

# **Welsh CPO Draft Circular and Best Practice**

*A Consultation and Engagement Event*

Tuesday 3<sup>rd</sup> December 2019  
Conwy Business Centre, Conwy

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# Welcome and Introduction

Conference Chair:

Gary Soloman, Welsh CPO Steering Group; Burgess Salmon

# **Overview of CPO in Wales: Legislative Changes and the Draft CPO Circular**

Andrew Ward, Welsh Government



Llywodraeth Cymru  
Welsh Government

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# Overview of Compulsory Purchase Reform in Wales

**Andrew Ward MRTPI**  
**Senior Planning Manager**  
**Welsh Government**



# Contents

1. Where we were: Wales Act 2017
2. Where we are: Ministerial priorities
3. Where we're going: Consultation proposals

# Where we were: Wales Act 2017

- Came into force on 1 April 2018
- Includes new provisions on:
  - i) Legislative competence i.e. reserved powers model (introduces new Schedule 7A to GoWA 2006). So, as of 1 April 2018, competence over compulsory acquisition of land\*, but not land compensation

(\* if the purpose of a CPO relates to a reserved matter, then not within the competence of the Welsh Ministers)

## Where we are: Ministerial priorities

- First Minister's commitment to "*Strengthen CPO powers to enable acquisition of land and redundant buildings*" (21st Century Socialism Leadership Manifesto)
- Policy responsibility now lies within the portfolio of the Minister for Housing and Local Government
- Statement made in Plenary on 27 March 2019: "*a priority is to ensure LAs have the necessary skills, e.g. compulsory purchase, to enable them to build social housing*"





## Where we are: Ministerial priorities

- Recommendations for compulsory purchase:
  1. The Independent Review of Affordable Housing Supply (May 2019):
    - (a) Streamline the CPO process
    - (b) Encourage LAs to make better use of their housing CPO powers
  2. Economy, Infrastructure and Skills Committee inquiry on barriers to the use of CPO powers (June 2019) – 7 recommendations
  3. The Equalities, Local Government, and Communities Committee inquiry on empty properties (Oct 2019):
    - (a) Enforcement powers such as CPOs and EDMOs be reviewed and support provided to LAs

# Where we're going: Consultation proposals

- Immediate priorities:
  1. Updated Welsh Government Circular on Compulsory Purchase
  2. Revision of national planning policy (Planning Policy Wales (PPW)) to strengthen use of compulsory purchase powers
  3. Streamlining proposals

# Where we're going: Consultation proposals

## 1. Updated Welsh Government Circular on Compulsory Purchase:

- (i) New structure i.e. 5 Parts including Cricheol Down Rules, Part 1 split into 6 stages
- (ii) Criteria for delegation of confirmation decisions to Inspectors
- (iii) Acquiring authorities ability to confirm CPOs themselves (s14A of the 1981 Act)
- (iv) Best practice on posting site notices (making of CPOs/ publicising inquiries)

# Where we're going: Consultation proposals

## 1. Updated Welsh Government Circular on Compulsory Purchase:

(v) HPA 2016 / NPA 2017 Reforms:

- a) Quash a CPO decision not the entire CPO
- b) GVD time limit of 3 years
- c) “No scheme” principal
- d) Time limit for publishing a confirmation notice

(vi) Model claim form for compensation

# Where we're going: Consultation proposals

1. Updated Welsh Government Circular on Compulsory Purchase:
  - (vii) Template form for acquisition of land for public libraries and museums
  - (viii) Overview of enabling powers and relevant confirming authority (Table 1)
  - (ix) Compensation: how to assess open market value
  - (x) Overview of the CPO process for non-ministerial CPOs

# Where we're going: Consultation proposals

2. Revision of national planning policy to strengthen use of compulsory purchase powers:

- (i) Paragraph 3.53 of PPW - Replacement of “*exceptional circumstances*” wording with “*use of compulsory purchase powers where it is in the public interest to bring land and/or buildings forward for meeting development needs in their area and/or to secure better development outcomes*”
- (ii) Should LPAs adopt criteria to outline when they may consider exercising their compulsory purchase powers?

# Where we're going: Consultation proposals

## 3. Streamlining of the CPO process – A call for evidence:

- a) What changes could be made to the CPO process to improve the delivery of housing-led compulsory acquisition schemes?
- b) Have you case studies/best practice of where CPO powers have been used successfully to deliver housing-led compulsory acquisition schemes?

# Conclusion

- Just the beginning....
- Watch this space – potential changes to the compensation and land value capture regime?
- Friday 17<sup>th</sup> January 2020 – responses please!

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# **CPA View on the Consultation Draft**

Gary Soloman, Welsh CPO Steering Group; Burgess Salmon

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# The CPA Welsh Steering Group – Views on the Consultation documents

Gary Soloman  
Partner

## The Consultation

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- **Two documents – new draft circular and PPW (para 3.53)**
  - **Considered by CPA’s Welsh Steering Group**
  - **CPA to lodge response**
  - **Circular is a positive step and removes barrier of old advice**
  - **Largely follows English guidance and therefore adopts an established approach**
  - **A number of questions raised in the consultation**
-

