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Compulsory Purchase In Scotland

A guide for property owners and occupiers

Who is this guide for and what does it do?

This guide provides advice for anyone whose property may be affected by a compulsory purchase or the prospect of compulsory purchase.

It is recognised that compulsory purchase can be highly complex, involving legislation and case law, which can cause stress and worry for those affected. This guide is intended to provide you with answers to the main queries that commonly arise and to direct you to sources of more detailed advice.

This guide aims to provide you with:

- ✓ An introduction to and outline explanation of the compulsory purchase process;
- ✓ An explanation of your rights and what you can expect;
- ✓ Advice on how to best represent and protect your interests throughout the process;
- ✓ Answers to the initial questions that you may have so that you can identify the further advice and information you need; and
- ✓ Information about where you can go to get more detailed advice, tailored to your circumstances.

If you think that you may be affected by a compulsory purchase project you are **strongly** advised to seek advice from a suitably qualified and experienced professional (e.g. a chartered valuation surveyor, land agent or solicitor) as early as possible. They will be able to help you represent your interests and provide advice about the compensation that you may be entitled to and your rights. The reasonable fees of engaging professional advice can normally be reclaimed (see **Section 4**), though you should clarify with the Acquiring Authority what they will cover. **Section 5** provides details of who you can contact for further advice.

In this guide we use:

Property to mean any land and/or buildings subject to compulsory purchase – including a home, a farm or a commercial business.

Owner to mean any person or entity with a right to, or interest in, ownership of a property – including: the owner, occupier or landlord; the owner of another property who has a right of access or other right to the property; and creditors who hold a security over the property.

Tenant to mean any person or entity that has a legal right to occupy a property under the terms of a formal lease agreement.

Acquiring Authority to mean any public service organisation with compulsory purchase powers – including: local authorities and other public service providers; utility companies; Scottish Government Agencies and Non-Departmental Public Bodies; and Network Rail. Note: Private-sector companies do not hold compulsory purchase powers themselves but may work in partnership with an Acquiring Authority to deliver projects deemed to be in the public interest.

Compulsory Purchase to mean the compulsory purchase process undertaken by an Acquiring Authority to acquire private property and interests in private property without the owner's agreement. This will most commonly be undertaken through a Compulsory Purchase Order but may also be pursued through a Transport and Works Scotland Act Order or a Special Act of Parliament for major infrastructure projects. The detailed process for seeking permission to purchase property compulsorily may vary somewhat but the broad process, and the underlying considerations and rights that you have, will be the same whatever mechanism is used to obtain permission for the purchase.

Whilst the general principles outlined in this guide apply to all types of compulsory purchase there may be variations in the detailed process through which they are promoted and determined. For example, Transport Scotland have published their own guide for property owners affected by compulsory purchase for trunk road projects and this is available from: https://www.transport.gov.scot/publication/road-projects-guidance-on-the-compulsory-purchase-process-and-compensation/.

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.

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*."

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1. What is a compulsory purchase, why are they needed, who can apply for one and how might it affect me?

1.1. A compulsory purchase that has been authorised empowers an Acquiring Authority to purchase property, or an interest in property, without the owner or tenant's consent. Compulsory purchase powers are an important tool to enable projects that are considered to be in the public interest to proceed, but where agreement for the acquisition of the property cannot be reached. They will normally (but not always – e.g. where large numbers of properties are involved) be used once attempts to purchase the property by agreement have failed.

1.2. A wide range of Acquiring Authorities possess compulsory purchase powers related to their purpose or functions – for example, local authorities have powers to purchase land compulsorily to provide local roads, schools and housing. The powers that an Acquiring Authority has, and the purpose for which they may be used, are set out in an Act of the Scottish or UK Parliament. The Act will also prescribe the formal legal process that the Acquiring Authority must follow to have a compulsory purchase authorised.

1.3. Whilst an Acquiring Authority can seek permission for the purchase, all instances of compulsory purchase must ultimately be authorised by Scottish Ministers (or UK Ministers if undertaken by an authority under reserved UK powers). Thus, Acquiring Authorities cannot unilaterally utilise their compulsory purchase powers.

