


Law Commission ‘call to consult’ on compulsory purchase orders (CPO)

26 February 2025  Sophie Hoffman

The Law Commission, at the request of the Ministry of Housing, Communities and Local Government (MHCLG), have opened a consultation on compulsory purchase reform that will end on 31 March 2025.

Compulsory purchase powers are exercised by public bodies (specifically known as acquiring authorities in a CPO context) as a method to acquire land or rights compulsorily (i.e. without the consent of the owner), typically for public benefit. Those that have rights or land affected by a CPO are entitled to compensation. The origins of the CPO stretch back to the Victorian era, and the law has since developed in a piecemeal way; a patchwork of caselaw and intersecting statutes that can make the law difficult to navigate.

The Law Commission last carried out a consultation on CPO reform in the early 2000s, which resulted in reports and recommendations being prepared by the Law Commission. Few recommendations were taken forward.

This time, MHCLG have asked the Law Commission to review the procedures governing the acquisition of land through CPOs and the system for assessing compensation awarded to parties in relation to such acquisitions.

The aim of the consultation would be for a draft Bill to be produced, consolidating the law and making proposals for technical changes to ensure that the law is suitable for its intended use.

The substance of the consultation

The two key areas which are considered in the consultation are procedure and compensation.

Procedure

The procedure of authorising a CPO involves a two-stage process where the acquiring authority issues a CPO that must be confirmed by a confirming authority. There is very specific language used in the two-stage process which arguably can cause confusion for those that don't engage with the process regularly. Therefore, this change of language is something the Law Commission is seeking views on.

In addition, there are two different statutory procedures for CPO authorisation; one for government ministers and another for non-ministerial bodies like local authorities. One of the proposals being consulted is on whether to amalgamate these to simplify the process.

One of the key procedural requirements of the CPO process is notification. Public notices must be published and affixed to inform the wider public about a CPO at different stages of the process. In the consultation, express obligations are proposed for notices to be kept on display for the duration of the objection period.

Depending on the stage of the CPO process, landowners have the right to challenge the validity of a CPO through statutory review or judicial review. The consultation proposes potential reform to these methods of challenge, in particular providing clarity as to when each method of challenge can be used.

The key, and arguably the most controversial reform proposed as part of the consultation, is considering amendments to the way in which CPOs can be implemented. Once a CPO is confirmed, it can be implemented either via a notice to treat or a general vesting declaration (GVD), with the latter being the more commonly used method (according to the consultation documents the GVD procedure is used in

80%-95% of cases). Questions are raised in the consultation as to whether a unified procedure should be created for implementing CPOs to streamline the process further, weighted towards the GVD procedure but with some modifications.

Compensation

A number of proposals are put forward in the consultation in relation to valuation dates, planning assumptions, statutory payments and interest. Comment is also invited on the four main heads of compensation: market value, equivalent reinstatement, severance/injurious affection and disturbance.

There are no substantive changes proposed to the market value and equivalent reinstatement heads of compensation, although the consultation does ask whether equivalent reinstatement requires further definition in legislation, given that the equivalence may be measured in several different ways.

With regards to severance/injurious affection, two minor provisions are proposed:

- Clarification that only depreciation in the market value of the retained land is covered under this head.
- That the method of valuation commonly referred to as the “before and after” method is given express recommendation in any consolidated CPO legislation. This is a commonly used method to arrive at the owner’s total loss under the heads of market value and injury to retained land combined. The value of the whole property (the land acquired together with the retained land) is assessed immediately prior to the acquisition, and then the value of the severed retained land on its own immediately after the acquisition is deducted.

Under the head of disturbance, the first key proposal of the Law Commission is to codify the existing principles and entitlement of disturbance compensation in legislation (as the detail is largely found in case law): loss would be recoverable so long as it is causally connected with the acquisition, is not too remote and has been reasonably incurred. Further proposals under this head include a starting date for recoverable losses and a catch all term of “consequential loss”. The aim of this amendment would be to clarify that compensation under this head is not necessarily confined to loss suffered by disturbance of occupation.

Supplementary matters

The Law Commission also considers other topics in compulsory purchase law which may benefit from reform. These supplementary matters, amongst other things, look to simplify existing provisions in a unified code on compensation where no land is taken, as well as ‘abortive orders’ with proposals to address the uncertainty where CPO’s or notices to treat lapse.

How to respond?

The online survey can be accessed here: [Law Commission consultation on compulsory purchase - Ministry of Justice - Citizen Space](#). Whilst the Survey is the preferred method for gathering an effective response, consultees can alternatively provide responses either via email to compulsorypurchase@lawcommission.gov.uk or by post.

Further information can be found at [Compulsory purchase - Law Commission](#) with the key documents provided here:

- [Summary of the Consultation paper](#)
- [Full Consultation Paper](#)

The Law Commission have made a plea for stakeholders to engage and are particularly keen to hear from stakeholders who prepare and implement CPOs, but also persons who have been affected by a compulsory purchase to present a strong, evidence base for their recommendations. Whilst the Law Commission have provided a provisional view, it is open for change where stakeholders can provide evidence.

Given the Government has also just consulted on further technical reforms to make the compulsory purchase process quicker, cheaper and to ensure compensation rules are fairer, there is clearly an appetite for reform in this area from the Government. Don’t miss the opportunity to help shape the overarching reform of compulsory purchase, that may or may not be in place for another 200 years!

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