



Ministry of Housing,
Communities &
Local Government

The Crichel Down Rules



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The Crichel Down Rules

Rules and procedures

1. This guidance sets out the revised non-statutory arrangements (the 'Crichel Down Rules') under which surplus government land which was acquired by, or under a threat of, compulsion (see Rule 7 and the annex to this guidance below) should be offered back to former owners, their successors, or to sitting tenants (see Rules 13 and 15, 18 and 19 below). For the sake of brevity, in this guidance all bodies to whom any one or more of the Crichel Down Rules apply or are commended are referred to as 'departments', whether they are government departments, including Executive Agencies, other non-departmental public bodies, local authorities or other statutory bodies. See Rules 3 and 4 below. The [Annex](#) provides further guidance on the Crichel Down Rules including a list of those bodies to which, in the opinion of the Department which published the Rules, the Crichel Down Rules apply in a mandatory manner.
2. These Crichel Down Rules apply to land in England. They also apply to land in Wales acquired by and still owned by a UK government department. For other land in Wales, where statutory bodies in Wales seek to dispose of its surplus land acquired under an enabling power which remains capable of being confirmed by a UK Secretary of State, 'The Crichel Down Rules' published in 1992 by the Department of the Environment and the Welsh Office (30 October 1992) continue to apply. Departments disposing of land:
 - in Northern Ireland should follow 'Disposal of Surplus Public Sector Property in Northern Ireland' produced by the Central Advisory Unit of the Land and Property Services agency of the Department of Finance and Personnel;
 - in Scotland they should follow the procedures set out in 'Scottish Planning Series: Planning Circular 5 2011: Disposal of Surplus Government Land – The Crichel Down Rules'; and
 - in Wales they should follow the 'Compulsory Purchase in Wales and 'The Crichel Down Rules (Wales Version, 2020)' published by the Welsh Government.
3. General guidance on asset management, which includes land and buildings is set out in Annex 4.15 of [Managing Public Money \(Asset Management\)](#).
4. So far as local authorities and statutory bodies in England are concerned, it is recommended that they follow the Crichel Down Rules. They are also recommended to those bodies in Wales who seek to dispose of land acquired under an enabling power which remains capable of being confirmed by a UK Secretary of State for land in Wales. The Crichel Down Rules are also commended to bodies in the private sector to which public land holdings have been transferred, for example on privatisation.
5. It is the view of the government that where land is to be transferred to another body which is to take over some or all of the functions or obligations of the department that currently owns the land, the transfer itself does not constitute a disposal for the purpose of the Crichel Down Rules.

Disposals for the purposes of Private Finance Initiative/Private Public Partnership projects do not fall within the Crichel Down Rules and the position of any land surplus once the project has been completed would be subject to the Private Finance Initiative/Private Public Partnership contract.

6. The Crichel Down Rules are not relevant to land transferred to the National Rivers Authority (now the Environment Agency) or to land acquired compulsorily by the Environment Agency or to the water and sewerage service companies in consequence of the [Water Act 1989](#) or subsequently acquired by them compulsorily. Such land is governed by a special set of statutory restrictions on disposal under [section 157 of the Water Resources Act 1991](#) (as amended by the Environment Act 1995), and [section 156 of the Water Industry Act 1991](#) and the consents or authorisations given by the Secretary of State for Environment, Food and Rural Affairs under those provisions.

The land to which the Crichel Down Rules apply

7. The Crichel Down Rules apply to all land if it was acquired by or under threat of compulsion. A threat of compulsion will be assumed in the case of a voluntary sale if power to acquire the land compulsorily existed at the time unless the land was publicly or privately offered for sale immediately before the negotiations for acquisition.
8. The Crichel Down Rules also apply to land acquired under the statutory blight provisions (currently set out in [Chapter 2 in Part 6 of](#), and [Schedule 13 to](#), the Town and Country Planning Act 1990). The Crichel Down Rules do not apply to land acquired by agreement in advance of any liability under these provisions.
9. The Crichel Down Rules apply to all freehold disposals and to the creation and disposal of a lease of more than seven years.

