



Compulsory Purchase Association

## CPA POSITION PAPER ON COMPULSORY PURCHASE DIGITISATION

### **1.BACKGROUND, TERMS OF REFERENCE AND EXECUTIVE SUMMARY**

1.1 Mr Richard Asher was the chair of the Compulsory Purchase Association (CPA) for the year 2020/21 and, as part of this role, he proposed that serious consideration should be given to investigating the need to introduce digitisation into (a) the compulsory purchase procedures from the promotion of a CPO though to legal entry leading to either permanent or temporary possession being taken to the affected properties and (b) the processing of compensation claims from the initial claim stage through to settlement. The CPA Board agreed that this was a matter worthy of investigation and, accordingly, a Digital Working Group (DWG) was established in mid-2021 with the undernoted terms of reference-

1. To provide a paper to the compulsory purchase industry and, in particular, governments which sets out the principles and standards required to ensure that digital platforms should be developed to implement the use of such systems in the whole of the compulsory purchase process i.e., from the inception of a compulsory purchase scheme to its conclusion.
2. To ensure that such systems enable relevant access to all parties involved, in particular, claimants affected by the compulsory purchase process.
3. To employ such systems to ensure consistency of approach.
4. To ensure that such systems meet the requirements of all sections of the compulsory purchase industry, insofar that this is possible.
5. To provide a roadmap for how traditional paper-based systems can be replaced by the use of digital technology to drive efficiency, reduce costs and speed up the compulsory purchase process.

1.2 The DWG comprised:

Richard Asher	Savills	WG Chair
Adrian Maher	Aspire CP	CPA Board Member
Anna Woodfield	Savills	CPA Futures representative
David Bellamy	TerraQuest	
Fiona Barker-Hall	Eversheds Sutherland	
Gemma Johns	Tisski	
Geoffrey Keal	TerraQuest	
James Tyler-Morris	HS2 Ltd	
Jez Lister	Planning Inspectorate	
Keith Petrie	F G Burnett	CPA Scotland Chair
Pauleen Lane	Planning Inspectorate	
Rachael Beard	DLUHC	
Sarah Tudor	Planning Inspectorate	

Theresa Donohue	DLUHC
Tony Pratt	TerraQuest
Vicky Fowler	Gowlings
Victoria Bramhill	WSP

Representing NIPA

The first meeting was in March 2021 and, following on from that time, the DWG met approximately once per month through to February 2022 to discuss the issues involved, the potential challenges (and their potential solutions) leading to conclusions and recommendations regarding the extent of the utilisation of digitisation in the CPO/compensation assessment processes. The outcome of these discussions is this Position Paper.

### 1.3 EXECUTIVE SUMMARY

- There is an over-arching need to bring digitisation (the conversion of information into a digitised format) and digitalisation (the process of leveraging digitisation to improve business processes) into the processes of all CPO elements throughout Great Britain.
- Consistent and uniform standards are required in these processes, and they should be introduced, maintained and improved at Government level.
- Digitisation will ultimately bring about significantly higher degrees of efficiency and also significantly reduce costs, but it has to be a gradual process as it will involve significant costs in terms of time, resources and capital
- Digitisation will help to establish best practice in all aspects of the compulsory purchase process, but it will be open to the market to determine what system(s) will best work
- We should not and cannot leave behind or ignore those who are not IT-savvy as, in equity, no one should be disadvantaged by digitisation.

### **2. GENERAL COMMENTARY**

2.1 It would be fair to state that, from the outset, there was consensus within the DWG of the need to embrace both digitisation and digitalisation. Equally, it would be fair to state that, over the course of the last 20 years or so, there has been a revolution and evolution regarding the use of Information Technology (IT) in a myriad of forms in both our professional and personal lives - and that revolution is, inevitably, going to continue to evolve. We have already passed the point of our reliance on IT and, thus, as far as the DWG is concerned, it is a given that the compulsory purchase world must adopt the digital world and adapt accordingly. One of the more recent developments has been the use of intelligent systems and artificial intelligence to perform ever more complex tasks without human intervention.

