

Compulsory Purchase in Scotland

Guidance for Acquiring Authorities



Scottish Government
Riaghaltas na h-Alba
gov.scot

To	Acquiring Authorities
Subject	Guidance for Acquiring Authorities: Confirmed Orders – Next Steps
Issued by	Scottish Government: Planning and Architecture Division
Reference	CPOGNAA/005
Page	1 of 13

The Scottish Government considers powers to purchase land compulsorily to be an important tool for local authorities and other public bodies (collectively referred to as Acquiring Authorities) to use to acquire land needed to enable projects that are in the public interest to proceed, where this would otherwise not be possible.

In particular Ministers consider compulsory purchase powers to be important for helping to deliver housing, development and regeneration that create high quality places where people want to live, work and invest. Such projects will deliver social, economic and environmental improvement for the public benefit and, used properly, these powers can aid effective and efficient regeneration, the revitalisation of communities, and the promotion of inclusive economic growth.

Authorities are therefore encouraged to consider using their powers pro-actively when necessary and appropriate to ensure real gains are brought to communities without delay.

The Scottish Government vision for compulsory purchase is for:

“A clear, accessible, consistent, effective and efficient system of legislation and policy which allows for the compulsory acquisition and purchase of legal interests in land and property for the public benefit. The provisions relating to any compensation should be fair and transparent and allow for timeous settlement.”

This series of guidance notes is primarily aimed at Acquiring Authorities and is intended to provide information for those with no, or limited, experience of compulsory purchase. They comprise **both** good practice advice **and** guidance on the legal and procedural requirements that must be met at each stage of the Compulsory Purchase Order (CPO) process.

These notes draw from and are intended to complement Planning Circular 6/2011 (<https://beta.gov.scot/publications/scottish-planning-series-planning-circular-6-2011-compulsory-purchase-orders/>) which provides more detailed, technical advice on some aspects of the CPO process and which Authorities may wish to continue to refer to.

These notes are intended to be read sequentially as follows:

- CPOGNAA/001 Can I use Compulsory Purchase?
- CPOGNAA/002 What should I do before developing a Compulsory Purchase Order?
- CPOGNAA/003 How do I prepare and submit a Compulsory Purchase Order?
- CPOGNAA/004 How do Scottish Ministers consider a Compulsory Purchase Order?
- CPOGNAA/005 Confirmed Orders – Next Steps.

This fifth and final note in the series is intended to help Acquiring Authorities understand what happens after a CPO is confirmed by Scottish Ministers and how they can go about taking possession of the land and paying compensation to affected parties.

Whilst the general advice, guidance and principles contained in these notes will be applicable to all bodies with compulsory purchase powers it should be noted that Compulsory Purchase Orders promoted by Scottish Ministers or their Agencies are processed under distinct procedures which, while broadly similar, may differ in some regards. Furthermore, certain bodies can be empowered to purchase land compulsorily through special Acts of Parliament, or via other processes (e.g. through Transport and Works Act Orders).

Where necessary this guidance identifies instances where aspects of the process vary, but it does not seek to be comprehensive. Separate guidance is available for these specialist processes – for example for compulsory purchase related to Trunk Road projects promoted by Transport Scotland (www.transport.gov.scot/publication/road-projects-guidance-on-compulsory-purchase-process-and-compensation/)

This guidance is not intended to be either prescriptive or definitive. It is also not intended to replace specialist legal advice.

Contents

1.	Challenge to Validity of the Order	4
2.	Taking Title to and Possession of the Land	4
3.	Agreeing and Paying Compensation	7
4.	Delivery of the CPO Project	13

1. Challenge to the Validity of the Order

- 1.1. There is a six week period, beginning from the date that the Acquiring Authority first publishes notice of the confirmation of the order, in which the validity of the order can be challenged in the Court of Session.
- 1.2. It is worth noting that any such challenge to the decision by Scottish Ministers to confirm the Order is made on the grounds of the lawfulness, rather than the merits, of the decision.
- 1.3. Such cases are extremely rare but where a legal challenge has been lodged, the Court of Session will advise all parties and may suspend the operation of the CPO, halting any proceedings to acquire title to and take possession of the land until the matter is resolved.
- 1.4. If the challenge is successful, the court may quash the Order in whole or part. If the challenge is dismissed by the Outer House there is a right of appeal to the Inner House of the Court of Session and, ultimately, to the Supreme Court.

