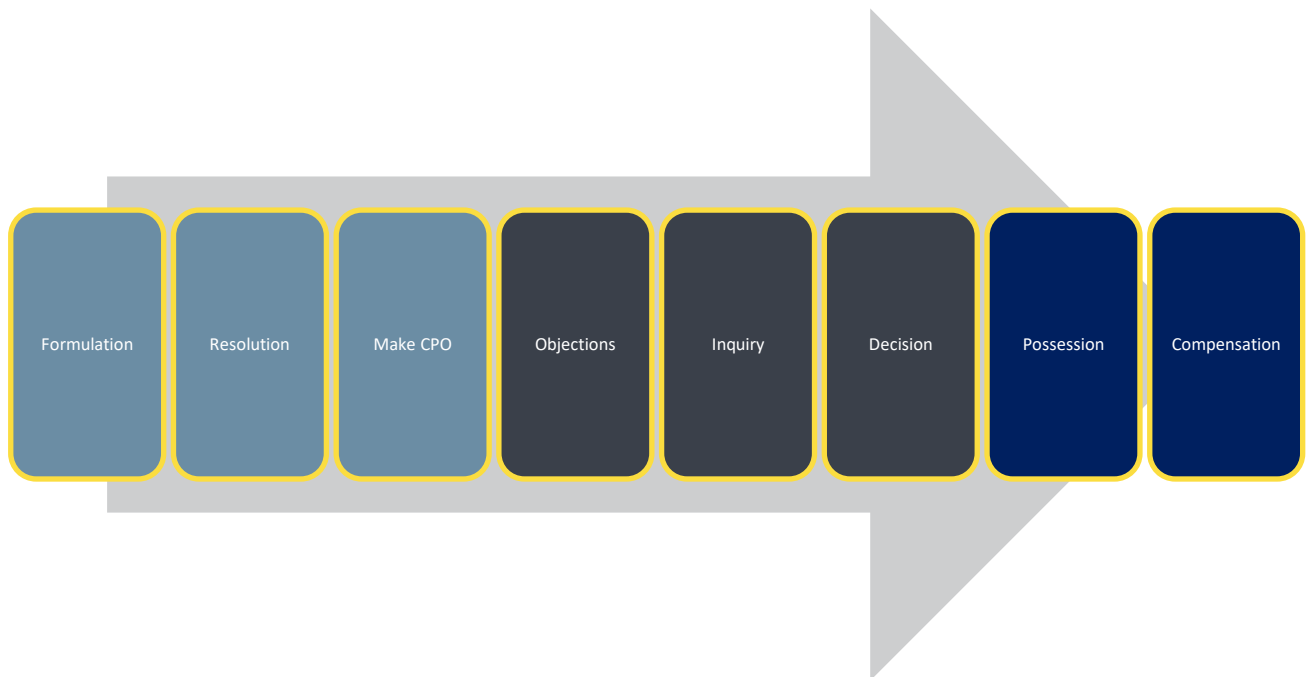


This memo provides an overview of each stage of the CPO process, and what is required to be prepared and undertaken at each stage. An indicative programme is provided at the end of this memo, for reference.

## 1. Compulsory Purchase Process

- 1.1. The compulsory purchase process can be split in to three distinct phases, being pre-application, examination, and implementation. Within each phase are sub-phases, as indicated on the flowchart below, each of which is discussed in this memo.



### Formulation

- 1.2. This stage covers the preparatory work prior to the making of the Cabinet or Board resolution to make a CPO. It is common practice an acquiring authority to make a Resolution in Principle to investigate the use of CPO powers first, including resolving to prepare relevant CPO documents before securing a second resolution to make the CPO.
- 1.3. Much of the information required, such as the definition of the scheme, red line boundary of the land to be acquired and identification of the interests to be acquired will build on work

carried out during the planning process. The formulation stage is critical to the success of the CPO and it is essential to get this right to avoid future challenge and time/cost delays.

