Compulsory Purchase Reform in Scotland

Summary of Consultation Responses

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Scottish Government
Riaghaltas na h-Alba

Contents

1. Introduction 1
2. Overview: How compulsory purchase works 3
3. Enabling powers 5
4. Early engagement and preliminary steps 11
5. Confirmation procedures – Making a CPO 16
   - Form and content of a CPO 16
   - Notification and advertisement of a CPO 18
   - Digitisation 22
6. Confirmation procedures – Deciding a CPO 24
   - Considering objections to a CPO 24
   - How CPOs are decided 29
   - Who takes CPO decisions 31
   - Special category land 35
   - Scope and timing of CPO decisions 39
   - Challenges to a CPO 43
7. Implementation 46
   - Procedure 46
   - Objection to severance 47
   - Timing 48
   - Effect on title 53
   - Rights subordinate to ownership 57
8. Compensation 58
   - Value of land acquired 58
   - Injurious Affection 66
   - Disturbance 68
   - Loss Payments 73
9. Compensation procedures 80
   - Making a claim 80
   - Time limits 84
   - Advance payments 86
   - Interest rates 90
10. Compulsory Sale and Lease Orders 91
11. Assessment of impacts 92

1. Introduction

Between 19 September and 19 December 2025, the Scottish Government carried out a consultation on proposals to reform and modernise Scotland's compulsory purchase system, with a view to making it simpler, more streamlined and fairer.

This document summarises what respondents told us. It is not intended to be exhaustive: it sets out the key themes and messages emerging from the responses. Where respondents gave their permission, individual responses have been published in full on the Scottish Government's consultation website.

A total of 107 responses were received. We are very grateful to everyone who took the time to respond to this consultation, which we recognise was a comparatively long and technical document. To assist with our analysis, respondents have been grouped according to the type of organisation, professional discipline or interest they represent – as per the categories below.

Category	Total respondents
Active travel	3
Community land and development	3
Energy	8
Estates and agriculture	4
Heritage and architecture	7
Housebuilding and development	7
Housing and empty homes	6
Individual	28
Legal	4
Local authority	19
Other compulsory purchase	1
Other public sector	6
Planning and regeneration	5
Surveying, valuation and agents	6
Total	**107**

Although public consultations of this nature invite anyone to express their views, individuals and organisations with knowledge of (or interest in) the subject matter are more likely to respond. Hence respondents represent a small, self-selected sample of the population. The results therefore cannot be taken as representing the views of the general population or of particular sectors as a whole, although it should be recognised that the role of some of the respondents is to represent their sectors or professions more widely.

Fifty-eight responses were received via the online questionnaire and 49 by email. Some of those who responded by email followed the questionnaire format closely; others either responded with comments on particular topics, or just gave a general statement of their views. Some people who used the online questionnaire also used the free text boxes that were available to comment on other questions. The summaries for each question therefore refer to respondents' comments, even where there was no provision for comments in the online questionnaire. Where email comments clearly support or oppose a particular point, these have been included in the numerical analysis as well.

Many respondents did not answer all the questions. Most questions received between 50 and 65 responses. The largest number of responses for any single question was 84, on question 1. Tables in this document show the percentage of support for each option in relation to the number of respondents who answered that particular question, rather than the total number of respondents.

For ease of reference, the remainder of this document follows the same structure and uses the same chapter headings as the September 2025 consultation paper.

2. Overview: How compulsory purchase works

Question 1: Do you agree that legislation governing compulsory purchase procedures and compensation in Scotland should be brought into a single statute?

Respondent categories	Yes	No
Active travel	2	0
Community land and development	2	1
Energy	5	0
Estates and agriculture	3	0
Heritage and architecture	5	0
Housebuilding and development	3	0
Housing and empty homes	4	1
Individual	22	0
Legal	4	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	4	0
Planning and regeneration	4	0
Surveying, valuation and agents	5	0
Totals	**82**	**2**
Percentage	**98%**	**2%**

All but 2 of those who responded to this question expressed support for the creation of a single statute bringing together compulsory purchase procedures and compensation. Neither of those who answered ‘no’ provided comments.

The majority of respondents who expressed support stated that the current system is overly complex, outdated and needs to be simplified, modernised and clarified. The effects of this situation were also mentioned: delays, costs and uncertainty. The need for transparency, fairness and consistency was a recurring comment. Several respondents noted that modernising the legislation would help establish compulsory purchase orders (CPOs) as a more effective tool for accelerating housing supply and infrastructure delivery.

Several groups supported the proposal with caveats, such as preserving and strengthening protections for affected landowners, tenants and vulnerable groups. Some suggested that empty home CPOs require tailored provision within any new legislation. A few respondents who expressed in-principle support underlined that any new statute would need to be compatible with existing powers in the Electricity Act 1989.

Question 2: Do you have any specific concerns in relation to the repeal of existing legislation on CPO procedures and compensation that we should consider?

There were 73 responses to this question. Of these, around half indicated that they did not have any concerns about the repeal of existing legislation without providing further qualification; a number of those who answered 'no' did go on to qualify that response.

The focus of the question was intended to seek views on the potential legislative risks around repealing existing statutes as part of reform. However, a number of respondents expressed their concerns about, and/or aspirations for, compulsory purchase reform more generally, such as: better early engagement; stronger safeguards for those affected by CPO; changes to compensation; resourcing and capacity issues. Most of these issues were covered by specific questions later in the consultation document.

The majority of respondents who provided comments on the specific issue of repeal were concerned about possible unintended consequences: legislative gaps being created, enabling powers being altered, or the rights of (and safeguards for) affected parties being weakened. Related to this, some respondents were concerned specifically with the loss of provisions which serve other purposes, such as the Lands Clauses (Scotland) Act 1845, or with ensuring compatibility with other legislation, such as the Roads (Scotland) Act 1984, or that governing the Lands Tribunal for Scotland. Several respondents raised the loss of precedents in case law based on the current statute, or with the replacement of robust and well understood procedures in some areas (e.g. the authorisation process and compensation rules).

Several respondents made comments about the importance of appropriate provisions being put in place to ensure a smooth transition from the current to the new system, especially for live cases at the time of change. Related to this were calls for clear and timely user guidance on such transitional arrangements and the new system.

3. Enabling powers

Question 3: With the exception of the bodies referred to at paragraph 3.6, are there any gaps in acquiring authorities' enabling powers? Please provide specific examples.

Sixty-four respondents answered this question. Of these, 27 answered 'no' without any further comment, or noted that they were not aware of any gaps in enabling powers. A handful of respondents used their answer to this question to indicate that they were opposed to any extension of enabling powers. Several respondents expressed support for the introduction of powers to create new subordinate rights in land (e.g. servitudes) and to take temporary possession (covered by questions 5 to 7 of the consultation), or made comments about other aspects of compulsory purchase.

As regards gaps, several local authorities mentioned the lack of a specific power to acquire land for waste or recycling facilities. One local authority wanted a specific enabling power for regeneration projects, querying whether these would be covered by existing powers. Another sought a specific power for CPOs related to empty homes. As regards local authority powers, there was overlap with responses to question 4 which covered this issue specifically.

Several energy provider respondents pointed to issues with the Electricity Act 1989, especially the lack of temporary possession powers for electricity generation. A number of these also suggested that CPO powers should extend to all those involved in electricity generation not just licence holders, and for the ability to compulsorily purchase other acquiring authorities' land.

The consultation paper specifically referred to South of Scotland Enterprise (SOSE) and Network Rail as bodies who potentially lack clear enabling powers. Several respondents suggested that CPO powers should be extended to both, although a couple queried doing so in respect of SOSE (and Enterprise Agencies more generally).

A range of other suggestions were made, including clarifying National Health Service Boards' powers, giving acquiring authorities powers to acquire land necessary to meet biodiversity net gain requirements and a power for the descendants of the Highland Clearances to compulsorily acquire the remains of their ancestral homes.

Question 4: Are local authorities' compulsory purchase powers (set out on page 13-14) sufficiently broad to cover the circumstances in which they may need to compulsorily acquire land in carrying out their statutory functions? If not, please specify which powers require to be amended, clarified or supplemented.

Respondent categories	Yes	No
Active travel	1	1
Community land and development	2	1
Energy	0	0
Estates and agriculture	3	0
Heritage and architecture	3	1
Housebuilding and development	2	0
Housing and empty homes	3	0
Individual	14	1
Legal	3	0
Local authority	12	5
Other compulsory purchase	1	0
Other public sector	0	0
Planning and regeneration	1	1
Surveying, valuation and agents	3	0
Totals	**48**	**10**
Percentage	**83%**	**17%**

Fifty-eight respondents answered this question, of whom 83% indicated local authorities have sufficiently broad enabling powers to carry out their statutory functions.

There were calls for either clarification of existing powers or for express provision in respect of particular matters, including empty homes, listed buildings, active travel, biodiversity, regeneration and reuse of vacant/derelict land. There was some overlap between respondents' answers to this question and question 3, although notably the point about local authority powers regarding waste and recycling facilities was not reiterated – despite arguably being more relevant to this question. One individual argued that local authority powers are already too wide and lack sufficient safeguards.

Several responses indicated that the main issue is not a lack of powers but rather a reluctance to use them, with various reasons given, including procedural complexity and costliness, perceived risk, insufficient resources and a lack of ambition. Suggested remedies included training, guidance and making legislation more streamlined, consistent and clear. One response recommended adopting provisions on rental auctions in the Levelling-Up and Regeneration Act 2023 for vacant commercial properties.

A few respondents (principally housebuilders) proposed introducing a statutory provision which would allow developers to formally request that local authorities initiate a CPO, with specific timescales, appeal rights and cost recovery provisions.

Question 5: Should there be a general power for acquiring authorities to create new rights in land and to attach conditions to such rights?

Respondent categories	Yes	No
Active travel	1	0
Community land and development	2	1
Energy	6	0
Estates and agriculture	2	0
Heritage and architecture	3	0
Housebuilding and development	3	0
Housing and empty homes	2	0
Individual	16	4
Legal	3	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	3	0
Surveying, valuation and agents	5	0
Totals	**68**	**5**
Percentage	**93%**	**7%**

Seventy-three respondents answered this question, of whom 93% were in favour of introducing a general power for acquiring authorities to create new rights in land and to attach conditions. Many respondents supported the view that enabling acquiring authorities to create limited rights such as servitudes, wayleaves, temporary access, restrictive covenants (real burdens in Scotland) and corridor rights would provide a more proportionate and less intrusive alternative to full land acquisition. It was suggested that if such a provision were introduced, it could result in reduced compensation, fewer objections and faster delivery. It was also noted that there is no clear rationale for the current position, whereby some authorities have this power while others do not.

A number of responses highlighted the need for legislative clarity and accompanying guidance on when and how such provisions would work, in order to ensure fair and consistent use. Issues such as duration of rights, the nature of conditions, their enforceability, safeguards for landowners, restoration of property and rights to compensation were mentioned. A couple of responses indicated that conditions could help safeguard the acquiring authority's position.

Of the five respondents who answered 'no', only one provided a comment. Their view was that voluntary agreement should be sought and, if that is not forthcoming, then compulsory purchase should be pursued as a last resort. One response made a technical, legal point that servitude rights in Scots Law do not relate to access to leased sites, and that this should be addressed in new legislation. Another respondent highlighted concerns about the tax implications of temporary rights.

Question 6: Should there be a general power for acquiring authorities to seek temporary possession of land?

Respondent categories	Yes	No
Active travel	1	0
Community land and development	2	1
Energy	6	0
Estates and agriculture	1	0
Heritage and architecture	1	1
Housebuilding and development	2	0
Housing and empty homes	3	1
Individual	17	3
Legal	4	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	3	0
Surveying, valuation and agents	4	0
Totals	**66**	**6**
Percentage	**92%**	**8%**

Seventy-two respondents answered this question, of whom 92% were in favour of giving acquiring authorities a general power to seek temporary possession of land. There was considerable overlap between respondents' comments on this question (which was focussed on the principle of temporary possession powers) and question 7 (which was focussed on detailed considerations).

A recurring message was that, compared to acquiring land outright, temporary possession can be a more proportionate means of facilitating essential activities such as surveying, construction, environmental works, utilities connection and maintenance. Respondents stated that this flexibility can reduce compensation and minimise impacts on landowners. It was noted that temporary possession must come with safeguards to ensure that landowners' rights are respected and use is strictly regulated. A range of safeguards were suggested, such as clear timelines, compensation provisions, reinstatement obligations and conditions.

Only six respondents who answered this question were not supportive of introducing temporary possession powers; two provided substantive comments. One felt anything other than a negotiated temporary possession was compulsory purchase. The other suggested that acquiring authorities should rely on negotiated leases, licenses or voluntary agreements instead of using temporary possession powers, and that any such power should be tightly framed with specific safeguards.

Some responses from energy providers offered detailed, sector-specific comments describing how temporary possession is needed for oversail (large equipment needing to pass over land on route to installation), underground cable works, access corridors and construction in general, noting the technical challenges they face such as servitude limitation when the developer leases the land instead of owning it.

Question 7: Do you agree with the proposed list of matters that should be addressed in any new temporary possession power? If not, please give details.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	1
Energy	3	2
Estates and agriculture	3	0
Heritage and architecture	1	1
Housebuilding and development	2	0
Housing and empty homes	1	1
Individual	12	3
Legal	4	0
Local authority	16	1
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	3	0
Surveying, valuation and agents	4	0
Totals	**55**	**9**
Percentage	**86%**	**14%**

Sixty-four respondents answered this question, of whom 86% agreed with the proposed list of matters that should be addressed in a new temporary possession power. Whilst most of the comments made about the list were supportive, many respondents suggested that further clarification or specification was needed. Some responses cited existing areas of legislation as potential blueprints for how a temporary possession power could be framed. Some respondents highlighted sector-specific (e.g. energy industry) issues, or pointed to specific scenarios as examples of where issues such as reinstatement, compensation and service of notices would need to be addressed.

As regards the duration of temporary possession, a number of respondents stressed that a longer period or flexibility would be necessary to deal with matters outside the developer's control. Several suggested temporary possession would be needed for the lifetime of certain projects, from construction through to decommissioning.

Nine respondents to the question did not agree with the proposed list of matters – although as indicated above, some of those who agreed (i.e. answered 'yes') also made specific suggestions. A range of general concerns were expressed, such as temporary possession being more about expediency or administrative convenience, which may deprioritise more collaborative approaches. One respondent expressed concern that temporary possession powers could add procedural complexity and may be less fair or proportionate than leases or licenses. Another suggested rights of servitude may be more appropriate. The need to consider impacts on – and provide protections for – landowners was also raised, including compensation, notice periods and independent oversight.

A couple of respondents raised the issue of dispute resolution, with one proposing that parties have an early right to refer cases to the Lands Tribunal for Scotland before temporary possession begins. It was suggested that this could avoid project delays. Other issues/questions raised included: responsibilities for land during temporary possession; use of temporary possession powers independently of the acquisition of land; and whether landowners should have a right to request permanent acquisition of their land rather than temporary possession.

Question 8: How might the use of back-to-back CPOs be further encouraged?

Sixty-five respondents provided comments on the question. Many of those who responded made general comments about the benefits of back-to-back CPOs, with reference made in some cases to specific circumstances and sectors, such as housing, re-use of vacant and derelict land, community and environmental projects. Several respondents indicated what they considered to be barriers to more widespread use of this mechanism, such as limited financial resources and/or risk appetite within authorities and the complexity of the legislation.

The two recurring suggestions were guidance and legislation. On the former, many respondents called for clear guidance incorporating things like templates, model agreements, step by step guides, case studies and practical examples. It was suggested that this would help to build confidence. In the interests of providing greater certainty, others suggested putting back-to-back CPOs – including associated procedures – on a clearer statutory footing. Some responses went into more detail as to matters to be covered in legislation and guidance; several specifically mentioned a statutory provision which would allow developers to formally request that local authorities initiate a CPO, with specific timescales, appeal rights and cost recovery provisions.

Other respondents emphasised the potential role of engagement, including training, awareness-raising, webinars, outreach to LAs and communities and promotion through professional networks. Another issue raised was funding, including grants and access to capital funding.

Several respondents used their answers to voice opposition to the use of back-to-back CPOs. Concerns included lack of transparency, blurring of public and private interests and the need for safeguards to ensure proportionality, a clear public interest case and fair compensation.

4. Early engagement and preliminary steps

Question 9: Do you agree that early and effective engagement is best promoted through non-statutory measures (e.g. guidance) rather than legislative requirements?

Respondent categories	Yes	No
Active travel	1	0
Community land and development	2	1
Energy	5	1
Estates and agriculture	2	1
Heritage and architecture	2	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	12	5
Legal	3	0
Local authority	14	4
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	5	0
Surveying, valuation and agents	2	2
Totals	**56**	**14**
Percentage	**80%**	**20%**

Of those who responded to this question, 80% agreed that early and effective engagement is best promoted through non-statutory measures rather than legislative requirements.

Several of those who supported this view emphasised that guidance on this subject can be flexible and adaptable to different project types. Many of these responses highlighted that legislation could not provide the necessary level of flexibility. There were some suggestions as to what such guidance should cover, such as templates, models and setting expectations for what constitutes meaningful engagement. It was noted that good engagement depends on behaviours and practice rather than statutory timetables; several respondents mentioned that acquiring authorities should be able to demonstrate evidence of engagement as part of an application for CPO confirmation, which could strengthen good practice.

Those who disagreed with the proposal generally felt that non-statutory measures are insufficient, with several mentioning that acquiring authorities often fail to follow guidance already in place. A number of those who advocated a guidance-based approach nevertheless also suggested some basic statutory requirements.

