(ii) **taking account of the nature of the objections sustained at the inquiry when apportioning costs;**

(iii) **devising ways in which the decision-taking procedures might be streamlined within their own departments;**

(iv) **providing advice to objectors and acquiring authorities about the advantages of using mediation to help them to reach an informal agreement about issues which might otherwise be sustained through to an inquiry.**

Speeding up the procedures required to implement a compulsory purchase order

Timing of the notice to treat

55 Concerns were expressed to the group about the anxiety and uncertainty caused to landowners by the fact that the statutory procedures currently allow for a period of up to three years to elapse between the date on which a compulsory purchase order becomes operative and serving the notice to treat; with a further period of three years during which the acquiring authority can take possession. We can understand why, from the claimant's point of view, a period of six years seems excessive. Also, this may in some cases encourage an acquiring authority to make and progress a compulsory purchase order prematurely before sufficient progress has been made in addressing funding and other factors which may affect implementation of the development. Realistically, however, we consider that a significant general shortening of time-scales may not be feasible, especially for major projects. We therefore suggest that the period of three years should be retained between the date on which an order becomes operative and the date of serving the notice to treat or executing a general vesting declaration. We feel, though, that allowing a further three years between serving the notice to treat, or executing the general vesting declaration, and taking possession provides more time than is often strictly necessary and can therefore engender a lackadaisical attitude on the part of acquiring authorities. We therefore suggest a norm of one year. However, we recognise that that might be unrealistic in the case of some major schemes, and so we suggest that that period should be extendable either by the minister at the time at which he confirms the order, (on the basis of a case put forward by the acquiring authority and discussed at the inquiry), or at any time with the agreement of both parties.

56 Furthermore, while accepting as a norm the retention of a period of up to three years between the order becoming operative and the expiry of the power to serve a notice to treat, we recognise that such a long period of delay and uncertainty can be very unsettling to those directly affected and can be a particular and very real problem for businesses, who may be unable to plan ahead or whose customers may be unwilling to use them.One way of alleviating this problem would be to provide that before the expiration of the three years from the date on which the compulsory purchase order becomes operative all landowners could have a right to serve a notice on the acquiring authority which would have the same legal effect as that of a notice to treat served by the acquiring authority on the landowner. This would need to be linked to a power for the landowner to serve on the acquiring authority a subsequent "notice to

take possession" of the land in the same way as the acquiringauthority may take possession of the land by service on the landowner of a "notice of entry". We see considerable merit in this suggestion, but do not consider that such a procedure should become available to a landowner until a year after the date on which the compulsory purchase order became operative; thus allowing the acquiring authority to deal with any outstanding issues relating to the acquisition (including funding issues) before proceeding with the purchase.

57 We see the right of landowners to serve both a notice to treat and a notice to take possession as supplementary to the present blight notice provisions[31]. Although service of a blight notice by those entitled to do so, and its acceptance by the acquiring authority, allows the parties (as with a notice to treat served by the acquiring authority) to begin formal negotiations with regard to the compensation to be paid, it gives no certainty regarding the date of entry and valuation; the acquiring authority will usually not enter and take possession under a blight notice until the value of the interest and other compensation are agreed. The group considers that the unilateral right of an acquiring authority to take possession of land without the agreement of the landowner or to delay this action for up to six years tilts the balance of fairness far too much in favour of the acquiring authority. To extend to landowners a similar right to**require** the acquiring authority to enter and take possession of his land irrespective of the rateable value and other factors which currently govern the ability to serve a blight notice would give the landowner some certainty regarding the entry and valuation date. The group believes that this would strike a fair balance between the parties and would go a long way towards removing the uncertainties and delay which now inhibit much of the compulsory purchase process.

58 The power to serve a blight notice does not extend to the owners of business premises with a net annual value (rateable value) exceeding a prescribed limit (currently £24,600). They therefore have no choice but to await the service of notice to treat by the acquiring authority. The group sees no purpose for that monetary restriction other than to protect the acquiring authority from having to acquire the more valuable properties before being ready to do so. We do not see this as a valid justification for such a restriction and suggest that if our proposals to enable landowners to serve notice on the acquiring authority[32] are not accepted and the existing blight notice provisions have to remain, the monetary restriction should in any case be repealed.

Procedures for claiming compensation

59 The group considers that, in order to minimise the risk of misunderstandings and unnecessarily protracted negotiations, an acquiring authority should not only explain to potential claimants at an early stage their potential compensation entitlements but also emphasise their responsibilities in preparing their compensation claims. In particular, when an acquiring authority serve notice of their intention to make a compulsory purchase order they should provide those

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31 See paragraphs 76 and 77 below.