# Is guidance on the process clear?

Topic	WG Circular on CPO	Notes/concerns/issues
<b>Proactive tool</b>	CPO is an important tool. AA's encouraged to use them proactively (para 1).	Welcome the positive approach taken to CPO that it is recognised as an important tool and should be considered pro-actively by acquiring authorities.
<b>Justification for making a CPO</b>	<p>AA's must be able to demonstrate that taking the land is necessary and that there is a compelling case in the public interest (para 11)</p> <p>It is for AA to decide how best to justify its proposals to CPO (para 46).</p> <p>AA should use CPO where it is expedient to do so and only where there is a compelling case in the public interest (para 47).</p> <p>WM have to take a balanced view between the intentions of the AA and the concerns of those whose land is being acquired. The more comprehensive the justification the stronger its case is likely to be (para 50).</p> <p>It is not essential to show that the land is required immediately, however AA must demonstrate there are sufficiently compelling reasons for the powers to be sought (para 50).</p> <p>If the AA does not have a clear idea of how it intends to use the land and cannot show resources are likely to be available in reasonable timescale, difficult to show justification in public interest (para 51).</p> <p>Consideration of the compelling case will vary from CPO to CPO (para 52).</p> <p>The greater the transparency and community engagement early in the process can increase the likelihood of a justifiable CPO succeeding (para 52).</p> <p>It is essential for AAs to remove potential barriers and minimise risks to particular acquisition schemes by assessing potential objections upfront and building the arguments into the case for CPO (para 52).</p>	

# Is guidance on the process clear?

	AA should recognise the additional time building trust and community relations with the public. AAs should appoint a named individual for the public to communicate with (para 53). Welcome the positive approach taken to CPO that it is recognised as an important tool and should be considered pro-actively by acquiring authorities.	
<b>Acquisition by agreement</b>	<p>AA's can acquire land by Agreement at any time and should attempt to do so before acquiring by compulsion (para 11)</p> <p>Welsh Ministers will expect AAs to demonstrate they have taken reasonable steps to acquire all the land and rights included in the CPO by agreement (para 30).</p> <p>Complex site assemblies involving multiple plots benefit from the certainty of timing and consistency of approach that a CPO brings but it is good practice to offer parties the opportunity to enter into an agreement to voluntarily sell where they are prepared to do so.</p> <p>Where AAs acquire by agreement, they will pay compensation as if the land had been acquired compulsorily, unless it was already on offer on the open market (para 30).</p> <p>When considering disposal of land to third party (under a back to back agreement) AA should satisfy itself that the developer has been unable to acquire the land through any other means and that the developer has engaged with the affected community, including landowners and others (para 42).</p> <p>AAs are encouraged to engage early and communicate regularly with landowners, particularly on property issues (para 52).</p>	
<b>Public sector equality duty</b>	Public Sector Equality Duty explained and how it might apply to CPO (para 13 and 14).	
<b>Well-being and future generations</b>	Well-being of Future Generations (Wales) Act 2015 places a duty on all public bodies in Wales to carry out sustainable development. Guidance recognises that although the duty applies to public bodies, all AAs (including private sector AAs such as electricity licence holders and	Good to get this duty in the guidance. Good to see the approach by Welsh Ministers to private as well as public sector AAs, although it is unclear what is meant by "expect reference to be made to the principals" of the Act. Does this mean it will be expected that a mirrored approach to the public

# Is guidance on the process clear?

	<p>utilities) will be expected to have made reference to the principals of the Act when seeking to use and justify their CPOs (para 15).</p> <p>Any public body in Wales when making and justifying the compelling case for a CPO must give consideration to the sustainable development principle and the 'five ways of working' to ensure the seven well-being goals are being met (para 18).</p>	<p>sector needs to be undertaken or is it enough just to acknowledge the Act and say that regard has been had to the principals?</p>
<b>Human rights</b>	<p>AAs should ensure the purposes for which the CPO is made sufficiently justifies interfering with the human rights of those with an interest in the land affected.</p> <p>AA report should deal with the purposes and that they are sufficiently important to justify the deprivation of property, the land is needed to deliver those purposes, a less intrusive measure could not have been used and a fair balance is struck between interests of individuals and the community. To comply with ECHR owners must be adequately compensated (para 48).</p>	
<b>Purchase and blight notices</b>	<p>A landowner can in certain circumstances initiate the CPO process by serving a purchase notice or a blight notice (a list is given of the circumstances within which a blight notice can be served).</p>	
<b>Application of the guidance</b>	<p>The guidance relates to CPOs made under specific Acts and requires the approval of Welsh Ministers. Not TWAOs, DCOS, hybrid Acts or Harbour Orders</p>	
<b>Acquisition by agreement – financial considerations</b>	<p>When offering financial consideration in advance of a CPO, consideration should be given to value for money in terms of the Exchequer as a whole in order to avoid any repercussive cost impacts or pressures on both the scheme in question and other publically funded schemes (para 22).</p> <p>AAs can consider all of the costs involved in the CPO process when assessing the appropriate payments for the purchase of land in advance of CPO, e.g. early acquisition may avoid legal costs, process costs, cost of delay, etc. In order to reach early settlements, AAs should make reasonable initial offers and be prepared to engage constructively with claimants about relocation, mitigation and accommodation works where relevant (para 23).</p>	

# Is guidance on the process clear?

	AA should be mindful of overall costs of CPO and are encouraged to enter into negotiations with landowners in parallel with formal CPO (para 34).	
<b>CPO – using correct powers</b>	<p>CPO Process – choosing the right compulsory purchase power. Common enabling powers listed (para 25).</p> <p>The purpose for which an acquiring authority seeks to acquire land will determine the statutory power (para 26).</p> <p>Acquiring authorities should look to the most specific power for the purpose and which encapsulates the whole project. A general power should only be used when a specific power is not available or the content of the project goes beyond a specific power (para 28).</p>	<p>The words ‘encapsulates the whole project’ does not appear in the English version. This is useful as there is often a debate as to whether, for example, a road as part of a regeneration scheme should be promoted under the TCPA or the HA. This would support the use of a TCPA power and therefore gives more comfort to the AA. This is further supported by the wording re ‘content of the project’.</p>
<b>Power of last resort</b>	<p>CPO is intended as a last resort to secure the assembly of all the land needed.</p> <p>AAs should explain CPO is a last resort and will only be used if required (para 52).</p>	
<b>When appropriate to use CPO</b>	<p>If an AA waits for negotiations to break down before starting the CPO process, valuable time will be lost. Therefore, depending on when the land is required, it is often sensible for the AA to plan a CPO timetable and initiate formal procedures (para 31).</p> <p>This is particularly relevant for large scale infrastructure schemes (where large landownership and difficult to reach agreement).</p> <p>Initiating CPO can help to make the seriousness of the AAs intentions clear which might encourage meaningful negotiations (para 31).</p>	<p>The questions in para 36 serve as useful checklist. I wonder if added to these should be – Do any impediments exist which would prevent our proposed project proceeding if we acquired the land? Is planning permission needed and, if so, has it been secured? If not, why not?</p>