There were calls for, amongst other things, statutory engagement periods and standards, mediation requirements, a statutory duty to engage, a statutory duty to disclose ownership or tenancy information, and provision for compensation to support engagement at this early stage. It was argued that statutory provisions could make landowners feel more confident throughout the CPO process, ensuring fairness and guaranteeing engagement.

Question 10: How might early and effective engagement between acquiring authorities and affected parties be further encouraged?

Sixty-one respondents commented on this open-ended question. Many highlighted the importance of early and effective engagement and that it can help reduce conflict, avoid delays, mitigate stress on landowners, and build trust in what can otherwise be an intimidating and technical process.

As to how such engagement might be encouraged, a significant number of respondents emphasised the need for clearer national guidance. The suggestions in this regard were varied, including templates, checklists, good practice case studies, and accessible explanations.

A number of respondents also stressed the need for access to professional advice, especially for those owners or occupiers unfamiliar with the CPO process. Some mentioned that this needed to happen early and the costs reimbursed. Several respondents highlighted the importance of training and improved soft skills within acquiring authorities to build trust and avoid adversarial interactions.

Other suggestions included using single points of contact, in-person discussions, better integration between land assembly and planning processes, such as development planning and masterplan consent areas, and greater use of mediation or independent facilitation where needed. Several respondents focussed on increasing the role of good early engagement by acquiring authorities or landowners as a consideration when confirming a CPO.

A minority of respondents argued that meaningful engagement requires statutory measures, citing poor past experiences where non-statutory guidance was ignored. These respondents stressed the need for legally enforceable standards, rights and obligations, such as mandatory early information requirements and structured engagement periods to ensure fairness and accountability. Some other responses referred to statutory requirements being too inflexible, and could lead to a ‘tick-box approach’ or used as a means of blocking projects.

Question 11: Would it be helpful to introduce a general power for acquiring authorities to require specified parties to provide information about ownership, occupation and other interests in land? Please explain your views.

Respondent categories	Yes	No
Active travel	1	0
Community land and development	2	1
Energy	4	1
Estates and agriculture	2	0
Heritage and architecture	2	0
Housebuilding and development	3	0
Housing and empty homes	4	0
Individual	10	6
Legal	3	0
Local authority	17	0
Other compulsory purchase	1	0

Respondent categories	Yes	No
Other public sector	2	0
Planning and regeneration	3	0
Surveying, valuation and agents	4	0
Totals	**58**	**7**
Percentage	**89%**	**11%**

There were 65 responses to the question, of which 89% were in favour of introducing a general power to require specified parties to provide information on ownership, occupation and other land interests.

Among those who supported the proposal, the key reasons were that such a power would improve accuracy, help ensure relevant parties are identified, and reduce costs and delays caused by incomplete or unclear information and issues emerging later in the process. Many noted that important interests, such as leases, servitudes, securities, or unregistered arrangements are not always traceable through existing records and that a formal information request power could assist early land referencing.

The importance of safeguards was also stressed, with several respondents arguing that the power should only be used as a backstop after acquiring authorities have attempted enquiries and ensuring it has time limits and clear scope. The need to protect commercially sensitive and personal information was also mentioned, and that professional advice and cost recovery mechanisms may be necessary to avoid additional burdens on owners.

There were some differences of opinion over the use of offences and penalties, with some respondents seeing them as necessary and others seeing them as heavy-handed or unenforceable. A couple of responses commented on the existence of similar provisions in other legislation, including the compulsory purchase powers in England and Wales – with perceptions differing, but generally the view was they had not been misused.

Some of those who did not support the proposal described it as unnecessary or intrusive and argued that it could affect trust if used prematurely. One felt existing tools/approaches already provide adequate information. Concerns were expressed about the risk of creating an antagonistic or coercive dynamic at an early stage and the potential for widening the perceived imbalance of power between acquiring authorities and landowners.

Question 12: Do you agree that acquiring authorities should have a general power of entry prior to the making of a CPO for the purposes of surveying etc?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	1
Energy	5	0
Estates and agriculture	2	0
Heritage and architecture	1	0

Respondent categories	Yes	No
Housebuilding and development	3	0
Housing and empty homes	3	0
Individual	12	5
Legal	3	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	4	0
Surveying, valuation and agents	5	0
Totals	**62**	**6**
Percentage	**91%**	**9%**

Sixty-eight respondents answered the question, of whom 91% expressed support for introducing a general power of entry prior to the making of CPO. A total of 24 respondents, all of whom supported such a power, provided additional comments.

Many of those who commented underlined the need to carry out early surveying for various purposes, including environmental assessments, condition surveys and other preparatory work necessary to evaluate a site's suitability for the project, to determine the amount of land needed and to assist with valuation. Where compulsory purchase is involved, these activities would also be important to justify the scheme and the use of CPO powers. The proposed power was variously described as useful, important or essential.

Pre-empting question 13 to some extent, a number of respondents noted that a general power of entry should be supported by appropriate safeguards, including reasonable notice periods, clear compensation provisions for owners/occupiers, and limits ensuring the power is used only when voluntary access cannot be agreed. Some responses elaborated on these basic requirements, mentioning, for example, sensitivities of certain land uses to interference, e.g. crops and livestock; protocols on entry and health and safety for certain sites; flexibility due to, for example, weather disrupting surveys; record keeping; reinstatement of land and reimbursement of costs incurred by owners/occupiers on professional advice.

Question 13: Does the outline proposal at paragraph 4.23 strike a reasonable balance between the needs of acquiring authorities and rights of the owner/occupier? If not, how should it be changed?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	1
Energy	4	0
Estates and agriculture	0	2
Heritage and architecture	1	0
Housebuilding and development	2	0
Housing and empty homes	1	0
Individual	12	5

Respondent categories	Yes	No
Legal	2	0
Local authority	16	1
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	3	0
Surveying, valuation and agents	4	0
Totals	**49**	**9**
Percentage	**84%**	**16%**

The majority (84%) who responded to the question considered that the outline proposal (paragraph 4.23 of the consultation paper) broadly strikes a reasonable balance between the needs of acquiring authorities and the rights of owners and occupiers. Thirty-seven respondents provided comments.

Respondents who opposed the proposal had concerns around misuse and insufficient protections for landowners. There were also concerns relating to disruption during sensitive agricultural periods, business operations and impacts on wellbeing. Some simply felt such a power too disruptive, that early entry must be by agreement or that adequate powers of entry already exist. One felt the proposal "needs more teeth".

Both those in favour of and opposed to the proposal made some suggestions as to what would be needed to accompany any such power if introduced. Often these overlapped with comments made in response to question 12. Examples included:

- Minimum standards for communication.
- Requirements/expectations as to engagement prior to using powers of entry.
- Strengthened or clarified notice provisions.
- Specification of grounds of objection.
- Clarity on the timing and frequency of entry and conduct – for example, flexibility for acquiring authorities as regards weather and seasonality, and protocols for entry to certain sensitive sites.
- Dispute resolution mechanisms.
- Specification around reinstatement.
- Compensation mechanisms (including disturbance, damage or loss).
- Reimbursement of owners/occupiers for costs of professional advice.
- Rights to access land and carry out works to address safety issues or deterioration of the property.

The need to consider the role of warrants was raised, as was a concern about the test for a statutory undertaker's right to object to certain works (as described in the last bullet of paragraph 4.23 of the consultation paper). There were also several suggestions for alternative approaches to rights of entry, such as a licence system.

5. Confirmation procedures – Making a CPO

Form and content of a CPO

Question 14: Are any changes required to the legislation which prescribes the form and content of CPOs? If so, please give details.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	1
Energy	1	1
Estates and agriculture	0	1
Heritage and architecture	0	1
Housebuilding and development	1	2
Housing and empty homes	0	1
Individual	6	7
Legal	0	3
Local authority	5	12
Other compulsory purchase	1	0
Other public sector	1	0
Planning and regeneration	0	2
Surveying, valuation and agents	1	4
Totals	**16**	**35**
Percentage	**31%**	**69%**

There were 51 responses to question 14, more than two thirds of which (69%) did not consider that any changes need to be made to the prescribed form and content of CPOs. Many of those who indicated that changes are not required (i.e. answered 'no') did not give reasons, although a few noted that the current forms are sufficient/well-understood.

Several respondents suggested that the forms should be updated to reflect wider reform proposals (e.g. introduction of temporary possession powers) and to take account of wider trends, such as changes in digital technology. A couple of responses suggested that the form should include separate columns for particular types of interest (e.g. benefitted proprietors, heritable creditors) in order to bring greater consistency and clarity. There were some calls for greater use of plain English and shorter, more consistent descriptions of interests/rights.

There were also suggestions that the form should require the provision of information that goes to the public interest justification for the CPO, including the purpose and effect of the Order, alternatives considered and the site's planning history. It should be noted that this type of information is generally provided in the Statement of Reasons (see question 15).

Question 15: Should any or all of the following documents be placed on a statutory footing?

- Statement of Reasons
- General Certificate
- Protected Assets and Special Category Land Certificate

Respondent Categories	Statement of Reasons		General Certificate		Protected Assets etc Cert.	
	Yes	No	Yes	No	Yes	No
Active travel	0	0	0	0	0	0
Community land & dev't	1	0	1	0	1	0
Energy	0	3	0	3	0	3
Estates and agriculture	1	0	1	0	1	0
Heritage and architecture	1	0	1	0	1	0
Housebuilding & dev't	1	2	1	2	1	2
Housing and empty homes	0	1	0	1	0	1
Individual	11	4	9	6	8	7
Legal	0	3	0	2	0	3
Local authority	3	15	4	13	4	13
Other compulsory purchase	0	1	0	1	0	1
Other public sector	0	1	0	1	0	1
Planning and regeneration	0	1	0	1	0	1
Surveying, valuation, agents	4	0	3	1	3	1
Totals	**22**	**31**	**20**	**31**	**19**	**33**
Percentage	**42%**	**58%**	**39%**	**61%**	**37%**	**63%**

A majority of those who responded to question 15 were opposed to making the Statement of Reasons (58%), the General Certificate (61%) or the Protected Assets and Special Category Land Certificate (63%) statutory documents. The balance of support/opposition was similar across each of the three, although there was marginally more support (42%) for placing the Statement of Reasons on a statutory footing. The key concern among those opposed to making these documents statutory was that it would limit flexibility.

Those who expressed support for making the documents statutory (and gave reasons) generally felt that doing so would promote consistency and transparency. A few respondents suggested that placing the documents on a statutory footing would be particularly important should acquiring authorities be given the power to self-confirm CPOs (see questions 33 and 34).

Notification and advertisement of a CPO

Question 16: Do you agree that the notification requirements for CPOs should be prescribed through secondary rather than primary legislation?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	1
Energy	5	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	15	2
Legal	4	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	3	0
Surveying, valuation and agents	5	0
Totals	**62**	**3**
Percentage	**95%**	**5%**

Sixty-five respondents answered question 16, of whom 95% were in favour of the notification requirements for CPOs being prescribed through secondary rather than primary legislation.

Relatively few respondents expanded on their yes/no answer. None of those who answered ‘no’ gave reasons. Among those who supported notification requirements being set out in secondary legislation, the principal reason given was that doing so would provide greater flexibility and enable provisions to be more readily updated in line with evolving technology and practice. A couple of respondents commented that this would bring CPOs into line with other regulatory regimes such as planning. One respondent who supported the proposal did so on the proviso that the secondary legislation was subject to appropriate consultation and scrutiny.

Question 17: Should heritable creditors be added to the list of parties who must be individually notified of a CPO?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	1
Energy	4	1
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0

Respondent categories	Yes	No
Individual	13	6
Legal	1	1
Local authority	13	4
Other compulsory purchase	1	0
Other public sector	0	1
Planning and regeneration	1	2
Surveying, valuation and agents	3	2
Totals	**44**	**18**
Percentage	**71%**	**29%**

The majority (71%) of those who responded to question 17 supported heritable creditors being added to the list of parties who must be notified of a CPO. It was noted that heritable creditors have a financial interest in land subject to compulsory purchase and it is therefore reasonable that they be specifically made aware of (and have the opportunity to object to) a CPO; several respondents indicated that this burden should not be on the borrower and should be the responsibility of the acquiring authority.

Those who did not support the proposal expressed concerned about the additional complexity, administrative burden and costs that could be introduced. It was noted that creditors can be difficult to trace. One respondent noted that the terms of standard securities typically require owners to notify their creditor of any action, such as a CPO, which could affect the property and that it was appropriate for this notification to remain the responsibility of the borrower.

Question 17A: Should heritable creditors have the status of statutory objectors?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	1
Energy	1	3
Estates and agriculture	0	1
Heritage and architecture	1	0
Housebuilding and development	0	1
Housing and empty homes	0	1
Individual	8	12
Legal	1	0
Local authority	5	12
Other compulsory purchase	0	1
Other public sector	0	1
Planning and regeneration	0	3
Surveying, valuation and agents	0	5
Totals	**17**	**41**
Percentage	**29%**	**71%**

There were 58 responses to this question, of which 71% were opposed to heritable creditors having statutory objector status. 30 respondents offered comments. The key concerns were that this would be disproportionate: that it would add cost and complexity to the CPO process and potentially cause additional delay. Several respondents who were opposed drew a distinction between owners/occupiers and heritable creditors, in terms of how they and their rights are affected by a CPO.

Of the respondents who favoured heritable creditors becoming statutory objectors, several suggested that this would be reflective of their legal and financial interest in land subject to compulsory purchase. It was also suggested that this would provide additional scrutiny and accountability to the process.

Question 18: Are any other changes required to the list of people to be individually notified?

Most of those who responded to this open-ended question noted that they considered the current list of parties who must be notified of a CPO to be appropriate and/or that no further changes were required. Eight respondents suggested specific additions to the list; these included: community councils/community bodies, adjacent neighbours who may be affected, formally-appointed agents acting on behalf of affected owners, beneficiaries of trusts and informal succession arrangements.

Question 19: Do you agree that the CPO (and map) should be published on a suitable website, in addition to being made available for inspection at a specified physical location?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	3	0
Energy	4	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	20	1
Legal	4	0
Local authority	18	0
Other compulsory purchase	1	1
Other public sector	2	0
Planning and regeneration	4	0
Surveying, valuation and agents	5	0
Totals	**68**	**2**
Percentage	**97%**	**3%**

Seventy respondents answered question 19, of whom 97% agreed that CPOs should be published on a suitable website. It was suggested that this would help to modernise the CPO process and make it more accessible. A couple of respondents noted that this already happens in practice, even though it is not a legal requirement.

One of the respondents who answered 'no' queried whether acquiring authority websites would help to raise awareness of CPOs with the local population.

Question 20: Should newspaper notices continue to be used to publicise the making of CPOs?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	1
Energy	2	1
Estates and agriculture	1	0
Heritage and architecture	1	0
Housebuilding and development	2	1
Housing and empty homes	1	0
Individual	13	7
Legal	2	1
Local authority	8	9
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	3	1
Surveying, valuation and agents	3	1
Totals	**41**	**22**
Percentage	**65%**	**35%**

Sixty-three respondents answered question 20, of whom 65% indicated that newspapers should continue to be used to publicise CPOs. Among those who favoured retaining newspaper notices, the key reason given was that some sections of the public rely on print media, and that not all parties have access to high-quality internet. The associated risks of digital exclusion were flagged. A couple of respondents who supported newspapers notices nevertheless acknowledged that their relevance may diminish over time and the matter should be kept under review.

For those who did not support the continued use of newspaper notices, cost was the key reason given. It was suggested that costs are disproportionate to the low level of readership, which limits their effectiveness. Several respondents indicated that if they are retained, the prescribed content of newspaper notices should be streamlined: it was suggested that shorter notices would be less costly and more accessible.

Question 21: What alternative approaches might be appropriate for publicising CPOs – either in addition to or instead of newspaper notices?

Around 50 respondents responded to question 21. A range of alternative approaches for publicising CPOs were identified. These included: local authority and/or Scottish Government websites; other websites or portals such as TellMeScotland; social media platforms; weekly lists of planning applications; site notices; notification of neighbours and community councils; noticeboards and newsletters.

Digitisation

Question 22: Should Scottish Ministers have a power to prescribe (through secondary legislation) common data standards for compulsory purchase documentation? If not, please explain your reasons.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	1
Energy	4	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	17	0
Legal	2	0
Local authority	16	1
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	4	0
Surveying, valuation and agents	4	0
Totals	**60**	**2**
Percentage	**97%**	**3%**

Of the 62 responses to this question, 97% were in favour of giving Scottish Ministers the power to prescribe common data standards for compulsory purchase documentation through secondary legislation. The key points made by those in favour of this change were that it would promote greater consistency, transparency and efficiency, as well as providing for integration/interoperability with other systems.

Of the respondents not in support, one felt this measure could be overly prescriptive, while another expressed concern about digital communication taking precedence over paper notification. A few respondents felt that more detail was needed, and called for further engagement and consultation on the development of any data standards and associated regulations.

Question 23: Should acquiring authorities be able to serve compulsory purchase notices by electronic means, if a party agrees to this in writing and provides an address for this purpose? If not, please explain your reasons.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	1
Energy	6	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0

Respondent categories	Yes	No
Housing and empty homes	1	0
Individual	19	1
Legal	4	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	4	0
Surveying, valuation and agents	5	0
Totals	**69**	**2**
Percentage	**97%**	**3%**

Seventy-one respondents answered this question, of whom 97% agreed that acquiring authorities should be able to serve CPO notices by electronic means, if the party agrees in writing and provides an address for this purpose. It was suggested that this would help to modernise the CPO process, improve efficiency, reduce cost and avoid unnecessary waste. Several respondents suggested electronic notification should be elective and that physical copies should remain an option for those who want it (this is what was proposed in the consultation).