32 See paragraph 56 above and paragraph 61(ii) below..

from whom land is likely to be acquired with clear and detailed information about the compensation arrangements, including their entitlements if the authority were to abandon the order[33]. The acquiring authority should explain the claimants' responsibilities to demonstrate proof of loss and that they will be expected to show that they have acted reasonably throughout the period with regard to mitigating their losses. The authority should also make it clear to each potential claimant that, as now, the initial duty will rest with him to show that his loss was caused by the scheme and in anticipation of, and because of, the threat of dispossession.

60 Although most of the concerns expressed to the group related to delays suffered by claimants at the hands of acquiring authorities, we recognise that claimants themselves are not always blameless. In particular there is, at present, no statutory duty on a landowner to submit a claim to the acquiring authority nor any particular time-scale within which he must do so. Acquiring authorities can potentially, therefore, be left with schemes hanging in the air for a long time. Furthermore, when they are submitted, claims can be very inadequate and do not help the authority to understand what is being claimed or why. To avoid any such confusions in the future, we believe that a duty should be placed on the claimant to make a properly itemised claim with supporting documents and within a specified time scale.

61 **With a view to speeding up the acquisition process once a compulsory purchase order has been confirmed, the group recommends that ministers should give further consideration to:**

(i) reducing to one year the period between the acquiring authority serving the notice to treat, or executing the general vesting declaration, and taking possession, such period to be extendable either by the minister at confirmation stage (on the basis of a case put forward by the acquiring authority and discussed at the inquiry) or at anytime with the agreement of both parties;

(ii) providing a right for a landowner to serve on the acquiring authority, at any time between one year and three years from the date on which the compulsory purchase order becomes operative, both a notice to treat and a notice to take possession;

(iii) issuing advice to remind acquiring authorities that, when serving the prescribed notices in connection with the making of a compulsory purchase order, they should, as a matter of good practice, provide those from whom land is likely to be acquired with clear and detailed information about the compensation arrangements and the claimant's own responsibilities in that respect;

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33 See paragraphs 187 to 190 below.

(iv) **imposing a statutory duty on each claimant to submit a properly itemised compensation claim to the relevant acquiring authority with supporting documents and within a specified time scale.**

Resolution of compensation disputes

The Lands Tribunal

62 The jurisdiction of the Lands Tribunal includes the determination of disputes relating to the compulsory purchase of land. In addition, it also has power to act as arbitrator in "references by consent", such references usually concerning the valuation of land acquired by agreement under what is often referred to as "acquisition under the shadow of compulsory purchase". Unlike the High Court, the Lands Tribunal is a specialist court; and its rules of procedure are made by the Lord Chancellor under the provisions of section 3(11)(b) of the Lands Tribunal Act 1949.

63 Technically, therefore, the reform of High Court procedures recently introduced by the new Civil Procedure Rules (generally referred to as the Woolf reforms) has no application to the Lands Tribunal. Nevertheless the Lands Tribunal has readily accepted the appropriateness of applying to its own procedures the overriding objectives which are sought by the Civil Procedure Rules. These objectives are to ensure that parties are on an equal footing; to save them expense; to deal with cases in ways which are proportionate to the amount of money involved, the importance of the case, the complexity of the issues and the financial position of the parties; to ensure that the case is dealt with expeditiously and fairly; and to allot to the case the appropriate share of Tribunal resources.

64 The Lands Tribunal is held in high regard by those who have experience of appearing before it as advocates and witnesses. The time and cost of preparing for and conducting a hearing in the Tribunal inevitably reflects the complexity of the issues which the parties require to be adjudicated. Many cases which are referred to the Lands Tribunal involve complex valuation and legal issues. However, not all cases that go to the Lands Tribunal need to be dealt with in the same formal way. Rule 28 of the Lands Tribunal Rules now provides a procedure whereby small and simple cases can be determined expeditiously and generally at low cost. The rule is, in effect, in terms of the Woolf reforms, the equivalent of the fast track procedure introduced in the Civil Procedure Rules. The simplified procedure available under rule 28 provides that the hearing shall be informal and that the Tribunal may adopt any procedure that it considers to be fair. Strict rules of evidence do not apply and the evidence is not normally taken on oath. In addition, and quite separately, rule 27 provides for a procedure under which the Tribunal may deal with a case without an oral hearing by considering written representations sent in by the parties.

65 Whilst acknowledging that current moves to achieve the objectives of the Woolf reforms with regard to Tribunal procedures should go far to dispel the common perception that the Tribunal's procedures are "inevitably slow and costly", the group considers that there are two difficulties that need to be addressed if the best value is to be achieved from those moves. First, very few landowners, or