1.4. If a compulsory purchase is authorised then the Acquiring Authority must pay appropriate compensation, but it can take both legal and physical possession of the property before agreement on the amount of compensation to be paid is reached.

1.5. If you are subject to a compulsory purchase you may therefore be required to relinquish possession of (or title to) your property, or to allow the Acquiring Authority (or someone engaged by them) access to it. However, this can only happen if:

- The compulsory purchase is confirmed (i.e. approved) by Ministers;
- Any legal challenge to the compulsory purchase has been exhausted; and
- The Acquiring Authority has served formal notices taking ownership or access.

1.6. A compulsory purchase may affect all or only part of your property, as the Acquiring Authority can only seek permission to acquire the property it needs to deliver its project – no more and no less.

1.7. Special arrangements for paying compensation and minimising the impact on the part of the property that you retain apply if only part of your property is affected (see Section 4).

1.8. Having your property purchased compulsorily can be distressing and you may be tempted to ignore the proposal in the hope that it does not proceed. However, an Acquiring Authority may still be given permission to proceed with the compulsory purchase if it has not received a response from an owner or tenant.

1.9. You are therefore strongly advised to respond timeously to attempts by an Acquiring Authority to contact you. You will have the best chance of influencing the proposal, minimising the impact on your property and receiving any compensation that you are due promptly if you respond to and positively engage with the Acquiring Authority as early as possible.

2. What are my rights and what can I expect?

2.1. If your property is affected by a compulsory purchase you have certain rights and can also expect certain things from the Acquiring Authority.

2.2. As a property owner or tenant you have the **right**:

- ✓ To **object** to the compulsory purchase and to have the reasons for your objection heard and considered by the decision makers (see Section 3);
- ✓ To **challenge** the decision to confirm a compulsory purchase on the grounds of unlawfulness (see Section 3);
- ✓ To be fairly **compensated** for any reasonable losses and expenses that you incur (including the market value of your interest in the property and certain fees incurred in representing your interests) (see Section 4); and
- ✓ To request an **advance payment (or series of advance payments)** of 90% of the Acquiring Authority's estimate of the compensation due where there is a delay in agreeing the final amount (see Section 4).

2.3. In addition, you can **expect**:

- ✓ To be given **information** in an accessible format about the compulsory purchase project and how the Acquiring Authority's proposals may affect your property;
- ✓ To be **consulted** about the proposals and to have your comments, suggestions or concerns listened to, taken into account and responded to; and
- ✓ To be provided with an estimate of the **value** that the Acquiring Authority places on your property and the types of **compensation** that can be claimed (although this will not be fully assessed, finalised and agreed until after the Acquiring Authority has taken possession of your property).

2.4. The Acquiring Authority is **expected**:

- ✓ To take adequate steps to **identify** all those with an interest in the property they are seeking to purchase;
- ✓ To **communicate** with all owners and tenants in a clear and accessible way and provide information on what owners and tenants can do to represent their interests and what compensation they may be entitled to;
- ✓ To **explain** why they are seeking to purchase the land, what other options have been considered and when and how they intend to deliver the project;
- ✓ To **minimise** the impact of the compulsory purchase project on affected properties; and
- ✓ To help affected homeowners and businesses **relocate** wherever possible when the whole of the property is to be acquired.

2.5. Furthermore, the Acquiring Authority is normally expected to attempt to purchase the property by agreement and to only resort to compulsory purchase when agreement cannot be reached.

2.6. However, there will be circumstances (particularly large schemes with many property interests affected) where an Acquiring Authority seeks authorisation for compulsory purchase without making an attempt to purchase by agreement or begins the compulsory purchase process in parallel with negotiations to purchase by agreement. Where this is the case, the Acquiring Authority will be expected to justify their approach and to satisfy the decision makers that it would have been impossible or impracticable to purchase all the property required by agreement.

Compulsory Purchase and the European Convention of Human Rights

Article 1 Protocol 1 of the European Convention on Human Rights (ECHR) provides that everyone is entitled to the peaceful enjoyment of their possessions– including property. No one should be deprived of their property except in the public interest.

Extensive case law has established that the exercise of compulsory purchase powers is compatible with the ECHR as long as it is undertaken proportionately, there is a strong case and robust justification for doing so in the public interest, and that property owners are compensated adequately. 'Adequate' compensation includes the payment of market value for the property in question.