Those who did not support the proposal expressed concern that emails can be missed or not received if they are marked as spam or go into a junk folder. Some respondents who supported the introduction of electronic CPO notices made detailed suggestions to ensure such arrangements operate fairly and effectively, such as use of read receipts and the ability to revert to hard copy documentation.

6. Confirmation procedures – Deciding a CPO

Considering objections to a CPO

Question 24: Should there be a statutory time period within which an opposed CPO should be referred to a Reporter[1] after it has been submitted for confirmation? If not, please explain your reasons.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	1
Energy	5	1
Estates and agriculture	1	1
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	3	0
Individual	14	1
Legal	3	1
Local authority	13	5
Other compulsory purchase	1	0
Other public sector	1	0
Planning and regeneration	2	0
Surveying, valuation and agents	5	0
Totals	**54**	**10**
Percentage	**84%**	**16%**

Sixty-four respondents answered this question, 84% of whom were in favour of there being a statutory time period within which opposed CPOs should be referred to a Reporter following submission to the Scottish Ministers. 46 respondents commented.

The most frequently cited reason for support was that such a time period would provide greater certainty and transparency, which would in turn increase confidence in the process – both for acquiring authorities/investors but also affected landowners and occupiers. It was noted that this additional certainty could reduce the stress and negative mental health impacts felt by owners and occupiers.

Some supportive respondents noted that a time limit could incentivise early engagement (i.e. prior to a CPO being submitted) and that if such engagement has happened, there is potentially little to be gained from a further, open-ended period for negotiation. It was suggested that a statutory deadline could focus minds and facilitate swifter resolution. Several respondents who were in favour of the proposal nevertheless felt that there should be an option to extend the time period by agreement with relevant parties, if such a request is made timeously and there is a reasonable prospect of an objection being withdrawn.

[1] Public local inquires (PLI) into CPO objections are run by Reporters who work in the Scottish Government's Directorate for Planning and Environmental Appeals (DPEA).

The main concern expressed by those who were not in favour of the proposal was that fixed deadlines could limit flexibility, which could in turn reduce the quality of decision-making and result in unnecessary hearings or inquiries being held, increasing time and costs for all parties. A couple of respondents were concerned that a statutory time period could disadvantage parties with limited resources.

Question 25: If there is to be a statutory time period, how long should it be?

Fifty-one respondents offered a comment on how long the relevant period should be if a statutory time limit for referring opposed CPOs to a Reporter is introduced (see question 24). A small number of respondents used the question to reiterate that they did not support the proposal rather than suggesting a particular period.

The time periods suggested by respondents varied quite widely, ranging from 10 days to 12 months. The most common suggestions were: 8 weeks/2 months (11 responses), 12 weeks/3 months (10 responses) and 6 months (7 responses). Rather than a specific period, a few respondents put forward a range such as “4 to 8 weeks”, “2 to 3 months” or “3 to 6 months”.

Some felt that instead of there being a single time limit, this should vary depending on the scale or nature of the CPO – for example, a shorter time period for smaller-scale schemes and a longer (or no) time period for larger schemes.

Question 26: Should express provision be made in legislation for objections to be considered through written submissions?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	5	1
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	16	2
Legal	3	1
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	3	0
Surveying, valuation and agents	5	0
Totals	**62**	**4**
Percentage	**94%**	**6%**

There were 66 responses to this question, 94% of which agreed that legislation should make express provision for CPO objections to be considered through written submissions. 20 respondents provided comments.

The principal reason those in support gave is that written submissions can be more efficient and proportionate than a public local inquiry (PLI) or hearing in some cases, helping to streamline the confirmation process and reduce the time and cost for all parties.

Concern was expressed that objectors should have the right to be heard at an inquiry given the draconian nature of compulsory purchase – and that this is important in ensuring procedural fairness and European Convention on Human Rights (ECHR) compliance. One respondent indicated that self-representing parties are often better able to represent their position in person than in writing. It should be noted that the proposal was to make provision for written submission in Scottish CPO legislation rather than withdraw objectors' right to be heard. The proposed measure is intended to address the current position in which there is no statutorily prescribed process for written submissions, meaning that planning procedures are used 'by analogy'.

Question 27: Should the procedural rules for hearings and written submissions for CPO cases be set out in secondary legislation?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	1
Energy	4	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty Homes	1	0
Individual	14	1
Legal	3	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	3	0
Surveying, valuation and agents	5	0
Totals	**59**	**2**
Percentage	**97%**	**3%**

There were 61 responses to the question about whether the procedural rules for hearings and written submissions in CPO cases should be set out in secondary legislation. Of those who responded to the question, 97% were supportive although relatively few expanded on their yes/no answer.

It was suggested that prescribing procedures in secondary legislation would support greater speed and clarity, and provide greater flexibility for the Government to change and adapt provisions over time. One respondent was of the view that

regulations should follow the affirmative procedure, while another stated that regulations should be subject to an appropriate level of parliamentary scrutiny and stakeholder consultation. Neither of the two respondents who disagreed with the proposal gave a specific reason.

Question 28: Do you agree that statutory objectors' right to be heard at either a PLI or a hearing should be retained?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	1	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	17	1
Legal	3	1
Local authority	10	7
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	2	0
Surveying, valuation and agents	5	0
Totals	**50**	**9**
Percentage	**85%**	**15%**

Fifty-nine respondents answered the question, of whom 85% agreed that statutory objectors should continue to have a right to be heard – either at a PLI or a hearing. The main reason respondents gave for supporting the retention of the right to be heard was that it provides an important safeguard which underpins procedural fairness and transparency. Some noted that this was particularly important given the draconian nature of compulsory acquisition, and that the right to be heard was required in the interests of natural justice and potentially to ensure compliance with the ECHR. Local authority respondents were noticeably divided: 59% of those who responded to the question answered yes and 41% answered no.

None of those who disagreed with the proposal suggested that hearings or PLI should not be a feature of the CPO process at all – but rather that Scottish Ministers (or a Reporter) should have discretion as to whether one should be held, having regard to the circumstances of the case. Some felt that in the interests of proportionality, PLIs should only be held in respect of particularly large or contentious schemes. Linked to this, several respondents (including some who supported the retention of the right to be heard) felt that written submissions should be the default position and used in the majority of cases.

Question 29: Should Scottish Ministers continue to decide whether a PLI or hearing is used? If not, in what circumstances should a PLI be required?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	2	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	10	4
Legal	2	2
Local authority	15	2
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	3	0
Surveying, valuation and agents	4	0
Totals	**47**	**8**
Percentage	**85%**	**15%**

Fifty-five respondents answered this question, of whom 85% agreed that Scottish Ministers should continue to decide whether a PLI or hearing is used. A number of respondents who supported the proposal suggested that retaining this discretion would help to ensure proportionality and flexibility. A couple of responses indicated that guidance should be issued to provide transparency around the circumstances in which a PLI or hearing might be used. One of these responses noted that such guidance might also help to address the incorrect assumption that all objectors have a right to a PLI. A few respondents used this question to reiterate their view that written submissions should be the default approach.

There were only a small number of specific suggestions around the circumstances in which a PLI should be a requirement. Several respondents felt that that a PLI should be used in more contentious, large-scale or high-profile cases – for example, based on the number of objections or the amount of land affected. Other specific suggestions included holding a PLI where there are disputes of fact, where there are significant public interest questions at issue (e.g. loss of community assets, environmental impacts), where a CPO could have significant personal, financial or health impacts or where the rights of vulnerable groups or those with protected characteristics are at stake. It was suggested that this would help maintain confidence in the system.

Question 30: Should provisions on awards of expenses be extended to cover cases where objections are considered through hearings and written submissions?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	2	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	14	3
Legal	4	0
Local authority	17	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	3	0
Surveying, valuation and agents	3	1
Totals	**54**	**4**
Percentage	**93%**	**7%**

There were 58 responses to this question, of which 93% agreed that awards of expenses should be extended to cover hearings and written submissions – rather than applying only in PLI cases. Fairness was the most commonly cited reason for supporting this proposal, with several respondents suggesting that the ability to claim expenses should not be dependent on whether objections were considered via PLI, hearing or written submissions. One respondent who agreed with proposal thought it would encourage greater proportionality by reducing the incentives for objectors to ask for a PLI in cases where written submissions would otherwise be suitable. A few responses noted that the criteria for awards of expenses should be clear and proportionate to discourage unreasonable, uncooperative or vexatious behaviour.

How CPOs are decided

Question 31: Does the public interest test, as currently set out in Circular 6/2011, strike a fair balance between private and public interests? Please explain your views.

Respondent categories	Yes	No
Active travel	1	1
Community land and development	3	0
Energy	3	1
Estates and agriculture	2	0
Heritage and architecture	2	0
Housebuilding and development	2	1
Housing and empty homes	0	1
Individual	13	3

Respondent categories	Yes	No
Legal	3	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	3	0
Surveying, valuation and agents	4	1
Totals	**58**	**8**
Percentage	**88%**	**12%**

There were 66 responses to the question, with 88% agreeing that the public interest test strikes a fair balance between public and private interests. Several respondents who supported this view noted that the test is well-established and well-understood, which provides certainty. Another recurring point was that the circular offers a helpful degree of flexibility, enabling the merits of individual CPOs to be determined on a case-by-case basis. It was suggested by several respondents that the test creates an appropriately high bar which reflects the intrusive nature of compulsory acquisition. By contrast, a small number of respondents felt that the test sets too low a bar, being weighted unfairly in favour of acquiring authorities and inadequately reflecting the adverse impacts on affected individuals.

There were a number of specific suggestions for how the circular could be improved; these came from both those who thought the current test strikes a fair balance and those who did not. These include: placing greater emphasis on – and stronger expectations around – early engagement with affected parties; giving greater weight to sites allocated in development plans; emphasising that CPOs can proceed in advance of planning permission and taking account of future generations' needs. Linked to these suggestions, a number of respondents expressed support for refreshing the circular.

Question 32: Do you agree that the public interest test should continue to be policy-based rather than statutory?

Respondent categories	Yes	No
Active travel	1	0
Community land and development	2	1
Energy	5	0
Estates and agriculture	2	0
Heritage and architecture	2	0
Housebuilding and development	2	1
Housing and empty homes	1	0
Individual	12	4
Legal	4	0
Local authority	17	1
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	1	0

Respondent categories	Yes	No
Surveying, valuation and agents	4	1
Totals	**57**	**8**
Percentage	**88%**	**12%**

There were 65 responses to the question, of which 88% agreed the public interest test should remain policy based. The overriding reason given was flexibility. There were two key strands to this. Firstly, it was suggested that a policy-based test enables a diverse range of CPOs to be considered on a case-by-case basis, allowing complex site-specific factors to be taken into account. Secondly, several respondents pointed out that a policy-based test can evolve more flexibly over time to wider changes in strategic direction, policy and need.

Few of those who disagreed with the question gave specific reasons. One respondent suggested that a statutory test would provide greater certainty and consistency, although acknowledged that this could be at the expense of flexibility. Another respondent was of the view that putting the test on a statutory footing would be consistent with the proposed codification of other key aspects of the compulsory purchase framework, such as the no-scheme principle.

Who takes CPO decisions

Question 33: Should acquiring authorities be empowered to confirm unopposed CPOs?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	1
Energy	2	4
Estates and agriculture	1	1
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	4	0
Individual	14	4
Legal	3	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	3	0
Surveying, valuation and agents	3	2
Totals	**57**	**12**
Percentage	**83%**	**17%**

Sixty-nine respondents answered this question, 83% of whom felt that acquiring authorities should be able to confirm unopposed CPOs. Among those who expressed this view, the most common reason given was that it would improve efficiency, help to streamline the process and reduce delays. Linked to this, several

respondents suggested that enabling such 'self-confirmation' of unopposed CPOs would enable central government resources to be focussed on more complex and/or controversial cases. It was also stressed by a number of respondents that local authorities would need to be equipped with the necessary resources and skills to take on the role and responsibility that this proposal entails.

Some of those who supported the principle of acquiring authorities being able to confirm CPOs nevertheless noted that there would need to be appropriate safeguards to avoid such provisions being abused and to protect the rights of those affected. A few respondents also suggested that providing for self-confirmation of unopposed cases would bring Scotland into line with England and Wales.

Those who disagreed with self-confirmation expressed concerns about fairness, lack of transparency and insufficient scrutiny – it was suggested that this could undermine trust and confidence in the system, particularly given the intrusive nature of compulsory purchase. One respondent recognised the need to reduce administrative burdens but suggested this would be better achieved by streamlining the Ministerial confirmation process. Another respondent thought that self-confirmation could prejudice parties who have been unable to engage with the process or where land is unregistered and owners cannot be traced.

Question 34: If acquiring authorities are empowered to confirm unopposed CPOs, which approach outlined at paragraph 6.34 would be preferable – Option 1 or 2? Please explain your views.

Respondent categories	Option 1	Option 2
Active travel	0	0
Community land and development	1	2
Energy	0	2
Estates and agriculture	2	0
Heritage and architecture	0	1
Housebuilding and development	0	3
Housing and empty homes	0	1
Individual	3	12
Legal	1	2
Local authority	2	16
Other compulsory purchase	0	0
Other public sector	0	3
Planning and regeneration	1	2
Surveying, valuation and agents	1	2
Totals	**11**	**46**
Percentage	**19%**	**81%**

Of the 57 respondents who answered question 34, 81% expressed a preference for Option 2 (objections to be sent to the acquiring authority and the CPO sent to Ministers for confirmation if objections from statutory objectors are received). The key reason by those in favour of Option 2 was that it would offer greater time savings and simplification compared to Option 1 and thereby help to expedite the process. A

couple of respondents thought that Option 2 might incentivise early and effective engagement by acquiring authorities, helping to avoid objections arising.

Supporters of Option 1 (objections to be sent to Scottish Ministers and unopposed cases referred back to the acquiring authority) generally favoured this approach because it would retain a greater degree of oversight by the Scottish Ministers, which it was felt would ensure democratic accountability and independent scrutiny. Several respondents were concerned that Option 2 would concentrate too much power in acquiring authorities, who would be 'judge and jury' of unopposed CPOs. It should be noted that a few respondents who expressed support for Option 1 also answered 'no' to question 33, suggesting that their overall preference would be for Scottish Ministers to continue to confirm all CPOs, but if acquiring authorities were empowered to 'self-confirm' unopposed CPOs, then this option would be preferable. However, other respondents who responded 'no' to question 33 used their answer to question 34 to reiterate their opposition to the principle of acquiring authorities confirming unopposed CPOs, indicating that they supported neither option.

Question 35: Should Reporters be empowered to take CPO decisions, subject to published criteria regarding delegation by Scottish Ministers? Please explain your views.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	1
Energy	3	0
Estates and agriculture	1	1
Heritage and architecture	1	0
Housebuilding and development	2	1
Housing and empty homes	3	1
Individual	11	8
Legal	3	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	2	1
Planning and regeneration	2	0
Surveying, valuation and agents	4	1
Totals	**53**	**14**
Percentage	**79%**	**21%**

There were 67 responses to the question, of which 79% agreed that provision should be made to delegate CPO decisions to Reporters – subject to published criteria. The recurring reason given by respondents was that such a measure would streamline and speed up the confirmation process and – by avoiding 'double-handling' – would improve the efficiency of the system. Some respondents suggested that this would help to align CPOs with other types of casework such as planning appeals and provide consistency with the approach in England and Wales. Several respondents underlined the importance of published criteria in providing certainty and

transparency, and noted that Scottish Ministers should retain the ability to confirm more contentious or complex cases.

Those who answered ‘no’ to this question were generally concerned that delegation of CPO decision-taking to Reporters would reduce democratic accountability and oversight, which could erode confidence in the system. The intrusive nature of compulsory purchase was cited as a reason why all CPO decisions should remain in the hands of Scottish Ministers, with one respondent drawing a distinction between planning appeals (which Reporters are already empowered to determine) and CPOs. Two respondents suggested that, rather than enabling Reporters to take CPO decisions, the confirmation process could instead be sped up by introducing a statutory time limit for Scottish Ministers to decide CPOs.

Special category land

Question 36: Is additional scrutiny still needed for CPOs which include particular land? If yes, which of the four current special categories of land should this apply to?

- land owned by a local authority
- statutory undertaker land
- land held inalienably by the National Trust for Scotland (NTS)
- land forming part of a common or open space

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	0
Energy	2	1
Estates and agriculture	1	0
Heritage and architecture	2	0
Housebuilding and development	1	2
Housing and empty homes	1	0
Individual	10	9
Legal	2	1
Local authority	8	9
Other compulsory purchase	0	1
Other public sector	0	1
Planning and regeneration	0	0
Surveying, valuation and agents	2	2
Totals	**31**	**26**
Percentage	**54%**	**46%**

Of the 57 respondents who answered this question, a small majority (54%) were in favour of additional scrutiny in cases where special category land is included in a CPO. It was notable that several respondent groupings were split quite evenly between those for and against.

The second part of the question asked those who are in favour of additional scrutiny for CPOs which include particular types of land to indicate which category (or categories) of land this additional scrutiny should apply to. The results were:

- Land owned by a local authority (17 respondents)
- Statutory undertaker land (20 respondents)
- Land held inalienably by the National Trust for Scotland (24 respondents)
- Land forming part of a common or open space (24 respondents)

In commenting on their position, several respondents questioned whether the Special Parliamentary Procedure (SPP) was a proportionate form of additional scrutiny, or asserted that it was not. This overlaps with question 37, which asked about SPP specifically (see below).

A number of responses suggested that the CPO confirmation process itself provides sufficient safeguards for special category land – or that this could be provided by particular aspects of the process (such as requiring a PLI, involvement of a Reporter or ministerial oversight in certain cases) rather than SPP. One suggested adjusting the weight given to certain objectors in relation to special category land.