2.2 Whilst the use of technology in many fields has significantly advanced over the last few years, we lag far behind in all aspects of compulsory purchase and, hence, we miss out on much greater efficiencies in the processes allied to a reduction in costs as seen in other fields. One of the fundamental barriers which has prevented market-driven innovations in our sector is the lack of a common data standard for the master data: this is particularly so in areas such as land referencing and thus it makes it very difficult to share data between systems. For example, there is no common

geospatial standard in place to identify a specific geographical or locational unit when preparing supporting documents to the compulsory purchase process to enable, for example, environmental plans and statements to be linked to the land referencing plans. Thus, without common data standards, it is not possible for systems to be digitised to allow the affected parties to identify how environmental impact assessments will affect their individual property interest.

2.3 It is fully recognised that the changes we propose will not happen overnight and there will be significant costs involved - in terms of time, resources and money - but it is considered that the short-term pain is worthwhile relative to the longer-term gains achieved in improved communication systems and in environmental and financial efficiencies. Many other industries have shown dramatic improvements in efficient and delivery timescale as a consequence of major changes in their method of operation due to embracing IT in their practices. In addition, the DWG appreciates that compulsory purchase is strictly controlled by legislation and case law with most of the relevant legislation having been passed in the mid-20<sup>th</sup> century but with some Acts of Parliament dating back to the mid-19<sup>th</sup> century. Therefore, there is a real opportunity to undertake a root-and-branch review to establish modern best practice rather than just digitise archaic paper-based practices. It is accepted that such changes are likely to require legislative changes, and this is dealt with in more detail below. Lastly, the DWG also recognises that not all within the UK have access to digital devices or have reasonable/good IT skills and, somewhat ironically, it is those people who are more often than not subject to the imposition of compulsory purchase.

### **3. THE MAIN ISSUES**

3.1 The remit of the DWG was (1) to initially consider and determine whether or not there is a need, in principle, to use digitisation in compulsory purchase, (2) if so, then to what degree should digitisation be used and how should it be introduced and standardised and (3) as a consequence, what high-level recommendations should the CPA make to the various Government bodies that are responsible for CPO within Great Britain to ensure implementation. It is recognised that for digitisation to work effectively, the devil will be in the detail and, while this Paper does make some reference to software systems currently in use, it does not (purposefully) drill down into any detail.

3.2 As stated above, from an early stage the DWG unanimously agreed that digitisation should be introduced into the two main elements of compulsory purchase i.e., (1) promotion and implementation of a Compulsory Purchase Order (CPO) and (2) managing the financial and risk aspects of compensation claims, to a much greater degree than is the case currently using Excel spreadsheets and the like.

3.3 The promotion of a CPO is, by necessity, a legal process once a public work has been approved to be undertaken by an Acquiring Authority (AA) or promoter. In England and Wales, the use of CPO powers can be via powers defined by various statutes, a specific Act of Parliament (a "hybrid bill"), an order under the Transport and Works Act 1992 or as part of a Development Consent Order for projects of national significance (NSIPs). In Scotland, CPO powers are normally exercised via various statutes similar to those in England and Wales or occasionally by "hybrid bills" via the Scottish Parliament. Whilst each of the compulsory purchase elements of the above processes vary considerably, the DWG sees no reason why they should not all be considered, in the context of digitisation, as requiring the same treatment. For the purposes of the Paper, therefore, will continue to refer to the AA as being

the authority responsible for applying for, submitting and administrating a CPO, even though, in some cases, this may not be strictly accurate.

3.4 Investigations are required to be undertaken by the AA to establish the correct ownership and occupation of the affected properties as well as all other interests that may exist therein e.g., - easements/servitudes, rights of way etc. the usual output in England/Wales is a Book of Reference together with a map identifying the interests to be acquired. Often the map will also show the extent of the intended works and, in the case of linear projects, the “limits of deviation” within which any alignment may be constructed. Thereafter, in all cases, all the affected parties must be formally notified that either all or part of their interest is proposed to be compulsorily acquired and that they have a right of objection as have the general public. When objections to a CPO are not withdrawn following negotiations between the parties, this will result in the need for a Public Local Inquiry/Hearing and, even if the CPO is confirmed by the confirming authority, there is a right to lodge a legal challenge. Hybrid bills are of course only subject to the scrutiny of parliament. As the final part of the procedure, whichever route is adopted for the order, there are two mechanisms whereby a confirmed CPO can be exercised by the AA i.e., Notice to Treat or General Vesting Declaration.