3. What is the compulsory purchase process and what can I do to influence it at each stage?

3.1. The process by which an Acquiring Authority obtains permission for a compulsory purchase and then takes possession of property and pays compensation can be summarised into four broad stages.

Stage 1 – the preparation stage

3.1.1. In most cases, this will represent the longest part of the process and will involve the Acquiring Authority developing, consulting on and refining its proposals, gathering evidence to support them, identifying all those with an interest in the property(s) in question, and then preparing its justification for both the scheme and the need to acquire the property(s).

3.1.2. During this stage you can expect the Acquiring Authority to contact you to explain the project and the options it is considering/have considered and how they may affect your property. You can expect to be asked for your views and you may wish to raise objections to the proposal and/or make suggestions for how the impact on your property can be minimised. You can expect your views and suggestions to be listened to and for the Acquiring Authority to respond – although they may not be able to agree with them or to adapt their proposal(s) to accommodate them all. From experience the sooner you engage with the Acquiring Authority, the greater the prospect of your views and wishes being able to be accommodated.

3.1.3. You can also normally expect the Acquiring Authority to enter into discussions about purchasing your property by agreement and to enter into negotiation about the price you are willing to accept (however, as noted in paragraph 2.6, this may not always be the case).

3.1.4. The Acquiring Authority should identify and contact all owners and tenants with an interest in the property(s) during this stage. They will do this by searching the Land Register, writing to the people concerned and/or placing advertisements on the property and in the local press. You should respond promptly to any requests for information to confirm your interest in the property.

3.1.5. If you believe that your property will be affected by a potential compulsory purchase project but have **not** been contacted by the Acquiring Authority you should get in touch with them immediately to confirm your interest. The Acquiring Authority may ask for proof of your interest in the property.

3.1.6. Once an Acquiring Authority has completed all of the actions that it needs to undertake in the preparation period it will prepare a proposal, including legal documents and the necessary accompanying documents (including its "Statement of Reasons"), advertise the making of the draft compulsory purchase proposal and submit it to the decision maker (usually the Scottish Government) for consideration.

Stage 2 – the objection and hearing period

Objecting to a compulsory purchase proposal

3.1.7. Once the Acquiring Authority advertises its draft compulsory purchase proposal and informs you of this there follows an objection period of at least 3 weeks.

3.1.8. If you wish to object to the proposal then you **MUST** do so in writing **to the decision maker (usually the Scottish Government)** before the end of the stated objection period. **Important: There is no provision for accepting and considering objections received after the objection period has closed.**

3.1.9. Reasons why you may wish to object to the compulsory purchase include:

- ✓ You object to the underlying purpose or project and/or believe that it has not been adequately justified;
- ✓ You object to the choice of route or site of the project and believe that an alternative would be more suitable and/or that the proposals could be adjusted to reduce the impact on your property; or
- ✓ You object to the proposed timing of the project and believe that an alternative or amended timing would be more suitable and/or would reduce the impact on your property.

3.1.10. However, you **cannot** object to a compulsory purchase proposal solely on the grounds that you believe that you will be or have been offered insufficient compensation. Agreeing compensation for a compulsory purchase project is subject to separate procedures that only commence once the compulsory purchase has been confirmed (see page 12, *Negotiating and agreeing compensation)*.

3.1.11. You should therefore consider an objection carefully, take professional advice about how to explain and justify your objection as clearly as possible, and ensure that it is lodged in time. Where applicable you should also set out clearly any suggestions that you have to modify the proposal so that the Acquiring Authority and the decision maker can consider these.

3.1.12. You should note that you will normally only be able to recover some or all of the costs incurred in preparing your objection if it is successful. Otherwise, you are fully responsible for all such costs (see Section 4).

Responding to objections

3.1.13. All objections submitted to the decision maker will be passed to the Acquiring Authority, who will then be asked whether it wishes to amend its proposal to address them. The response from the Acquiring Authority will then be passed to you and you will be asked to confirm whether you wish to either maintain or withdraw your objection. During this period, the Authority should contact you directly to discuss your objection and how it could address your concerns. If you are satisfied with the Acquiring Authority's response then your objection can be withdrawn in writing.