2. Taking Title to and Possession of the Land

Overview

- 2.1. If no challenge is made to the validity of the Order within the six week period, the Acquiring Authority can proceed to implement the Order and take title to and possession of the land.
- 2.2. The Acquiring Authority has up to three years from the date of confirmation of the CPO to take action but should aim to minimise the period of uncertainty for the people affected. Generally, it should take title to and possession of the land, and pay any compensation due, as quickly as possible.
- 2.3. However, in some cases it may be in the best interests of the people affected for the Acquiring Authority to wait until it is ready to proceed with the next stage of its scheme. For example, if the Acquiring Authority intends to provide alternative accommodation for the people affected it may be in everyone's interests for the Acquiring Authority not to take title until the alternative accommodation is ready or available.
- 2.4. Engaging quickly, clearly and effectively with the people affected will help the Acquiring Authority to identify and address people's concerns or any particular circumstances affecting businesses or landowners that need to be taken into account in determining when the Order is implemented.
- 2.5. If the Acquiring Authority does not implement an order within three years from the date that it published the notice of the confirmation of the order, the order lapses. It should be noted that this is from the date that the confirmation of the Order is **advertised** – not the date on which Scottish Ministers sign the confirmation of the Order. In such circumstances the Order will no longer be valid and the Acquiring Authority will not be empowered to take possession of the land and would have to reapply to Ministers for a new Order if they still wished to proceed with the project.

Alternative Procedures for Taking Title to the Land

- 2.6. The process for taking title can be exercised by either making a 'General Vesting Declaration' (GVD) or, less commonly, serving a 'Notice to Treat'.
- 2.7. A GVD may be viewed as a variant on a notice to treat, since they share many of the same features, but is a form of expedited procedure by which Acquiring Authorities can secure title to land more quickly. For example, the service of a GVD is deemed to constitute the service of a Notice to Treat upon every person on whom such a notice would have been required to have been served. A GVD can be made in relation to part or all of the land to be acquired by the Acquiring Authority, and when it has taken effect, it vests all the land described in it to the Acquiring Authority.
- 2.8. Where an Acquiring Authority will take **less** land than contained in the confirmed Order they may prepare a new map identifying the land to which title is being taken.

General Vesting Declaration (GVD)

- 2.9. A General Vesting Declaration (GVD) is a formal procedure that allows the Acquiring Authority to take over the ownership and title of the land before it has agreed compensation with the owner, and without having to satisfy itself as to the owner's title.
- 2.10. Using a GVD can therefore reduce the administration burden for the Acquiring Authority, particularly if multiple interests are being acquired (such as in major projects and significant infrastructure developments) or where owners are hard to trace. At the end of the period specified in the GVD, the title to the land, together with the right of entry, vest to the Acquiring Authority.
- 2.11. To pursue a GVD the Acquiring Authority must first publish a Notice, announcing their intention to use GVD procedure. Such a Notice will specify a period of 2 months during which owners, occupiers and other interested parties can notify the Acquiring Authority of their interest in the land. The period of 2 months can sometimes be shortened, but only if every occupier of the land specified in the declaration consents to a shorter period.
- 2.12. Once the 2 month notice period has expired the GVD can be made, at which point the Acquiring Authority sends all owners, occupiers and every other person who has given information to the Acquiring Authority in response to their Notice of intention to use GVD a further Notice proclaiming the GVD and giving a date at which it will formally own and take possession of the land. **This date (known as the 'vesting' date) must be at least 28 days from the date on which service of both Notices were completed.**
- 2.13. A General Vesting Declaration will not apply to short term tenants (i.e. tenants for a year or less, or tenancies that run from year to year) or any lesser interest (such as long term tenancies where the lease is about to expire). These interests can be left to expire naturally through serving a Notice to Quit or, if required earlier, they can be terminated by service of a Notice to Treat followed by a Notice of Entry.
- 2.14. After acquiring title by GVD the Acquiring Authority may choose to lease the land back to the former owner or tenant if it does not need entry to the land immediately. However, it should draw up the lease carefully to ensure that the Acquiring Authority can take vacant possession of the land when it needs to.