# Is guidance on the process clear?

	<p>CPO should be used where it is either impossible or impractical to buy the land by agreement (para 33).</p> <p>Can be used when questions in para 36 are considered. If they can't be answered to AA's satisfaction unlikely AA is in a position yet to commence CPO (para 36)</p>	
<p><b>Funding, viability and costs</b></p>	<p>Need clear public interest supported by strong evidence and necessary funds (par 33).</p> <p>If AA does not intend scheme to be independently financially viable, or unable to finalise details until the land has been assembled, it will need to demonstrate satisfactorily that a reasonable prospect that it can meet any potential shortfalls (para 34).</p> <p>Potential costs of CPO must be taken into account (para 34)</p> <p>Because of need to demonstrate that there is a reasonable prospect of being able to meet potential shortfalls in funding, CPO should not be used speculatively (para 35).</p> <p>Where funding not committed prior to CPO, AA must show it will make funding available to meet any likely compensation claims (para 35).</p> <p>AA should provide substantive information as to the sources of funding for acquiring the land and implementing the scheme for which the land is required (Para 54).</p> <p>In the absence of public sector funding, PPP agreements may be necessary (Para 54).</p> <p>Funding should generally be available now or early in the process. Failing that funding will be expected to be available to complete the compulsory acquisition within the stat period (Para 54).</p>	



# Is guidance on the process clear?

	Evidence should be provided to show sufficient resources could be made available to immediately to cope with acquisitions from blight notices (para 54).	
<b>Impediments to implementation</b>	<p>AA will need to show the scheme is unlikely to be blocked by any impediments to implementation. These include the programming, construction, maintenance of any infrastructure accommodation works or remedial work which may be required and any need for planning permission or other consent or licence (Para 55).</p> <p>If PP needed but not yet granted AA must demonstrate no obvious reason why it might be withheld.</p> <p>If PP required planning application will be determined in accordance with Dev Plan unless material considerations indicate otherwise (para 56)</p>	<p>Mat considerations include PPW. New para proposed to strengthen CPO powers.</p> <p>NDF listed as Mat consideration but this is to form part of Dev Plan rather than mat consideration. This should be made clear.</p>
<b>Third party developer</b>	<p>AAs can, in some circumstances, undertake CPO but rely on third party (including private sector) to undertake the development (para 38).</p> <p>Where this is the case, the responsibility for obtaining confirmation and implementing the CPO – and ensuring delivery – is with the AA (para 38).</p> <p>AA may assemble site using CPO and then sell it to a preferred developer on basis that they agree to develop the site and reimburse AA for costs of CPO acquisition (para 39).</p> <p>Provided AAs can obtain best terms reasonable obtainable in the circumstances, such agreements (back to back agreements) are lawful (para 39).</p>	

# Is guidance on the process clear?

	<p>AAs should seek back to back agreements where there is a clear public interest to do so and it enables projects to proceed which otherwise would not (para 39).</p> <p>Certain CPO powers, e.g. s226(4) TCPA allow back to back disposals. Local authorities should check whether this is permitted under the relevant enabling power they have chosen to use (para 41).</p>	<p>Does this mean that if the enabling Act does not permit this, i.e. it is silent, this the AA cannot enter into such an arrangement? This should be made clearer. Perhaps reference should be made to the wider local authority powers which permit them to enter into all sorts of agreements, e.g. LG Acts [Localism/Wellbeing Acts].</p>
<b>Surplus land</b>	<p>Where land acquired by CPO, works completed but some/all land surplus to requirements and is available for disposal, AA expected in first instance TO offer land back to original owner or successors (para 45).</p>	<p>What is meant by available for disposal? Does this mean where land is otherwise unencumbered?</p>
<b>Preparing and making a CPO</b>	<p>AA can in most cases enter and survey land before deciding whether it should be included in a CPO (para 58).</p> <p>AAs must undertake negotiations in parallel with making a CPO (paras 59 &amp; 60)</p> <p>AAs are urged to consider offering those with concerns about CPO access to ADR (paras 61 to 63).</p> <p>Other things AAs might consider undertaking include providing full info on what the CPO process involves, the rights and duties of those involved and an indicative timetable of events; appointing a specified case manager; providing a 'not before' date, funding landowners' reasonable costs of negotiation or other costs and expenses likely to be incurred in advance of CPO; offer advice/assistance on the relocation of those affected including maintaining a list of available properties and entering into Agreements securing a minimum level of compensation (para 64).</p>	<p>A lot of detail is provided in relation to ADR, similar to English version, however the Welsh Guidance does list a number of ADR techniques (para 63). It might be worth a bit more of an explanation being added to these so it is clearer for those considering the guidance what each technique means and what is involved.</p> <p>There is a lot of advice in relation to ensuring that the CPO is made correctly and procedural matters the AA must take into account such as special kinds of land, which parties need to be notified of the CPO and how objections should be dealt with (including recommending AAs to check site notices are inspected weekly- and a record kept of this to show suitable publicity given).</p>

