



Ministry of Housing,
Communities &
Local Government

Guidance on Compulsory purchase process and The Crichel Down Rules

This compulsory purchase guidance updates the previous version published in October 2015 to reflect legislative changes and case law since that time. It applies only to England.

(The guidance contains internal hyperlinks to navigate within the document. You may need to install command icons on your toolbar to allow you to do this. This can be done by downloading the document then opening it as a PDF. Go to View, then Page Navigation and select Previous view/Next view. Once you click on a hyperlink, you can use the Previous arrow to take you back to your original place in the document.)



© Crown copyright, 2018

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>

This document/publication is also available on our website at www.gov.uk/mhclg

If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

Ministry of Housing, Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/mhclg>

February 2018

ISBN: 978-1-4098-5202-5

Contents

Compulsory purchase guidance	5
Tier 1: compulsory purchase overview	5
General overview	6
The compulsory purchase order process	10
Stage 1: choosing the right compulsory purchase power	11
Stage 2: justifying a compulsory purchase order	12
Stage 3: preparing and making a compulsory purchase order	15
Stage 4: consideration of the compulsory purchase order	20
Stage 5: implementing a compulsory purchase order	32
Stage 6: compensation	37
Tier 2: enabling powers	46
Section 1: advice on section 226 of the Town and Country Planning Act 1990	47
Section 2: advice on Section 121 of Local Government Act 1972	51
Section 3: Homes England	55
Section 4: urban development corporations	59
Section 5: powers of local housing authorities for housing purposes and listed buildings in slum clearances	62
Section 6: to improve the appearance or condition of land	69
Section 7: for educational purposes	71
Section 8: for public libraries and museums	75
Section 9: for airport Public Safety Zones	76
Section 10: for listed buildings in need of repair	78
Tier 3: procedural issues	81

Common procedural issues	82
Section 11: preparing statement of reasons	82
Section 12: general certificate	84
Section 13: preparing and serving the order and notices	86
Section 14: order maps	94
Section 15: addresses	96
Procedural issues applying to some compulsory purchase orders	99
Section 16: for community assets (at the request of the community or a local body)	99
Section 17: special kinds of land	100
Section 18: compulsory purchase of new rights and other interests	108
Section 19: compulsory purchase of Crown land	113
Section 20: certificates of appropriate alternative development	115
Section 21: protected assets certificate	123
Section 22: objection to division of land (material detriment)	125
Section 23: overriding easements and other rights	128
Separate but related guidance	129
Purchase notices	129
The Crichel Down Rules	140
Appendix A (see paragraph 18 of the Rules)	146
Appendix B (see paragraph 25 of the Rules)	147
Annex (see paragraph 1 of the Rules)	148

Compulsory purchase guidance

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](#)

General overview

1. What are compulsory purchase powers?

These are powers which enable ('enabling powers') public bodies on which they are conferred to acquire land compulsorily. They are mostly exercised by local authorities to promote schemes for various purposes. Compulsory purchase of land requires the approval of a confirming minister.

This guidance therefore, is directed at public bodies which have these powers to make compulsory purchase orders under the Acquisition of Land Act 1981. 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.

2. When should compulsory purchase powers be used?

Acquiring authorities should use compulsory purchase powers where it is expedient to do so. However, a compulsory purchase order should only be made where there is a compelling case in the public interest.

The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement. Where acquiring authorities decide to/arrange to acquire land by agreement, they will pay compensation as if it had been compulsorily purchased, unless the land was already on offer on the open market.

Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. However, if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost. Therefore, depending on when the land is 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; and
- initiate formal procedures

This will also help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.

When making and confirming an order, acquiring authorities and authorising authorities 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 should address human rights issues. Further guidance on human rights issues can be found on the [Equality and Human Rights Commission's website](#).

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

When offering financial compensation for land in advance of a compulsory purchase order, public sector organisations should, as is the norm, consider value for money in terms of the Exchequer as a whole in order to avoid any repercussive cost impacts or pressures on both the scheme in question and other publicly-funded schemes.

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 costs (for example, staff resources)
- 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?

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 England¹
- health service bodies

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

5. How is a compulsory purchase order made?

Detailed guidance on the compulsory purchase process is provided in the section on [the compulsory purchase order process](#).

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.

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

All public sector acquiring authorities are bound by the Public Sector Equality Duty as set out in [section 149 of the Equality Act 2010](#). 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 three aims of the Equality Act 2010.

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 (eg 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?