3.1.14. If no response is received from an objector within a specified period (usually 14 days), it will be assumed that you wish to maintain your objection.

Hearing the arguments and preparing a report

3.1.15. If, at the end of this part of the process, any statutory objections remain unresolved, then the case will be passed to the Directorate for Planning and Environmental Appeals who will appoint an independent Reporter to consider it.

3.1.16. The Reporter will decide how best the evidence and arguments for and against a compulsory purchase project should be heard. A Public Local Inquiry is the most common route, however, if all parties agree, this may be undertaken through a Hearing or via Written Submissions (or a combination of these).

3.1.17. If you maintain your objection, you will need to consider how you wish to make your case to the Reporter and whether you wish to employ a solicitor or other experts to help you present and justify your arguments. In doing so, you should be aware that the costs of employing someone to represent you at this stage of the process might not be recoverable. Only if an objection is upheld in your favour (or in other exceptional circumstances) will some or all of your costs be awarded. If an objection is deemed to be vexatious (i.e. deliberately obstructive) it is also possible that you will be required to pay the Acquiring Authority's costs.

3.1.18. Once the Reporter has heard all of the objections and evidence in the case, they will then prepare a report setting out their conclusions and recommendations and will submit this to the Scottish Government for consideration by Scottish Ministers.

Stage 3 – the determination period

3.1.19. Ministers will then decide whether the compulsory purchase proposal should be:

- Confirmed (i.e. authorising the purchase of the property) with no modifications;
- Confirmed with modifications (typically used to remove property from a draft proposal which has since been acquired voluntarily or to reflect a minor design change); or
- Not confirmed (i.e. rejecting the proposal and not authorising the purchase).

3.1.20. In making their decision Ministers will carefully consider any report submitted by the Reporter and weigh up the public benefit of the proposal against the private property rights of the affected owner(s), as well as the merits of any objections that were lodged.

3.1.21. **You do not have any chance to influence the decision at this stage so it is important that you take every opportunity to have your voice heard at Stages 1 and 2 if you wish to affect the outcome.**

3.1.22. Once Ministers have made their decision this will be communicated to the Acquiring Authority, who must then advertise the decision.

3.1.23. At this point, you have the right to submit a legal challenge to the decision to confirm the compulsory purchase proposal at the Court of Session within 6 weeks. However, you should be aware that such a legal challenge can only be made on the grounds of lawfulness, rather than on the merits of the decision. Furthermore, employing specialist legal representatives to argue your case will be very expensive. **You are therefore strongly advised to seek expert legal advice before pursuing such a course of action.**

3.1.24. If a legal challenge is lodged then the Outer House of the Court of Session may choose to suspend the process of implementing the compulsory purchase until they reach a decision.

3.1.25. Once the Court has considered the challenge (by setting a hearing date and hearing the respective legal arguments), it may choose to quash the authorisation in whole or in part, or to confirm it with no change.

3.1.26. There is then a right of appeal to the Inner House of the Court of Session and then to the Supreme Court in London if you are not satisfied with the Court's decision. **Again, such a course of action will be very expensive and should be considered very carefully.**

Stage 4 – the implementation period

Taking possession of the property

3.1.27. After a compulsory purchase has been confirmed the Acquiring Authority has up to 3 years to implement it by taking title to and possession of the property(s). This period includes the time taken to consider any legal challenge.

3.1.28. Acquiring Authorities are encouraged to implement a confirmed proposal as soon as possible but may delay taking possession of the property for a variety of reasons – for example, to allow you time to find a suitable alternative and to relocate your possessions or to allow for a tendering process for contractors to be appointed to undertake the work. **You are strongly encouraged to contact the Acquiring Authority as early as possible to discuss and agree a mutually convenient date and (if necessary) seek their assistance in relocating.**

3.1.29. The Acquiring Authority will normally take title to your property by serving a General Vesting Declaration (GVD) but may, less commonly, may do so by serving a Notice to Treat and then a Notice of Entry.

3.1.30. Whichever mechanism is chosen, the Acquiring Authority is expected to communicate clearly with all those with an interest in a property and to specify clearly the date they intend to take title to and possession of the property.