The general rules

10. Where a department wishes to dispose of land to which the Crichel Down Rules apply, former owners will, as a general rule, be given a first opportunity to repurchase the land previously in their ownership, provided that its character has not materially changed since acquisition. The character of the land may be considered to have 'materially changed' where, for example, dwellings or offices have been erected on open land, mainly open land has been afforested, or where substantial works to an existing building have effectively altered its character. The erection of temporary buildings on land, however, is not necessarily a material change. When deciding whether any works have materially altered the character of the land, the disposing department should consider the likely cost of restoring the land to its original use.
11. Where only part of the land for disposal has been materially changed in character, the general obligation to offer back will apply only to the part that has not been changed.

Interests qualifying for offer back

12. Land will normally be offered back to the former freeholder. If the land was, at the time of acquisition, subject to a long lease and more than 21 years of the term would have remained unexpired at the time of disposal, departments may, at their discretion, offer the freehold to the former leaseholder if the freeholder is not interested in buying back the land.
13. In these Crichel Down Rules 'former owner' may, according to the circumstances, mean former freeholder or former long leaseholder, and their successor. 'Successor' means the person on whom the property, had it not been acquired, would clearly have devolved under the former owner's will or intestacy; and may include any person who has succeeded, otherwise than by purchase, to adjoining land from which the land was severed by that acquisition.

Time horizon for obligation to offer back

14. The general obligation to offer back will not apply to the following types of land:
 - 1) agricultural land acquired before 1 January 1935;
 - 2) agricultural land acquired on and after 30 October 1992 which becomes surplus, and available for disposal more than 25 years after the date of acquisition; or
 - 3) non-agricultural land which becomes surplus, and available for disposal more than 25 years after the date of acquisition.

The date of acquisition is the date of the conveyance, transfer or vesting declaration.

Exceptions from the obligation to offer back

15. The following are exceptions to the general obligation to offer back:
 - 1) where it is decided on specific ministerial authority that the land is needed by another department (i.e. that it is not, in a wider sense, surplus to government requirements);
 - 2) where it is decided on specific ministerial authority that for reasons of public interest the land should be disposed of as soon as practicable to a local authority or other body with compulsory purchase powers. However, transfers of land between bodies with compulsory purchase powers will not be regarded as exceptions unless at the time of transfer the receiving body could have bought the land compulsorily if it had been in private ownership. Appropriations of land within bodies such as local authorities for purposes different to that for which the land was acquired are exceptions if the body has compulsory purchase powers to acquire land for the new purpose;
 - 3) where, in the opinion of the disposing body, the area of land is so small that its sale would not be commercially worthwhile;

- 4) where it would be mutually advantageous to the department and an adjoining owner to effect minor adjustments in boundaries through an exchange of land;
- 5) where it would be inconsistent with the purpose of the original acquisition to offer the land back; as, for example, in the case of:
 - (i) land acquired under sections 16, 84 or 85 of the Agriculture Act 1947
 - (ii) land which was acquired under the Distribution of Industry Acts or the Local Employment Acts, or under any legislation amending or replacing those acts, and which is resold for private industrial use
 - (iii) where dwellings are bought for onward sale to a private registered provider of social housing or Registered Social Landlord in Wales
 - (iv) sites purchased for redevelopment by the former English Partnerships or former regional development agencies or Homes England;
- 6) where a disposal is in respect of either:
 - (i) a site for development or redevelopment which has not materially changed since acquisition and which comprises two or more previous land holdings; or
 - (ii) a site which consists partly of land which has been materially changed in character and part which has not

and there is a risk of a fragmented sale of such a site realising substantially less than the best price that can reasonably be obtained for the site as a whole (i.e. its market value). In such cases, consideration will be given to offering a right of first refusal of the property, or part of the property, to any former owner who has remained in continuous occupation of the whole or part of their former property (by virtue of tenancy or licence). In the case of land to which (i) applies, consideration will be given to a consortium of former owners who have indicated a wish to purchase the land collectively. However, if there are competing bids for a site, it will be disposed of on the open market; or

- 7) where the market value of land is so uncertain that clawback provisions would be insufficient to safeguard the public purse and where competitive sale is advised by the department's professionally qualified valuer and specifically agreed by the responsible minister.

