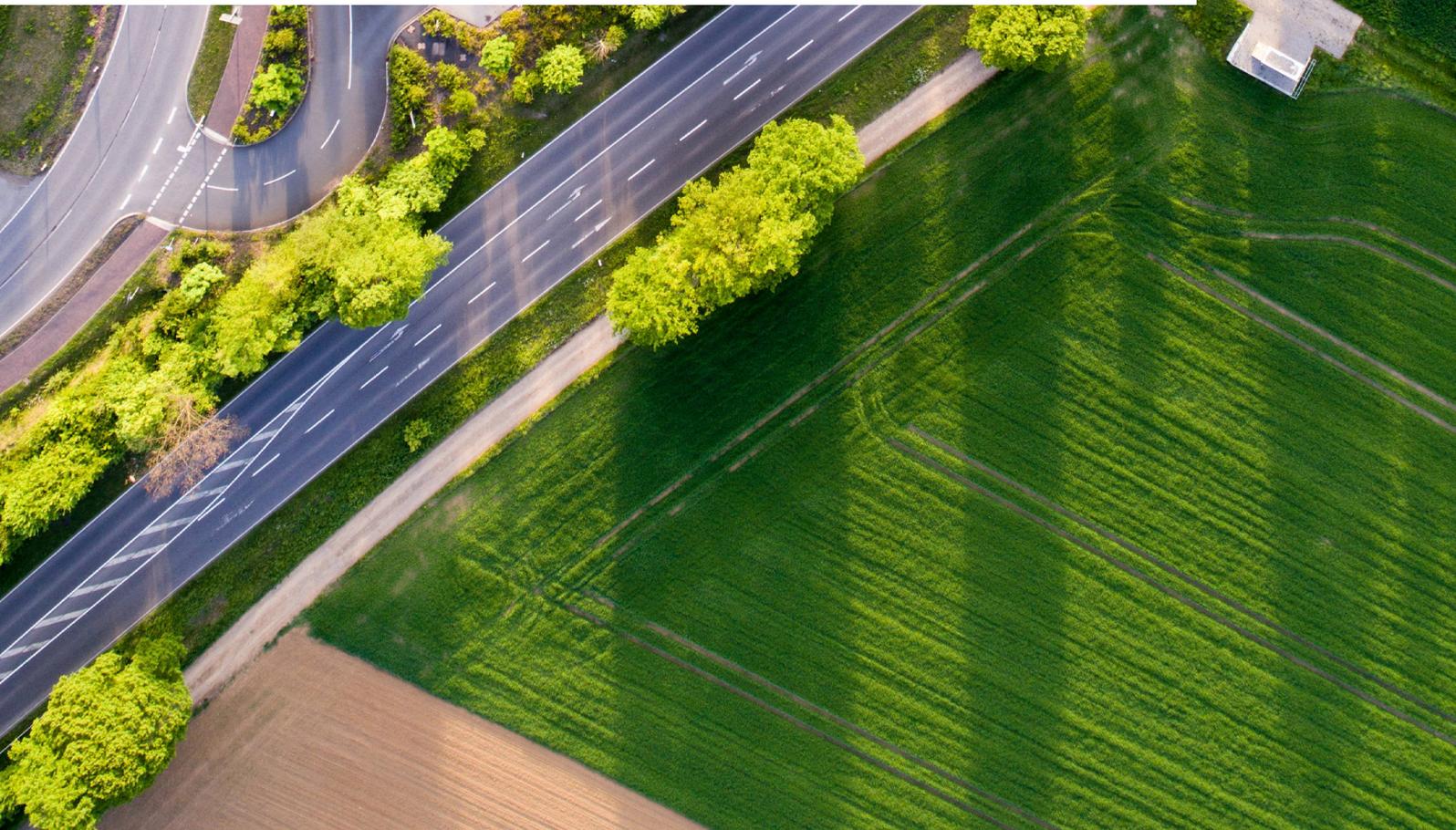


CONSUMER GUIDE



# A clear, impartial guide to compulsory purchase

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# What is compulsory purchase?

‘Compulsory purchase’ is a legal process where the state allows your property (this means land and/or buildings) to be acquired in the public interest, even if you do not agree.



Compulsory purchase may be used when all or part of your property is needed for new infrastructure such as a road, railway, or utilities, or to regenerate an area to provide new housing and amenities that better meet the needs of the area and in limited other circumstances.

Compensation will be paid to you for any property or rights taken from you.

