.uk/ukpga/1995/25/section/2) (Environment Agency)

(v) section 9(2) of the Housing and Regeneration Act 2008 (https://www.legislation.gov.uk/ukpga/2008/17/section/9) (Homes England)

(vi) Schedule 3 of the Electricity Act 1989 (https://www.legislation.gov.uk/ukpga/1989/29/schedule/3) (electricity undertakings)

(vii) Schedule 3 of the Gas Act 1986 (https://www.legislation.gov.uk/ukpga/1986/44/schedule/3) (gas transporter undertakings)

265.2 The acquiring authority should take into account any special requirements which may apply to the use of any particular power.

Orders solely for new rights (no other interests in land to be purchased outright)

266. What should the order describe?

266.1 The order heading should mention the appropriate enabling power, together with the Acquisition of Land Act 1981 ("the 1981 Act") (https://www.legislation.gov.uk/ukpga/1981/67/contents).

266.2 Paragraph 1 of the order should describe the purpose for which the rights are required, e.g. 'for the purpose of providing an access to a community centre which the council are authorised to provide under section 19 of the Local Government (Miscellaneous Provisions) Act 1976'.

Orders for new rights and other interests

267. What should an order describe where it relates to the purchase of new rights and of other interests in land under different powers?

267.1 The order heading should refer to the appropriate enabling act, any other act(s), and the Acquisition of Land Act 1981, as required by the regulations. See Note (b) to Forms 1, 2 and 3 in the Schedule to the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2024/473/schedule/made) [footnote 26].

267.2 Paragraph 1 of the prescribed form of the order should describe all the relevant powers and purposes.

268. What if the purpose is the same for both new rights and other interests?

268.1 This should be relatively straightforward. The order should mention, e.g.:

'. . . . . the acquiring authority is hereby authorised to compulsorily purchase

(a) under section 121 of the Local Government Act 1972 the land described in paragraph 2(1) below for the purpose of providing a community centre under section 19 of the Local Government (Miscellaneous Provisions) Act 1976; and

(b) under section 13 of the said act of 1976, the new rights which are described in paragraph 2(2) below for the same purpose

[etc., as in Form 1 of the Schedule to the Regulations. (https://www.legislation.gov.uk/uksi/2024/473/schedule/made)]'

269. What if the purpose is not the same for the new rights and other interests?

269.1 Paragraph 1 of the prescribed form of the order should describe all of the relevant powers under, and purposes for which, the order has been made, e.g.:

'. . . . . the acquiring authority is hereby authorised to compulsorily purchase

(a) under section 89 of the National Parks and Access to the Countryside Act 1949 the derelict, neglected or unsightly land which is described in paragraph 2(1) below for the purpose of carrying out such works on the land as appear to them expedient for enabling it to be brought into use; and

(b) under section 13 of the Local Government (Miscellaneous Provisions) Act 1976, the new rights which are described in paragraph 2(2) below for the purpose of providing an access to the abovementioned land for [the authority] and persons using the land, being a purpose which it is necessary to achieve in the interests of the proper planning of an area, in accordance with section 226(1)(b) of the Town and Country Planning Act 1990.'

270. What should the acquiring authority's statements of reasons and case explain?

270.1 They should explain the need for the new rights, give details of their nature and extent, and provide any further relevant information. Where an order includes new rights, the acquiring authority is also asked to bring that fact to the attention of the confirming authority in the letter covering their submission.

Schedule and map

271. What should the order schedule show?

271.1 The land over which each new right is sought needs to be shown as a separate plot in the order schedule.

272. What level of detail does this require?

272.1 The nature and extent of each new right should be described and where new rights are being taken for the benefit of a plot or plots, that fact should be stated in the description of the rights plots. It would be helpful if new rights could be described immediately before or after any plot to which they relate; or, if this is not practicable, e.g. where there are a number of new rights, they could be shown together in the schedule with appropriate cross-referencing between the related plots.

273. What does the order map need to show?

273.1 The order map should clearly distinguish between land over which new rights would subsist and land in which it is proposed to acquire other interests. (See note (g) to Forms 1, 2 and 3 or Note (e) to Forms 4, 5 and 6. (https://www.legislation.gov.uk/uksi/2004/2595/schedule/made))

273.2 Special kinds of land (commons, open space and fuel or field garden allotment) (see also Section 16: Preparing and serving the order and notices and Section 20: Special kinds of land).

274. Which part of the Acquisition of Land Act 1981 applies where a new right over special kind of land is being acquired compulsorily?

274.1 Paragraph 6 of Schedule 3 to the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3) applies (in the same way that section 19 of that Act

(https://www.legislation.gov.uk/ukpga/1981/67/section/19) applies to the compulsory purchase of any land forming part of a common, open space etc.). The order will be subject to special parliamentary procedure unless the relevant Secretary of State gives a certificate, in the relevant terms, under paragraph 6(1) and (2) of Schedule 3 to the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3).

275. In which circumstances may a certificate be given?
275.1 A certificate may be given by the relevant Secretary of State in the following circumstances:

- the land burdened with the right will be no less advantageous than before to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public (paragraph 6(1)(a) of Schedule 3 to the 1981 Act (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3))
- paragraph 6(1)(aa) (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3) – the right is being acquired in order to secure the preservation or improve the management of the land. Where an acquiring authority propose to apply for a certificate in terms of paragraph 6(1)(aa), they should note that the order cannot, in that case, discharge the land over which the right is to be acquired from all rights, trusts and incidents to which it has previously been subject (see also Section 16: Preparing and serving the order and notices and Section 20: Special kinds of land)
- paragraph 6(1)(b) (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3) – additional land will be given in exchange for the right which will be adequate to compensate the persons mentioned in relation to paragraph 6(1)(a) above for the disadvantages resulting from the acquisition of the right and will be vested in accordance with the 1981 Act. Where an authority seek a certificate in terms of paragraph 6(1)(b) because they propose to give land ('the additional land') in exchange for the right, the order should include paragraph 4(1) and the appropriate paragraph 4(2) of Form 2 in the Schedule to the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2024/473/schedule/made)[footnote 27] (see Note (j)). The land over which the right is being acquired ('the rights land') and, where it is being acquired compulsorily, the additional land, should be delineated and shown as stated in paragraph 2 of the order. Paragraph 2 (ii) should be adapted as necessary (see also Section 16: Preparing and serving the order and notices and Section 20: Special kinds of land)
- paragraph 6(1)(c) (https://www.legislation.gov.uk/ukpga/1981/67/schedule/3)

(i) the land affected by the right to be acquired does not exceed 209 square metres (250 square yards)

(ii) in the case of an order made under the Highways Act 1980 (https://www.legislation.gov.uk/ukpga/1980/66/contents), the right is required in connection with the widening or drainage, or partly with the widening and partly with the drainage, of an existing highway

and it is unnecessary, in the interests of persons, if any, entitled to rights of common or other rights or in the interests of the public, to give other land in exchange.

275.2 The same order may authorise the purchase of land forming part of a common, open space etc. and the acquisition of a new right over a different area of such land, and a certificate may be given in respect of each. The acquiring authority must always specify the type of certificate for which they are applying.

276. What other details needs to be shown where additional land, which is not being acquired compulsorily, is to be vested in the owners of the rights land?

276.1 The additional land should be delineated and shown on the order map (so as to clearly distinguish it from any land being acquired compulsorily) and described in Schedule 3 to the order. Schedule 3 becomes Schedule 2 if no other additional or exchange land is being acquired compulsorily.

277. What information has to be provided where and order, which does not provide for the vesting of additional land, but provides for discharging the rights land from all rights, trusts and incidents to which it has previously been subject (so far as their continuance would be inconsistent with the exercise of the right(s) to be acquired)?

277.1 The order needs to comply with Form 3 (https://www.legislation.gov.uk/uksi/2024/473/schedule/made) and should include the reference in paragraph 4(3) of that Form (or, if appropriate, as adapted for paragraph 4(2) of Form 6 (https://www.legislation.gov.uk/uksi/2024/473/schedule/made)) to land over which the new right is acquired. (See also In which circumstances may a certificate be given?)

Section 22: Compulsory purchase of Crown land

278. What is Crown land?

278.1 Crown land is defined in section 293(1) of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/293), section 82C of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/82C) and section 31 of the Planning (Hazardous Substances) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/10/section/31) (as amended), as any

land in which the Crown (including the Duchies of Lancaster and Cornwall) has a legal interest is 'Crown land'.

279. Who is the 'appropriate authority'?

279.1 As appropriate, the government department having management of the land, the Crown Estate Commissioners, the Chancellor of the Duchy of Lancaster, or a person appointed by the Duke of Cornwall or by the possessor, for the time being, of the Duchy.

280. Can Crown land be compulsorily purchased?

280.1 As a general rule, Crown land cannot be compulsorily acquired, as legislation does not bind the Crown unless it states to the contrary.

281. Are there any exceptions to this?

281.1 Specific compulsory purchase enabling powers can make provision for their application to Crown land, for example:

- section 327 of the Highways Act 1980 (https://www.legislation.gov.uk/ukpga/1980/66/section/327) provides for a highway authority and the appropriate Crown authority to specify in an agreement that certain provisions of the Highways Act 1980 – including the compulsory purchase powers – shall apply to the Crown
- section 32 of the Coast Protection Act 1949 (https://www.legislation.gov.uk/ukpga/Geo6/12-13-14/74/section/32) enables the compulsory purchase powers under Part I of that Act to apply to Crown land with the consent of the 'appropriate authority'

281.2 The enactments listed below (which is not an exhaustive list) also provide that interests in Crown land which are not held by or on behalf of the Crown may be acquired compulsorily if the appropriate authority agrees:

- section 226(2A) of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/226)
- section 47(6A) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/47)
- section 25 of the Transport and Works Act 1992 (https://www.legislation.gov.uk/ukpga/1992/42/section/25)
- section 221 of the Housing Act 1996 (https://www.legislation.gov.uk/ukpga/1996/52/section/221) (applicable to the Housing Act 1985, the Housing Associations Act 1985, Part 3 of the Housing Act 1988 and Part 7 of the Local Government and Housing Act 1989)

Issues for consideration

282. What issues should be considered?

282.1 Where the order is made under a power to which the provisions mentioned in Are there any exceptions to this? relate, or under any other

enactment which provides for compulsory acquisition of interests in Crown land, Crown land should only be included where the acquiring authority has obtained (or is, at least, seeking) agreement from the appropriate authority. The confirming authority will have no power to authorise compulsory acquisition of the relevant interest or interests without such agreement.

282.2 Where an order is made under powers other than the Highways Act 1980, however, the acquiring authority should identify the relevant Crown body in the appropriate column of the order schedule and describe the interest(s) to be acquired. If the acquiring authority wish to acquire all interests other than those of the Crown, column two of the order schedule should specify that 'all interests' in [describe the land] except those held by or on behalf of the Crown' are being acquired. (See also Section 16: Preparing and serving the order and notices).