- 1.4. It is commonplace during this stage for land referencing to take place. The purpose of land referencing is to identify all parties with an interest in the red line boundary and to produce a schedule of ownerships and a map (or plan) that will accompany the CPO. These must be prepared in accordance with the statutory provisions. It is common for an acquiring authority (or its agent) to serve a Requisition for Information (RFI) under section 16 of the Local Government (Miscellaneous Provisions) Act during this stage, although in some cases a separate Cabinet resolution may be required to enable that. Receipt of an RFI is often the first confirmation that a landowner will have as to the acquiring authority's intentions.
- 1.5. It is also commonplace for a property cost estimate ('PCE') to be produced at this stage. A PCE provides an estimate of the compensation that the acquiring authority would be required to pay under the 'Compensation Code' if it were to acquire all interests compulsorily.
- 1.6. Alongside preparing the CPO Schedule and Map, and the PCE, the Statement of Reasons ('SoR') also needs to be produced during this stage. The SoR is a document that sets out the acquiring authorities reasons for making a CPO and refers to the tests that will be applied by the confirming authority. As a minimum, we would expect the SoR to include:
  - a brief description of the CPO land and its location, topographical features and present use;
  - an outline of the acquiring authority's purpose in seeking to acquire land;
  - a statement of the case for compulsory purchase and a description of the proposals for the use or development of the land;
  - a statement about the planning position of the CPO land;
  - any special considerations affecting the CPO land, e.g. ancient monument, listed building, special category land, consecrated land etc; and
  - any other information which would be of interest to persons affected by the CPO.
- 1.7. In addition to preparing the documents to be submitted it is good practice during this stage for the following issues to be addressed / actions to be undertaken:
  - Prepare an Equality Impact Assessment
  - Prepare relocation strategies for residential and commercial parties;
  - Agree stance on paying / reimbursing professional fees;
  - Consider opportunities for sale and temporary leaseback;
  - Consider whether Council has properties available for relocation purposes;

## **Resolution**

- 1.8. This involves the Cabinet passing a resolution to make the CPO. This stage usually occurs once the CPO Schedule, Map and SoR have been prepared, although in some cases a single resolution is passed at an earlier stage to prepare and make a CPO.
- 1.9. This Resolution authorises the acquiring authority to proceed (subject to any qualification that is introduced).

### **Make CPO**

- 1.10. The CPO is submitted to the Secretary of State together with the Schedule, Map and SoR. The Equality Impact Assessment may also be submitted with the CPO.
- 1.11. At this stage it is necessary for the acquiring authority to:
- Publish a notice in a local newspaper(s) for two consecutive weeks;
  - Place notices on site;
  - Serve notices on all “qualifying persons”
  - Make documents available to be inspected by members of the public (Council offices or a library etc).

### **Objections**

- 1.12. The notices served on owners, lessees and occupiers of the making of the CPO will invite the submission of objections to the Secretary of State. Objections must be in writing and must arrive with the Secretary of State within the period specified in the notice (which must be at least 21 days).
- 1.13. In most cases objections will be received but if there are none and the Secretary of State is satisfied that the proper procedures for serving and publishing the notices have been observed, he is able to confirm the CPO without further delay.
- 1.14. In the more likely scenario that objections are submitted and not withdrawn, the Secretary of State will appoint an inspector who will convene a public inquiry.
- 1.15. Following submission of objections it is commonplace for acquiring authorities to engage and enter into negotiations with objectors to seek the withdrawal of the objection(s). This may involve further negotiations to acquire their interests, or entering in to some form of agreement that provides assurances, for example to provide an extended period of notice prior to taking possession.

### **Inquiry**

- 1.16. The Inspectorate must give the acquiring authority and affected parties at least 42 days’ notice of the date, time and place where the Inquiry will be held.
- 1.17. Before the Inquiry, the acquiring authority will be required to produce a ‘Statement of Case’. This provides a more detailed explanation of the scheme, the reasons for requiring CPO powers, and the steps taken to address issues raised by objectors. It is to be served on the Secretary of State and each objector.