2.15.If the Acquiring Authority is acquiring only part of someone's land Ministers expect the Acquiring Authority to advise the owner or tenant that they may have the right to serve a Notice of Objection to Severance or advance a claim for material detriment. See paragraph 3.17 for further details.

2.16.Where either a Notice of Objection to Severance or a claim for material detriment is served by the owner, the land and the right to enter and take possession of it **does not** vest in the Acquiring Authority until the Notice has been dealt with.

2.17.Under GVD procedure the relevant date for assessing any financial compensation due is the vesting date.

Notice to Treat procedure

2.18.A Notice to Treat is a formal notice by the Acquiring Authority of its intention to take land from the recipient(s) and asking them to agree a price for its compulsory purchase. There is no prescribed form of Notice but it typically advises of the Acquiring Authority's willingness to pay for the land's purchase and compensation, and requires the recipient(s) to give particulars of their interest in the land and their claim for compensation, normally within 21 days from the date of service of the Notice.

2.19.A Notice to Treat can be served at any time after the notices of confirmation of the order have been served and published. However, as a CPO may be challenged in the Court of Session, it is recommended that a Notice to Treat is not served until after the challenge period for the Order has expired. The Notice to Treat must be served on all persons with an interest in, or having power to sell and convey or release the land. This will include:

- Owners;
- Lessees and tenants having an interest greater than for a year or from year to year;
- Heritable creditors; and
- Persons having a qualified interest, for example, life renters having use and possession.

2.20.Under this procedure the Acquiring Authority must also serve a Notice of Entry¹. This can either be done at the same time as the Notice to Treat is served or after it. Service of a Notice of Entry allows the Acquiring Authority to take possession of the land, provided that a minimum period of 14 days' notice is given to the owner, lessee or occupier of the land to take possession.

2.21.Holders of short tenancies, and persons having the benefit of servitudes or real burdens are not entitled to a notice to treat. However, as a measure of good practice, Scottish Ministers would expect Acquiring Authorities to also serve notice on such persons.

2.22.As in the GVD procedure, if the Acquiring Authority is acquiring only part of someone's land the owner may have the right to serve a Notice of Objection to Severance or advance a claim for material detriment (see paragraph 3.17).

2.23.A Notice to Treat provides that, if no claim is received (usually in 21 days from the date of service), and the Acquiring Authority can, therefore, not make a proper offer of compensation, they can make an application to the Lands Tribunal for the determination of compensation.

¹ The **notice of entry** must be in writing and be signed by the landlord or landlord's agent and must state the reason for **entry** and the date and time of **entry**.

2.24. It should be noted that, once served, a Notice to Treat may only be withdrawn:

- By agreement between the parties;
- Within 6 weeks of a claim having been submitted that complies with Section 4 of the Land Compensation (Scotland) Act 1973 (that is, it provides details of the interest in respect of which compensation is claimed; gives details of the compensation claimed; and sets out the heads of claim and showing how the amount under each head of claim is calculated);
- At any time within 6 weeks of a decision of the Tribunal providing entry has not been taken if no claim is made in accordance with section 4 above, the notice may be withdrawn; and
- In response to a Notice of Objection to Severance.

2.25. Authorities should note that compensation remains payable if a notice to treat has been withdrawn and the landowner has incurred expenses or suffered a loss.