Section 23: Certificates of appropriate alternative development

283. What is a certificate of appropriate alternative development?
283.1 Where existing permissions and assumptions are not sufficient to indicate properly the development value which would have existed were it not for the scheme underlying the compulsory purchase, Part 3 of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/part/III) (as amended by Part 9 of the Localism Act (https://www.legislation.gov.uk/ukpga/2011/20/section/232) and section 189 of the Levelling-up and Regeneration Act 2023 (https://www.legislation.gov.uk/ukpga/2023/55/section/189)) ("the 1961 Act") provides a mechanism for indicating a certain description of development (if any) for which planning permission can be assumed by means of a 'certificate of appropriate alternative development'. The permission indicated in a certificate can briefly be described as that with which an owner might reasonably have expected to sell their land in the open market if it had not been publicly acquired.

284. Who can apply for a certificate of appropriate alternative development?
284.1 Section 17(1) of the 1961 Act (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/17) provides that either the owner of the interest to be acquired or the acquiring authority may apply to the local planning authority for a certificate. Where an application is made for development of the relevant land together with other land it is important that the certificate sought relates only to the land in which the applicant is a directly interested party. The description of development specified in the application (and where appropriate the certificate issued in response)

should clearly identify where other land is included and the location and extent of such other land.

285. In what circumstances might a certificate be helpful?
285.1 Circumstances in which certificates of appropriate alternative development may be helpful include where:

a) there is no adopted development plan covering the land to be acquired

b) the adopted development plan indicates a ‘green belt’ or leaves the site without specific allocation

c) the site is allocated in the adopted development plan specifically for some public purpose, e.g. a new school or open space

d) the amount of development which would be allowed is uncertain

e) the extent and nature of planning obligations and conditions is uncertain

286. When does the right to apply for a certificate arise?
286.1 The right to apply for a certificate arises at the date when the interest in land is proposed to be acquired by the acquiring authority. Section 22(2) (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/22) and (2A) of the 1961 Act (https://www.legislation.gov.uk/ukpga/2023/55/section/189) describes the circumstances where this is the position. These include where a statutory notice of a compulsory purchase order, private or hybrid Bill authorising acquisition or other acquisition order has been published/served.

For acquisition by blight notice or a purchase notice it will be the date on which ‘notice to treat’ is deemed to have been served; or for acquisition by agreement it will be the date of the written offer by the acquiring authority to negotiate for the purchase of the land. An application for a certificate of appropriate alternative development may still be made despite the acquisition of the interest in land having already occurred and before compensation is agreed or awarded. For example, where a general vesting declaration has been executed and possession of the land has been taken by the acquiring authority.

For acquisition by blight notice or a purchase notice it will be the date on which ‘notice to treat’ is deemed to have been served; or for acquisition by agreement it will be the date of the written offer by the acquiring authority to negotiate for the purchase of the land.

286.2 Once a compulsory purchase order has been confirmed and comes into operation the acquiring authority should be prepared to indicate the date of entry so that a certificate can sensibly be applied for.

286.3 An application for a certificate may be made at any time, except after a notice to treat has been served or agreement has been reached for the sale of the interest and a case has been referred to the Upper Tribunal. However, an application may be made after a referral has been made to the Upper Tribunal where both parties agree in writing or the Upper Tribunal gives permission. It will assist compensation negotiations if an application is made as soon as possible.

286.4 Acquiring authorities should ensure, when serving notice to treat in cases where a certificate could be applied for, that owners are made aware of their rights in the matter. In some cases, acquiring authorities may find it convenient themselves to apply for a certificate as soon as they make a compulsory purchase order or make an offer to negotiate so that the position is clarified quickly.

286.5 It may sometimes happen that, when proceedings are begun for acquisition of the land, the owner has already applied for planning permission for some development. If the local planning authority refuse planning permission or grant it subject to restrictive conditions and are aware of the proposal for acquisition, they should draw the attention of the owner to their right to apply for a certificate, as a refusal or restrictive conditions in response to an actual application (i.e. in the 'scheme world') do not prevent a certificate being issued by the local planning authority (which would relate to the 'no scheme world').

287. How should applications for a certificate be made and dealt with?

287.1 The manner in which applications for a certificate are to be made and dealt with has been prescribed in articles 3 (https://www.legislation.gov.uk/uksi/2024/477/regulation/3/made), and 4, 5, 6 of the Land Compensation Development (England) Order 2012 (https://www.legislation.gov.uk/uksi/2012/634/contents/made) (as amended [footnote 28] ("the 2012 Order").

287.2 Article 3(3) of the 2012 Order (https://www.legislation.gov.uk/uksi/2024/477/regulation/3/made) requires that if a local planning authority issues a certificate for development which is less extensive than the description of development given in the application, is contrary to representations made by the party directly concerned, or if it rejects the application, it must include a statement of the authority's reasons and of the right of appeal, and the time within which an appeal may be made under section 18 of the 1961 Act (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/18). From 6 April 2012, this has been to the Upper Tribunal (https://www.gov.uk/appeal-upper-tribunal-lands/overview). Article 4 of the 2012 Order (https://www.legislation.gov.uk/uksi/2012/634/article/4/made) requires the local planning authority (unless a unitary authority) to send a copy of any certificate to the county planning authority concerned if it specifies development related to a county matter or, if the case is one which has been referred to the county planning authority, to the relevant district

planning authority. Where the certificate is issued by a London borough or the Common Council of the City of London, they must send a copy of the certificate to the Mayor of London if a planning application for such development would have to be referred to the Mayor of London.

287.3 Article 4 of the 2012 Order (https://www.legislation.gov.uk/uksi/2012/634/article/4/made) should be read with paragraph 55 of Schedule 16 to the Local Government Act 1972 (https://www.legislation.gov.uk/ukpga/1972/70/schedule/16), which provides that all applications for certificates must be made to the district planning authority in the first instance: if the application is for development that is a county matter, then the district must send it to the county for determination. This paragraph also deals with consultation between district and county authorities where the application contains some elements relating to matters normally dealt with by the other authority. Where this occurs, the authority issuing the certificate must notify the other of the terms of the certificate.

287.4 Article 5 of the 2012 Order (https://www.legislation.gov.uk/uksi/2012/634/article/5/made) requires the local planning authority, if requested to do so by the owner of an interest in the land, to inform the owner whether an application for a certificate has been made, and if so by whom, and to supply a copy of any certificate that has been issued. Article 6 of the 2012 Order (https://www.legislation.gov.uk/uksi/2012/634/article/6/made) provides for applications and requests for information to be made electronically.

288. What information should be contained in an application for a certificate?

288.1 In an application made under section 17 of the 1961 Act (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/17), the applicant may seek a certificate to the effect that there is a certain description of development that is appropriate alternative development for the purposes of section 14(2A) of the 1961 Act (https://www.legislation.gov.uk/ukpga/2023/55/section/189) (as inserted by the Levelling-up and Regeneration Act 2023).

288.2 An application for a certificate made under section 17 of the 1961 Act (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/17) must specify the description of development that the applicant considers planning permission would have been granted for and the applicant's reasons for holding that opinion. The onus is therefore on the applicant to substantiate the reasons why they consider that there is development that is appropriate alternative development. The application must also be accompanied by a statement which states the date on which a copy of the application has been, or will be, served on the other party directly concerned with the compulsory acquisition.

288.3 The phrase 'certain description of development' is intended to include the type and form of development. This will require the description of

development to be ‘specified’ in the application which will need a degree of precision.

288.4 The purpose of a certificate is to assist in the assessment of the open market value of the land. Applicants should therefore consider carefully for what certain description of development they wish to apply for certificates. There is no practical benefit to be gained from making applications in respect of a description of development which does not maximise the value of the land. Applicants should focus on the description of development which will most assist in determining the open market value of the land.

288.5 An application under section 17 of the 1961 Act (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/17) is not a planning application and applicants do not need to provide the detailed information which would normally be submitted with a planning application. However, applicants should give a specific description of development in the circumstances in order to ensure that any certificate issued is of practical assistance in the valuation exercise.

288.6 Applicants should set out a clear explanation of the type and scale of development that is sought in the certificate and a clear justification for this. This could be set out in a form of planning statement which might usefully cover the following matters:

- confirmation of the relevant planning date (section 17(1C) of the 1961 Act (https://www.legislation.gov.uk/ukpga/2023/55/section/189)) at which the prospects of securing planning permission are to be assessed by the relevant planning authority - this will either be the relevant valuation date (defined in section 5A of the 1961 Act (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/5A)) or, if the relevant valuation date has yet to occur and the application is to be determined before that date, the date on which the application is determined
- the type of uses that it considers should be included in the certificate including uses to be included in any mixed use development which is envisaged as being included in the certificate
- where appropriate, an indication of the quantum and/or density of development envisaged with each category of land
- where appropriate an indication of the extent of built envelope of the development which would be required to accommodate the quantum of development envisaged
- a description of the main constraints on development which could be influenced by a planning permission and affect the value of the land, including matters on site such as ecological resources or contamination, and matters off site such as the existing character of the surrounding area and development

- an indication of what planning conditions or planning obligations the applicant considers would have been attached to any planning permission granted for such a development had a planning application been made at the valuation date
- a clear justification for its view that such a permission would have been forthcoming having regard to the planning policies and guidance in place at the relevant date; the location, setting and character of the site or property concerned; the planning history of the site and any other matters it considers relevant

288.7 Detailed plans are not required in connection with an application under section 17 of the 1961 Act (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/17), however, applications should include a plan or map sufficient to identify the land to which the application relates (article 3 of the 2012 Order (https://www.legislation.gov.uk/uksi/2024/477/regulation/3/made)).Drawings or other illustrative material may be of assistance in indicating assumed access arrangements and site layout and in indicating the scale and massing of the assumed built envelope. An indication of building heights and assumed method of construction may also assist the local planning authority in considering whether planning permission would have been granted at the relevant date.

289. Is there a fee for submitting an application for a certificate of appropriate development?

289.1 A fee is payable for an application for a certificate of appropriate alternative development. Details are set out in Regulation 18 of The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (https://www.legislation.gov.uk/uksi/2012/2920/regulation/18/made) (as amended). The costs incurred in connection with preparing and submitting an application for a certificate of appropriate alternative development under section 17 of the 1961 Act or an appeal under section 18 of the 1961 Act may not be taken into account in the assessment of compensation payable for a compulsory acquisition.

290. What should a certificate contain?

290.1 The local planning authority is required to respond to an application for a certificate of appropriate alternative development by:

(a) issuing a certificate stating that a certain description of development (given in the application) is appropriate alternative development, or
(b) issuing a certificate stating that a certain description of development less extensive than, but otherwise falling within, the description of development given in the application is appropriate alternative development, or
(c) rejecting the application.