3.5 In light of the above, whilst software is frequently used in land referencing to determine the ownership/occupation of affected property and dealing with compensation claims, most parts of the above process are still paper driven with all relevant documentation sent by post. In addition, paper copies of the CPO documents require to be available in places accessible to the general public e.g., town halls and libraries and advertisements require to be inserted in local newspapers and notices attached to the lands affected. These processes are generally perceived as being inefficient nowadays bearing in mind how most information is accessed by the internet, social media, Apps and e-mail and, particularly for the younger generations, these processes are quite alien. The standards that we are advocating should be applied to all elements of the compulsory purchase system.

3.6 At the outset of a scheme, a desk-top assessment is undertaken of the potential compensation liability of the AA in respect of each affected property. These initial assessments are based on assumptions with best practice requiring a qualified risk assessment against material risks. Within each property there may be several parties who will be entitled to compensation and, eventually, payments will be made for each interest. Excel, or similar spreadsheets are almost universally used by AAs, and their use can work well in the initial stages of assessment. However, once engagement with affected parties commences, spreadsheets become an ineffective database for reconciling the many payments for many parties against many properties over many financial periods with many qualified risks. Spreadsheets often become unwieldy, especially in the case of large projects. It is difficult on spreadsheets to easily pick up trends early thus allowing managers to make good evidence-based decisions and to properly prioritise early engagement as advocated by the CPA. The DWG estimates that there is in the order of £20bn of compensation subject to CPOs. Thus, if better visibility of trends and targeted early engagement could deliver just a 1% saving in that compensation sum, then it would save the public sector £200m.

3.7 Once compulsory purchase powers have been exercised and property has been compulsorily acquired, the financial compensation claim process commences by the claimant having to lodge a formal claim. Thereafter, negotiations regarding the claim will take place between the AA and the claimant. While some claims may be settled quite quickly, it tends to be the norm that claims take a

significant amount of time to be agreed - this is especially so with regard to part-only acquisitions where the Injurious Affection and/or Disturbance elements of the claim may not be able to be accurately assessed until the work has been constructed and is operational. Some claims can be very complex and take a considerable amount of time to compile and submit. In any event, following a compulsory acquisition, the claimant has the right to make an application (or a series of applications) for an Advance Payment of Compensation which is 90% of the AA's estimate of the likely compensation due. In many cases, such applications are indeed made and delays beyond the due date for payments has led to criticism of some AAs.

3.8 The DWG sees the processes described above as falling within four distinct areas, namely (1) The statutory process required to meet the requirements for a CPO (preparing and serving notices, publication of advertisements, Book of Reference, maps, associated documents, sealing the Order, and the exercise of the powers, etc.), (2) The administrative or management process required to ensure that the statutory process is complied with and that the project is controlled and managed (contacting and recording contacts with affected parties), (3) Financial cost and risk management associated with preparing cost estimates; reporting progress and providing high-quality, real-time data to effectively manage variances of the actual cost relative to the budget cost throughout the process and (4) Negotiating claims, case management, processing and management, including dealings with claimants and their agents.

3.9 Thus, the DWG has come to the conclusion that most, if not all, of the above processes are ripe for and capable of digitisation.

#### **4. IN CPO DIGITISATION, WHAT DOES GOOD LOOK LIKE?**

4.1 Standardisation of all the processes involved in the creation and implementation of a CPO and the associated financial compensation claims is key and it is considered that there are (at least) three standardised procedures required, namely: -

4.2 Firstly, standardise the existing compulsory purchase processes to ensure efficiency, clarity and inclusion as this will inform what data is important for the setting of the standards. This includes (1) defining standard briefs which AAs could use to procure the data they will need e.g., undertaking land ownership/occupation searches of the whole of the polygons outside the limits of deviation which form part of the same property, (2) defining outputs desired by Inspectors/Reporters for digitising the Inquiry/Hearing process e.g., to provide a spatial representation of parties whose objections are outstanding, The Inspector/Examiner to drill down to see standard schedule of volumes and types of engagement and status of any negotiation which has taken place prior to the Inquiry/Hearing and (3) the provision of access by the claimant to a portal and associated geospatial access allowing claimants to see the overall impact of the work as well as being able to access their own confidential data relating to their interest e.g., to see the planned possession date, planned and actual service of documents/notices, planned payments in relation to claimed items, status in the approval process of any compensation (or other) payments requested and access to relevant correspondence and contact details.