Any compulsory purchase must be authorised by the government. For very large-scale schemes, an Act of Parliament may be passed just for one project. This process has been used for the High Speed One and Two railways for example. Most projects rely on laws that allow compulsory purchase in principle for certain purposes (such as housing or roads). These powers cannot be used until an Order authorising the specific project to use compulsory purchase has been approved by the Secretary of State.

There are different types of Order for different types of project but the most common are:

- Compulsory Purchase Order (CPO)
- Development Consent Order (DCO)
- Transport and Works Act Order (TWAO).

# Basic steps

Although the procedures differ for each, they all have the same basic steps.



## 1 Consultation and engagement

The body seeking compulsory purchase powers (the 'acquiring authority') will contact all affected parties and explain the scheme, how the compulsory purchase process works, and any early purchase or mitigation schemes they are offering. You may receive letters, brochures or invitations to meetings or events to learn about the scheme and how it affects you.

## 2 Land referencing

The acquiring authority checks who owns and occupies the land. You will receive letters or legal notices asking you to fill in and return details of the ownership and occupation of your property and any tenants you let it to. It is important to respond promptly and accurately to ensure that you receive the right notifications and information later in the process.

### 3 Order application

The acquiring authority submits the Order application to the Secretary of State for authorisation. You will receive a notice informing you that this has been done. It will include a copy of the Order or details of where you can access it.

### 4 Objections and inquiry

You will have a limited period from receiving the notice above to make a written objection against the Order. You can ask for the Order not to be authorised, to be changed, or you can write in support of the Order if you wish. There are limited grounds on which an objection can be submitted so you should take professional advice if considering objecting.

If you make a qualifying objection, you will be entitled to make representations at the inquiry where the arguments for and against the Order are heard. You can do this in person, by letter or employ an adviser to make your case for you. If you have objected, you will receive a notice telling you where and when the inquiry will take place.

### 5 Authorisation

After the inquiry, the arguments of all the parties are considered and the Secretary of State will decide if the Order should be authorised. This can take several months.

### 6 Acquisition of land

If the Order is authorised the acquiring authority will send you a notice to inform you this has happened. They may use the powers to acquire your land straight away, or if the project is not ready there may be a delay before the powers are used. The Order must be used within a limited time, usually three years, or it will expire.

When the acquiring authority use the powers to acquire your land you will receive a legal notice triggering the acquisition. This also triggers your compensation entitlement and requires you to leave the property. Ordinarily, negotiations to acquire your interest will have started on a voluntary basis at a much earlier stage. The minimum notice period to leave the property is three months. If the land is to be used temporarily rather than being acquired permanently there may be a shorter notice period.

# What you can do about compulsory purchase

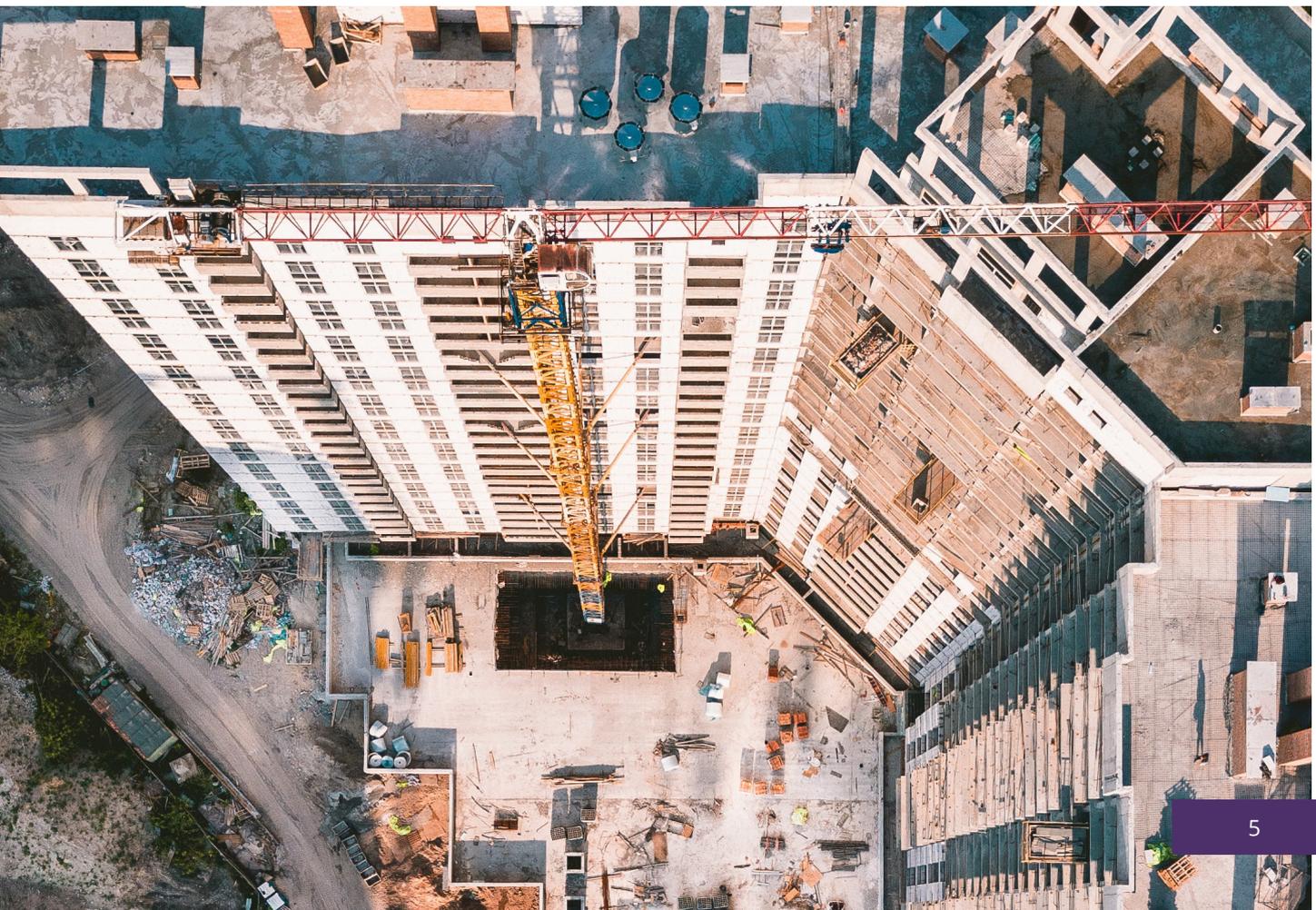
Before any CPO or similar Order is issued the 'acquiring authority' will have to do a number of things. This includes publicly advertising the project they are proposing.