290.2 When deciding whether a certain description of development is "appropriate alternative development", the exercise the local planning authority will undertake is whether, had a planning application for the development in the application been determined on the relevant planning date (section 17(1C) of the 1961 Act (https://www.legislation.gov.uk/ukpga/2023/55/section/189)), the authority would have been more likely than not to grant it planning permission in the no-scheme world (section 17(1B) of the 1961 Act (https://www.legislation.gov.uk/ukpga/2023/55/section/189)). For the purposes of determining an application under section 17 of the 1961 Act, the "relevant planning date" is:

(a) the relevant valuation date (defined in section 5A of the 1961 Act (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/5A)), or (b) if earlier, the date on which the application is determined, for example, in the circumstances where 'notice to treat' is deemed to have been served (i.e. acquisitions by blight notice or purchase notice) and an application is submitted before the relevant valuation date has occurred.

290.3 Section 17(4) of the 1961 Act (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/17) requires the local planning authority to issue a certificate, but not before the end of 22 days from the date that the applicant has, or has stated that the applicant will, serve a copy of their application on the other party directly concerned (unless otherwise agreed).

290.4 Section 17(5A) of the 1961 Act (https://www.legislation.gov.uk/ukpga/2023/55/section/189) provides a local planning authority may issue a certificate of appropriate alternative development for either:

(a) the description of development identified in the application for the certificate under section 17 of the 1961 Act, or
(b) a description of development that is within the same description identified in the application for the certificate under section 17 of the 1961 Act but is less extensive, for example, a certificate issued for a four-storey residential block with 15 units instead of a five-storey residential block with 20 units (the description of development originally applied for).

When issuing a certificate to the applicant, the local planning authority must serve a copy of the certificate on the other party concerned with the compulsory acquisition (section 17(9) of the 1961 Act). (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/17).

290.5 Local planning authorities should note that an application made under section 17 of the 1961 Act (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/17) is not a planning application. The authority should seek to come to a view, based on its assessment of the information contained within the application and of the policy context applicable at the relevant valuation

date or, if earlier, the date on which the application is determined, the character of the site and its surroundings, as to whether such a development would have been acceptable to the authority in the no-scheme world. As the description of development included in the certificate is not intended to be built, the local planning authority does not need to concern itself with whether or not the granting of a certificate would create any precedent for the determination of future planning applications.

290.6 When issuing a certificate under section 17 of the 1961 Act, the local planning authority must give a general indication of:

(a) any conditions to which planning permission for the development described in the certificate would have been subject, and
(b) any pre-conditions for the granting of the permission, for example, agreement to enter into an obligation with the authority, that would have to be met.

The exercise which the local planning authority will undertake when giving a general indication of conditions and pre-conditions is whether the authority would have been more likely than not to impose such conditions, or insist on a pre-conditions, in the no-scheme world (section 17(5C) of the 1961 Act). (https://www.legislation.gov.uk/ukpga/2023/55/section/189) The general indication of conditions and pre-conditions should focus on those matters which affect the value of the land. Conditions and pre-conditions relating to detailed matters such approval of external materials or landscaping would not normally need to be indicated. However, clear indications should be given for matters which do affect the value of the land, wherever the authority is able to do so.

290.7 Such matters affecting the value of the land would include, for example, the proportion and type of affordable housing required within a development, limitations on height or density of development, requirements for the remediation of contamination or compensation for ecological impacts, and significant restrictions on use, as well as financial contributions and site-related works such as the construction of accesses and the provision of community facilities. The clearer the indication of such conditions and obligations can be, the more helpful the certificate will be in the valuation process.

291. Should a certificate be taken into account in assessing compensation?

291.1 A certificate once issued must be taken into account in assessing compensation for the compulsory acquisition of an interest in land, even though it may have been issued on the application of the owner of a different interest in the land. But it cannot be applied for by a person (other than the acquiring authority) who has no interest in the land.

291.2 When assessing any compensation payable to a person in respect of a compulsory acquisition, any expenses incurred by the person as a result

of the preparing, submitting or issuing of a certificate under section 17 of the 1961 Act, or an appeal under section 18 of the 1961 Act, may not be reclaimed by that person (section 17(10) of the 1961 Act (https://www.legislation.gov.uk/ukpga/2023/55/section/189)).

292. Should informal advice be given on open market value?

292.1 Applicants seeking a certificate of appropriate alternative development should seek their own planning advice if it is believed to be required in framing their application.

292.2 In order that the valuers acting on either side may be able to assess the open market value of the land to be acquired they will often need information from the local planning authority about such matters as existing permissions; the development plan and proposals to alter or review the plan. The provision of factual information when requested should present no problems to the authority or their officers. But sometimes officers will in addition be asked for informal opinions by one side or the other to the negotiations. It is for authorities to decide how far informal expressions of opinion should be permitted with a view to assisting the parties to an acquisition to reach agreement. Where they do give it, the authority should:

a) give any such advice to both parties to the negotiation

b) make clear that the advice is informal and does not commit them if a formal certificate or planning permission is sought

292.3 It is important that authorities do not do anything which prejudices their subsequent consideration of an application.

293. How are appeals against certificates made?

293.1 The right of appeal under section 18 of the 1961 Act (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/18) against a certificate issued under section 17 of the 1961 Act, exercisable by both the acquiring authority and the person having an interest in the land, is to the Upper Tribunal (Lands Chamber). The Upper Tribunal must consider the matter as if the application had been made to the Upper Tribunal and as if the Upper Tribunal were a reasonable planning authority when considering any appeal (section 18(2)(aa) of the 1961 Act (https://www.legislation.gov.uk/ukpga/2023/55/section/189)). It may confirm, vary, or cancel the certificate and issue a different certificate in its place, as it considers appropriate. Where a local planning authority has rejected an application for a certificate under section 17 of the 1961 Act, the applicant may appeal to the Upper Tribunal (Lands Chamber) against the rejection (section 18(2A) of the 1961 Act (https://www.legislation.gov.uk/ukpga/2023/55/section/189)). When considering an appeal made against a rejection of a certificate, the Upper Tribunal (Lands Chamber) will either:

(a) confirm the rejection, or
(b) issue a certificate,

as it considers appropriate.

293.2 Rule 28(7) of the Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended) (https://www.legislation.gov.uk/uksi/2008/2698/article/28/made) requires that written notice of an appeal (in the form of a reference to the Upper Tribunal) must be given within one month of receipt of the certificate by the planning authority.

293.3 If the local planning authority fail to issue a certificate, notice of appeal must be given within one month of the date when the authority should have issued it (that date is either 2 months from receipt of the application by the planning authority, or 2 months from the expiry of any extended period agreed between the parties to the transaction and the authority) and the appeal proceeds on the assumption assumption that the authority had rejected the certificate (section 18(3) of the 1961 Act (https://www.legislation.gov.uk/ukpga/2023/55/section/189)).

293.4 The reference to the Tribunal must include (in particular):

- a copy of the application to the local planning authority,
- a copy of the certificate issued (if any) by the authority or a copy of the authority's statement of reasons for rejecting the application, and
- a summary of the applicant's reasons for seeking the determination of the Tribunal and whether the applicant wants the reference to be determined without a hearing.

The Upper Tribunal does have the power to extend this period (under Rule 5 (https://www.legislation.gov.uk/uksi/2008/2698/article/5/made) of the Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended)), even if it receives the request to do so after it expires. Appeals against the Upper Tribunal's decision on a point of law may be made to the Court of Appeal in the normal way.

293.5 More information on how to make an appeal, the appeal form you need and information on the fees payable can be found on the Upper Tribunal's website (https://www.gov.uk/administrative-appeals-tribunal). If you do not have access to the internet you can request a copy of the information leaflets and a form by writing to:

> Upper Tribunal (Administrative Appeals Chamber)
> 5th floor, 7 Rolls Building
> Fetter Lane
> London
> EC4A 1NL

Section 24: Protected assets certificate

294. What are protected assets and protected assets certificates?
294.1 For the purposes of compulsory purchase protected assets are those set out below in What information needs to be included in a positive statement? Listing them in a certificate allows the confirming authority to know which assets will be affected by the scheme and will therefore inform the decision as to whether to confirm the compulsory purchase order.

295. What information do authorities need to ensure is included in or accompanies the order?
295.1 Confirming authorities need to ensure that the circumstances of any protection applying to buildings and certain other assets on order lands are included in its consideration of the order.

295.2 Every order submitted for confirmation (except orders made under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/47)) should therefore be accompanied by a protected assets certificate.

295.3 A protected asset certificate should include, for each category of building or asset protected, either a positive statement with specific additional information or a nil return.

296. What information needs to be included in a positive statement?
a) listed buildings

The proposals in the order will involve the demolition/alteration/extension* of the following building(s) which has/have been* listed under section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/1)

b) buildings subject to building preservation notices

The proposals in the order will involve the demolition/alteration/extension* of the following building(s) which is/are* the subject(s)* of (a) building preservation notice(s) made by the…… [insert name of authority] …… on……..[insert date(s) of notice(s)]

c) other buildings which may be of a quality to be listed

The proposals in the order will involve the demolition/alteration/extension* of the following building(s) which may qualify for inclusion in the statutory list under the criteria in the Principles of selection for listing buildings (https://www.gov.uk/government/publications/principles-of-selection-for-listing-buildings) d) buildings within a conservation area

The proposals in the order will involve the demolition of the following building(s) which is/are* included in a conservation area designated under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (https://www.legislation.gov.uk/ukpga/1990/9/section/69) (or, as the case may be, section 70 of that Act (https://www.legislation.gov.uk/ukpga/1990/9/section/70)) and which require planning permission for demolition (https://www.gov.uk/guidance/when-is-permission-required)

e) scheduled monuments

The proposals in the order will involve the demolition/alteration/extension* of the following monument(s) which are scheduled under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 (https://www.legislation.gov.uk/ukpga/1979/46/section/1). An application for scheduled monument consent has been/will be* submitted to Historic England

f) registered parks/gardens/historic battlefields

The proposal in the order will involve the demolition/alteration/extension* of the following park(s)/garden(s)/historic battlefield(s)* which is/are* registered under section 8C of the Historic Buildings and Ancient Monuments Act 1953 (https://www.legislation.gov.uk/ukpga/Eliz2/1-2/49/section/8C)

297. What additional information must accompany a positive statement?

297.1 The following additional information is required to accompany a positive statement:

- particulars of the asset or assets
- any action already taken, or action which the acquiring authority proposes to take, in connection with the category of protection, e.g. consent which has been, or will be, sought
- a copy of any consent or application for consent, or an undertaking to forward such a copy as soon as the consent or application is available

298. What happens if a submitted order entails demolition of a building which is subsequently included in conservation area?

298.1 Where a submitted order entails demolition of any building which is subsequently included in a conservation area the confirming authority should be notified as soon as possible.