Question 37: If additional scrutiny of certain CPOs is needed, could there be alternative ways to achieve this other than Special Parliamentary Procedure? Please outline your suggestions.

Of the 34 who commented on alternative methods of additional scrutiny, a significant majority felt there are or could be alternative means of providing additional scrutiny to SPP.

The most commonly mentioned alternatives were: a requirement to hold a PLI, involvement of a Directorate for Planning and Environmental Appeals (DPEA) Reporter[2] and certification along the lines of CPOs which include statutory undertaker land (see question 38). These were often mentioned in combination with each other or with one or more other measures, either in certain circumstances or as a standard where special category land is involved. Other suggested measures included: Ministerial involvement; using independent experts and assessments; stronger public interest tests and early engagement requirements on acquiring authorities.

Other comments included reference to what any alternative must achieve, for example being proportionate, rigorous and integrated to the CPO process. A couple of responses specifically favoured the option of SPP with confirmation by Parliamentary motion rather than an Act of Parliament, whilst three responses mentioned this in combination with the other proposals in the consultation paper relating to a PLI and certification.

Four responses favoured retaining the current requirements, at least in certain cases. One of these felt the case had not been made for amending or removing SPP requirements, whilst another focussed on the importance of the National Trust for Scotland's right to declare land inalienable as a powerful tool in helping them to preserve conservation assets on behalf of the nation and in the public interest. Of the other two responses, one wanted SPP retained for statutory undertakers' land and the other for local authority land.

Question 38: Should the restriction on confirmation of CPOs that include statutory undertaker land apply only where a relevant objection is made by the undertaker whose land is included in the Order? If not, please explain your reasons.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	3	1

[2] Respondents were not always specific about the role intended for a Reporter/ DPEA (for example, to always hold a PLI or consider every relevant CPO regardless of the need for further procedure).

Respondent categories	Yes	No
Estates and agriculture	1	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	12	1
Legal	4	0
Local authority	16	0
Other compulsory purchase	1	0
Other public sector	1	0
Planning and regeneration	2	0
Surveying, valuation and agents	4	0
Totals	**50**	**2**
Percentage	**96%**	**4%**

The vast majority of those who responded to this question indicated that the restriction on confirmation of a CPO due to the inclusion of a statutory undertaker's land should only be triggered by an objection from the statutory undertaker themselves.

The current provisions do not specify that the objection necessarily needs to be made by the statutory undertaker, or that it relate to the inclusion of the undertaker's land within the CPO. The content of a few answers indicated there may have been some confusion about the current and proposed positions. One respondent, for example, mistakenly thought that currently the restriction applies automatically if statutory undertaker land were included in a CPO. Another appeared to think such a change would limit the ability of a statutory undertaker to object at all to the inclusion of their land in a CPO.

The comments in support of the consultation proposal suggested that such a requirement would be proportionate, offer targeted protection, avoid delay in processing and prevent other parties frustrating an order. Several supporters also felt the general ability for statutory undertakers and others to object to an order would provide sufficient safeguards.

One respondent who disagreed suggested that statutory undertakers may have their own reasons for not objecting, such as commercial or strategic reasons that have nothing to do with whether the compulsory purchase is appropriate, proportionate or in the wider public interest. This they felt may be at odds with the wider public's concern about the effect on essential services. They saw the change as risking a weakening of protections for administrative convenience rather than for strengthening fairness, and felt the inclusion of statutory undertaker's land in a CPO should automatically trigger enhanced scrutiny. The other opposing view was concerned about reducing safeguards for the interests of statutory undertakers in the electricity sector.

Question 39: Do you agree with the proposals at paragraph 6.57 regarding the interaction between CPOs and public rights of way? If not, please explain your reasons.

Respondent categories	Yes	No
Active travel	0	1
Community land and development	1	0
Energy	3	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	10	2
Legal	3	1
Local authority	17	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	2	0
Surveying, valuation and agents	4	0
Totals	**51**	**4**
Percentage	**93%**	**7%**

Of those who responded to this question, 93% were in favour of allowing a PLI for a CPO and the related closure of a public right of way to be conjoined and for Ministerial discretion as to the holding of a PLI.

Less than a third of those in favour of the proposal expanded on their reasons for support. There were references to the proposals being sensible and proportionate, reducing delays, with several responses emphasising the criteria for the provision of an alternative route and/ or the need to justify the CPO vis a vis the particular public right of way, would act as suitable safeguards. One response felt Core Paths should be included in the legislation, while a couple felt provision of a suitable alternative route should remove the need for a PLI.

Amongst those opposing the change, all four disagreed with Ministerial discretion around the holding of a PLI (two explicitly favoured conjoining inquiries). One saw PLI as being the only way to secure a public right of way, and another saw it as the only way to examine a proposed alternative route. A third had a range of concerns around procedures for the closure and re-routing of rights of way.

Scope and timing of CPO decisions

Question 40: Should there be a mechanism that would allow statutory objections to be addressed during the confirmation process, so avoiding unnecessary hearings or PLIs?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	1
Energy	4	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	14	2
Legal	4	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	1	0
Surveying, valuation and agents	4	1
Totals	**58**	**4**
Percentage	**94%**	**6%**

There were 62 responses to question 40, with 94% of respondents agreeing that there should be a mechanism to allow statutory objections to be addressed during the confirmation stage in order to avoid PLIs or hearings being held unnecessarily. It was suggested this would provide greater flexibility which, insofar as it avoids the need for a PLI/hearing, could save time and money. However, most respondents who provided comments did so in response to question 41. None of those who answered 'no' to question 40 gave specific reasons.

Question 41: If provision for such a mechanism were made, what procedures or safeguards would need to be put in place to ensure fairness? Could either of the suggestions in paragraph 6.62 achieve this?

There were 46 responses to this question, although the most common comment from respondents was to express general support for the outline proposals at paragraph 6.62 of the consultation document. Several respondents stated that either or both of the two proposals would be suitable, with only one respondent expressing a preference between these options (power to modify the CPO during the confirmation process).

A number of suggestions were made in response to the sub-question about potential procedures or safeguards, although these were mostly expressed in quite general terms. These included, for example: clear notification provisions so that affected parties are made aware of (and have the chance to comment on) changes; opportunities to lodge objections; use of statements of common ground; awards of

expenses; and clear audit trails to ensure transparency. Some respondents proposed that any provisions should be underpinned by guidance; another suggested that Scottish Government should work with practitioners to design and develop the processes in further detail to ensure they are workable.

Question 42: Would a power to confirm CPOs subject to conditions be helpful in terms of overall project delivery? Please explain your views.

Respondent categories	Yes	No
Active travel	1	0
Community land and development	2	0
Energy	4	1
Estates and agriculture	1	0
Heritage and architecture	1	0
Housebuilding and development	2	0
Housing and empty homes	1	0
Individual	4	5
Legal	2	0
Local authority	14	2
Other compulsory purchase	1	0
Other public sector	1	1
Planning and regeneration	2	0
Surveying, valuation and agents	4	0
Totals	**40**	**9**
Percentage	**82%**	**18%**

Forty-nine respondents answered the question about the principle of introducing 'conditional CPOs'. Of these, 82% agreed that a power to confirm CPOs subject to conditions would be helpful. The flexibility that such a measure would afford acquiring authorities (and their development/funding partners) was the key reason given by those who were in favour. Several respondents suggested that conditional CPOs would help acquiring authorities to manage and mitigate delivery risks/contingencies, for example where a project involves obtaining other consents. A number of those who supported the idea of conditional CPOs nevertheless underlined the need for safeguards (see question 43), stressing that conditions would need to be clearly/narrowly defined, precise and enforceable. Several respondents suggested that guidance on the use of conditions in a CPO context would be required. A couple of respondents who felt conditional CPOs could be helpful noted that such provisions have been recently introduced in England and Wales by the UK Government.

The key concern raised by those who were opposed to the proposal was the potential uncertainty for affected owners and occupiers, who it was suggested could experience hardship as a result. Concerns were expressed that the availability of conditional CPOs could result in Orders being made prematurely or speculatively, and that the nature of compulsory purchase requires a front-loaded approach in which all relevant details are provided. Linked to uncertainty, some respondents felt that the ability to confirm CPOs subject to conditions could prolong the process

rather than speed it up. Additional complexity was also flagged as a potential drawback by a number of respondents.

Question 43: If conditional CPOs were taken forward, what additional procedures and safeguards would need to be in place to ensure fair and proportionate use?

There were 39 responses to the open question about potential safeguards for the use of conditional CPOs. A range of suggestions were put forward, the most common of which was prescribed timelines for discharging conditions, in order to limit uncertainty for affected parties. Notification requirements and opportunities to make representations – as well as the ability to challenge decisions – were also recurring suggestions.

Several respondents felt that there ought to be clear limits on the scope of conditions, with some suggesting that guidance could set out tests to ensure they are reasonable, precise and enforceable. One respondent stated that conditions should relate only to the securing of funding or other consents. Other suggestions included making provision for compensation/cost recovery where additional expenses are incurred through the use of a conditional CPO and, in the interests of transparency, a requirement to publish conditions. Noting the recent introduction of conditional CPOs in England and Wales, it was suggested that lessons from the use of those provisions should inform policy development in Scotland.

Question 44: Do you agree that the Scottish Government should publish target timescales for the issuing of CPO decisions, rather than having binding statutory time limits? If not, please explain your reasons.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	3	0
Energy	2	3
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	2	1
Housing and empty homes	1	0
Individual	8	8
Legal	3	0
Local authority	17	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	1	0
Surveying, valuation and agents	2	2
Totals	**46**	**14**
Percentage	**77%**	**23%**

Sixty respondents answered the question, with 77% agreeing that target timescales would be more appropriate than binding statutory time limits. The key reasons given for supporting this approach were that it would provide additional transparency and

predictability, whilst maintaining a level of flexibility that recognises variation between schemes in terms of scale and complexity. Several respondents suggested that statutory time limits could give rise to unintended consequences, including cases being rushed in order to meet deadlines – potentially resulting in less robust decision-taking. A number of those who were supportive nevertheless stressed that, in the interests of transparency and accountability, performance against targets should be monitored and kept under review to ensure they are realistic, with reasons given for slippage/non-compliance (see also questions 45 and 46).

Those who were not supportive of the proposed approach expressed concerns that non-binding timescales would be insufficient to have a meaningful impact on expediting the confirmation process. It was suggested that binding time limits would provide significantly more certainty, which would be beneficial for affected landowners, acquiring authorities and potential investors. A few respondents who advocated statutory timescales felt that, rather than the blunt sanction of deemed approval/refusal provisions, there could instead be a mechanism through which deadlines may be extended by the decision-taker – who would be required to publicise a new date and give reasons. One respondent pointed to the development consent regime for nationally significant infrastructure projects in England as a potential model.

Question 45: If targets (statutory or otherwise) are not met, what sanctions might be appropriate?

Thirty-seven comments were made in response to question 45, although there was significant overlap between respondents' answers to this question and questions 44 and 46. Several respondents used their answers to expand on why they did not support binding statutory time limits (question 44), indicating that they thought legislative sanctions would be ineffective, expressing concern that such an approach could be counter-productive and/or compromise the quality of decision-taking.

Although arguably not a 'sanction' as such, a number of respondents underlined the importance of transparency and accountability. Some responses suggested that a requirement to report on performance against timescales (e.g. annually or quarterly) would help to identify resource gaps and drive performance improvements, which could in turn provide greater certainty and confidence. Other respondents reiterated their support for statutory time limits, but with provision for these to be extended on a case-by-case basis where the decision-taker publicises a revised timetable and reasons for delays. One respondent referred to such approaches as a form of 'reputational sanction'.

Some respondents did, however, make suggestions for sanctions other than reporting requirements. Several responses proposed financial penalties or compensation – although some suggested this should be paid to acquiring authorities and others suggested it should be paid to affected landowners/occupiers. A few respondents argued that if timescales were not met, the CPO should be automatically cancelled/extinguished. One respondent suggested that in certain circumstances, the CPO should be automatically confirmed if timescales are not met.

Question 46: Should the Scottish Government be required to report on compliance with any target timescales for CPOs?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	3	0
Energy	5	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	16	2
Legal	2	0
Local authority	17	0
Other compulsory purchase	1	0
Other public sector	1	0
Planning and regeneration	2	0
Surveying, valuation and agents	3	1
Totals	**57**	**3**
Percentage	**95%**	**5%**

There were 60 responses to this question, of which 95% agreed that the Scottish Government should be required to report on compliance with timescales for CPO decision-taking. There were comparatively few (11) comments in response to question 46 specifically. However, as noted above, many respondents outlined why they were in favour of performance reporting in their answers to questions 44 and 45: namely, doing so would provide greater transparency and accountability, which could in turn help to drive swifter decision-taking and provide greater certainty and confidence for all parties. None of the respondents who answered 'no' to question 46 gave specific reasons.

Challenges to a CPO

Question 47: Do you agree that the grounds on which a confirmed CPO may be legally challenged should be retained? If not, please explain your reasons.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	0
Energy	4	0
Estates and agriculture	2	0
Heritage and architecture	0	1
Housebuilding and development	2	0
Housing and empty homes	1	0
Individual	12	3
Legal	4	0

Respondent categories	Yes	No
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	3	0
Surveying, valuation and agents	5	0
Totals	**57**	**4**
Percentage	**93%**	**7%**

There were 61 responses to this question, of which 93% agreed that the current grounds for challenging a CPO should be retained. Those who answered 'yes' and expanded on their answer generally considered that the existing grounds of challenge were well-established and clear, providing an important safeguard against misuse of CPO powers whilst protecting the judgement of the decision-taker. Several respondents felt that the current grounds were important in providing accountability, supporting procedural fairness and thereby maintaining confidence in the system. A couple of those who agreed with the retention of the current grounds of challenge nevertheless felt that the wording of the legislation could be updated to align with modern terminology – and that guidance could help to clarify the provisions.

Those who answered 'no' did not suggest alternative grounds, although a couple of respondents used their answers to voice concern about the time and expense of legal proceedings for acquiring authorities – suggesting that too many projects are delayed by litigation and that this can sometimes be used as a tactic by objectors. One respondent expressed a more general concern about the lack of merits-based appeal against decisions taken by the DPEA or Scottish Ministers, suggesting that current routes of legal challenge were too expensive for objectors.

Question 48: Should the 6-week period within which a confirmed CPO may be legally challenged be retained? If not, what should the period be?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	0
Energy	4	0
Estates and agriculture	2	0
Heritage and architecture	0	1
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	14	2
Legal	3	0
Local authority	17	1
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	3	0
Surveying, valuation and agents	5	0

Respondent categories	Yes	No
Totals	**58**	**4**
Percentage	**94%**	**6%**

Sixty-two respondents answered this question, 94% of whom agreed with the retention of the 6-week period for challenging the confirmation of a CPO. The key reasons given by those who answered 'yes' were that 6-weeks is consistent with analogous regimes and that it strikes a fair balance between acquiring authorities' need for certainty while providing aggrieved parties with access to justice.

Only three respondents put forward an alternative challenge period although each gave a different answer: one suggested three months, another suggested 20 working days and a third suggested 10 working days. One respondent proposed removing the right to legally challenge CPO decisions altogether.

Question 49: If a legal challenge is successful, should the court have discretion to quash just the confirmation decision, rather than its only remedy being to quash the Order itself?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	0
Energy	4	0
Estates and agriculture	2	0
Heritage and architecture	0	1
Housebuilding and development	2	0
Housing and empty homes	1	0
Individual	14	2
Legal	3	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	3	0
Surveying, valuation and agents	5	0
Totals	**58**	**3**
Percentage	**95%**	**5%**

There were 61 responses to question 49, of which 95% agreed that the court should have discretion to quash just the decision to confirm a CPO rather than having no option other than to quash the CPO itself. Relatively few (10) respondents expanded on their answer. Those who did so suggested that such a provision would provide greater flexibility, proportionality and potentially help to avoid unnecessary delays and costs. None of those who answered 'no' gave reasons.

7. Implementation

Procedure

Question 50: Do you agree that there should be a single procedure for implementing compulsory purchase, similar to GVD? If not, what problems do you see with this approach?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	3	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	13	1
Legal	3	0
Local Authority	17	0
Other compulsory purchase	1	0
Other public sector	4	0
Planning and regeneration	2	0
Surveying, valuation and agents	4	0
Totals	**55**	**1**
Percentage	**98%**	**2%**

There were 56 responses to the closed question. All but one (98%) were in favour of a single procedure for implementing compulsory purchase, similar to the current general vesting declaration (GVD) procedure.

Twenty-four comments were made on this question. The largest number agreed that a single procedure, and following the GVD approach, would simplify the process. Several respondents noted that GVD is now almost always used in Scotland. Some highlighted that the alternative procedure, Notice to Treat, provides for quicker entry and allows interests in short leases to be acquired, so the new procedure would need to cover these issues. Others suggested that a separate procedure would be needed for the proposed power to take temporary possession of land, and one offered an alternative process which would cover both temporary and permanent acquisition.

Three individuals (who did not all answer the closed question) were concerned that the GVD-style approach risked removing safeguards for the landowner, and took the view that compensation should be agreed before title is transferred.

Objection to severance

Question 51: Should there be a single test for objection to severance, or a different categorisation? If you propose different categories, please explain what they would be.