Negotiating and agreeing compensation

3.1.31. It is usually at this stage that the Acquiring Authority will try to agree with you the compensation that is due; although you should note that, even where you are entitled to compensation you must submit a formal claim for what you are due. See Section 4 for details of the types of compensation that you may be able to claim.

3.1.32. The Acquiring Authority is expected to act fairly and to reasonably assess the compensation to which you are entitled but also to consider any representations that you or your representative may make arguing for a higher figure.

3.1.33. The Acquiring Authority will engage its own professional property Valuer to provide them with an estimate of the value of your property and you should seriously consider appointing your own advisor. **The reasonable costs of obtaining valuation advice and negotiating compensation form part of the compensation package that you are entitled to claim.**

3.1.34. The Acquiring Authority should provide you with confirmation of the type and extent of fees that they will recompense you for.

3.1.35. It is common that during the negotiation of a compensation claim that most disagreements and disputes in the compulsory purchase process arise. You are encouraged to make your case for the level of compensation that you believe you are entitled to in a **reasoned and evidence based way**. The reasonable costs of taking advice to help you estimate and negotiate your claim can themselves be reclaimed as part of the compensation package. Section 5 provides further details of where you can go to help you identify a suitably qualified and experienced professional to help you.

3.1.36. If you are unable to reach agreement on any aspect of the compensation due, then it is open to you or the Acquiring Authority to refer the matter to the Lands Tribunal for Scotland (LTS) for independent determination. You must do this **within six-years** of the date of the GVD or Notice to Treat. The LTS will then examine the application and determine how best to consider the case. This will normally involve a Hearing.

3.1.37. In addition to the LTS, mediation and arbitration are possible means of settling your differences with the Acquiring Authority but can only be used if both parties agree. If all else fails, you will have to go to the LTS to have the amount of compensation to which you are entitled decided.

3.1.38. The LTS is based in Edinburgh but covers the whole of Scotland and typically hears compulsory purchase cases in the locality where the land in question is situated because, in addition to hearing evidence and legal submissions, it will usually want to see the land in question for itself.

3.1.39. The LTS is made up of lawyers and surveyors and generally sits as a two-man tribunal (a lawyer who chairs the hearing, and a surveyor) but, in complex cases, three members may sit. Whilst, as in other courts and tribunals, you are entitled to present your own case, compulsory purchase cases tend to be complex enough to justify, or even require, representation by lawyers and other experts.

3.1.40. If you win your case you can reasonably expect to get an award of expenses, although this does not always mean that you will be able to recover from the Acquiring Authority all that you have spent – sometimes there can be a significant shortfall.

3.1.41. It is relatively rare for awards of expenses to be made against you as a claimant in a compulsory purchase case because the whole thing is necessitated by the Acquiring Authority in the first place and property owners are entitled to try to make sure they get proper value for what is being taken from them.

3.1.42. However, as a claimant you are expected to be reasonable and realistic in what you claim for and should take particular care before refusing an unconditional offer from the Acquiring Authority, otherwise you run the risk of an award (or partial award) of expenses being made against you.

3.1.43. Further information about fees and the detail of the LTS process can be found at www.lands-tribunal-scotland.org.uk/

Delivering the compulsory purchase project

3.1.44. Even where a third party (e.g. a contractor) is used to deliver the compulsory purchase project, the Acquiring Authority remains responsible for its implementation. The Acquiring Authority should therefore have a clear complaints process in place for any contract work, and should provide a clear point of contact or liaison officer for owners affected by the scheme.

3.1.45. If you are unable to resolve a dispute with a contractor about something related to the delivery of a compulsory purchase project, you should contact the Acquiring Authority who should be able to advise on the responsibilities of the contractor and, hence, who is responsible for resolving the issue.

4. What compensation am I entitled to?

4.1. If your property is purchased compulsorily, you will be entitled to a package of financial compensation based upon your interest in the property. You are strongly advised to employ a suitably qualified and experienced professional property Valuer to advise you – the reasonable costs of which can be reclaimed. This Section provides a brief introduction to the types of compensation that you may be entitled to.

4.2. The basic principle applying is that of **equivalence** – to put it simply, this means you should be put in the same position after the compulsory purchase (as far as money can allow) as you were in before it.