Section 25: Objection to division of land (material detriment)

299. What happens where an owner objects to the division of land because it would cause material detriment to their retained land?

299.1 Where an acquiring authority proposes to acquire only part of a house (or park or garden belonging to a house), building or factory, the owner can serve a counter-notice on the acquiring authority requesting that it purchases the entire property.

299.2 On receipt of a counter-notice, the acquiring authority can either withdraw, decide to take all the land or refer the matter to the Upper Tribunal (Lands Chamber) for determination.

299.3 The Upper Tribunal will determine whether the severance of the land proposed to be acquired would in the case of a house, building or factory, cause material detriment to the house, building or factory (i.e. cause it to be less useful or less valuable to some significant degree), or in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

300. What is the procedure for serving a counter-notice?

300.1 In respect of a compulsory purchase order which is confirmed on or after 3 February 2017, the procedure for serving a counter-notice is set out in Schedule 2A to the Compulsory Purchase Act 1965 ("the 1965 Act") (https://www.legislation.gov.uk/ukpga/1965/56/schedule/2A) (where the notice to treat process is followed) and Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 ("the CP(VD)A 1981") (https://www.legislation.gov.uk/ukpga/1981/66/schedule/A1) (where the general vesting declaration process is followed). The procedure is broadly the same in both cases.

301. What is the effect of a counter-notice on a notice of entry which has already been served on the owner?

301.1 Under Part 1 of Schedule 2A to the 1965 Act (https://www.legislation.gov.uk/ukpga/1965/56/schedule/2A), if the owner serves a counter-notice, any notice of entry under section 11(1) of the 1965 Act (https://www.legislation.gov.uk/ukpga/1965/56/section/11) that has already been served on the owner in respect of the land proposed to be acquired ceases to have effect (see paragraph 6 of Schedule 2A (https://www.legislation.gov.uk/ukpga/1965/56/schedule/2A)). The acquiring authority may not serve a further notice of entry on the owner under section 11(1) (https://www.legislation.gov.uk/ukpga/1965/56/section/11) in respect of that land unless they are permitted to do so by paragraph 11 or 12 of Schedule 2A to the 1965 Act (https://www.legislation.gov.uk/ukpga/1965/56/schedule/2A).

302. Under the general vesting declaration procedure, what is the effect of a counter-notice on the vesting date of the owner's land specified in the declaration?

302.1 If a counter-notice is served under paragraph 2 of Schedule A1 to the CP(VD)A 1981 (https://www.legislation.gov.uk/ukpga/1981/66/schedule/A1) within the vesting period specified in the declaration in accordance with section 4(1) of the CP(VD)A 1981 (https://www.legislation.gov.uk/ukpga/1981/66/section/4), the 'vesting date' for the land proposed to be acquired from the owner (i.e. the land actually specified in the declaration) will be the day determined as the vesting date for that land in accordance with Schedule A1 (see section 4(3)(b) of the CP(VD)A 1981 (https://www.legislation.gov.uk/ukpga/1981/66/section/4)).

303. Can an acquiring authority enter the land it proposed to acquire from the owner where a counter-notice has been referred to the Upper Tribunal (Lands Chamber)?

303.1 Under Schedule 2A to the 1965 Act (https://www.legislation.gov.uk/ukpga/1965/56/schedule/2A) and Schedule A1 to the CP(VD)A 1981 (https://www.legislation.gov.uk/ukpga/1981/66/schedule/A1), an acquiring authority is permitted to enter the land it proposed to acquire from the owner (i.e. the land included in its notice to treat / general vesting declaration) where a counter-notice has been referred to the Upper Tribunal.

303.2 Paragraph 12 of Schedule 2A to the 1965 Act (https://www.legislation.gov.uk/ukpga/1965/56/schedule/2A) provides that, where a counter-notice has been referred to the Upper Tribunal, an acquiring authority may serve a notice of entry on the owner in respect of the land proposed to be acquired. If the authority had already served a notice of entry in respect of the land (i.e. a notice which ceased to have effect under paragraph 6(a) of Schedule 2A (https://www.legislation.gov.uk/ukpga/1965/56/schedule/2A)), the normal minimum 3 month notice period will not apply to the new notice in respect of that land (see section 11(1B) of the 1965 Act (https://www.legislation.gov.uk/ukpga/1965/56/section/11)). The period specified in any new notice must be a period that ends no earlier than the end of the period in the last notice of entry (see paragraph 13 of Schedule 2A (https://www.legislation.gov.uk/ukpga/1965/56/schedule/2A)).

303.3 Similarly, under the general vesting declaration procedure, if an acquiring authority refers a counter-notice (served before the original vesting date) to the Upper Tribunal, the authority may serve a notice on the owner specifying a new vesting date for the land proposed to be acquired (see paragraph 12 of Schedule A1 to the CP(VD)A 1981) (https://www.legislation.gov.uk/ukpga/1981/66/schedule/A1). This is intended to allow for the vesting of this land before the Upper Tribunal has determined the material detriment dispute.

303.4 However, if an acquiring authority enters, or vests in itself, the land it proposed to acquire in advance of the Upper Tribunal's determination and the Tribunal subsequently finds in favour of the owner (i.e. the Tribunal requires the authority to take additional land from the owner):

- the authority will not have the option of withdrawing its notice to treat under paragraph 29 of Schedule 2A to the 1965 Act (https://www.legislation.gov.uk/ukpga/1965/56/schedule/2A) or paragraph 17 of Schedule A1 to the CP(VD)A 1981 (https://www.legislation.gov.uk/ukpga/1981/66/schedule/A1), and so will be compelled to take the additional land
- the Tribunal will be able to award the owner compensation for any losses caused by the temporary severance of the land proposed to be acquired from the additional land which is required to be taken (see paragraph 28(5) of Schedule 2A to the 1965 Act (https://www.legislation.gov.uk/ukpga/1965/56/schedule/2A) and paragraph 16(4) of Schedule A1 to the CP(VD)A 1981 (https://www.legislation.gov.uk/ukpga/1981/66/schedule/A1))

304. Do the material detriment provisions in Schedule 2A to the Compulsory Purchase Act 1965 and Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 apply in all cases?

304.1 An acquiring authority may, in a compulsory purchase order, disapply the material detriment provisions for specified land which is 9 metres or more below the surface (see section 2A of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/2A)). This is intended to prevent spurious claims for material detriment from owners of land above tunnels where the works will have no discernible effect on their land.

305. Are the material detriment provisions the same where a blight notice is served?

305.1 The material detriment provisions in relation to blight notices are set out in the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/contents) (see, in particular, sections 151(4)(c) (https://www.legislation.gov.uk/ukpga/1990/8/section/151), 153(4A) to (7) (https://www.legislation.gov.uk/ukpga/1990/8/section/153) and 154(4) to (6) (https://www.legislation.gov.uk/ukpga/1990/8/section/154)).

Section 26: Overriding easements and other rights

306. Do acquiring authorities have power to override easements and other rights affecting the acquired land?

306.1 Prior to July 2016, only some acquiring authorities had the power to override easements and other rights on land they had acquired. However, provisions in section 203 of the Housing and Planning Act 2016

(https://www.legislation.gov.uk/ukpga/2016/22/section/203) extended this power to all bodies with compulsory purchase powers and in section 37 of the Neighbourhood Planning Act 2017 (https://www.legislation.gov.uk/ukpga/2017/20/section/37) to a company or body through which the Greater London Authority exercises functions in relation to housing or regeneration or to a company or body through which Transport for London exercises any of its functions.

307. Are there any restrictions on the use of the power to override easements and other rights?

307.1 There are several conditions/limitations on the use of the power to override easements and other rights. These are that:

- there must be planning consent for the building or maintenance work/use of the land
- the acquiring authority must have the necessary enabling powers in legislation to acquire the land compulsorily for the purpose of the building or maintenance work / the purpose of erecting or constructing any building, or carrying out any works, for the use
- the development must be related to the purposes for which the land was acquired or appropriated
- the land must have become vested in or acquired by an acquiring authority or been appropriated for planning purposes by a local authority on or after 13 July 2016 or be 'other qualifying land' (as defined in section 205(1)) (https://www.legislation.gov.uk/ukpga/2016/22/section/205)
- the power is not available in respect of a 'protected right' (as defined in section 205(1)) (https://www.legislation.gov.uk/ukpga/2016/22/section/205)
- the National Trust is subject to the protections in section 203(10) (https://www.legislation.gov.uk/ukpga/2016/22/section/203)

308. Are owners of overridden easements and other rights entitled to compensation?

308.1 Under section 204 of the Housing and Planning Act 2016 (https://www.legislation.gov.uk/ukpga/2016/22/section/204), owners of easements or other rights which are overridden are entitled to compensation calculated on the same basis as for injurious affection under sections 7 (https://www.legislation.gov.uk/ukpga/1965/56/section/7) and 10 of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/10). Any dispute about compensation may be referred to the Upper Tribunal (Lands Chamber) for determination.

Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation

309. What is the effect of the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?

309.1 Where a compulsory purchase order is confirmed with a section 14A direction included ('a section 14A direction compulsory purchase order'), the effect is that section 14 of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14) (as amended by section 189 of the Levelling-up and Regeneration Act 2023 (https://www.legislation.gov.uk/ukpga/2023/55/section/189)) will not apply when compensation is assessed for the value of interests in land taken (in accordance with rule (2) in section 5 of the Land Compensation Act 1961). In assessing the value of the land interest, it will be assumed that no planning permission would be granted for development on the relevant land (whether alone or together with other land). This means the assessment of compensation for a land interest will not include value attributed to:

- appropriate alternative development for which the grant of planning permission may be assumed (ignoring the scheme underlying the compulsory purchase order)
- the prospect of a planning permission being granted on the land (ignoring the scheme underlying the compulsory purchase order) for a use which has a greater value than the existing use of the land

309.2 The assessment of the value of the land interest may take account of:

- any existing planning permission which has already been granted on the land
- the prospect of planning permission being granted on or after the relevant valuation date for the conversion of a single dwelling into a 2 or more separate dwellings

309.3 The confirmation of a section 14A direction compulsory purchase order may provide the acquiring authority with upfront certainty as to how compensation for land taken will be assessed. It is also likely to assist the scheme deliver the public benefits and improve the acquiring authority's confidence in its property cost estimates.

310. When may an acquiring authority seek to include direction in a compulsory purchase order for compensation to be assessed in accordance with section 14A of the Land Compensation Act 1961?

310.1 Acquiring authorities may, in certain circumstances, include within a compulsory purchase order a direction that requires compensation to be assessed in accordance with section 14A of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14A) ('a section 14A direction').