## Examples of best practice

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- **Erection and maintenance of site notices**
  - **Production of Committee Reports**
  - **Others?**
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## Template Model Form

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- **Will be available as standalone document**
  - **Mirrors DCLG template**
  - **Good practice and should be adopted**
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## Guidance on Enabling Powers

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- **Similar to English Version**
  - **Detailed advice which is useful**
  - **New guidance on Highways Act Orders**
  - **Active Travel (Wales) Act 2013**
  - **Alternatives not favoured because less intrusive**
  - **Delay and scheme delivery to be taken into account**
-

## Procedural issues

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- **Covers special kinds of land (e.g. statutory undertakers/open space)**
  - **New rights and interests**
  - **Certificates of appropriate alternative development**
  - **Overriding easements under Housing and Planning Act 2016**
  - **Practical advice on the CPO, maps, statement of reasons and service**
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## Overview of the process

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- **Diagrammatic form**
  - **Not in English version**
  - **Making a CPO**
  - **Public inquiry**
  - **Decision and vesting**
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## Are Criche Down rules clear?

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- **Describe how public sector organisations should deal with surplus land**
  - **Follow established practice**
  - **Mirror English version**
-



## Revision to para 3.53 of PPW

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- **Current approach is exceptional circumstances/last resort**
  
- **Proposal is to strengthen:**

*Local planning authorities are encouraged to take a de-risking approach to unlocking the development potential of sites. In some instances the authority may need to purchase land in order to facilitate redevelopment. Wherever possible this should be with the agreement of the landowner, and, where agreements cannot be reached, local planning authorities should consider using the full range of powers available to them. This should include, where necessary, use of compulsory purchase powers where it is in the public interest to bring land and/or buildings forward for meeting development needs in their area and/or to secure better development outcomes”.*

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## Revision to para 3.53 of PPW

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- **Scope to strengthen further:**

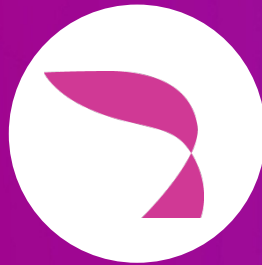
*This should include, where necessary, use of compulsory purchase powers which should be regarded by authorities as an important tool in securing development and which should be used proactively where it is in the public interest to bring land and/or buildings forward for meeting development needs in their area and/or to secure better development outcomes*

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## **Adopting general policies**

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- **Question whether appropriate**
  - **Would appear unnecessary**
  - **Could conflict with national policy and legislation**
  - **Revisions to para 3.53 of PPW will help**
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# **The Consequences of Diverging Law and Practice with England**

Gary Soloman, Welsh CPO Steering Group; Burgess Salmon

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# The Consequences of Diverging Law and Practice with England

Gary Soloman  
Partner

## Areas of Potential Reform relevant to CPO

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- Proposed amendments to, and codification of, the planning legislation.
  - Proposals for modernising CPO policy in Wales, advocating its use and upskilling those undertaking CPO.
  - Proposals for Welsh Infrastructure Consent regime.
  - The Welsh National Development Framework
-

## Proposed Codification

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- Different legislation applying in England and in Wales.
  - Consequences = difficult to work out what applies where.
  - The Law Commission's Final Report – Planning Law in Wales recommends a new Planning Code.
  - Will form part of a wider ranging exercise of codification.
  - Should result in a single Planning Act.
  - Accompanied by related secondary legislation and guidance.
-



## How does this apply to CPO?

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- Compulsory purchase is a devolved matter (although not compensation).
  - Currently Town and Country Planning Act 1990 is main statute.
  - Proposal is to repeal the TCPA and to incorporate provisions in relation to compulsory purchase in the new Planning Code.
  - Currently no proposals to make substantive amendments.
-

# Proposals for modernising CPO policy in Wales

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- Welsh Assembly's report on CPO.
  - Remit = whether there are any barriers to the use of CPO and how they could be overcome and, specifically, whether there are any barriers in relation to the regeneration of town centres and/or opportunities for active travel.
  - Welsh Government draft revised circular under consultation.
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## Recommendations

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- CPO circular to provide clear guidance.
  - Circular should challenge negative perceptions and build confidence.
  - WG should emulate the Scottish Government's pre-checking service.
  - Effective mediation service.
  - Active promotion of other measures to improve confidence and understanding.
  - Unblock the process of using CPOs to develop cycle routes.
  - Establish a central unit in Wales as a shared resource of expertise.
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## Infrastructure Consenting and CPOs

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- Welsh Government consulted on new infrastructure consenting process.
  - April 2019 further consenting powers were devolved.
  - Primary legislation needed to introduce the new Welsh Infrastructure consenting process.
  - Interim solution = amendment to secondary legislation.
  - Long term solution is introduction of Welsh Infrastructure Projects (WIP).
  - Will include secondary consents, including CPOs.
  - Consultation proposes streamlining the process for confirming CPOs.
-

# Welsh National Development Framework

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- Draft NDF subject to relevant consultation.
  - Intended to set out a 20-year land use framework for Wales.
  - Will form part of Development Plan.
  - Set out where nationally important growth and infrastructure is needed (although only renewable energy and solar subject to spatial policies).
  - Provide direction for Strategic and Local Development Plans and Developments of National Significance.
  - Sit alongside Planning Policy Wales.
  - Will help underpin CPOs.
-