Core Entitlement

4.3. **All** property owners subject to a compulsory purchase are entitled to the following elements of compensation:

- **Market Value** of your interest in the property – based on the amount that the property, if sold on the open market by a willing seller (i.e. assuming there is no threat of compulsory purchase), might be expected to realise. This means that any reduction or increase in the value of the property because of the compulsory purchase (and the proposal behind it) is ignored. The market value will be assessed relative to the market conditions prevailing at the time the property is acquired. In addition, the market value of the land can take into account:

  - ✓ Any pre-existing planning permissions;
  - ✓ Any prospective permission that a planning authority might have granted, but for the compulsory acquisition; and
  - ✓ Any marriage value or ransom value provided that these would have existed in the absence of the compulsory purchase scheme.

- **Disturbance** – for losses caused as the occupier or tenant of a property as a direct result of being disturbed from possession of your property and other losses caused by the compulsory purchase process. 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 professional to help you assess and negotiate your compensation claim.

Additional Entitlements (based on circumstances)

4.4. In addition, depending on your circumstances and the impact on your property, you **may** be entitled to the following types of compensation:

- ✓ **Home loss payment** – if you have lived in a residential property for at least one year prior to its compulsory acquisition you may be entitled to an additional payment to recognise the distress and discomfort of having to move out of your home. This only applies if the whole of the property is acquired compulsorily.

- ✓ **Farm loss payment** – if your property is agricultural you may be entitled to an additional payment to recognise the fact that your profits may decrease for a while because of moving to unfamiliar land. This only applies if the whole of the farm is acquired compulsorily and, as such, rarely occurs, as it is much more common for only part of an agricultural property to be acquired.

- ✓ **Severance** – where only part of your property is taken and the value of the part you retain decreases because of its separation from the land taken (e.g. a house becomes less desirable because of the loss of part of the garden, or the loss of part of a field makes the remaining part less cultivatable and, hence, less profitable) you may be entitled to an amount equal to the reduction in the market value of the retained property.

- ✓ **Injurious affection** – where only part of your property is taken and the value of the part you retain decreases because of the construction and use of the compulsory purchase project (e.g. a house becomes less valuable after part of the garden is taken for a new road because of increased noise or fumes) you may be entitled to an amount equal to the reduction in the market value of the retained property.

- ✓ **Material detriment** – where only part of your property is compulsorily acquired but the impact of the compulsory purchase project is such that a) for agricultural land, you consider the remaining land is no longer reasonably capable of being farmed or b) for residential and some other types of property, the project has caused a significant level of detriment to the property you retain. In these particular circumstances, you may seek to force the Acquiring Authority to purchase **all** of your property. It should be noted that the timescale for serving the relevant notice on the Acquiring Authority after the GVD is served is very short.

4.5. However, if the compulsory purchase project would have the effect of increasing the value of any of the property that you retain (e.g. by improving access or its development potential) then your compensation claim may be subject to a **betterment** calculation – whereby the value of that increase may be subtracted from the amount you are due.

4.6. Furthermore, you may also be entitled to compensation **even where no part of your property is taken** for the compulsory purchase project, but the value of your property is affected negatively by either the execution of a project (e.g. the construction of a new road) or the use of the facility (e.g. traffic on a new or improved road).

Other Considerations

4.7. Simple **interest** is payable on all compensation due to you at a prescribed rate from the date that the Acquiring Authority enters and takes possession of the land until the compensation is paid. The rate of interest payable is currently set at 0.5% percent below the Bank of England base rate and, as such, is currently low, but will increase if the rate rises.

4.8. If your property has been acquired but you have yet to agree with the Acquiring Authority the full amount of compensation due you are, nevertheless, entitled and encouraged to request a payment or series of payments which are known as **Advance Payments of Compensation**.

4.9. **Important:** If (and only if) you request it, the Acquiring Authority is required to make a payment of 90% of the compensation agreed to date or of its **own** estimate of the likely compensation due, together with all professional fees and any statutory interest. A claim for Advance Payment can only be made after the compulsory purchase has been implemented and entry to/possession of the property taken by the Acquiring Authority. Further Advance Payments can be claimed during the negotiation of compensation as appropriate.