Where a section 14A direction compulsory purchase order is confirmed section 14 of the Land Compensation Act 1961 (as amended by section 189 of the Levelling-up and Regeneration Act 2023) (which requires the valuation assessment to take into account the prospects of planning permission being granted on the land i.e. 'hope value') does not apply when compensation is assessed for the value of interests in land taken (in accordance with rule (2) in section 5 of the Land Compensation Act 1961).

310.2 An acquiring authority may only include a section 14A direction in a compulsory purchase order if they are acquiring land under the following compulsory purchase enabling powers (which are listed in Schedule 2A to the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/schedule/2A)):

(a) compulsory purchase powers authorising acquisitions for broad development schemes involving improvement, redevelopment, and regeneration purposes:

- section 21A(1)(c) and (2)(c) of the Welsh Development Agency Act 1975 (https://www.legislation.gov.uk/ukpga/1975/70/section/21A) (acquisition by the Welsh Ministers of land in England for Welsh development purposes)
- section 10 of the New Towns Act 1981 (https://www.legislation.gov.uk/ukpga/1981/64/section/10) (acquisition by new town development corporations)
- section 142 of the Local Government, Planning and Land Act 1980 (https://www.legislation.gov.uk/ukpga/1980/65/section/142) (acquisitions by urban development corporations)
- section 17 of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/section/17) (acquisitions by local housing authorities)
- section 226 of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/226) (acquisitions by local authorities for development or planning purposes)
- section 333ZA of the Greater London Authority Act 1999 (https://www.legislation.gov.uk/ukpga/1999/29/section/333ZA) (acquisitions by Greater London Authority for housing or regeneration purposes)
- section 9 of the Housing and Regeneration Act 2008 (https://www.legislation.gov.uk/ukpga/2008/17/section/9) (acquisition of land by Homes England to achieve its statutory objects (purposes))

- section 207 of the Localism Act 2011 (https://www.legislation.gov.uk/ukpga/2011/20/section/207) (acquisitions by mayoral development corporations)

(b) compulsory purchase powers authorising acquisitions for purposes of the NHS

- paragraph 46 of Schedule 4 to the Health and Social Care (Community Health and Standards) Act 2003 (https://www.legislation.gov.uk/ukpga/2003/43/schedule/4/paragraph/46) (acquisitions by NHS foundation trusts)
- paragraph 27 of Schedule 4 to the National Health Service Act 2006 (https://www.legislation.gov.uk/ukpga/2006/41/schedule/4/paragraph/27) (acquisitions by NHS trusts)
- local health boards and NHS trusts (in Wales) – paragraph 20 of Schedule 2 (https://www.legislation.gov.uk/ukpga/2006/42/schedule/2/paragraph/20) and paragraph 27 of Schedule 3 to the National Health Service (Wales) Act 2006 (https://www.legislation.gov.uk/ukpga/2006/42/schedule/3/paragraph/27)

(c) compulsory purchase powers authorising acquisitions for education purposes

- section 530 of the Education Act 1996 (https://www.legislation.gov.uk/ukpga/1996/56/section/530) (acquisitions by local authorities for purposes of educational institution or function)

310.3 Where the acquiring authority is relying on the compulsory purchase enabling powers listed under category (a) above, the acquiring authority must, as part of the scheme underlying the compulsory purchase order, intend to include some provision of affordable housing on the land included in the order. The number of affordable housing units intended to be provided by the scheme must be identified in a 'Statement of Commitments' (see What is a 'Statement of Commitments'?). The affordable housing must be social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008 (https://www.legislation.gov.uk/ukpga/2008/17/part/2). If the scheme underlying the compulsory purchase order does not include the provision of specified numbers of units of affordable housing, a section 14A direction cannot be included in the compulsory purchase order.

311. What regard should acquiring authorities have to the Subsidy Control Act 2022 when considering whether to make a compulsory purchase order with a direction included applying section 14A of the Land Compensation Act 1961?

311.1 The Subsidy Control Act 2022 ("the 2022 Act") (https://www.legislation.gov.uk/ukpga/2022/23/enacted) provides the framework for the subsidy control regime in the UK (replacing the previous European Union state aid rules regime). See the the statutory guidance on the UK

subsidy control regime (https://www.gov.uk/government/publications/uk-subsidy-control-statutory-guidance).

311.2 Before deciding whether to make a section 14A direction compulsory purchase order, acquiring authorities should consider on a case-by-case basis the need to undertake an assessment of whether the subsidy control regime is engaged.

311.3 A confirmed section 14A direction compulsory purchase order will enable an acquiring authority to acquire land without paying compensation associated with either:

- the prospect of appropriate alternative development being established on the land - the prospect of planning permission being granted for other development on or after the relevant valuation date on the land

311.4 The payment of reduced compensation may engage the subsidy control regime as a 'subsidy' for the purposes of section 2(1) of the 2022 Act (https://www.legislation.gov.uk/ukpga/2022/23/section/2) if it provides financial assistance that:

(a) is given, directly or indirectly, from public resources by a public authority

(b) confers an economic advantage on one or more enterprises

(c) is specific i.e. it benefits one or more enterprises over one or more other enterprises with respect to the production of goods or the provision of services

(d) has, or is capable of having, an effect on—

(i) competition or investment within the United Kingdom

(ii) trade between the United Kingdom and a country or territory outside the United Kingdom

(iii) investment as between the United Kingdom and a country or territory outside the United Kingdom

311.5 However, each set of circumstances should be considered on a case-by-case basis to determine whether the particular section 14A direction is a 'subsidy' in those circumstances.

312. How can an acquiring authority include a direction in a compulsory purchase order which applies section 14A of the Land Compensation Act 1961?

312.1 Acquiring authorities using the powers listed in Schedule 2A to the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/schedule/2A) may include a section

14A direction within a compulsory purchase order which is submitted for confirmation.

312.2 The relevant wording for including a section 14A direction in a compulsory purchase order is set out in the relevant optional paragraphs in Forms 1 to 3 in the Schedule to the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2024/473/schedule/made)[footnote 29].

312.3 New town development corporations should follow this for advice on how to include a section 14A direction within a new town compulsory purchase order.

313. How will landowners be notified of a compulsory purchase order which has been made with a direction applying section 14A of the Land Compensation Act 1961 included?

313.1 When serving notice under section 12(1) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/12) on qualifying persons of a section 14A direction compulsory purchase order, the notice must, in addition to the other requirements under section 12:

- include a statement of the effect of a direction applying section 14A of the Land Compensation Act 1961 (see additional paragraph 7 in Form 8 in the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2024/473/schedule/made)[footnote 30])
- name a place within the locality where a copy of the acquiring authority's Statement of Commitments may be inspected
- specify the website on which a copy of the Statement of Commitments may be viewed

314. What is a 'Statement of Commitments'?

314.1 When submitting a section 14A direction compulsory purchase order for confirmation, acquiring authorities must also submit a Statement of Commitments. A 'Statement of Commitments' is a statement of the acquiring authority's intentions as to what it will do with the land included in the section 14A direction compulsory purchase order should the acquisition proceed and the authority relies on those intentions in demonstrating that the section 14A direction is justified in the public interest.

314.2 To ensure accessibility and transparency for objectors and other parties, it is recommended the Statement of Commitments is a standalone document from the statement of reasons submitted in support of the compulsory purchase order.

315. What happens if an acquiring authority wishes to amend its Statement of Commitments after a compulsory purchase order which

includes a direction applying section 14A of the Land Compensation Act 1961 has been submitted for confirmation?

315.1 The confirming authority may allow an acquiring authority to amend its Statement of Commitments before the section 14A direction compulsory purchase order is confirmed only if:

- the amendment would not be unfair to any person who made or could have made a relevant objection for the purposes of section 13 of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/13)
- if the compulsory purchase power under which the compulsory purchase order is made is for a purpose including housing (listed under paragraphs 1 to 7 in Schedule 2A to the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/schedule/2A)), only if the authority's intentions still include the provision of units of affordable housing

315.2 A request to amend a Statement of Commitment by an acquiring authority should be made to the confirming authority.

316. Where the acquiring authority wishes to amend its Statement of Commitments, how can it ensure the amendment would not be unfair to any person who made or could have made a relevant objection for the purposes of section 13 of the Acquisition of Land Act 1981?

316.1 As noted above, the confirming authority may only permit the acquiring authority to amend the statement of commitments where it is satisfied the amendment would not be unfair to a person who made or could have made a relevant objection for the purposes of section 13 of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/13). The purpose of this requirement is to ensure that any person who made, or could have made, a relevant objection to a compulsory purchase order is not unfairly deprived of an opportunity to express views on the proposed changes. The "unfairness" the provision is intended to avoid is therefore procedural rather than substantive in nature.

316.2 Potential unfairness of this nature could be remedied by allowing representations to be made on the proposed changes in a manner proportionate to the nature of the change. This could include for instance, where necessary, reopening an inquiry or allowing a further exchange of written representations.

317. What happens if the confirming authority decides a proposed amendment to a Statement of Commitments is unfair to any person who made or could have made a relevant objection for the purposes of section 13 of the Acquisition of Land Act 1981?

317.1 If an acquiring authority is not permitted to amend its Statement of Commitments, it should consider remedying any potential unfairness as

suggested in the paragraph above.

317.2 If the acquiring authority is not willing to do so, then the acquiring authority will have to rely on the version of its Statement of Commitments that it submitted with the section 14A direction compulsory purchase order if it wishes to proceed with that order.

318. Can an acquiring authority confirm its own compulsory purchase order if it includes a direction applying section 14A of the Land Compensation Act 1961?

318.1 The power under section 14A of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/14A) for the confirming authority to remit a compulsory purchase order back to the acquiring authority for confirmation does not apply to a section 14A direction compulsory purchase order regardless of whether no objections have been made to the order.

319. How will the confirming authority consider a compulsory purchase order which is made with a direction applying section 14A of the Land Compensation Act 1961 included?

319.1 Where an acquiring authority makes a section 14A direction compulsory purchase order, as well as demonstrating there is a compelling case in the public interest for the making of the compulsory purchase order, the acquiring authority will have to demonstrate the inclusion of the section 14A direction in the order is justified in the public interest.

319.2 The confirming authority will only confirm a compulsory purchase order with a section 14A direction included if they are satisfied the direction is justified in the public interest.

319.3 If the confirming authority is not satisfied a section 14A direction is justified in the public interest, the confirming authority can exercise the power under section 15A(9) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/15A) to modify the compulsory purchase order so to remove the direction. They must still decide whether there is a compelling case in the public interest for the making of the compulsory purchase order.

320. How will an acquiring authority demonstrate the inclusion of a direction applying section 14A of the Land Compensation Act 1961 in a compulsory purchase order is justified in the public interest?

320.1 It is for acquiring authorities to decide how to justify including a section 14A direction in a compulsory purchase order. Acquiring authorities will need to defend including a section 14A direction in a compulsory purchase order and defend the potential to acquire the land at a value which assumes no planning permission would be granted for development on the relevant land (whether alone or together with other land), at a public inquiry or through written representations and, if necessary, in the courts.