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 and section 32 Planning (Listed Buildings and Conservation Areas) Act 1990 - 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; or
- a blight notice under [section 150 of the Town and Country Planning 1990 Act](#) - 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

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

Other powers of compulsory purchase include:

- a Transport and Works Act order under the Transport and Works Act 1992 - guidance on Transport and Works Act orders is available from the [Department for Transport](#)

- a development consent order under the Planning Act 2008 for a Nationally Significant Infrastructure Project - guidance is available [here](#)
- 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 – guidance is available [here](#)

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 minister.

The compulsory purchase order process

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

There are six 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?

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 minister will want to take into account in deciding whether to [confirm a compulsory purchase order](#).

Most acts containing enabling powers specify that the procedures in the [Acquisition of Land Act 1981](#) 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?

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 its use.

Guidance on the most commonly used powers is available:

- [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](#)
- [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](#)

Stage 2: justifying a compulsory purchase order

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

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.

There are certain fundamental principles that a confirming minister should consider when deciding whether or not to confirm a compulsory purchase order (see [How will the Confirming minister 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.

A compulsory purchase order should only be made where there is a compelling case in the public interest.

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](#) and, in the case of a dwelling, Article 8 of the Convention.

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

The minister confirming the 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.

However, the confirming minister will consider each case on its own merits and this guidance is not intended to imply that the confirming minister 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, but a confirming minister will need to understand, and the acquiring authority must be able to demonstrate, that there are sufficiently compelling reasons for the powers to be sought at this time.

If an acquiring authority does not:

- have a clear idea of how it intends to use the land which it is proposing to acquire;
and
- cannot show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale

it will be difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest, at any rate at the time of its making.

See also [Section 1: advice on section 226 of the Town and Country Planning Act 1990](#) for further information in relation to orders under that power.

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

In preparing its justification, 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 that 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; and
 - 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 minister would expect funding to be available to complete the compulsory acquisition within the statutory period (see section 4 of the Compulsory Purchase Act 1965) following the [operative date](#), and only in exceptional circumstances would it be reasonable to acquire land with little prospect of the scheme being implemented for a number of years.

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?

The acquiring authority will also need to be able to show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation. These include:

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

Where planning permission will be required for the scheme, and permission has yet to be granted, the acquiring authority should demonstrate to the confirming minister that there are no obvious reasons why it might be withheld. Irrespective of the legislative powers under which the actual acquisition is being proposed, if planning permission is

required for the scheme, then, under section 38(6) of the Planning and Compulsory Purchase Act 2004, the planning application will be determined in accordance with the development plan for the area, unless material considerations indicate otherwise. Such material considerations might include, for example, a local authority's supplementary planning documents and national planning policy, including the [National Planning Policy Framework](#).

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?

In most cases, 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 172-179 of, and Schedule 14 to, the Housing and Planning Act 2016](#).

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 power. Acquiring authorities may apply to a justice of the peace for a warrant to exercise the power if necessary. A justice of the peace may only issue a warrant authorising a person to use force if satisfied that another person has prevented or is likely to prevent entry, and that it is reasonable to use force.

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

Undertaking negotiations in parallel with preparing and making a compulsory purchase order can help to build a good working relationship with those whose interests are affected by showing that the authority is willing to be open and to treat their concerns with respect. This includes statutory undertakers and similar bodies as well as private individuals and businesses. Such negotiations can then help to save time at the formal objection stage by minimising the fear that can arise from misunderstandings.

Talking to landowners will also assist the acquiring authority to understand more about the land it seeks to acquire and any physical or legal impediments to development that may exist. It may also help in identifying what measures can be taken to mitigate the effects of the scheme on landowners and neighbours, thereby reducing the cost of a scheme. Acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted, 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?

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.

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 order?

Compulsory purchase proposals will inevitably lead to a period of uncertainty and anxiety for the owners and occupiers of the affected land. Acquiring authorities should therefore consider:

- providing 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
- appointing a specified case manager during the preparatory stage to whom those with concerns about the proposed acquisition can have easy and direct access
- keeping 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
- 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))
- offering advice and assistance to affected occupiers in respect of their relocation and providing details of available relocation properties where appropriate
- providing a 'not before' date, confirming that acquisition will not take place before a certain time
- where appropriate, give consideration to funding landowners' reasonable costs of negotiation or other costs and expenses likely to be incurred in advance of the process of acquisition

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

The confirming minister 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 department has to check that no one has been or will be substantially prejudiced as a result of:

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

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](#) and are urged to take every possible care in doing so, including recording the names and addresses of those with