Respondent categories	Current categories	Single test	Different categories
Active travel	0	0	0
Community land and development	0	1	0
Energy	0	1	2
Estates and agriculture	0	1	0
Heritage and architecture	0	0	1
Housebuilding and development	1	2	0
Housing and empty homes	1	0	0
Individual	2	6	3
Legal	1	2	0
Local authority	2	10	4
Other compulsory purchase	0	1	0
Other public sector	0	1	0
Planning and regeneration	0	2	0
Surveying, valuation and agents	1	4	0
Totals	**8**	**31**	**10**
Percentage	**16%**	**63%**	**21%**

There were 49 responses to the closed question, of which a majority (63%) preferred a single test for objection to severance. There was little support (16%) for maintaining the current categories, but slightly more (21%) for a new set of different categories.

Thirty-one respondents commented on this question. Both those who favoured a single test and those who preferred different categories had similar concerns. It was felt that the current categories are unclear and complex, and that the new system needs to cover all types of land: there were different views as to whether this requires different categories, or separate criteria or guidance on what constitutes “material detriment” in different cases, within a single test. Some respondents suggested new categories, while others felt there should be additional consultation on the detail of the new approach.

Question 52: Under the new compulsory purchase vesting declaration (CPVD), should a notice of objection to severance prevent the land included in the CPO from vesting in the acquiring authority?

Note that the consultation paper proposed that a notice of objection to severance should **not** prevent the land from vesting, therefore "no" indicates agreement with the proposal here.

Respondent categories	Yes	No (proposed)
Active travel	0	0
Community land and development	0	0
Energy	0	3
Estates and agriculture	0	3
Heritage and architecture	0	1
Housebuilding and development	1	2
Housing and empty homes	0	1
Individual	6	4
Legal	1	2
Local authority	0	17
Other compulsory purchase	0	1
Other public sector	0	1
Planning and regeneration	1	1
Surveying, valuation and agents	1	3
Totals	**10**	**39**
Percentage	**20%**	**80%**

Forty-nine respondents answered the question, of whom 80% agreed that a notice of objection to severance should not prevent the land vesting in the acquiring authority. The main arguments of those who supported the proposal were that: the acquisition of the land included in the CPO has already been approved; it is necessary to allow projects to go ahead without delay; and severance should be considered as part of the compensation process. Those who opposed the proposal were generally concerned over the impact of the severance on the landowner.

Timing

The online questionnaire was structured with closed questions 53 to 56, and then question 57 was an open question with the opportunity to comment on any of these points. However, many of those who responded by email gave comments on questions 53 to 56 individually, and some of those who responded online allocated their comments under question 57 to separate questions. The comments have therefore been summarised under each question.

Question 53: Should confirmation notices be required to be published within 6 weeks of the date on which the order is confirmed? If you disagree, what timing would you prefer, and why?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	1	2
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	0	1
Individual	9	2
Legal	4	0
Local authority	14	3
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	3	0
Surveying, valuation and agents	5	0
Totals	**46**	**8**
Percentage	**85%**	**15%**

Fifty-four respondents answered the question, of whom 85% agreed that confirmation notices should be published within 6 weeks and 15% disagreed.

Twenty-four respondents provided comments, around a third of whom suggested different periods for publishing confirmation notices, ranging from 7 to 14 days, up to 3 months. A couple suggested making allowance for public holidays, either by making the period 8 weeks or setting the time in terms of working days.

Some respondents felt that a set timescale was helpful in providing certainty for owners and occupiers, and some of these suggested a shorter period than six weeks. Several local authorities and other acquiring authorities considered that a longer timescale, or flexibility, was necessary to allow for complex projects and those involving large numbers of land interests. A couple highlighted the current uncertainty over the timing of confirmation. One asked what the consequences would be of failing to comply with the time limit, saying that “It would be disproportionate if the CPO confirmation was prejudiced”.

Question 54: Do you agree that the standard implementation period should remain at three years?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	5	0
Estates and agriculture	2	0
Heritage and architecture	1	1
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	10	3

Respondent categories	Yes	No
Legal	2	1
Local authority	13	5
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	2	1
Surveying, valuation and agents	1	3
Totals	**45**	**14**
Percentage	**76%**	**24%**

Fifty-nine respondents answered the question. Three quarters of them agreed that the standard implementation period should remain at three years. One respondent selected “yes” and then commented that they “disagree”. This response has been discounted as unclear.

Most of those commenting on this question agreed that 3 years was appropriate for the standard period, although some felt this should be an absolute maximum and others felt it should be able to be extended for more complex cases. Some suggested linking it with the time limit for implementing any associated planning permission.

Several respondents felt the implementation period should be shorter; the principal rationale being that this would reduce uncertainty for those affected by a CPO. The most common suggestion was two years although one suggested 12-18 months.

Question 55: Should confirming authorities be able to specify a longer or shorter implementation period?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	3	1
Estates and agriculture	0	2
Heritage and architecture	1	0
Housebuilding and development	2	1
Housing and empty homes	1	0
Individual	6	7
Legal	3	0
Local authority	15	3
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	2	1
Surveying, valuation and agents	3	2
Totals	**41**	**17**
Percentage	**71%**	**29%**

Fifty-eight respondents answered the question, 71% of whom agreed that confirming authorities should be able to specify a longer or shorter implementation period.

Those who commented on this question mostly agreed that it should be possible to specify a longer implementation period for larger or more complex schemes, with fewer mentioning the possibility of shorter periods. There were varying degrees of emphasis on the need for detailed justification for any extension; a few suggested that landowners should have a right to challenge any extension, while others proposed that acquiring authorities themselves should be able to extend the time limit. Legal organisations and energy companies, in particular, proposed that guidance should set out the circumstances in which an extension would be appropriate. Those who opposed the proposal focused on unfairness and uncertainty for owners / occupiers.

Question 56: Do you agree that the time limit should be suspended during any court challenge to the validity of the CPO?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	5	0
Estates and agriculture	0	2
Heritage and architecture	0	1
Housebuilding and development	3	0
Housing and Empty Homes	1	0
Individual	11	2
Legal	3	0
Local Authority	18	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	2	0
Surveying, valuation and agents	5	0
Totals	**53**	**5**
Percentage	**91%**	**9%**

Of those who responded to the question, almost all (91%) agreed that the time limit should be suspended during any court challenge. The majority of those who commented agreed that the time limit should be suspended, to avoid reducing the time available to implement the CPO. One suggested that instead of suspension, a court challenge should be a ground on which to apply for an extension of the time limit, only if the authority would be unable to implement the CPO in time.

Three comments opposed suspending the time limit, saying that doing so would penalise those affected by the CPO and could encourage poorly prepared cases.

Question 57: Please add any comments on the time limit for implementation, if you wish to expand on your answers to questions 53 to 56.

All comments made under this question have been covered in the previous paragraphs.

Question 58: Do you agree that the new CPVD should take effect six weeks after notification that it has been made? If not, what should the period be, and why?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	3	0
Estates and agriculture	1	1
Heritage and architecture	1	0
Housebuilding and development	2	1
Housing and empty homes	1	0
Individual	8	3
Legal	2	1
Local authority	15	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	2	0
Surveying, valuation and agents	4	1
Totals	**43**	**7**
Percentage	**86%**	**14%**

Fifty respondents answered the closed question, of whom 86% agreed that a CPVD should take effect six weeks after notification that it has been made.

Twelve respondents provided comments. Most of these disagreed, taking the view that those affected by CPO would need a longer period to arrange their affairs and to vacate the land, or to consider whether to challenge the validity of the CPO. Some respondents offered alternative periods: 12 weeks or 3 months was the most common suggestion. This would align with the current period between serving a notice of intention to make a GVD, and the GVD taking effect.

Others agreed generally with the proposal, but recommended that the period should be 8 weeks, or 30 working days, to allow for public holidays. One suggested that a two-week buffer should be allowed beyond the period for bringing a legal challenge, to allow notices to be delivered and the vesting to be halted.

Question 59: Is there a need for a separate stage to notify people with an interest in the land and seek information from them?

Note that there is currently a separate notification stage, which the consultation paper proposed should be removed. “No” therefore indicates agreement with the proposal in this question.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	1
Energy	0	4
Estates and agriculture	1	0
Heritage and architecture	1	0
Housebuilding and development	1	2
Housing and empty homes	0	1
Individual	5	7
Legal	1	2
Local authority	1	14
Other compulsory purchase	0	1
Other public sector	0	2
Planning and regeneration	0	2
Surveying, valuation and agents	0	3
Totals	**10**	**39**
Percentage	**20%**	**80%**

Forty-nine respondents answered this question, and 80% of them agreed with the proposal that the separate notification stage is not necessary. There were only 11 comments on this question. Most agreed that the information about people with an interest in the land should have been gathered at an earlier stage in the process, but others thought an additional stage would be helpful to ensure the information was up to date. One was concerned to ensure that agricultural tenants were included, as well as owners. Some wanted provisions to ensure that those notified provided information promptly.

Effect on title

Question 60: Should the new CPVD provide the acquiring authority with a valid title, removing all defects, real burdens, servitudes etc and securities? If not, please explain your reasons.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	4	0
Estates and agriculture	1	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	11	2
Legal	3	0
Local authority	17	0
Other compulsory purchase	1	0
Other public sector	2	0

Respondent categories	Yes	No
Planning and regeneration	2	0
Surveying, valuation and agents	5	0
Totals	**52**	**2**
Percentage	**96%**	**4%**

Fifty-four respondents answered this question, and 96% agreed that the new CPVD should provide the acquiring authority with a “clean” title. Among the 24 who commented on this question, many stated that it was important to enable projects to go ahead without delays. However, others highlighted the need to carefully consider what rights might continue to be required, depending on the purpose of the CPO, such as access rights for neighbouring properties and for utilities.

Some respondents sought clarification on what would be covered by “defects” removed from the title, and how the proposal would interact with interests registered in relation to rights to buy, and other Land Reform legislation.

Question 61: In relation to section 107 of the Title Conditions Act, should the legislation be amended to clarify that the acquiring authority simply has to have relevant compulsory purchase powers? If not, please explain your reasons.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	4	0
Estates and agriculture	1	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	9	2
Legal	3	0
Local authority	17	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	2	0
Surveying, valuation and agents	4	0
Totals	**49**	**2**
Percentage	**96%**	**4%**

Fifty-one respondents answered the closed question, almost all of whom (96%) agreed with the proposal. This would allow burdens and servitudes to be removed from the title of land which is acquired by agreement, where the authority has powers which could have been used to acquire it compulsorily.

Sixteen respondents commented on the proposal. Most agreed that it would be helpful, to avoid additional process and encourage authorities to acquire land by agreement. One said that authorities sometimes find they need to use compulsory

purchase to “cleanse” the title, when they could otherwise have acquired the land by agreement.

One respondent felt that this proposal represented a reduction in scrutiny and safeguards for compulsory purchase. Another ostensibly offered no view, but said the legislation should ensure that s.107 only applies in circumstances where the authority would otherwise have acquired the land compulsorily, rather than any case where it has powers and acquires land. This appears to oppose the proposal.

Question 62: Should acquiring authorities be able to include land in a CPVD which belongs to them, or where they are unsure if it does? If not, please explain your reasons.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	4	0
Estates and agriculture	0	1
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	10	2
Legal	3	0
Local authority	17	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	2	0
Surveying, valuation and agents	4	1
Totals	**49**	**4**
Percentage	**92%**	**8%**

Fifty-three respondents answered the closed question, of whom 92% agreed that acquiring authorities should be able to include land that belongs to them, or land where the ownership is unclear, in a CPVD.

Twenty-nine respondents provided comments; 21 generally agreed that it would be helpful to allow acquiring authorities to include land in a CPVD where ownership is unclear. Several commented that it should not be necessary to use this approach where the authority is certain it owns the land, but others suggested it could be used to extinguish burdens, servitudes and leases, with appropriate compensation.

While some who were in favour of the proposal believed it would help to clarify ownership and avoid future disputes, some who were against it felt it would do the opposite. These respondents believed that ownership should be established through title searches and “normal legal processes” before land is included in a CPVD.

A couple of respondents expressed concern about the rule that a person cannot convey land to themselves. One of these suggested that an alternative approach

could be provided for, which simply confirms that the acquiring authority “takes or holds title to the land concerned”, rather than conveying it.

Question 63: Should a note be added to the title sheet in the Land Register stating that the title was acquired by compulsory purchase? If not, please explain your reasons.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	4	0
Estates and agriculture	2	0
Heritage and architecture	0	1
Housebuilding and development	2	0
Housing and empty homes	1	0
Individual	13	0
Legal	4	0
Local authority	15	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	2	0
Surveying, valuation and agents	4	0
Totals	**51**	**1**
Percentage	**98%**	**2%**

All but one of the 52 respondents who answered this question agreed with the proposal. 25 respondents provided a comment; 17 of them agreed that a note on title would be helpful to clarify that the land was acquired by compulsory purchase, which would explain what had happened to previous burdens, servitudes etc. Additional comments included that it would show that the price paid was not an open market transaction, and that the use of CPO should not imply any defect, stigma, or expectation of continued compensation.

Several respondents considered that a note in the land register would be helpful when disposing of surplus land, under the Crichel Down rules, and suggested that the note should also show the name of the previous owner.

A few respondents were uncertain what the purpose of such a note would be, and gave differing accounts of what is already visible in the Land Register. Two legal organisations queried whether notes should also be added to other titles affected by the CPO, such as the benefitted property of a real burden which has been extinguished.

Rights subordinate to ownership

Question 64: Would there be any difficulties in including all leases and liferents in a CPVD, extinguishing them in return for compensation?

Thirty-five respondents commented on this question. Most felt there would be no problem with including leases and liferents in a CPVD, provided appropriate compensation was paid. Some noted that there may be complications in valuing a lease or liferent, separate from ownership.

Some respondents suggested there should be flexibility for a CPVD to allow a lease to continue for a time. This could suit both the acquiring authority and the tenants, where the land is not needed immediately for the project. It could allow more time to relocate, potentially reducing the need to compensate for lost crops, for example, and avoid the need for the authority to manage an empty property.

Other respondents expressed concerns about residential tenancies being ended and leaving people without accommodation. It was recommended that the legislation should align with housing law and existing provisions on ending leases and liferents.

8. Compensation

Value of land acquired

Question 65: Do you agree that compulsory purchase compensation in Scotland should continue to be based on the principle of equivalence? If not, please explain your reasons.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	3	0
Energy	4	0
Estates and agriculture	3	0
Heritage and architecture	3	0
Housebuilding and development	3	0
Housing and empty homes	3	1
Individual	18	2
Legal	3	0
Local authority	17	0
Other compulsory purchase	1	0
Other public sector	4	0
Planning and regeneration	2	1
Surveying, valuation and agents	2	1
Totals	**66**	**5**
Percentage	**93%**	**7%**

Seventy-one respondents answered this question and 50 offered comments. In response to the closed question, 93% agreed that compensation should continue to be based on the principle of equivalence. However, a substantial number of the comments disputed whether the current system effectively delivers equivalence. These were equally divided between those who felt it pays too much, and those who felt it pays too little.

A third of the comments agreed that the principle of equivalence should remain in its present form. They viewed it as being fair and well understood. One respondent commented that equivalence was important to maintain good relationships with landowners and avoid disputes and delays in the system.

Several respondents considered that the current system does not provide full compensation for all the impacts of compulsory purchase on the landowner. Some believed that this was due to the need to refer disputes to the Lands Tribunal for Scotland (LTS), and recommended that the costs and delay of doing so should be taken into consideration.

Views were quite sharply divided whether compensation should take account of “hope value” and the extent to which doing so is consistent with the equivalence principle. Several respondents, including most of those in the house building and development group, explicitly supported its retention, saying that it was fundamental

to fairness. Others stated that compensation should not include the value of potential future development, taking the view that this would make it easier to implement projects in the public interest. Other respondents, mainly from the housing and empty homes grouping, recommended provisions to ensure that owners were not rewarded for leaving property vacant or neglected.

A few respondents noted that separate provision would need to be made to ensure appropriate compensation for temporary possession or for conditional CPOs, where value could change as a result of conditions being met.

Question 66: Should compensation for land acquired compulsorily continue to be based on an assessment of its market value (disregarding increases/decreases attributable to the CPO scheme)? Please note that the following questions consider potential exceptions to this approach.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	2
Energy	3	0
Estates and agriculture	3	0
Heritage and architecture	4	0
Housebuilding and development	7	0
Housing and empty homes	0	2
Individual	18	2
Legal	4	0
Local authority	17	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	3	1
Surveying, valuation and agents	4	0
Totals	**68**	**7**
Percentage	**91%**	**9%**

Seventy-five respondents answered this question, and 91% agreed that compensation for land should continue to be based on market value. However, as with the previous question, the comments revealed differences of opinion on how market value should be defined and assessed. None of the respondents who answered “no” gave comments.

There were 29 comments. Almost half of these simply agreed that market value should continue to be used, with some specifically endorsing the “no scheme” principle. As with the previous question, several respondents expressed their support for “hope value” being retained as a component of market value, while others said it should be excluded in relation to empty homes or land acquired for affordable housing, to make projects more viable. Energy companies suggested there was a need for a different basis of compensation, related to actual impact, for temporary possession required for the transport of wind turbine parts (“oversail and pinch points”).

Question 67: Should acquiring authorities have the power to request that, for a specific CPO, compensation would take no account of the prospect of planning permission being granted for alternative development? It would be for Scottish Ministers to make the decision when confirming the CPO.

In what circumstances do you think this approach would be justified?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	1
Energy	1	2
Estates and agriculture	0	3
Heritage and architecture	2	2
Housebuilding and development	0	6
Housing and empty homes	3	0
Individual	3	13
Legal	1	0
Local authority	14	3
Other compulsory purchase	0	1
Other public sector	1	0
Planning and regeneration	3	0
Surveying, valuation and agents	1	3
Totals	**31**	**34**
Percentage	**48%**	**52%**

Sixty-five respondents answered the closed question. While the overall response was equally divided, there were sharp differences between categories. Local authorities, housing and empty homes and planning and regeneration bodies had a strong majority in favour of a power to ignore the potential for alternative development in calculating compensation, while individuals, estates and agriculture and housebuilding and development categories were strongly opposed.