320.2 As with the justification for demonstrating the compelling case for the use of compulsory purchase powers, the more comprehensive the justification for the inclusion of a section 14A direction is, the stronger the acquiring authority's case is likely to be. Acquiring authorities should consider submitting a cost/benefit study to demonstrate how the public benefits to be delivered through the confirmation of a section 14A direction compulsory purchase order outweigh the interference with the rights of an affected party including those in Article 1 of the First Protocol to the European Convention on Human Rights (https://www.legislation.gov.uk/ukpga/1998/42/schedule/1) and, in the case of a dwelling, Article 8 of the Convention.

320.3 Where the public benefits to be facilitated by the confirmation of a section 14A direction compulsory purchase order will be limited, the justification for the section 14A direction in the public interest may be more difficult to show.

320.4 The confirming authority will consider each section 14A direction compulsory purchase order on its own merits. It is anticipated the confirming authority will first consider whether there is a compelling case in the public interest for the making of the compulsory purchase order (see When should compulsory purchase powers be used?, How does an acquiring authority justify a compulsory purchase order? and How will the confirming authority consider the acquiring authority's justification for a compulsory purchase order?) before turning to whether including a section 14A direction in the order is justified in the public interest. This guidance is not intended to suggest the confirming authority will require any particular degree of justification for any specific section 14A direction compulsory purchase order. The confirming authority will need to be satisfied, and the acquiring authority must be able to demonstrate, that there are sufficiently convincing reasons why including the section 14A direction in the compulsory purchase order is justified in the public interest.

320.5 Acquiring authorities are advised to ensure the public benefits to be delivered through the assessment of compensation for land value in accordance with section 14A of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14A) are appropriately and clearly described in a Statement of Commitments which must be submitted alongside a section 14A direction in the compulsory purchase order. This will ensure affected parties, the inspector and the confirming authority are in no doubt as to the public benefits which are to be delivered by the scheme in question. See What is a 'Statement of Commitments'? for guidance on what is a 'Statement of Commitments'. To demonstrate including a section 14A direction in the compulsory purchase order is justified in the public interest, acquiring authorities should, when submitting the order and Statement of Commitments for confirmation, provide the following information:

(a) consideration of the effects on affected land interest holders, including consideration of rights under Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention

(b) justification as to why the assessment of compensation for land value in accordance with section 14A of the Land Compensation Act 1961 in the specific circumstances of the scheme is proportionate to the effects on those with an interest in the land

(c) evidence of how the assessment of compensation for land value in accordance with section 14A of the Land Compensation Act 1961 will assist the delivery of a scheme's public benefits which would not otherwise come forward if the compulsory purchase order was confirmed without a section 14A direction included. This may require the acquiring authority to consider presenting a comparison of the scheme with and without a section 14A direction. This evidence should provide an objective, realistic overview of the costs of the scheme to be facilitated by a section 14A direction and be undertaken in accordance with published professional guidance. It should be prepared on the basis it will be made publicly available and any commercially sensitive information should be aggregated and executive summaries provided

320.6 Acquiring authorities should recognise that the inspector and the confirming authority will rely on the information outlined above as part of the consideration of whether the inclusion of a section 14A direction in a compulsory purchase order is justified in the public interest. As such, it should be presented clearly so as to aid clear interpretation and interrogation.

320.7 The justification for the inclusion of a section 14A direction in a compulsory purchase order will vary from order to order. For some schemes the public benefits to be delivered through including a section 14A direction may be limited and experienced only by the community in the immediate vicinity of the land.

For example, an infill site delivering residential units which will regenerate a derelict, vacant area.

320.8 On the other hand, other types of schemes may deliver wider public benefits which would extend beyond the local area, for example, across a region. For example, a brownfield city centre mixed-use scheme or a university teaching hospital.

320.9 Where it is decided that a public inquiry will be held to consider objections to a section 14A direction compulsory purchase order, it is anticipated a matter on which the confirming authority may wish to appoint an assessor under the Compulsory Purchase (Inquiries Procedure) Rules 2007 (https://www.legislation.gov.uk/uksi/2007/3617/contents/made) to sit with and

advise an inspector on is the evaluation of the acquiring authority's evidence of how the assessment of compensation for land value in accordance with section 14A of the Land Compensation Act 1961 will support the delivery of a scheme's public benefits

321. Can the power to include a direction applying section 14A of the Land Compensation Act 1961 in a compulsory purchase order be used if the purpose or activity specified in the order is being taken forward by a body other than the authority which made the order?

321.1 Where a section 14A direction compulsory purchase order is made which facilitates the provision of affordable housing, the acquiring authority itself does not need to be undertaking the scheme.

321.2 Where a body from the private sector has agreed to make financial contributions to, or to completely underwrite, the delivery of the scheme underlying the section 14A direction compulsory purchase order, the benefits to be secured through acquiring the land at a value which assumes no planning permission would be granted for development on the relevant land (whether alone or together with other land) are less likely to accrue to the public and more likely to accrue to the private sector partner. In these circumstances, it is considered less likely including a section 14A direction in a compulsory purchase order would be justified in the public interest. For the purposes of this paragraph, "a body from the private sector" is not meant to include a registered provider of affordable housing (including social housing) or a body such as a Community Land Trust.

322. How will landowners be notified of a compulsory purchase order which has been confirmed with a direction applying section 14A of the Land Compensation Act 1961 included?

322.1 Where a section 14A direction compulsory purchase order is confirmed, the following information must be included in the confirmation notice required by section 12(1)(a) of the Acquisition of Land Act 1981 (https://www.legislation.gov.uk/ukpga/1981/67/section/12):

- a statement of the effect of the section 14A direction - an explanation of how the Statement of Commitments may be viewed
- an explanation that additional compensation may become payable if the Statement of Commitments is not fulfilled

322.2 When drafting a confirmation notice associated with a section 14A direction compulsory purchase order using Form 10 in the Schedule to the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (https://www.legislation.gov.uk/uksi/2024/473/schedule/made) [footnote 31], additional paragraphs 8 to 10 in Form 10 must be included in the notice.

323. Where a compulsory purchase order is confirmed with a direction applying section 14A of the Land Compensation Act 1961 included,

will the direction apply to all of the land included in the order regardless of the use of that land?

323.1 Where a section 14A direction compulsory purchase order is confirmed, the terms of the direction will apply in respect of the assessment of compensation for the acquisition of all the interests in land included in the order regardless of the lands intended use.

324. What is the effect of the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included in respect of land acquired in pursuance of a blight notice?

324.1 Where an interest in land is acquired in pursuance of a blight notice under Chapter II of Part VI of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/part/VI/chapter/II), and the interest is one in respect of which a section 14A direction compulsory purchase order is in force, the compensation payable for the acquisition of that interest is to be assessed:

(a) in accordance with the terms of the section 14A direction

(b) as if the notice to treat deemed to have been served in respect of the interest under section 154 of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/154) had been served in pursuance of the section 14A direction compulsory purchase order

325. Will a direction applying section 14A of the Land Compensation Act 1961 be taken into account in the assessment of value of severed land or injurious affection under sections 7 or 10 of the Compulsory Purchase Act 1965?

325.1 Compensation for diminution in the value of a person's retained land as a consequence of it being severed from, and not being held with, land acquired by an acquiring authority is payable under section 7 of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/7). Compensation for damage caused to the retained land by injurious affection is payable under section 10 of that Act (https://www.legislation.gov.uk/ukpga/1965/56/section/10). As compensation in each case is not related to the assessment of the value of land under the Land Compensation Act 1961, a section 14A direction will have no effect.

325.2 The amount of compensation claimed for value of land acquired subject to a section 14A direction compulsory purchase order and compensation claimed for severance or injurious affection in respect of retained land should be set out and assessed separately on claim forms.

326. What effect will the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included have on the assessment of value of land acquired

pursuant to the acceptance of a counter-notice under Parts 1 or 2 of Schedule 2A to the Compulsory Purchase Act 1965?

326.1 Where an acquiring authority proposes to acquire part of a property, the owner may serve a counter-notice under Parts 1 or 2 of Schedule 2A to the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/schedule/2A) requiring the acquiring authority to purchase their interest in the whole of the land. If the acquiring authority accepts the counter-notice, or the Upper Tribunal determines the acquiring authority ought to be required to acquire the whole or part of the additional land, the compulsory purchase order and the notice to treat have effect as if they included both the person's interest in the land proposed to be acquired and the person's additional land (as defined in Parts 1 and 2 of Schedule 2A to the Compulsory Purchase Act 1965). As such, if the compulsory purchase order includes a section 14A direction, that direction will also apply to the assessment of compensation for the value of interests in the additional land which is to be acquired.

327. What effect will the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included have on the determination of loss payments under the Land Compensation Act 1973?

327.1 Where the amount of a home loss payment (including an advance payment) or discretionary home loss payment is to be determined in accordance with section 30(1) of the Land Compensation Act 1973 ("the 1973 Act") (https://www.legislation.gov.uk/ukpga/1973/26/section/30), the market value (as defined) of the interest to be acquired will be used as the basis for assessing the relevant loss payment amount. Where land is being compulsorily acquired, the market value of the interest is defined as 'the amount assessed for the purposes of the acquisition'. The amount assessed for the purposes of the acquisition is also the value be used to determine loss payments under sections 33A, 33B and 33C of the 1973 Act (https://www.legislation.gov.uk/ukpga/1973/26/part/III/crossheading/other-loss-payments). Where a section 14A direction compulsory purchase order is confirmed, claims for loss payments compensation (which will involve the assessment of market value under sections 30(1), 32(2B), 33A(6), 33B(5) and 33C(5) of the 1973 Act) will be assessed by reference to the compensation payable for that interest in accordance with the terms of the section 14A direction.

328. What happens if an acquiring authority fails to deliver its scheme as intended when the compulsory purchase order which included the direction applying section 14A of the Land Compensation Act 1961 was confirmed?

328.1 The confirming authority must, on an application by an 'eligible person' (see Who is eligible to make an application for a direction for additional compensation?) under paragraph 1(2) of Schedule 2A to the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-

10/33/schedule/2A), make a direction for additional compensation if it appears to the confirming authority that the following conditions have been met:

- the acquiring authority's Statement of Commitments has not been fulfilled i.e. the acquiring authority's use of the acquired land is not materially in accordance with its stated intentions set out in the version of its Statement of Commitments as at the date the section 14A direction compulsory purchase order was confirmed
- either: (a) the period of 10 years beginning with the date on which the compulsory purchase order became operative has expired, or (b) there is no longer any realistic prospect of the acquiring authority's Statement of Commitments being fulfilled within that period
- the section 14A direction compulsory purchase order would not have been confirmed on the basis of a Statement of Commitments reflecting what the acquiring authority has done with the land included in the compulsory purchase order since its acquisition.

