



Ministry of Housing,  
Communities &  
Local Government

# **Compulsory Purchase Orders Streamlining - Delegated Decisions and Timescales for Decision**

Government response to consultation



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# Introduction

1. Compulsory purchase powers are an important tool for assembling land needed to help deliver social, environmental and economic change. Used properly, compulsory purchase can contribute towards effective regeneration.
2. A number of changes have been made to improve the system in recent years. In March 2015, the Government published the '[Technical consultation on improvements to compulsory purchase processes](#)' which sought views on a range of proposals aimed at making the compulsory purchase process clearer, fairer and faster for all. The proposals included introducing:
  - a power for the Secretary of State to delegate to an inspector a decision on whether to confirm a compulsory purchase order
  - statutory targets and timescales for the confirmation stage of the compulsory purchase process for cases decided by the Secretary of State and for delegated decisions
3. There was overwhelming support from respondents to the consultation on the principle of having statutory targets and timescales and a significant number of respondents supported the principle of certain decisions being delegated to inspectors. Following the consultation, the Government decided to take forward these proposals in the Housing and Planning Act 2016. This Act inserted a new section 14D into the Acquisition of Land Act 1981 enabling a confirming authority:
  - to appoint an inspector to act instead of it in relation to the confirmation of a non-ministerial compulsory purchase order to which section 13A of the Acquisition of Land Act 1981 applies
  - to cancel the appointment of an inspector acting instead of him in relation to the confirmation of a non-ministerial compulsory purchase order at any time until a decision is made
4. The Housing and Planning Act 2016 also inserted a new section 14B into the Acquisition of Land Act 1981 requiring the Secretary of State:
  - to publish one or more timetables setting out the steps to be taken by confirming authorities in confirming a compulsory purchase order
  - to publish an annual report to Parliament setting out the extent to which confirming authorities have complied with any applicable timetable published under this section
5. The Government agreed to undertake further targeted consultation with stakeholders on:
  - the criteria which would be used to delegate the decision on whether to confirm a non-ministerial compulsory purchase order to an inspector

- the timescales for issuing a decision on delegated cases
6. The consultation, which ran from 11 January 2017 until 13 February 2017, was sent to key representative bodies in the sector. A full list of the organisations and businesses invited to comment is attached at Annex A.
  7. A total of 14 responses were received from a range of bodies representing both claimants and acquiring authorities. This included professionals and professional institutions/associations; industry representative bodies or trade organisations, including the Compulsory Purchase Association; local authorities; other public sector bodies and individuals.
  8. This document provides a summary of the responses to the proposals and sets out the Government's response.

# Section 1: Delegation to an inspector

## Criteria for delegation

9. The consultation proposed that the following criteria should be used to decide whether the Secretary of State for Housing, Communities and Local Government should delegate a decision on a compulsory purchase order to an inspector:

*The Secretary of State will carefully consider the suitability of all compulsory purchase orders to be delegated to an inspector, but will generally delegate the decision on confirmation of an order where, in his opinion, it appears unlikely to:*

- *conflict with national policies on important matters;*
- *raise novel issues;*
- *give rise to significant controversy; or*
- *have impacts which extend beyond the local area*

*New section 14D of the Acquisition of Land Act 1981 also enables a confirming authority to cancel the appointment of an inspector acting instead of him in relation to the confirmation of a non-ministerial compulsory purchase order at any time until a decision is made. This statement also sets out the Secretary of State's policy where the appointment of an inspector is cancelled.*

*While each compulsory purchase order will be considered on its individual merits, if, at any time until a decision is made by the appointed inspector, the Secretary of State considers, in his opinion, that the compulsory purchase order now raises issues which should be considered by him, he may decide that the appointment of the inspector to issue a decision whether or not to confirm the compulsory purchase order should be cancelled. In these instances, the inspector will be asked to submit a report and recommendation to the relevant minister who will make the decision whether or not the compulsory purchase order should be confirmed.*