Fifty-seven respondents commented on this issue. Half of the comments were in favour of the proposal, and gave a wide range of reasons or circumstances in which alternative development should be discounted. Some felt that “speculative” or “hypothetical” development value should be routinely excluded, on the basis that it inflates land prices unrealistically, rewards inactive land ownership and hinders development that is in the public interest. Proposals for circumstances where no account should be taken of hope value included:

- the property is an empty home or has been allowed to deteriorate
- the value of the owner’s remaining land will benefit from the scheme to which the CPO relates
- the site is allocated in the local development plan for specific use
- the CPO is used to provide affordable housing or other development with significant public benefit

- the CPO is to accelerate town centre regeneration plans or to address the sport, recreation and well being needs of a community

A third of comments opposed the proposal. Many of these simply said it would be unfair and/or would not deliver equivalence. Some mentioned potential conflict with ECHR requirements, or greater risk of disputes and legal challenges, which would increase the cost to the acquiring authority and could cause delay. Some also viewed hope value as an intrinsic element of market value and necessary to the effective functioning of land markets.

Several respondents considered that there could be grounds for excluding hope value in exceptional circumstances, whether they answered yes or no to the closed question. They called for clear definitions and tests for such exceptions.

Question 68: Should the no-scheme principle be codified in the legislation?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	3	0
Energy	3	0
Estates and agriculture	0	1
Heritage and architecture	2	0
Housebuilding and development	3	0
Housing and empty homes	2	0
Individual	11	2
Legal	3	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	1	0
Planning and regeneration	3	0
Surveying, valuation and agents	4	0
Totals	**54**	**3**
Percentage	**95%**	**5%**

Of the 57 responses to the question, 95% agreed that the no-scheme principle should be codified. Since there was no comment box for this question in the online questionnaire, the comments made in email responses have been combined with those under the following question, as they generally addressed similar points.

Question 69: If the no-scheme principle is codified, do you agree with the outline proposal at paragraph 8.39? Are there any other matters that would need to be addressed?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	0
Energy	2	1
Estates and agriculture	1	0
Heritage and architecture	2	0
Housebuilding and development	2	0
Housing and empty homes	2	0
Individual	10	2
Legal	3	0
Local authority	17	0
Other compulsory purchase	1	0
Other public sector	0	0
Planning and regeneration	3	0
Surveying, valuation and agents	3	0
Totals	**48**	**3**
Percentage	**94%**	**6%**

Fifty-one respondents answered this question, of whom 94% agreed with the outline proposal for codifying the no-scheme principle.

The majority of the comments were supportive of the proposed codification of the no-scheme principle, with many saying that it would provide helpful clarity and potentially reduce disputes. However, others expressed concern that careful drafting would be necessary and there was a risk of introducing additional complexity. One pointed to the repeated amendment of the provisions in England; another suggested that guidance would be preferable to ensure it remains current.

Respondents raised various points about what should be included in the legislation, particularly in relation to the definition of “the scheme” and the treatment of linked or overlapping works. Some recommended further consultation on the detail. A few respondents took the opportunity to reiterate their views on the inclusion or exclusion of hope value.

Question 70: Should the planning assumptions be repealed and re-written?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	2	0
Energy	3	0
Estates and agriculture	2	0
Heritage and architecture	3	0
Housebuilding and development	3	0

Respondent categories	Yes	No
Housing and empty homes	2	0
Individual	12	1
Legal	4	0
Local authority	18	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	3	0
Surveying, valuation and agents	5	0
Totals	**60**	**1**
Percentage	**98%**	**2%**

Sixty-one respondents answered this question and only one opposed re-writing the planning assumptions. As with questions 68 and 69, comments for questions 70 and 71 have been combined.

Question 71: Do you agree with the broad outline for how the planning assumptions might be reformed set out in paragraphs 8.45 to 8.46? Do you have any comments on the proposed changes to the planning assumptions?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	2	1
Estates and agriculture	2	0
Heritage and architecture	2	0
Housebuilding and development	3	0
Housing and empty homes	1	1
Individual	10	2
Legal	4	0
Local authority	16	1
Other compulsory purchase	1	0
Other public sector	1	0
Planning and regeneration	3	0
Surveying, valuation and agents	5	0
Totals	**51**	**5**
Percentage	**91%**	**9%**

Fifty-six respondents answered this question, of whom 91% agreed with the proposals for reforming the planning assumptions. The main reasons given for supporting the proposals were to provide greater clarity, certainty and transparency, and to align the planning assumptions with the current planning system, including National Planning Framework 4. While a couple of responses called for the assumptions to continue to take account of hope value, several respondents argued that care should be taken to ensure valuations include only realistic prospects of future permissions, and take account of development costs including infrastructure. A

few also commended the proposal to link the planning assumptions with the no scheme principle.

Question 72: Should CAADs be retained as a tool to establish development value in a CPO context, or should they be abolished? Please explain your reasons.

Respondent categories	Retain	Abolish
Active travel	0	0
Community land and development	1	1
Energy	2	1
Estates and agriculture	1	1
Heritage and architecture	1	1
Housebuilding and development	2	1
Housing and empty homes	0	1
Individual	6	5
Legal	2	0
Local authority	15	2
Other compulsory purchase	1	0
Other public sector	0	1
Planning and regeneration	1	1
Surveying, valuation and agents	1	3
Totals	**33**	**18**
Percentage	**65%**	**35%**

Fifty-one respondents answered this question; 41 provided comments. Overall, 65% wanted to retain Certificates of Alternative Appropriate Development (CAADs) and 35% said they should be abolished. Local authorities were strongly in favour of retaining CAADs; other groups were more equally split.

There were several sets of opposing views expressed in the comments. A large number of respondents felt CAADs were an important mechanism for providing clarity about what alternative forms of development would be acceptable, and that this could reduce the scope for disputes. Some of these mentioned CAADs' role in establishing development or hope value. However, several others believed that they had limited impact on the final compensation assessment.

A number of local authorities felt that the prospects for future planning permission were best determined by planning authorities and reporters, while several respondents from other groups thought they should be considered by the LTS instead. A couple of respondents favoured abolishing CAADs as part of removing hope value from the system. It should be noted that the abolition of CAADs would not – in and of itself – prevent consideration of land's planning prospects: this was set out at paragraph 8.52 of the consultation paper.

Even where they supported their retention, many respondents agreed that the CAAD process needs to be improved and streamlined – see question 73.

Question 73: If CAADs were to be retained, how could they be made more effective, efficient and equitable?

Respondents made a wide range of suggestions for improving the CAAD process. The most common proposals were:

- clear time limits, including setting out the interaction with the CPO compensation process
- streamlined procedures
- a robust, independent appeal process
- detailed guidance for applicants and planning authorities, and clarity on the criteria / assumptions to be used

Several local authorities and associated organisations proposed that CAADs should be determined by a reporter, following written submissions. A couple of other respondents also said the decision should be removed from the planning authority, to avoid potential conflicts of interest.

Question 74: Should Part V of the 1963 Act be repealed and not re-enacted?

Respondent categories	**Yes**	**No**
Active travel	0	0
Community land and development	2	1
Energy	3	0
Estates and agriculture	1	1
Heritage and architecture	1	1
Housebuilding and development	2	0
Housing and empty homes	1	0
Individual	5	4
Legal	1	2
Local authority	17	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	2	0
Surveying, valuation and agents	5	0
Totals	**43**	**9**
Percentage	**83%**	**17%**

Part V of the 1963 Act provides for “second-bite” compensation if planning permission is granted for additional development within 10 years after compulsory purchase, increasing the value of the land above the amount originally paid. Of the 52 respondents who answered this question, 83% agreed that this provision should be repealed. Of the 12 who made comments, most agreed that repealing it would provide certainty for acquiring authorities. Some commented that the planning assumptions and CAAD process are already intended to take account of future potential development value. Those who disagreed stated that the fact that Part V is rarely used is not justification for repealing it and felt it could be unfair to landowners.

Injurious Affection

Question 75: Do you agree that the method of valuation for injurious affection should be dealt with in guidance rather than set in legislation?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	2	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	11	2
Legal	2	0
Local authority	15	1
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	2	0
Surveying, valuation and agents	5	0
Totals	**48**	**3**
Percentage	**94%**	**6%**

Fifty-one respondents answered this question, and 94% agreed that the valuation method should be covered in guidance rather than legislation. The main argument given in supporting comments was that setting out the valuation method in guidance would provide necessary flexibility. A few comments were unclear which they would prefer, noting that legislating for the “before and after” approach would have the benefit of clarity, but that there were a small number of cases where a different approach would be more appropriate. Only one called for legislation to remove any room for negotiation or interpretation.

Question 76: Should set-off of betterment continue or be removed from the legislation? Please explain your views.

Respondent categories	Continue	Remove
Active travel	0	0
Community land and development	1	0
Energy	3	0
Estates and agriculture	0	1
Heritage and architecture	0	1
Housebuilding and development	2	0
Housing and empty homes	1	0
Individual	2	10
Legal	2	0
Local authority	14	1

Respondent categories	Continue	Remove
Other compulsory purchase	0	0
Other public sector	2	0
Planning and regeneration	2	0
Surveying, valuation and agents	2	3
Totals	**31**	**16**
Percentage	**66%**	**34%**

Forty-seven respondents answered this question and there were 45 comments. Overall, two thirds were in favour of continuing the set-off of betterment, and one third in favour of removing it. However, almost all local authorities who answered were in favour of continuing it, while almost all individuals favoured removing it.

The main reasons given for continuing set-off of betterment were that it supports the principle of equivalence and ensures that individuals do not benefit twice where public investment increases the value of their retained land. One respondent commented that the ability to reclaim this funding could encourage acquiring authorities to design schemes (such as road schemes) to maximise the development potential of adjoining land.

Among those who thought set-off of betterment should be removed, several felt it was simply unfair, particularly in relation to neighbouring landowners who benefit from the development without having land taken. Others took the view that betterment is difficult to assess and the notional benefits to the landowner are rarely able to be realised in practice. Several respondents who favoured continuing the policy also called for clear guidance on how betterment should be calculated and applied, to improve transparency.

Question 77: Please provide details of any acquiring authorities which you believe would need new powers to enable them to carry out accommodation works on a discretionary basis.

Twenty-three respondents commented on this question. However, some may not have clearly understood the question, for example referring to land required temporarily to enable the project to be completed. In the CPO context, “accommodation works” are works carried out voluntarily by the acquiring authority, for the landowner on their remaining land, to mitigate the impact of part of their land being taken.

One local authority stated that “Local roads and flood authorities often need express discretion to deliver proportionate works (e.g. fencing, access) to mitigate severance.” Two respondents suggested that “Transport acquiring authorities and Statutory Providers” and “Authorities undertaking major regeneration and infrastructure schemes” may need such powers, but those bodies did not come forward themselves.

A few respondents commented that the power to undertake accommodation works should continue to be discretionary, but there should be more clarity that such works can be offset against compensation claims. One individual felt that accommodation

works should be mandatory where they are necessary to mitigate the impact of compulsory purchase.

A key point raised by a number of respondents was that the agreement for accommodation works should be between the acquiring authority and the landowner, and the authority should take responsibility for resolving any disputes, not leave it to the contractor carrying out the works.

Disturbance

Question 78: Do you agree that separate statutory provision should be made for compensation for disturbance? If not please explain your reasons.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	3	0
Estates and agriculture	2	0
Heritage and architecture	0	1
Housebuilding and development	2	0
Housing and empty homes	1	0
Individual	15	1
Legal	3	0
Local authority	16	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	1	0
Surveying, valuation and agents	5	0
Totals	**51**	**2**
Percentage	**96%**	**4%**

Fifty-three respondents answered the closed question, and all but two of them agreed. None of those who answered ‘no’ provided comments, but one respondent who did not answer ‘yes’ or ‘no’ highlighted the risks of changing law which they said was well understood by practitioners.

Twenty-four respondents provided comments. Reasons for supporting statutory provision for disturbance included that it would clarify and simplify the arrangements, it would support the principle of equivalence and recognise the significant costs of dealing with a CPO, and it would allow Land and Buildings Transactions Tax to be paid only on the land value itself. Some respondents asked for clear definitions to be provided, or for particular types of costs to be covered.

Question 79: Should compensation for disturbance be able to cover losses incurred from the date on which the notice of making of the CPO is published (and the claimant’s duty of mitigation should apply from the same date)?

If not, from what date should compensation apply? Please explain your reasons.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	1	2
Estates and agriculture	0	1
Heritage and architecture	0	1
Housebuilding and development	2	0
Housing and empty homes	1	0
Individual	11	3
Legal	4	0
Local authority	15	1
Other compulsory purchase	1	0
Other public sector	1	0
Planning and regeneration	2	0
Surveying, valuation and agents	2	2
Totals	**40**	**10**
Percentage	**80%**	**20%**

Fifty respondents answered this question, of whom 40 agreed that disturbance compensation should apply from the date of notification of making the CPO. Twenty-three respondents provided comments. None proposed a specific alternative date from which compensation for disturbance should apply. The vast majority of those who commented agreed that compensation should be available for costs which arise before the date of acquisition (entry or vesting). Around a third considered that the date of the notice of making the CPO was a reasonable fixed date from which compensation could apply, while another third believed all costs should be recoverable from the first awareness that a CPO might be promoted, for example including costs related to surveying and other investigations. Several mentioned that it is reasonable for the expectation of mitigation to start from the same date. Others cautioned that there should be clear guidance on what could be included or a requirement for robust evidence of actual costs.

Question 80: Should compensation for disturbance be payable to those who have a compensable interest in land included in the CPO when it is made, even if that land is not ultimately acquired?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	2	1
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	2	0
Housing and empty homes	0	1
Individual	10	2
Legal	4	0
Local authority	14	2

Respondent categories	Yes	No
Other compulsory purchase	1	0
Other public sector	1	1
Planning and regeneration	2	0
Surveying, valuation and agents	4	1
Totals	**43**	**8**
Percentage	**84%**	**16%**

Fifty-one respondents answered the closed question. Eighty-four percent agreed that people should be able to claim compensation for disturbance even if their land is not ultimately acquired, while 16% disagreed.

Thirteen respondents made comments on this point. Almost all agreed with the proposal on grounds of fairness or equivalence, with some commenting that anyone whose land is included in a CPO will need to take action in expectation of their land being acquired, and will be affected by uncertainty, even if the acquisition does not ultimately go ahead. A few mentioned that it would be necessary to prove that the costs were caused by the expected CPO, and that costs of unsuccessful objections to the CPO should be excluded.

Question 81: Should owners who do not occupy the property be able to claim a wider range of disturbance compensation than at present?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	1	1
Estates and agriculture	2	0
Heritage and architecture	0	1
Housebuilding and development	1	1
Housing and empty homes	0	3
Individual	7	4
Legal	4	0
Local authority	6	10
Other compulsory purchase	0	1
Other public sector	0	1
Planning and regeneration	1	1
Surveying, valuation and agents	4	1
Totals	**26**	**24**
Percentage	**52%**	**48%**

Fifty respondents answered this question, and were almost equally split between ‘yes’ and ‘no’ overall, although particular groups leaned one way or the other. Most of those who commented felt that both owners and tenants should be able to claim compensation for whatever losses they genuinely incurred. However, a few suggested that in the case of empty homes or neglected property, owners should not be able to claim compensation for disturbance.

Question 82: Would it be helpful to provide guidance on compensation in cases of complex corporate structures?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	1	0
Energy	3	0
Estates and agriculture	1	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	10	2
Legal	3	0
Local authority	16	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	2	0
Surveying, valuation and agents	5	0
Totals	**49**	**2**
Percentage	**96%**	**4%**

Fifty-one respondents answered this question, and almost all (96%) agreed that guidance should be provided on dealing with compensation where complex corporate or family business structures are involved. Nine respondents provided comments on this question. Most of these felt that guidance would be helpful to reduce uncertainty and provide clarity. A couple mentioned that it would be difficult to legislate for all circumstances. Others felt it was more appropriate to leave such matters to be decided by the courts, or for the corporate body to redistribute any compensation internally.

Question 83: Do you agree that the impecuniosity rule should be removed?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	3	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	2	0
Housing and empty homes	1	0
Individual	13	1
Legal	3	0
Local authority	14	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	1	0

Respondent categories	Yes	No
Surveying, valuation and agents	5	0
Totals	**48**	**1**
Percentage	**98%**	**2%**

Forty-nine respondents answered this question, and all but one agreed that the impecuniosity rule should be removed. Twelve respondents commented on this question, and all agreed in general that impecuniosity should not be a reason for reducing compensation. However, several noted that it may be difficult to assess what mitigation efforts are reasonable in individual circumstances, and some called for guidance to support consistency.

Question 84: Do you agree with the proposals on mitigation, including compensation for business relocation and extinguishment? Please add any comments on these issues.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	3	0
Estates and agriculture	2	0
Heritage and architecture	2	0
Housebuilding and development	2	0
Housing and empty homes	1	0
Individual	12	1
Legal	3	0
Local authority	15	0
Other compulsory purchase	1	0
Other public sector	1	1
Planning and regeneration	2	0
Surveying, valuation and agents	5	0
Totals	**49**	**2**
Percentage	**96%**	**4%**

Fifty-one respondents answered this question, all but two of whom agreed with the proposals. Among those who commented, most felt that the proposed changes were reasonable, but many considered that guidance would be required to ensure consistency in assessing complex circumstances. A few expressed caution around the proposals relating to business relocation or extinguishment.