4.10. You may also wish to discuss and agree with the Acquiring Authority whether **Accommodation Works** might help ease the burden of any adverse effects of a project where only part of your property is being acquired. Examples of Accommodation Works include fencing, screening, drainage and watering works, and the provision of new gates/access points.

4.11. Acquiring Authorities are not required to provide Accommodation Works but it is considered good practice, as it is usually cheaper and more time efficient for them to do so, than for the landowner to undertake the work and claim compensation thereafter. Experience suggests that where Accommodation Works are agreed they should be fully specified in writing and shown on detailed maps to minimise the potential for dispute between you, the Acquiring Authority and any contractors.

4.12. If your property has been identified as likely to be affected by a public work but a formal compulsory purchase proposal has not yet been prepared and you have attempted to sell your property (at a reasonable price) without success then the Blight provisions may be relevant.

4.13. In such circumstances you may seek to negotiate the voluntary advance acquisition of the property at its un-blighted price, or (failing that) you may be able to serve the Acquiring Authority with a **Blight Notice**. This operates, in effect, as a compulsory purchase in reverse and seeks to compel the Authority to purchase your property at its un-blighted market value. It should be noted that the Blight provisions are complex and you are strongly encouraged to seek professional advice if you find yourself in such a situation.

4.14. Where someone holds a security over a property (e.g. a mortgage held by a bank or building society), they will have first call on any compensation due for the market value of the property.

4.15. If the assessed value of your property is less than the outstanding loan then you may be left in a **Negative Equity** situation whereby the lender **may** retain the right to recover the outstanding sum and any interest due from you. If you believe you may find yourself in such a situation you are strongly encouraged to contact the Acquiring Authority as early as possible to discuss potential solutions. Acquiring Authorities are encouraged to adopt a sympathetic approach and to work with the relevant lender(s) to try to find a solution that is mutually acceptable and which minimises hardship.

5. Where can I get further information or advice?

5.1. This guide is intended to provide property owners and tenants with a general outline of the compulsory purchase process and the compensation assessment arrangements in Scotland. It is not a substitute for detailed and precise information and advice on what can be highly complex matters based strictly on legislation and associated case law built-up over the last 150 years.

5.2. **It is therefore strongly recommended that if you have any queries or doubts about these matters you seek advice from suitably qualified and experienced professionals.**

5.3. A range of different organisations can provide further information or advice if you think that your property may be affected by compulsory purchase. Please note that it is important that you obtain the best possible advice and it is therefore worth taking time to identify the most appropriate organisation or professional with relevant experience to answer your questions. Poor quality advice may result in unrealistic expectations, delays in agreeing compensation, frustration, disappointment and unfavourable outcomes.

For information about the compulsory purchase proposal and the underlying project

5.4. If you are uncertain about how a compulsory purchase may affect your property, you can contact **the Acquiring Authority** that is undertaking the project or promoting the purchase.

5.5. Details of who to contact at the Acquiring Authority should be made clear on any information sent to you as part of the project or advertised in the press or on the organisation's website.

5.6. Information that you can expect to obtain from the Acquiring Authority includes:

- Why they are undertaking this project, what benefits do they expect it to deliver and what evidence do they have to justify this?
- How the proposal will affect your property? e.g. will all of my property be purchased and, if not, how will the impact on the rest of my property be minimised?
- What type of compensation am I entitled to and when can I expect to be paid this?
- What are the timescales involved?

5.7. Acquiring Authorities are expected to make information available in an accessible format and to take time to explain their proposals so that you can understand the likely impact on your property. You can also expect to have the chance to provide your feedback on the proposals and for any suggestions or comments that you make to be given due consideration by the Acquiring Authority when preparing the final design or proposal.

5.8. **Transport Scotland** have published their own guide for property owners affected by compulsory purchase for trunk road projects and this is available from: https://www.transport.gov.scot/publication/road-projects-guidance-on-the-compulsory-purchase-process-and-compensation/ If you are unsure who to speak to in Transport Scotland about a project you can contact them via 0141 272 7100 or info@transport.gov.scot

For advice about property valuation, compensation and legal aspects of the compulsory purchase process

5.9. The **Royal Institution of Chartered Surveyors (RICS)** hosts a helpline, which can arrange for a member to provide 30 minutes of free advice on compulsory purchase matters, including advice on land value and compensation. RICS also hold a list of surveyors who are experienced in offering support on compulsory purchase matters.