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# Question & Answer Session

# **CPO Best Practice: CPA Protocol and How to Avoid Pitfalls**

Richard Lloyd, Eversheds Sutherland LLP



EVERSHEDS  
SUTHERLAND

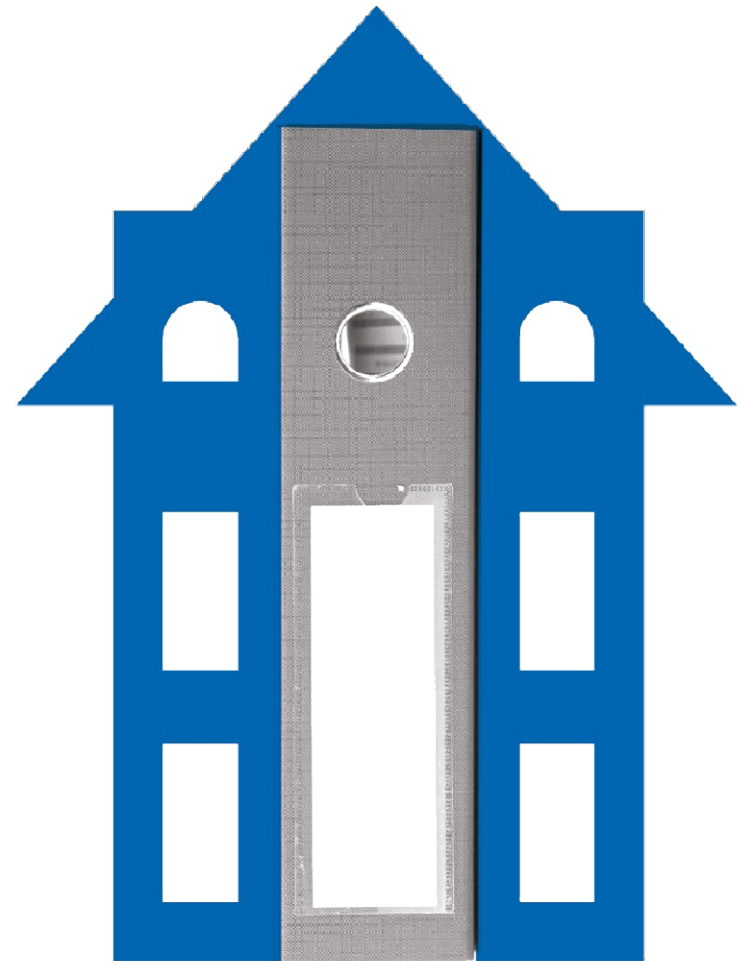
## **Compulsory Purchase Association**

Best Practice in Compulsory Purchase

Conwy Event  
3 December 2019

**Richard Lloyd**


*Partner*



# Contents



Best Practice




Preparing a CPO



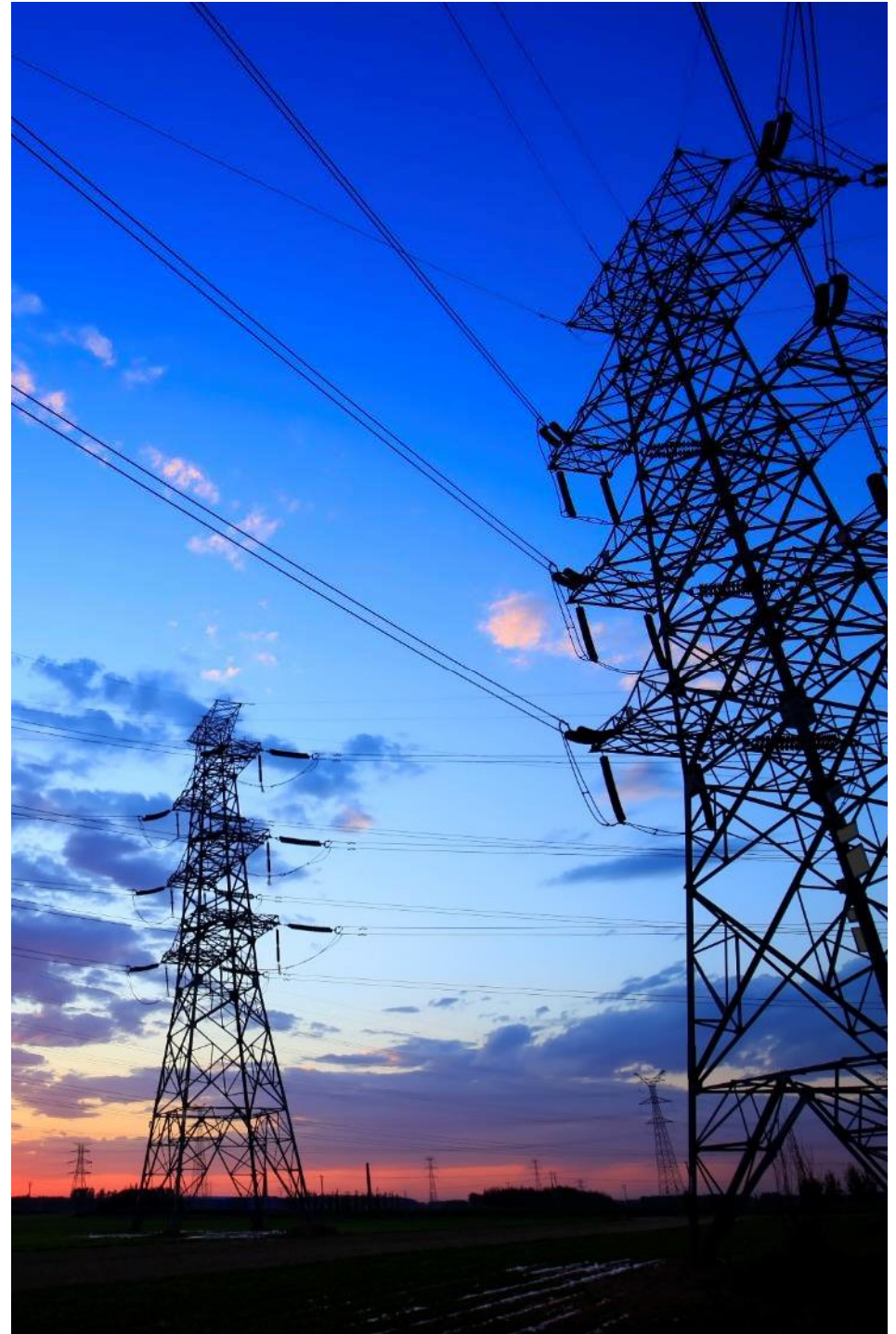
Affected parties



Negotiations



CPA Land  
Compensation Claims  
Protocol



## Acquiring Authority perspective

- Dealing with those affected by CPO
- “What does ‘good’ look like?”
- No standard approach or rules
- Guidance, case law, experience