If you think you may be affected by a compulsory purchase it is important to engage in the process to ensure that you understand the impact, timing and your rights.

At the engagement and consultation stage you will be able to speak to the acquiring authority or their advisers to find out about the project and the compulsory purchase process.

At this early stage, they may not be able to give definite answers on timing, but they will be able to describe the need for the scheme and its benefits and impacts. They should also be able to explain any processes they are offering to help affected owners and occupiers move to replacement properties when the time comes.

You will also be able to make an objection or representation (depending on which type of Order is being used) to give your views on whether the Order should be authorised.





There will be a limited period of time to submit an objection or representation. If your property is to be included in the Order, you will receive a notice at the appropriate time telling you how to object and when the objection period closes.

If your property is to be included in the Order you should consider getting professional advice as early as possible. See page 9 for more details on seeking professional advice.

Although it is a good idea to get professional advice, you do not have to do so to make an objection. You can make an objection or representation by writing to the address given in the appropriate notice. You can also attend the inquiry and make your points in person if you wish. If you do not wish to attend the inquiry, the inspector will still consider your written objection.

# What to do if you're served with a notice

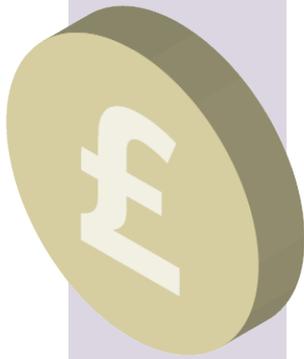
If the acquiring authority needs your property, they will be obliged to send you legal notices at various points in the process. These are important and you should pay attention to them.



Throughout the compulsory purchase process, the acquiring authority will be required to send you various notices, as described in the table on page 3. It is good practice for the acquiring authority to send a letter with the notice explaining in clear language what it is for and what you have to do.



If you have any concerns or questions you should contact the acquiring authority in the first instance and ask them to explain the process to you.

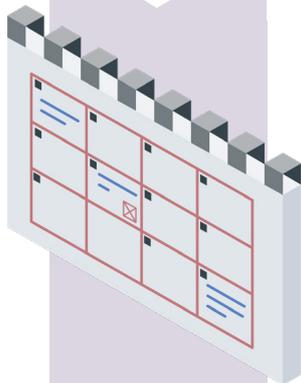


You should also ask whether the acquiring authority will meet the cost of professional advice for you\*.