## Summary of responses

10. There was overwhelming support for the proposed criteria. In considering the detail, respondents felt that some of the criteria could be applied flexibly and that the interpretation of the criteria should be subject to the usual reasonableness test of a public body's decision making. A further view on the proposed criteria was that there would be the potential for the majority of compulsory purchase order cases to be delegated to inspectors. However, others acknowledged that the controversial nature of some cases would mean that the Secretary of State would be likely to continue to determine these cases. Some minor concerns were raised over the procedure to be followed and there were calls for this to be clearly set out.
11. Where respondents did not support the proposal it was because they wished to add further safeguards in relation to compulsory purchase orders, particularly those which:

- impact on residential properties or the loss of a claimant's home
- where the Secretary of State is of the view that considerations arising from the Public Sector Equality Duty or similar social issues are likely to be particularly relevant to implementation of the scheme

12. A further view expressed was that the criteria should mirror those set out in the *Civil Procedure Rules (Practice Direction 54E – Planning Court Claims)* for categorising 'significant' planning claims.

## **Government response**

13. The Government welcomes the support for the proposed delegation criteria for orders for which the Secretary of State for Housing, Communities and Local Government is the confirming authority. We will therefore, take forward the proposal as consulted on, and publish the delegation criteria as part of the updates to the department's guidance, [Compulsory purchase process and the Crichel Down Rules](#). We will also make regulations on the procedures to be followed where cases are delegated to an inspector for decision. We note respondents' concern about the need for proper safeguards given the impact of compulsory purchase orders on individuals. The Secretary of State for Housing, Communities and Local Government will carefully consider the suitability of each compulsory purchase order case for delegation on its individual merits having regard to the criteria.

## **Cancellation of the appointment of an inspector**

14. New section 14D of the Acquisition of Land Act 1981 enables a confirming authority to cancel the appointment of an inspector acting instead of him in relation to the confirmation of a non-ministerial compulsory purchase order at any time until a decision is made. The consultation set out the Secretary of State's proposed policy on the exercise of the power to cancel the appointment of an inspector.

## **Summary of responses**

15. The overwhelming majority of respondents felt that this was an important aspect of the proposal and would take account of changing circumstances. Respondents felt that it would be helpful if the Government set out how the policy to cancel the appointment of an inspector would work. They considered that the only change in circumstance which would merit cancelling an appointment would be if the level of controversy surrounding the order increased.

## **Government response**

16. We will take forward the proposal as consulted on by publishing the policy on the power to cancel the appointment of an inspector as part of the updates to the department's compulsory purchase guidance.

# Section 2: Timescales for deciding a compulsory purchase order

## Proposed timescales for decisions in delegated cases

17. The consultation proposed the following target timescales for decisions in delegated cases under the written representations procedure:

- *decision to be issued within four weeks of the site visit date in 80% of cases; with 100% of cases being decided within eight weeks of the site visit date*

18. For delegated cases under the public inquiry procedure, the following target timescales for decisions were proposed:

- *decision to be issued within eight weeks of the close of the Inquiry in 80% of cases; with 100% of cases being decided within twelve weeks*

19. The consultation also proposed that there be a requirement for parties to be notified within ten working days of the close of the Inquiry of the date on or before which a decision will be issued.

## Summary of responses

20. There was considerable support for the introduction of target timescales for decisions on written representation cases on the basis that this should bring more certainty to the compulsory purchase order process and to those who are affected. Concern was raised about whether there are sufficient inspectors with suitable experience and knowledge to be able to handle the workload within the timescales set. Some respondents felt that, while the timescales were helpful in bringing greater certainty, this should not compromise the inspector's ability to have sufficient time to consider the facts of the case and to reach an informed decision.

21. The majority of those who responded felt that the introduction of target timescales for decisions on compulsory purchase orders subject to the public inquiry process were reasonable and were to be welcomed. However, there were some concerns that the target was that 100% of cases should be determined within 12 weeks of the close of the inquiry, particularly where the decision may be affected by a decision on a related order.

## Government response

22. The Government welcomes the support for the introduction of target timescales and sees this as an important step in making the compulsory purchase system fairer, faster and easier to use. We consider that the proposed target timescales provide an appropriate length of time for decisions to be issued. The target for 80% of cases to be decided within the timescales allows for those cases where an inspector may need to take more time to consider the merits of the case. Where a case is delegated to an

inspector for decision the procedure will be shorter as the inspector's report will become the decision letter. The Government will therefore, take forward the proposals as consulted on.