“

*"Do not do to other persons' shoes - and  
reverse the roles!"*

*Or*

*Treat others as you would like to be treated*

”

## What people want to know

- What is the scheme?
- What are the public benefits?
- Why do you need the land?
- How are people and businesses going to be affected?
- What mitigation or measures are going to be put in place?
- What help can be given to those affected?
- When is the land needed?
- How much will people be paid in compensation?

## Pre-making of CPO - general considerations

- The scheme and public benefits
- Why is all the land needed?
- What is the programme? Is it phased?
- What is the land assembly strategy?
- Planning strategy and programme
- Delivery strategy - procurement and development agreement
- What's the budget?
- When will a CPO be appropriate?



## Pre-making of CPO – practical questions

- When do you go public?
- How is information to be provided?
- Is there a point of contact?
- “Points to note” document?
- ADR



## Pre-making of CPO - Logistics

- Set up core project team - keep it tight
- Acquiring authority and developer/funding partner
- Regular meetings
- Bring in experts as and when needed
- Set up information sharing system
- Authority to make decisions
- How to keep wider authority and public informed



# Pre-making of CPO Considerations

Residential relocation strategy

- Affordable housing residents and private residents
- Establishing needs of Council and affordable housing tenants
- Relocation back into scheme, or off site?
- Double-moves?
- When and how will moving costs be reimbursed?
- Policy for equity and affordability gap?
- Human rights considerations



## Pre-making of CPO considerations:

Business relocation strategy

- Establishing business needs
- Assistance in finding alternative premises
- Relocations back into the scheme
- Sale and lease-back arrangements
- Guaranteed period of occupation
- Agree minimum level of compensation?
- Release of compensation early to facilitate relocation?
- Hardship policy?



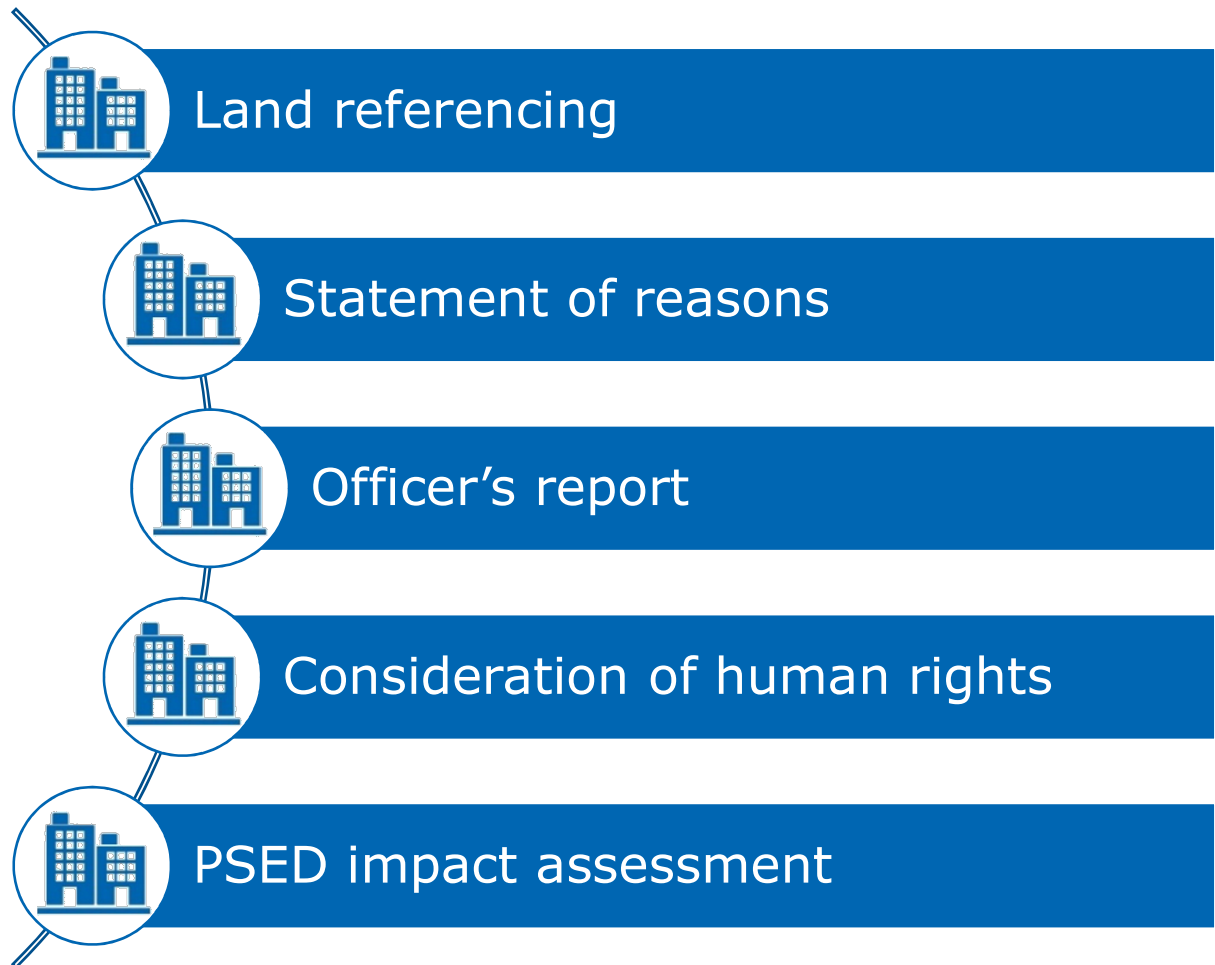
A background image showing a business meeting. Two men in suits are shaking hands. In the foreground, there is a desk with papers, a pen holder with various pens, and a glass of water. The text is overlaid on a semi-transparent grey box.