16. Where it is decided that a site does fall within any of the exceptions in Rule 15 or the general exception relating to material change (see Rule 10) the former owner will be notified of this decision using the same procedures for contacting former owners as indicated in [Rules 20-22](#) below.

17. In the case of a tenanted dwelling, any pre-emptive right of the former owner is subject to the prior right of the sitting tenant. See Rule 18 below.

Dwelling tenancies

18. Where a dwelling, whether acquired compulsorily or under statutory blight provisions, has a sitting tenant (as defined in [Appendix A](#)) at the time of the proposed disposal, the freehold should first be offered to the tenant. If the tenant declines to purchase the freehold, it should then be offered to the former owner, although this may be subject to the tenant's continued occupation. This Rule does not apply where a dwelling with associated land is being sold as an agricultural unit; or where a dwelling was acquired with associated agricultural land but is being sold in advance of that land.

Procedures for disposal

19. Where it is decided that property to be disposed of is, by virtue of these Crichel Down Rules, subject to the obligation to offer back, departments should follow the appropriate procedures described in Rules 20-25 below.

Where former owner's address is known

20. Where the address of a former owner is known, a recorded delivery letter should be sent by or on behalf of the disposing department, inviting the former owner to buy the property at the valuation made by the department's professionally qualified valuer. The former owner will be given two months from the date of that letter to indicate an intention to purchase. Where there is no response or the former owner does not wish to purchase the property, it will be sold on the open market and the former owner will be informed by a recorded delivery letter that this step is being taken. If the former owner wishes to purchase the land there will be a further period of two months to agree terms, other than value, from the date of an invitation made by or on behalf of the disposing department. After these terms are agreed, there will be six weeks to negotiate the price. If the price or other terms cannot be agreed within these periods, or within such extended periods as may reasonably be allowed (for example, to negotiate appropriate clawback provisions), the property will be disposed of on the open market.

Where address is unknown

21. Where the former owner is not readily traceable, the disposing department will contact the solicitor or agent who acted for the former owner in the original transaction. If a present address is then ascertained, the procedure described in Rule 20 above should be followed. If the address is not ascertained, however, the department will attempt to contact the former owner by advertisement, as set out in Rule 22 below, informing the solicitor or agent that this has been done.

22. Advertisements inviting the former owner to contact the disposing department will be placed as follows:

- a) for all land (including dwellings), in the London Gazette, in the Estates Gazette, in not less than two issues of at least one local newspaper and on the disposing department's web site;
- b) in addition, for agricultural land, advertisements will be placed in the Farmer's Weekly.

Site notices announcing the disposal of the land will be displayed on or near the site and owners of the adjacent land will also receive notification of the proposed disposal.

Responses to invitation to purchase where address is unknown

23. Where no intention to purchase is indicated by or on behalf of a former owner within two months of the date of the latest advertisement which is published as described in Rule 22 above, the land will be disposed of on the open market.

24. Where an intention to purchase is expressed by or on behalf of a former owner within two months of the date of the latest advertisement, the former owner will be invited to negotiate terms and agree a price within the further periods, as may reasonably be extended, which are described in Rule 20 above. If there is no agreement, the property will be disposed of on the open market.

Special procedures where boundaries of agricultural land have been obliterated

25. The procedures described in [Appendix B](#) should be followed where changes, such as the obliteration of boundaries, prevent land which is still predominantly agricultural in character from being sold back as agricultural land in its original parcels.