RICS can be reached on 02476 868 555[1] between 0830 –1730 Monday to Friday.

Prior to making contact with a RICS representative, it may be helpful to write down a list of questions you wish answered to maximise your free consultation.

In 2017, RICS issued a Professional Standard to its members regarding the undertaking of compulsory purchase assessment and compensation work. The contents of that Professional Statement set out best practice and are mandatory for RICS members to follow. The Standard emphasises that only members with appropriate professional experience of this type of work should accept instructions from property owners and tenants affected by compulsory purchase due to the high degree of specialism and expertise required.

5.10. The **Compulsory Purchase Association Scotland (CPAS)** is a not-for-profit member organisation that promotes best and effective practice in undertaking compulsory purchase. It is non-partisan and does not support or oppose specific schemes. Its membership is drawn from both Acquiring Authorities and private practice firms and comprises a mix of surveyors, solicitors, advocates, planners, accountants and others associated with the delivery or management of compulsory purchase, whether acting for claimants or acquirers.

[1] Network Standard connection and call charges apply.

While CPAS itself cannot provide professional advice and cannot enter into any discussions about projects it may be able to advise you of contact details for members who potentially can.

CPAS can be contacted via their Chairman (Odell Milne) on 0131 656 0189.

5.11. In addition, if you are a member of the **National Farmers Union Scotland** or **Scottish Land & Estates** they may be able to provide you with advice and put you in touch with surveyors and solicitors who have expertise in relevant compulsory purchase matters.

NFU Scotland can be contacted on 0131 470 4000.

Scottish Land & Estates can be contacted on 0131 653 5400 or info@scottishlandandestates.co.uk

5.12. The **Scottish Agricultural Arbiters and Valuers Association (SAAVA)** (which is affiliated with the Central Association of Agricultural Valuers) is a member organisation for valuers, arbiters, auctioneers, surveyors, solicitors, accountants and others involved in arbitration and valuation work within the landward sector. SAAVA can provide advice on which of its members may be able to provide suitable advice in compulsory purchase cases.

SAAVA can be contacted via their Secretary on 01361 882920.

For information and advice about the processes for determining compulsory purchase proposals and for agreeing compensation

5.13. The **Directorate for Planning and Environmental Appeals (DPEA)** is responsible for considering objections to draft compulsory purchase proposals and for providing advice and recommendations to Ministers on whether they should be confirmed.

Further information about how DPEA undertake this (including what to expect if you are called to give evidence or to explain your objection at a Public Local Inquiry, Hearing or through Written Submissions) is available from www.dpea.scotland.gov.uk or by calling 0300 244 6668.

5.14. The **Lands Tribunal for Scotland (LTS)** is the body in Scotland responsible for ruling on disputes involving land and property, including disputes about compensation for compulsory purchase or the loss in value of land caused by public works.

Details of the work of the LTS and how to go about applying for a ruling are available at www.lands-tribunal-scotland.org.uk/ If you have queries the LTS can be contacted on 0131 271 4350.

5.15. If you have any general queries about the compulsory purchase process or are uncertain where to go for advice, you can contact the **Scottish Government** Compulsory Purchase Policy Team. Whilst we cannot provide advice on specific cases or projects, we may be able to help you identify what type of organisation or professional can best represent you or answer your questions

Details can be found on the Scottish Government website https://beta.gov.scot/publications/compulsory-purchase-orders-introduction/

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Name	Organisation
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Dougie Bowers	Valuation Office Agency
Gavin Mowat	Scottish Land and Estates
Gemma Cooper	National Farmers Union Scotland
Keith Petrie	Royal Institution of Chartered Surveyors in Scotland
Jim Grant	Moray Council (on behalf of Heads of Planning Scotland)
John Gahagan	Aberdeenshire Council (on behalf of the Association of Chief Estates Surveyors)
Odell Milne	Brodies and the Compulsory Purchase Association (Scotland)
Rob McIntosh	Aberdeenshire Council (on behalf of the Society of Local Authority Lawyers and Administrators in Scotland)
Rob Forrest	Scottish Agricultural Arbiters and Valuers Association
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