Question 85: Should the jurisdiction of the LTS should be extended to cover discretionary as well as mandatory disturbance payments?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	1	2

Respondent categories	Yes	No
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	2	0
Housing and empty homes	1	0
Individual	11	1
Legal	3	1
Local authority	10	6
Other compulsory purchase	0	1
Other public sector	1	1
Planning and regeneration	1	0
Surveying, valuation and agents	4	1
Totals	**37**	**13**
Percentage	**74%**	**26%**

Fifty respondents answered this question. Three quarters agreed that the LTS should be able to address disputes over discretionary as well as mandatory payments. Only 6 respondents provided comments, three in favour and three against. However, those who were against claimed that extending the jurisdiction of the LTS would in some way restrict the discretion of the acquiring authority, which suggests some confusion on the issue. The authority only has discretion (in certain circumstances) over whether to make a disturbance payment; the method of calculating the amount is the same for both mandatory and discretionary payments, and this is what the LTS would be able to examine. It is possible that respondents who did not comment may have based their response on similar views.

Loss Payments

Question 86: Should the minimum period of residence necessary to qualify for a HLP (currently one year) be increased? If so, what should the period be, and why?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	0	3
Estates and agriculture	0	1
Heritage and architecture	0	1
Housebuilding and development	1	1
Housing and empty homes	0	1
Individual	6	10
Legal	0	0
Local authority	4	11
Other compulsory purchase	0	1
Other public sector	0	1
Planning and regeneration	0	1
Surveying, valuation and agents	1	4

Respondent categories	Yes	No
Totals	12	35
Percentage	26%	74%

Among those who responded to this question, just under three-quarters were **not** in favour of increasing the qualifying period for home loss payments (HLP).

A number of those opposed to an increase questioned whether there was any evidence of the current system being 'gamed' (whereby individuals occupy properties subject to acquisition with a view to claiming an HLP), with some going on to say it would be unfair to penalise the majority of claimants on such a basis. Several respondents suggested that if this is a concern, additional criteria on occupancy linked to the timing of the CPO should be used rather than a longer qualifying period. A couple of responses expressed concern about administrative complexity and uncertainty in confirming occupancy over a longer period.

Of those in favour of a longer qualifying period, three respondents suggested three years and three others suggested two years. In terms of justification for a longer qualifying period, a few respondents indicated that this would better reflect the additional trauma and dislocation associated with being displaced from a more established home or community; the issue of gaming was also raised. One respondent suggested specifying the period in secondary legislation, monitoring any gaming and amending the period if necessary.

Question 87: How should the amount of HLP be calculated, among the options discussed in paragraph 8.104 to 8.110? Please add any other comments on these or other approaches.

The consultation paper identified three potential options for how the amount of HLP should be calculated:

- Option 1: retain current approach linked to market value (subject to minimum and maximum payments)
- Option 2: flat rate
- Option 3: graded rate based on length of occupancy

Respondent categories	Option 1	Option 2	Option 3
Active travel	0	0	0
Community land and development	0	0	0
Energy	0	1	0
Estates and agriculture	0	1	0
Heritage and architecture	0	1	0
Housebuilding and development	0	1	0
Housing and empty homes	1	0	0
Individual	5	3	7
Legal	0	1	0
Local authority	2	10	3
Other compulsory purchase	0	0	0
Other public sector	0	0	1

Respondent categories	Option 1	Option 2	Option 3
Planning and regeneration	0	1	1
Surveying, valuation and agents	2	2	0
Totals	**10**	**21**	**12**
Percentage	**23%**	**49%**	**28%**

Option 2 was the most popular option, with just under half of those who responded to the question (49%) preferring a flat rate. The other half were split roughly evenly between those who preferred Option 1 (23%) or Option 3 (28%).

Several of those who supported Option 1 cited the link to property value as the fairest approach. It was noted that this would align with England and Wales but that there is a need to raise levels and rates of minimum/maximum payments.

The most common comment on Option 2 was that it was fairer than the current approach, with some also indicating they felt it the clearest and simplest approach. A number of those who supported this option, or who expressed no preference, specifically rejected using market value as a proxy for the impact on affected residents. Several respondents noted various issues with a flat rate, such as it needing to be set at a reasonable level and kept under review. Several other respondents thought an element of sliding scale based on length of occupancy could or should also be included with Option 2; another suggested allowing discretion for an increased payment in certain exceptional circumstances.

Several of those who commented in support of Option 3 explicitly indicated they considered distress and similar impacts were linked to the length of occupancy. Two respondents specified the sliding scale should be based on a percentage of the market value of the property which increases with the length of occupancy.

Question 88: If a person is displaced from an agricultural unit as a result of compulsory purchase, should they be eligible for a loss payment regardless of whether they continue farming elsewhere?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	2	1
Estates and agriculture	3	0
Heritage and architecture	1	0
Housebuilding and development	2	0
Housing and empty homes	0	0
Individual	13	1
Legal	1	0
Local authority	12	1
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	2	0
Surveying, valuation and agents	4	0

Respondent categories	Yes	No
Totals	**44**	**3**
Percentage	**94%**	**6%**

Forty-seven respondents replied to this question, with the vast majority in favour of paying a Farm Loss Payment (FLP) where an occupier is displaced and does not take up farming elsewhere.

Among those who answered 'yes', key comments included the disruption and distress of being displaced being sufficient justification for receiving an FLP, and the difficulty of finding suitable land to re-start farming. Only one of those who responded 'no' commented, and felt that there was limited justification for payment purely because of the principle of being forced to move to another holding, except where the farmer is also displaced from the main residence.

A few respondents made the same general comments on reforms of HLP and FLP reflecting the practicalities for all those occupiers displaced by CPO.

Question 89: Should there continue to be a minimum area of land (currently 0.5 hectares) below which a FLP is not payable? If yes, what should the minimum area be?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	2	0
Estates and agriculture	0	3
Heritage and architecture	0	1
Housebuilding and development	1	1
Housing and empty homes	0	0
Individual	5	8
Legal	0	0
Local authority	9	4
Other compulsory purchase	0	0
Other public sector	0	0
Planning and regeneration	0	0
Surveying, valuation and agents	1	3
Totals	**18**	**20**
Percentage	**47%**	**53%**

Of those who responded to the question, a slight majority favoured there being no minimum area for FLP. Those who supported removing the minimum threshold cited the disproportionate impact on smaller units (often associated with family farms), such as those dealing with sheep (e.g. crofts and upland fragmented holdings) or pigs and poultry, and where land is intensively used or the plot relates to access to buildings or to key infrastructure. A minimum size criterion was considered too blunt where the use or function of the land was more of an indicator of impact. A couple of respondents felt the current threshold was arbitrary.

One respondent, despite answering 'no', recommended retaining a substantially reduced threshold, or introducing flexibility based on economic activity rather than area alone. It was suggested the first would ensure clarity, while the second would promote a fairer system more supportive to certain sectors of agriculture. Four respondents suggested basing FLP on an area-based rate, two of them pointing to this removing the need for a minimum area (see questions 90 and 91 below).

Amongst those favouring retention of a minimum size threshold, eight favoured retention of the 0.5 hectares threshold (one with an exception for intensive farming units and another for exceptionally small units). Other suggestions included one, five and 25 hectares. The justifications given for keeping a minimum threshold were that it is clear cut and keeps the scheme manageable (one respondent), and that it is consistent with the likes of the Agricultural Holdings Act 1986 as regards what constitutes a viable agricultural business (two Energy respondents).

Several respondents suggested alternatives, such as using a percentage of farm area with a minimum threshold, or a minimum with some form of discretion/ flexibility applied.

Question 90: Do you agree that we should move away from the current profit-based approach to calculating FLP?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	2	0
Estates and agriculture	3	0
Heritage and architecture	1	0
Housebuilding and development	2	0
Housing and empty homes	0	0
Individual	13	1
Legal	0	0
Local authority	10	0
Other compulsory purchase	0	0
Other public sector	0	0
Planning and regeneration	2	0
Surveying, valuation and agents	4	0
Totals	**37**	**1**
Percentage	**97%**	**3%**

All but one of those who responded to this question favoured moving away from a profit-based approach to FLP. There were virtually no comments on the reasons for the answers provided. Two respondents felt the vagaries and volatility of farm profits meant it was not a suitable basis for this form of compensation.

Question 91: If a new approach to FLP is taken forward, which of the options outlined at paragraph 8.118 would you prefer?

The consultation identified 3 potential options for how FLP should be calculated:

- Option 1: market value
- Option 2: flat rate
- Option 3: area-based

Respondent categories	Option 1	Option 2	Option 3
Active travel	0	0	0
Community land and development	0	0	0
Energy	1	1	0
Estates and agriculture	1	0	2
Heritage and architecture	0	1	0
Housebuilding and development	0	2	0
Housing and empty homes	0	0	0
Individual	7	4	3
Legal	0	0	0
Local authority	3	4	3
Other compulsory purchase	0	0	0
Other public sector	0	0	0
Planning and regeneration	0	1	0
Surveying, valuation and agents	3	0	0
Totals	**15**	**13**	**8**
Percentage	**42%**	**36%**	**22%**

There was no clear preferred option based on the 36 responses to the question. Whilst Option 1 received the most votes overall, over half (58%) of those who responded favoured either Option 2 or Option 3.

On Option 1, one respondent said it would better reflect the quality and potential of the land lost, and another said some of its members felt it was a fairer approach. One respondent wanted a minimum payment specified and that it be reviewed regularly, whilst another wanted payments monitored. Another respondent who chose this option nevertheless felt a more nuanced approach may be needed in some situations.

Option 2 also attracted little comment, with one respondent mentioning the purpose of FLP was to compensate for the inconvenience of being displaced, and this option was fairer as long as the other losses were covered by other elements of CPO compensation (i.e. disturbance, injurious affection etc). Another felt Option 2 would be simpler. One respondent said it should be graded to reflect farm losses.

One respondent felt that Option 3 is more closely aligned with the purpose of FLP, because that option relates to the size of land and buildings acquired, which is a better proxy for business impact. They also felt it should allow adjustments for enterprise type or exceptional circumstances, as area alone does not capture intensity of use or previous investment.

The responses to this question revealed a wider issue regarding FLP (see question 92 below): namely, divergent views as to what FLP are for. Some felt that these payments, like HLP, are a recognition of the distress and inconvenience arising from compulsory purchase, whereas others were of the view that FLP reflect loss of value associated with the land and/or of income through business disruption.

Question 92: Should loss payments be extended to other non-residential interests displaced as a result of compulsory purchase? Please explain your views.

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	0	2
Estates and agriculture	3	0
Heritage and architecture	1	0
Housebuilding and development	2	0
Housing and empty homes	0	0
Individual	13	0
Legal	1	0
Local authority	9	5
Other compulsory purchase	1	0
Other public sector	0	0
Planning and regeneration	0	0
Surveying, valuation and agents	4	0
Totals	**34**	**7**
Percentage	**83%**	**17%**

Forty-one respondents replied to this question, a considerable majority of whom favoured the extension of loss payments to non-residential interests displaced as a result of a CPO. A number of those in favour of this proposal emphasised that non-financial impacts associated with CPO (i.e. stress and inconvenience) extend to others beyond residential and agricultural occupants – small businesses in particular. Alignment with England and Wales was raised by a variety of respondents, with some noting the balance of compensation there between occupiers/ owner occupiers and absentee landlords.

A few respondents who accepted the principle of extending loss payments nevertheless referred to potential practical issues with identifying those eligible and the regulation and calculation of their payments. A couple of respondents mentioned such payments can ease the progress of a CPO.

Opposition to this proposal came from some local authority and energy respondents. Several felt that other heads of compensation would cover the losses incurred by other parties. Linked to this, concern was expressed about dilution of the principle of equivalence. A couple of responses noted the problems specific to agriculture in getting replacement premises/ land compared to other industries.

9. Compensation procedures

Making a claim

Questions 93 to 96 were closed questions about different aspects of the process of making a claim for compensation, and question 97 asked for any comments about the procedure. However, some of those who responded by email gave comments under individual questions, and others clearly commented on separate questions within question 97. We have therefore allocated the comments to the relevant questions where possible.

Question 93: Should acquiring authorities be required to advise owners of their rights to compensation and how to claim it?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	1	2
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	16	1
Legal	4	0
Local authority	16	0
Other compulsory purchase	1	0
Other public sector	3	0
Planning and regeneration	3	0
Surveying, valuation and agents	3	1
Totals	**54**	**4**
Percentage	**93%**	**7%**

Fifty-eight respondents answered this question. 93% agreed that acquiring authorities should advise owners of their right to compensation and how to claim it.

Among the 20 respondents who commented, many felt that giving claimants this information would increase transparency, support them through the process and reduce delays. Those who opposed the proposal, and some supporters, were concerned about a conflict of interest if acquiring authorities gave individual advice to claimants; many comments therefore recommended that there should be standardised wording signposting to Government guidance. Several also suggested that claimants should be advised to obtain appropriate professional advice, and told that reasonable costs of such advice can be covered by compensation.

Question 94: Should a statutory claim form be provided to collect more information about the amount of compensation sought?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	1	1
Estates and agriculture	1	1
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	14	2
Legal	3	0
Local authority	16	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	3	0
Surveying, valuation and agents	3	1
Totals	**49**	**5**
Percentage	**91%**	**9%**

Fifty-four respondents answered this question; 91% agreed that a standard form should be provided to collect information relevant to compensation.

Twenty respondents commented on this question. Around half simply agreed with the proposal. Some felt that it would be difficult for a standard form to capture all potential circumstances and meet the needs of different types of development or acquiring authorities. Others were concerned that a detailed form could be intimidating for claimants, or could be used by acquiring authorities to challenge claims on the basis of technical errors.

A group of respondents considered that a standard form would come too early for claimants to know what the impacts of the CPO would be (presumably based on the current Form 9 which is issued with the notice of intention to make a GVD). A couple suggested that there should be two forms – a more detailed investigation form issued at the start of the process to gather information about the property and interests in it, and another issued with the GVD seeking the details needed to assess compensation.

Question 95: Should acquiring authorities be required to provide information on their assumptions relating to compensation, if this is requested by a claimant?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	1	2
Estates and agriculture	1	0

Respondent categories	Yes	No
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	13	1
Legal	3	1
Local authority	10	6
Other compulsory purchase	0	1
Other public sector	2	1
Planning and regeneration	3	0
Surveying, valuation and agents	4	0
Totals	**42**	**12**
Percentage	**78%**	**22%**

Fifty-four respondents answered this question, of whom 78% agreed that acquiring authorities should be required to provide information on their assumptions relating to compensation, and 22% disagreed.

The main reason given for agreeing with the proposal was that greater transparency could reduce disputes and make the process quicker. On the other hand, several of those who disagreed said either that it was the claimant's responsibility to provide evidence for their claim, or that both sides should provide their assumptions as part of the negotiation. A couple of respondents said the acquiring authority should be required to provide assumptions in relation to advance payments (which are based only on the authority's assessment of the compensation). Other comments focused on the complexity of the process and the need for negotiation between professional advisers.

Question 96: Should acquiring authorities be required to offer compensation, rather than requiring owners to claim it?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	1	2
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	12	2
Legal	2	1
Local authority	12	4
Other compulsory purchase	0	1
Other public sector	2	1
Planning and regeneration	1	0
Surveying, valuation and agents	2	2

Respondent categories	Yes	No
Totals	39	13
Percentage	75%	25%

Fifty-two respondents answered the closed question. Three quarters agreed that the acquiring authority should be required to offer compensation as the first step in the process.

Half of the comments agreed the authority should be required to offer compensation. The key reasons given were that it would be more transparent and fairer to claimants, who generally have fewer resources and less knowledge of the system than the acquiring authority, and could put negotiations on a more positive footing. One respondent suggested that the offer should include an allowance for professional advice to review the acquiring authority's assessments. Another highlighted that an offer of payment should be made when the authority is exploring whether the property can be acquired by agreement, and only if that negotiation fails should a CPO be promoted.

Slightly fewer comments were in favour of retaining the current system, in which the landowner / occupier is required to make a claim for compensation. Many of these mentioned that the acquiring authority is unlikely to have sufficient information about the claimant's circumstances to make an accurate offer; one suggested that any offer could only be made in relation to land value, as all other heads of claim require information from the claimant. A couple of respondents felt that it would not be necessary for the acquiring authority to offer compensation if clear advice was given about the right to compensation and the process for claiming it (see question 93).

Question 97: Please provide any comments about the procedure for claiming compensation, if you wish to expand on your responses to questions 93 to 96.

The overriding theme among the general comments made was that the process should be made as transparent and straightforward as possible for claimants. Recommendations included more guidance and simplified procedures, template letters and forms available online, and timelines for both parties to provide information. However, one respondent felt that making the system more formalised could disadvantage claimants. It was suggested that acquiring authorities should help claimants to understand their rights and how the authority has made its assessments in relation to compensation, leading to more meaningful engagement and negotiation. Two respondents proposed that there should be greater use of Alternative Dispute Resolution before, or in place of, going to the LTS.

Time limits

Question 98: Do you agree that an application to the LTS should be able to be made from the date of vesting? If not, when should the earliest date for application be?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	1	1
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	12	1
Legal	3	0
Local authority	15	0
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	2	0
Surveying, valuation and agents	5	0
Totals	**48**	**2**
Percentage	**96%**	**4%**

Fifty respondents answered this question. Only two did not agree that an application to the LTS should be able to be made from the date of vesting, one of whom thought it should be later and one earlier.

A few of those who commented noted that parties should be encouraged to negotiate before applying to the LTS; one of these felt the application date should be later to allow for this, while another said the application should only be allowed providing the claimant had submitted a full claim and supporting information to the acquiring authority.