Terms of resale

26. Disposals to former owners under these arrangements will be at current market value, as determined by the disposing department's professionally qualified valuer. There can be no common practice in relation to sales to sitting tenants because of the diversity of interests for which housing is held. Departments will, nonetheless, have regard to the terms set out in the Housing Act 1985, as amended, under which local authorities are obliged to sell dwelling-houses to tenants with the right to buy.

27. As a general rule, departments should obtain planning consent before disposing of properties which have potential for development. Where it would not be practicable or appropriate for departments to take action to establish the planning position at the time of disposal, or where it seems that the likelihood of obtaining planning permission (including a more valuable permission) is not adequately reflected in the current market value, the terms of sale should include clawback provisions in order to fulfil the government's or public body's obligation to the taxpayer to obtain the best price. The precise terms of clawback will be a matter for negotiation in each case.

Recording of disposals

28. Disposing departments will maintain a central record or file of all transactions covered by the Rules, including those cases that fall within Rules 10 and 15.

Appendix A (see [Rule 18](#) of the Crichel Down Rules)

Sitting tenants

1. In the context of the Crichel Down Rules, the expression 'sitting tenant' was generally intended to apply to tenants with indefinite or long-term security of tenure. A tenant for the time being of residential property which is to be sold as surplus to a department's requirements is not, as a tenant of the Crown, in occupation by virtue of a statutory form of tenancy under the [Rent Act 1977](#) or the [Housing Act 1988](#). However, when deciding whether a person is a sitting tenant for the purposes of Rule 18 of the Crichel Down Rules, the department concerned will have regard to the terms of tenancy and act according to the spirit of the legislation.
2. In practice, this will generally mean that a person may be regarded as a sitting tenant for the purposes of Rule 18 of the Crichel Down Rules if the tenancy is analogous to either:
 - a) a regulated tenancy under the [Rent Act 1977](#), (i.e. a tenancy commenced before 15 January 1989, but excluding a protected shorthold tenancy); or
 - b) an assured tenancy under the [Housing Act 1988](#), (i.e. a tenancy begun on or after that date, but excluding an assured shorthold tenancy).
3. Without prejudice to Rule 15(6) of the Crichel Down Rules, therefore, Rule 18 of the Crichel Down Rules does not apply to a licensee or to a person in occupation under a tenancy the terms of which are analogous to:
 - a) a protected shorthold tenancy under the [Housing Act 1980](#), including any case where a person who held such a tenancy, or that person's successor, was granted a regulated tenancy of the same dwelling immediately after the end of the protected shorthold tenancy; or
 - b) an assured shorthold tenancy under the [Housing Act 1988](#).
4. It is recognised, however, that some tenants who fall within Rule 3 above, may have occupied the property over a number of years and may well have carried out improvements to the property. Where the former owner or successor does not wish to purchase the property, or cannot be traced, the department may wish to consider sympathetically any offer from such a tenant, of not less than two years, to purchase the freehold.

Appendix B (see [Rule 25](#) of the Crichel Down Rules)

Special procedures where boundaries of agricultural land have been obliterated

- (a) Each former owner will be asked whether they wish to acquire any land.
- (b) Where former owners express interest in doing so, disposing departments will, subject to what is stated in (c) to (e) below, make every effort to offer them parcels which correspond, as nearly as is reasonably practicable, in size and situation to their former land.
- (c) In large and complex cases, or where there is little or no room for choice between different methods of dividing the land into lots, it may be necessary to show former owners a plan indicating definite lots. This might be appropriate where, for example, the character of the land has altered; where there are existing tenancies; or where departments might otherwise be left with unsaleable lots.
- (d) Where more than one former owner is interested in the same parcel of land it may be necessary to give priority to the person who owned most of the parcel or, in a case of near equality, to ask for tenders from interested former owners. Departments should, however, make every effort to offer each interested former owner at least one lot.
- (e) If attempts to come to a satisfactory solution by dealing with former owners end in complete deadlock, departments will sell the land by public auction in the most convenient parcels and will inform the former owners of the date of the auction sale.

