

Frequently Asked Questions On Compulsory Purchase Order Process

What is a Compulsory Purchase Order (CPO)?

A CPO is a legal function which allows certain statutory bodies which need to acquire land or property for large projects (e.g. road and railway schemes) to do so without the consent of the owner where a compelling case in the public interest can be demonstrated. Compulsory purchase powers are provided to enable the acquiring authority to acquire land, property and other interests (including new rights) compulsorily to carry out their public function.

A CPO is authorised by any statutory body with specific powers to do so.

What is the Purpose of a Compulsory Purchase and Compensation?

The compulsory acquisition of land takes place in Ireland to allow a public infrastructure project to go ahead for the common good.

The principle of compulsory purchase compensation is to seek to place the affected party, in so far as money can, in no better or worse position than prior to the compulsory purchase.

What are the Steps of a CPO Process?

- A statutory body decides to make a CPO.
- Affected parties will be served with a notice stating that the Order is about to be put on public display and submitted to An Bord Pleanála for confirmation. Newspaper notices will be published.
- Objections/submissions can be made to An Bord Pleanála, and this may result in an Oral Hearing.
- An Oral Hearing may be held at which affected parties can formally put their views forward (If no objections are made An Bord Pleanála can confirm, amend or reject the CPO without an Oral Hearing).

- An Bord Pleanála either confirms, amends or rejects CPO order and publishes details of the decisions in this regard.
- After expiry of objection period, the CPO is operative.
- Acquiring Authority serves Notice to Treat on the affected parties and discussions commence regarding the level of compensation available.
- The affected party lodges a claim for compensation. This can be made by the claimants' valuer.
- On reaching agreement, compensation is paid, otherwise the matter may be referred by either party to the Property Arbitrator to assess compensation
- Acquisition is finalised, compensation paid.

How do I know when a CPO application has been Made?

If your property is to be the subject of a CPO, you will receive a letter notifying you that an application has been made and of the timeframe available to you to make submissions (representations) to the relevant planning authority.

Can I object to the Making of a CPO?

Yes. Once a CPO application is made to the relevant planning authority there is a statutory consultation process during which time submissions and objections to the CPO can be made to the decision-making authority. In most instances for large infrastructure projects, the decision-making authority is An Bord Pleanála.

What is a Notice to Treat?

The Notice to Treat is a formal request served by the acquiring authority to agree a price for the portion of land or property identified for CPO. It states that the acquiring authority is willing to treat for the purchase of the owner, lessee and occupiers' interest in the land and invites affected parties to submit details of their claim.

The Notice to Treat is not considered a binding contract and does not in itself have the effect of passing any interest or estate in land to the acquiring authority. The transfer of legal interest(s) in lands occurs at a later stage.

The original Notice to Treat must be served on the named person. A copy can be sent to a representative where requested.

What is a Notice of Entry?

A Notice of Entry is a formal legal notice which is served by the acquiring authority either at the same time or following the service of a Notice to Treat and gives the acquiring authority power to enter on and take possession of the relevant lands to be acquired. This may occur before compensation is agreed and before money has been paid.

The affected party/interest is given a minimum of 14 days' prior notice and typically access is arranged between liaison officers and the parties by agreement.

How can I prepare a Compensation Claim?

Upon receipt of a Notice to Treat, a claimant's legal duty to mitigate starts. The claimant may wish to obtain independent professional advice and representation in preparing and negotiating a claim for compensation. The cost of such services is part of a normal claim for compensation and sets out as follows:

- Solicitor's costs for conveyancing;
- Valuer's / Agronomists fees to cover negotiations on compensation;
- Other professional fees but only where previous agreement in writing is received from Cork County Council.

Who can I contact to Prepare my Claim?

There are several professional representative bodies where some of their members practice in the area of compulsory purchase and compensation. These include the Society of Chartered Surveyors Ireland (SCSI); Institute of Professional Auctioneers & Valuers (IPAV); Royal Institution of Chartered Surveyors (RICS); Agricultural; Consultants Association (ACA); and the Law Society.

How is the Compensation Assessed?

Where the entitlement to statutory compensation exists, each case is assessed on its own merits. Rules of the assessment of compensation are set out in the various statutes and Court decisions.

How do Negotiations Happen?

When the compensation claim has been submitted, it is normal for negotiations to take place between the land valuers appointed to act on behalf of Cork County Council and the owners' valuer.

During those Negotiations, an agreement on compensation can be reached with an extensive list of accommodation works i.e. fencing, walls, water supply, drainage, relocation of septic tank, double glazing etc.

Sometimes a monetary contribution can be agreed in lieu of the provision of those works items. Otherwise, the accommodation works will generally be completed prior to or during the main construction contract.

What if Compensation Is not Agreed?

Where it is not possible for the claimant and the local authority to reach agreement on the compensation payable, the law provides for an independent arbitration process whereby an arbitrator, after hearing the evidence from the respective parties determines the amount payable. The decision of an arbitrator is binding on both parties. Either the owner or the County Council can apply for the appointment of a property arbitrator.

The Acquiring Authority would not be responsible for your costs in objecting to the Compulsory Purchase Order.

When do I receive my Compensation?

Once the negotiations process is complete and a proposed settlement is reached between the parties, or following an Award from the property arbitrator, the matter is referred to each side's respective legal representatives to undertake the conveyance (transfer of ownership) process and the compensation is paid.

It is always advisable to request your solicitor to ensure that your legal title documentation is in order as only good and marketable title is acceptable. Difficulties in payment of compensation may arise if clear title or ownership details cannot be confirmed.

What if I agree compensation and subsequently sell my property before the scheme is built?

If you sell your property after an agreeing to compensation, any compensation payment to you will be in full and in final settlement under all heads of claim and the ownership in the relevant land/property will be transferred accordingly.

Can I sell my property once I have been notified of a potential CPO?

Yes. Any future purchaser of your property should be advised of the fact that the property may be the subject of a CPO.

Can I apply for planning permission to extend/alter my property?

There is no barrier to you making a planning application. All planning applications submitted along the proposed alignment will be referred to the acquiring authority to ensure such development does not adversely impact on the construction/operation or structural integrity of the proposed works.

What Happens Next?

Over the coming months, a team from Arup and CCC will be meeting with landowners to:

- Discuss the proposed works, access to the works for construction, and for long term maintenance and other access which might be required (e.g. access to the river or watercourse).
- Discuss accommodation works which might be required
- Identify all parties with an interest in the land
- Identify owners/interested parties for adjoining lands if not already known
- Identify any previously unknown services
- Inform the landowner of the process to acquire the rights over the land