# Section 3: Public Sector Equalities Duty

23. The consultation sought views on the potential equalities impacts arising from these proposals.

## Summary of responses

24. There were only a few responses to this question. Respondents did not consider that there was any specific evidence that the proposals were likely to have any positive or negative impact on persons who share a relevant protected characteristic under section 149 of the Equality Act 2010. However, they considered in relation to some redevelopment compulsory purchase orders they had made that there were persons with broader needs of care which required them as good practice to ensure that these persons were referred to proper representation. It was also suggested by these respondents that it would be helpful if the Government's guidance booklet, [Compulsory purchase and compensation booklet 1: compulsory purchase process](#), which deals with general matters, mentions that the confirmation decision may be delegated to an inspector and directs readers to the relevant criteria.

## Government response

25. The Government notes that the responses to the consultation did not raise concerns about the potential equalities impacts of the proposals on persons with protected characteristics. Having due regard to the need to meet the three aims of the Equality Act 2010, the Government does not consider that there is any identifiable evidence that the proposals are likely to have any differential or disproportionate negative impacts on persons who share a relevant protected characteristic under section 149 of the Equality Act 2010. However, the Government will keep this matter under review following the implementation of the proposals.

## Section 4: Next steps

26. The delegation criteria and target timescales for decisions in delegated cases will be set out in the department's updated [compulsory purchase guidance](#).
27. The [Compulsory Purchase of Land \(Written Representations Procedure\) \(Ministers\) \(Miscellaneous Amendments and Electronic Communications\) Regulations 2018](#) and the [Compulsory Purchase \(Inquiries Procedure\) \(Miscellaneous Amendments and Electronic Communications\) Rules 2018](#) will give effect to the procedural changes needed for delegated cases. They were laid before Parliament on 28 February and will come into effect on 6 April 2018.

# Annex A: list of organisations invited to comment

Accessible Retail	National Grid
Amber Valley Borough Council	National Infrastructure Planning Association
Aylesbury Leaseholders Action Group	National Trust
Bedford Borough Council	Network Rail Infrastructure Limited
Berkeley Group	Norfolk County Council
Bilfinger GVA	North Norfolk District Council
Birmingham City Council	Nottinghamshire County Council
BNP Paribas Real Estate UK	Peter Brett Associates LLP
Bond Dickinson	Peterborough City Council
Bristol City Council	Planning and Environmental Bar Association
Bristol water Company	Planning Officers Society
British Property Federation	Preston City Council
Browne Jacobson LLP	Richard Harwood QC
Building Societies Association	RiverOak Investment Corporation LLC
Campaign to Protect Rural England	Royal Borough of Kingston upon Thames
Carter Jonas	Royal Institution of Chartered Surveyors
Caxtons	Royal Town Planning Institute
Central Association of Agricultural Valuers	Savills
Centre for Progressive Capitalism	Sawyer Fielding LTD
Compulsory Purchase Association	Severn Trent Water Limited
Council of Mortgage Lenders	Shakespeare Martineau
Country Land and Business Association	Shelter
CPRE Lancashire	South Norfolk Council
Devon County Council	Stoke-on-Trent City Council
Doncaster Metropolitan Borough Council	Swindon Borough Council
EDF Energy	Tanner Rose LLP
EMEPF	Tatton Estate Management Ltd.
Empty Homes UK Ltd	Town and Country Planning Association
Energy UK	The Law Society
EY	The National Trust
Falcon Chambers	TLT LLP
Fisher German	Town Centre Regeneration Ltd
Greater London Authority	Transport for London
Hartlepool Borough Council	UK Powers Networks
Highbury Group on housing Delivery	Wainhouse
Highways England	Wessex Water
Historic England	Wolverhampton City Council
HS2 Ltd	Yorkshire Water
Kent County Council	
Law Society	
Local Government Association	
London Borough of Southwark	
Nabarro LLP	
National Farmers Union	