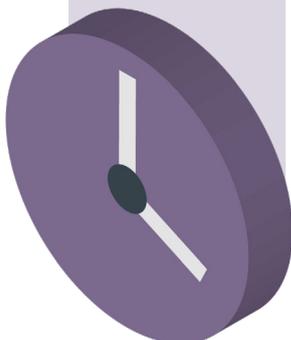
*\*See page 9 for more information on seeking professional advice.*



If you do receive a notice you should deal with it promptly – don't ignore it. Some of the notices have a fixed deadline to respond.



For example, there will be a prescribed deadline by which any objections must be submitted to qualify.



There will also be a time limit to submit information about your ownership or occupation at the land referencing stage.

# Seeking professional advice

If your property may be affected by compulsory purchase it is important to seek professional advice at an early stage. When seeking advice you should consider the points below.



**What advice do I need?** You may need advice on the compulsory purchase process, your compensation rights, help to negotiate with the acquiring authority, how and when to look for a property to move to, or how to make an objection against the Order. A qualified and experienced advisor will be able to guide you through the process and undertake negotiations on your behalf.



**How will I know whether I am getting good advice?** Seeking advice from a qualified RICS member (Chartered Surveyor) will ensure that your adviser is a trained property professional. All RICS members must abide by the rules and regulations of RICS. Ask your adviser about [Surveyors advising in respect of compulsory purchase and statutory compensation](#), RICS professional statement. This sets out the standards your RICS adviser must meet when advising you.

All RICS members must also have a complaints procedure that you can use if you are not happy with the service you have received. If you are not able to resolve your complaint with the adviser's complaints procedure you can make a complaint to RICS.



**How will my professional advice be paid for?** Your RICS adviser must clearly set out the basis of their fees to you in writing before they start work on your behalf. As the client, you will be responsible for paying the adviser's fees but there may be help available with the cost.

The compensation payable for compulsory purchase includes the reasonable costs you incur in seeking professional advice to negotiate a fair compensation settlement. This is in addition to the compensation for your property. However, this only applies at the end of the process when your property is actually acquired.

For the earlier parts of the process it is good practice for the acquiring authority to reimburse the reasonable cost of professional advice incurred by people affected by the scheme. Your RICS adviser will be able to discuss this with the acquiring authority before starting work for you.

- You should check with your adviser whether the acquiring authority has agreed to reimburse (or directly pay) fees before they start work.
- You should also be aware that you will remain responsible for any fees that the acquiring authority does not agree to reimburse.
- Note that the acquiring authority may agree to reimburse fees relating to engagement and negotiation at an early stage but will not usually meet the cost of advice relating to an objection to the Order.
- In many instances, acquiring authorities will agree to pay fees directly to the adviser, but you are still the client and ultimately responsible for any fees the acquiring authority does not agree to pay.
- The professional statement mentioned above contains guidance on fees for compulsory purchase work.

# Available compensation and how to claim it

Compensation is paid to reflect the market value of your interest in the property that is being compulsorily acquired.

The assessment of compensation for compulsory purchase is governed by the 'Compensation Code'. This is not a single 'code' but the combination of various Acts of Parliament and legal decisions. It is a very complex body of law that affects the way in which compensation is to be assessed and who can claim it. You are advised to get specialist advice from a professional.

Where a property is acquired through Compulsory Purchase, the principles are fairly straightforward. The compensation will be the market value of the property concerned, disregarding any increase or decrease in value caused by the effect of the scheme which underlies its acquisition. Sometimes, additional schemes such as new rail or tube stations can be disregarded as well so please do take professional advice.

Compensation may be paid to reflect losses which are particular to you as the claimant.

Compulsory purchase affects different claimants in different ways. As a business, you may be entitled to what is often referred to as disturbance compensation to cover costs and losses such as relocating expenses, redundancy payments and temporary or permanent loss of trade. As a homeowner, you may be entitled to Disturbance compensation for removal expenses, costs relating to buying elsewhere and for items you are unable to take with you when you move. The devil is in the detail so please do take professional advice from a Chartered Surveyor on exactly what you are entitled to claim and also on how to mitigate your losses so you are compensated appropriately.

You will have to provide evidence to support your compensation claim, especially costs incurred in preparing to move so seeking advice early will allow your adviser to assist in keeping appropriate records to support your claim.

You may also receive a further 'loss payment' as extra compensation to reflect the element of compulsion.

In most cases, claimants are entitled to a statutory loss payment (do not apply in Scotland), reflecting 2.5%, 7.5% or 10% of the market value of your interest in the property.

There are caps to these payments, which can periodically change so you should take professional advice from a Chartered Surveyor on your circumstances. In some limited circumstances, loss payments are not available.

