

Streamlining the Assessment of Compensation: A Draft CPA Protocol

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#CPA2018



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STREAMLINING THE ASSESSMENT OF COMPENSATION: THE CPA'S DRAFT PROTOCOL

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“This protocol applies to any claim for compensation ... that would, in the absence of agreement between the parties, involve a reference ... under Part 5 of the Upper Tribunal (Lands Chamber) Procedure Rules 2010”.

[Summary of paragraph 1.1]





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“Before a reference is made, the claimant and the compensating authority must have:

- (1) Exchanged sufficient information to understand each other’s positions;*
- (2) Discussed each other’s positions thoroughly and constructively;*
- (3) Sought to narrow the issues that the Tribunal would have to determine if a reference were made; and*
- (4) Considered the use of ADR to avoid a reference, or to determine at least some of the issues which the Tribunal would otherwise have to determine”.*

[Summary of paragraph 1.3]



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“Parties to a claim are expected to:

- (1) discuss each other’s positions constructively with the objective of agreeing as much as possible and identifying as precisely as possible the issues which cannot be agreed;*
- (2) ensure that at appropriate points each parties’ position is clearly set out in writing;*
- (3) regularly review their own positions, and to communicate any change in those positions to the other party promptly and in writing;*
- (4) consider at all stages whether alternative dispute resolution would assist in resolving either the whole claim or specific issues within the claim; and[continued on the next slide]*





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(5) *disclose sufficient information to enable the other party to understand properly the substance of the party's position, the evidence available to support it and any other material information relevant to the claim*".

[Summary of paragraph 2.3]





“Before making a reference, the party intending to make the reference should contact the other party in writing in order to:

- (1) Notify the other party of its intention to make a reference;*
- (2) Summarise the matters agreed between the parties;*
- (3) Summarise the outstanding issues in dispute between the parties; and*
- (4) Provide the other party with an opportunity to respond to the outstanding issues”.*

[Summary of paragraph 4.1]





“... a compensating authority should ensure that ... the claimant has been provided with adequate information about:

(1) the relevant procedure for making a claim communicated in a way that is readily understandable by someone without experience of the relevant process;

(2) the availability of professional advice to assist a claimant in making a claim;

*(3) whether, how and when any professional fees that may be incurred by a claimant in relation to a claim will be reimbursed;
the importance of maintaining appropriate records to substantiate a claim; and*

(4) the existence of this protocol and the RICS Professional Statement: ‘Surveyors advising in respect of compulsory purchase and statutory compensation’”

[Summary of paragraph 2.1]



A compensating authority is encouraged at an early stage:

- (1) to provide information or valuation evidence available to it potentially relevant to a claim if possible before the claim is made; and*
- (2) provide their valuation to assist with the constructive dialogue between the parties.*

[Summary of paragraph 2.2]





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ALTERNATIVE DISPUTE RESOLUTION





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COMPLIANCE





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NEXT STEPS





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