## Negotiations

Who is responsible?

- Consistency
- Documenting all contact
- What not to say
- Offers
- When do you “draw the line”?
- Negotiations in parallel with CPO process
- Would an “in principle” resolution help?
- Sharing information - eg CGT roll over relief

# Getting the CPO ready - documents



## After making of the CPO

- Consider the objections made – ADR?
- Continue negotiations
- Keep offers under review/refresh
- Keep sharing information – especially timescales



## After confirmation of CPO

- Provide details of programme
- Seek to assist
- Keep negotiating!
- ADR



# CPA Compensation Protocol

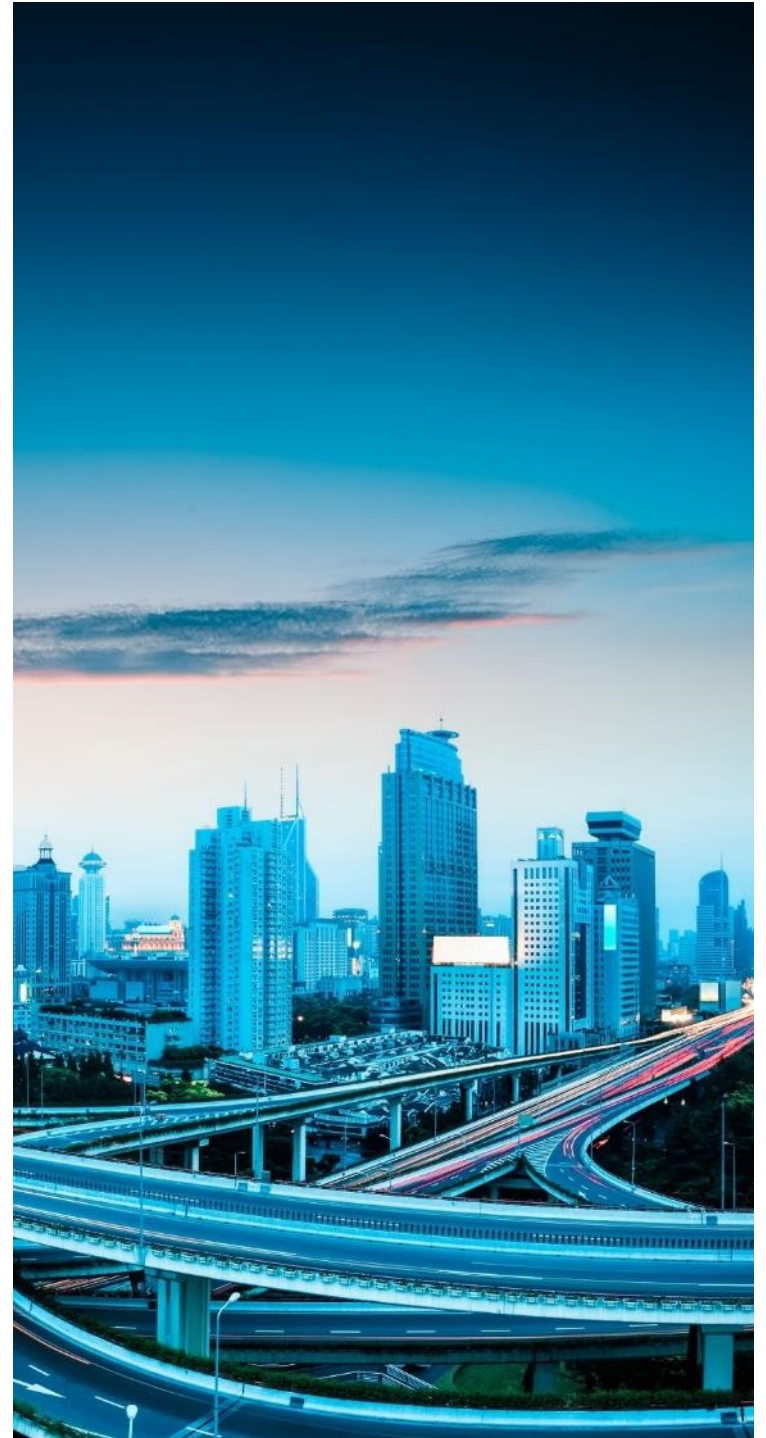
Where considering a reference

Purpose:

- understand the other party's case
- provide for discussions to take place
- settlement or narrow the issues
- consider alternative dispute resolution

Good practice - material to costs claims?