## You may be entitled to compensation for land that you do not lose to compulsory purchase.

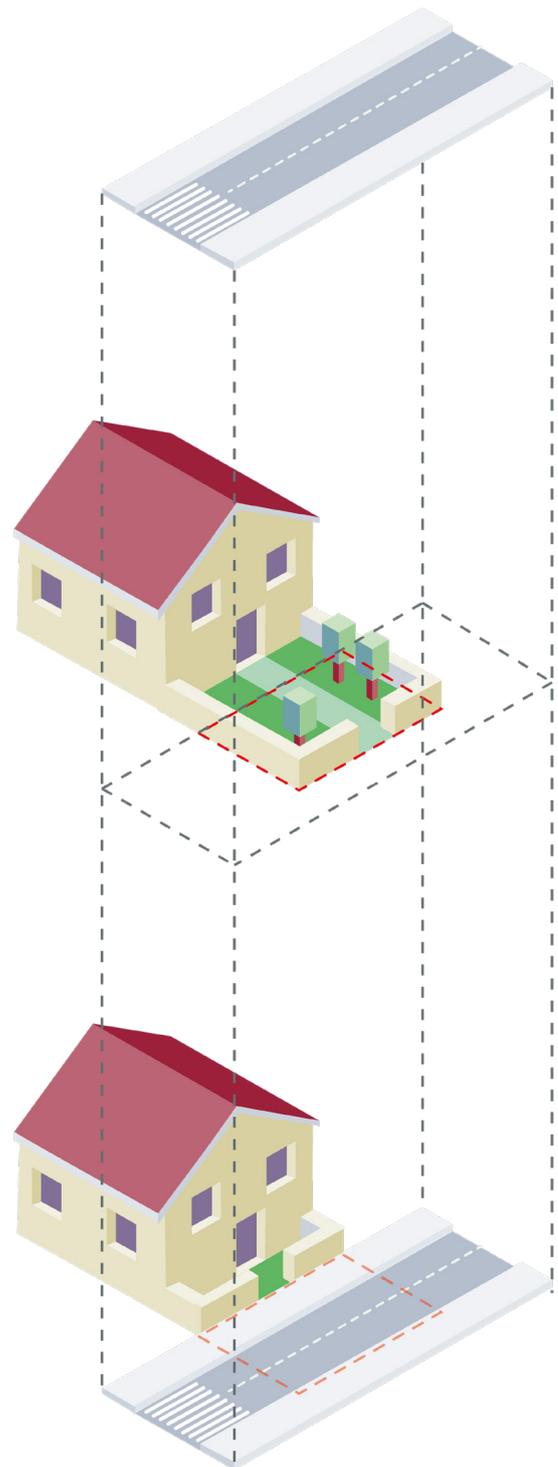
If only part of your property is acquired, you will also be entitled to the loss in value of your retained land together with the value of the land that has been taken.

In some circumstances, you can compel the acquiring authority to buy the remaining land (including buildings) from you but the test for this is quite stringent, including that you would need to prove a material detriment to the use or occupation of the land.

This can be difficult to assess and requires specialist advice from a professional such as a chartered surveyor.

If you are not losing any part of your property but are still affected by noise or certain other physical factors or interference (such as loss of access to your property) you may also be entitled to claim compensation. Your professional adviser will be able to provide more information about this.

In all cases, if you are affected by compulsory purchase you must act reasonably and not undertake actions that will unnecessarily increase compensation.



## Further information

We hope this guide is useful to you. If you'd like to know more about compulsory purchase, or how RICS can help, please contact us.

## Find a Surveyor

[Contact us](#) if you want to find independent, impartial advice from a qualified professional with good local knowledge.

## Consumer helplines

[Contact one of our regulated firms](#) for a 30 minute initial consultation.

Surveying firms that are regulated by RICS are easy to spot as they use 'Regulated by RICS' on their stationery and promotional material.

## Visit our website

[Visit the RICS website](#) for more information.

# Free RICS guides

RICS has a range of free guides available for the following property issues:

## Development issues

Compulsory purchase

Home extensions

## Home hazards

Fire safety

Dilapidations

Flooding

Subsidence

## Neighbour issues

Boundary disputes

Party walls

Right to light

## Residential

Buying a home

Buying and selling art and antiques at auction

Home surveys

Letting a property

Property auctions

Renting a property

Selling a home

Visit [our consumer guides website](#) or [RICS' public website](#).

## Delivering confidence

We are RICS. Everything we do is designed to effect positive change in the built and natural environments. Through our respected global standards, leading professional progression and our trusted data and insight, we promote and enforce the highest professional standards in the development and management of land, real estate, construction and infrastructure. Our work with others provides a foundation for confident markets, pioneers better places to live and work and is a force for positive social impact.

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