

GUIDANCE ON COMPULSORY PURCHASE PROCESS AND THE CRICHEL DOWN RULES

Stage 6: Compensation

72. What is the basis of compensation?

Compensation payable for the compulsory acquisition of an interest in land is based on the principle that the owner should be paid neither less nor more than their loss. This is known as the 'equivalence principle'.

73. What are the elements of compensation where land is taken?

While the compensation payable is a single global figure, in practice, the assessment of compensation will involve various elements.

Broadly, the elements of compensation where land is taken are:

- the market value of the interest in the land taken
- 'disturbance' payments for losses caused by reason of losing possession of the land and other losses not directly based on the value of land
- loss payments for the distress and inconvenience of being required to sell and/or relocate from your property at a time not of your choosing
- 'severance/injurious affection' payments for the loss of value caused to retained land by reason of it being severed from the land taken, or caused as a result of the use to which the land is put

74. What are the elements of compensation where no land is taken?

Broadly, the elements of compensation where no land is taken are:

- injurious affection
- Part 1 Land Compensation Act 1973 claims

75. What is the market value of the interest in the land taken?

Compensation payable for the compulsory acquisition of an interest in land is based on the 'equivalence principle' (ie that the owner should be paid neither less nor more than their loss). The value of land taken is the amount which it might be expected to realise if sold on the open market by a willing seller (Land Compensation Act 1961, section 5, rule 2), disregarding any effect on value of the scheme of the acquiring authority (known as the 'no scheme' principle); Certificates of Appropriate Alternative

Development may be used to indicate the planning permissions that could have been obtained, which will affect any development value of the land.

Alternatively, where the property is used for a purpose for which there is no general demand or market (eg a church) and the owner intends to reinstate elsewhere, he may be awarded compensation on the basis of the reasonable cost of equivalent reinstatement

(see Land Compensation Act 1961, section 5, rule 5).

76. How should the value of the land be assessed in light of the 'no scheme principle'?

Sections 6A to 6E of the Land Compensation Act 1961, inserted by section 32 of the Neighbourhood Planning Act 2017, set out how the value of the land should be assessed applying the 'no scheme principle'.

Section 6A sets out the 'no scheme principle' that any increases or decreases in value caused by the scheme or the prospect of the scheme must be disregarded and then lists the 5 'no scheme rules' to be followed when applying the 'no-scheme principle'.

Section 6B provides that any increases in the value of the claimant's other land, which is contiguous or adjacent to the land taken, is deducted from the compensation payable. This is known as 'betterment'.

Section 6C provides that where a claimant is compensated for injurious affection for other land when land is taken for a scheme, and then that other land is subsequently subject to compulsory purchase for the purposes of the scheme, the compensation for the acquisition of the other land is to be reduced by the amount received for injurious affection.

Section 6D defines the 'scheme' for the purposes of establishing the no-scheme world. The default case, set out in subsection (1), is that the 'scheme' to be disregarded is the scheme of development underlying the compulsory acquisition. Subsection (2) makes special provision for new towns, urban development corporations and mayoral development corporations. Where land is acquired in connection with these areas, the 'scheme' is the development of any land for the purposes for which the area is or was designated.

Section 6D(3) and (4) also makes special provision. It provides that where land is acquired for regeneration or redevelopment which is facilitated or made possible by a 'relevant transport project' (defined in section 6D(4)(a)) 'the scheme' includes the relevant transport project.