329. When would an acquiring authority's Statement of Commitments be fulfilled?

329.1 An acquiring authority's Statement of Commitments will be 'fulfilled' for the purposes of paragraph 1(3) of Schedule 2A to the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/schedule/2A) where what is done with the land after its compulsory purchase is materially in accordance with the version of its Statement of Commitments as at the date the section 14A direction compulsory purchase order was confirmed.

330. Who is eligible to make an application for a direction for additional compensation?

330.1 A person is eligible to make an application for a direction for additional compensation if the person was entitled to compensation in respect of the original acquisition ("eligible person") i.e. they had their land or an interest in land acquired via a section 14A direction compulsory purchase order.

330.2 Mortgage lenders may be classed as eligible persons where they were entitled to compensation in respect of the original acquisition (see Where additional compensation is payable, what happens if an interest in land which was acquired via a section 14A direction compulsory purchase order was subject to a mortgage?).

330.3 Where the right to compensation to which an eligible person was entitled in respect of the original acquisition would (if the compensation has not been paid) has vested in another person, such a successor-in-title may, whether the eligible person is alive or not, make an application for a direction for additional compensation under paragraph 1(2) of Schedule 2A to the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/schedule/2A). Successors-in-title may also make claims for additional compensation, where applicable.

331. How does an eligible person make an application for a direction for additional compensation?

331.1 Where an eligible person believes the conditions for the making of an application for additional compensation under paragraph 1(3) in Schedule 2A to the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/schedule/2A) have been met (see What happens if an acquiring authority fails to deliver its scheme as intended when the compulsory purchase order which included the direction applying section 14A of the Land Compensation Act 1961 was confirmed?), they may apply to the confirming authority seeking a direction for additional compensation.

331.2 The confirming authority may appoint a planning inspector to advise on matters such as:

- considering the representations submitted on the valid application for a direction for additional compensation
- undertaking a site inspection, if appropriate
- making a report in writing to the confirming authority with their findings of fact and a recommendation to enable the confirming authority to make a decision on the application

331.3 The procedure for submitting an application for a direction for additional compensation is set out in the Land Compensation (Additional Compensation) (England) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/915/contents/made). Under the procedure, the local planning authority for the land the subject of the application will be notified of the application and asked to make representations on whether the acquiring authority's Statement of Commitments has been fulfilled i.e. whether what has been done with the land after its compulsory purchase is materially in accordance with the version of the Statement of Commitments as at the date the section 14A direction compulsory purchase order was confirmed. This should involve an appraisal being undertaken by the local planning authority of the current use and planning status of the land at the time it received notification of the application. For example, whether the planning permission underpinning the section 14A direction compulsory purchase order scheme has commenced and the development is being built out; it remains uncommenced but extant; it has expired; the scheme underlying the section 14A direction compulsory purchase order has been build out and complete; or a different development scheme has been granted planning permission on the land and/or has been build out (or in the process of being built out).

331.4 Failure to comply with the procedure for submitting an application for a direction for additional compensation may result in an application being invalid and not being accepted by the confirming authority. Where an application is rejected, and an applicant resubmits the application, the

resubmitted application will be treated as a new application for the purposes of the regulations.

331.5 A model application form for a direction for additional compensation is set out in the Schedule to the Land Compensation (Additional Compensation) (England) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/915/schedule/made).

332. Where should an application for a direction for additional compensation be submitted?

332.1 An application for a direction for additional compensation should be submitted to the Secretary of State who has responsibility for housing and planning matters in their role as confirming authority at the address provided in Section 18 of this guidance.

333. Is there a deadline for when an application for a direction for additional compensation may be made?

333.1 An application for a direction for additional compensation may not be made after the expiry of the period of 13 years beginning with the date on which the section 14A direction compulsory purchase order became operative.

334. How will the applicant and acquiring authority be notified of the confirming authority's decision on an application for a direction for additional compensation?

334.1 The confirming authority, when determining an application for a direction for additional compensation, will give notice of their decision in writing to:

- the applicant
- acquiring authority
- any other person who was sent notification of the valid application.

334.2 The notice of decision will state:

(i) the date of the decision

(ii) the confirming authority's written reasons for making a direction for additional compensation or the refusal of an application

(iii) where a direction for additional compensation has been made:

(a) that a claim for additional compensation may be made to the relevant acquiring authority in accordance with the Land Compensation (Additional Compensation) (England) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/915/contents/made)

(b) in the notice sent to the applicant, confirmation of the contact details for that acquiring authority

335. What is the effect of a direction for additional compensation?
335.1 Where the confirming authority makes a direction for additional compensation, any person who was entitled to compensation in respect of the acquisition may make a claim to the acquiring authority for additional compensation in respect of the compulsory purchase of their interest in land which was subject to the section 14A direction.

336. How will persons eligible to make a claim for additional compensation be notified of a decision by the confirming authority to make a direction for additional compensation?
336.1 Within 6 weeks of receiving notification of the confirming authority's decision to make a direction for additional compensation, the acquiring authority must publicise notice of the decision by following the procedure set out the Land Compensation (Additional Compensation) (England) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/915/contents/made).

336.2 The locations where notice of the confirming authority's decision must be publicised by the acquiring authorities are:

- on a website maintained by the acquiring authority (the notice must remain on the website for a period of not less than one year)
- affixed on or near the land comprised in the original section 14A direction compulsory purchase order and in the locality in which the land is situated where public notices are usually posted (the notice should be maintained in place and in good condition for at least one month)
- in each of the London Gazette, the Estates Gazette and a local newspaper that circulates in the locality in which the original section 14A direction compulsory purchase order land is situated (the notice must be published for 2 successive weeks)
- where the original section 14A direction compulsory purchase order land included land that was agricultural land immediately before it was acquired by the acquiring authority, in Farmers Weekly (the notice must be published for 2 successive weeks)

337. What are the circumstances where additional compensation will be payable?
337.1 Additional compensation will be payable if:

(a) the amount of compensation that would have been assessed in respect of the acquisition (i.e. the value of the interest in the land) as due had compensation been assessed in accordance with section 14 of the Land Compensation Act 1961 (as amended by section 189 of the Levelling-up and Regeneration Act 2023

(https://www.legislation.gov.uk/ukpga/2023/55/section/189)) ("the alternative amount"), is greater than

(b) the amount of compensation awarded or agreed to be paid to the eligible person in respect of the compulsory purchase of their interest in the land which was subject to the original section 14A direction ("original amount")

337.2 The amount payable will be the difference between the alternative and original amounts (where the alternative amount is greater than the original amount), together with any interest accrued and an amount for qualifying losses where applicable.

338. How will the amount of additional compensation be assessed?
338.1 Where the confirming authority makes a direction for additional compensation under paragraph 1(2) of Schedule 2A to the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/schedule/2A), the effect is that section 14 of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14) (as amended by section 189 of the Levelling-up and Regeneration Act 2023 (https://www.legislation.gov.uk/ukpga/2023/55/section/189)) will be applied retrospectively to the assessment of compensation in respect of the value of the interest in land acquired under the original compulsory purchase order.

338.2 For the purposes of calculating the original and alternative amounts (i.e. assessing the amount of additional compensation), no account may be taken of compensation that is or would be attributable to disturbance, severance or injurious affection. Where a direction for additional compensation is made, the alternative amount may be calculated by taking account of the value associated at the relevant original valuation date with:

- the planning certainty of appropriate alternative development established on the land
- the prospect of planning permission being granted for other development on the land on or after the relevant valuation date

338.3 A Certificate of Appropriate Alternative Development (CAAD) may not be applied for to inform the assessment of the alternative amount if a reference has been made to the Upper Tribunal (Lands Chamber) to determine the amount of additional compensation except with the consent in writing of the other party directly concerned or the permission of the Upper Tribunal (Lands Chamber).

338.4 Where a CAAD is applied for to inform the assessment of the alternative amount and a decision is issued by the relevant local planning authority, an appeal may be made to the Upper Tribunal (Lands Chamber) against that decision in the usual way under section 18 of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/18).

338.5 The assessment of additional compensation cannot consider any part of value which is attributable to any change in the use of the land made after the relevant valuation date used to determine the original amount of compensation ('the original relevant valuation date') which includes any building, or improvement or extension of a building, on the land after the original relevant valuation date. This also includes any planning permission subsequently granted after the original relevant valuation date on the land or buildings on the land.

339. What happens if a referral has been made to the Upper Tribunal (Land Chamber) to determine the original amount of compensation but it remains undetermined when a direction for additional compensation is made?

339.1 Where this is the case, claimants will still be able to make a claim for additional compensation, if appropriate, and should set out in the claim the amount, if any, that has been agreed or award. The claimant may also provide further information as part of their claim to explain any reasons why the original compensation has not been agreed or awarded. The acquiring authority may also request this information where appropriate.

340. Where additional compensation is payable, is interest to be applied to the final amount?

340.1 Where additional compensation is payable, the Land Compensation (Additional Compensation) (England) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/915/contents/made) provide for the calculation of interest on the difference between:

(a) the original amount of compensation which was awarded or agreed to be paid to the claimant for the value of their interest in land taken

(b) the additional amount of compensation assessed as due to the person in respect of the acquisition

The rate at which interest will accrue on the additional compensation payable is set at 0.5% below the Bank of England base rate. It will accrue from the date the original amount of compensation was paid until payment of the additional compensation is made. Interest accrued will also be subject to compound interest calculated on an annual basis. For the avoidance of doubt no interest will be payable on amounts in respect of costs or qualifying losses.

341. What are the relevant valuation dates for the assessment of additional compensation?

341.1 Where the original amount of compensation for the value of an interest in land taken (in accordance with the section 14A direction) was agreed, the relevant valuation date for the assessment of the alternative amount is the date on which the agreement was concluded.

341.2 Where the original amount of compensation for the value of an interest in land taken (in accordance with the section 14A direction) was awarded (i.e. paid by the acquiring authority, including in cases where it was determined by the Upper Tribunal (Lands Chamber)), the relevant valuation date is the same as the relevant valuation date used to determine the original amount of compensation, under section 5A of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/5A). For example, if the relevant valuation date for determining the original amount of compensation under the section 14A direction was 2 January 2024, the same date will be used to assess the alternative amount of compensation even though the direction for additional compensation may have been made by the confirming authority on 2 January 2030.

342. Where additional compensation is payable, and the Crichel Down Rules apply, how should the rules relating to the disposal of land under the Crichel Down Rules be applied?