4.3 Secondly, (1) standardising the data inputs emanating from the public sector data e.g., data collected from land referencing companies from public sources such as the Land Registry and data from private companies such the Utilities. Data can then be imported into AA systems, but only if it is in a format which can be mapped across different systems and is of a consistent quality: this is particularly important with master data, (2) defining the attributes of master data and conventions for sharing that data e.g., the name of the claimant is master data which is of prime importance, not only in the CPO Schedule or Book of Reference, but it needs to be shared with, for example, the Stakeholder Relationship Management (SRM) systems and (3) as the draft CPO schedule or Book of Reference is usually delivered to an AA in phased releases, protocols need to be developed to ensure that all up-dates can be reconciled with previous versions regarding common unique references and that the deletion of records and the creation of new records is fully recorded and capable of audit.

4.4 Thirdly, standardise data outputs for sharing the data either privately or publicly including (1) depositing plans digitally, in a way that they can be combined with spatial data on scheme design, environmental data, access to land, exercise of powers and progress in the acquisition process and/or resolving objections, (2) defining the claimant, parcel, plot and the numbering convention and other common terms in the Book of Reference (it should be noted here that land referencing companies currently each identify their data in different ways thus leading to inconsistencies), (3) the notices that exercise the compulsory purchase powers which should be worded in a clear and consistent format that is intelligible to lay people and (4) outputs for claimants so that they can understand the impact of the public works on their specific property as well as the overall impact of the works.

## **5. THE BARRIERS/RESTRAINTS THAT EXIST**

5.1 We fully recognise that, in order to ultimately achieve a complete, standardised and seamless digital process throughout all aspects of a public work and a related CPO, there are a number of significant hurdles to be overcome and these are set out below. It thus can be seen that the provision of a such an approach will take time, finance and resources as well as the creation of positive attitudes to change.

- It is necessary to recognise that not all have (easy) access to the internet or have a pc/laptop at home, although through time it is hoped that this will comprise a very small minority of the UK population.
- Even a gradual, never mind a focused, evolution to a digital base requires a positive commitment to that change from AAs and Governments as well as a sufficient allocation of staff and finance. AAs currently have limited and scarce resources and thus securing proper funding and employing people with the appropriate skill sets, either internally or externally, is imperative. Thus, it must be recognised that there will be considerable short-term pain for long-term gain, although the DWG believes that the financial benefits of such change will have an almost immediate positive effect.
- The complexity of developing systems means that there is a lead-in period of years to develop. This lead-in period is too long for all but the few AAs that have a number of projects in hand at any one time, or those involved in delivering a single large infrastructure project over several decades. Many of these are public bodies who do not make their systems available to other AAs. Indeed, public sector procurement contracts are drafted such that the client owns

the intellectual property rights to any incremental IT development, and this leads to disincentivised investment in the private sector.

- While the private sector could develop systems available to all AAs on commercial terms, the cost is significant and risk often prohibitive given the market for new systems is small and AAs do not know what “Good looks like”.
- We are currently working within a very strict, paper-based statutory framework which was initially established in the mid-1800s; indeed, the Land Clauses (Consolidation) Act 1845 is still on the statute book and the Scottish version is regularly used. Even the more recent relevant legislation far pre-dates the onset of the IT age within which we now live. Thus, either primary or secondary legislation will be required to formally authorise a digitised system. It is recognised that any replacement process/system will require that no one is disadvantaged as a result of any changes, particularly in respect of the service of all statutory notices.
- In a compulsory purchase situation, it is critical that no one so affected is overlooked or discriminated against as it would potentially result in the infringement of human rights and/or due process which, in turn, may result in a CPO being, at best, delayed and, at worst, annulled. Accordingly, the digitised processes must be watertight to allow for the transference of accurate and consistent data to be transferred between different systems.
- The compulsory purchase process and the associated compensation assessment regime are fluid processes which require real-time updates so that all the information that is digitally available to AAs and claimants (albeit restricted) is as accurate as possible: this will require proper resourcing and timely inputting. For example, the detailed recording of the current status of the compensation negotiation process is required to include the amount of any payment(s) on account that may have been made. When a claim has been settled, which, in turn, would lead to recording when and how the final payment of the compensation monies (including any statutory interest thereon) is made.