Annex (see [Rule 1](#) of the Crichel Down Rules)

Guidance for departments

Bodies to which these Crichel Down Rules apply (Rule 2)

1. These Crichel Down Rules apply to all government departments, executive agencies and non departmental public bodies in England and other organisations in England (such as health service bodies) which are subject to a power of direction by a minister. They also apply to land in Wales acquired and still owned by a UK government department.

Application of the Crichel Down Rules by local authorities and statutory bodies (Rule 4)

2. Local authorities and other statutory bodies which are not subject to a ministerial power of direction (for example, statutory undertakers) but who have powers of compulsory purchase, or who hold land which has been compulsorily purchased, are recommended to follow the Crichel Down Rules. Such authorities and bodies include those holding land in Wales acquired under an enabling power which remains capable of being confirmed by a UK minister, such as the Secretary of State for Energy Security and Net Zero. The previous practice amongst such authorities has been very variable, but the government would like there to be a high level of compliance. Former owners of surplus land will be likely to see as inequitable a system which requires government departments and others to offer back surplus land but not local authorities. A typical example would be on road schemes, where those who had lost land to a trunk road scheme would have surplus land offered back, while those who had lost land to a county road scheme might not.
3. The approach of these bodies when disposing of surplus land must, however, depend on their particular functions and circumstances. For example, in the case of exceptions to the Crichel Down Rules which depend upon ministerial authority (Rules 15(1), 15(2) and 15(7)) local authorities will have to rely on the decision of the political head of the authority. For other statutory bodies the decision will rest with the chairman. For disposals at the end of Private Finance Initiative/Private Public Partnership agreements, departments may wish to seek legal advice in order to take account of the Crichel Down Rules.

Transfer to the private sector (Rule 5)

4. This rule makes it clear that land transferred to another body for the same functions is not surplus.

The threat of compulsion (Rule 7)

5. A 'threat of compulsion' should be assumed in the case of a voluntary sale if the power to acquire the land compulsorily existed at the time.
This means that the acquiring department did not need to have instituted compulsory purchase procedures or even to have actively 'threatened' to use them for this Rule to apply. It is enough for the acquiring authority to have statutory powers available if it wished to invoke them. For example, land acquired by a highway authority for the purposes of building a road is acquired under the threat of compulsion because such an authority could use its powers under the Highways Act 1980 to make a compulsory purchase order. The only exception is where the land was publicly or privately offered for sale immediately before the negotiations for acquisition.

What constitutes a disposal? (Rule 9)

6. In addition to freehold disposals, any proposal to create and dispose of a leasehold interest of more than 7 years or capable of being extended to more than 7 years by virtue of contract or statute or where the total period of successive leases amounts to more than 7 years will be subject to the Crichton Down Rules. Disposals for the purposes of granting Private Finance Initiative/Private Public Partnership projects do not fall within the Crichton Down Rules, see Crichton Down Rule 5.

What is a material change of character? (Rule 10)

7. The Crichton Down Rules refer to a 'material change in character' to the land available for disposal. In the original Commons debate on the Crichton Down case in 1954, 'material change' was envisaged as relating to agricultural land and was illustrated by the example of an airfield having been built with concrete runways and buildings and where the original ownership boundaries have been lost. However, other examples of a material change of character could include the erection of buildings on bare, open land (although it should be noted that the erection of temporary buildings is not necessarily a material change); the afforestation of open land; or the undertaking of substantial works to an existing building, the demolition of a building or the installation of underground infrastructure or services to a site.

Land subject to a long lease (Rule 12)

8. If neither the former freeholder nor former leaseholder are identifiable or interested in buying the land back then the freehold freed from any lease can be disposed of on the open market.