One respondent felt that application to the LTS should be allowed much earlier, indicating that a claim for compensation and negotiation of it should begin potentially from when the CPO is made or confirmed.

Question 99: Should there be a final time limit for making a claim for compensation? If yes, what should the limit be?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	3	0
Estates and agriculture	1	1
Heritage and architecture	1	0
Housebuilding and development	3	0
Housing and empty homes	1	0
Individual	7	4
Legal	1	1
Local authority	17	0
Other compulsory purchase	1	0
Other public sector	1	0
Planning and regeneration	2	0
Surveying, valuation and agents	3	0
Totals	**41**	**6**
Percentage	**87%**	**13%**

Forty-seven respondents answered this question, and almost all of them (41) also provided a comment. Eighty-seven percent of responses to the closed question said there should be a final time limit for making a claim for compensation, but the comments throw some doubt on this result. Several respondents appeared to confuse the time limit for making a claim for compensation, and the time limit for applying to the LTS over a dispute. The consultation proposal was to maintain the current position: that there should be no final time limit on when claims can be made, and a six-year limit on applications to the LTS. However, for example, one respondent answered ‘yes’ (there should be a time limit) and then commented that they supported the proposal; others said they “agreed with” or would “retain” a six year limit. On the other hand, some said the limit for claims should be six years “in line with” the current period for bringing cases to LTS, showing that they recognised the current difference.

The vast majority of comments supported having a time limit (whether they recognised that as a change or saw it as retaining the current position). Proposed time limits ranged from 12 months to 10 years. However, the most common period suggested was either five or six years. Several comments referred to the Prescriptions and Limitations (Scotland) Act 1973, which allows five years to submit a claim for loss in various other circumstances.

Many respondents stated that a time limit is needed to provide certainty for the acquiring authority and allow budgets to be closed. Others (including many recommending a five or six year limit) highlighted that it can take time for all issues to emerge and losses to be understood. One respondent suggested a limit of six years from the date the loss arose. Only a handful of comments said there should be no time limit at all.

Question 100: Are any other changes needed in relation to the timing of compensation claims?

Fifteen additional comments were received. There were no obvious common themes or recurring issues. Points made included:

- Clear guidance on compensation claims should be provided for all parties.
- It could be helpful to have statutory timeframes for each stage of the process, with incentives for acquiring authorities to act promptly. Digital submission and tracking of claims could give claimants visibility of progress. Case management conferences might be used for complex cases.
- The time limit for compensation claims should be reduced for abandoned and neglected properties.
- Support and flexibility should be afforded to people who may struggle to engage with the process, for example due to ill health or lack of advice. This could include reminders about the right to compensation and deadlines for claiming.
- There were differing views on whether LTS should have broad discretion to accept late applications, or if this should be limited to exceptional circumstances.
- Timelines for compensation claims should run from completion of the project rather than the date of vesting, to capture events that arise later.

It is important to distinguish between losses caused by the acquisition of land, particularly where it is partial acquisition, and losses caused by the development of the project, which could affect any neighbouring land, whether or not it is subject to CPO. Separate provision for compensation applies to the latter.

Advance payments

Question 101: Are any new powers needed to enable acquiring authorities to make discretionary advance payments, if one is sought before they take possession?

Twenty-six comments were made on this question. None identified specific gaps in powers that would prevent acquiring authorities from making advance payments before taking possession, although a few stated that it would be helpful to expressly state that they could do so. The majority simply expressed support for discretionary advance payments. Some noted that if such powers exist, they are rarely used, and recommended that they should be actively encouraged, to support landowners with cashflow for relocation.

A couple of respondents felt that if advance payments before taking possession were sought, purchase by agreement at that stage might be a better solution. One cautioned that such payments might not align with the requirements of the Scottish Public Finance Manual, and that mechanisms must be in place for recovering the payment if the transfer of title was not completed.

Question 102: Would it be helpful to enable advance payments to be made to heritable creditors, with the landowner's agreement?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	3	0
Estates and agriculture	2	0
Heritage and architecture	1	0
Housebuilding and development	2	0
Housing and empty homes	1	0
Individual	11	1
Legal	3	0
Local authority	15	1
Other compulsory purchase	1	0
Other public sector	2	0
Planning and regeneration	1	0
Surveying, valuation and agents	4	0
Totals	**46**	**2**
Percentage	**96%**	**4%**

Forty-eight respondents answered this question. All but two agreed it would be helpful to enable advance payments to be made to heritable creditors. Among the 13 who commented, there was a difference of opinion over the need for the landowner's agreement. The majority said the landowner's agreement would be necessary; one highlighted the situation where only part of the land was acquired and the owner would want to review the proportion of the borrowing being sought by the heritable creditor compared to the proportion of land taken. Others considered that the first charge over the property meant that the heritable creditor may have the right to receive all or part of any compensation.

Question 103: What mechanisms do you think would help to ensure advance payments are made promptly?

- enforcement through the courts
- LTS enforceable valuation
- penalty interest
- other (please explain).

Respondent categories	Courts	LTS valuation	Penalty interest	Other
Active travel	0	0	0	0
Community land and development	0	0	0	0
Energy	0	1	1	0
Estates and agriculture	0	0	1	1
Heritage and architecture	0	1	1	0
Housebuilding and development	2	2	2	0

Respondent categories	Courts	LTS valuation	Penalty interest	Other
Housing and empty homes	1	0	0	0
Individual	4	4	13	2
Legal	1	1	4	0
Local authority	6	3	9	2
Other compulsory purchase	0	0	1	0
Other public sector	0	0	1	0
Planning and regeneration	0	0	0	0
Surveying, valuation and agents	1	2	4	0
Totals	**15**	**14**	**37**	**5**

This question allowed respondents to select as many options as they wished. There was a clear majority (37) in favour of using penalty interest to help ensure advance payments are made promptly. Enforcement through the courts (15) and enforceable valuation from LTS (14) received similar levels of support. Although only five respondents selected 'other', 27 made comments on this issue.

Almost half the comments expressed support for the use of penalty interest. Several also suggested that clear statutory deadlines would be helpful, possibly with "automatic triggers" for payment; one noted that "this would involve retaining or reinforcing the current three-month timeframe for payment". A couple of respondents indicated that late advance payments could be due to uncertainty or dispute over the assessment of compensation, and the risk to the authority of being unable to recover overpayment. Several of those who commented favoured enforceable valuation by the LTS where disputes arose. However, others considered that enforcement through the courts or via LTS would be complex and could add delay. There were no comments in favour of enforcement through the courts.

Question 104: Should acquiring authorities have the power to offer advance payments even where one is not requested?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	1	2
Estates and agriculture	2	1
Heritage and architecture	1	0
Housebuilding and development	1	0
Housing and empty homes	1	0
Individual	10	3
Legal	3	0
Local authority	13	3
Other compulsory purchase	1	0
Other public sector	1	0
Planning and regeneration	2	0
Surveying, valuation and agents	4	1

Respondent categories	Yes	No
Totals	**40**	**10**
Percentage	**80%**	**20%**

Question 104a: If so, should interest on the amount of outstanding compensation be capped?

Respondent categories	Yes	No
Active travel	0	0
Community land and development	0	0
Energy	1	0
Estates and agriculture	0	0
Heritage and architecture	0	0
Housebuilding and development	1	0
Housing and empty homes	0	0
Individual	3	1
Legal	3	0
Local authority	9	1
Other compulsory purchase	1	0
Other public sector	1	0
Planning and regeneration	1	0
Surveying, valuation and agents	2	1
Totals	**22**	**3**
Percentage	**88%**	**12%**

Fifty respondents answered the first question, of whom 80% were in favour of enabling acquiring authorities to offer advance payments even where one was not requested. Only 25 answered the follow-up question (104a) about whether, if an advance payment was offered and refused, interest should be capped to what would be the outstanding balance (10% of the estimated compensation) if payment had been made. Eighty-eight percent agreed with capping interest. Only two respondents were in favour of offering advance payments but not capping interest.

No comment box was offered for this question online. Twenty-three of those responding by email made comments but only a few provided justification for their views. Of those opposed to the proposals, one suggested that requiring the claimant to request an advance payment would “ensure a clear audit trail and avoid confusion”. Another suggested the acquiring authority should advise the claimant of their right to request an advance payment, to avoid hardship. Some respondents in favour of offering advance payments also thought this would reduce hardship and uncertainty to claimants. Others focused on the benefit to the acquiring authority and the public purse of capping interest, even if the payment is refused.

A couple of respondents who were opposed to advance payments being offered rather than requested referred to the fact that they are not necessarily based on an agreed level of compensation. However, as noted by another respondent, “In line with existing advance payment legislation, acceptance of any advance payment offered by the acquiring authority would not prejudice future negotiations”.

Interest rates

Question 105: What should be the basis for the interest rate payable on outstanding compensation?

- current rate (0.5% below standard rate)
- average rate for overdrafts
- average rate for loans
- statutory interest
- other (please give details)

Respondent category	Current	Overdraft	Loan	Statutory	Other
Active travel	0	0	0	0	0
Comm. land & development	0	0	0	0	0
Energy	1	0	0	0	0
Estates and agriculture	0	0	0	1	0
Heritage and architecture	0	0	1	0	0
Housebuilding & development	0	0	0	0	2
Housing and empty homes	1	0	0	0	0
Individual	0	1	1	2	10
Legal	0	0	0	1	0
Local authority	9	0	0	5	0
Other compulsory purchase	0	0	0	0	0
Other public sector	0	0	0	0	0
Planning and regeneration	0	0	0	0	0
Surveying, valuation and agents	2	0	0	1	2
Totals	**13**	**1**	**2**	**10**	**14**
Percentage	**32%**	**3%**	**5%**	**25%**	**35%**

Forty respondents answered this question, most of whom were individuals or local authorities. Of those who responded to the question, 35% selected ‘other’ as their preferred option – although none of these were local authorities. By contrast, around two thirds of local authorities who responded to this question favoured retaining the current rate (0.5% below base rate), which contributed to this being the second most popular choice. This was followed by statutory interest (currently base rate plus 8%). Those who selected ‘other’ suggested a variety of options, from base rate or standard rate without any deduction, to “statutory interest minus 1%”. Some recommended that interest should be applied on a compound basis.

In other comments, respondents reflected that either the current rate or the statutory rate are familiar and easier to determine than an average for either overdrafts or loans. Some noted that in the absence of compensation, claimants might need to source other funding at commercial rates, raising questions of equivalence. Others considered the competing incentives: if the interest rate on compensation is low, it does not encourage acquiring authorities to settle quickly, but if it is too high it may incentivise claimants to delay.

10. Compulsory Sale and Lease Orders

Questions 106 to 117 of the consultation paper related to compulsory sale orders and compulsory lease orders. Although there has been interest in the introduction of such mechanisms in Scotland for some time, neither compulsory sale orders nor compulsory lease orders currently exist.

As such they have not been explored as part of the compulsory purchase reform programme, which is focussed on modernising existing tools rather than the creation of new ones. However, some high level questions were included in chapter 10 to help inform further consideration of compulsory sale and lease orders by the Scottish Government. Analysis of the feedback to these questions has been conducted and published separately – see Compulsory Sale and Compulsory Lease Orders - Consultation analysis report - July 2026.

11. Assessment of impacts

Question 118: Do you have any comments on the draft BRIA provided in the Annex?

Relatively few respondents responded to this question. One hundred respondents either indicated that they had no comment on the draft business and regulatory impact assessment (BRIA) or didn't answer the question at all.

Of the seven respondents who commented, one felt the BRIA covered the salient points. Of the others, most suggested that the BRIA could go further or had particular omissions. Certain areas were identified where the analysis could be improved, especially in relation to practical costs, policy context and a wider range of impacts on those subject to a CPO. Specific concerns included the administrative and financial burdens on local authorities and small businesses, the need to include consideration of net zero and energy infrastructure policy; the positive effects on housing delivery via unblocking stalled sites and the re-use of empty homes; and issues such as financial, social and emotional costs on those subject to a CPO.

One response felt that the way any reforms were implemented (and the nature of future CPOs) would determine outcomes. Another felt they would need to see a full BRIA and referred to omissions such as costs related to compulsory sale and compulsory lease orders. One response suggested the BRIA should reassure lenders and investors regarding respect for property rights and having strong safeguards.

Question 119: Do you consider that any of the options and proposals in this consultation document would impact (positively or negatively) on people with protected characteristics? Please provide details.

Seventy-seven respondents did not answer this question. Of the 30 who did, three said they had no comment. Of the rest, about half did not consider that the options and proposals in this consultation document would impact (positively or negatively) on people with protected characteristics.

One other respondent indicated that any impacts on people with protected characteristics would not be 'disproportionate'; another that impacts would be no greater than on other people. One response suggested impacts would be dependent on whether the individual felt they had been treated unfairly due to their having a protected characteristic. One other respondent specified they had not identified any property law impacts.

Some responses focussed on the future use of CPO powers, rather than the proposed reforms themselves. One respondent indicated that to the extent that the proposals lead to more proactive use of CPO to bring empty homes back into use, this would bring benefits for all. Two others said addressing more empty homes would have an impact on those with protected characteristics. Another stated that whether any possible impacts would be positive or negative would depend on the individual CPO.

Two local authorities stated that further assessment such as an environmental impact assessment (EIA) would be required; as EIA relates to specific development projects this was presumably reference to the assessment of individual projects where CPO powers are used.

One individual provided detailed comments, arguing that several of the proposals risk exacerbating the negative and disproportionate impacts that compulsory purchase can have on people with protected characteristics, particularly regarding disability and age. They suggested that the compulsory purchase process can adversely affect individuals' mental health and cause financial insecurity, and that such impacts are not necessarily restricted to those with protected characteristics.

Question 120: Do you consider that any of the options and proposals in this consultation document would affect children's rights and wellbeing? Please provide details.

There were 30 responses to this question, three of which were 'no comment'. Of the other 27 responses, 16 (59%) said they did not consider that any of the options and proposals in the consultation would affect children's rights and wellbeing. One other respondent said they saw no direct impacts on the basis children owning land would have professional representation. Two others referred to their response to question 119, that they did not consider there would be impacts or disproportionate impacts on those with protected characteristics.

Of the remaining eight responses, one saw no property law impacts but considered that clarity and efficiency in the process may indirectly reduce disruption where residential property is involved. One thought there might be impacts in this regard, but could not say whether they would be positive or negative, whilst another respondent thought impacts would be positive.

A couple of responses focussed on the future use of powers, rather than the proposed reforms themselves. One respondent indicated that to the extent that the proposals lead to more proactive use of CPO to bring empty homes back into use, this would bring benefits for all. Another respondent said that such impacts would depend on the individual CPO.

There was a detailed response from an individual concerned that compulsory purchase can have profound and lasting effects on children's rights and wellbeing. The respondent went on to detail these concerns and necessary safeguards to accompany reform.

Question 121: Do you consider that any of the options and proposals in this consultation document would have significantly different impact on island communities from other communities? Please provide details.

As with previous questions in Chapter 11, the majority of respondents did not answer the question at all (77) or said they had no comment (5). Seventeen (68%) of the other 25 respondents considered that the proposals would not have significantly different impact on island communities from other communities. Another respondent did not know, but found it hard to envisage the process having different impacts on island communities.

Of the remaining seven responses, one respondent suggested that there were potential impacts due to the difficulty of securing alternative premises in the same area within an island community. Another respondent stated that property impacts may be amplified where ownership information is limited and where professional resources are less accessible, reinforcing the need for simplicity in this context. It was not necessarily clear whether these were comments on the proposals or compulsory purchase generally.

One very detailed response was received from an individual which argued that island communities are particularly vulnerable to compulsory purchase due to limited land availability, stronger ties between land, livelihood and identity and fewer realistic relocation alternatives. They added that this can have disproportionate impacts of various kinds that are not adequately reflected in compensation provision, and that legislation must recognise these issues, rather assume a “one size fits all” approach.

One respondent noted that the proposals would impact positively, whilst another said that potential impacts may be positive or negative for island communities depending on the individual CPO. As with question 119, two local authorities commented that an EIA would be required, again presumably a reference to the effects of a specific CPO project, rather the reforms themselves.

Question 122: Do you consider that any of the options and proposals in this consultation document would impact (positively or negatively) on people who are socio-economically disadvantaged? Please provide details.

Relatively few (31) respondents answered this question. Of these, 3 indicated they had no comment while 10 commented that they did not consider the proposals would impact (positively or negatively) on people who are socio-economically disadvantaged. One other respondent thought that basing compensation on ‘equivalence’ should mean no such impact.

Three respondents made general observations on such impacts: one thought such impacts would not be disproportionate, another that they were possible but they could not say if they would be positive or negative; and the third that such impacts would only be positive.

Amongst the remaining 14 respondents, one individual felt many of the proposals risk having a disproportionately negative impact on people who are socio-economically disadvantaged, building on a system they felt already has an imbalance in favour of acquiring authorities, and detailed their concerns.

A number of others raised specific issues where proposed reforms could deliver positive impacts. These included the removal of the impecuniosity rule, legislative support for advance payments, and reviewing the valuation methodology for disputed compensation. One response referred to how some CPOs – especially for residential redevelopment – can have particular impacts on owners/ occupiers who are disadvantaged, and that this needs special consideration regarding certain aspects of compensation**.** Another referred more generally to having clear, accessible procedures and early information potentially reducing confusion and dispute, so supporting fairer outcomes.

Four respondents referred to the potential impacts that the future use of compulsory purchase powers could have. For example, using CPOs to deal with vacant and derelict land, support the re-use of empty homes, and deliver regeneration projects could have positive or negative impacts, depending on the specifics of the scheme. As with questions 119 and 121, the same two local authorities referred to EIA requirements.

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