## **6. THE OUTCOME - HOW TO ACHIEVE GOOD**

6.1 Before any consideration is given to standardising the digital processes discussed above, it is imperative that the existing compulsory purchase processes are thoroughly reviewed to establish best practice and thus solid foundations are laid and fundamental principles are created from which to then adopt a suitable digital process. As stated above, it would be a mistake just to digitise existing archaic paper-based practices.

6.2 A good outcome is best achieved via a specific set of standards which can then be utilised by the market to produce a range of software which can provide integrated systems which will enable the whole CPO world to operate using consistent data and data standards. This will enable the smallest AA with a small CPO to use the same data standards as the largest national infrastructure project. The requirements and systems employed by each will be significantly different in size, scale and sophistication of the data handling, but the data standards and the quality of output (as well as the level of access for claimants) will be the same. In some instances, the system employed may well be all-embracing whereas in others there may be separate modules for each element of the CPO process. Sometimes, the systems may be associated with wider project considerations, such as the overall project cost modelling, design and planning.

6.3 We are not advocating that such systems and standards should be developed in isolation. There are already a number of initiatives which have been operating for some time which show how the necessary development could be brought forward as shown below-

- It is generally accepted that the portal developed by the Planning Inspectorate in England and Wales (PINS) for DCO projects leads the field in providing fully transparent data to the public. To an extent, this system has, however, been a victim of its own success having produced so much data that it is difficult to filter the vast amount available for a particular project, particularly for objectors/claimants. The DWG understands that PINS is currently investigating ways that this can be more easily achieved within its portal. This system is still currently an archive/storage system and a move towards a true digital system, which allows the promoters of a DCO to serve notices from the system is still some time off.
- A claimant access portal system is currently being developed by HS2 Ltd, but this is on a more limited scale as it covers only the compensation claim element of the process. Nevertheless, that system demonstrates what can be achieved in a digital format. However, it is not currently available to other AAs or private sector developers.
- PINS is also seeking to develop its planning portal into a more interactive and responsive system to enable a much more digital planning system at local authority planning level to be developed which would be in line with the UK Government's requirements for England, as set out in the Planning White Paper.
- The Upper Tribunal (Lands Chamber) has recently introduced a digital system to allow both parties to file all documents required in its proceedings to be lodged electronically and for the Tribunal to issue all notices and directions electronically. It is early days for this system, but the Tribunal is sufficiently concerned about the lack of access to make it clear that currently no one will be required to utilise this portal.
- TfL developed its "Phoenix" compensation management system which underpinned the delivery of Crossrail and the Olympic Games. Since then, the private sector has developed systems including the Acquisition and Financial Risk management System (AFIRMS).

6.4 It may be that other systems are in operation elsewhere in the country and further research on this issue is required in order to identify such systems and then analyse their respective strengths and weaknesses. However, the elements in any form of an acceptable system would include:-

- The impact of a CPO and the operation thereof on the affected parties i.e., those property owners and occupiers whose properties are to be acquired either in whole or in part.
- Consideration should also be given to those property owners who may have a Part 1 claim under the Land Compensation Act 1973 (and its Scottish equivalent) i.e., those properties which will be situated adjacent or close to the public work but from which no land is scheduled to be compulsorily acquired. All the land to be acquired should be shown on a plan with an overlay of any context schematic drawing(s) as well as the setting out of the powers that will be used to acquire the land. In terms of the 1973 Act, there is a requirement for these properties to be identified in any CPO as are those properties that may be subject to a claim under S.10 of the Compulsory Purchase Act 1965- where the property is affected by the execution of works due to the scheme, but where no land is to be taken.