2.26. Where the landowner is either unwilling or unable to transfer the land, the Acquiring Authority can pay compensation, as agreed or determined, to a bank account of the seller, and acquire title by executing a deed before a notary public.

Agreeing a Date of Entry

2.27. Whichever procedure for taking title to and possession of the land is used the Acquiring Authority should consider the steps that the people affected will need to take to vacate their properties. Where possible it should adopt a timetable that takes into account the needs of owners, tenants and occupiers to move out, relocate and/or cease their business operations. Even when that is not possible, it should give people as much notice as possible of proposed stages in the process.

2.28. When acquiring agricultural land or business premises the Acquiring Authority should be aware that owners or tenants may need to know the entry date earlier than others, because of (for agricultural owners) crop cycles and/or the need to find alternative premises. It should also be aware that short notice periods often result in higher compensation claims.

3. Agreeing and Paying Compensation

3.1. Assessing compensation in CPO cases is governed by extensive legislation and continually evolving case law known as the compensation code. Accordingly, specialist valuation and legal advice should be sought when determining compensation values. The reasonable expenses incurred by the claimant obtaining professional advice forms part of their compensation claim. It is usual for both the Acquiring Authority and the claimant to use the services of a suitably qualified chartered surveyor to assess appropriate compensation and regard should be given to the 2017 RICS Professional Statement "*Surveyors advising in respect of compulsory purchase and statutory compensation*"² which RICS members must act in accordance with.

3.2. Scottish Ministers expect Acquiring Authorities to adopt a facilitative approach to the process of negotiating compensation, to ensure that claims are dealt with speedily and that advance payments (where requested) are paid timeously.

² <http://www.rics.org/Global/RICS-CPO-PS.pdf>

Basic principles

- 3.3. Whether a person is entitled to compensation, and how much compensation they are entitled to, will depend on the circumstances. The basic principle is one of **equivalence** whereby the dispossessed owner has the right to be put, so far as money can do so, in the same position after the acquisition as if their land had not been taken from them.
- 3.4. The date on which the land is valued for compensation purposes can affect the valuation and depends on the method the Acquiring Authority has used to acquire title. Under the GVD procedure, the date of valuation is the actual vesting date. However, under the notice to treat procedure, the date of valuation can be:
- Either the date of entry by the authority or the date that compensation is agreed between the authority and the landowner (whichever is earlier); or
 - Where compensation is being assessed on the basis of 'equivalent reinstatement', the date when reinstatement might reasonably have begun.
- 3.5. The amount of compensation payable will take account of the following:
- The **open market value** of the land being purchased³;
 - Any compensation payable for **severance and/or injurious affection**;
 - Any compensation payable for **disturbance** and other losses not directly based on the value of the property interest but incurred because of the compulsory purchase; and
 - Additionally, a **home loss payment**⁴ or **farm loss payment**⁵ may be made, where applicable.
- 3.6. In circumstances where, **but for the compulsory purchase**, land would be expected to continue to be used for purposes where there is no general demand or market (e.g. a church or private school) and the existing land owner intends to continue the use elsewhere, they may be awarded compensation, by agreement or via the Lands Tribunal for Scotland, on the basis of the reasonable cost of equivalent reinstatement⁶. These cases are rare and they typically carry high costs.

Assessing open market value

- 3.7. Compensation for the compulsory purchase of land is normally based on an assessment of the open market value.
- 3.8. Open market value is based on the best price that a person could expect to get if they willingly sold their interest in the land on the open market, without the threat of the compulsory purchase. This means that any reduction or increase in value because of the CPO (and the proposal behind the compulsory purchase) is wholly disregarded.
- 3.9. The market value of the land can take into account any pre-existing potential development value.
- 3.10. When determining the open market value, an Acquiring Authority should take account of existing planning permissions, and any prospective permission that the planning authority

³ Part III of the Land Compensation Act 1973

⁴ Sections 27 to 30 of the Land Compensation (Scotland) Act 1973, as amended by the Planning and Compensation Act 1991

⁵ Sections 31 to 33 of the Land Compensation (Scotland) Act 1973

⁶ Either the reasonable costs of purchasing an alternative site and constructing a new building or purchasing an existing building plus the costs of conversion.

might have granted, but for the compulsory acquisition of the land. Market value may also reflect “marriage value” and “ransom value” provided that it can be demonstrated that these would have existed in the absence of the scheme underlying the compulsory purchase.