Rules or Practice Directions take precedence if conflict with protocol



# Responsibilities of acquiring authority

## To provide information about:

- processes for determining compensation (including time limits)
- availability of advice and reimbursement of fees
- maintaining records to evidence a claim
- the existence of the protocol and RICS guidance

## Acquiring Authority is encouraged to:

- provide information or valuation evidence
- provide their valuation to assist with constructive dialogue over claim



## The parties are expected to

- Discuss cases constructively to reach agreement on as much as possible and/or identify the issues
- “At appropriate points” to set out clearly their positions in writing
- To review their own positions and communicate any changes
- Consider at all stages whether alternative dispute resolution is appropriate
- Disclose information and evidence to allow the other party to understand your position
- Keep costs appropriate, reasonable, and proportionate to the level of the claim

## Making a claim

- sufficient information and evidence should be provided to enable the Acquiring Authority to understand the claim
- expect Acquiring Authority to ask for further information if not sufficient



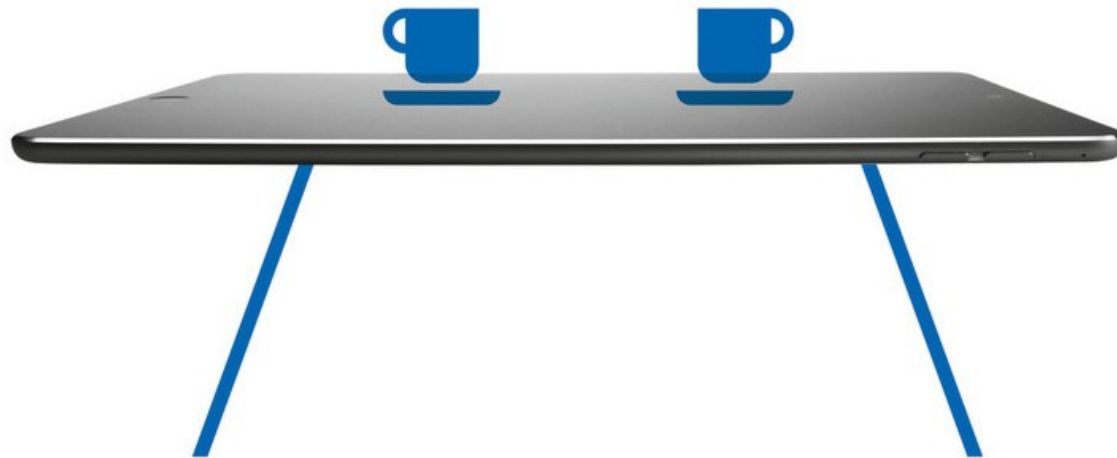
## Before making a reference

- Provide the other party with at least 28 days' notice that you intend to make a reference
- Summarise area of agreement and issues, and provide an opportunity for a response
- If possible, allow for further discussion and seek directions from the Tribunal to do so



## Alternative dispute resolution

- Parties should consider whether areas of dispute can be settled by ADR
- Tribunal will consider whether a party has unreasonably refused to participate in ADR when determining costs awards



# Questions



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This information pack is intended as a guide only. Whilst the information it contains is believed to be correct, it is not a substitute for appropriate legal advice. Eversheds Sutherland (International) LLP can take no responsibility for actions taken based on the information contained in this pack.

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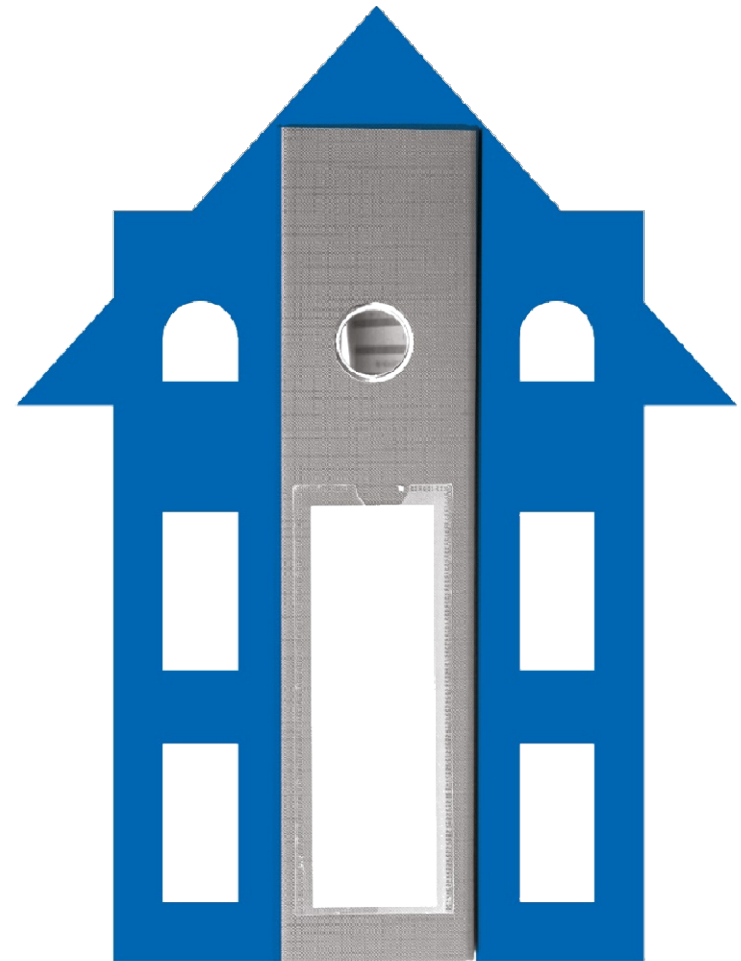
## **Compulsory Purchase Association**

Best Practice in Compulsory Purchase

Conwy Event  
3 December 2019

**Richard Lloyd**

*Partner*



**Questions?**



# Thank you for attending today's event

## Future CPA Events:

### Book Now:

24<sup>th</sup> – 25<sup>th</sup> March 2020, London

Delivering Land Assembly – UK Dilemmas, Global Solutions

### Date for your Diaries:

2<sup>nd</sup> July 2020, Birmingham

The CPA National Conference 2020



## Refreshments

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We hope you enjoyed the  
afternoon!