- Contact details, including those of the claimant's professional advisors and those of the AA, would be held together with a record of all communications between the parties together with copies of all Notices served.
- It has been stated that the compulsory purchase of private property in the UK is one of the harshest impositions the state can impose on its citizens and there may well be good and powerful justifications for such acquisition. It will be for the AA to present such arguments but, in our democracy, there is a necessity for there to be a system to challenge such decisions - and this is via an objection to a CPO. Accordingly, there will be a requirement for that objection process to be clearly communicated to the affected parties.
- Leading on from the bullet point above, where objections a to a CPO are not withdrawn, there will be a necessity for there to be either a public local inquiry or hearing and it is considered by the DWG that this process, which currently involves the generation of copious amounts of paper, is also ripe for digitisation. It is understood that the planning permission appeal process in England has already taken tentative steps down that path and many of the results could be adapted for CPO use.
- Once a CPO has been confirmed, the legal acquisition of the land will be by way of a Notice to Treat or a General Vesting Declaration and all the relevant communications (including the Notices themselves) in connection with either process will be required to be properly recorded in the system.
- In addition to the service of notices there are less formal information which needs to be communicated (and recorded) to each claimant, such as the anticipated timescales for entry to the land. Any system should be capable of setting out this informal programme for possession of each property to be acquired, in both tabular and graphic formats.
- The readership of local newspapers has declined significantly over recent years. The DWG therefore questions whether or not it is still appropriate to continue to require CPOs to be published in such media alone as more modern forms of media communication within local communities affected by CPOs should also be considered.
- Early engagement with affected parties is considered by the CPA to be a key element in the successful speeding up of the CPO process. Thus, the DWG supports digital standards which support and encourage this approach.
- The compulsory acquisition of the land will then trigger a claim for financial compensation, and it is incumbent on the claimant to lodge a claim. At present, there is no standardised compensation claim form and frequently AAs do not have any form. DLUHC has issued a model claim form, but this has not been widely adopted. There is a strong argument (which has been put forward by the CPA for some time now) for there to be a standard compensation claim form. In the DWG's view, there should be a nationally recognised electronic claim form which can be completed and submitted online by an appropriate professional who is instructed to assess and negotiate the claim on behalf of the claimant.
- Any system needs to be able to recognise that a compensation claim has been lodged and to track its progress via the negotiations. It should also be capable of dealing with and recording any request(s) for an Advance Payment and the amount and date of any such payment(s).
- The system should provide for the initial property cost estimate (PCE) for the scheme and allow for regular up-dates. The accounting process within the system needs also to apply data to the system to allow for costs to be recorded in respect of the individual parties together

with associated costs. This can then be aggregated to compare the actual costs with the budgeted costs as well as projected cash flow over a time period. This information is vital to AAs and their project managers in ensuring that up-to-date information of budget estimates against actual costs is readily identified. Therefore, any such system must be capable of providing regular real time reports and dashboards can provide managers with real time evidence for effective decision-making.

- Many systems will be expected to calculate Advance Payment(s), the settlement amount together with any statutory interest payable subject to adequate authorisation and approval. This will require exporting data to the off-the-shelf financial systems already used by AAs. It is considered that this will reap significant benefits, particularly where there is a high volume of Part I compensation claims to be paid. Therefore, any CPO system specification must include the ability to transfer data to other existing systems.
- Statutory interest is paid on all payments from the date of possession following the exercise of compulsory purchase powers. The amount of interest varies over time whenever a forecast payment date is changed, or the amount is changed and also the tax needs to be deducted at source by the AA for individuals. This is a time-consuming, high-volume exercise which TfL automated in its “Pheonix” system. With Base Rates currently forecast to increase, there is benefit in any universally available financial systems having a similar capability to reduce an AA’s administration costs.
- The use of Automated Valuation Systems (AVS) is becoming increasingly utilised in other areas of property valuation and the DWG sees no reason why the use of these systems cannot be adopted for the same categories of property type in compulsory acquisition, subject to the same safeguards as are adopted in relation to their use elsewhere.
- The system will be required to record the settlement of the claim including the final payment or, alternatively, where the claim is in dispute and the matter has been referred to the relevant arbitration body, the system should be able to provide the basis for a Statement of Case by the AA.
- In situations where temporary possession has been taken, the system would be required to contain information on the basis of the claim, the term agreed for occupation, re-instatement obligations, the AA’s protocols and programme for re-instatement together with the cost to the AA.