Certificates of Appropriate Alternative Development

- 3.11. However, in some cases existing planning permissions and assumptions may not adequately reflect the development value of the land were it not for the scheme for which the land is to be compulsory purchased. In these cases a Certificate of Appropriate Alternative Development (CAAD) provides a mechanism setting out what development or class(es) of development (if any) for which the prospect of planning permission should be assumed when assessing compensation.
- 3.12. A CAAD is not a planning permission but a tool to assist property valuers arrive at an accurate opinion of the open market value of land in relation to a claim for compensation.
- 3.13. A CAAD can, in certain circumstances, be a useful way to help establish whether the land being acquired has potential development value. **Either** a claimant **or** the Acquiring Authority may apply for a CAAD to establish what types of development (if any) would have been permitted on the land if it was not for the scheme behind the compulsory purchase.
- 3.14. A CAAD can be either positive (i.e. concluding that specified types of development would have been permitted) or negative (i.e. concluding that no other types of development would have been permitted). CAAD decisions are also open to appeal.

Direction for Minimum Compensation for Listed Buildings

- 3.15. In the case of a CPO of a listed building, section 45 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 allows the Acquiring Authority to make a Direction for Minimum Compensation if they are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or redevelopment of the site or an adjoining site. Such a Direction must be included within the CPO when it is submitted to Ministers for determination. Where such a Direction is confirmed the development value of the property/site is excluded from the consideration of open market value and compensation.

Disturbance

- 3.16. Owner occupiers and tenants are entitled to claim compensation for disturbance for losses caused as a result of being disturbed from possession of the property and other losses caused by the compulsory purchase. This may include removal and relocation costs, temporary/ permanent loss of profits, reconnection of services, loss of fittings and certain reasonable professional fees, such as legal fees and the costs of employing a surveyor to assess and negotiate compensation claims. There is a more limited right to compensation for disturbance for owners of investment properties who are not in occupation. In all cases the claimant is under a duty to mitigate their losses.

Acquiring only part of a person's land

- 3.17. The way compensation is assessed varies considerably depending on whether the authority is acquiring the whole or only part of a person's land. The Acquiring Authority should therefore pay particular attention to assessing compensation when acquiring only part of a person's land. This should include considering the possibility that the owner might serve a Notice of Objection to Severance⁷ or advance a claim for material detriment⁸. Conversely, Acquiring Authorities should also consider whether 'betterment' may apply⁹.
- 3.18. A Notice of Objection to Severance applies where a landowner's interests are either severed by the purchase, or there is a detrimental impact on the value of the remaining land by the purchase of part of it (injurious affection).
- 3.19. 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. For example, where part of a garden of a house is taken it may make the house less desirable and, consequently, less valuable. Or, where part of a field is taken, it may make the remaining part of the field less cultivatable and, hence, less profitable.
- 3.20. Injurious affection is the depreciation in value of the retained land as a result of the proposed construction and use of the project or public purpose underlying the CPO. For example, if part of a garden is taken for a road project, there may be a loss of amenity for the householder due to noise, fumes or a loss of view which, in turn, reduces the market value of the retained property.
- 3.21. Where such a Notice is served a 'before and after' approach will be adopted whereby the value of the whole property in the absence of the CPO scheme prior to acquisition (the "no-scheme world") is compared to the value of the whole property that remains taking into account the development underlying the CPO (the "scheme world"). In such cases the Acquiring Authority may pay compensation or abandon the purchase altogether. If the Acquiring Authority persist with the intention to take part only but do not agree the value of compensation to be paid, the dispute will be determined by the Land Tribunal for Scotland.
- 3.22. Serving a notice of intention to claim material detriment, in effect, acts as a CPO in reverse and seeks to force the Acquiring Authority to purchase all of the remaining interest(s) in the land on the same terms.
- 3.23. It should also be noted that there are precise timescales and qualifying criteria involved in the service of such Notices and responses thereto from the Acquiring Authority and that, if Notices are deemed valid, this can substantially increase the amount of financial compensation due to the landowner.