342.1 Where an acquiring authority wishes to dispose of land which was acquired as a consequence of a section 14A direction compulsory purchase order, and to which the Crichel Down Rules apply, the authority should notify the former owner that:

(a) they may be entitled to make an application to the confirming authority who has responsibility for housing and planning matters for a direction for additional compensation under Schedule 2A of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/schedule/2A)

(b) if a direction for additional compensation is subsequently made, they may be entitled to submit a claim for additional compensation

342.2 If a direction for additional compensation is made, the Crichel Down Rules will apply unmodified. However, the disposing authority may wish to credit any additional compensation that becomes payable under the additional compensation procedure against the full market value sale price of the surplus land (determined in accordance with the Crichel Down Rules) in satisfaction or part satisfaction of that sale price. See guidance on the Crichel Down Rules (https://www.gov.uk/government/publications/the-crichel-down-rules).

343. Where additional compensation is payable, what happens if an interest in land which was acquired via a section 14A direction compulsory purchase order was subject to a mortgage?

343.1 A person whose interest in land was compulsory acquired under a section 14A direction compulsory purchase order and was then subject to a mortgage may make an application for a direction for additional compensation as may a mortgage lender. They may also, where eligible, make a claim for additional compensation where a direction for additional compensation has been made by the confirming authority.

343.2 The existence of the mortgage when the interest in land was compulsory acquired with the section 14A direction is to be taken into account for the purpose of determining both the original and additional compensation amounts. In each case, it is important to determine to whom original compensation sums were paid.

343.3 Sums paid by the acquiring authority in respect of the original compulsory acquisition to a mortgage provider under sections 15 (https://www.legislation.gov.uk/ukpga/1965/56/section/15) or 16 of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/16) (where the mortgage debt exceeded the value of the mortgage land) or as advance payment of compensation under sections 52ZA (https://www.legislation.gov.uk/ukpga/1973/26/section/52ZA) or 52ZB of the Land Compensation Act 1973 (https://www.legislation.gov.uk/ukpga/1973/26/section/52ZB) are treated as 'original amounts' paid to that mortgage provider (as opposed to the person who held the land interest). To calculate the original amount that was paid to the land interest holder, and the alternative amount that would have been paid to them if no section 14A direction had been included in the compulsory purchase order, sums paid directly to any mortgage provider by the acquiring authority (and sums that would have been paid to the mortgage provider if the alternative amount had been paid) should be subtracted.

343.4 Where additional compensation is payable and there are outstanding loans secured by a mortgage on the relevant land at the date of the claim for additional compensation, the payment of additional compensation must be made to the mortgage provider for it to be put towards discharging the outstanding loans. Where there is more than one mortgage, payment of the additional compensation is to be made in order of the priority of the mortgage debts. Any excess is payable to the person who held the mortgaged land. If there are no outstanding loans secured by a mortgage at the date of the claim for additional compensation, the additional compensation is payable to the person who held the mortgaged land/property.

343.5 For example, in a case where:

(a) the land is valued at £1 million because of the confirmation of a section 14A direction compulsory purchase order which would have been valued at £2 million without the existence of a section 14A direction

(b) the amount due on the mortgage at the time of the original relevant valuation date was £1.5 million

£1 million compensation for land taken would be paid to the mortgage provider by the acquiring authority under section 15 of the Compulsory Purchase Act 1965 (https://www.legislation.gov.uk/ukpga/1965/56/section/15)

while no compensation would be paid to the landowner. The outstanding debt on the mortgage would stand at £500,000.

343.6 Where additional compensation is payable, the mortgage provider would be able to claim the £500,000 difference between the amount it was paid under section 15 of the Compulsory Purchase Act 1965 and the amount it would have been paid had the land been valued without the existence of a section 14A direction. However, where the landowner has subsequently made further payments under the mortgage to bring down the outstanding debt on the mortgage to £250,000, the mortgage provider would only be entitled to claim the outstanding balance of £250,000. The excess of £250,000 would be claimable by the landowner as additional compensation. This amount would be in addition to the £500,000 which was not subject to the mortgage (£2 million minus £1.5 million) that the landowner would have been paid had the land been valued without the existence of a section 14A direction.

344. Can a payment of additional compensation include an amount to make good other financial losses suffered by an eligible person as a consequence of receiving the original amount of compensation rather than the alternative amount of compensation?

344.1 Financial losses which can be shown to have been suffered by an eligible person, or a person entitled to exercise the rights of that person, as a result of receiving the original amount of compensation rather than the alternative amount may be included in a claim for additional compensation. These losses will be “qualifying losses”.

345. What may be claimed as a qualifying loss?

345.1 The Land Compensation (Additional Compensation) (England) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/915/contents/made) allow qualifying losses to be claimed provided that:

(a) the loss must have been reasonably foreseeable at the time the original compulsory purchase order was confirmed

(b) the claimant must have taken all reasonable steps to mitigate the loss

(c) there is no double recovery of sums claimed under other heads of claims such as in respect of costs or interest

345.2 Where the original amount of compensation received by the claimant, or the claimant’s predecessor in title, included a sum in respect of compensation under section 5(6) of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/5) for disturbance or any other matter not directly based on the value of land, that sum may be deducted from the amount of additional compensation payable if it would not have been paid had the original compensation amount been assessed in accordance with section 14 of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/14) (as amended by

section 189 of the Levelling-up and Regeneration Act 2023 (https://www.legislation.gov.uk/ukpga/2023/55/section/189)).

346. Can a payment of additional compensation include a claimant's costs of preparing and submitting their application and subsequent claim?

346.1 Additional compensation may include, where applicable, the payment of the claimant's reasonably incurred expenses in connection with:

(a) making an application under paragraph 1(2) of Schedule 2A to the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/schedule/2A) for a direction for additional compensation (including for example investigations to determine the extent to which an acquiring authority's Statement of Commitment has been fulfilled) providing the confirming authority makes a direction for additional compensation

(b) making a claim under paragraph 1(5) of Schedule 2A to the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/schedule/2A) for any additional compensation (including qualifying losses), this may include the issuing of a CAAD under section 17 of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/17) and in connection with an appeal under section 18 of the Land Compensation Act 1961 (https://www.legislation.gov.uk/ukpga/Eliz2/9-10/33/section/18) where any of the issues are determined in the claimant's favour (section 17(10) of the Land Compensation Act 1961)

346.2 Reasonably incurred expenses could include for instance any reasonable valuation or legal expenses incurred by the claimant for the purposes of the preparation and prosecution of their claim. The Upper Tribunal (Lands Chamber) however retains discretion to make rulings about the costs of (and incidental costs) any proceedings before it (section 29 of the Tribunals, Courts and Enforcement Act 2007 (https://www.legislation.gov.uk/ukpga/2007/15/section/29)).

347. How does an eligible person submit a claim for additional compensation?

347.1 A claim for additional compensation including any interest accrued must be made in writing to the acquiring authority in accordance with the procedure set out in the Land Compensation (Additional Compensation) (England) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/915/contents/made).

348. What is the procedure for determining a claim for additional compensation?

348.1 On receipt of a claim for additional compensation, the acquiring authority will follow the procedure set out in the Land Compensation (Additional Compensation) (England) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/915/contents/made).

349. Where a direction for additional compensation is made and there is disagreement on the amount of additional compensation due, is there a time limit for when a referral may be made to the Upper Tribunal (Lands Chamber)?

349.1 If, following negotiations on the amount of additional compensation claimed, the claimant and acquiring authority cannot reach an agreement as to the amount due, a referral may be made by either party to the Upper Tribunal (Lands Chamber) for determination.

349.2 A referral of a disputed claim for additional compensation must be made to the Upper Tribunal (Lands Chamber) within 6 years of the date when the direction for additional compensation was made by the confirming authority. The applicable deadline for when a referral may be made to the Upper Tribunal (Lands Chamber) regarding a claim for additional compensation will be publicised in each case by the acquiring authority following making of a direction for additional compensation by the confirming authority.

349.3 Where a claim for additional compensations is deemed invalid by an acquiring authority under the Land Compensation (Additional Compensation) (England) Regulations 2024, the 6-year time limit for the making of a referral of a disputed claim for additional compensation will continue to run. If the claimant fails to re-submit a valid claim within the 6-year time limit a referral of a disputed claim for additional compensation may not be made to the Upper Tribunal (Lands Chamber).

Separate but related guidance

350. What about related procedures?

Separate guidance is available on:

- Purchase notices (https://www.gov.uk/guidance/purchase-notices)
- The Crichel Down Rules (https://www.gov.uk/government/publications/the-crichel-down-rules)

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1. Homes England is the trading name for the Homes and Communities Agency (HCA) and operates under the powers given to the HCA in the Housing and Regeneration Act 2008.
2. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land

(Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).

3. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
4. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
5. The power to delegate a decision on a compulsory purchase order to an inspector was inserted by section 181 of the Housing and Planning Act 2016 and applies to compulsory purchase orders submitted to a confirming authority for confirmation on or after 6 April 2018.
6. The Compulsory Purchase (Inquiries Procedure) Rules 2007 were amended by the Compulsory Purchase (Inquiries Procedure) (Miscellaneous Amendments and Electronic Communications) Rules 2018 (https://www.legislat.ion.gov.uk/uksi/2018/248/contents/made) with effect from 6 April 2018.
7. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
8. The requirement for the Secretary of State to publish one or more timetables setting out the steps to be taken by confirming authorities in confirming a compulsory purchase order was inserted by section 180 of the Housing and Planning Act 2016 and applies to compulsory purchase orders which are submitted to a confirming authority for confirmation on or after 6 April 2018.
9. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
10. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
11. The amendments made by section 32 of the Neighbourhood Planning Act 2017 apply to a compulsory purchase of land which is authorised on or after 22 September 2017.
12. The amendments made by section 194(1) to (3) and section 195 of the Housing and Planning Act 2016 and section 38 of the Neighbourhood Planning Act 2017 apply to a compulsory purchase of land which is authorised on or after 6 April 2018.

13. The amendments made by section 195 of the Housing and Planning Act 2016 and section 38 of the Neighbourhood Planning Act 2017 apply to a compulsory purchase of land which is authorised on or after 6 April 2018.
14. The amendments made by section 197 and section 198 of the Housing and Planning Act 2016 apply to a compulsory purchase of land which is authorised on or after 6 April 2018.
15. The amendments made by section 35 of the Neighbourhood Planning Act 2017 apply to a compulsory purchase of land which is authorised on or after 22 September 2017.
16. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
17. The New Towns (Compulsory Purchase of Land) Regulations 1977 were amended by the New Towns (Compulsory Purchase of Land) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/913/contents/made).
18. The New Towns (Compulsory Purchase of Land) Regulations 1977 were amended by the New Towns (Compulsory Purchase of Land) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/913/contents/made).
19. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
20. Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
21. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
22. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
23. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
24. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land

(Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).

25. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
26. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
27. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
28. Amended by the Compulsory Purchase of Land (Vesting Declarations and Land Compensation Development Order) (England) (Amendment) Regulations 2024
29. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
30. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).
31. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2024 (https://www.legislation.gov.uk/uksi/2024/473/contents/made).

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