Who is a successor? (Rule 13)

9. A successor under a will includes those who would have succeeded by means of a second or subsequent will or intestacy. The qualification 'otherwise than by purchase' may be relaxed if the successor to adjoining land acquired it by means of transfer within a family trust, including a transfer for monetary consideration.

When is the date of acquisition? (Rule 14)

10. Crichton Down Rule 14 says that the date of acquisition is the date of the conveyance, transfer or vesting declaration. Problems may arise where land has been requisitioned several (sometimes 10 or more) years before the title has transferred. Difficulties can be caused where the two dates straddle a time horizon, so that a disposal would fall within the Crichton Down Rules if the date of transfer was used, but not if the date of requisition was. To avoid these difficulties the date of acquisition is therefore taken to be the date of conveyance, transfer or vesting declaration.

What are 'reasons of public interest'? (Rule 15(2))

11. The courts have held that Crichton Down Rule 15(2) does not require these to be matters where life or limb are at risk. In practice, this exception may be invoked where the body to which the land is to be sold could have made a compulsory purchase order to obtain it had it been owned by a third party (See *R-v-Secretary of State for the Environment, Transport and the Regions ex p. Wheeler*, *The Times* 4 August 2000).

Small areas of land (Rule 15(3))

12. This exception provides departments with discretion as to whether to offer land back when the administrative costs in seeking to offer land back are out of proportion to the value of the land. It will also cover cases where there is a disposal of a small area of land without a sale.

When is it inconsistent with the purpose of the original acquisition to offer land back? (Rule 15(5))

13. The sections of the Agriculture Act 1947 referred to in this Rule deal with the dispossession of owners or occupiers on grounds of bad estate management (section 16) and the acquisition and retention of land to ensure the full and efficient use of the land for agriculture (sections 84 and 85). In addition to the statutory examples quoted, the general rule is that land purchased with the intention of passing it on to another body for a specific purpose is not surplus and therefore not subject to the Crichton Down Rules. Typical examples would be sites of special scientific interest (SSSIs) purchased for management reasons; a listed building purchased for restorations; properties purchased by a local authority for redevelopment which are sold to a private developer partner; or land purchased by the former English Partnerships or a former regional development agency (now Homes England) and sold for reclamation and redevelopment. This exception will apply to disposals by statutory bodies with specific primary rather than incidental functions to develop or redevelop land, and to disposals by their successor bodies. In such cases, land would only be subject to the Crichton Down Rules where it was without development potential and, therefore, genuinely surplus in relation to the purpose for which it was originally acquired.

Dwelling tenancies (Rule 18)

14. For the purposes of the Crichton Down Rules a 'dwelling' includes a flat.

Procedures for disposal (Rules 19-24)

15. The Crichel Down Rules specify various time limits in the procedures for disposal. However, to assist in the speedy disposal of sites, departments are encouraged to discuss with the former owner all aspects of the sale from the outset of negotiations.

Market value and the date of valuation (Rule 26)

16. For the purposes of the Crichel Down Rules, 'market value' means 'the best price reasonably obtainable for the property'. This is equivalent to the definition of 'market value' in the [Royal Institution of Chartered Surveyors' Appraisal and Valuation Manual](#) (the 'Red Book'), but including any 'Special Value' (i.e. any additional amount which is or might reasonably be expected to be available from a purchaser with a special interest like a former owner). 'Current market value' means the market value on the date of the receipt by the disposing department of the notification of the former owner's intention to purchase.

Maintenance of records (Rule 28)

17. In order to make it possible for the operation of these revised Crichel Down Rules to be monitored, disposing departments should include on each disposal file a note of its consideration of the Crichel Down Rules, including whether they applied (and if not, why not), the subsequent action taken and whether it was possible to sell to the former owner. It would also be very helpful if a copy of each of these notes (cross-referenced to the disposal file) could be held by the relevant department on a central (or regional) file, so that the information would be readily available for any future monitoring exercise.