⁷ These seek compensation for the depreciation in value of the remaining land because, in the case of a house, building or factory, taking part of the land causes material detriment, or, in the case of a park or garden, seriously affects the amenity or convenience of the house.

⁸ Such claims seek to force the Acquiring Authority to purchase the whole of the owner's property because, in the case of agricultural land, the impact of the whole CPO scheme is such that all of the farmer's other land is not reasonably capable of being farmed or, for residential property, the CPO has caused a significant level of material detriment.

⁹ 'Betterment' refers to cases where the impact of the scheme underlying the CPO is such that the value of adjacent or adjoining land that is retained increases (for example, due to enhanced development potential or improved access). Where this is the case an Acquiring Authority may offset this increase against the compensation that is payable in respect of the land acquired.

Compensation where no land is taken

3.24. Acquiring Authorities should also be aware of the potential for property owners to claim compensation where none of their property has been taken. This may be on the basis that the value of their interest has been reduced as a result of the **execution** of the CPO project¹⁰ or because the value of their property has been depreciated as a result of certain physical factors (e.g. noise, vibration) resulting from the **use** of the CPO project.¹¹

Advance payments of compensation

3.25. If the Acquiring Authority has acquired title using a GVD it can take legal title and possession before it has agreed the amount of compensation to be paid. In this situation, **if the claimant formally requests it**, the Acquiring Authority should make an advance payment of 90% of the compensation agreed to date or, failing agreement, of its **own** estimate of the likely compensation due, together with all professional fees and statutory interest.

3.26. Scottish Ministers expect all compensation payments to be paid timeously. As a minimum the Acquiring Authority is expected to make an advance payment within three months of receiving the request from the claimant, or within three months of taking possession of the land (if later). Further advance payment requests can be made at any time.

3.27. The Acquiring Authority might later realise (particularly as a result of negotiations over compensation) that its initial estimate of the compensation due was too low. In this situation the Acquiring Authority should tell the claimant that its initial estimate was too low and that it will pay the balance of the amount of the revised advance payment valuation on request. Similarly any excess advance payment of compensation has to be repaid by the claimant.

3.28. The Acquiring Authority should make advance payments as quickly as possible to relieve financial hardship and help claimants to relocate. Quick and adequate payments can also reduce the amount of statutory interest that may be payable.

Statutory Interest on Compensation Due

3.29. Interest on compensation due is payable at the prescribed rate from the date that the Acquiring Authority enters and takes possession of the land until the compensation is paid. The Acquiring Authority should therefore ensure it properly records the date of entry.

3.30. The method for determining the rate of interest is set out in the Acquisition of Land (Rate of Interest After Entry) (Scotland) Regulations 1995 and the Acquisition of Land (Rate of Interest After Entry) (Scotland) Amendment Regulations 2016 See <http://www.legislation.gov.uk/uksi/1995/2791/made> and <http://www.legislation.gov.uk/ssi/2016/258/made> also circular 36/1997 <http://www.gov.scot/Publications/1997/10/circular-36-1997>

¹⁰ Governed by the so-called McCarthy Rules

¹¹ Part 1 of the Land Compensation (Scotland) Act 1973

Negative Equity

- 3.31. There may be occasions when, as a result of compulsory purchase, owners whose property is subject to a mortgage are left in a negative equity situation whereby the assessed market value of the property is less than the outstanding loan. In such circumstances the lender will have first call on compensation due for the market value of the property, no compensation will be payable to the borrower and the lender will retain the right to recover the outstanding sum and any interest due thereon from the borrower.
- 3.32. Such circumstances will need to be considered on a case by case basis but Acquiring Authorities are encouraged to adopt a sympathetic approach, and to seek to work with the relevant lender(s) and property owner(s) to find a solution that is mutually acceptable and which minimises hardship.