## **7. WIDER CONSIDERATIONS**

7.1 Digital reform within the cloistered CPO world is only part of the much wider evolution of digitalisation. As stated above, HS2 has already started to introduce a software system to more accurately follow the progress of compensation claims and the UK government is committed to significant improvement both with regard to easier and faster internet connectivity throughout the country as well adopting digital systems within many branches of government, including DLUHC and the Cabinet Office.

7.2 An example, and one that overlaps with compulsory purchase, is the utilisation of digital processes within the England and Welsh Planning Inspectorate (PINS). Whilst part of its mantra is “digital-first” and “data, not documents, first”, it recognises that, in equity and being a public body, it cannot discriminate against those who are not IT-savvy, and it also recognises the limitations placed upon it by the GDPR legislation; accordingly, it is striving to achieve a revised, but “fair system”. Nevertheless,

PINS direct involvement with Projects of National Significance (many of which will be underpinned by compulsory purchase) has resulted in that dedicated part of its website being wholly digitalised. Further, it has begun a roll-out of a variety of digital processes in connection with Public Local Inquiries/Hearings for both planning and CPO matters. It is fair to say that these processes e.g., virtual hearings, pilot schemes have been brought forward quicker than anticipated due to having to react to and deal with the Covid pandemic. Equally, the corresponding Scottish Government entity, the Department for Environmental and Planning Appeals, has also tentatively followed suit by introducing virtual hearings for Public Local Inquiries/Hearings regarding sustained objections to CPOs. Further, the court system, including the Upper Tribunal (Lands Chamber) which, amongst other things, deals with Certificates of Appropriate Alternative Development (CAAD) appeals and disputed compensation claims, is also in the process of considering various ways in which its functions can be suitably adopted and adapted to the digital age.

7.3 We continue to see the journey within the digital age relentlessly gathering pace, which is driven by the need to be ever more efficient, to reduce costs, to reduce the need for extra human resources in a high employment environment. This drive within the UK public sector where there is a fundamental shift to digitisation is being influenced by the need to achieve net-zero carbon emissions. These drivers will only gather further momentum and, while compulsory purchase is a small cog in a much larger wheel, it is considered that it needs to play its part set against this broader agenda.

## **8. CONCLUSIONS AND RECOMMENDATIONS**

8.1 It is obvious from the above that the unanimous conclusion of the DWG is that very serious consideration should immediately be given to the commencement of the setting of standards for the implementation of the digitisation of most, if not all of the processes involved in both the promotion and implementation of a CPO. It is also the DWG's view that the assessment and negotiation of financial compensation claims should equally be the subject of standards, which enable digital recording and analysis. It is acknowledged that the responsibility for the setting and introduction of the digital standards for CPOs should rest primarily with Government i.e., DLUHC for England, the Welsh Government for Wales and the Scottish Government for Scotland who would then each be responsible for monitoring these standards and the introduction of revised/new standards as the case may be. The DWG has no doubt that, in all instances, the design and implementation of systems built around those standards will be the role of the private sector. The DWG hopes that the respective Governments (and their Agencies) will encourage co-operation between software developers and the professionals engaged in CPO work.

8.2 As with any new system, especially one that is reliant on IT, detailed prior preparation is crucial to its success. Thus, it is recommended that sufficient time is taken, and resources given, to fully research the IT systems (which are likely to be individualistic) that are currently in use to determine their benefits and flaws and thereafter to develop and then introduce systems based on the standards as outlined above.

8.3 The process of both digitisation and digitalisation will be long and costly involving both a lead-in period and a transition period but is inevitable that digitalisation is necessary to cope with the demands and expectations of the modern world. Thus, it is recommended that that process should commence now.

8.4 The appropriation of land by the state from an individual will often be contentious; therefore, it is inevitable that challenges will regularly arise in the CPO process. The current system has appropriate checks and balances to thoroughly test the need for such appropriation. The DWG recognises this and does not seek to change this. Our aim is to provide the framework for systems which will acknowledge the need to roll forward the CPO process by almost two centuries rendering it fit for purpose in the 2020s (and beyond) thus enabling it to be much nimbler in delivery, faster in process and more cost effective in implementation. Thus, a fairer, faster and better service for all those affected can be delivered.