- 1.18. It will also be necessary for proofs of evidence to be prepared by experts who will be giving evidence on behalf of the acquiring authority to the Inquiry. Such experts may include a planning expert, a viability expert, a surveyor that is able to give evidence on attempts made to acquire by agreement and an officer to provide evidence in relation to the Equality Impact Assessment.
- 1.19. Unless all the objections can be withdrawn and the Inquiry cancelled before the submission of evidence, the Inquiry will open and hear the evidence from the acquiring authority and the remaining objectors.

### **Decision**

- 1.20. After the close of the Inquiry, the inspector will, if they have responsibility for confirming the CPO, aim to reach a decision within 8 weeks of the close of the public inquiry. Alternatively, the inspector will produce a report for the Secretary of State if the latter has retained responsibility for confirming the order.
- 1.21. There are three different decisions that can be made:
- confirm the CPO as made; or
  - confirm the CPO with modifications and or in phases; or
  - reject the CPO.
- 1.22. As soon as possible after receiving the decision letter and within 6 weeks, the acquiring authority must publish a notice of confirmation in a prescribed form in one or more local newspapers. The date of this publication is relevant as it is the trigger for two important timetables.
- 1.23. There is a period of 6 weeks following the date of publication for legal challenge of the CPO, and assuming there is no challenge the life span of a confirmed CPO is three years from the date that confirmation notices are served.

### **Implementation and Possession**

- 1.24. Following the confirmation of the CPO, an acquiring authority is able to take possession of all interests in the CPO land through one of two routes.
- 1.25. They can secure possession by executing a General Vesting Declaration (GVD) or by service of a Notice to Treat (NTT) and separate Notice of Entry (NOE).
- 1.26. The GVD route results in the immediate vesting of land and clean title being granted, whereas NTT/NOE gives the right to enter and take possession but title is not transferred until the compensation is settled.
- 1.27. Both the GVD and NTT/NOE route take a minimum of three months. Prescribed forms of notices are to be served on interested parties and it is important to ensure the process is followed accurately.
- 1.28. At the end of the notice period it will be necessary for the acquiring authority to take physical possession of the land. It is necessary at this stage to ensure keys are handed over and

vacant possession is granted. It is also necessary to prepare a record of the condition of the land and ensure metre readings are taken, a forwarding address is obtained, alarm codes are provided and a record of any remaining plant and machinery is taken.

**Compensation**

- 1.29. The taking of possession gives rise to an entitlement to compensation, together with interest on outstanding sums from the date of entry. Compensation for compulsory acquisition is assessed in accordance with principles derived from statute and case law, collectively referred to as the ‘Compensation Code’. This is a complex field but the overriding principle is of financial equivalence.
- 1.30. Claims that cannot be agreed may be referred to a form of dispute resolution with final recourse being to the Upper Tribunal (Lands Chamber).

**2. Indicative Compulsory Purchase Programme**

2.1. An indicative programme for the Peterborough North Westgate CPO is below:

<b>Year</b>	<b>1</b>		<b>2</b>				<b>3</b>			
	<b>Q3</b>	<b>Q4</b>	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4+</b>
Formulation										
Resolution										
Order										
Objections										
Inquiry										
Decision										
Possession										
Compensation										

- 2.2. The programme highlights that Possession can be taken after the decision stage. It is worth noting a compulsory purchase is subject to judicial review for 6 weeks post decision and possession could be taken within three years from the CPO decision.
- 2.3. Compensation is typically paid as a statutory advance payment, based on 90% of the acquiring authorities’ assessment of compensation (at possession, if requested) and then the remainder is settled by negotiation. An affected landowner has six years to settle the compensation or refer it to the Upper Tribunal (Lands Chamber) for determination.