Abandonment of the CPO scheme

- 3.33. In all cases where the Acquiring Authority abandons a CPO scheme for whatever reason it should inform all those served with a notice of its decision as soon as possible and consider claims for compensation and/or abortive costs and expenses on their merits, on a case by case basis. Scottish Ministers would encourage Acquiring Authorities to compensate affected parties for expenses that they may have incurred in preparing to represent their legitimate interests whenever possible.

Blight

- 3.34. The Acquiring Authority should consider the possibility of being served with a Blight Notice where a person with an interest in land qualifying for such protection has made reasonable endeavours to sell that interest but has been unable to do so (except at a much reduced price) because the land has been identified as likely to be affected by public works.
- 3.35. The owner occupier of a blighted property may seek to negotiate the voluntary advance acquisition of the land by the Acquiring Authority at its un-blighted price, on compulsory purchase terms.
- 3.36. Should the Acquiring Authority refuse, the owner occupier can in certain statutorily defined circumstances serve a Blight Notice on it. If accepted by the Acquiring Authority or confirmed by the Lands Tribunal for Scotland a blight notice operates in effect as compulsory purchase in reverse so that the authority is treated as being authorised to compulsory purchase the land and to have served a Notice to Treat.
- 3.37. There are limits on the ability to serve such a notice. These are:
- The person must have a statutorily defined 'qualifying interest';
 - The land in question must be defined 'qualifying land'; and
 - The owner must show that a reasonable attempt has been made to sell the land and that no offers have been received after a reasonable marketing period, or any offers are significantly below the un-blighted open market value.

3.38. The Acquiring Authority may accept a Blight Notice or, alternatively, serve a counter-notice rejecting the notice and stating the grounds for such an objection. If no counter-notice is served by the Acquiring Authority within three months then the Acquiring Authority is deemed to have accepted the Blight Notice. All disputes go to the Lands Tribunal for Scotland (see <http://www.lands-tribunal-scotland.org.uk/>) for resolution.

Compensation Disputes

3.39. In the event that an owner disputes any aspect of the level of compensation due, and if no agreement can be reached, then it is open to the landowner to refer the matter to the Lands Tribunal for Scotland for independent determination. This must be done within six-years from the date of the service of the GVD or Notice to Treat or the application is time-barred.

3.40. Where there is no prospect for resolving a dispute, the Acquiring Authority should therefore clearly signal any final offer to the Land Owner(s), to avoid delaying the process unduly.

3.41. It is then for the Land Owner to submit an application to the Land Tribunal for consideration. Further information can be found on the Tribunal Website see <http://www.lands-tribunal-scotland.org.uk/>

4. Delivery of the CPO project

4.1. It is worth emphasising that the Acquiring Authority remains ultimately responsible for the implementation of the Compulsory Purchase Order and delivery of the underlying project, whether they are using a third party contractor or not.

4.2. The Acquiring Authority should ensure that contractors and other people acting on its behalf follow good practice when dealing with affected landowners. It should ensure that responsibilities are clearly defined in contracts and that contractors carry out any agreed work and repair any damage that they cause before the work is signed off. It should also take steps to resolve any disputes that arise.

4.3. The Acquiring Authority should therefore ensure that it has in place a clear complaints process for any contract work, and provide a clear point of contact or liaison officer for land owners affected by the scheme who can (where necessary) raise issues with the contractor.

© Crown copyright 2018

ISBN: 978-1-78851-815-4 (web only)

Published by The Scottish Government, April 2018

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS398446 (04/18)

W W W . G O V . S C O T