8.5 The primary aims of this Position Paper is to highlight to Governments and Acquiring Authorities the pressing need to consider adopting digitisation into the compulsory purchase process, the financial (and other) benefits and opportunities that should arise from so doing, the challenges that exist in moving to a digital CPO world. Thus the DWG does not wish to be and should not be either dictatorial or prescriptive as it considers that appropriate systems will be developed by commercial software companies that meet the demands of the market. However, set out below are a number of key basic principles that the DWG considers need to be observed: -

- A standard form of data capture and the requirement that the form and standards of such data is held uniformly, is consistent, and can be held in a fully transferrable form between systems.
- A particular issue is the way that the affected interests to be compulsorily acquired are identified in a digital environment. There needs to be a clear and unified standard for this data.
- A review of the current legislation should take place and, where necessary, new legislation be introduced to permit all statutory and non-statutory Notices to specific entities to be issued electronically, via e-mail or such other electronic media as is, or may become, appropriate along with necessary checks to ensure receipt.
- Where appropriate, legislation should permit the use of social media to disseminate information to all interested parties to a CPO. This could include the requirement to notify the public of the making of a CPO, the notice of public inquiries, etc. The setting up of specific social media groups to share information should also be permitted, subject to adequate protections.
- Systems employed by AAs should incorporate a structure which allows for, indeed encourages, early engagement with the potential claimants and their advisors. In addition, systems employed by AAs should also provide the ability to enable proactive case management e.g., to make Advance Payments in a timely manner in accordance with Statute which allows visibility on financial trends and risks and thereby evidence-based decision making.
- It is essential that all the systems must incorporate controlled access to all relevant data for claimants, objectors, interested third parties and their respective agents and advisors. All such access would subject to adequate access controls and authorisation procedures.
- Outputs from the systems (particularly all statutory notices) whether in a digital form or on paper, should be consistent and unambiguous and set in language that all can readily understand. It is also recognised that, increasingly, documents have to be translated into braille and different languages and thus care must be exercised when using electronic

translation systems, particularly taking into account some of the arcane terminology used in CPOs.

- All plans, drawings and similar documents should be processed and digitised in a standard format which allows easy sub-division, re-formatting, and analysis of the data. Accordingly, in this respect the use of hyperlinks and other electronic methods of providing direct links to specific details should be employed where appropriate. The use of PDF or similar formats is not acceptable.
- As far as possible, all information published by the AA should be in electronic form and capable of being searched and analysed so as to allow the impact of the scheme on an individual property interest to be identified.
- All data should, as far as possible, be provided on a real time basis.
- All data requires to be auditable and controlled in order to comply with high security standards. All systems should allow for all data changes to be recorded with the time, date and identity of the changer clearly shown.
- Where possible, the use of electronic claim forms should be encouraged for direct submission by claimants' agents.
- The submission of all witness statements and evidence presented to Inspectors/Examiners at CPO Inquiries/Hearings should be permitted and encouraged to be in electronic form. The data should be presented in a form which allows suitable electronic searches to pin-point specific issues raised therein.
- Inspectors/Examiners should be encouraged to prepare and issue their Reports in a similar manner, allowing suitable search and analysis capabilities.
- None of the recommendations above shall prevent the provision of traditional paper copies of documents to be made available by traditional means i.e., postal delivery, delivery by hand, etc. where AAs are requested to provide documents in this format or where AAs believe it is necessary so to do to ensure proper receipt of the documents by an interested party. However, the DWG would expect this, over time, to become the exception and only used where it is clear that an affected party does not have access to, or is not capable of, using electronic media.
- All systems will need to be subject to audit to comply with GDPR and Human Rights legislation. In addition, all systems should be audited and certified on launch and when subject to significant up-grades: this is particularly important with AVSs.

8.6 In final conclusion, this Position Paper was formally adopted by the CPA Board on 2022. CPA representatives will therefore enter into appropriate dialogue with the relevant government bodies to put forward and agree the principal argument that digitisation is urgently required. This allows the process of the implementation of the Position Paper and the monitoring of its progress.

#### **ACKNOWLEDGEMENTS**

In the compiling of this Position Paper, the DWG would like to thank a number of organisations for sharing their current developments in digital technology relevant to our enquiries and which have greatly informed our considerations. They include: -

Terraquest Ltd; The Planning Inspectorate; HS2 Ltd; Aspire Ltd

**The CPA Digital Working Group**

**May 2022.**